

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY  
JUNE 23, 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 9:30 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:

MICHAEL TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

BRANDICE ELLIOTT  
STEPHEN GYOR  
MATT JESICK  
STEPHEN MORDFIN  
MEGAN RAPPOLT  
RYAN WESTROM

The transcript constitutes the minutes from the Public Meeting held on June 23, 2015.

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

(9:44 a.m.)

MR. MOY: Okay. To the table, the Applicant for Application Number 19022. This is the application of Reid. And, Mr. Chairman, this is a request for special exception from the accessory apartment requirements to allow an accessory apartment, and this is at premises 2901 King Place, NE.

CHAIRPERSON JORDAN: All right. That's very good. Good morning. Just make sure your microphone is on. Push the button, bright glowing -- there you go. Now, kind of ease --

MR. REID: I apologize.

CHAIRPERSON JORDAN: That's okay. Along as you're not trying to sing a song in there, we're good.

MR. REID: I'm pretty good, actually.

CHAIRPERSON JORDAN: But it picks up quite well. Could you give us your name, please?

MR. REID: Sure. My name is Lerone Reid.

CHAIRPERSON JORDAN: Okay. And you are in relation to the property?

MR. REID: I'm the property owner.

CHAIRPERSON JORDAN: Very good. I think the file is pretty much complete except there's no ANC report. Did you meet with the ANC?

MR. REID: The file does include significant outreach to the ANC via email. I've been talking to the ANC for the

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1 last six to seven months about this and the Agency had showed  
2 no objection to this, but I did --

3 CHAIRPERSON JORDAN: Did they hold a meeting and vote  
4 on it?

5 MR. REID: I'm sorry?

6 CHAIRPERSON JORDAN: Did they hold a meeting and vote  
7 on the application?

8 MR. REID: They did not hold a meeting and vote on the  
9 application.

10 CHAIRPERSON JORDAN: But you presented to the ANC. Did  
11 you present to the full ANC?

12 MR. REID: I did not present to the full ANC. I  
13 presented it to my --

14 CHAIRPERSON JORDAN: But you talked to the Chair in the  
15 single-member district and --

16 MR. REID: To my representative, that's correct.

17 CHAIRPERSON JORDAN: Okay. And what did they indicate  
18 to you?

19 MR. REID: He indicated that there would be no objection  
20 to this given the fact that I obtained significant support from  
21 my immediate community members, all members that live within  
22 a 200-square foot radius of my property support the project.

23 CHAIRPERSON JORDAN: Okay. And our file indicates  
24 that notice did go to the ANC and that we don't have a report  
25 on ANC, and based upon your representation, I don't think

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1 there's any other reason why we should hold this up. Does the  
2 Board have any questions about this application? Mr.  
3 Turnbull?

4 COMMISSIONER TURNBULL: No, yes, I don't have a  
5 question. There was a comment from the Department of  
6 Transportation that the driveway, the curb-cut will be closed,  
7 and with the driveway removed, and landscaping, go back to the  
8 Department of Transportation standards for landscaping.

9 MR. REID: I did see that comment. I would not agree  
10 with that comment. I would not support that. It's a 70-foot  
11 long driveway. The property has two separate driveways, given  
12 the fact that the garage would be converted into an accessory  
13 unit. Removing the curb cut would essentially require me to  
14 also remove the driveway itself, which would, in a sense, kind  
15 of be burdensome, but if that is the only requirement that needs  
16 to be met for this to go forward, I wouldn't object to doing  
17 it, but putting the curb cut back there would essentially, you  
18 know, have the driveway be null and void.

19 COMMISSIONER TURNBULL: I think that's the intent of  
20 the Department of Transportation and I think you'd really have  
21 to meet that, from my understanding. And the Office of  
22 Planning is backing that option too.

23 MR. REID: In speaking to the Office of Planning, I  
24 actually had discussions, it seems like that was pro forma,  
25 that they had to do that.

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1 COMMISSIONER TURNBULL: Right.

2 MR. REID: But given that there are two driveways on the  
3 property, yes, it is pro forma, and they were hoping that that  
4 necessarily wouldn't have to be met today, but again, if that's  
5 what needs to happen, I don't have a problem doing it, but  
6 removing a 70-foot long driveway --

7 COMMISSIONER TURNBULL: I know.

8 MR. REID: -- just to add a curb cut, it's not quite  
9 clear where the harm is in keeping the driveway there. That's  
10 really not clear and no one objected to this anyway.

11 COMMISSIONER TURNBULL: Well, we can --

12 MR. REID: Can that be waived at all?

13 COMMISSIONER TURNBULL: We can have the Office of  
14 Planning --

15 CHAIRPERSON JORDAN: Let's continue to proceed through  
16 the hearing.

17 COMMISSIONER TURNBULL: Yes.

18 CHAIRPERSON JORDAN: Is there any other issue besides  
19 the -- for the Board that's arising out of this application  
20 other than that? And I am reading, which I look at as kind  
21 of a cross-letter, because the Department of Transportation  
22 has no objection to the special exception request, and however,  
23 then they go down at the bottom and they raise this issue, so  
24 we will go to the Department of Transportation when we get there  
25 to have discussion and/or have discussion with Office of

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1 Planning for their view on this.

2 Any other questions outside of that issue? Anyone?  
3 Okay.

4 COMMISSIONER TURNBULL: I guess, just to clarify, the  
5 entrance to the accessory unit is by the door that would have  
6 been next to the garage door opening.

7 MR. REID: Can you see this?

8 COMMISSIONER TURNBULL: Yes.

9 MR. REID: Yes. This is --

10 COMMISSIONER TURNBULL: That's it.

11 MR. REID: -- the driveway, this is the entrance to the  
12 accessory unit, so essentially, the curb cut --

13 COMMISSIONER TURNBULL: Right.

14 MR. REID: -- curb would be added here. I mean, why  
15 would I have the driveway there? So I would essentially have  
16 to --

17 CHAIRPERSON JORDAN: The witness is showing us some  
18 pictures. They're identified by a docket number in the file  
19 or is that just a new docket?

20 MR. REID: Yes, it is in the file.

21 CHAIRPERSON JORDAN: What's the exhibit number? Do we  
22 have that? Is it 33?

23 MR. REID: I apologize. I think it is 33.

24 CHAIRPERSON JORDAN: No, I think 33's your notice of --  
25 well, there is one at 33 I think we can see. You have one that

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1 you've submitted in, I guess, with your affidavit of posting.  
2 It shows the driveway as well as the affidavit -- excuse me,  
3 not the affidavit of posting, but the posting. And so that's  
4 the driveway we're talking about?

5 MR. REID: That's correct.

6 CHAIRPERSON JORDAN: Okay. Mr. Turnbull, do you have  
7 any additional questions you wanted to --

8 COMMISSIONER TURNBULL: No. That's it, Mr. Chair.  
9 Thank you.

10 CHAIRPERSON JORDAN: Mr. Reid, we believe, other than  
11 this issue, that everything else in your application certainly  
12 supports, and what's in the file, your requested relief. We  
13 generally have a process where the Applicant would present and  
14 prosecute their case first, however, I'm telling you now that  
15 it appears that the requirements for the special exception has  
16 been met.

17 There is a questionable objection by the Department of  
18 Transportation, so I would suggest that you allow us to proceed  
19 on through the normal course of the hearing, which will allow  
20 the Office of Planning to comment as well as Department of  
21 Transportation, and then you will have an opportunity in  
22 rebuttal to respond to that.

23 MR. REID: Fair enough.

24 CHAIRPERSON JORDAN: Is that good for you? Okay. So  
25 let's go to the Office of Planning and see where we are.

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1 MS. RAPPOLT: Good morning, Chairman and Members of the  
2 Board. Office of Planning supports the requested application  
3 from the Applicant and with regard to the driveway off Hamlin  
4 Street. I think the Applicant had conversations with DCRA who  
5 said that the other driveway would be sufficient and the  
6 parking for both uses, both the primary residence and the  
7 accessory unit, and so -- but they didn't specifically  
8 recommend that you remove it, even though, on the Hamlin Street  
9 side.

10 So I think it would need to be removed per the ordinance  
11 and we recommended that instead of removing all of the  
12 driveway, that you leave the driveway because it's going to  
13 serve as a walkway from the public sidewalk up to the entry,  
14 which is like 70 feet, and then to just remove the curb cut,  
15 and that would be recommended per the zoning ordinance. You'd  
16 be required to do that anyway.

17 And then I think DDOT has some more comments.

18 CHAIRPERSON JORDAN: All right. Any questions, Board,  
19 for Office of Planning? Anyone? All right. Does the  
20 Applicant have any questions for Office of Planning?

21 MR. REID: I do not. No.

22 CHAIRPERSON JORDAN: Okay. Then let's go to  
23 Department of Transportation and get input please.

24 MR. WESTROM: Thank you. Good morning, Board. Ryan  
25 Westrom with DDOT. And DDOT also does not object to the

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1 special exception being sought, however, we did want to confirm  
2 that this is a curb cut that we'd want to see retired, and so  
3 the curb cut itself, and in addition, the portion of the  
4 driveway that lies within public space. Obviously, this is  
5 not an area that we would want to have vehicular parking  
6 remaining, and to preclude that, and to return the public space  
7 to the park-like nature for which it's intended.

8 That is something that we would want to see as part of  
9 this action.

10 CHAIRPERSON JORDAN: All right. But in what impact  
11 does it have upon the zoning relief? I mean, isn't that a DDOT  
12 issue? It doesn't have anything in regards to the special  
13 exception requirement.

14 MR. WESTROM: You're exactly correct. And that would  
15 be handled as part of the public space permitting that will  
16 follow the action here today.

17 CHAIRPERSON JORDAN: Good. We're on the same page  
18 then.

19 MR. WESTROM: Thank you.

20 CHAIRPERSON JORDAN: Thank you. All right. Board,  
21 questions of Transportation? Anyone? Good. Does the  
22 Applicant have questions of Transportation? I think you're  
23 winning, so I don't know if you want to ask.

24 MR. REID: Yes, I will withhold any questions. I have  
25 no questions. No.

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1 CHAIRPERSON JORDAN: You had that look. You know,  
2 sometimes people talk themselves into trouble.

3 MR. REID: Yes, I was about to do that myself.

4 CHAIRPERSON JORDAN: Just thought I'd throw that out  
5 there. You don't have to listen to me, but is anyone here from  
6 ANC, which ANC is this? Is it ANC-5C? Is that the ANC that  
7 you --

8 MR. REID: That's correct.

9 CHAIRPERSON JORDAN: Anyone here from ANC-5C? As we  
10 said at the beginning of this hearing, there is no letter or  
11 indication from ANC-5C, but based upon the representation of  
12 the Applicant, that he's engaged the ANC, we will accept that,  
13 that there's been outreach to the ANC, as the Board generally  
14 requires, but also, there's been notification to the ANC by  
15 mailing, so we will proceed on and not find that as anything  
16 that's defective in this application process.

17 Is there anyone wishing to speak in support of this  
18 application? Anyone wishing to speak in opposition? Then we  
19 would normally turn back to the Applicant on this case to --  
20 are you raising your hand to speak in opposition on this case?

21 (Off-microphone comments.)

22 CHAIRPERSON JORDAN: I'm sorry. Can you come forward.  
23 Is this about this case? Are you here on this Case Number --  
24 no, this is not the case. All right. Thank you. Where was  
25 I? Okay. So anyone in opposition? Seeing none, and

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1 normally, we would turn back to the Applicant for rebuttal,  
2 but there's nothing to rebut, so we will close the hearing based  
3 upon what we've adduced in the record.

4 Based upon the record, I would move that we grant the  
5 relief in 19022.

6 VICE-CHAIRPERSON HEATH: Second.

7 CHAIRPERSON JORDAN: Any discussion? Anyone? Mr.  
8 Turnbull?

9 COMMISSIONER TURNBULL: I would just point out that the  
10 order should probably note the Department of Transportation's  
11 comment about the public permitting space and the request to  
12 make the change for the curb cut. I mean, it's not part of  
13 the zoning, but I think it ought to be at least noted so that  
14 the Zoning Administrator is aware of it. Could be a sidebar  
15 in the order. Just a note.

16 CHAIRPERSON JORDAN: Okay. We can put a drive-by note  
17 in there. All those in favor of the motion, aye.

18 (Chorus of ayes)

19 CHAIRPERSON JORDAN: Those opposed, nay. Mr. Moy?

20 MR. MOY: Staff would record the vote as 4-0. This is  
21 on the motion of Chairman Jordan to approve the request for  
22 the relief, with the addition in the body of the order noting  
23 the closing of a curb cut. Seconded the motion, Vice  
24 Chairperson Heath. Also in support, Mr. Turnbull and Mr.  
25 Hinkle. We have a Board seat vacant. The motion carries 4-0,

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1 sir.

2 CHAIRPERSON JORDAN: Okay. Summary with an asterisk.

3 MR. MOY: Yes. Thank you. Will do.

4 CHAIRPERSON JORDAN: We're going to create a new  
5 standard; summary with an asterisk. Let's do 96 please.  
6 Thank you.

7 MR. REID: Thank you. Appreciate it.

8 MR. MOY: The next application for the Board for hearing  
9 is Application Number 18996. This is the application of  
10 Macomb Street Trust, Robert Altman, trustee. Request for  
11 special exception 223, not meeting side yard under 405 at 3401  
12 Macomb Street, NW.

13 CHAIRPERSON JORDAN: Thank you. Please identify  
14 yourself.

15 MR. FOWLKES: My name is V.W. Fowlkes. I'm an agent for  
16 the owner.

17 CHAIRPERSON JORDAN: I think this matter has been  
18 before us before, has it not? Yes. And then we kind of had  
19 --

20 MR. MOY: On May 12th, sir.

21 CHAIRPERSON JORDAN: Right. At that time, did we amend  
22 the request for relief from 2001.3, the non-conforming? Did  
23 you add that to your relief?

24 MR. FOWLKES: I'm not aware of any change in the  
25 requested relief.

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1 CHAIRPERSON JORDAN: OP believes that it's needed from  
2 enlargement of non-conforming structure. It's probably safe  
3 that we add it just in case you don't have any bumps later.

4 MR. FOWLKES: Okay. Is that something we can do on the  
5 record at this meeting?

6 CHAIRPERSON JORDAN: You can make an oral motion, which  
7 I accept already for you.

8 MR. FOWLKES: Okay.

9 CHAIRPERSON JORDAN: And then you would supplement your  
10 application with the amended relief. Mr. Moy, let me ask, did  
11 we actually go through the process on this case? I know we  
12 had it here on the 12th. I think we did, did we not? And I  
13 know we pushed it back for an ANC input or something? Yes,  
14 that's what we did.

15 MR. MOY: According to my notes, the Applicant  
16 testified that he met ANC's planning and zoning committee --

17 CHAIRPERSON JORDAN: Okay. And I think we pushed it  
18 back because of the ANC.

19 MR. MOY: That's right.

20 CHAIRPERSON JORDAN: You subsequently met with the ANC,  
21 is that correct?

22 MR. FOWLKES: Yes.

23 CHAIRPERSON JORDAN: And there was a vote of the ANC?

24 MR. FOWLKES: That's correct.

25 CHAIRPERSON JORDAN: They voted to approve this. All

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1 right. Okay. Yes, we've already went through this process.  
2 Anybody, any questions? Board Members, questions for this  
3 Applicant? Okay. Since we've already driven through this  
4 with you before and reset it because we wanted the input of  
5 the ANC, we now understand the ANC has voted to approve this,  
6 which is good. We always really want more than just a drive-by  
7 with the ANC, the Applicant to really reach out, and that's  
8 one reason why we sent this back.

9 All right. So then we can proceed on and see if there's  
10 any change from Office of Planning regarding this application.

11 MR. JESICK: Thank you, Mr. Chairman, Members of the  
12 Board. My name is Matt Jesick. The Office of Planning  
13 continues to recommend approval of the application and I'd be  
14 happy to take any questions.

15 CHAIRPERSON JORDAN: Very good. Thank you. Board,  
16 questions of Planning? Applicant, questions of Planning?

17 MR. FOWLKES: No, sir.

18 CHAIRPERSON JORDAN: Department of Transportation, is  
19 anyone here for this particular case? Department of  
20 Transportation on this case? We do have a letter of no  
21 objection to the requested relief submitted by the Department  
22 of Transportation. Is anyone here from ANC-3C? We do have  
23 a letter, right? Anyone here from ANC-3C? We do have a letter  
24 received from ANC-3C in support of this application. Anyone  
25 here wishing to speak in support of the application?

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1           We do have letters submitted by the neighbors on this  
2 property in support of the relief requested. Is there anyone  
3 here wishing to speak in support? Anyone here wishing to speak  
4 in opposition? Anyone here in opposition on 18996? Then we  
5 will conclude the hearing based upon the record that we have.  
6 Anything else the Board needs on this from the Applicant?  
7 Anyone? All right.

8           Then I would move that we granted the amended relief in  
9 18996.

10           MEMBER HINKLE: Second.

11           CHAIRPERSON JORDAN: Motion made and second.  
12 Additional discussion? All those in favor of the motion, aye.

13           (Chorus of ayes)

14           CHAIRPERSON JORDAN: Those opposed, nay. The motion  
15 carries. Mr. Moy?

16           MR. MOY: Yes, sir. The staff would record the vote as  
17 4-0. This is on the motion of Chairman Jordan for the relief  
18 requested, including the amendment to add relief from 2001.3.  
19 Seconding the motion is Mr. Hinkle. Also in support, Mr.  
20 Turnbull and Vice Chairperson Heath. Board seat vacant.  
21 Motion carries 4-0, sir.

22           CHAIRPERSON JORDAN: Very good. Summary order,  
23 please.

24           MR. MOY: Thank you.

25           CHAIRPERSON JORDAN: Thank you.

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1 MR. FOWLKES: Thank you.

2 CHAIRPERSON JORDAN: Don't forget to amend the  
3 application. Okay. Let's do 21, Mr. Moy, because we have  
4 some procedural issues on 21. Let's do 21.

5 MR. MOY: Yes, sir. Applicants to the table on  
6 Application Number 19021. This is an application of Amazing  
7 Love Health Services. This is in, Mr. Chairman, for special  
8 exception relief from off-street parking space reduction under  
9 2108 and this is at premises 702 15th Street, NE.

10 CHAIRPERSON JORDAN: All right. There's a couple  
11 issues arising from this application, but let me get your  
12 identification, please. Your names.

13 MR. MOORE: Yes. My name is Thomas Moore.

14 CHAIRPERSON JORDAN: And you are, in relation to the  
15 property, Mr. Moore?

16 MR. MOORE: I'm the program director.

17 CHAIRPERSON JORDAN: Okay. Yes.

18 MS. TANKEU: My name is Sandrine Tankeu. I'm the  
19 project manager.

20 CHAIRPERSON JORDAN: Okay. Project manager, so you --  
21 what do you mean by project manager? You do what?

22 MS. TANKEU: I overview all the projects that come.

23 CHAIRPERSON JORDAN: From who? From who Amazing --

24 MS. TANKEU: From Amazing Love Health Services.

25 CHAIRPERSON JORDAN: Okay.

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1 MS. TANKEU: All the services that we are about to  
2 propose.

3 CHAIRPERSON JORDAN: When you say program manager, it  
4 could be program manager for the construction process, it could  
5 be for the architectural --

6 MS. TANKEU: It can be program manager for the  
7 construction, for the services --

8 CHAIRPERSON JORDAN: I mean, from the architect's  
9 office, or whoever, that's all I'm trying to identify.

10 MS. TANKEU: No, not from the architect's stance and  
11 view, but overview from Amazing Love.

12 CHAIRPERSON JORDAN: Okay. All right. There's some  
13 issues arising on this case. One, it's a question about the  
14 authorization that's kind of confusing, as to the  
15 authorization from the owner. It's my understanding -- who's  
16 the owner of the property?

17 MR. MOORE: It belongs to Basilio Trust.

18 CHAIRPERSON JORDAN: Okay.

19 MR. MOORE: And John Swaggart is the person that's in  
20 charge and holds the trust that I actually had sent --

21 CHAIRPERSON JORDAN: See, I'm real confused. The  
22 letter that was received was from this John, what's his name  
23 again?

24 MS. TANKEU: Swaggart.

25 MR. MOORE: Swaggart.

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1 CHAIRPERSON JORDAN: John Swaggart --

2 MR. MOORE: Yes.

3 CHAIRPERSON JORDAN: -- was on your letterhead.

4 MR. MOORE: Yes.

5 CHAIRPERSON JORDAN: It was on Amazing Love's  
6 letterhead and not on the letterhead of the trust. There is  
7 no representation on -- I have nothing from the trust. It just  
8 simply says, "As owner", but it's on Amazing Love's letterhead.  
9 So that's an issue and then it's another pass-through from kind  
10 of Amazing Love as to who's supposed to be authorized. So that  
11 gives me some pause and concern.

12 MR. MOORE: Who's supposed to be authorized to do what,  
13 sir?

14 CHAIRPERSON JORDAN: To represent the owner on the  
15 property to the Board to seek the relief.

16 MR. MOORE: It's --

17 CHAIRPERSON JORDAN: One, we need the trust to grant to  
18 Amazing Love, the authority to prosecute the application for  
19 relief.

20 MR. MOORE: Yes.

21 CHAIRPERSON JORDAN: Okay. What we have is a letter on  
22 Amazing Love's letterhead that signs by this gentleman,  
23 Swaggart, but there's nothing that we see from the trust, per  
24 se, and so it's kind of jumbled.

25 MR. MOORE: If I may, Your Honor, submit to --

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1 CHAIRPERSON JORDAN: Yes, but is it the one that's on  
2 Amazing Love letterhead?

3 MR. MOORE: No, it's not.

4 CHAIRPERSON JORDAN: Oh, you got a separate letter.

5 MR. MOORE: Yes.

6 CHAIRPERSON JORDAN: What you presented me was the  
7 29-page trust agreement.

8 MR. MOORE: Yes, sir. And on the latter two pages, I  
9 know it's a lengthy document, you'll see where John Swaggart  
10 is the person that's in charge.

11 CHAIRPERSON JORDAN: Not by himself he's not. Let me  
12 think this through. I'm trying to get you where you need to  
13 be. There's at least two trustees; at least. You know what?  
14 That's what counsel's for. I don't need to rack my mind. They  
15 don't pay me to play lawyer here, do they? Well, how I rule  
16 and how we deal with this issue, let me go further and I'll  
17 come back to this issue, technically, it's not sufficient,  
18 however, we could possibly get around it, but there's an issue  
19 about the requested relief.

20 You sought a special exception under 2108. That is  
21 probably not the appropriate relief that you need. You  
22 actually need a variance from 2101 and I don't know if you've  
23 had -- have you had the chance to look at the Office of  
24 Planning's report?

25 MR. MOORE: I have and we were two different offices

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1 told us -- had two different positions on it and we tried to  
2 go with the latter recommendation.

3 CHAIRPERSON JORDAN: Well, let me tell you, from a  
4 zoning standpoint, it's the belief of the Office that you need  
5 a variance from 2101, and that's not what you've applied for.  
6 Additionally, you advertise for a special exception under  
7 2108. I think we need to pull -- then we have a letter. Did  
8 you have a chance to meet with the ANC? Because we have a  
9 letter that we received. Did you receive this letter from ANC?

10 MR. MOORE: Yes, Dan Goden.

11 CHAIRPERSON JORDAN: No, Phil Tamalagen, and that was  
12 received yesterday. The ANC is asking us to postpone this  
13 hearing to another date because they want to have a full meeting  
14 of the ANC to discuss this.

15 MR. MOORE: Yes. And when I presented to the ANC in the  
16 area, the single-member district, we came to some terms. They  
17 said that they felt that it probably would everybody accepted  
18 by the larger ANC, however, the meeting did not take place until  
19 after this hearing was already. We have been kind of trying  
20 to proceed with this since January of this year. We have a  
21 conditional certificate of occupancy, which expires in  
22 October. There are no hearings in August.

23 CHAIRPERSON JORDAN: Let me stop you. This thing, as  
24 we keep going, I think it's getting a little bit more jumbled.  
25 One, I think your relief that you're requesting is not the

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1 proper relief and I want to keep you alive, so I believe there  
2 needs to be an amendment to your application. I think that's  
3 going to require an additional advertisement on the property  
4 regarding the relief that's necessary.

