

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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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

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to the ANC via email. I've been talking to the ANC for the last six to seven months about this and the Agency had showed no objection to this, but I did --

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

MR. REID: I'm sorry?

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

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

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

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

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

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

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

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

CHAIRPERSON JORDAN: Okay. And our file indicates

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that notice did go to the ANC and that we don't have a report on ANC, and based upon your representation, I don't think there's any other reason why we should hold this up. Does the Board have any questions about this application? Mr. Turnbull?

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

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

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

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

COMMISSIONER TURNBULL: Right.

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

COMMISSIONER TURNBULL: I know.

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

COMMISSIONER TURNBULL: Well, we can --

MR. REID: Can that be waived at all?

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

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

COMMISSIONER TURNBULL: Yes.

CHAIRPERSON JORDAN: Is there any other issue besides the -- for the Board that's arising out of this application other than that? And I am reading, which I look at as kind of a cross-letter, because the Department of Transportation

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has no objection to the special exception request, and however, then they go down at the bottom and they raise this issue, so we will go to the Department of Transportation when we get there to have discussion and/or have discussion with Office of Planning for their view on this.

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

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

MR. REID: Can you see this?

COMMISSIONER TURNBULL: Yes.

MR. REID: Yes. This is --

COMMISSIONER TURNBULL: That's it.

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

COMMISSIONER TURNBULL: Right.

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

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

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

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

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

CHAIRPERSON JORDAN: No, I think 33's your notice of -- well, there is one at 33 I think we can see. You have one that you've submitted in, I guess, with your affidavit of posting. It shows the driveway as well as the affidavit -- excuse me, not the affidavit of posting, but the posting. And so that's the driveway we're talking about?

MR. REID: That's correct.

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

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

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

There is a questionable objection by the Department of Transportation, so I would suggest that you allow us to proceed on through the normal course of the hearing, which will allow

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the Office of Planning to comment as well as Department of Transportation, and then you will have an opportunity in rebuttal to respond to that.

MR. REID: Fair enough.

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

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

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

And then I think DDOT has some more comments.

CHAIRPERSON JORDAN: All right. Any questions, Board,

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for Office of Planning? Anyone? All right. Does the Applicant have any questions for Office of Planning?

MR. REID: I do not. No.

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

MR. WESTROM: Thank you. Good morning, Board. Ryan Westrom with DDOT. And DDOT also does not object to the special exception being sought, however, we did want to confirm that this is a curb cut that we'd want to see retired, and so the curb cut itself, and in addition, the portion of the driveway that lies within public space. Obviously, this is not an area that we would want to have vehicular parking remaining, and to preclude that, and to return the public space to the park-like nature for which it's intended.

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

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

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

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

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then.

MR. WESTROM: Thank you.

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

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

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

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

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

MR. REID: That's correct.

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

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

(Off-microphone comments.)

CHAIRPERSON JORDAN: I'm sorry. Can you come forward. Is this about this case? Are you here on this Case Number -- no, this is not the case. All right. Thank you. Where was I? Okay. So anyone in opposition? Seeing none, and normally, we would turn back to the Applicant for rebuttal, but there's nothing to rebut, so we will close the hearing based upon what we've adduced in the record.

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

VICE-CHAIRPERSON HEATH: Second.

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

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

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

(Chorus of ayes)

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

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

CHAIRPERSON JORDAN: Okay. Summary with an asterisk.

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

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

MR. REID: Thank you. Appreciate it.

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

CHAIRPERSON JORDAN: Thank you. Please identify yourself.

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

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

MR. MOY: On May 12th, sir.

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

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

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

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

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

MR. FOWLKES: Okay.

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

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that's what we did.

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

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

MR. MOY: That's right.

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

MR. FOWLKES: Yes.

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

MR. FOWLKES: That's correct.

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

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

MR. JESICK: Thank you, Mr. Chairman, Members of the Board. My name is Matt Jesick. The Office of Planning

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continues to recommend approval of the application and I'd be happy to take any questions.

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

MR. FOWLKES: No, sir.

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

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

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

MEMBER HINKLE: Second.

CHAIRPERSON JORDAN: Motion made and second.

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

(Chorus of ayes)

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

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

CHAIRPERSON JORDAN: Very good. Summary order, please.

MR. MOY: Thank you.

CHAIRPERSON JORDAN: Thank you.

MR. FOWLKES: Thank you.

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

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

CHAIRPERSON JORDAN: All right. There's a couple

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issues arising from this application, but let me get your identification, please. Your names.

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

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

MR. MOORE: I'm the program director.

CHAIRPERSON JORDAN: Okay. Yes.

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

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

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

CHAIRPERSON JORDAN: From who? From who Amazing --

MS. TANKEU: From Amazing Love Health Services.

CHAIRPERSON JORDAN: Okay.

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

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

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

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

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

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

MR. MOORE: It belongs to Basilio Trust.

CHAIRPERSON JORDAN: Okay.

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

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

MS. TANKEU: Swaggart.

MR. MOORE: Swaggart.

CHAIRPERSON JORDAN: John Swaggart --

MR. MOORE: Yes.

CHAIRPERSON JORDAN: -- was on your letterhead.

MR. MOORE: Yes.

CHAIRPERSON JORDAN: It was on Amazing Love's letterhead and not on the letterhead of the trust. There is no representation on -- I have nothing from the trust. It just simply says, "As owner", but it's on Amazing Love's letterhead.

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So that's an issue and then it's another pass-through from kind of Amazing Love as to who's supposed to be authorized. So that gives me some pause and concern.

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

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

MR. MOORE: It's --

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

MR. MOORE: Yes.

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

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

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

MR. MOORE: No, it's not.

CHAIRPERSON JORDAN: Oh, you got a separate letter.

MR. MOORE: Yes.