5 We really do need a letter on the letterhead of the trust  
6 granting Amazing Love the authority to bind the owner of the  
7 property to whatever we come out here. And I'm thinking it's  
8 starting to get a bit cluttered. And then on top of that, the  
9 ANC is requesting -- I don't want to kill this. We could go  
10 through it, but it's going to die.

11 MR. MOORE: Yes.

12 CHAIRPERSON JORDAN: Then you'll have to start the  
13 process all over and pay more money. I'm going to continue  
14 this. I'm going to continue this and let you clean it up. I  
15 would suggest that you might seek some help, have some  
16 conversations with Office of Planning, and others. You also  
17 have another issue about counting these parking spaces that  
18 are in public space as part of your numbers. That doesn't  
19 count towards your zoning requirement.

20 So I'm going to suggest to the Board that we at least  
21 roll this over. Mr. Moy, when can we comfortably get back to  
22 this? And you have some work to do in the interim, otherwise,  
23 you're going to have to start the process over. You know, if  
24 I go through this hearing now, it's going to be denied.

25 MR. MOORE: Yes, sir.

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1           MR. MOY: Mr. Chairman? Oh, I'm sorry, I didn't mean  
2 to interrupt.

3           CHAIRPERSON JORDAN: No, no, please.

4           MR. MOY: At the earliest, hoping that there's an ANC  
5 meeting in the month of July, I don't recall which week in July  
6 --

7           CHAIRPERSON JORDAN: They're asking for -- they're  
8 saying --

9           MR. MOY: 28th?

10          CHAIRPERSON JORDAN: -- anytime after the 28th. I  
11 mean, they said they'd have something back by the 28th.

12          MR. MOY: Okay. I'm hearing that the ANC meets the  
13 first week in July. If you can get that on the agenda, at the  
14 earliest, Mr. Chairman, I could have this back with Mr.  
15 Turnbull sitting would be July 28th, otherwise --

16          CHAIRPERSON JORDAN: There's going to be a need to  
17 repost.

18          MR. MOY: Okay.

19          CHAIRPERSON JORDAN: There's going to be a need to amend  
20 the application.

21          MR. MOY: Okay. That's right.

22          CHAIRPERSON JORDAN: There's going to be a need for time  
23 for them to talk with Office of Planning. Have you had a chance  
24 to talk to Office of Planning about this more than --

25          MR. MOORE: Yes, and they've been very helpful.

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1 They've submitted a report. And again, we are trying to be  
2 compliant with all involved parties.

3 CHAIRPERSON JORDAN: What's the other party that's  
4 telling you you need different relief?

5 MR. MOORE: Zoning.

6 CHAIRPERSON JORDAN: The buck stops here on zoning.  
7 Whatever we say is the zoning rule.

8 MR. MOORE: Yes, sir.

9 CHAIRPERSON JORDAN: Anybody else in any other agency,  
10 the Zoning Administrator, DCRA, they don't make the last call  
11 on that pitch.

12 MR. MOORE: Yes, sir.

13 CHAIRPERSON JORDAN: So I'm advising you from the group  
14 that's going to give you the authority, from Zoning's  
15 standpoint, to listen where we are, so then I'll help you in  
16 the confusion.

17 MR. MOORE: Thank you.

18 CHAIRPERSON JORDAN: I understand where you are. You  
19 just got some work and I don't want to kill it for you, okay?

20 MR. MOORE: Yes, sir.

21 CHAIRPERSON JORDAN: So meet again with Planning making  
22 sure you're okay, and if you need to seek some help with how  
23 to do this process, you know, zoning is difficult. And even  
24 people who have done it a zillion and one years have issues  
25 because there's little bitty nuances in the law and I

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1 understand that. And so we try to, at least I try to, and this  
2 Board tries to, be helpful where we can, but also respecting  
3 the need, the protection of the community, and et cetera, et  
4 cetera, et cetera, and the responsibility of the government.

5 So you need to kind of regroup. You need to take a look  
6 at the requested relief. You're going to need to  
7 re-advertise. You're also going to need to have some  
8 conversations again with Department of Transportation who has  
9 some issues about the parking spaces being right up in front  
10 on public space, which is an issue. We need a letter on the  
11 letterhead of the trust. I mean, I even would accept it if  
12 one of the trustees had signed-off -- with one trustee signing  
13 off on it instead of both, because it's on a joint trust, which  
14 is another issue, which is, you know, that's easy to resolve.  
15 Okay? But some things that you need to do.

16 So the date will be -- and you need to meet with the ANC.  
17 They want to have a meeting with you. They're asking us to  
18 put the brakes on. You know, we might have rolled past it,  
19 but it's just too many other little things that are out there.

20 MR. MOY: Mr. Chairman, given all the cues that you're  
21 giving me as well, I think it would be best to set this for  
22 September 29th.

23 CHAIRPERSON JORDAN: Okay.

24 MR. MOY: And Mr. Turnbull could be available for that  
25 as well.

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1 CHAIRPERSON JORDAN: Yes. That gives you time to  
2 really work it and do what you need to do. Yes, go ahead.

3 MR. MOORE: I was just going to say, the date is? Could  
4 you repeat that, please?

5 MR. MOY: September 29th.

6 MR. MOORE: Okay.

7 CHAIRPERSON JORDAN: And I'm not concerned about your  
8 temporary C of O. We would probably resolve this by that date  
9 if you dot all your I's and cross your T's by then, and  
10 additionally, since you're pending in zoning, it, more than  
11 likely, can get continued, even if you had to get to that point,  
12 but I think you'll get it resolved by that date, but you just  
13 got to work and get it done.

14 MR. MOORE: Yes, sir.

15 CHAIRPERSON JORDAN: Okay. Very good. So that would  
16 be the order. The date is what again, Mr. Moy?

17 MR. MOY: September 29th, sir.

18 CHAIRPERSON JORDAN: Okay. Board, any objection to  
19 that? That would be the order. Okay. September 29th.  
20 Thank you. So don't let any time pass because you're going  
21 to have to repost.

22 MR. MOORE: I'm on my way and this is an illuminating  
23 experience.

24 CHAIRPERSON JORDAN: I know. Trust me, like I said, I  
25 don't care how many years you've been doing it or whatever,

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1 it's quirky. And with the new rewrite, we're going to have  
2 a whole new education process for those of you who have been  
3 doing it 100 years, but thank you. Mr. Moy, let's be sure that  
4 we notice ANC-6A that this has been continued, but the  
5 Applicant needs to be sure to reach out to them as soon as  
6 possible.

7 MR. MOY: Okay.

8 CHAIRPERSON JORDAN: All right. Let's do 19, please.  
9 Let's go to the top of the order. Do 19.

10 MR. MOY: All right. Thank you, sir. That would be  
11 the Applicant to Application Number 19019. This is the  
12 application of Better Living Development, LLC. Mr. Sherman  
13 has caption for advertisement, a request for a special  
14 exception under Section 223, not meeting lot occupancy and  
15 non-conforming structure requirements at 1551 3rd Street, NW.

16 CHAIRPERSON JORDAN: What exhibit is this photo? Do  
17 you have one? That's what I'm looking for. Are they within  
18 the plans? Here they are. Right there. Number 10. And  
19 then if you compare it with the plans, right? Right. There  
20 it is. Okay. That's the issue. Got it. Thank you. All  
21 right. I refreshed myself on this case. You know, we spend  
22 about at least 12 hours before we come here, over the weekends  
23 and et cetera, reviewing all these cases, and sometimes I get  
24 a little jumbled catching up with myself. All right. Please  
25 identify yourselves.

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1 MR. GREEN: Richard Green, property owner, Better  
2 Living Development.

3 MR. SULLIVAN: Marty Sullivan with the law firm of  
4 Sullivan & Barros representing the Applicant.

5 MR. FEENEY: William Feeney, architect for the project.

6 MS. QUINN: Teri Janine Quinn, Chair of ANC-5E.

7 CHAIRPERSON JORDAN: 5E?

8 MS. QUINN: 5E.

9 CHAIRPERSON JORDAN: Okay. Thank you. All right. I  
10 think the Board understands the project pretty well, Mr.  
11 Sullivan, so we don't need an understanding of the project,  
12 however, you know, you're requesting lot occupancy relief.  
13 One question arises to my mind is, is this final structure going  
14 to be out of character to the neighborhood? And so I would  
15 like to hear something about that. If you take a look at the  
16 plans versus photos that we had of the neighborhood, it really  
17 kind of, to me, stands out like a sore thumb.

18 And we've been trying to be -- these neighborhoods are  
19 requesting us to be more conscious of that. I did not see any  
20 letters of support from any of the neighbors and those are some  
21 of the things that I would want to hear. Board, any other thing  
22 that you want to talk about that we need to hear from Mr.  
23 Sullivan, or do you want a full presentation to the Board? Is  
24 that good? Is that what we need him to drill down on?

25 Okay. The Board appears to be the same on the same

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1 issues.

2 MR. SULLIVAN: Thank you, Mr. Chairman.

3 CHAIRPERSON JORDAN: Go ahead, please.

4 MR. SULLIVAN: Thank you. Regarding the character of  
5 the building, I will turn it over to the architect in a second,  
6 but I would just like to point out, we do comply with the new  
7 35-foot height rule and it's a mansard roof, not a straight  
8 roof, all the way up. And I would point out that the Office  
9 of Planning has noted that this is not unusual to have an  
10 architectural feature on an end unit, like a turret, and for  
11 that reason, this fits in with the character of this  
12 neighborhood, and I'll turn it over to Bill Feeney, the  
13 architect, to address that question as well.

14 MR. FEENEY: Good morning. The intention all along  
15 with the project was to keep it in character with the  
16 neighborhood in scale and such, so the third floor of the  
17 project was going to be treated as a traditional mansard roof,  
18 slate roof, like you'd see in that era of structure. We  
19 haven't completely worked out the fenestration on the long side  
20 of the project yet, we're still working on that, but typically,  
21 while the project right now has single double-hung windows in  
22 them that don't meet egress, so we know we're going to have  
23 to make some modifications to those windows, but it's not  
24 completely resolved yet, I guess.

25 CHAIRPERSON JORDAN: Okay. I don't know if you got me

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1 there.

2 MR. FEENEY: Well, I guess what I'm --

3 CHAIRPERSON JORDAN: Are there any other three-story  
4 buildings on that block?

5 MR. FEENEY: I'm sorry?

6 CHAIRPERSON JORDAN: Are there any other three-story  
7 buildings on that block?

8 MR. FEENEY: There is a three-story building across the  
9 street. It's an interior one, not an end one.

10 CHAIRPERSON JORDAN: Okay. Where are the neighbors  
11 regarding this? Did you have reach out and conversation with  
12 the neighbors regarding --

13 MR. SULLIVAN: We have. I'll point out that it's on the  
14 corner of -- it's on two corners and the only neighbor that  
15 could be affected by this are across the alley east and then  
16 south.

17 CHAIRPERSON JORDAN: Okay.

18 MR. SULLIVAN: And so Mr. Green will talk about his  
19 interactions with them.

20 MR. GREEN: So I did have a face-to-face meeting with  
21 the neighbor directly adjacent to me about six weeks ago and  
22 he's in support of the project and he is actually also  
23 investigating putting an additional story on his unit. I did  
24 not get a letter from him in support of that, but we had a  
25 face-to-face meeting. And we contacted all the other

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1 neighbors in writing.

2 CHAIRPERSON JORDAN: Where did you say the other  
3 three-story building was? I don't have anything in my notes,  
4 nor do I see anything, for three stories across the street,  
5 way down the street. It looks like there's a pop-up down the  
6 street. Is that third story a pop-up or something?

7 MR. FEENEY: No, I think it's original. The building  
8 itself seems very rundown. I remember seeing it. I don't  
9 even know if it's occupied.

10 CHAIRPERSON JORDAN: Because this property's across  
11 the church, is that correct?

12 MR. FEENEY: Yes.

13 CHAIRPERSON JORDAN: Did you have a conversation with  
14 the church?

15 MR. GREEN: We presented in the church, but we did not  
16 have direct conversations with the church. The other  
17 neighborhood outreach was the Bates Area Community  
18 Association, and they did give us their support.

19 CHAIRPERSON JORDAN: And the neighbor right next door,  
20 what was the conversation with them?

21 MR. GREEN: So I held that meeting about five or six  
22 weeks ago, and he has no opposition. We did show him the sun  
23 studies, there's no problem there. He currently does not live  
24 in the building, but will be moving in in the next month or  
25 two, and is also looking at a remodeling project in his own

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1 unit.

2 CHAIRPERSON JORDAN: Okay. All right. Board,  
3 anything else you want to ask regarding this? Mr. Turnbull.

4 COMMISSIONER TURNBULL: Well, I don't understand Mr.  
5 Sullivan's comment about this being an embellishment. If he's  
6 looking at it as an embellishment to the whole block, that's  
7 not, from a zoning standpoint, how we look upon, and the  
8 embellishment is still an individual structure. This is an  
9 orgasmic response of outrageous proportions to the  
10 neighborhood, to the block, to the whole row house area. I  
11 think if I look at Sheet A-3 and I look at the house adjacent  
12 to this thing, this thing stand a story and a half, with a  
13 penthouse, higher than that building.

14 And if I look at the pictures that were submitted that  
15 show this, I just think this is huge. This is not only a  
16 pop-up, this is a pop-up plus, plus. And I have questions of  
17 the Office of Planning on this and I just think from a character  
18 standpoint, if I look at -- I'm really concerned, but if I'm  
19 looking at 223.2(c), "The addition or accessory structure as  
20 viewed from the street, alley, and other public place shall  
21 not substantially visually intrude upon the character, scale,  
22 and pattern of houses along the subject street frontage."

23 I think this does intrude upon the frontage. I think  
24 this does intrude upon the row house character that the comp  
25 plan tells us that we're here to protect. And I'm really

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1 astounded that the Office of Planning has gone along with this;  
2 totally astounded. And I just don't think this is in  
3 character. You need work if you're going to try to convince  
4 me that you want to do something like this. I just can't  
5 support this, Mr. Chair.

6 CHAIRPERSON JORDAN: When I looked at it over the  
7 weekend, it just jumped out. Mr. Sullivan, you want to  
8 respond?

9 MR. SULLIVAN: Yes. I was just commenting, as you  
10 said, on the Office of Planning's comments, which you obviously  
11 don't agree with. I don't know that C is meant to effect that  
12 you can't do a matter of right addition as to the height because  
13 if we pulled the building back to 60 percent lot occupancy,  
14 we could do that as a matter of right. We could build it to  
15 35 feet. So the relief that we're requesting is for the lot  
16 occupancy and for 2001.3, not for the height.

17 So the lot occupancy issue itself does not impact the  
18 street frontage or impact the character as it is. We're  
19 certainly happy to make more of an argument, or submit  
20 additional plans, or renderings, and an explanation from the  
21 architect as a post-hearing submission if you think that might  
22 be helpful in coming to some understanding of the character  
23 of the addition with the neighborhood.

24 COMMISSIONER TURNBULL: I think the character has to be  
25 worked out.

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1 CHAIRPERSON JORDAN: Okay. Let's do this, Mr.  
2 Sullivan. Let's hear from the Office of Planning. You'll  
3 certainly have the opportunity of rebuttal. Let's go to  
4 Office of Planning, please.

5 MR. JESICK: Thank you, Mr. Chairman and Members of the  
6 Board. Again, my name is Matt Jesick. The Office of Planning  
7 did conclude that the addition would not be out of character  
8 with the row house neighborhood. Certainly, most of the homes  
9 in the neighborhood are two stories. The third story would  
10 be a matter of right, as the Applicant's representative  
11 indicated, in fact, they're well-below the current 40-foot  
12 height limit and would also be below the new 35-foot height  
13 limit that would come into effect, I believe, at the end of  
14 this week.

15 So strictly from a technical standpoint, we didn't feel  
16 that it was out of character with the R4 zone that permits the  
17 third story. We also felt the mansard-type roof was a  
18 mitigating factor that it would not be just a straight-up  
19 addition on the front of the house, which we do see from time  
20 to time around the city, but some thought was given to making  
21 the addition a little bit more pleasing from that front vantage  
22 point. So those are some of the factors that we looked at.

23 And again, they are reducing the lot occupancy  
24 significantly from around 85 percent to just under 70 percent,  
25 so we were comfortable in the end with the application, but

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1 I'd be happy to take any questions. Thank you.

2 CHAIRPERSON JORDAN: Sure. Questions for OP?

3 COMMISSIONER TURNBULL: No, maybe just a little dialog.  
4 I just think from an architectural standpoint, there could have  
5 been a little bit more definitive aspect to that mansard. I  
6 think it could have introduced some elements that would -- this  
7 is a very simplified mansard. This is a very basic, simple  
8 one. I think it needs to be defined a little bit more in  
9 character what you would see with a mansard from the period  
10 in time.

11 I think he needs to go back and look at something that  
12 either has some break, some separation, something of a  
13 definitive nature that gives a little bit more character to  
14 the kind of scale that we would be looking at from this period  
15 in time. I think it just needs some more articulation that  
16 isn't really present right now. I agree, and the matter of  
17 right is understood. I'm just looking at it from the  
18 architectural composition itself. It's just been there.

19 It's well, we're going to do a mansard. I think there's  
20 several ways to do a mansard and how you articulate it and bring  
21 some more character to it so that it would fit in better with  
22 the neighborhood, I think, would be more appropriate. I just  
23 think there's a little bit of finessing in how you do that.

24 Plus, he's also -- as he said, he hasn't really defined  
25 what the elevation is really going to look like with the windows

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1 and whatever this panel system is. So I like to just see from  
2 the standpoint of the architecture of it defined a little bit  
3 more before we give a nod to it.

4 CHAIRPERSON JORDAN: Okay. Great. Any other  
5 questions for -- thank you, Mr. Turnbull. Any other questions  
6 for Planning, Board? Does the Applicant have any questions  
7 for Planning?

8 MR. SULLIVAN: No, Mr. Chairman. Thank you.

9 CHAIRPERSON JORDAN: All right. Department of  
10 Transportation, anyone here on this particular case for  
11 Department of Transportation? We do have a letter of no  
12 objection to the requested relief from the Department of  
13 Transportation. We do have a representative of ANC-5E.  
14 Please.

15 MS. QUINN: Yes. We heard this matter last week and  
16 supported it. In addition to that, there was a single-member  
17 district meeting, I believe, the month prior, and the  
18 single-member district was also in support. I did not attend  
19 that meeting, but the single-member district commissioner  
20 informed me and the commission that they were in support. And  
21 I did attend the Bates Area Civic Association meeting where  
22 this matter was heard, and they voted to support it as well.

23 CHAIRPERSON JORDAN: All right. So do we have a letter  
24 from ANC-5E in this case?

25 MS. QUINN: No.

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1 CHAIRPERSON JORDAN: Okay. But the full ANC voted in  
2 support of it.

3 MS. QUINN: The full ANC voted, there was quorum  
4 present --

5 CHAIRPERSON JORDAN: If you can supplement our record  
6 with it, it'd be good, with a letter from --

7 MS. QUINN: Sure. If the Applicant will give us a  
8 filled out form 129, we'll be happy to sign it and get it filed.

9 CHAIRPERSON JORDAN: And get it done. Right. Okay.  
10 We'll appreciate that. Board, any questions for -- yes.

11 COMMISSIONER TURNBULL: Well, I just got a comment for  
12 the Commission. You understand my comments on this, that I'm  
13 not looking to deny it, I'm just saying that it needs to be  
14 taking a little bit further from the standpoint of character  
15 for the neighborhood.

16 MS. QUINN: Is that directed to me or to the architect?

17 COMMISSIONER TURNBULL: No, I'm just -- to you.

18 MS. QUINN: Okay.

19 COMMISSIONER TURNBULL: So that you understand my  
20 comments on this.

21 CHAIRPERSON JORDAN: Well, and I don't disagree with  
22 those comments because like I said, it first hits you like a  
23 bag of bricks, and so it makes me torn regarding the special  
24 exception, kind of, not necessarily mandatory, but then the  
25 provision of special exception, which talks about its impact

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1 and visibility, and its affect upon the neighborhood gives us  
2 the ability to do that. And so I think there can be some  
3 grounds where there can be some movement to do that, to meet  
4 that, so I'm with you on that, Mr. Turnbull.

5 Is there anyone here -- and especially, I don't have  
6 letters of support from the neighbors too, and that's the other  
7 thing that really guards me on this. And I appreciate the ANC  
8 and the Commissioner being here and talking about that  
9 standpoint. Anyone here wishing to speak in support of the  
10 application? Anyone here wishing to speak in support?  
11 Anyone here wishing to speak in opposition? Anyone in  
12 opposition? Then we will turn back to the Applicant for any  
13 rebuttal or statement that needs to be made.

14 MR. SULLIVAN: Thank you, Mr. Chairman. I would just  
15 point out that regarding the neighbors, we did attend three  
16 meetings, including the ANC, and the single-member district,  
17 and the Bates Area Association. And the ANC vote, I won't  
18 speak for the Chair, but was unanimous and there were no  
19 negative comments about it. We certainly understand the  
20 Board's concerns and we would appreciate the opportunity to  
21 supplement the record to respond to those comments.

22 CHAIRPERSON JORDAN: Okay. Well, then let's do that.  
23 Let's continue this and please submit any revisions, plus, I'd  
24 like to see what it would look like as a matter of right based  
25 upon, as you've said, the other way, but it's certainly taking

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1 Mr. Turnbull's and the Board's concern about its impact upon  
2 the character of the neighborhood. Mr. Turnbull had a date  
3 that was July something? Was it July -- is that Mr. Turnbull's  
4 date, July 28th?

5 MR. MOY: Yes.

6 CHAIRPERSON JORDAN: Okay. So July 28th. So let's  
7 get that in. Any drawings in by the 21st, Mr. Moy?

8 MR. MOY: Be by the, very good, July 21st.

9 CHAIRPERSON JORDAN: I'm learning. It only took me  
10 about five years to learn. So July 21st, any drawings. If  
11 there's anything else that's going to be entered in the record,  
12 letters of support or opposition, I want them in by July 21st.  
13 We are not going back through a full hearing. I've already  
14 called for any additional support or opposition. We've  
15 already gone through Planning, unless there's some change that  
16 Planning wants to invoke, or Department of Transportation, so  
17 we will just deal with the supplement.

18 Let's make sure the record is clear about what we're  
19 going to deal with on the 28th, a review of the supplemental  
20 plans and discussion with the Board, okay?

21 MS. QUINN: May I --

22 CHAIRPERSON JORDAN: Sure.

23 MS. QUINN: -- make a comment. I'm looking at these  
24 dates and I just would like to make the record clear that  
25 ANC-5E, after tomorrow, will be out until -- in summer recess

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1 until September, so if there is significant changes submitted,  
2 we will not have an opportunity to review those.

3 CHAIRPERSON JORDAN: And if you wish, please be sure  
4 that the Commissioner has it, and you can take a look at them,  
5 if there's something you think we need to pull brakes on, let  
6 us know, and we'll do that.

7 MS. QUINN: Sure.

8 CHAIRPERSON JORDAN: Okay?

9 MS. QUINN: Thank you.

10 CHAIRPERSON JORDAN: All right. Yes, Mr. Moy?

11 MR. MOY: I'm assuming that the ANC letter will be  
12 allowed into the record.

13 CHAIRPERSON JORDAN: Yes. We're going to get the ANC  
14 letter as soon as the Applicant fills out the form and gives  
15 it to the Commissioner to complete. All right. Good? Any  
16 objection, Board? Then that would be our order. Thank you,  
17 all. Thank you very much.

18 MS. QUINN: Thank you.

19 CHAIRPERSON JORDAN: All right. 19024, Mr. Moy.

20 MR. MOY: Yes, sir. Applicants to Application Number  
21 19024. This is the application of 1012 Harvard Street, LLC.  
22 Mr. Chairman, this application was advertised for variance  
23 relief from the off-street parking requirements under 2101.1  
24 at premises 1012 Harvard Street, NW.

25 CHAIRPERSON JORDAN: Very good. Please identify

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1 yourselves.

2 MS. JACOBSON: Hi. My name is Jenna Jacobson. I work  
3 for S-2 Development who's developing the property.

4 MR. SULLIVAN: Marty Sullivan with the law firm of  
5 Sullivan & Barros on behalf of the Applicant.

6 MR. SIMON: Hi. Lee Simon. I'm a principle at S-2  
7 Development who's the sole member of 1012 Harvard Street, LLC  
8 that's developing the property.

9 CHAIRPERSON JORDAN: Okay. All right. Mr. Sullivan,  
10 I'm certainly still struggling how this meets the exceptional  
11 situation or condition part of the test, so I'd like to hear  
12 that from you. And then the -- because I know you also, there's  
13 a question, you said something about you're going to preserve  
14 this building, but it's not historic, and I want to know and  
15 understand what that's about and how that affects your  
16 inability to meet the parking requirement. Anybody else,  
17 anything you need to drill in on? It's good? Same thing,  
18 Board? Good. Okay. Those would be it.

19 MR. SULLIVAN: Thank you, Mr. Chairman. The inability  
20 to meet the parking requirement is based on a couple of items.  
21 One is the inability to get a parking credit because there's  
22 existing parking spaces there. The building is being moved  
23 back to 60 percent lot occupancy and is being provided a number  
24 of units that's a very reasonable number of units and  
25 reasonably sized. The ANC was very appreciative of the fact

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1 that we're doing larger two-bedroom units because they feel  
2 that everyone's doing micro-units, or smaller units, these  
3 days.

4 With a building that's within matter of right with a  
5 reasonable number of units, the area that's leftover for  
6 parking is limited to the three spaces. If we could do that  
7 according to 2100.5 or 2100.6, which says that you only provide  
8 parking for additional units, we're adding six units, three  
9 spaces. However, two spaces are taken away because they  
10 existed.

11 Also, so the practical difficulty is in the size of the  
12 lot in relation to the matter of right building that we're going  
13 to put on it with a reasonable number of units.

14 CHAIRPERSON JORDAN: Size of the lot? Because I must  
15 have missed it. All right. So tell me about the size of the  
16 lot.

17 MR. SULLIVAN: Well, the backside of the lot only has  
18 enough room for three parking spaces if you use the building  
19 at 60 lot occupancy. If you use it as a matter of right with  
20 a reasonable number of units. The other part of the practical  
21 difficulty is, there's an empty lot next door, which we have  
22 not been able to obtain because it is in the tax sale process  
23 with the city, which makes it almost impossible to obtain.

24 The ANC single-member district commissioner and chair  
25 has been working with the city, and we've been working with

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1       them, to try to acquire that lot to obviate the need for the  
2       parking variance. I would compare this to cases where you have  
3       a minimum lot size variance and one of the things that the Board  
4       looks at is whether or not there's property that you can expand  
5       to, and if you can't, that's considered a practical difficulty  
6       in meeting the regulations, and I think we have that same  
7       situation here because we need the space for the parking.

8               CHAIRPERSON JORDAN: I can use that for practical  
9       difficulty, but what's the exceptional situation? You're  
10      saying the lot is small compared to what?

11             MR. SULLIVAN: Well, it's an unusual lot by itself.  
12      It's the only residential lot on this block. There's a gas  
13      station adjacent to it, there's a Pepco facility across the  
14      street, and this building is all by itself there. And it's  
15      under-built right now, it's only two stories, it's four units  
16      currently, it's always been an apartment building, and to build  
17      it out and renovate it as a matter of right would require more  
18      space, which we are unable to obtain, which we could, if we  
19      could figure out how to purchase the land behind it.

20             CHAIRPERSON JORDAN: Now, is the lot smaller than the  
21      other lots?

22             MR. SULLIVAN: The lot is certainly smaller than the  
23      Pepco facility, but it's not smaller than the single-family  
24      homes on the -- not single-family, but there's apartment  
25      buildings across the alley to the south that are facing the

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1 other way.

2 CHAIRPERSON JORDAN: Okay. You had me for a minute  
3 there, you said there --

4 MR. SULLIVAN: There are 5B multi-unit buildings, but  
5 those are standard size lots. This lot is small for the  
6 building that's on it and for the building that can be built  
7 on it, and the thing that the ANC appreciated was, we could  
8 do up to 13 units, we could add units, which is what a lot of  
9 people do just to stay right under the inclusionary zone  
10 number, but they've kept it at ten in order to reduce the need  
11 for the parking variance, but also to have reasonably sized  
12 units.

13 CHAIRPERSON JORDAN: Now, you also raised that this  
14 building's historic, but I didn't see any designation as  
15 historic.

16 MR. SULLIVAN: If I said that, I meant it with a small  
17 H, historic, and there was -- the ANC also appreciated that  
18 we were saving one of the walls. In fact, the one that you  
19 see as you come down Harvard Street from the west.

20 CHAIRPERSON JORDAN: Okay. Yes, because that shoots a  
21 different flag for us when it's certainly historic in nature.  
22 I think we're right at that tip. I think I would compare it  
23 to the Church Street case where the lot was too narrow to  
24 provide parking, the micro-unit case with 17, I think it was  
25 17, parking spaces.

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1 CHAIRPERSON JORDAN: Board, any other questions of Mr.  
2 Sullivan? You think you need to hear more or are we  
3 comfortable with the -- I think I found a hair of exceptional  
4 situation, a condition, with this building, just a hair.  
5 Anybody? Okay. Then I think the Board's comfortable now with  
6 that and I think the practical difficulty, as you define it,  
7 clearly, once you got past to meet the first step, then it was  
8 obvious for the second step.

9 All right. Then let's turn to the Office of Planning.

10 MR. GYOR: Good morning, Mr. Chairman and Members of the  
11 Board. I'm Stephen Gyor with the Office of Planning. We  
12 support the application and rest on the record. Thank you.

13 CHAIRPERSON JORDAN: Board, questions for Planning?  
14 Applicant, questions for Planning?

15 MR. SULLIVAN: No, thank you.

16 CHAIRPERSON JORDAN: All right. We'll turn to the  
17 Department of Transportation. Is anyone here on this case for  
18 DDOT? I'm trying to understand their letter, but I think, have  
19 you had conversation? They have no objection, but they want  
20 four long-term secure bicycle spaces. Where are you on that,  
21 Mr. Sullivan?

22 MR. SULLIVAN: We can -- well, I think I'll have the  
23 Applicant speak to that.

24 CHAIRPERSON JORDAN: You know, one thing from the  
25 Department of Transportation, we get these mixed letters, and

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1 so it'd be good if we have the impact basis of why a relief  
2 is requested, so when you say we have no objection, but then  
3 we want blah, blah, blah, it's -- you know, if it's, we have  
4 a concern for this reason, we believe this reason could be  
5 mitigated with these things, it would be helpful for us. Would  
6 you agree, Board?

7 MR. SULLIVAN: The idea is, we'd be happy to put that  
8 there, a little concerned about the GAR -- its impact on the  
9 GAR calculation. And so I'm sure -- I assume there's a way  
10 we can do that, but if the condition could state that if for  
11 some reason the GAR --

12 CHAIRPERSON JORDAN: It's impacted.

13 MR. SULLIVAN: -- aspect that's going on underneath it  
14 is significantly affected.

15 CHAIRPERSON JORDAN: Okay.

16 MR. SULLIVAN: I don't want to just promise and then  
17 come back and --

18 CHAIRPERSON JORDAN: Yes, and I appreciate that.  
19 Okay. Thank you. Any questions? Mr. Turnbull.

20 COMMISSIONER TURNBULL: Well, I guess the only thing is  
21 the bike storage room within the building, which is part of  
22 the Department of Transportation's question? Do you have any  
23 comment on that?

24 MR. SULLIVAN: I'll ask the Applicant if that's in the  
25 plans. I don't know that there's any space. There's limited

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1 space for the units as planned. I don't know if there's any  
2 space planned for bicycle storage within the building.

3 MR. SIMON: There's not. It's a small lot and a small  
4 building for two bedrooms. Because of the configuration, we  
5 need two forms of egress, two exits, two staircases all the  
6 way up and down. I mean, I don't know if you've seen  
7 floorplans, but, you know, there's definitely no interior room  
8 for anything else unless we were going to start sacrificing  
9 bedrooms and do exactly what the ANC did not want us to do.

10 A bike rack outside is fine, you know, like Marty  
11 mentioned, our GAR is already approved, and there's nothing  
12 in this backyard except parking and GAR. There's no fluff,  
13 there's no extra space, so I just wouldn't want to say, yes,  
14 bike rack, and then have DDOE come back and say, you know, we  
15 don't allow bike racks on GAR or for some reason, it doesn't  
16 mesh with the plants, I have no idea, but, you know, so as far  
17 as DDOE has no objection to a bike rack, I certainly don't.

18 CHAIRPERSON JORDAN: All right. Anyone else? Is  
19 anyone here from ANC-1B? ANC-1B? We do have the letter of  
20 support from ANC-1B, which we will give great weight to, in  
21 support of the application. It does talk about, in the letter,  
22 that they want you to work to acquire, which is not before us,  
23 the unused alley space behind the building, or something, but  
24 that cannot be part of our requested order. Anyone here  
25 wishing to speak in support of this application? Anyone in

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1 support? Anyone in opposition? Anyone in opposition?

2 In opposition or support? Come forward. You can tell  
3 us what you -- one way or the other. Welcome. Please make  
4 sure your microphone is turned on and did you give your witness  
5 cards to the court reporter? Okay. Very good. Push the  
6 button. It's got to glow for you.

7 MR. BRYANT: Okay.

8 CHAIRPERSON JORDAN: Thank you. Please tell us your  
9 name.

10 MR. BRYANT: David Bryant.

11 CHAIRPERSON JORDAN: You have three minutes, Mr.  
12 Bryant, to address the Board.

13 MR. BRYANT: Okay. I guess I'm mostly concerned about  
14 the parking situation. It's difficult in that area. At this  
15 particular property, I think the building is a nice little  
16 apartment building; an original building. You'd be  
17 hard-pressed to find a place to park there and this particular  
18 property is currently vacant, so you've got the Carlos Rosario  
19 School behind there, there's people parking in the  
20 neighborhood all day long, and all evening.

21 I would love to see the property just redeveloped the  
22 way it is. I don't see how you could put 10 units there, or  
23 13, or whatever. Parking is a problem. Where are they going  
24 to put the trash and recycling containers? It's things like  
25 that that kind of concern me as a resident of the neighborhood.

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1 CHAIRPERSON JORDAN: Very good. Thank you.

2 MEMBER HINKLE: I'm sorry. How far do you live from the  
3 site? You said you lived --

4 MR. BRYANT: I'm on Girard Street.

5 MEMBER HINKLE: Which is? Help me out.

6 MR. BRYANT: Behind it.

7 CHAIRPERSON JORDAN: So, Mr. Sullivan, how is trash  
8 being handled?

9 MR. SULLIVAN: I'm not sure if we've developed those  
10 plans yet. It'll be privately handled because it's more than  
11 three units, so the condo association will handle that. We  
12 can submit a plan showing where that would be.

13 MR. BRYANT: I just don't know where it would fit in in  
14 that vacant area, the parking area that's behind the building  
15 now. It's very tight.

16 CHAIRPERSON JORDAN: Yes, I mean, it truly is. That's  
17 what we're trying to wrestle with here as a Board, because,  
18 what is it, 3000-square feet, or something, total, that area  
19 back there? All right. We appreciate it, Mr. Bryant. Is  
20 there anything else you wanted to say to the Board? Well,  
21 appreciate it. We will weigh your considerations and the  
22 problem is, we have to weigh a lot of stuff in regards to what's  
23 impactful for the community, but thank you. We really  
24 appreciate you coming down.

25 Anyone else wishing to speak in opposition? Anyone

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1 else in opposition? Then we will turn back to the Applicant  
2 for any rebuttal.

3 MR. SULLIVAN: Thank you, Mr. Chairman. And I would  
4 just point out that our unscientific analysis had a significant  
5 number of parking spaces available on Harvard Street, and I  
6 have photos of that, and we also went to the Planning, Zoning,  
7 and Development Committee of ANC-1B as well as the ANC meeting  
8 and had no comments at either of those meetings with any  
9 concerns.

10 CHAIRPERSON JORDAN: Parking available on Harvard  
11 Street?

12 MR. SULLIVAN: Yes.

13 CHAIRPERSON JORDAN: Really. What day and time did you  
14 go out and do this survey?

15 MR. SULLIVAN: Do you want to talk about that?

16 MS. JACOBSON: So we actually have a Google map photo,  
17 so it wasn't our own biased, you know, middle of the night  
18 photo, which we had in the presentation that we showed to the  
19 ANC. There were about four parking spots available. Part of  
20 it is because it's a one-way --

21 CHAIRPERSON JORDAN: When were the parking spaces  
22 available?

23 MS. JACOBSON: Well, this is a Google Map photo, so just  
24 whenever a Google Map car drives down. It looks like it's the  
25 middle of the afternoon based on the --

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1 CHAIRPERSON JORDAN: Come on now.

2 MS. JACOBSON: Well, every time we've gone over to the  
3 property we've had no problem parking. I think it's partly  
4 because it's a one-way street and partly because there's no  
5 residential on it. The Pepco utility center and the gas  
6 station are there, so there's not a big demand for street  
7 parking in that particular 1000 block of Harvard. I know other  
8 areas in Columbia Heights may be different, but on this block,  
9 we've never had issues finding parking.

10 CHAIRPERSON JORDAN: Okay. I would take that Google  
11 thing, not happening. Okay. Board, any other questions?  
12 Mr. Turnbull?

13 COMMISSIONER TURNBULL: Now, Mr. Chair, I guess I'm  
14 just following up on the trash pickup. I mean, when I look  
15 at this site plan, I see window wells for the lower level units  
16 and then I see three parking spaces, and I really don't see  
17 any kind of an area where you're going to be putting waste  
18 receptacles, or trash receptacles, or how they even get -- I'm  
19 just concerned that they're going to be out in the middle of  
20 the lot, parking lot, and it could be a waiting concern.

21 I don't see a plan for how you're going to deal with trash  
22 for a ten-unit building, which I think could be significant.  
23 I think that needs to be addressed.

24 CHAIRPERSON JORDAN: And, Mr. Sullivan, I'm thinking,  
25 yes, that we do need some revised plans showing how those things

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1 are going to be treated, and at the same time, you can layout  
2 where you're doing the bicycle aspect, because the community,  
3 sort of like Mr. Bryant said, we have a concern about the trash,  
4 how it's going to be operated, and its affect upon the  
5 community. And if you can provide us at least have someone  
6 do a survey regarding the parking on the street, and the peak  
7 times, when we know that's going to be impactful, I think that  
8 would be helpful to your application.

9 MR. SULLIVAN: Okay.

10 CHAIRPERSON JORDAN: Not only just two spaces, but in  
11 those areas, they're very, very tight. Very, very tight. So  
12 let's do that and, Mr. Moy, what are we looking at on the 28th?

13 MR. MOY: July 28th, well, I think this would be the last  
14 one for the 28th if the Board chooses to --

15 CHAIRPERSON JORDAN: Okay. Then let's do that.

16 MR. MOY: So this would be a continued hearing, sir?

17 CHAIRPERSON JORDAN: Yes, but modified. Yes, it's  
18 going to be a modified. We've already, kind of, went through  
19 the walk already. We're not going to revisit the walk, and  
20 the record's going to be open regarding the revised plans, and  
21 anything they can show us on traffic, but that's all I want  
22 in this record. It's not open day, field day, on this record,  
23 or anything else, and so the hearing starts from that  
24 standpoint of those things and not anything else, okay? So  
25 if you can do that, and we want it by the 21st of July, if you

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1 can get those documents filed.

2 MR. SULLIVAN: Okay.

3 CHAIRPERSON JORDAN: All right.

4 MR. SULLIVAN: Thank you.

5 CHAIRPERSON JORDAN: Thank you. Appreciate it.  
6 Thank you. The Board's going to -- well, we went past the 10:30  
7 break. We'll take a five-minute, five-minute good, break and  
8 we'll be back. All right. Thank you.

9 (Whereupon, the foregoing matter went off the record at  
10 10:58 a.m. and went back on the record at 11:04 a.m.)

11 CHAIRPERSON JORDAN: Let me do this, because I remiss  
12 to do something, darn it. If we have the representative on  
13 the Jamal case, just the representative on the Jamal case, and  
14 then the representative of the party status request on Jamal  
15 case, please come to the table. I think, Mr. Boardman, is that  
16 you on 19020? There was a party status request on 19020,  
17 please. I thought you were on 21, right? Yes, but you don't  
18 have party status request. I'm sorry, you just take a seat  
19 and just wait until we call the case.

20 Just quickly, I was remiss. As you know, we normally  
21 proceed, when we have a party status request, and I believe  
22 we would grant party status, we will grant party status, to  
23 the request of United Local 25 in this case, to have the parties  
24 have conversation before we call this case up for hearing. I  
25 don't know, have you had discussion before? Let me have you

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1 identify yourself, Mr. Hughes. Identify yourself for the  
2 record.

3 MR. HUGHES: Good morning, Mr. Chair. Dennis Hughes  
4 with Holland & Knight, here on behalf of the Applicant.

5 CHAIRPERSON JORDAN: All right. And?

6 MR. BOARDMAN: John Boardman with Local 25,  
7 representing Local 25 Permanent Building Corporation.

8 CHAIRPERSON JORDAN: Okay. We typically have, in  
9 situations like this, the parties to have conversation and see  
10 if they can resolve any issues among them. I should have asked  
11 earlier to do that. Have you had conversations?

12 MR. HUGHES: I didn't attend the conversation, but I  
13 understand they have been had between the Applicant and the  
14 party opponent.

15 MR. BOARDMAN: That's correct, Mr. Chairman.

16 CHAIRPERSON JORDAN: All right. We're going to do  
17 this. I'm not going to call this case now. I want you to go  
18 out and have conversation. We have resolved matters once they  
19 got here to the steps and resolved issues. I don't know if  
20 there's anything resolvable. We're at least going to take one  
21 hearing before we call your case back. We want you to have  
22 fruitful discussion about trying to work out the concerns of  
23 the parties, otherwise, then we'll resolve any issues that we  
24 can, so please do so and try to have some meaningful discussion.

25 We know there's been times when people walked out one

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1 door and walked back in the other door. That's not fruitful  
2 and I watch the doors, but it has worked. It has worked. No  
3 matter how complicated you think your situation is. We've  
4 had, what is it, 12 parties? Twelve different party status  
5 in a case, and it all worked out in one of the most contentious  
6 areas in the city. So please do so, okay? So please do that  
7 now and let's call this next case.

8 MR. HUGHES: Thank you, Mr. Chairman.

9 CHAIRPERSON JORDAN: Thank you. So then let's do,  
10 what's our next case, and then we'll come back to that one,  
11 is it 18970?

12 MR. MOY: Yes. That would be the Applicants to  
13 Application Number 18970 of Nam Dinh Pham, yes?

14 CHAIRPERSON JORDAN: Yes.

15 MR. MOY: This request, Mr. Chairman, is advertised for  
16 special exception relief under Section 223, not meeting the  
17 rear year setback at 2903 44th Street, NW.

18 CHAIRPERSON JORDAN: All right. Thank you. Please  
19 identify yourselves.

20 MS. PIERCE: Hello. My name is Bonnie Pierce and I'm  
21 one of the --

22 CHAIRPERSON JORDAN: Pierce?

23 MS. PIERCE: Pierce, P-I-E-R-C-E. I'm the wife of Nam  
24 Dinh Pham and I am co-owner of 2903 44th Street, NW.

25 MR. SULLIVAN: Good morning, Mr. Chairman. My name is

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1 Marty Sullivan. I'm with the law firm of Sullivan & Barros  
2 on behalf of the Applicant.

3 CHAIRPERSON JORDAN: Okay.

4 MR. PHAM: Nam Pham, the Applicant of the application.  
5 The owner of the house.

6 CHAIRPERSON JORDAN: Make sure your microphone's on.

7 MR. KINNEY: Alan Kinney. I'm the project designer.

8 CHAIRPERSON JORDAN: All right. Okay. As you know,  
9 Mr. Sullivan, there are at least two neighbors in opposition  
10 who talk about the effect upon this property on, certainly,  
11 light and air, and the tree issue. The ANC has voted in  
12 opposition and has a whole list of reasons why they believe  
13 this should not go forward. So we need to hear you regarding  
14 that. Board, any other things?

15 COMMISSIONER TURNBULL: Yes, I think part of it is the  
16 response to ANC-3D and their assertion that this is a variance  
17 rather than a special exception aspects to it, and that there's  
18 been a commingling of terms and aspects, and now people are  
19 looking at this, so I think we need that addressed.

20 MR. SULLIVAN: Certainly. Thank you, Mr. Chairman and  
21 Members of the Board. This is, of course, a very modest  
22 proposal. There is an existing garage and above it, a  
23 first-floor part of the structure, both of which are part of  
24 the original house, but they were extended in 1974, according  
25 to a variance application. So currently, there's a deck, and

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1 if you go through the pre-hearing statement --

2 CHAIRPERSON JORDAN: The garage is an accessory  
3 structure?

4 MR. SULLIVAN: No, it's connected.

5 CHAIRPERSON JORDAN: It's connected.

6 MR. SULLIVAN: Yes.

7 CHAIRPERSON JORDAN: So it's part of the full  
8 structure.

9 MR. SULLIVAN: Right. It's up against the east side of  
10 the house and the house is three stories, and this structure  
11 is one story, and the garage is on the below-grade level from  
12 --

13 CHAIRPERSON JORDAN: The garage that's part of the  
14 house.

15 MR. SULLIVAN: Correct.

16 CHAIRPERSON JORDAN: What would normally be a garage.

17 MR. SULLIVAN: It is a garage with a room above it.

18 CHAIRPERSON JORDAN: It's still the garage, but it's  
19 fixed --

20 MR. SULLIVAN: It is a garage. So what's being done is,  
21 and if you look at the photos on the pre-hearing statement,  
22 in the first photo, you see a deck that's on top of the garage  
23 just outside that first-story structure that's attached to the  
24 east side of the house, the proposal is to fill that in, the  
25 deck, closing that window that faces east right now, and

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1 there'll be a 2-foot increase in the height of the roof on that  
2 structure.

3 CHAIRPERSON JORDAN: One second, Mr. Sullivan, let me  
4 catch-up with you. Okay. Start again on the picture. So I'm  
5 looking now at the pictures that you --

6 MR. SULLIVAN: The first is a view from Garfield Street  
7 at the driveway and the proposal is to close that deck, closing  
8 those two sliding glass doors on the deck, and then there's  
9 a window that faces east from the main house that would also,  
10 obviously, be closed, and there'll be no windows then on the  
11 east side of the house following this addition.

12 And the roof of this structure will be increase by  
13 approximately 2 feet and there will not be any roof deck in  
14 that area. So I'd also like to point out -- the next picture  
15 shows the window that's being removed from the east. It's a  
16 full-sized window being removed. And then you'll see a view  
17 from the front street, from Garfield, in front of the  
18 neighbors' house at 4343 Garfield. I would point out too, I  
19 don't think we have two neighbors in opposition, I think we  
20 have two letters from the same neighbor.

21 In Exhibit B, you'll see the map showing the relative  
22 locations of the houses. 2903, the subject property, is on  
23 the corner of 44th and Garfield, and 4343, you'll see it is  
24 set forward. It's southeast of the subject property. So as  
25 the sun goes, it doesn't lose any sunlight at all from the house

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1 on 44th Street, let alone, just the addition, which is already  
2 shadowed by the three stories. If there was any shadow, it  
3 would be shadowed by the three stories of the original house.

4 So that's it. It's a very modest addition. Now, to  
5 your point, Commissioner Turnbull, about the ANC's issues.  
6 The 1974 request was for variance relief rather than Section  
7 223 relief, that's because Section 223 did not yet exist. It  
8 was implemented, adopted, in 1998, I believe, therefore,  
9 that's the proper relief now. Also, I would add, this is not  
10 self-certified. This has come to the Board with a memo from  
11 the Zoning Administrator, and in that memo he notes it as a  
12 deck addition, and he has reviewed the plans.