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

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

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

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

MR. MOORE: I have and we were two different offices told us -- had two different positions on it and we tried to go with the latter recommendation.

CHAIRPERSON JORDAN: Well, let me tell you, from a zoning standpoint, it's the belief of the Office that you need a variance from 2101, and that's not what you've applied for. Additionally, you advertise for a special exception under

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2108. I think we need to pull -- then we have a letter. Did you have a chance to meet with the ANC? Because we have a letter that we received. Did you receive this letter from ANC?

MR. MOORE: Yes, Dan Goden.

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

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

CHAIRPERSON JORDAN: Let me stop you. This thing, as we keep going, I think it's getting a little bit more jumbled. One, I think your relief that you're requesting is not the proper relief and I want to keep you alive, so I believe there needs to be an amendment to your application. I think that's going to require an additional advertisement on the property regarding the relief that's necessary.

We really do need a letter on the letterhead of the trust

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

MR. MOORE: Yes.

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

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

MR. MOORE: Yes, sir.

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

CHAIRPERSON JORDAN: No, no, please.

MR. MOY: At the earliest, hoping that there's an ANC

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meeting in the month of July, I don't recall which week in July --

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

MR. MOY: 28th?

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

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

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

MR. MOY: Okay.

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

MR. MOY: Okay. That's right.

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

MR. MOORE: Yes, and they've been very helpful. They've submitted a report. And again, we are trying to be compliant with all involved parties.

CHAIRPERSON JORDAN: What's the other party that's

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telling you you need different relief?

MR. MOORE: Zoning.

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

MR. MOORE: Yes, sir.

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

MR. MOORE: Yes, sir.

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

MR. MOORE: Thank you.

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

MR. MOORE: Yes, sir.

CHAIRPERSON JORDAN: So meet again with Planning making sure you're okay, and if you need to seek some help with how to do this process, you know, zoning is difficult. And even people who have done it a zillion and one years have issues because there's little bitty nuances in the law and I understand that. And so we try to, at least I try to, and this Board tries to, be helpful where we can, but also respecting

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the need, the protection of the community, and et cetera, et cetera, et cetera, and the responsibility of the government.

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

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

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

CHAIRPERSON JORDAN: Okay.

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

CHAIRPERSON JORDAN: Yes. That gives you time to

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really work it and do what you need to do. Yes, go ahead.

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

MR. MOY: September 29th.

MR. MOORE: Okay.

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

MR. MOORE: Yes, sir.

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

MR. MOY: September 29th, sir.

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

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

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

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

MR. MOY: Okay.

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

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

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

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identify yourselves.

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

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

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

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

CHAIRPERSON JORDAN: 5E?

MS. QUINN: 5E.

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

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

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that good? Is that what we need him to drill down on?

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

MR. SULLIVAN: Thank you, Mr. Chairman.

CHAIRPERSON JORDAN: Go ahead, please.

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

MR. FEENEY: Good morning. The intention all along with the project was to keep it in character with the neighborhood in scale and such, so the third floor of the project was going to be treated as a traditional mansard roof, slate roof, like you'd see in that era of structure. We haven't completely worked out the fenestration on the long side of the project yet, we're still working on that, but typically, while the project right now has single double-hung windows in them that don't meet egress, so we know we're going to have

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to make some modifications to those windows, but it's not completely resolved yet, I guess.

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

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

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

MR. FEENEY: I'm sorry?

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

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

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

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

CHAIRPERSON JORDAN: Okay.

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

MR. GREEN: So I did have a face-to-face meeting with the neighbor directly adjacent to me about six weeks ago and

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he's in support of the project and he is actually also investigating putting an additional story on his unit. I did not get a letter from him in support of that, but we had a face-to-face meeting. And we contacted all the other neighbors in writing.

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

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

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

MR. FEENEY: Yes.

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

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

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

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

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

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

And if I look at the pictures that were submitted that show this, I just think this is huge. This is not only a pop-up, this is a pop-up plus, plus. And I have questions of the Office of Planning on this and I just think from a character standpoint, if I look at -- I'm really concerned, but if I'm looking at 223.2(c), "The addition or accessory structure as

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viewed from the street, alley, and other public place shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage."

I think this does intrude upon the frontage. I think this does intrude upon the row house character that the comp plan tells us that we're here to protect. And I'm really astounded that the Office of Planning has gone along with this; totally astounded. And I just don't think this is in character. You need work if you're going to try to convince me that you want to do something like this. I just can't support this, Mr. Chair.

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

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

So the lot occupancy issue itself does not impact the street frontage or impact the character as it is. We're

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certainly happy to make more of an argument, or submit additional plans, or renderings, and an explanation from the architect as a post-hearing submission if you think that might be helpful in coming to some understanding of the character of the addition with the neighborhood.

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

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

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

So strictly from a technical standpoint, we didn't feel that it was out of character with the R4 zone that permits the third story. We also felt the mansard-type roof was a

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mitigating factor that it would not be just a straight-up addition on the front of the house, which we do see from time to time around the city, but some thought was given to making the addition a little bit more pleasing from that front vantage point. So those are some of the factors that we looked at.

And again, they are reducing the lot occupancy significantly from around 85 percent to just under 70 percent, so we were comfortable in the end with the application, but I'd be happy to take any questions. Thank you.

CHAIRPERSON JORDAN: Sure. Questions for OP?

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

I think he needs to go back and look at something that either has some break, some separation, something of a definitive nature that gives a little bit more character to the kind of scale that we would be looking at from this period in time. I think it just needs some more articulation that isn't really present right now. I agree, and the matter of

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right is understood. I'm just looking at it from the architectural composition itself. It's just been there.

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

Plus, he's also -- as he said, he hasn't really defined what the elevation is really going to look like with the windows and whatever this panel system is. So I like to just see from the standpoint of the architecture of it defined a little bit more before we give a nod to it.