13 So based on that, I think his interpretation is that this  
14 building existed completely, and is fully permitted, and all  
15 that's being requested is to closing in the deck, and the  
16 additional 2 feet on the roof of the building.

17 CHAIRPERSON JORDAN: Okay.

18 MR. SULLIVAN: I would add, however, also that, and I  
19 don't know, personally, the permit history, we haven't looked  
20 into that, regarding what happened after 1974, but I think the  
21 presumption would be that they built the entire thing according  
22 to that order because they went to the BZA, I wouldn't expect  
23 them to go to the BZA and then build something totally different  
24 and get away with it in this neighborhood.

25 However, I think the Board can look at the entire

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1 structure anyway because we're not asking you to look at the  
2 2-feet of additional roof or the deck suspended in midair and  
3 sunlight comes through underneath it. It's on top of a  
4 structure anyway, so if there is any impact from that, there  
5 would be impact from the bottom as well, but if you find there's  
6 no impact from the additional 2 feet or closing in the deck,  
7 there's no impact from the entire structure itself, because  
8 it's up against the existing house anyway, and because of the  
9 relative locations of the houses in relation to the sun.

10 On the issue of -- I think that addresses the ANC's two  
11 concerns about that this should be a variance case and that  
12 they seem to think that the story above the garage is not  
13 permitted for some reason, or it wasn't approved in the order.  
14 The 1974 order is essentially a summary order and it doesn't  
15 include the plans. It just describes the plans briefly, so  
16 I don't think we can tell from that what was going on with the  
17 -- what was completed exactly in accordance with that 1974  
18 order.

19 However, as I said, I think it's moot because I think  
20 you can review the entire structure anyway and find also that  
21 none of it negatively impacts the light and air or privacy of  
22 the neighbor. In fact, we think the privacy is greatly  
23 improved over the current situation by removing the deck and  
24 the window.

25 CHAIRPERSON JORDAN: Okay. Any other questions? Mr.

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1 Turnbull, please.

2 COMMISSIONER TURNBULL: Okay. Just going back so I  
3 totally understand. We've got an existing garage and a  
4 structure that was built on top, which currently is used as  
5 a playroom, am I correct?

6 MS. PIERCE: Yes, that is correct.

7 COMMISSIONER TURNBULL: And is that a heated room or is  
8 there --

9 MS. PIERCE: Yes, it is a heated room.

10 COMMISSIONER TURNBULL: And you're going to,  
11 basically, remove that structure, but rebuild another  
12 structure, still have a garage, and the playroom gets  
13 relocated, the kitchen gets put in this area, and then you're  
14 going to put a new deck on top of the kitchen then.

15 MS. PIERCE: No, everything is correct except we are not  
16 putting a deck on top of the kitchen. That is just a decorative  
17 rail in order to match the other historical homes in the  
18 neighborhood.

19 COMMISSIONER TURNBULL: Okay. Got it. So it's a  
20 roof, but with, as you say, the framing is going around.

21 MS. PIERCE: Exactly.

22 COMMISSIONER TURNBULL: Okay. All right. I think we  
23 understand it. Thank you.

24 CHAIRPERSON JORDAN: Yes, that helped. Okay. I don't  
25 think -- Board, any other questions? I think that was good.

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1 I think we now understand where you are and what you're doing,  
2 so let's turn to the Office of Planning.

3 MS. RAPPOLT: Good morning. Megan Rappolt from the  
4 Office of Planning and we'll rest on the record and be happy  
5 to take any questions you might have.

6 CHAIRPERSON JORDAN: Board, any questions of Planning?  
7 Applicant, any questions of Planning?

8 MR. SULLIVAN: No, thank you.

9 CHAIRPERSON JORDAN: Anyone here from the Department of  
10 Transportation with this case? We do have a letter of no  
11 objection from the Department of Transportation. Anyone here  
12 from ANC-3D? ANC-3D. We do have a very detailed letter from  
13 ANC-3D who voted 9-0 in opposition. I believe the ANC -- we  
14 just went over that with the Applicant to find out where we  
15 are. Anyone hear wishing to speak in support? Anyone in  
16 support? Anyone in opposition? Please come forward.  
17 Please identify yourself. Is the microphone on?

18 MR. CAHILL: My name is Christopher Cahill. I'm one of  
19 the owners of 4343 Garfield Street. This property butts right  
20 up against my property. There is zero tolerance. Matter of  
21 fact, if you look closely at the plat plan. The plat plan,  
22 at one point, was revised to allow it to come into my property.  
23 So you'll see, it goes up, bumps in 6 or 7 inches, goes across  
24 the addition, and back.

25 CHAIRPERSON JORDAN: Across your property?

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1 MR. CAHILL: No, my property used to be the backyard to  
2 this property. In the '60s, it was subdivided. This addition  
3 actually doesn't follow the property line. The property line  
4 follows and then goes around the addition and back.

5 CHAIRPERSON JORDAN: Okay. But the property is not  
6 crossing your property line or --

7 MR. CAHILL: No, it is not.

8 CHAIRPERSON JORDAN: Okay.

9 MR. CAHILL: What I'm saying is, it comes in, it's their  
10 property.

11 CHAIRPERSON JORDAN: But the structure of the property  
12 is not changing from what it is. I mean, the footprint.

13 MR. CAHILL: The footprint is not changing from what it  
14 is, but what you can see from those pictures there is, there's  
15 substantial plantings that come right up against the property  
16 line that create a buffer from my property, so in doing the  
17 addition, they would have to denude the branches on that side  
18 of the tree, so my property, the exposure to my property would  
19 be increased from the windows. So they are moving those doors  
20 forward and making a full-banked wall of windows.

21 That addition, as it comes closer, because my property  
22 is in front of it, comes very close to my bedroom window in  
23 line, just shy of my bedroom window.

24 CHAIRPERSON JORDAN: Isn't there a setback from where  
25 your bedroom is from the property line?

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1 MR. CAHILL: It is 12 feet.

2 CHAIRPERSON JORDAN: Right, 12 feet.

3 MR. CAHILL: Approximately.

4 CHAIRPERSON JORDAN: Okay. Which is pretty  
5 substantial in the District.

6 MR. CAHILL: But not in this neighborhood.

7 CHAIRPERSON JORDAN: Okay. Go ahead. I'll let you --

8 MR. CAHILL: So --

9 CHAIRPERSON JORDAN: We do have people fighting to get  
10 1 foot or 2 feet, and you got 12.

11 MR. CAHILL: I know, but you also buy in this  
12 neighborhood for the larger pieces of property, for the  
13 distance you have from your neighbors, so I know there's been  
14 a lot of conversation in keeping with the neighborhood. I  
15 don't know another zero lot line situation in my neighborhood,  
16 and so this is unusual for the neighborhood.

17 CHAIRPERSON JORDAN: Okay.

18 MR. CAHILL: But the fact that it is stated that this  
19 is a small request, it's actually almost doubling the size of  
20 the exposure -- or I'm sorry, 50 percent, again, the exposure  
21 from my property. And because my house does sit forward, my  
22 backyard and my patio are right even with this addition. I  
23 have glass windows in my informal dining room that look right  
24 out across this.

25 CHAIRPERSON JORDAN: How many stories is your property?

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1           MR. CAHILL: My property is three stories with a  
2 sub-level garage as well.

3           CHAIRPERSON JORDAN: Three stories and your patio sits  
4 where?

5           MR. CAHILL: My patio actually sits behind this  
6 addition; directly behind.

7           CHAIRPERSON JORDAN: But on the ground level or --

8           MR. CAHILL: It actually sits, my property sits at  
9 different elevations to theirs.

10          CHAIRPERSON JORDAN: Different elevations.

11          MR. CAHILL: So this addition is about a half of a story  
12 above my patio level.

13          CHAIRPERSON JORDAN: Okay.

14          MR. CAHILL: I'm a landscape architect. I'm invested  
15 well over \$150,000 in my backyard. We have a fireplace there.  
16 We made it another room of our house with the understanding  
17 that the present situation would never become more egregious  
18 to us, because it was already out of compliance and that it  
19 would be -- there wasn't room to add further additions that  
20 would impede our property.

21          I find it very interesting, because I live here --

22          CHAIRPERSON JORDAN: Let me stop you, because you  
23 talked initially about the vegetation. Is that your trees and  
24 --

25          MR. CAHILL: That is my vegetation.

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1 CHAIRPERSON JORDAN: Okay. And you're saying they're  
2 going to take it down?

3 MR. CAHILL: Well, my branches go over their property.  
4 For instance, in the interchange of them requesting that I work  
5 with them further on this, I tried initially, they took the  
6 branches off of the hemlock tree that overhung their property,  
7 which is their right to do, but it has totally changed the  
8 exposure to my property. Well, there's two hinoki cypresses  
9 that they would have the privilege to do the same whether they  
10 put the addition on or not, but they would, to put the addition  
11 on, have to trim those branches off, and again, increase the  
12 exposure.

13 So the one tree is actually planted right on the corner  
14 of the foundation of their garage. With a zero lot line, they  
15 say it's doable to build this structure and not come on my  
16 property, but I just don't understand, I am a builder as well,  
17 I own Cahill Construction, that that can be done. It just  
18 doesn't seem feasible to have people suspending over to put  
19 siding on, to do those things.

20 The 2-foot increase in the building height did not  
21 include the railings that were going on top either, so you're  
22 adding almost 5-feet of structure in height. Also, living  
23 there, this side of the house faces due east, the portion  
24 between our houses is due south, and the light does come up,  
25 and it goes across, and this does block the western exposure.

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1 I already have problems growing grass in that portion of my  
2 yard, and bring it 8-feet forward, the angle of their house  
3 to the angle of the sun, the three-story house, actually shoots  
4 an angle further back.

5 This portion would sit in the angle of the light and  
6 would decrease the light to my property.

7 CHAIRPERSON JORDAN: But what is the effect -- is that  
8 happening now?

9 MR. CAHILL: No, because the deck is there. The house  
10 blocks light that's different from the one-story addition.

11 CHAIRPERSON JORDAN: What deck? What are you calling  
12 a deck?

13 MR. CAHILL: They have a deck that they're trying to  
14 enclose.

15 CHAIRPERSON JORDAN: Correct. Is light coming through  
16 that?

17 MR. CAHILL: Light comes over that because there is no  
18 structure.

19 CHAIRPERSON JORDAN: But they're not increase the  
20 height, right?

21 MR. CAHILL: What?

22 CHAIRPERSON JORDAN: How much height are they  
23 increasing this?

24 MR. CAHILL: They're increasing the height of the  
25 present building by 2-feet without the railings, 5-feet with

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1 the railings.

2 CHAIRPERSON JORDAN: But the railings are open, right?

3 MR. CAHILL: No, the new railings that are going up are  
4 solid. Can you see in the architectural plans? Some are  
5 solid; some are open.

6 CHAIRPERSON JORDAN: So how much light is coming -- is  
7 being blocked by the 2-foot increase?

8 MR. CAHILL: By the 2-foot, not a lot; by the 8-foot  
9 extension forward, a lot.

10 CHAIRPERSON JORDAN: All right. We've kind of  
11 exceeded your time by a lot, but I think we get the gist. We  
12 have your letters, which we've reviewed, and let me turn back  
13 to the Applicant to respond to the, one, what's happening with  
14 the trees on Mr. Cahill's property?

15 MR. SULLIVAN: Thank you, Mr. Chairman. We do have an  
16 arborist's report that we submitted with the pre-hearing  
17 statement as Exhibit D to that filing.

18 CHAIRPERSON JORDAN: Okay.

19 MR. SULLIVAN: And I would point out that Mr. Cahill  
20 planted those trees on the lot line when he moved in there.  
21 They weren't there when he moved in; two of the three trees.  
22 And the Applicant can testify to that if you're interested in  
23 that. Tree impact assessments, as I've inspected the  
24 neighboring trees of the above address and reviewed the  
25 renovation plan, in order to make room for the planned

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1 renovation, several of the lower limbs will have to be pruned  
2 or removed.

3 This will not have a negative impact on the health of  
4 the trees, as the removal of these limbs will be a very small  
5 percentage of the total canopy. There will be enough live  
6 canopy left to maintain the current state of health of these  
7 trees.

8 CHAIRPERSON JORDAN: Okay. Now where are we with the  
9 -- have we done a shadow study?

10 MR. SULLIVAN: We have not done a shadow study. We're  
11 happy to do that. Just because, again, and I would point to  
12 Exhibit B, the relative location of the house and the fact that  
13 everything -- the shadow study is going to show that anything  
14 that -- any shadow that this addition would provide, any  
15 additional shadow, would be covered by the three-story house  
16 anyway. And in addition to that, you're talking about sun at  
17 the end of the day, if that, because it's all the way on this  
18 side of the house. His house is set forward south of it, so  
19 maybe at the height of the summer, the sun actually -- the house  
20 impacts it at all, but I don't think the addition changes any  
21 of that anyway because it's covered.

22 The 2-feet is definitely covered by the house and the  
23 deck is just closing up what's there already. And I would  
24 contrast that with the privacy situation, which is drastically  
25 increased to his benefit. I'm not sure what he meant by the

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1 wall of windows, but there'll be windows facing Garfield, and  
2 there'll be kitchen counters behind that, so it won't be --

3 CHAIRPERSON JORDAN: There'll also be windows further  
4 on the east side, right?

5 MR. SULLIVAN: No.

6 CHAIRPERSON JORDAN: No windows?

7 MR. SULLIVAN: No windows. We're removing the only  
8 window.

9 CHAIRPERSON JORDAN: Oh, you're removing it. Okay.  
10 So those would be, but they're removing the windows facing the  
11 property.

12 MR. SULLIVAN: And the railing, we've agreed to lose.  
13 We just thought it was an architectural element that improved  
14 it, but it's --

15 CHAIRPERSON JORDAN: Okay.

16 MR. SULLIVAN: -- his call on that. If he doesn't want  
17 it, we don't need it.

18 MS. PIERCE: Well, that was one of Office of Planning's  
19 conditions, so I was just about to ask you if you were going  
20 to address that, but if you're fine to lose it --

21 MR. SULLIVAN: Yes, and we had spoken to them about  
22 that.

23 MS. PIERCE: Okay.

24 CHAIRPERSON JORDAN: All right. Board, any questions,  
25 other questions, you have for the Applicant? We thank you,

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1 Mr. Cahill, for coming. Any other questions? I thought, Mr.  
2 Turnbull, you were trying to get to a question. No? You're  
3 good? All right. I think that we can close this hearing. I  
4 believe that the Board has sufficient information to go  
5 forward. I think we have addressed several things.

6 One, there is not a use variance issue being required  
7 for this property, as indicated in the ANC-3D's letter. I  
8 think that's not the standard. We have a special exception  
9 situation here. The footprint is not really more impactful  
10 than what we have. I don't see any real intrusion into the  
11 neighborhood. I think there's been some -- and I appreciate  
12 Mr. Cahill coming in and giving us his concerns. There is a  
13 12-foot spacing between where his property is. I have not seen  
14 any evidence that there will be any substantial impact due to  
15 shadowing.

16 The Applicant has taken concerns based upon  
17 recommendation of Office of Planning, et cetera, to get an  
18 arborist, who submitted a report indicating that the trees will  
19 not be damaged. There will be some minimally invasive limbs  
20 being pruned. These things are on the property of the  
21 Applicant and that the tree will remain and be healthy. I've  
22 seen nothing to the contrary to that.

23 I could recommend the approval of the application unless  
24 the Board has something else that they need to have with this  
25 or any other discussion. Mr. Turnbull.

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1 COMMISSIONER TURNBULL: Mr. Chair, I would agree. I  
2 mean, I think zero lot line is always something that is  
3 problematic at best, and I think the Applicant is doing their  
4 best to work with that. And I appreciated the architectural  
5 embellishment on the roof, but I can also see the other aspect  
6 too, but yes, I see no problem with going ahead with this then.

7 CHAIRPERSON JORDAN: Mr. Hinkle?

8 MEMBER HINKLE: Thank you, Mr. Chair. I can't support  
9 this application. I'm concerned about the expansion. If  
10 what was being proposed was similar in size to what exists,  
11 I think I could support it, but I do have concerns about the  
12 impacts to the neighbor, so I will not be supporting this. I  
13 think the expansion is just a step too far. I mean, we do have  
14 an interesting situation that there's an existing structure  
15 that's on the lot line, but I do think the expansion is an  
16 additional impact on the neighbor.

17 CHAIRPERSON JORDAN: All right. Any other thoughts;  
18 discussion? Well, I would move that we grant the relief  
19 requested in this matter, 18970.

20 VICE-CHAIRPERSON HEATH: I would second.

21 CHAIRPERSON JORDAN: Motion made and second. Any  
22 additional discussion? All those in favor, aye.

23 (Chorus of ayes)

24 CHAIRPERSON JORDAN: Those opposed, nay.

25 MEMBER HINKLE: Nay.

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1 CHAIRPERSON JORDAN: The motion carries. Mr. Moy?

2 MR. MOY: Staff would record the vote as 3-1. This is  
3 on the motion from Chairman Jordan to approve the application  
4 with the relief requested. There were no conditions on this,  
5 am I correct, just for the record?

6 CHAIRPERSON JORDAN: No.

7 MR. MOY: Okay.

8 CHAIRPERSON JORDAN: No, because I don't believe the  
9 condition --

10 MR. MOY: I understand. I just wanted to be clear on  
11 that.

12 COMMISSIONER TURNBULL: Well, there wasn't any -- no  
13 embellishment on the roof?

14 CHAIRPERSON JORDAN: Oh, yes. Then we will make that  
15 a condition.

16 COMMISSIONER TURNBULL: And they already have the  
17 arborist.

18 CHAIRPERSON JORDAN: Yes, so we will make the --

19 COMMISSIONER TURNBULL: And I think that was the only  
20 thing that they were conceding.

21 CHAIRPERSON JORDAN: Yes. The other thing is already  
22 happening and I don't even know if we had, really -- so we will  
23 add that.

24 MR. MOY: Okay. With that addition then, this is on the  
25 motion of Chairman Jordan. Seconded the motion, Vice

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1 Chairperson Heath. Also in support, Mr. Turnbull. We have  
2 Mr. Hinkle opposed to the motion. A Board seat vacant. The  
3 motion carries 3-1, sir.

4 CHAIRPERSON JORDAN: All right. Thank you. And I  
5 think I'm going to full order. We don't have a party, but let's  
6 write it up.

7 MR. MOY: Okay. Will do, sir.

8 CHAIRPERSON JORDAN: That's another long process.  
9 Okay. Let's do 20, please.

10 MR. MOY: All right. To the table, Applicants to  
11 Application Number 19020. This is the application of Jemal's  
12 Bulldog, LLC. This is advertised, Mr. Chairman, for multiple  
13 variance relief at property 1011, K Street, NW.

14 CHAIRPERSON JORDAN: Okay. Please identify  
15 yourselves.

16 MR. HUGHES: Good morning, Mr. Chair. Dennis Hughes  
17 with Holland and I am here on behalf of the Applicant.

18 MR. MILLSTEIN: Good morning. Paul Millstein, Douglas  
19 Development.

20 MS. GIURDINE: Good morning. Andrea Giurdine with  
21 Douglas Development.

22 MR. FILLAT: Good morning. Peter Fillat, Peter Fillat  
23 Architects.

24 MR. ANDRES: Good morning. Erwin Andres, Principle  
25 with Gorove/Slade Associates.

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1 MR. PHILLIPS: Good morning. Wesley Geoffrey  
2 Phillips, co-owner of a unit adjacent to the proposed  
3 development.

4 CHAIRPERSON JORDAN: Mr. Boardman. Yes, please. You  
5 have requested party status, which has been granted, meaning  
6 that you have the right to cross-examine witnesses, or ask  
7 question of witnesses, and to do a presentation to the Board.

8 MR. BOARDMAN: Thank you, Mr. Chairman.

9 CHAIRPERSON JORDAN: You two, please identify  
10 yourselves for the record.

11 MR. BOARDMAN: John Boardman, Unite Here Local 25.

12 MR. ELDER: Ian Elder, Unite Here Local 25.

13 CHAIRPERSON JORDAN: Elder?

14 MR. ELDER: That's right.

15 CHAIRPERSON JORDAN: Okay. I take it, Mr. Hughes, Mr.  
16 Boardman, that you have not had the opportunity to work out  
17 -- didn't work out any agreement or take care of any  
18 disagreements?

19 MR. BOARDMAN: Appreciate the time, Mr. Chairman, but  
20 it was not fruitful.

21 CHAIRPERSON JORDAN: Okay. All right. We will  
22 proceed on and we will make the decision, which we don't mind  
23 doing, but at the end of the day, somebody doesn't like it.  
24 All right. So let's go ahead. I don't know if we need a full  
25 presentation here, but certainly, you know, we got to drill

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1 down on this parking, and that kind of aspect, and its impact  
2 upon the neighborhood.

3 We also need to hear from you regarding the concern of  
4 respond to the issues raised by the party status request.  
5 Again, that's parking, and I think that's the same thing,  
6 parking, Mr. Boardman. It's nothing else other than the  
7 parking aspect upon -- is what your concern is, correct?

8 MR. BOARDMAN: Yes.

9 CHAIRPERSON JORDAN: So then let's drill down to  
10 parking. We understand the structure. We understand what  
11 it's supposed to look like. All that kind of stuff. Excuse  
12 me, I don't want to step over the Board. That's my concern.  
13 I don't know what else the Board may need to hear. Mr. Hinkle?

14 MEMBER HINKLE: Yes, just a little bit on the loading  
15 operations, and I don't need much, but I just need to understand  
16 them a little better. Appreciate it.

17 CHAIRPERSON JORDAN: Okay. So we need to hear that and  
18 I don't even know if we need a full presentation of your  
19 transportation study, we've read that, plus, I think I read  
20 it three times, and I'll comment about that a little bit later  
21 on, but those are things, Mr. Hughes, we need you to drill in  
22 on.

23 MR. HUGHES: Yes, I think, maybe, it's sort of the  
24 operational aspects of how this building really works in the  
25 neighborhood. Maybe if we could just get to the gist of how

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1 it interacts with the community in general.

2 CHAIRPERSON JORDAN: Okay. Very good. Thank you.  
3 If you would do that for us.

4 MR. MILLSTEIN: Okay. Thank you, Mr. Chairman,  
5 Members of the Board. I will turn it over to Mr. Andres to  
6 respond to those issues. I would like to, as a preliminary  
7 matter before doing so, the lawyers always have to have a  
8 preliminary word, I just want to make sure that a lot of things  
9 that came in late to the record, particularly support letters,  
10 that we can come back to that just to get everything straight  
11 if the Board would look for that.

12 CHAIRPERSON JORDAN: Letters came late?

13 MR. MILLSTEIN: We have support from the hostile that's  
14 located immediately to the north.

15 MR. MOY: I'm sorry, sir, it came in this morning, but  
16 it's in your case folders.

17 CHAIRPERSON JORDAN: Yes, but as I said, if it's past  
18 the date, I'm not looking at it, because we spent a lot of time  
19 and effort before these hearings drilling down, and it doesn't  
20 help the Applicants to first -- things that come into this  
21 record late, because, basically, at a point, I've already,  
22 myself, and I know the other Board Members, have already  
23 drilled in these cases, have used up, at least all their  
24 weekends, going through these cases, and you slide stuff in,  
25 or things come in, not slide, but things come in, it becomes

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1 harder.

2 You need to probably identify that for us at a point and  
3 we'll make a decision what we're going to look at or not look  
4 at.

5 MR. MILLSTEIN: Very good. Then I think, without  
6 further delay, we'll just get Mr. Andres to address the loading  
7 and in particular, the parking lot.

8 CHAIRPERSON JORDAN: Let's first start with the, as Mr.  
9 Turnbull was so on point about, let's talk about just the  
10 general operational flow, Mr. Turnbull. I think that would  
11 help and that would segue -- I would think that would segue  
12 to Mr. Andres' presentation if we get to that.

13 MR. ANDRES: Great. Good morning. Again, Erwin  
14 Andres, Principle for Gorove/Slade Associates. Good morning,  
15 Chairman Jordan, Members of the Board. With respect to our  
16 work with supporting the development of the proposed hotel,  
17 given its proximity to many of the transportation amenities  
18 in the area that include transit lines, bus lines, the intent  
19 of the hotel is to be able to accommodate out-of-town guests  
20 and provide them with accessibility and accessibility to the  
21 surrounding network is one of the draws of the proposed hotel.