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

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

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

MS. QUINN: Yes. We heard this matter last week and

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supported it. In addition to that, there was a single-member district meeting, I believe, the month prior, and the single-member district was also in support. I did not attend that meeting, but the single-member district commissioner informed me and the commission that they were in support. And I did attend the Bates Area Civic Association meeting where this matter was heard, and they voted to support it as well.

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

MS. QUINN: No.

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

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

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

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

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

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

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for the neighborhood.

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

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

MS. QUINN: Okay.

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

CHAIRPERSON JORDAN: Well, and I don't disagree with those comments because like I said, it first hits you like a bag of bricks, and so it makes me torn regarding the special exception, kind of, not necessarily mandatory, but then the provision of special exception, which talks about its impact and visibility, and its affect upon the neighborhood gives us the ability to do that. And so I think there can be some grounds where there can be some movement to do that, to meet that, so I'm with you on that, Mr. Turnbull.

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

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

CHAIRPERSON JORDAN: Okay. Well, then let's do that. Let's continue this and please submit any revisions, plus, I'd like to see what it would look like as a matter of right based upon, as you've said, the other way, but it's certainly taking Mr. Turnbull's and the Board's concern about its impact upon the character of the neighborhood. Mr. Turnbull had a date that was July something? Was it July -- is that Mr. Turnbull's date, July 28th?

MR. MOY: Yes.

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

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

CHAIRPERSON JORDAN: I'm learning. It only took me about five years to learn. So July 21st, any drawings. If there's anything else that's going to be entered in the record, letters of support or opposition, I want them in by July 21st.

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We are not going back through a full hearing. I've already called for any additional support or opposition. We've already gone through Planning, unless there's some change that Planning wants to invoke, or Department of Transportation, so we will just deal with the supplement.

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

MS. QUINN: May I --

CHAIRPERSON JORDAN: Sure.

MS. QUINN: -- make a comment. I'm looking at these dates and I just would like to make the record clear that ANC-5E, after tomorrow, will be out until -- in summer recess until September, so if there is significant changes submitted, we will not have an opportunity to review those.

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

MS. QUINN: Sure.

CHAIRPERSON JORDAN: Okay?

MS. QUINN: Thank you.

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

MR. MOY: I'm assuming that the ANC letter will be

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allowed into the record.

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

MS. QUINN: Thank you.

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

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

CHAIRPERSON JORDAN: Very good. Please identify yourselves.

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

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

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

CHAIRPERSON JORDAN: Okay. All right. Mr. Sullivan, I'm certainly still struggling how this meets the exceptional

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situation or condition part of the test, so I'd like to hear that from you. And then the -- because I know you also, there's a question, you said something about you're going to preserve this building, but it's not historic, and I want to know and understand what that's about and how that affects your inability to meet the parking requirement. Anybody else, anything you need to drill in on? It's good? Same thing, Board? Good. Okay. Those would be it.

MR. SULLIVAN: Thank you, Mr. Chairman. The inability to meet the parking requirement is based on a couple of items. One is the inability to get a parking credit because there's existing parking spaces there. The building is being moved back to 60 percent lot occupancy and is being provided a number of units that's a very reasonable number of units and reasonably sized. The ANC was very appreciative of the fact that we're doing larger two-bedroom units because they feel that everyone's doing micro-units, or smaller units, these days.

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

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existed.

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

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

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

The ANC single-member district commissioner and chair has been working with the city, and we've been working with them, to try to acquire that lot to obviate the need for the parking variance. I would compare this to cases where you have a minimum lot size variance and one of the things that the Board looks at is whether or not there's property that you can expand to, and if you can't, that's considered a practical difficulty in meeting the regulations, and I think we have that same situation here because we need the space for the parking.

CHAIRPERSON JORDAN: I can use that for practical

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difficulty, but what's the exceptional situation? You're saying the lot is small compared to what?

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

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

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

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

MR. SULLIVAN: There are 5B multi-unit buildings, but those are standard size lots. This lot is small for the building that's on it and for the building that can be built on it, and the thing that the ANC appreciated was, we could

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do up to 13 units, we could add units, which is what a lot of people do just to stay right under the inclusionary zone number, but they've kept it at ten in order to reduce the need for the parking variance, but also to have reasonably sized units.

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

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

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

CHAIRPERSON JORDAN: Board, any other questions of Mr. Sullivan? You think you need to hear more or are we comfortable with the -- I think I found a hair of exceptional situation, a condition, with this building, just a hair. Anybody? Okay. Then I think the Board's comfortable now with that and I think the practical difficulty, as you define it,

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clearly, once you got past to meet the first step, then it was obvious for the second step.

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

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

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

MR. SULLIVAN: No, thank you.

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

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

CHAIRPERSON JORDAN: You know, one thing from the Department of Transportation, we get these mixed letters, and so it'd be good if we have the impact basis of why a relief is requested, so when you say we have no objection, but then we want blah, blah, blah, it's -- you know, if it's, we have a concern for this reason, we believe this reason could be mitigated with these things, it would be helpful for us. Would

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you agree, Board?

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

CHAIRPERSON JORDAN: It's impacted.

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

CHAIRPERSON JORDAN: Okay.

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

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

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

MR. SULLIVAN: I'll ask the Applicant if that's in the plans. I don't know that there's any space. There's limited space for the units as planned. I don't know if there's any space planned for bicycle storage within the building.

MR. SIMON: There's not. It's a small lot and a small building for two bedrooms. Because of the configuration, we

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need two forms of egress, two exits, two staircases all the way up and down. I mean, I don't know if you've seen floorplans, but, you know, there's definitely no interior room for anything else unless we were going to start sacrificing bedrooms and do exactly what the ANC did not want us to do.

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

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

In opposition or support? Come forward. You can tell us what you -- one way or the other. Welcome. Please make

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sure your microphone is turned on and did you give your witness cards to the court reporter? Okay. Very good. Push the button. It's got to glow for you.

MR. BRYANT: Okay.

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

MR. BRYANT: David Bryant.

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

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

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

CHAIRPERSON JORDAN: Very good. Thank you.

MEMBER HINKLE: I'm sorry. How far do you live from the

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site? You said you lived --

MR. BRYANT: I'm on Girard Street.

MEMBER HINKLE: Which is? Help me out.

MR. BRYANT: Behind it.

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

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

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

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

Anyone else wishing to speak in opposition? Anyone else in opposition? Then we will turn back to the Applicant

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for any rebuttal.

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

CHAIRPERSON JORDAN: Parking available on Harvard Street?

MR. SULLIVAN: Yes.

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

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

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

CHAIRPERSON JORDAN: When were the parking spaces available?

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

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CHAIRPERSON JORDAN: Come on now.

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

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

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

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

CHAIRPERSON JORDAN: And, Mr. Sullivan, I'm thinking,

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

MR. SULLIVAN: Okay.

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

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

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

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

CHAIRPERSON JORDAN: Yes, but modified. Yes, it's going to be a modified. We've already, kind of, went through the walk already. We're not going to revisit the walk, and the record's going to be open regarding the revised plans, and anything they can show us on traffic, but that's all I want in this record. It's not open day, field day, on this record, or anything else, and so the hearing starts from that

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standpoint of those things and not anything else, okay? So if you can do that, and we want it by the 21st of July, if you can get those documents filed.

MR. SULLIVAN: Okay.

CHAIRPERSON JORDAN: All right.

MR. SULLIVAN: Thank you.

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

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

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

Just quickly, I was remiss. As you know, we normally proceed, when we have a party status request, and I believe we would grant party status, we will grant party status, to

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the request of United Local 25 in this case, to have the parties have conversation before we call this case up for hearing. I don't know, have you had discussion before? Let me have you identify yourself, Mr. Hughes. Identify yourself for the record.

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

CHAIRPERSON JORDAN: All right. And?

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

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

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

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

CHAIRPERSON JORDAN: All right. We're going to do this. I'm not going to call this case now. I want you to go out and have conversation. We have resolved matters once they got here to the steps and resolved issues. I don't know if there's anything resolvable. We're at least going to take one hearing before we call your case back. We want you to have

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fruitful discussion about trying to work out the concerns of the parties, otherwise, then we'll resolve any issues that we can, so please do so and try to have some meaningful discussion.

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

MR. HUGHES: Thank you, Mr. Chairman.

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

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

CHAIRPERSON JORDAN: Yes.

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

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

MS. PIERCE: Hello. My name is Bonnie Pierce and I'm

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one of the --

CHAIRPERSON JORDAN: Pierce?

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

MR. SULLIVAN: Good morning, Mr. Chairman. My name is Marty Sullivan. I'm with the law firm of Sullivan & Barros on behalf of the Applicant.

CHAIRPERSON JORDAN: Okay.

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

CHAIRPERSON JORDAN: Make sure your microphone's on.

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

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

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

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

CHAIRPERSON JORDAN: The garage is an accessory structure?

MR. SULLIVAN: No, it's connected.

CHAIRPERSON JORDAN: It's connected.

MR. SULLIVAN: Yes.

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

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

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

MR. SULLIVAN: Correct.

CHAIRPERSON JORDAN: What would normally be a garage.

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

CHAIRPERSON JORDAN: It's still the garage, but it's

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fixed --

MR. SULLIVAN: It is a garage. So what's being done is, and if you look at the photos on the pre-hearing statement, in the first photo, you see a deck that's on top of the garage just outside that first-story structure that's attached to the east side of the house, the proposal is to fill that in, the deck, closing that window that faces east right now, and there'll be a 2-foot increase in the height of the roof on that structure.

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

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

And the roof of this structure will be increase by approximately 2 feet and there will not be any roof deck in that area. So I'd also like to point out -- the next picture shows the window that's being removed from the east. It's a full-sized window being removed. And then you'll see a view from the front street, from Garfield, in front of the

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neighbors' house at 4343 Garfield. I would point out too, I don't think we have two neighbors in opposition, I think we have two letters from the same neighbor.

In Exhibit B, you'll see the map showing the relative locations of the houses. 2903, the subject property, is on the corner of 44th and Garfield, and 4343, you'll see it is set forward. It's southeast of the subject property. So as the sun goes, it doesn't lose any sunlight at all from the house on 44th Street, let alone, just the addition, which is already shadowed by the three stories. If there was any shadow, it would be shadowed by the three stories of the original house.

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

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

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CHAIRPERSON JORDAN: Okay.

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

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

On the issue of -- I think that addresses the ANC's two concerns about that this should be a variance case and that they seem to think that the story above the garage is not permitted for some reason, or it wasn't approved in the order. The 1974 order is essentially a summary order and it doesn't include the plans. It just describes the plans briefly, so

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I don't think we can tell from that what was going on with the -- what was completed exactly in accordance with that 1974 order.

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

CHAIRPERSON JORDAN: Okay. Any other questions? Mr. Turnbull, please.

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

MS. PIERCE: Yes, that is correct.

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

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

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

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

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

MS. PIERCE: Exactly.

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

CHAIRPERSON JORDAN: Yes, that helped. Okay. I don't think -- Board, any other questions? I think that was good. I think we now understand where you are and what you're doing, so let's turn to the Office of Planning.

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

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

MR. SULLIVAN: No, thank you.

CHAIRPERSON JORDAN: Anyone here from the Department of Transportation with this case? We do have a letter of no objection from the Department of Transportation. Anyone here from ANC-3D? ANC-3D. We do have a very detailed letter from ANC-3D who voted 9-0 in opposition. I believe the ANC -- we

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just went over that with the Applicant to find out where we are. Anyone hear wishing to speak in support? Anyone in support? Anyone in opposition? Please come forward. Please identify yourself. Is the microphone on?