22 The hotel is located on the north side of K Street,  
23 between 10th and 11th. With respect to the plan itself, the  
24 plan consists of, essentially, given the building renovations  
25 and the addition to make it a hotel, we're using the rear area

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1 only for the sole purpose of loading the facility, and the  
2 proposed loading dock, and I will just get to the back, shows  
3 that there is a 30-foot loading birth that is provided in the  
4 rear of the building, which will be accessed, essentially, for  
5 delivery trucks coming down 10th Street, turning right, and  
6 essentially, parallel parking into that loading dock.

7 That loading dock door will only come up when there are  
8 deliveries, but for the most part, it will come down, and when  
9 the vehicle maneuvers itself into that facility, they will be  
10 provided with the adequate loading platform and the materials  
11 will be brought into the building.

12 When the truck leaves, it essentially just pulls  
13 straight out, out on to 11th Street, and more than likely, will  
14 turn right to get to New York Avenue. Excuse me, get to Mass  
15 Avenue, which essentially gets them out to New York Avenue.

16 So with respect to the loading, the loading that's  
17 envisioned for this project consists of typical hotel loading  
18 operations for linens, some paper goods, things of that nature.  
19 In addition to that, with respect to trash, our intent is to  
20 minimize the impact of our project within the square. So we've  
21 had some coordination with 1010 Mass, which is the condo  
22 development, which is in the, sort of, top left-hand corner,  
23 so this building right here is 1010 Mass, which is a condominium  
24 building, which we've coordinated with because of the fact that  
25 we do share an alley with them.

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1           So with respect to trash, we actually are going to try  
2 and coordinate our trash with the same contractor, so that when  
3 the contractor for that building comes, we can coordinate our  
4 delivery so it's, essentially, not two trash trips, but one  
5 making two stops. And Douglas Development, who we've worked  
6 with on other projects, have made similar commitments on other  
7 projects. So this is something that is not new for them.

8           So essentially, that's how trash and loading will be  
9 accommodated and those are the main operations that are taking  
10 place in the alley. With respect to parking, as we mentioned  
11 earlier, there are many facilities that a lot of the patrons  
12 will come and take advantage of this building. This hotel is  
13 different than -- if you remember, we've actually appeared  
14 before you on a different hotel right in the heart of Chinatown.  
15 This one is a little bit different in that it's going to be  
16 a little bit more upscale.

17           The mode from the airport or from Union Station will  
18 potentially be transit, given its downtown core location.  
19 There's a good chance that many of them will take Uber car  
20 service or taxi to the site. Currently, in front of the  
21 building, there is metered parking that we're proposing to  
22 eliminate a few spaces in order to provide for a drop-off/valet  
23 loading zone, so that when taxis come, you know, they're not  
24 dropping them off in a travel lane, but instead, they are  
25 dropping off at the curb.

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1           In addition to that, we are committed providing a valet  
2 parking service that will partner with some of the nearby  
3 parking facilities in order to address the offsite parking  
4 concerns. With respect to the parking availability in the  
5 area, south of Massachusetts Avenue and, for the most part,  
6 in the vicinity of the hotel, a lot of the parking is metered  
7 parking.

8           So it's metered parking and there are some spaces that  
9 are actually not only metered, but metered and peak hour  
10 restricted. So if your car is parked on the street, chances  
11 are you're going to get ticketed, if it's during rush hour,  
12 chances are you're going to get towed, so we don't see the need  
13 for utilizing on-street parking to serve the guests, because,  
14 essentially, as a guest, if, for some reason, you decide to  
15 rent a car and drive here, you're going to park once and take  
16 cabs, or walk, or take Metro to other destinations while you're  
17 in town.

18           The intent is not for these motorists to show up, park  
19 on the street, and then keep on moving their car every two hours  
20 or feeding the meter every two hours. That's not the intent  
21 of our plan and, you know, we've committed to addressing this  
22 situation with commitment letters from two of the parking  
23 garages in and around the site that are relatively convenient  
24 for the valet parking operators.

25           So with that, we've also, in conjunction with DDOT,

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1 committed to significant TDM package, which is consistent with  
2 the other hotel that we worked on, but provides something that  
3 the other hotel didn't have, which is the valet parking, so  
4 we believe that as a package of elements, both elements to help  
5 the patrons use other modes as well as elements to support the  
6 parking, we believe that we are meeting the intent of our  
7 application in addressing the parking relief.

8 And in the midst of all this, we've worked with neighbors  
9 in 1010 Mass. We've also, obviously, worked with DDOT in  
10 addressing the potential impacts. So with that, I'm available  
11 for questions if you want to dig down any deeper.

12 CHAIRPERSON JORDAN: All right. Tons of question.  
13 Tons, tons of questions. You know, one thing I saw in your  
14 report, you know, and I guess when we get to Department of  
15 Transportation we can talk about it then, but, you know, we're  
16 using some of the same area over and over again, and using some  
17 of the same spaces that we're providing and saying, these  
18 spaces are available, these things are there, but there's three  
19 or four different projects, because the Blagden area project  
20 is within two or three blocks of here, it falls within your  
21 map.

22 You're, we were just here giving relief for 12 zillion,  
23 and I'm exaggerating parking spaces for that. This parking  
24 thing is really an issue and we keep using, singularly, because  
25 we haven't seen the whole plan on the map about what building's

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1 coming up now, what building's coming up in two weeks, what's  
2 coming up in six months, and we're using the same numbers,  
3 individually, for that property and say, okay, you're focusing  
4 on that right now. Yes. That's true.

5 And we look at each property as it exists at what's  
6 before us. I don't know when this thing is going to blow up.

7 MR. ANDRES: Well, to that point, Commissioner Jordan,  
8 there is actually one facility, you know, you're right, we have  
9 appeared before you and identified some tranches of parking  
10 that have been identified for other projects. One of them that  
11 has not been, actually, is this green one right here. If you  
12 go through all of our previous zoning cases, we have not used  
13 that as a potential parking facility for off --

14 CHAIRPERSON JORDAN: What is that?

15 MR. ANDRES: That parking facility has the --

16 MR. MILLSTEIN: 1100 L Street, I believe.

17 MR. ANDRES: Yes. I'm pulling out the --

18 CHAIRPERSON JORDAN: Here's the other thing, and don't  
19 necessarily waste your time on that, because the other part  
20 that I'm having about all this other off-street parking and  
21 these facilities that we have, other parking facilities, sure  
22 enough, you wait a couple of months, we've got a development  
23 going up on these properties. That property comes out the  
24 inventory. And so the Applicant doesn't control those  
25 individual parking lots.

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1           Those individual parking facilities that later -- so the  
2 owner of the building or the property can certainly decide what  
3 to do, but we're banking our decision on what you're giving  
4 us here, and this building that the Applicant comes before us  
5 is not just going to last for two weeks, or two years, or three  
6 years, but there can be a time when that parking goes away.  
7 I understand the situation, but I'm saying this thing is  
8 starting to multiply, and multiply, and multiply, and starting  
9 to mushroom.

10           So that is a concern, especially when you're talking  
11 about the parking inventory, because I know this led right near  
12 the Blagden area, and I saw some of it going to the Blagden  
13 Alley, and I said, whoa, we've seen this before, and so it  
14 overlaid. That's one of my concerns. And I can go on and on,  
15 but that's a concern about the parking inventory that you  
16 cited.

17           The other thing that I see in your report, which is  
18 probably just me not being very witty, just very slow, at one  
19 point I saw you talk about 28 peak a.m. travel and then 38 peak  
20 a.m. travel, but then we come down to the conclusion that it's  
21 going to be like a 16-vehicle parking demand. Help me with  
22 that.

23           MR. ANDRES: Well, if you can point to the specific  
24 place in the report, I just want to make sure we --

25           CHAIRPERSON JORDAN: I can't get your report, I got it

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1     though, but it's your -- I mean, you talk about, you said,  
2     "Development is expected to generate a conservative of 28 a.m.  
3     peak hour vehicle trips, 17 inbound and 11 outbound, and 38  
4     p.m. peak hour trips, 20 inbounds, 18 outbounds." What I do,  
5     I take a cut and paste from your report, and I pop it into my  
6     OneNotes, and what have you.

7             Then you come down to this table where you do a table  
8     summary and it uses the same kind of things. Then you say,  
9     "The 16-vehicle parking demand project for the proposed hotel  
10    represents a worst case scenario, given the proposed hotel's  
11    significantly smaller than the room size than in the Quincy  
12    Hotel."

13            So we went from 28, 38 to 16 once you put Quincy in.

14            MR. ANDRES: Yes. So essentially, when we do our  
15    traffic generation, again, and we worked with DDOT when we  
16    identify these traffic generation components, is, we use the  
17    baseline ITE manual, which is a manual that the industry uses  
18    to determine trips generated by a specific use in a suburban  
19    setting. So if we, in this case, have a 200-room hotel, when  
20    we put in 200 rooms into this formula, it identifies a number  
21    of trips associated with that hotel in a suburban setting.  
22    Well, obviously, we're not in a suburban setting.

23            So we take that number and we apply the necessary credits  
24    to it, because you're close to transit, and because you're  
25    close to a lot of things that people can take other than drive,

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1 and you get to that number, that 28 or 38 number that you  
2 identified. So that's, potentially, the number of cars that  
3 can show up. And that can consist of people driving, or people  
4 taking cabs, so, you know, you're arriving by a car.

5 What we're saying is that, given the type of hotel, and  
6 that's during the peak hour. What we're saying is that, given  
7 the type of hotel, and given the fact that we are providing  
8 some transportation demand match and measures to incentivize  
9 people not to drive, that even though there's a potential for  
10 a certain number of people coming to the hotel, we only think  
11 the demand is going to be less than that.

12 And, you know, in other cases, you've identified, well,  
13 you know, what happens worst case? What happens, you know,  
14 you've said this to me many times, Erwin, if you're wrong? So  
15 what we're saying is that, in the event that the projections  
16 are above that, we've taken that into account. So we've taken  
17 that into account. Even though we think that the parking  
18 generation is lower than what it is, we've identified that and  
19 taken that into account, so that's why there's that number that  
20 you're talking about, because we've, you know, as I've  
21 mentioned before, taken your cues and made sure that our  
22 transportation submittals is more comprehensive.

23 CHAIRPERSON JORDAN: And I see nothing in your report  
24 talking about employees. I see some little bit of stuff  
25 talking about, well, we're going to encourage the employees

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1 to ride share, we're going to encourage the -- one, there's  
2 nothing saying -- I might have missed it, how many employees  
3 are there going to be at this facility?

4 MR. ANDRES: We can ask the developer, but it's been our  
5 experience that this type of hotel, and many hotels throughout  
6 the District, where the staff is more inclined, given that it  
7 is a services industry, hospitality and services industry,  
8 they're more inclined to not drive because the market rate for  
9 parking is obviously expensive.

10 CHAIRPERSON JORDAN: Really?

11 MR. ANDRES: Yes.

12 CHAIRPERSON JORDAN: Have you see those coming from,  
13 I'm not going to name the hotel, the people and employees who  
14 go to some other surrounding hotels there? They go through  
15 the neighborhood to find a place to park and walk back because  
16 they don't live in the general area? And they try to  
17 coordinate and time getting back to that car, and feeding  
18 meters, and moving their car around.

19 MR. ANDRES: Oh, we understand that, but, you know,  
20 feeding meters, as you're aware is -- first of all, it gets  
21 very expensive over the course of a workday.

22 CHAIRPERSON JORDAN: But in your report, where do you  
23 discuss the employees, the number of employees, how many  
24 planned that are going to have to drive, you know, because  
25 everybody doesn't live around the Metro, whatever, and those

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1 -- I didn't see it. I might have missed it.

2 MR. ANDRES: Well, with respect to the employees, in  
3 working with DDOT, we have identified some of the  
4 transportation, the van managers, to address that, because of  
5 the fact that it's been our experience that many employees  
6 don't drive because of the fact that they can't afford -- it  
7 becomes very burdensome for them to pay for parking.

8 CHAIRPERSON JORDAN: So what about SmartCard? I saw  
9 nothing about giving them an allowance for using the public  
10 transportation. What happened to that kind of conversation?

11 MR. ANDRES: Again, it's something that we've worked  
12 with DDOT to identify a TDM plan that allows for other ways  
13 to get to the hotel site.

14 CHAIRPERSON JORDAN: Oh, yes, we're going to help the  
15 employees take public transportation in your TDM plan?

16 MR. ANDRES: Well, we've identified ways for them to,  
17 first of all --

18 CHAIRPERSON JORDAN: They can bike.

19 MR. ANDRES: Yes, they can bike.

20 CHAIRPERSON JORDAN: You're going to point them to when  
21 the next Metro is coming, but they can't afford to get on it.

22 MR. ANDRES: Well, they can afford it more than they can  
23 actually drive and park.

24 CHAIRPERSON JORDAN: Okay.

25 MR. MILLSTEIN: If I may, Chairman?

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1 CHAIRPERSON JORDAN: Yes.

2 MR. MILLSTEIN: I apologize. Paul Millstein, Douglas  
3 Development. To help Mr. Andres out a little bit. Just for  
4 some context, which actually, Commissioner Turnbull asked for  
5 earlier, and I don't think we ever quite got to that. We got  
6 right into the weeds. First of all, speaking specifically,  
7 there's going to be approximately 30 to 35 employees that will  
8 operate this hotel at any given time. So not dissimilar from  
9 some of the restaurants that, you know, large restaurants, we  
10 have in the Chinatown area.

11 I think your point is very valid and something that,  
12 quite frankly, we didn't discuss as a team, and maybe Mr. Andres  
13 with DDOT, but we should offer TDM measures for our employees  
14 to encourage them to take public transportation, and we think  
15 we need to augment our TDM measures to put something specific  
16 in for employees of the hotel that want to take advantage. I  
17 think it's a very good suggestion.

18 CHAIRPERSON JORDAN: I'm sorry, Board. I didn't mean  
19 to dominate this -- please jump in. When I saw some of this  
20 stuff, I was just like, oh, my goodness. And we keep combining  
21 this over and over again. Give me one more second. I want to  
22 go back to another issue here. I know it's difficult and we  
23 got to try and to make it work, but we got to try to mitigate  
24 issues. We just have to do so and it keeps piling up on the  
25 community and others, as you know, at all the forums you've

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1 gone to.

2 If you would, Paul, if you could tell us about -- I'm  
3 confused about this historic aspect of this building. Is this  
4 voluntary or mandatory?

5 MR. MILLSTEIN: So I appreciate the question. The  
6 corner building, at one point, there was a landmark nomination  
7 filed for the corner building and we supported the nomination  
8 and agreed that we would participate in the landmark  
9 designation of the corner property. Unfortunately, after  
10 several years of review by the HPRB staff, which was Steve  
11 Callcott and Dave Maloney directly, they felt that there were  
12 substantial alterations to the facade of the building over  
13 time.

14 The inside was basically destroyed, but there were some  
15 alterations to the facade that really didn't render quite to  
16 the standard of a true landmark designation. But there enough  
17 good material and enough architectural to save, worthy of  
18 saving, so what seemed to be the appropriate path was a private  
19 preservation agreement with DCPO, where we agreed to,  
20 basically, treat the facade, and the restorations and  
21 renovations of that building as if it were a historic, but yet,  
22 not go the formal designation process.

23 So we in fact, spent, again, another year or so with the  
24 staff of DCPO in conjunction with the staff of HBRB, came up  
25 to a good preservation agreement where we're not, other than

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1 a little bit of rooftop amenities, building 130-foot tall on  
2 top of that building. We're doing a full restoration of the  
3 facades. In fact, we'll take the facades back to the way they  
4 were when they were originally built, because they have been  
5 altered over time.

6 So it's kind of a hybrid, it's an interesting hybrid,  
7 but we are under a preservation agreement that does give the  
8 Office of Preservation an opportunity for review and input.

9 CHAIRPERSON JORDAN: But without the preservation of  
10 that building, could you have done parking?

11 MR. MILLSTEIN: So I think whether that building, quite  
12 frankly, was 130-foot tall, or 30 or 40-feet tall, parking  
13 couldn't be achieved because of the narrowness of the site and  
14 the L-shaped configuration. You know, I don't think I could  
15 park it either way, Chairman, and we looked at it. Yes, sir.

16 CHAIRPERSON JORDAN: All right. Mr. Andres, we don't  
17 have any basis to which we are seeing concrete that -- well,  
18 let me go back a second. All that you've provided are just  
19 assumptions and kind of gutting. We have nothing concrete to  
20 say that this is actual -- the science and how it really goes  
21 forward. This is how we said it was going to happen and this  
22 is how it has happened in regards to these types of facilities,  
23 do we?

24 MR. ANDRES: Well, again, this is a relatively new  
25 product in the market. As you've --

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1 CHAIRPERSON JORDAN: So the answer to that question  
2 was?

3 MR. ANDRES: Is --

4 CHAIRPERSON JORDAN: Yes or no because.

5 MR. ANDRES: No, because of the fact that it is a  
6 relatively new product in the market, however, we do have, you  
7 know, based on our industry experience working with other  
8 hotels, you know, some of this stuff is, you know, like the  
9 way employees travel, the way business travel, you know,  
10 operates, we've taken cues from those experiences.

11 MR. MILLSTEIN: And if I may again, I apologize, if he's  
12 wrong, if Mr. Andres is wrong, which could be, ultimately, we  
13 own the underlying asset, so when we just recently negotiated  
14 the MOU with the 1010 Mass, they said, what happens if you're  
15 wrong? What happens if there's a problem with trucks parking  
16 in the alley? What happens if it's this? If it's that? I  
17 said, you know, that's a fair question because it's reality.  
18 We're all making assumptions based on analytics from a computer  
19 program, and some experience in New York and Philadelphia.

20 The underlying thing that I think is most important is  
21 that we own this building. We own several properties  
22 throughout the District. We live and die in the communities  
23 on a daily basis. We've been up here in front of this  
24 Commission for 27 years. If there's a problem in that  
25 neighborhood they're going to come to Douglas Development and

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1 we're going to correct it. If the valet's not working  
2 properly, we'll make adjustments. If we need additional  
3 garage spaces, we'll find it.

4 If the hotel doesn't operate harmoniously with the  
5 neighborhood, it fails. And if it fails, we fail, and that's  
6 something that won't happen. So to me, whether Mr. Andres is  
7 right or wrong, the fact that you have the owner behind it  
8 saying they'll correct any deficiencies that it create, it's  
9 very important and valid.

10 CHAIRPERSON JORDAN: So what is the effect upon this  
11 property in Blagden Alley, in the spots -- that little dividing  
12 line that divides the two that's been within the same radius  
13 of the studies?

14 MR. ANDRES: Well, part of it is, if you think about the  
15 Blagden Alley project, it was restaurant with a little bit of  
16 office. And in this case, it's hotel with restaurant. So in  
17 essence, the hotel component, which is the majority component  
18 of this, is a component that, first of all, in terms of traffic,  
19 they don't overlap. You know, the hotel, typically, loads and  
20 unloads, you know, the peak for the hotel are people checking  
21 out, but when people check-in, because of the 3 o'clock  
22 check-in time, you know, they're checking in throughout the  
23 course of the morning, so that's spread out.

24 So there's no overlap with respect to the traffic  
25 impact. With respect to parking, we've identified that there

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1 is some available off-street parking in the evening for the  
2 restaurant because of the fact, what happens in this  
3 neighborhood, which is south of Massachusetts Avenue is, a lot  
4 of it, if not most of it, is commercial; is office.

5 So a lot of the parking is peak hour restricted, a lot  
6 of the parking is metered, so in that instance, at 6:30 or 7  
7 o'clock, if you notice, there's actually a supply that opens  
8 up because of the fact that it is metered parking for uses in  
9 the area that aren't long-term uses, and restaurant falls under  
10 that. So the short-term uses can utilize some of that  
11 on-street parking in and around the neighborhood because of  
12 the fact they're only going to be there for one or two hours  
13 if they're coming to the restaurant.

14 CHAIRPERSON JORDAN: And sprinkle in the convention  
15 center events. We have what?

16 MR. ANDRES: Well, sprinkle in the convention center  
17 events, the good thing is, hopefully, those convention center  
18 people will walk from the convention center to that restaurant.

19 CHAIRPERSON JORDAN: What about the people, locals, who  
20 are coming to the convention center to attend events?

21 MR. ANDRES: Again, there's parking at City Center,  
22 there is parking that has been identified --

23 CHAIRPERSON JORDAN: You mean, I can also, first, look  
24 for the on-street parking because they're going to be there  
25 for two hours or something?

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1 MR. ANDRES: Well, depending on when they arrive.  
2 Again, you know, there is parking at the Marriott Marquise,  
3 there is over 1000 spaces at City Center for those larger type  
4 events, and given the difficulty of getting in and out of the  
5 convention center, as you know, there's a significant amount  
6 of taxing and Uber that takes place.

7 CHAIRPERSON JORDAN: Anybody else? Other questions?  
8 Board? Nothing? Mr. Turnbull?

9 COMMISSIONER TURNBULL: Yes, just getting back, the  
10 alley is one-way off of 10th, right?

11 MR. ANDRES: Well, technically, all alleys in the  
12 District are non-directional unless specified, so in this  
13 case, there is no -- Unfortunately, it's a section, a portion,  
14 of it is narrow to a point where you can only accommodate one  
15 lane of travel in one direction.

16 COMMISSIONER TURNBULL: Yes, I was going to say,  
17 because isn't, when you're coming in on 10th, that one-way?

18 MR. ANDRES: Well, 10th Street is one-way southbound,  
19 but the alley itself, there is no designation.

20 COMMISSIONER TURNBULL: Oh, there is no designation.

21 MR. ANDRES: No.

22 COMMISSIONER TURNBULL: So you could come out that way.

23 MR. ANDRES: Technically, yes. Technically, you  
24 could. So depending on what time of day --

25 COMMISSIONER TURNBULL: Yes, if you want to go south,

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1 then I guess you could do that.

2 MR. ANDRES: Yes. That's correct.

3 COMMISSIONER TURNBULL: Okay. But you see your trucks  
4 and delivery trucks coming in that way or -- well, I guess they  
5 could come in the other way.

6 MR. ANDRES: Well, we believe that this maneuver  
7 provides the most efficient opportunity to get in --

8 COMMISSIONER TURNBULL: Most practical and most  
9 efficient.

10 MR. ANDRES: -- and out. Again, our intent is for all  
11 the delivery vehicles to spend as little time in the alley as  
12 possible.

13 COMMISSIONER TURNBULL: Okay. Well, I did appreciate  
14 the, for what it's worth, conservation of those existing  
15 structures, I think, is a good part of the urban fabric, and  
16 something historical. I think that's a worthwhile endeavor.  
17 I commend you on that. That's good. When we pull up on K  
18 Street, there's no drop-off zone, there's nothing, but you're  
19 taking away the parking there. You're going to make those  
20 three spaces outside as the drop-off area then?

21 MR. ANDRES: Yes. You know, as part of our  
22 coordination with DDOT, we would need to go through DDOT public  
23 space to allow that.

24 COMMISSIONER TURNBULL: Public space to get that done.  
25 And you're looking at this is primarily a business hotel, so

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1 Joe and Martha with Huey and Zoe in tow aren't going to be,  
2 probably, coming here. There's no swimming pool, right?  
3 There's only an exercise room and that's it.

4 MR. MILLSTEIN: That's right. And the rooms, on  
5 average, are about 150 to 200 square feet, the size of a parking  
6 space, with one queen-size bed and very little other space  
7 aside from that, so it's not really designed for a  
8 multi-family.

9 COMMISSIONER TURNBULL: Okay. Well, what's the  
10 average length of stay? I mean, two nights?

11 MR. MILLSTEIN: One to two nights.

12 COMMISSIONER TURNBULL: One to two nights. Okay. So  
13 this is really a, as I say, business hotel. You're in; you're  
14 out.

15 MR. MILLSTEIN: That's right. You're not intending to  
16 stay in your room. There's a rather large gathering area in  
17 the front lobby, which is a two-story space, and that's  
18 intended to be the meeting, gathering, area if you're in town  
19 to meet somebody. Really, this is limited time in your room.  
20 It would just be very small.