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

CHAIRPERSON JORDAN: Across your property?

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

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

MR. CAHILL: No, it is not.

CHAIRPERSON JORDAN: Okay.

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

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

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

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

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

MR. CAHILL: It is 12 feet.

CHAIRPERSON JORDAN: Right, 12 feet.

MR. CAHILL: Approximately.

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

MR. CAHILL: But not in this neighborhood.

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

MR. CAHILL: So --

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

MR. CAHILL: I know, but you also buy in this

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neighborhood for the larger pieces of property, for the distance you have from your neighbors, so I know there's been a lot of conversation in keeping with the neighborhood. I don't know another zero lot line situation in my neighborhood, and so this is unusual for the neighborhood.

CHAIRPERSON JORDAN: Okay.

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

CHAIRPERSON JORDAN: How many stories is your property?

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

CHAIRPERSON JORDAN: Three stories and your patio sits where?

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

CHAIRPERSON JORDAN: But on the ground level or --

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

CHAIRPERSON JORDAN: Different elevations.

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

CHAIRPERSON JORDAN: Okay.

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

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

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

MR. CAHILL: That is my vegetation.

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

MR. CAHILL: Well, my branches go over their property. For instance, in the interchange of them requesting that I work with them further on this, I tried initially, they took the branches off of the hemlock tree that overhung their property, which is their right to do, but it has totally changed the exposure to my property. Well, there's two hinoki cypresses that they would have the privilege to do the same whether they

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put the addition on or not, but they would, to put the addition on, have to trim those branches off, and again, increase the exposure.

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

The 2-foot increase in the building height did not include the railings that were going on top either, so you're adding almost 5-feet of structure in height. Also, living there, this side of the house faces due east, the portion between our houses is due south, and the light does come up, and it goes across, and this does block the western exposure. I already have problems growing grass in that portion of my yard, and bring it 8-feet forward, the angle of their house to the angle of the sun, the three-story house, actually shoots an angle further back.

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

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

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

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

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

CHAIRPERSON JORDAN: Correct. Is light coming through that?

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

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

MR. CAHILL: What?

CHAIRPERSON JORDAN: How much height are they increasing this?

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

CHAIRPERSON JORDAN: But the railings are open, right?

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

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

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

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

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

CHAIRPERSON JORDAN: Okay.

MR. SULLIVAN: And I would point out that Mr. Cahill planted those trees on the lot line when he moved in there. They weren't there when he moved in; two of the three trees. And the Applicant can testify to that if you're interested in that. Tree impact assessments, as I've inspected the neighboring trees of the above address and reviewed the renovation plan, in order to make room for the planned renovation, several of the lower limbs will have to be pruned or removed.

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

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trees.

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

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

The 2-feet is definitely covered by the house and the deck is just closing up what's there already. And I would contrast that with the privacy situation, which is drastically increased to his benefit. I'm not sure what he meant by the wall of windows, but there'll be windows facing Garfield, and there'll be kitchen counters behind that, so it won't be --

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

MR. SULLIVAN: No.

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CHAIRPERSON JORDAN: No windows?

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

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

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

CHAIRPERSON JORDAN: Okay.

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

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

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

MS. PIERCE: Okay.

CHAIRPERSON JORDAN: All right. Board, any questions, other questions, you have for the Applicant? We thank you, Mr. Cahill, for coming. Any other questions? I thought, Mr. Turnbull, you were trying to get to a question. No? You're good? All right. I think that we can close this hearing. I believe that the Board has sufficient information to go

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forward. I think we have addressed several things.

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

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

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

COMMISSIONER TURNBULL: Mr. Chair, I would agree. I mean, I think zero lot line is always something that is problematic at best, and I think the Applicant is doing their

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best to work with that. And I appreciated the architectural embellishment on the roof, but I can also see the other aspect too, but yes, I see no problem with going ahead with this then.

CHAIRPERSON JORDAN: Mr. Hinkle?

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

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

VICE-CHAIRPERSON HEATH: I would second.

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

(Chorus of ayes)

CHAIRPERSON JORDAN: Those opposed, nay.

MEMBER HINKLE: Nay.

CHAIRPERSON JORDAN: The motion carries. Mr. Moy?

MR. MOY: Staff would record the vote as 3-1. This is

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on the motion from Chairman Jordan to approve the application with the relief requested. There were no conditions on this, am I correct, just for the record?

CHAIRPERSON JORDAN: No.

MR. MOY: Okay.

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

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

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

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

COMMISSIONER TURNBULL: And they already have the arborist.

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

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

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

MR. MOY: Okay. With that addition then, this is on the motion of Chairman Jordan. Seconded the motion, Vice Chairperson Heath. Also in support, Mr. Turnbull. We have

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Mr. Hinkle opposed to the motion. A Board seat vacant. The motion carries 3-1, sir.

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

MR. MOY: Okay. Will do, sir.

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

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

CHAIRPERSON JORDAN: Okay. Please identify yourselves.

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

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

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

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

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

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

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

MR. BOARDMAN: Thank you, Mr. Chairman.

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

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

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

CHAIRPERSON JORDAN: Elder?

MR. ELDER: That's right.

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

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

CHAIRPERSON JORDAN: Okay. All right. We will proceed on and we will make the decision, which we don't mind doing, but at the end of the day, somebody doesn't like it. All right. So let's go ahead. I don't know if we need a full

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presentation here, but certainly, you know, we got to drill down on this parking, and that kind of aspect, and its impact upon the neighborhood.

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

MR. BOARDMAN: Yes.

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

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

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

MR. HUGHES: Yes, I think, maybe, it's sort of the

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operational aspects of how this building really works in the neighborhood. Maybe if we could just get to the gist of how it interacts with the community in general.

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

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

CHAIRPERSON JORDAN: Letters came late?

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

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

CHAIRPERSON JORDAN: Yes, but as I said, if it's past the date, I'm not looking at it, because we spent a lot of time and effort before these hearings drilling down, and it doesn't help the Applicants to first -- things that come into this record late, because, basically, at a point, I've already, myself, and I know the other Board Members, have already

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drilled in these cases, have used up, at least all their weekends, going through these cases, and you slide stuff in, or things come in, not slide, but things come in, it becomes harder.

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

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

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

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

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The hotel is located on the north side of K Street, between 10th and 11th. With respect to the plan itself, the plan consists of, essentially, given the building renovations and the addition to make it a hotel, we're using the rear area only for the sole purpose of loading the facility, and the proposed loading dock, and I will just get to the back, shows that there is a 30-foot loading birth that is provided in the rear of the building, which will be accessed, essentially, for delivery trucks coming down 10th Street, turning right, and essentially, parallel parking into that loading dock.

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

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

So with respect to the loading, the loading that's envisioned for this project consists of typical hotel loading operations for linens, some paper goods, things of that nature. In addition to that, with respect to trash, our intent is to minimize the impact of our project within the square. So we've

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had some coordination with 1010 Mass, which is the condo development, which is in the, sort of, top left-hand corner, so this building right here is 1010 Mass, which is a condominium building, which we've coordinated with because of the fact that we do share an alley with them.

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

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

The mode from the airport or from Union Station will potentially be transit, given its downtown core location. There's a good chance that many of them will take Uber car

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service or taxi to the site. Currently, in front of the building, there is metered parking that we're proposing to eliminate a few spaces in order to provide for a drop-off/valet loading zone, so that when taxis come, you know, they're not dropping them off in a travel lane, but instead, they are dropping off at the curb.

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

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

The intent is not for these motorists to show up, park

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on the street, and then keep on moving their car very two hours or feeding the meter every two hours. That's not the intent of our plan and, you know, we've committed to addressing this situation with commitment letters from two of the parking garages in and around the site that are relatively convenient for the valet parking operators.

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

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

CHAIRPERSON JORDAN: All right. Tons of question. Tons, tons of questions. You know, one thing I saw in your report, you know, and I guess when we get to Department of Transportation we can talk about it then, but, you know, we're using some of the same area over and over again, and using some of the same spaces that we're providing and saying, these

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spaces are available, these things are there, but there's three or four different projects, because the Blagden area project is within two or three blocks of here, it falls within your map.

You're, we were just here giving relief for 12 zillion, and I'm exaggerating parking spaces for that. This parking thing is really an issue and we keep using, singularly, because we haven't seen the whole plan on the map about what building's coming up now, what building's coming up in two weeks, what's coming up in six months, and we're using the same numbers, individually, for that property and say, okay, you're focusing on that right now. Yes. That's true.

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

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

CHAIRPERSON JORDAN: What is that?

MR. ANDRES: That parking facility has the --

MR. MILLSTEIN: 1100 L Street, I believe.

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

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

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

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

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cited.

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

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

CHAIRPERSON JORDAN: I can't get your report, I got it though, but it's your -- I mean, you talk about, you said, "Development is expected to generate a conservative of 28 a.m. peak hour vehicle trips, 17 inbound and 11 outbound, and 38 p.m. peak hour trips, 20 inbounds, 18 outbounds." What I do, I take a cut and paste from your report, and I pop it into my OneNotes, and what have you.

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

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

MR. ANDRES: Yes. So essentially, when we do our

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traffic generation, again, and we worked with DDOT when we identify these traffic generation components, is, we use the baseline ITE manual, which is a manual that the industry uses to determine trips generated by a specific use in a suburban setting. So if we, in this case, have a 200-room hotel, when we put in 200 rooms into this formula, it identifies a number of trips associated with that hotel in a suburban setting. Well, obviously, we're not in a suburban setting.

So we take that number and we apply the necessary credits to it, because you're close to transit, and because you're close to a lot of things that people can take other than drive, and you get to that number, that 28 or 38 number that you identified. So that's, potentially, the number of cars that can show up. And that can consist of people driving, or people taking cabs, so, you know, you're arriving by a car.

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

And, you know, in other cases, you've identified, well, you know, what happens worst case? What happens, you know,

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you've said this to me many times, Erwin, if you're wrong? So what we're saying is that, in the event that the projections are above that, we've taken that into account. So we've taken that into account. Even though we think that the parking generation is lower than what it is, we've identified that and taken that into account, so that's why there's that number that you're talking about, because we've, you know, as I've mentioned before, taken your cues and made sure that our transportation submittals is more comprehensive.

CHAIRPERSON JORDAN: And I see nothing in your report talking about employees. I see some little bit of stuff talking about, well, we're going to encourage the employees to ride share, we're going to encourage the -- one, there's nothing saying -- I might have missed it, how many employees are there going to be at this facility?

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

CHAIRPERSON JORDAN: Really?

MR. ANDRES: Yes.

CHAIRPERSON JORDAN: Have you see those coming from,

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I'm not going to name the hotel, the people and employees who go to some other surrounding hotels there? They go through the neighborhood to find a place to park and walk back because they don't live in the general area? And they try to coordinate and time getting back to that car, and feeding meters, and moving their car around.

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

CHAIRPERSON JORDAN: But in your report, where do you discuss the employees, the number of employees, how many planned that are going to have to drive, you know, because everybody doesn't live around the Metro, whatever, and those -- I didn't see it. I might have missed it.

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

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

MR. ANDRES: Again, it's something that we've worked

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with DDOT to identify a TDM plan that allows for other ways to get to the hotel site.

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

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

CHAIRPERSON JORDAN: They can bike.