21 COMMISSIONER TURNBULL: Okay. All right. Thank you.

22 CHAIRPERSON JORDAN: Okay. Good. Anyone else? Any  
23 other questions from the Board? I don't know if we need to  
24 hear, right now, for anything else from the Applicant, but I  
25 certainly -- is there anything, Mr. Hughes, you want to put

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1 on further at this point?

2 MR. HUGHES: Just to confirm that we've answered  
3 everyone's questions that were posed earlier. I believe we're  
4 prepared to conclude.

5 CHAIRPERSON JORDAN: Well, no, you can't conclude.  
6 Don't run away. We're going to Mr. Boardman. If Mr. Boardman  
7 has any questions, and questions only, of what the Applicant  
8 has done in presentation, you'll have an opportunity to your  
9 discussion, presentation, but any questions you want to ask  
10 about the application or what has been said here.

11 MR. BOARDMAN: Just a couple of quick questions. Your  
12 restaurant focus is not necessarily on people who stay in the  
13 hotel.

14 MR. MILLSTEIN: I would say that's fair. I mean, our  
15 restaurant will certainly be welcome and open to people staying  
16 at the hotel, but the vision for this is not dissimilar from  
17 the Spy Museum, for those that are familiar with that property,  
18 the corner restaurant we have there, at one point was Zola,  
19 it's now Nopa, so it's a nice restaurant. It's certainly there  
20 for the occupants of the Spy Museum, but open to the community  
21 and everyone else as well.

22 So we actually look to do a very nice dining element on  
23 that corner open to everyone.

24 MR. BOARDMAN: And the curb but, how many parking spaces  
25 are on that north side of the block right now?

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1 MR. ANDRES: I'm sorry, what curb cut?

2 MR. BOARDMAN: Where are you loading in and loading out  
3 guests?

4 MR. ANDRES: So the intent we are going to go to DDOT  
5 public space to request anywhere between two and three parking  
6 spaces to allow for the valet staging.

7 MR. BOARDMAN: And what block is that going to be on?

8 MR. ANDRES: It will be on the north side of K Street  
9 between 10th and 11th.

10 MR. BOARDMAN: And how many parking spaces are  
11 currently on the north side of K Street between 10th and 11th,  
12 not counting the loading dock space and the loading space in  
13 front of the corner?

14 MR. ANDRES: I believe, probably about in the range of  
15 about eight.

16 MR. BOARDMAN: That's counting the spaces which are  
17 commercial spaces during the day and are not parking spaces.  
18 How many actual parking metered spaces are on the street?

19 MR. MILLSTEIN: I don't believe Mr. Andres testified to  
20 that question.

21 MR. BOARDMAN: Well, I think it's a relevant question  
22 here. You're talking all about curb cut.

23 CHAIRPERSON JORDAN: Mr. Boardman. We don't have a  
24 debate and argument. If there's an issue, then I will take  
25 care of it and handle it. Please answer the question.

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1 MR. ANDRES: I don't have that answer in front of me.  
2 I believe it's probably, given the distance, in the range of  
3 about six spaces.

4 CHAIRPERSON JORDAN: Six metered spaces?

5 MR. ANDRES: Six metered spaces.

6 MR. BOARDMAN: So for that particular piece of the  
7 street, you're proposing to eliminate up to half of the parking  
8 spaces on the block.

9 MR. ANDRES: Potentially, yes.

10 MR. BOARDMAN: Okay. Is it safe to -- thank you, Mr.  
11 Chairman. I don't have any further questions.

12 CHAIRPERSON JORDAN: Board, any additional questions?  
13 Okay. Thanks. Then let's turn to the Office of Planning,  
14 please.

15 MR. MORDFIN: Good afternoon, Chair, Members of the  
16 Board. I'm Stephen Mordfin and the Office of Planning  
17 supports this application, subject to the list of conditions  
18 that are included in the Office of Planning's report and is  
19 available for any questions. Thank you.

20 CHAIRPERSON JORDAN: Okay. When you wrote your  
21 conditions, did you include those -- did you review and include  
22 or reject those that were contained in the ANC's report?

23 MR. MORDFIN: I did review the ones contained in the ANC  
24 report. Most of those contained in the ANC report I didn't  
25 see directly relevant to the relief that was requested, and

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1 therefore, I did not include them.

2 CHAIRPERSON JORDAN: Okay. And did you include those  
3 that were in the TDM plan?

4 MR. MORDFIN: Yes.

5 CHAIRPERSON JORDAN: Because I don't -- I mean, because  
6 I'm trying to reconcile between all the different conditions,  
7 both from the Applicant's TDM and the ANC, then Office of  
8 Planning, so yours would have incorporated the Applicant's  
9 TDM?

10 MR. MORDFIN: Yes.

11 CHAIRPERSON JORDAN: Okay. Mr. Andres, is there  
12 anything in the Office of Planning's conditions that are not  
13 -- excuse me. Let's go the other way. Is there anything  
14 that's in your TDM that's not in the Office of Planning's  
15 recommended conditions?

16 MR. MORDFIN: I don't believe so.

17 CHAIRPERSON JORDAN: So many people say, I don't  
18 believe; I don't think. Are there --

19 MR. MORDFIN: No.

20 CHAIRPERSON JORDAN: Okay. Great.

21 MR. MORDFIN: As far as I know.

22 CHAIRPERSON JORDAN: Thank you. All right. Anyone  
23 else? Board? Planning? All right. Applicant, Mr. Hughes,  
24 any questions for Planning?

25 MR. HUGHES: No questions. Thank you.

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1 CHAIRPERSON JORDAN: Mr. Boardman, questions for  
2 Planning?

3 MR. BOARDMAN: No, sir.

4 CHAIRPERSON JORDAN: Let's go to Department of  
5 Transportation, please.

6 MR. WESTROM: Thank you, Board. Good afternoon now.  
7 Ryan Westrom with DDOT and I've appreciated the dialog in  
8 regards to several of the transportation elements. This is  
9 certainly a case that, as we were approached with it, we did  
10 want to sit down and think long and hard about, and I think  
11 that Chairman Jordan has raised some very cogent points, and  
12 I want to make sure that I try and work through several of those  
13 elements here.

14 But I would note at the end of the day, DDOT determined  
15 that we do not object to the variance being sought. We feel  
16 that there is a significant and robust transit network here.  
17 We think that the travel markets that are being served are,  
18 indeed, complementary to the neighborhood, and you're exactly  
19 right, there's several other projects that have happened.  
20 There's a couple things that pointed us in the direction of  
21 believing that that complementarity did exist.

22 First of all, as was noted by Mr. Andres, this project  
23 is situated just a little bit further south and it is in an  
24 area that tends to be more commercial. There is less  
25 residential. Obviously, the area of the parking study area

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1 extends further to the north, but we do believe that restaurant  
2 users, for instance, would be appropriately parked at a metered  
3 space. And furthermore, again, we believe that the mode share  
4 that is vehicularly oriented is relatively low in this  
5 location.

6 For hotel users, the accommodations that have been  
7 discussed seem appropriate, so again, we're dealing with kind  
8 of a short-term travel market and a long-term travel market,  
9 so the restaurant goers tend to be short-term, they're going  
10 to come, they're going to go, they're not going to sleep  
11 overnight in the restaurant. The hotel users are a separate  
12 market and their long-term demand can be accommodated very  
13 well, we believe, with an agreement with an adjacent garage,  
14 and I appreciate Mr. Millstein's commitment to ensuring that  
15 there's not ongoing travel market concerns in the neighborhood  
16 should something result after the project could commence that  
17 would be unforeseen.

18 Additional, we considered the question of employees, as  
19 was raised, and I think that it is important and worthwhile  
20 to create a distinction between the employees and between the  
21 users of these two uses. And so we talked about the restaurant  
22 goers and the hotel users, but again, there's going to be  
23 employees, and there's going to be employees at both the  
24 restaurant and the hotel.

25 And all of those people are people who are, obviously,

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1 going to need to get work some way. And again, we believe that  
2 transit mode share will be significant. There is a plethora  
3 of access via that. One thing that we honed in on that we  
4 wanted to see increased, and we worked with the Applicant over  
5 the last couple weeks, and I'll let them state whether they  
6 concur with what our recommendation is, but we wanted to see  
7 a commitment to allowing bicycling for employees to the site.

8 And so one thing that we wanted to see was long-term bike  
9 parking within the building that was accessible from both uses.  
10 And so originally, the proposal included long-term bike  
11 parking that was only accessible via the hotel. Obviously,  
12 restaurant employees wouldn't be able to do that, and so we  
13 wanted to see long-term bike parking that would be able to serve  
14 both sets of employees, and so we asked for seven long-term  
15 bicycle parking spots to be committed, and that all seven of  
16 those would be accessible from both uses.

17 And then additional, we wanted to see some short-term  
18 bicycle parking commitment to add those as part of the public  
19 space permitting process, a commitment to a certain level of  
20 short-term parking, and again, this could be for employees or  
21 people doing deliveries in and out, but it also could be users,  
22 and so we wanted to see at least four short-term bicycle parking  
23 spaces.

24 Finally, I would note the dialog on the loading and  
25 trash. We felt like this was sufficient to handle the business

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1 of these two businesses and we were happy to see that it was  
2 handled via the alley network. We believe the alley network  
3 can handle this and we are okay with the loading variance that  
4 was sought.

5 And I think that covers most of the issues that were  
6 discussed and I would be happy to take any questions in regards  
7 to the transportation matters. Thanks.

8 CHAIRPERSON JORDAN: Okay. I didn't see in the -- what  
9 am I missing here? Let me go back. In the proffered TDM from  
10 the Applicant, did I miss any long-term bicycle racks and the  
11 short-term bicycle racks? I didn't see those in the TDM  
12 proffered. Did I miss that?

13 MR. ANDRES: Chairman Jordan, with respect to -- those  
14 numbers were being developed and work with the architect. We  
15 do have an update to that. You know, based on the architect's  
16 numbers, we're providing, actually, 14 long-term spaces within  
17 the building. That would be available for both hotel and  
18 restaurant employees.

19 COMMISSIONER TURNBULL: Where are they located?

20 MR. ANDRES: There are six in the loading area and eight  
21 in the cellar. And we can submit plans that identify that.

22 COMMISSIONER TURNBULL: Okay. Because I know on Page  
23 22 of your original submittal it showed something in the  
24 loading area, I think. So you've got more in it beyond that.

25 MR. ANDRES: Yes. That's correct.

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1 COMMISSIONER TURNBULL: Okay. And I could just see an  
2 updated plan then.

3 CHAIRPERSON JORDAN: Let me ask DDOT, are we keeping,  
4 and I think we talk about this all the time, an ongoing running  
5 map, keeping score, of the different projects that's affected  
6 from parking in the area? Do you guys do that?

7 MR. WESTROM: Thank you for the question. You're  
8 exactly right. We have discussed it before, but I think that  
9 it's worth discussing every time that it's worth bringing it  
10 up because that is something that we certainly are aware of,  
11 and as soon as we saw this project, we know -- and in fact,  
12 it was another Douglas Development that I think I was most  
13 recently here for, right in this neighborhood, and we all know  
14 there's multiple developments that happen in particular  
15 neighborhoods within the District.

16 That is something that we are researching in a very  
17 focused way, ongoing. We want to make sure that we have many  
18 tools in our tool belt in order to address concerns such as  
19 this. There's a couple things that I can point to that we're  
20 doing. One, we were talking about the mode share. Is it  
21 realistic to consider whether this hotel is unique from other  
22 ones that might be going in? Is that something that makes  
23 sense?

24 We are doing research in the realm of trip generation,  
25 so this is specifically trying to understand how many trips

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1 come about from any development that happens. And we're  
2 looking at how is trip generation in an urban market, such as  
3 the District, different than, as Mr. Andres noted, perhaps a  
4 suburban context or other context that the references that are  
5 available do reference?

6 And we believe there is a difference and we're making  
7 progress in that regard, and we hope to be able to speak to  
8 that more comprehensively as we continue through this research  
9 and ultimately move towards completion. But we believe, and  
10 we noted in our report, that we accept the assertion by the  
11 Applicant that the numbers coming from the trip generation,  
12 in this case, are conservative. This is, I think, a unique  
13 type of hotel that would generate trips at a lower level.

14 And then secondly, we're also looking at what is out  
15 there in terms of demand for parking. We have active and  
16 ongoing research in terms of parking utilization. And in  
17 fact, we've completed a survey of approximately 115 different  
18 properties throughout the District that we've gone in and  
19 actually looked at, what is the utilization of the parking  
20 that's available and quantified the parking that is there, and  
21 we're in the process, again, of working towards finalizing that  
22 bit of research.

23 But what we're finding is that there is a range, but the  
24 parking that has been provided in some of the building, perhaps  
25 ones that were developed longer ago that were more over-parked

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1 compared to a lot of the ones we see nowadays, is not being  
2 utilized as highly as we would have expected, so we're trying  
3 to use that to help, again, focus what our understanding of  
4 the future parking demand would be, and the cumulative effects  
5 that might be seen in neighborhoods such as this, and that is  
6 absolutely something we consider when we finalize our report.

7 And if we see something that we would deem problematic,  
8 we would certainly want to call that out. In this case, I think  
9 that we are satisfied that the variances is acceptable.

10 CHAIRPERSON JORDAN: Yes. It's something that, you  
11 know, as you know, this Board is beat-up all the time over it.  
12 I mean, we get hit over and over again. And we know there's  
13 at least two other hotels of kind of the same kind of stature  
14 going to come in this same area. We're going to be using the  
15 same numbers again and again, and it would be nice to see the  
16 document from DDOT. And I'm glad to hear you've been doing  
17 some inventory.

18 And I don't know if there's anybody, whether it's DDOT  
19 or, Mr. Andres, your company, have you been getting from the  
20 hotels, a capture of the information? Do we have a set  
21 questionnaire or something we're asking the guests at these  
22 hotels, how did you get here? I took the Metro. How did you  
23 get here? I took a taxicab. How did you get here? I drove  
24 and I parked in the neighborhood. No, you know, because at  
25 some point, we got to have -- and I know I keep preaching this,

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1 but, you know, I probably won't even be on this Board at that  
2 point, but it'll blowup and we really need to start putting  
3 some real meat to it.

4 We've been doing these TDM plans now for, what, four or  
5 five years or more? At some point, we got to have some real  
6 facts behind whether or not it's been successful. I know we've  
7 had some discussion in a limited capacity, and I think we've  
8 used something from Arlington and Fairfax. I don't know if  
9 DDOT has actually completed their study. Are TDM guests  
10 guesstimations, have they been successful? How far off the  
11 mark? And you just said something that kind of cautioned me  
12 when you said, we looked at it and we found some that have missed  
13 the mark, you know, and we're trying to find out why.

14 All right. Anybody else? DDOT? And thank you for  
15 coming. You know, certainly appreciate you coming and giving  
16 us your input. Sometimes just a report doesn't get it for us.

17 MR. WESTROM: I understand. Thank you.

18 CHAIRPERSON JORDAN: We appreciate it. Board, any  
19 other questions? Yes, the Board, and then Applicant, please.  
20 Questions of DDOT?

21 MR. HUGHES: I have no questions. Thank you.

22 CHAIRPERSON JORDAN: Mr. Boardman, any questions of  
23 DDOT? Then we go to, what? We got DDOT. ANC-2C.  
24 Representative of ANC-2C? We do have a letter of support from  
25 ANC-2C and ANC-2C has -- told you it was going to happen.

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1 Didn't I tell you it was going to happen? ANC-2C has a list  
2 of conditions. And as was indicated, the ANC recommendations  
3 are, as Mr. Morgan has said, not generic to zoning. We  
4 certainly give them great weight in their support of the  
5 project, but requiring this to be a pet-friendly building is  
6 not zoning related and to clean up the alley and the street  
7 is just not something that we would invoke in any order that  
8 we may provide.

9 And this one, Number 2, "To provide bicycle parking at  
10 the building." I guess that's what's coming later. It wasn't  
11 in your TDM, but that's something that's coming later. We're  
12 going to issue a \$1000 fine now. So okay. Let's go now to,  
13 Mr. Boardman, do you have -- no, excuse me. One other thing.  
14 Anyone here wishing to speak in support of the application?  
15 Yes, please. And your name again?

16 MR. PHILLIPS: My name is Wesley Geoffrey Phillips.  
17 I'm a resident and co-owner of Unit 303 at 1010 Mass, so the  
18 adjacent building, and I also park in the underground parking  
19 at that facility. So initially I was very concerned and had  
20 posted some comments on the Web site expressing concern about  
21 traffic flow, loading and unloading, and parking, as well as  
22 construction work.

23 So after receiving those comments, I was immediately  
24 contacted by Douglas Development to get some feedback on my  
25 concerns, and we actually had a meeting. Very pleased with,

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1 actually, the results. So they've taken it upon themselves  
2 to do an MOU with the condominium association. I actually  
3 spoke to the Secretary Treasurer of the condo association.  
4 The condo board, as I'm sure is evidenced in your documents,  
5 has signed off on an MOU.

6 It looks like substantial thought has been given as well  
7 to the traffic flow and the unloading, minimizing the size of  
8 the trucks that will be making deliveries on a regular basis  
9 to the hotel, as well as to the dining facility. And the  
10 parking situation out front, I think, has been addressed. I  
11 gathered more information during our meeting in terms of the  
12 type of clientele that would be visiting the hotel and the  
13 restaurant, and their modes of entering and exiting the hotel.

14 So after those meetings, I felt very satisfied as a  
15 resident that the concerns were being addressed. Ironically,  
16 I work for a construction contractor too, so I was worried about  
17 the construction deliveries, of all things, because I know  
18 they're nightmares with that, and it looks like those have been  
19 addressed as well.

20 There's a specific set of language in the MOU regarding  
21 construction deliveries, only doing bonafide emergency  
22 repairs on a Sunday, for instance, so I think all of those  
23 issues have been addressed and I actually changed from someone  
24 who was concerned about the project to someone who's now  
25 supporting the project.

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1 I think it's very beneficial. We have a vacant alley,  
2 a messy parking lot, dilapidated building that's not in use,  
3 an area that's been subject to a lot of criminal activity over  
4 the years --

5 CHAIRPERSON JORDAN: Not in the District.

6 MR. WESTROM: -- because of its position back in the  
7 alley, to an area we're going to have redesigned historic, with  
8 a small H, I think we would say, renovation. Again, taking  
9 from another person. A renovation and then a new addition,  
10 so we're going from vacant, unused, not-so-pleasant property  
11 to a property that's going to be well-used, and look good, and  
12 be an asset for the community more than just, no offense,  
13 against Subway, but not another Subway shop in the basement.

14 So from my written objections on the Web site, I'd like  
15 to turn those around because all of those have been addressed  
16 appropriately with the engineer as well as the developed, and  
17 I'd like to support the project because I know the community  
18 needs more business, more revenue, and more jobs, so I see that  
19 as a positive.

20 CHAIRPERSON JORDAN: All right. Well, thank you very  
21 much. We appreciate you taking the time coming down, but you  
22 see how we have to -- everything you said is what we are doing  
23 as a Board, but when we do it, you know, it weighs heavily into  
24 the future, but thank you. Appreciate it. Anyone else  
25 wishing to speak in support? Anyone else wishing to speak in

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1 support? Then we'll turn now to the party in opposition for  
2 -- you want to speak in support? Well, you got to come to the  
3 microphone and we need you to identify yourself, please.

4 MR. GOLUB: Jonathan Golub with J.G. Reality. We are  
5 neighbors at 1007 K Street, NW.

6 CHAIRPERSON JORDAN: Yes, I think you submitted a  
7 letter?

8 MR. GOLUB: We did. Yes. It's an issue that we didn't  
9 really -- I thank the developers that came to us, we had a  
10 meeting, and it was very cordial, and they explained the whole  
11 procedure and the process to us, and I'm very thankful of that,  
12 and my brother arranged that, but I appreciate that. One thing  
13 that we did bring up, we thought about it afterward, and he  
14 said to bring it up at the meeting is, will there be pets allowed  
15 in this hotel at all, under any circumstances, and where will  
16 the pets go, and there are in 1010 Mass, to do their thing,  
17 and how will they get to it?

18 Some are already doing it on our property now, and I  
19 said, please, this is private property. You're not supposed  
20 to be going on to our property and having your dog defecate  
21 on it, and that, I think, D.C. needs cleaning up. So what will  
22 be done -- I mean, most of the neighbors are very conscious  
23 and they do do it, but there are some that don't, unfortunately,  
24 and, you know, I can't sit here and name who's what exactly,  
25 but it's an issue, and people even do it in my neighborhood

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1 where I live, and I'm like, excuse me, you know, bring a bag  
2 and cleanup your dog's poop. Don't leave it on my lawn. Thank  
3 you very much. That's a --

4 CHAIRPERSON JORDAN: That's a duty for the poop police.

5 MR. GOLUB: Right. So what's being done about that?  
6 I'm just curious. It was an issue we brought up internally  
7 after we met.

8 CHAIRPERSON JORDAN: Well, it's not really a  
9 zoning-related issue --

10 MR. GOLUB: It's not a zoning-related issue, but I  
11 figured since the developer's here, he could --

12 CHAIRPERSON JORDAN: Since you got him in the hot seat,  
13 go ahead and get your answer to that. If they would be so  
14 courteous as to respond.

15 MR. MILLSTEIN: That's an interesting -- whatever.  
16 Anyway, we will be pet-friendly and from a personal note, you  
17 know, I have five dogs. My wife and I rescue dogs. We're a  
18 very dog-friendly family. What we will do, though, I think,  
19 would be interesting is, we'll provide the poop bags at the  
20 front desk of the hotel free of charge to anyone who needs them,  
21 so that it's very convenient for them to grab the little bag  
22 as I do when I go out, my son's dog, who's my grandson, in the  
23 city, I make sure that I carry a bag with me.

24 So we'll provide those free of charge at the front desk  
25 for anybody who needs it to try to make it easy to cleanup.

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1 MR. GOLUB: And the second part, I guess, it's not  
2 really them, but will there be another area for 1010 people  
3 to go, because they traditionally go through the lot right now  
4 to that grassy area where they poop? The part where they go,  
5 I've seen them do it over and over again. So has that been  
6 figure out, or thought about, or just not really our problem  
7 because it's 1010 Mass' dogs that are doing it, or what? I  
8 mean, it's still going to be adding poop to the -- you know,  
9 so I'm just wondering, are they going to do the same thing,  
10 maybe, encourage their residents to maybe do that?

11 I don't know, I'm just asking the question because I've  
12 stepped in it a few times and it's unpleasant, so I know they  
13 traverse through the existing property.

14 CHAIRPERSON JORDAN: Let's begin to cut the poop,  
15 because we really should get on --

16 MR. GOLUB: All right. I apologize. But it's an  
17 issue.

18 CHAIRPERSON JORDAN: So they're saying they're going to  
19 provide the bags for them and --

20 MR. GOLUB: Will 1010, maybe, work with them to do that  
21 as well? I mean, that'd be great. I assume we have to ask  
22 1010 --

23 CHAIRPERSON JORDAN: That's something that we're not  
24 going to order from the Board.

25 MR. GOLUB: I understand.

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1 CHAIRPERSON JORDAN: But certainly understanding as  
2 it's been represented by Douglas Development that they want  
3 to work with the community.

4 MR. GOLUB: Okay. Fair enough.

5 CHAIRPERSON JORDAN: So please have the conversation.  
6 I'm sure Mr. Millstein will have the conversation after this  
7 hearing or at some other point with you on that.

8 MR. GOLUB: All right. Thank you very much.

9 CHAIRPERSON JORDAN: All right. Thank you. Anyone  
10 wishing to speak in support? Then let's turn now to --

11 COMMISSIONER TURNBULL: Mr. Chair, just an add-on  
12 thing, that's a union-regulated job picking up the poop of  
13 dogs.

14 CHAIRPERSON JORDAN: See, as we segue now to the union,  
15 Mr. Boardman, would you please -- you can give us however you  
16 want to do it. You want to do witnesses or you can just do  
17 a presentation, but you have party status, of course, and feel  
18 free --

19 MR. BOARDMAN: Appreciate it, Mr. Chairman.  
20 Commissioner Turnbull, our members, in fact, do handle that  
21 issue in pet-friendly hotels.