MR. ANDRES: Yes, they can bike.

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

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

CHAIRPERSON JORDAN: Okay.

MR. MILLSTEIN: If I may, Chairman?

CHAIRPERSON JORDAN: Yes.

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

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

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

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

MR. MILLSTEIN: So I appreciate the question. The corner building, at one point, there was a landmark nomination filed for the corner building and we supported the nomination and agreed that we would participate in the landmark designation of the corner property. Unfortunately, after

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several years of review by the HPRB staff, which was Steve Callcott and Dave Maloney directly, they felt that there were substantial alterations to the facade of the building over time.

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

So we in fact, spent, again, another year or so with the staff of DCPO in conjunction with the staff of HBRB, came up to a good preservation agreement where we're not, other than a little bit of rooftop amenities, building 130-foot tall on top of that building. We're doing a full restoration of the facades. In fact, we'll take the facades back to the way they were when they were originally built, because they have been altered over time.

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

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

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

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

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

CHAIRPERSON JORDAN: So the answer to that question was?

MR. ANDRES: Is --

CHAIRPERSON JORDAN: Yes or no because.

MR. ANDRES: No, because of the fact that it is a relatively new product in the market, however, we do have, you know, based on our industry experience working with other

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hotels, you know, some of this stuff is, you know, like the way employees travel, the way business travel, you know, operates, we've taken cues from those experiences.

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

The underlying thing that I think is most important is that we own this building. We own several properties throughout the District. We live and die in the communities on a daily basis. We've been up here in front of this Commission for 27 years. If there's a problem in that neighborhood they're going to come to Douglas Development and we're going to correct it. If the valet's not working properly, we'll make adjustments. If we need additional garage spaces, we'll find it.

If the hotel doesn't operate harmoniously with the neighborhood, it fails. And if it fails, we fail, and that's something that won't happen. So to me, whether Mr. Andres is

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right or wrong, the fact that you have the owner behind it saying they'll correct any deficiencies that it create, it's very important and valid.

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

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

So there's no overlap with respect to the traffic impact. With respect to parking, we've identified that there is some available off-street parking in the evening for the restaurant because of the fact, what happens in this neighborhood, which is south of Massachusetts Avenue is, a lot of it, if not most of it, is commercial; is office.

So a lot of the parking is peak hour restricted, a lot

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

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

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

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

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

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

MR. ANDRES: Well, depending on when they arrive. Again, you know, there is parking at the Marriott Marquise, there is over 1000 spaces at City Center for those larger type events, and given the difficulty of getting in and out of the

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convention center, as you know, there's a significant amount of taxing and Uber that takes place.

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

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

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

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

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

COMMISSIONER TURNBULL: Oh, there is no designation.

MR. ANDRES: No.

COMMISSIONER TURNBULL: So you could come out that way.

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

COMMISSIONER TURNBULL: Yes, if you want to go south, then I guess you could do that.

MR. ANDRES: Yes. That's correct.

COMMISSIONER TURNBULL: Okay. But you see your trucks

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and delivery trucks coming in that way or -- well, I guess they could come in the other way.

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

COMMISSIONER TURNBULL: Most practical and most efficient.

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

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

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

COMMISSIONER TURNBULL: Public space to get that done. And you're looking at this is primarily a business hotel, so Joe and Martha with Huey and Zoe in tow aren't going to be, probably, coming here. There's no swimming pool, right?

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There's only an exercise room and that's it.

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

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

MR. MILLSTEIN: One to two nights.

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

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

COMMISSIONER TURNBULL: Okay. All right. Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAIRPERSON JORDAN: Mr. Boardman. We don't have a debate and argument. If there's an issue, then I will take

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care of it and handle it. Please answer the question.

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

CHAIRPERSON JORDAN: Six metered spaces?

MR. ANDRES: Six metered spaces.

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

MR. ANDRES: Potentially, yes.

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

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

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

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

MR. MORDFIN: I did review the ones contained in the ANC

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report. Most of those contained in the ANC report I didn't see directly relevant to the relief that was requested, and therefore, I did not include them.

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

MR. MORDFIN: Yes.

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

MR. MORDFIN: Yes.

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

MR. MORDFIN: I don't believe so.

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

MR. MORDFIN: No.

CHAIRPERSON JORDAN: Okay. Great.

MR. MORDFIN: As far as I know.

CHAIRPERSON JORDAN: Thank you. All right. Anyone

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else? Board? Planning? All right. Applicant, Mr. Hughes, any questions for Planning?

MR. HUGHES: No questions. Thank you.

CHAIRPERSON JORDAN: Mr. Boardman, questions for Planning?

MR. BOARDMAN: No, sir.

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

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

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

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First of all, as was noted by Mr. Andres, this project is situated just a little bit further south and it is in an area that tends to be more commercial. There is less residential. Obviously, the area of the parking study area extends further to the north, but we do believe that restaurant users, for instance, would be appropriately parked at a metered space. And furthermore, again, we believe that the mode share that is vehicularly oriented is relatively low in this location.

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

Additional, we considered the question of employees, as was raised, and I think that it is important and worthwhile to create a distinction between the employees and between the

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users of these two uses. And so we talked about the restaurant goers and the hotel users, but again, there's going to be employees, and there's going to be employees at both the restaurant and the hotel.

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

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

And then additional, we wanted to see some short-term bicycle parking commitment to add those as part of the public space permitting process, a commitment to a certain level of

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short-term parking, and again, this could be for employees or people doing deliveries in and out, but it also could be users, and so we wanted to see at least four short-term bicycle parking spaces.

Finally, I would note the dialog on the loading and trash. We felt like this was sufficient to handle the business of these two businesses and we were happy to see that it was handled via the alley network. We believe the alley network can handle this and we are okay with the loading variance that was sought.