22 COMMISSIONER TURNBULL: I love it. I personally use  
23 the Washington Post newspaper bags. They're quite handy.  
24 They're long. They really work quite well.

25 MR. BOARDMAN: Mr. Chairman, Members of the Board,

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1 thank you for allowing us to appear today. My name is John  
2 Boardman. I'm Executive Secretary Treasurer of Unite Here  
3 Local 25. A union with over 6500 hotel workers in the  
4 metropolitan area working to create middle-class jobs. I have  
5 been in the hotel industry for 35 years. Local 25 has been  
6 on the corner of 10th and K for over 40 years and has been here  
7 in the nation's capital since 1938.

8 I do want to go off script just for one second and make  
9 two observations. One, which the Chair has stressed, and one  
10 which DOT entertained. You are quite right, Mr. Chair, there  
11 are a finite number of spaces in the area in which my business  
12 operates; my union operates. And the more demands you place  
13 on those spaces does not increase the finite number. It  
14 reduces the accessibility to the spaces that exist.

15 Now, with all due respect to our friends at DOT, I have,  
16 as I said, been in the hotel industry for 35 years. We are  
17 a strong supporter of bike lanes in the District of Columbia,  
18 not because our members ride bikes. In fact, there are very  
19 few positions in the hotel industry that allow you to sit down,  
20 outside of management and PBX operators, everyone spends eight  
21 hours on their feet.

22 Our members do not ride bikes. After eight hours on  
23 your feet, you want a way to get home, and some people have  
24 to drive, because as you may know, hotels and bars stay open  
25 past 12:00 midnight, when most transportation options in the

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1 District of Columbia diminish or cease to exist at all.

2 In any case, we are the owners of our office at least  
3 one block from the proposed hotel development. The  
4 Applicant's proposal to provide no parking at all represents  
5 a serious conflict with our work as an organization of hotel  
6 workers. Furthermore, based on our experience in the hotel  
7 industry, we believe that this proposal to build a new hotel  
8 near the convention center without providing parking would  
9 significantly impair the intent and purpose of zoning  
10 regulations to ensure adequate parking for residents and  
11 visitors.

12 Therefore, we ask you to deny the Applicant's request  
13 for a variance of the requirement to provide 64 off-street  
14 parking spaces. This proposal would cause a detriment to  
15 public good. And I want to discuss how the proposal impacts  
16 Local 25 and its membership. Our union office houses several  
17 functions, which frequently require our members to visit us  
18 for hours at a time. First, our staff is dedicated to  
19 representing the interest of our membership. On a daily  
20 basis, we have hotel workers visiting the office to help on  
21 issues ranging from seeking assistance for workplace issues,  
22 to filling out applications for a pension.

23 Second, we are a democratic organization. The majority  
24 of our decisions that we make are approved by an executive board  
25 and our full membership at meetings. These meetings occur on

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1 a regular basis and involve attendance of up to 300 members.  
2 Third, our staff provides training to our rank and file leaders  
3 and membership on a regular basis. Training sessions often  
4 see up to 300 of our rank and file leaders and members coming  
5 to the office for half-day or full-day sessions.

6 Fourth, our members also frequently take action to help  
7 fellow hotel workers or others in the city to promote  
8 progressive social change in the District. Our office serves  
9 as a hub for those members to gather and prepare for those  
10 actions. Fifth, our contract negotiations are held using an  
11 open session format, which means any members can attend any  
12 bargaining session. On average, those sessions draw 200 to  
13 300 workers. Bargaining takes an enormous amount of time.

14 Our last major set of negotiations involved more than  
15 60 sessions or related meetings. In all these cases, it is  
16 very important for those who we represent to be able to easily  
17 access our office and participate in the life of the union.  
18 Even though our contract makes it possible for our members to  
19 support their families by working hard at one job, our members  
20 are not necessarily in the position to splurge on garage  
21 parking.

22 Many of our members do not have cars, but many of them  
23 do come from less accessible parts of the city, and elsewhere,  
24 and for many of them, driving is the most efficient way to get  
25 to our office and still be able to manage their daily tasks.

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1 Already, it is often difficult for our members to find street  
2 parking when they visit their union. The problem is  
3 particularly acute during conventions or peak tourism periods.  
4 As the area around the convention center continues to develop,  
5 the situation is only going to get worse.

6 What we do not need is another influx of hotel guests  
7 scrounging the neighborhood for street parking, which we know  
8 they already do when forced to search for a garage to park in.  
9 The proposal would impair the intent and purpose of zoning  
10 regulations. Furthermore, based on our experience in the  
11 hospitality industry, we believe the Applicant's proposal to  
12 develop a hotel without parking would significantly impair the  
13 intent and purpose of zoning regulations.

14 The main problem with this proposal is that the  
15 neighborhood already faces periods of severe congestion and  
16 parking shortages based on the volume of tourists and  
17 convention traffic. It is worth pointing out that the  
18 Applicant's traffic study happened to avoid one of these peak  
19 periods.

20 The convention center area is already dense with hotel  
21 uses. In fact, there are 11 hotels currently operating within  
22 500 yards of the site. There are three more major hotels  
23 planned within that circle. If there were any office or  
24 residential project, demand for parking would be roughly  
25 constant and predictable. However, as with any hotel near a

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1 convention center, this project would have the highest impact  
2 during conventions and during peak tourism season.

3 Because it'll add another hotel to an area which is  
4 already very dense with hotels, it would create the highest  
5 unmet demand for parking in our neighborhood at the worst  
6 possible times. There's not much reason to believe that this  
7 hotel requires substantially fewer parking spaces than any  
8 other hotels near the convention center, as the Applicant  
9 argues it's possible that the hotel's small rooms may somehow  
10 discourage parking use.

11 In any case, it's likely the effect will be substantial  
12 either way. People still drive to the District and they will  
13 drive to this hotel. The zoning regulations provide some  
14 guidance on how the need to provide parking should vary in  
15 different situations. For example, in a C-3-C zone, such as  
16 the one in which the proposed hotel lies, only one parking space  
17 is required for every four hotel rooms. That is not an  
18 excessive requirement. It assumes that less than 1/4 of the  
19 guests will be driving because some employees drive.

20 In fact, the Applicant's traffic study estimates unload  
21 split of 25 percent auto usage for hotel guests. We do not  
22 dispute that estimate. The Applicant has argued that the  
23 site's proximity to Metro rail stations should obviate the  
24 hotel's need to provide parking. However, it is extremely  
25 common for C-3-C zones to be located within walking distance

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1 to Metro. The zoning code does not contemplate that guests  
2 will refrain from driving to a hotel near a Metro.

3 In fact, Section 2104.1 of the zoning regulation  
4 specifically addresses the situation and provides for only a  
5 25 percent reduction in the number of required parking spaces  
6 for projects very close to a Metro station. Furthermore, the  
7 exemption does not even apply to this project because the  
8 closest Metro station, McPherson Square, is roughly 1500 feet  
9 away from the site, nearly twice the distance required for the  
10 exemption.

11 At most, the relief granted to the project should not  
12 exceed the 25 percent relief granted to projects located  
13 extremely close to a Metro station. Finally, I find it  
14 inappropriate for the Applicant to request relief from  
15 requirements for parking and for a rear yard at the same time.  
16 One of the requirements for being granted relief from a rear  
17 yard requirement is that the building plans to provide space  
18 for off-street functions, including parking.

19 As proposed, this project does not provide adequate  
20 space for parking. Even if the Applicant were to demonstrate  
21 that the lack of parking provided would not be detrimental to  
22 the public interest, which we do not think they do, they would  
23 still fail to meet the plain language standard that the project  
24 must provide adequate space for off-street functions,  
25 including parking.

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1           In short, we are concerned that this project will  
2           undermine our work as an organization of hotel workers,  
3           thousands of whom live and work in the District. Our members  
4           need to be able to visit our office on a regular basis and they  
5           depend on consistently available street parking for that to  
6           happen. Unfortunately, such parking can be impossible to come  
7           by during the frequent and sometimes unpredictable boom  
8           periods for the hotel industry nearby.

9           This project threatens to exacerbate that situation.  
10          Further, this project would impair the purpose of the zoning  
11          regulations regarding parking which is to ensure adequate  
12          access to parking for residents and visitors to the  
13          neighborhood. Therefore, we urge you to reject the  
14          Applicant's proposal to construct this hotel without providing  
15          parking in our neighborhood. Thank you very much and I'd be  
16          willing to take any questions you may have.

17          CHAIRPERSON JORDAN: Thank you. Board, any questions  
18          for Mr. Boardman? Let me ask a question. So have you gotten  
19          any complaints from your employees about not being able to park  
20          at some of the other facilities? You know, some of the other  
21          hotels?

22          MR. BOARDMAN: From our employees?

23          CHAIRPERSON JORDAN: Meaning, union members, those who  
24          are concerned about parking at their jobs for those hotels in  
25          the area.

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1 MR. BOARDMAN: They don't park in the parking lots, if  
2 that's your question, Mr. Chairman.

3 CHAIRPERSON JORDAN: Have they expressed to you that  
4 they try to find spaces on the street?

5 MR. BOARDMAN: Sure. It's harder and harder to do  
6 that. Anyone who has driven in that section of the city  
7 recognizes that even the traffic has increased. We have a  
8 changing demographic. When I started on that corner 35 years  
9 ago, you could find parking anywhere on the street. You'd risk  
10 your life getting from your car to the office front door, but  
11 you could find parking. That is no longer the case. You take  
12 a curb cut out, three spaces doesn't sound like a lot, that  
13 is an awful lot, and it particularly impacts the people we  
14 represent.

15 CHAIRPERSON JORDAN: One thing, I don't think they're  
16 necessarily going to do curb cuts, they're just going to  
17 reserve that area in front of the building, I suspect. Yes,  
18 they're not going to do a curb cut, but you're taking away  
19 parking spaces.

20 MR. BOARDMAN: Yes, we would agree there.

21 CHAIRPERSON JORDAN: And I think I heard you, in your  
22 question, say on half, but there's only six spaces on that north  
23 side and they're going to take six spaces, that's 100 percent  
24 of the metered parking. I thought that's what you, in your  
25 question, maybe I was wrong.

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1 MR. BOARDMAN: I heard that you were taking three.

2 CHAIRPERSON JORDAN: Okay. Just taking three? I  
3 thought you said -- okay. So it's three?

4 MR. BOARDMAN: If the Chair wishes to assume six, we  
5 would like to do that.

6 CHAIRPERSON JORDAN: No, so you're just taking three?  
7 I thought you said you weren't certain of the number, but it  
8 could be up to six.

9 MR. ANDRES: I wasn't certain of the number that were  
10 actually there, but in essence, we are only taking  
11 approximately three; three at most.

12 MR. BOARDMAN: We think your estimate of six is correct.

13 CHAIRPERSON JORDAN: Okay. So have you had  
14 conversation with the Applicant about providing your  
15 membership or providing your operation, because you're how  
16 close to this building?

17 MR. BOARDMAN: We're a block away.

18 CHAIRPERSON JORDAN: You're a block away. Oh, that's  
19 a little --

20 MR. BOARDMAN: We are at the corner of 10th and K.

21 CHAIRPERSON JORDAN: -- different. Okay. Well, let  
22 me back-off on that, because I thought you were like right  
23 there. You're a block away. Okay.

24 MR. BOARDMAN: We are actually, Mr. Chairman, less than  
25 half a block away. Yes, we're right there. We're on the

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1 corner of 10th and K.

2 CHAIRPERSON JORDAN: All right. I was thinking of a  
3 solution, but I don't think it makes sense now. Board, any  
4 questions of Mr. Boardman? Mr. Turnbull?

5 COMMISSIONER TURNBULL: No, I don't have a question,  
6 but I think the Applicant was proffering, or is looking at  
7 proffering, some arrangement with the workers for  
8 transportation demand. Part of your transportation demand  
9 policy or what you're trying to setup is to work out some  
10 incentive or something for employees for mass transportation.  
11 I believe you were going to look at something.

12 MR. MILLSTEIN: That's correct, Commissioner Turnbull.  
13 We intend to offer a mass transit subsidy to our employees of  
14 our hotel. That's correct.

15 COMMISSIONER TURNBULL: I mean, and I don't know if  
16 other hotels that you're familiar with do that, but that sounds  
17 like a positive attribute to what they're trying to do to make  
18 it easier.

19 MR. BOARDMAN: Commissioner, you are correct. That's  
20 a standard offering in every hotel we represent, so that's not  
21 unique or unusual. Our point is this --

22 CHAIRPERSON JORDAN: What kind of subsidies are they?

23 MR. BOARDMAN: There are purchase subsidies, there are  
24 pre-tax deductions from your paycheck, subsidies that you can  
25 get, there are a variety of different things. It comes out

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1 of what's called a 125 Cafeteria Plan Option. There are ways  
2 to do it, in other words. And most employers that we deal with  
3 our forward-thinking and do that. I certainly commend this  
4 potential employer on being able to do that.

5 Our issue falls into two categories. We represent  
6 hotel workers and hotels, but we also are a union and we have  
7 an office in this neighborhood, which is why parking is a  
8 concern to us. Our members can't come downtown and drop \$18,  
9 \$22, to come to a meeting. That's not in the realm of  
10 possibility. So if we have a meeting in the evening, and they  
11 come downtown, they're looking for parking space in the  
12 immediate neighborhood. Anything that detracts from their  
13 ability to do that, detracts from the businesses, including  
14 us, in the neighborhood to operate effectively.

15 And I appreciate, I do, that the Applicant is offering  
16 to make things right after this gets built. Problem, Mr.  
17 Chairman, as you well know, is you can't build underground  
18 parking once a structure goes up.

19 CHAIRPERSON JORDAN: Well, that's why I raised -- I  
20 mean, it wasn't in the TDM plan as I had a concern, that's why  
21 I raised it, because whatever's going to happen, if we do allow  
22 this, then we need to have it in our order, so that's why I  
23 raised it; raised the issue.

24 MR. BOARDMAN: If you come to our building at the  
25 northeast corner of 10th and K during convention season, or

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1 when there are locally-based events at the convention center,  
2 you cannot get parking. The only reason that my staff can get  
3 parking there is because we have reserved spaces. If we did  
4 not have reserved spaces and we were just driving in and buying  
5 daily, we would be shutout, and that's now.

6 CHAIRPERSON JORDAN: So you're saying there's not the  
7 availability of access spaces in the parking lots?

8 MR. BOARDMAN: I can only speak for my building, but  
9 when the convention center is busy, either from a citywide  
10 convention or a daily, like Comicon or something like that,  
11 they stack the cars. If you don't have a reserved space,  
12 you're not going to get into parking.

13 CHAIRPERSON JORDAN: Okay. Others, questions?

14 COMMISSIONER TURNBULL: So, Mr. Boardman, you don't see  
15 that there's a practical problem with getting, actually, a  
16 parking garage into this building because of the shape of the  
17 site?

18 MR. BOARDMAN: Mr. Commissioner, I understand that  
19 there may be problems, I'm not a developer, I'm not a  
20 construction expert, but I believe that the zoning code  
21 anticipates the very things that we're talking about, finite  
22 numbers of spaces, and if we keep making decisions,  
23 incrementally or in the aggregate, we're going to exacerbate  
24 a problem which already exists. This is not going to create  
25 a problem, the problem is already there.

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1           And for my organization and the people I represent at  
2 the income levels that they are, street parking is the option  
3 that they need. We need that so they can come down and be part  
4 of downtown. And if you keep eliminating it and keep making  
5 the demand on it more and more and more, it becomes impossible  
6 for people like the folks we represent. This city has to be  
7 for more than just people that can pay 20, 22 bucks an hour,  
8 or a day, for parking, it has to be, and that's what the zoning  
9 code anticipates.

10           CHAIRPERSON JORDAN: Board, any other questions? Then  
11 let's turn to the Applicant for any questions of Mr. Boardman.

12           MR. MILLSTEIN: I have no questions.

13           CHAIRPERSON JORDAN: All right. Anything else, Mr.  
14 Boardman, you wanted to present?

15           MR. BOARDMAN: Thank you, Mr. Chairman. You've been  
16 very generous. I appreciate it.

17           CHAIRPERSON JORDAN: Thank you. Anyone wishing to  
18 speak in opposition? Anyone wishing to speak in opposition?  
19 There was a young lady, a woman, here who wanted to speak. Is  
20 she still with us? All right. So that times gone. Going  
21 once, going twice. Anyone wishing to speak in opposition?  
22 We'll turn now back to the Applicant for any rebuttal. So let  
23 me talk about, do you have any parking agreements with any of  
24 the parking lots now that are in place and what are they?

25           MR. ANDRES: Mr. Chairman, we have secured letters from

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1 both Colonial Parking and U Street Parking, that we can submit  
2 copies of, that identifies that there is availability in their  
3 parking facilities for supporting the parking related to this  
4 project.

5 CHAIRPERSON JORDAN: I think I was taking it a step  
6 further, and it goes to what Mr. Boardman may have said, do  
7 you have spaces that are reserved, or dedicated, to this  
8 operation?

9 MR. ANDRES: We do not. And based on our conversations  
10 with the parking operators, you know, typically, they identify  
11 that they can support it, however, there's no actual  
12 contractual agreements to rent those.

13 CHAIRPERSON JORDAN: Okay. We got a big convention in  
14 town, the garages are full of people paying their \$20, so how's  
15 your valet being handled, how is your guests going to be  
16 handled?

17 MR. MILLSTEIN: So I would say, the way we do it now is,  
18 we have garages in the neighborhood, not on the same block,  
19 but at 10th and F, 11th and F, we have buildings with garages,  
20 we have buildings without garages, we valet. If there's a  
21 demand, like at Ford's Theater, we own the garage underneath  
22 Ford's Theater, during a Ford's Theater event, we put in extra  
23 parking because there's a heavy demand for parking.

24 So if there was a convention in town and we have a high  
25 occupancy rate, which we expect to have, and we need three or

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1 four extra drivers to take the cars a little bit further to  
2 another garage that's open, there's many opportunities, but  
3 you've got to be able to adjust on the fly on a demand basis,  
4 and we have relationships with Colonial Parking, U Street  
5 Parking, Atlantic Parking, they manage garages for us in other  
6 buildings that we own in some.

7 So again, Mr. Chairman, you know, it's hard to execute  
8 contracts now and pre-reserve parking spaces for a building  
9 that's not built, nor do we have a good understanding of when  
10 it will be built, and at that time, those parking management  
11 companies may no longer have those garages. A lot of those  
12 contracts are year-to-year, and things change. In fact, most  
13 of our parking management contracts are year-to-year, because  
14 they have to perform well, and then we either renew it or we  
15 put it back out to bid. So that's just the --

16 CHAIRPERSON JORDAN: The building might go to another  
17 use.

18 MR. MILLSTEIN: Things happen. Things ebb and flow.  
19 Again, which is why, at the end of the day, the hotel has to  
20 work. We don't make investments that don't work, typically,  
21 we try not to, it has to work well with the community, but to  
22 be realistic, and tell you that -- you know, have to be able  
23 to be a little bit nimble to make things work properly. We  
24 have never had a problem in any of our properties. I can stand  
25 before you on record and tell you that right now. We have

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1 issues, we correct them.

2 CHAIRPERSON JORDAN: That assumes that all guests are  
3 going to come and valet park and it assumes that all restaurant  
4 guests are going to valet park. If they want their car to go,  
5 maybe -- I'm just trying to think through it, but anyway, I  
6 don't know if you got the answers for it, but it's what we have  
7 to consider and think about. It's not just your subjective  
8 needs and what you may want, but we have to think, overall,  
9 its affect upon others.

10 MR. MILLSTEIN: Understood.

11 CHAIRPERSON JORDAN: And so, you know, we really wish  
12 when you come here and we ask these questions, we're not asking  
13 these questions to be smart about it, we just really are trying  
14 to fill the void in our minds to making sure that we have pushed  
15 it as much as we can and that we're comfortable with the  
16 responses. And, you know, we're already starting with one  
17 guesstimation to another guesstimation, and here we are with  
18 a situation as you present it, thinking about knowing how  
19 conventions can be in this town, how parking garages can be  
20 full, and you're not too far from the convention center, so  
21 that's why we asked that question, and just raised it.

22 So we talked about, it wasn't in your TDM, but we raised  
23 it here, and you just indicated that you will provide the  
24 employees with some type of system. I would like to put that  
25 in the order if we get that far. What are you thinking about

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1 offering?

2 MR. MILLSTEIN: Well, I'll tell you that I would like  
3 input on what might be appropriate. I haven't done this many  
4 times. This is our first hotel endeavor, so if somebody could  
5 help me out a little bit. What's the right thing to do? What  
6 would actually make an impact? I'm open to suggestions.

7 VICE-CHAIRPERSON HEATH: I'm not sure what kind of  
8 conversations you and Mr. Boardman have had relative to this  
9 question, but it would seem to me that it would be appropriate  
10 for him to weigh-in. I don't know if he has solutions, but  
11 he's particularly concerned about employees, and so from that  
12 perspective, it might be good for you to continue conversations  
13 with him.

14 MR. MILLSTEIN: If I might clarify just a bit. These  
15 may be employees of Mr. Boardman within his union or they may  
16 not.

17 VICE-CHAIRPERSON HEATH: Sure.

18 MR. MILLSTEIN: Okay. So they may be union employees,  
19 so we need to make sure that we take care of whoever's the  
20 employees.

21 CHAIRPERSON JORDAN: Right. And so there's two  
22 different issues regarding Mr. Boardman. One, and not really,  
23 he's not here necessarily talking about the employees, but he  
24 cannot not talk about the employees because it's in his system,  
25 even if he didn't want to, but he's also talking about the

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1 business operation. And one thing I was kicking in the back  
2 of my mind, which I thought you guys could even talk about,  
3 if I was on that side of the table, would have been a compromise  
4 to offer some type of X number of valet parkings per months  
5 that would allow him to go for his office operation, I'm not  
6 putting that out there, but that's the kind of stuff that we  
7 want you to talk about, because I think that's workable.

8 If you got enough facilities you own and control as a  
9 concession, it might have been a conversation about, well,  
10 we'll give you 10, 20 spaces that your folks can valet a year.  
11 I mean, a month, I don't know.

12 MR. BOARDMAN: Mr. Chairman, let me clarify something  
13 for the record, that's a violation of federal law.

14 CHAIRPERSON JORDAN: Okay. Well, whatever it very  
15 well may be.

16 MR. BOARDMAN: But we appreciate your concern.

17 CHAIRPERSON JORDAN: Okay. So then you're really in a  
18 rock and a hard place. So what I'm saying, there's ways for  
19 it. Mr. Millstein, I don't know what's reasonable for  
20 employees, but I do know from the walk of life and profession  
21 that in those hotels around there, the employees, they come  
22 in cars, some come from a long distance to work because, you  
23 know, depending on wages and all that, and they don't take Metro  
24 because Metros not necessarily easy. Sometimes they have to  
25 work late banquet nights or whatever the heck they're doing,

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1 restaurant nights, and they don't do it.

2 So what they do, they drive their cars around the  
3 neighborhoods and try to find a place to park. Some of them  
4 even run back out at break time and move their car, some of  
5 the them do car share, and it's just all kinds of stuff, you  
6 know? So that's why I raised it, and I didn't see it all in  
7 your report; at all in your report. And I wanted to raise it  
8 because I know the impact that it has, and certainly in Ward  
9 2 area, certain spots in Ward 2, and I don't have the answer  
10 to what's required, but you have a transportation expert and  
11 others in DDOT that you can have conversation, but I would be  
12 comfortable just seeing some other incentives saying, well,  
13 we're going to tell the employees they need to car share and  
14 they can ride their bikes.

15 And I didn't realize the aspect to them standing on their  
16 feet eight hours might be one incentive why they don't do it.  
17 So I think, Mr. Millstein, we wanted you to respond.

18 MR. ANDRES: Yes. Well, with respect to other  
19 developments we worked on, there are some guidelines for  
20 providing transit subsidies relative to office workers, so  
21 just employees in general. So in that instance, you know, we  
22 can submit something into the record that we would coordinate  
23 with DDOT so it's an appropriate element of the TDM.

24 CHAIRPERSON JORDAN: Okay. Mr. Hughes, any other  
25 rebuttal, because I want to go through some of these TDM things,

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1 and then I want to see something from you, subsequently, as  
2 we move forward, but anything else? Let me go through some  
3 of these TDMs. I want to make sure we got these things all  
4 in if we get to the point of awarding relief. One, I'm going  
5 to use the DDOT -- did you have a new updated TDM that included  
6 DDOT's and everybody else's? No?

7 MR. ANDRES: Well, DDOT reviewed ours, so DDOT --

8 CHAIRPERSON JORDAN: But you just said here at the table  
9 that you had some things that had not made it into it.

10 MR. ANDRES: Well, there are some additional ones that  
11 are identified in the OP letter; in the OP review.

12 CHAIRPERSON JORDAN: Okay. Let's step through it and  
13 you help me --

14 MR. ANDRES: Okay.

15 CHAIRPERSON JORDAN: -- where we've changed it, because  
16 I'm getting even more confused. No banquet facilities shall  
17 be provided, right? That's one. To ensure hotel guests are  
18 aware that no onsite parking would be available, the Applicant  
19 shall indicate on the hotel Web site and in the hotel  
20 registration confirmations that no parking would be available.  
21 B, encourage alternative modes of transportation, whatever  
22 that means. That's really flighty. C, inform users of  
23 locations of off-street parking. D, provide a staff member  
24 to direct guests arriving by car at the door or to nearby  
25 parking garages to ensure no illegal parking occurs in front

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1 of -- wait a minute.

2 Provide staff members to direct guests arriving by car  
3 at the door?

4 MR. ANDRES: So this is similar to the 627(h), where  
5 when somebody pulls up, they see these three empty parking  
6 spaces and think they can park there.

7 CHAIRPERSON JORDAN: Okay.

8 MR. ANDRES: We're saying, well, when they pull up,  
9 there's somebody going to meet them there and say, you're not  
10 parking here, you can unload here, but you're not parking here.

11 CHAIRPERSON JORDAN: Okay. That's D, and E, work with  
12 nearby parking garages to provide overnight parking for hotel  
13 patrons. Whatever that means. That's loose too. Three, the  
14 Applicant -- see, that last E, I think it needs to be  
15 strengthened. So take a look at strengthening E. Three, the  
16 Applicant shall provide a transportation demand plan to  
17 include the following; a transportation and management  
18 coordinator as a point of contact for coordinating and  
19 implementing monitoring TDM strategies, B, a transit screen  
20 in the lobby with real-time updates and provide print copies  
21 of transportation options, C, brochures detailing the  
22 marketing plan promoting -- brochure detailing the marketing  
23 plan?

24 MR. ANDRES: Yes, so --

25 CHAIRPERSON JORDAN: No, I understand. I think it's

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1 not worded properly, but I understand what you're trying to  
2 say. Brochure detailing the marketing plan promoting --  
3 anyway, I understand what you're saying, but let's tighten up  
4 the working for C.

5 MR. ANDRES: Okay.

6 CHAIRPERSON JORDAN: I think you got some misplaced  
7 things here. D, Capital Bikeshare passes to guests as part  
8 of Capital Bikeshare Bulk Membership Program for Hotels -- you  
9 see what I mean? Capital Bikeshare passes to all guests as  
10 part of the Capital Bikeshare Membership Program for Hotels  
11 upon request. So there's already a program for hotels?

12 MR. ANDRES: Yes, there is.

13 CHAIRPERSON JORDAN: Okay. Not to exceed \$5000. I  
14 don't think you should probably have a limit to it because this  
15 is something that's being -- you know, I don't think there  
16 should be a limit. I think if people are going to Bikeshare  
17 membership, whatever it's going to cost, you're going to stop  
18 them with \$5000 and say, no, we're not going to provide you  
19 a bike share when this is something that you've been pushing  
20 in front of this Board that they have the opportunity for bike  
21 membership? That's just my thought, but E, secure onsite  
22 bicycle parking spaces for employees, including brochures and  
23 links to Web site on bicycling in the District of Columbia for  
24 Capital Bike Share.

25 I don't know if we include within there, also, the 14

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1 long-term bicycle?

2 MR. ANDRES: Well, that's what the onsite bicycle  
3 spaces are.

4 CHAIRPERSON JORDAN: That's what that is? E is that?

5 MR. ANDRES: Yes. The short-term bicycle spaces are  
6 actually bike spaces not in the building, but within DDOT  
7 public space, which we would have to coordinate with them.

8 CHAIRPERSON JORDAN: And that's what they're saying  
9 they would like for you to do.

10 MR. ANDRES: Yes. So E is the 14 bicycle spaces within  
11 the building that we're providing.

12 CHAIRPERSON JORDAN: Okay. F, a ride matching  
13 rideshare program for employees with detailed carpooling  
14 information, refer interested employees to other -- this has  
15 no real teeth here. I hear you and I see what you got. I would  
16 offer that, and let's make this E -- and, you know, this is  
17 me talking. The Board hasn't weighed-in. Four, that the  
18 Applicant shall provide a financial incentive to employees for  
19 transit, and you've got to work with the wording. I don't know  
20 what it is.

21 I also believe that you should have some type of  
22 agreement with the adjacent garages, but that's just my  
23 thought. Board, anybody in the Board has anything else or want  
24 to correct what I said, or anything? Please, because I'm just  
25 kind of doing this stuff on the fly.

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1 Oh, there's two D's? Oh, there are two D's. Hotel  
2 reservation confirmation will state that -- yes, so you got,  
3 kind of, two D's in somebody's report, the OP report, or  
4 somebody had two D's, so let's make sure we straighten that  
5 out. And I am still open. I don't know what you can talk in  
6 regards to limiting the impact upon the community. That's  
7 another issue, so this is what I would recommend that we do.

8 I would like to see an updated conditions proposed and  
9 fill-in the blanks. I think that the two parties still have  
10 some conversation ongoing. I would take this, smooth this  
11 over, unless the Board wants to make a decision on this today,  
12 but I don't know if we're ready because we don't have the  
13 information that we believe is necessary, is that what -- that  
14 we move this over to -- uh, oh. What kind of decision stuff  
15 do we have on the 28th; decision on the 28th? Not hearing,  
16 but decision.

17 MR. MOY: Oh, decision? The Board's looking very good  
18 in that area, sir.

19 CHAIRPERSON JORDAN: Okay. That was a savior, that you  
20 get us the information by the 21st with the proposed changes  
21 and some other recommendations. And I do, again, would  
22 recommend that you have conversation with party in opposition  
23 about trying to resolve that issue. I think there's some ways  
24 responsible, I don't know whether they're legal or not, but  
25 have the conversation about doing it, because it's very

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1 important. And like I said, we can -- I think this is really  
2 rough. I think you guys -- I mean, really, it's rough. I  
3 think standing alone, this building by itself, not without  
4 anything else in the neighborhood, it's an easier swallow, but  
5 so much is happening there.

6 And we've used these same numbers, I guess we take it  
7 from one report, we put it in here, we move it around, take  
8 the title off, and flip them in, and we see it, and we know  
9 there's three other hotels coming in this area. Yes, each  
10 project, I'm aware, stands on its own bottom. Sometimes  
11 that's not logical that they stand on their own bottom in the  
12 realm of us looking on the impact of the community, and for  
13 the impact of the community, we're allowed to go beyond that.

14 This is a term. You're talking about 65 spaces, not 3,  
15 4, 5, or 6, we're talking about 65, right? Is that okay with  
16 you, Board, or do we need to -- I mean, I don't want to be  
17 dictating and dominating this conversation, but -- so we  
18 usually walk in unison. We all understand? We have these  
19 looks about us so that we know where we are. So that would  
20 be the order and we really appreciate everybody coming down  
21 and really working on this.

22 We know how difficult this situation is. Everything is  
23 finite in the District, you know, we can't grab any more land,  
24 and push out, and all that kind of stuff, so yes. Okay? I  
25 can't take any other comments from anybody at this point, but,

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1 Mr. Hughes, you would like --

2 MR. HUGHES: May I have just have some clarification?  
3 This is going to be decided by the Board at its July 28th  
4 meeting?

5 CHAIRPERSON JORDAN: That's correct.

6 MR. HUGHES: And you'd ask for anything -- our  
7 submission, by July 21st?

8 CHAIRPERSON JORDAN: That's correct.

9 MR. HUGHES: Okay. So both parties would -- you're  
10 looking for something from the Applicant.

11 CHAIRPERSON JORDAN: Yes, I'm looking for what we  
12 talked about, the conditions, if we do --

13 MR. HUGHES: Got it.

14 CHAIRPERSON JORDAN: -- and, yes, I don't think Mr.  
15 Boardman's going to submit anything. He's submitted what he  
16 has to say and I'm not looking for any other argument from you.  
17 I'm not asking -- and some other cases, next thing you know,  
18 the attorneys shout in all kinds of argument, and that was out  
19 of bounds, so I just took it and tore it up. Mr. Boardman?

20 MR. BOARDMAN: Mr. Chairman, there have been things  
21 brought to light here in the hearing by the Applicant that we  
22 may wish to address in a submission, it would be in writing,  
23 if the Board would --

24 CHAIRPERSON JORDAN: Argument or just how you can  
25 resolve some things?

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1 MR. BOARDMAN: I think it would be in response to some  
2 of the issues which were not contemplated coming in here, but  
3 --

4 CHAIRPERSON JORDAN: I'm not inclined to accept that  
5 because that opens up a whole can of worms and we would have  
6 to put this on for the 28th for a hearing as opposed to -- I  
7 don't see anything that we have not talked about or covered,  
8 but I think if you would, you can respond to the -- by the 25th  
9 or what is that Friday?

10 MR. BOARDMAN: 21st.

11 CHAIRPERSON JORDAN: What's that Friday?

12 MR. MOY: That Friday, sir, would be the 24th.

13 CHAIRPERSON JORDAN: By the 24th, you can respond to the  
14 new set of TDM measures that they would submit.

15 MR. BOARDMAN: Thank you.

16 CHAIRPERSON JORDAN: All right. And the same thing for  
17 Planning, if they wish to do so, or DDOT, or whoever, okay?  
18 Does that make sense to everybody? Can't we all just get  
19 along? Okay. We really thank you for your time and work.  
20 You know, we'll work it out. Maybe. Thanks. Let's move  
21 right into, if we can, the next hearing. Vice Chair Heath is  
22 going to leave us.

23 MS. QUINN: Commissioner Quinn, it's your day with us.

24 MS. QUINN: I mean, I would have thought you guys would  
25 have had lunch or some snacks out here.

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1 CHAIRPERSON JORDAN: There used to be a time when we  
2 were here until 6 o'clock, 10 o'clock. You know what though?  
3 You know what I feel coming, Ms. Thomas? I feel that alarm  
4 sound coming, which is another problem. What was it? Two  
5 weeks ago. We periodically, as you know, Sullivan, we get  
6 those fire alarms for some reason. Somebody runs around and  
7 pulls fire alarms and really ruins our day. Let's then move  
8 into this last case. Mr. Moy, you want to call it?

9 MR. MOY: Yes, sir. Thank you. That would be  
10 Application Number 19018, application of North Capitol Number  
11 One Land Trust at property 2826 North Capitol Street, NW.

12 CHAIRPERSON JORDAN: Okay. All right. Please  
13 identify yourselves.

14 PARTICIPANT: I'm the developer who renovated the  
15 property and sold it to the two buyers who are living there  
16 currently.

17 CHAIRPERSON JORDAN: Okay. Seller. All right. Mr.  
18 Sullivan.

19 MR. SULLIVAN: Thank you. Sorry, Mr. Chairman. My  
20 name is Marty Sullivan with the law firm of Sullivan & Barros  
21 here on behalf of the Applicant.

22 CHAIRPERSON JORDAN: Okay.

23 MS. SLATTERY: Hi. Colleen Slattery and I --

24 CHAIRPERSON JORDAN: Flattery or Slattery?

25 MS. SLATTERY: Slattery, S-L-A-T-T-E-R-Y. And I

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1 purchased 2026 North Capital Number 2.

2 CHAIRPERSON JORDAN: Okay.

3 MS. QUINN: Teri Janine Quinn, Chair of ANC-5E.

4 CHAIRPERSON JORDAN: Teri Janine Quinn. Very good.  
5 This is a rough one. I'm going to tell you right out the box,  
6 it's very rough. We have OP recommending -- OP not being able  
7 to recommend approval. The ANC also, is that correct?

8 MS. QUINN: That's correct.

9 CHAIRPERSON JORDAN: Not recommending approval. And I  
10 think it's a lift, even from my preliminary review from the  
11 Board, so, Mr. Sullivan, I'm going to say, why don't you have  
12 it at because I'm not understanding exceptional condition and  
13 circumstances, I'm not understanding the practical  
14 difficulty. First, let me go back, let me re-circle myself,  
15 who's the Applicant?

16 MR. SULLIVAN: Currently, the Applicant is Ms. Slattery  
17 and I prepared a letter to amend that, and it looks like I failed  
18 to bring that with me, and I have a letter of authorization  
19 with her, so I can supplement the record.

20 CHAIRPERSON JORDAN: So the Applicant --

21 MR. SULLIVAN: The Applicant, currently, is -- she's  
22 the owner of the property right now. The initial Applicant  
23 and the owner of the property at the time when we filed the  
24 application was the developer.

25 CHAIRPERSON JORDAN: So you're trying to make an oral

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1 motion to change the Applicant.

2 MR. SULLIVAN: Please, if I may, Mr. Chairman, and I can  
3 supplement that with --

4 CHAIRPERSON JORDAN: I have some concerns about it, and  
5 we'll talk about it later, but we'll go ahead and do so, if  
6 that's okay. I'm just going to be real upfront. You know,  
7 it's a situation of whose hands are clean and whose hands are  
8 not clean, and so this started with the seller, whose hands  
9 may, may not be clean, and now we normally, those things, as  
10 the authorization would flow from the person who owned the  
11 property to the Applicant, now is going to Ms. Slattery as the  
12 purchaser/owner, but I still think we have some issues here  
13 about what's gone on in this property, but go ahead, Mr.  
14 Sullivan.

15 MR. SULLIVAN: Thank you, Mr. Chairman, and to make it  
16 easy, we're not claiming that the practical difficulty has to  
17 do with actions of the developer, vis-a-vis, the purchaser.  
18 The conditions that lead to the unique condition and the  
19 practical difficulty were related to the property and the  
20 developer's interaction with that property prior to that sale.  
21 I'll set it up for you and then I'll have them testify.

22 CHAIRPERSON JORDAN: But at the time that the new owner  
23 took the property, were they aware that there was government  
24 violation issues on the property?

25 MR. SULLIVAN: I'll have the current owner answer that

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1 question.

2 MS. SLATTERY: I was not until about a week and a half  
3 before I actually closed on the property, and by then, you know,  
4 all the loans had been fixed, and real estate agents, et cetera.  
5 It took a very long time to close, and I moved in and made an  
6 offer on the place in January, moved in in February, and closed  
7 in late April.

8 CHAIRPERSON JORDAN: So why did you close knowing that  
9 there were governmental violations pending?

10 MS. SLATTERY: By that time, I had already moved into  
11 the property and I was -- you know, I had no other place to  
12 live, and it was, you know, really, at the very end right before  
13 I signed the documents, so there was, you know, a fair amount  
14 of pressure on me, both in terms of having to move out when  
15 I've already moved in and not having another place to live,  
16 and thinking that I was going to be able to close on the  
17 property, and that the property included the decks that we are  
18 talking about today.

19 CHAIRPERSON JORDAN: Okay. Mr. Sullivan?

20 MR. SULLIVAN: Yes, Mr. Chairman, from the beginning,  
21 the situation is, and the developer will testify about this,  
22 as will Ms. Slattery, a permit application for decks on the  
23 second and third floor was approved.

24 CHAIRPERSON JORDAN: Those are not in the record.

25 MR. SULLIVAN: They should be in there. I'll pass it

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1 out again, the --

2 CHAIRPERSON JORDAN: Where are they in the record? Do  
3 we have them in the record? Because they're not in the record,  
4 nor are the permits in the record.

5 MR. SULLIVAN: There is -- I'll pass it out. These are  
6 the photos and the plans that are part of the permit record.

7 CHAIRPERSON JORDAN: Okay. I'll let you finish that,  
8 but the follow-up question to that is, the decks were not  
9 approved as they are, regardless, right?

10 MR. SULLIVAN: That's correct. And I've actually -- I  
11 think we could bifurcate this application and this request.  
12 There's a part of the request that relies on a reliance  
13 argument. The reliance on the permit approval for a certain  
14 deck size.

15 CHAIRPERSON JORDAN: I don't have the permit  
16 application, nor I have the permit sign-off, nor the permit  
17 in the record.

18 MR. SULLIVAN: It should have been filed with the  
19 application in the pre-hearing statement.

20 CHAIRPERSON JORDAN: Okay. Let's take a timeout.  
21 Does anybody have that, that we've seen in the record? I know  
22 I went up and down the record looking for it. Have you seen  
23 it? Can you point it to us? It's part of your pre-hearing  
24 statement.

25 COMMISSIONER TURNBULL: Exhibit 24 is the pre-hearing

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1 statement, right?

2 CHAIRPERSON JORDAN: Let me, so we can save some time,  
3 it's not in the record. And it's my understanding too, Mr.  
4 Sullivan, that there is contention about what DCRA may have  
5 approved or not, because you said in your statement that  
6 they're saying, since no one signed off on out or sealed,  
7 whatever you have is not signed off on the seal. They're  
8 claiming that they did not approve it? Am I right or wrong?

9 MR. SULLIVAN: They're not claiming that they did not  
10 approve it. They said they didn't stamp that particular page,  
11 but it was in the permit plans. I think at this point, I would  
12 ask for a delay to confirm that and if I could get something  
13 in writing from the Zoning Administrator, I --

14 CHAIRPERSON JORDAN: We really need to see this and  
15 drill down to --

16 MR. SULLIVAN: I was going to rely on the testimony of  
17 it.

18 CHAIRPERSON JORDAN: Not on this one, and here's the  
19 other thing that's missing, so that you know, you're saying  
20 that the expense in correcting this, going back, if they have  
21 to get rid of and undo all of that stuff, is burdensome,  
22 correct? That's the practical difficulty, correct?

23 MR. SULLIVAN: That's correct.

24 CHAIRPERSON JORDAN: There is no documents in the file  
25 that indicates what that expense is, okay?

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1 MR. SULLIVAN: Okay.

2 CHAIRPERSON JORDAN: You know, you have to support it  
3 in the record and I didn't see it, so I think you're correct.  
4 And I think it's a lift. You have two parties that get great  
5 weight who are not supporting this and I also would like to  
6 see the purchase contract. We've had kind of a similar thing  
7 two weeks ago, and we want to see the purchase contract too.

8 MR. SULLIVAN: Okay. If I may ask, I'm curious about  
9 that element of the purchase contract because my argument is  
10 two part, one, its reliance on the permit, and we'll clear-up  
11 that documentation, the other is, a de novo request for the  
12 additional space on the deck based on other unique conditions  
13 and practical difficulty that we can argue. So the transfer  
14 of the property, I'm not claiming the transfer had any impact  
15 on that. We're happy to provide it. I haven't asked the  
16 developer or the purchaser, but I don't think it has anything  
17 to do with the case.

18 I'm not claiming that the practical difficulty was some  
19 harm caused from a seller selling something to a purchaser.

20 CHAIRPERSON JORDAN: Well, we have a new Applicant has  
21 taken in light of knowing there's zoning violations and coming  
22 in and asking for the relief, and --

23 MR. SULLIVAN: Well, technically, there was a temporary  
24 C of O, so the Zoning Administrator, when he looked at this,  
25 and which is the reason we know that this was approved, he

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1 wouldn't have issued a temporary C of O if he didn't feel some  
2 responsibility for approving it in the first place.

3 CHAIRPERSON JORDAN: He issues temporary C of O's on  
4 various reasons and various matters. We cannot assume that.  
5 It could have been the fact that an application is pending.  
6 It could have been all kinds of stuff and he gives some  
7 deference to Applicants during the pending time, so let's not  
8 do that. I would like to see the purchase contract and you  
9 don't have to provide if you don't want to provide it. That's  
10 up to you. It's your case to prosecute and you can deal with  
11 it, but I would like to see it.

12 So let's set this -- I'm not looking at the 28th, what's  
13 the 28th like for you? Mr. Moy, how many cases we got on the  
14 28th? What's Mr. Turnbull --

15 MR. MOY: Yes, Mr. Turnbull's on the 28th and then Mr.  
16 Turnbull's also on for September 29th. On the 28th, the Board  
17 now has about nine cases, I think. If you want to go out with  
18 a bang before the August recess.

19 CHAIRPERSON JORDAN: And how many decision cases do we  
20 have?

21 MR. MOY: One, two, three, four.

22 CHAIRPERSON JORDAN: All right. Start at 8 o'clock.  
23 All right. So let's do that. We'll put it on the 28th and  
24 tick-tock, the 28th is locked, and nobody else can play.

25 MS. QUINN: Mr. Chairman?

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1 CHAIRPERSON JORDAN: You wanted to make a statement on  
2 the record so you don't have to come back?

3 MS. QUINN: No, I want to be here.

4 CHAIRPERSON JORDAN: Okay.

5 MS. QUINN: But I am concerned about being here for  
6 another entire day. As you know, I'm a volunteer --

7 CHAIRPERSON JORDAN: Well, so are we. You think we get  
8 paid for this?

9 MS. QUINN: So I am concerned about coming here and  
10 being here for another full day of entertaining hearings.

11 CHAIRPERSON JORDAN: I'll tell you what you can do, you  
12 can -- well --

13 COMMISSIONER TURNBULL: Is this going to be your only  
14 one? Are you only here for --

15 MS. QUINN: Well, you know, the other matter was set for  
16 that day as well, so I'll probably just be here for both of  
17 those. That's 19018 is already set for that day.

18 CHAIRPERSON JORDAN: But that happens a lot and I can't  
19 guarantee that we'll get ahead. We could let you make your  
20 statement on this case and not -- but you said you wanted to  
21 be here.

22 MS. QUINN: I absolutely want to be here.

23 CHAIRPERSON JORDAN: Oh, I understand that. So we have  
24 to ride it. We'll see what the docket looks like on that day.  
25 That's ten cases. Hopefully some of those will fall off.

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1 MR. MOY: Anything's possible, Mr. Chairman.

2 CHAIRPERSON JORDAN: Yes. I might even look at it and  
3 maybe even move some things in advance if they're set by us  
4 and not set by --

5 MR. MOY: Oh, agree.

6 CHAIRPERSON JORDAN: -- publication, so we might move  
7 some.

8 MR. MOY: Absolutely. I'll certainly keep my eye on  
9 those.

10 CHAIRPERSON JORDAN: You and I, let's talk about that,  
11 so let's do that. So your date's the 21st. And I mean, we  
12 really need to see the evidence and I understand your reliance  
13 argument, but I need -- no, 21st to submit --

14 MS. QUINN: To submit the documents. Okay. Got it.

15 MR. MOY: Mr. Chairman?

16 CHAIRPERSON JORDAN: Yes.

17 MR. MOY: For additional filings, do you want that a  
18 week before or two weeks before, sir?

19 CHAIRPERSON JORDAN: 21st.

20 MR. MOY: Oh, 21st. Okay.

21 CHAIRPERSON JORDAN: Okay. Because you're going to  
22 have to drill down into this issue, and I understand your  
23 reliance issue, but I understand that's being contested, and,  
24 you know, I don't know if we need somebody from DCRA here, but  
25 I don't know. So let's just see where we are, okay? So the

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1 28th. Thanks to everybody for spending the day with us. It's  
2 been real. Appreciate it. So the 28th. Is there anything  
3 else coming before the Board today?

4 MR. MOY: Not today, sir.

5 CHAIRPERSON JORDAN: Please say no.

6 MR. MOY: Not today, sir.

7 CHAIRPERSON JORDAN: Oh, thank you. All right. So  
8 then let's be in adjournment. Thank you, all. Thanks,  
9 everybody.

10 (Whereupon, the hearing in the above-entitled matter  
11 was concluded at 1:30 p.m.)  
12  
13  
14  
15

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