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

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

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

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COMMISSIONER TURNBULL: Where are they located?

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

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

MR. ANDRES: Yes. That's correct.

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

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

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

That is something that we are researching in a very focused way, ongoing. We want to make sure that we have many

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tools in our tool belt in order to address concerns such as this. There's a couple things that I can point to that we're doing. One, we were talking about the mode share. Is it realistic to consider whether this hotel is unique from other ones that might be going in? Is that something that makes sense?

We are doing research in the realm of trip generation, so this is specifically trying to understand how many trips come about from any development that happens. And we're looking at how is trip generation in an urban market, such as the District, different than, as Mr. Andres noted, perhaps a suburban context or other context that the references that are available do reference?

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

And then secondly, we're also looking at what is out there in terms of demand for parking. We have active and ongoing research in terms of parking utilization. And in

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fact, we've completed a survey of approximately 115 different properties throughout the District that we've gone in and actually looked at, what is the utilization of the parking that's available and quantified the parking that is there, and we're in the process, again, of working towards finalizing that bit of research.

But what we're finding is that there is a range, but the parking that has been provided in some of the building, perhaps ones that were developed longer ago that were more over-parked compared to a lot of the ones we see nowadays, is not being utilized as highly as we would have expected, so we're trying to use that to help, again, focus what our understanding of the future parking demand would be, and the cumulative effects that might be seen in neighborhoods such as this, and that is absolutely something we consider when we finalize our report.

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

CHAIRPERSON JORDAN: Yes. It's something that, you know, as you know, this Board is beat-up all the time over it. I mean, we get hit over and over again. And we know there's at least two other hotels of kind of the same kind of stature going to come in this same area. We're going to be using the same numbers again and again, and it would be nice to see the

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document from DDOT. And I'm glad to hear you've been doing some inventory.

And I don't know if there's anybody, whether it's DDOT or, Mr. Andres, your company, have you been getting from the hotels, a capture of the information? Do we have a set questionnaire or something we're asking the guests at these hotels, how did you get here? I took the Metro. How did you get here? I took a taxicab. How did you get here? I drove and I parked in the neighborhood. No, you know, because at some point, we got to have -- and I know I keep preaching this, but, you know, I probably won't even be on this Board at that point, but it'll blowup and we really need to start putting some real meat to it.

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

All right. Anybody else? DDOT? And thank you for

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coming. You know, certainly appreciate you coming and giving us your input. Sometimes just a report doesn't get it for us.

MR. WESTROM: I understand. Thank you.

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

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

CHAIRPERSON JORDAN: Mr. Boardman, any questions of DDOT? Then we go to, what? We got DDOT. ANC-2C. Representative of ANC-2C? We do have a letter of support from ANC-2C and ANC-2C has -- told you it was going to happen. Didn't I tell you it was going to happen? ANC-2C has a list of conditions. And as was indicated, the ANC recommendations are, as Mr. Morgan has said, not generic to zoning. We certainly give them great weight in their support of the project, but requiring this to be a pet-friendly building is not zoning related and to clean up the alley and the street is just not something that we would invoke in any order that we may provide.

And this one, Number 2, "To provide bicycle parking at the building." I guess that's what's coming later. It wasn't in your TDM, but that's something that's coming later. We're going to issue a \$1000 fine now. So okay. Let's go now to, Mr. Boardman, do you have -- no, excuse me. One other thing.

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Anyone here wishing to speak in support of the application?
Yes, please. And your name again?

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

So after receiving those comments, I was immediately contacted by Douglas Development to get some feedback on my concerns, and we actually had a meeting. Very pleased with, actually, the results. So they've taken it upon themselves to do an MOU with the condominium association. I actually spoke to the Secretary Treasurer of the condo association. The condo board, as I'm sure is evidenced in your documents, has signed off on an MOU.

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

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restaurant, and their modes of entering and exiting the hotel.

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

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

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

CHAIRPERSON JORDAN: Not in the District.

MR. WESTROM: -- because of its position back in the alley, to an area we're going to have redesigned historic, with a small H, I think we would say, renovation. Again, taking from another person. A renovation and then a new addition, so we're going from vacant, unused, not-so-pleasant property to a property that's going to be well-used, and look good, and

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be an asset for the community more than just, no offense, against Subway, but not another Subway shop in the basement.

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

CHAIRPERSON JORDAN: All right. Well, thank you very much. We appreciate you taking the time coming down, but you see how we have to -- everything you said is what we are doing as a Board, but when we do it, you know, it weighs heavily into the future, but thank you. Appreciate it. Anyone else wishing to speak in support? Anyone else wishing to speak in support? Then we'll turn now to the party in opposition for -- you want to speak in support? Well, you got to come to the microphone and we need you to identify yourself, please.

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

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

MR. GOLUB: We did. Yes. It's an issue that we didn't really -- I thank the developers that came to us, we had a meeting, and it was very cordial, and they explained the whole

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procedure and the process to us, and I'm very thankful of that, and my brother arranged that, but I appreciate that. One thing that we did bring up, we thought about it afterward, and he said to bring it up at the meeting is, will there be pets allowed in this hotel at all, under any circumstances, and where will the pets go, and there are in 1010 Mass, to do their thing, and how will they get to it?

Some are already doing it on our property now, and I said, please, this is private property. You're not supposed to be going on to our property and having your dog defecate on it, and that, I think, D.C. needs cleaning up. So what will be done -- I mean, most of the neighbors are very conscious and they do do it, but there are some that don't, unfortunately, and, you know, I can't sit here and name who's what exactly, but it's an issue, and people even do it in my neighborhood where I live, and I'm like, excuse me, you know, bring a bag and cleanup your dog's poop. Don't leave it on my lawn. Thank you very much. That's a --

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

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

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

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

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

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

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

MR. GOLUB: And the second part, I guess, it's not really them, but will there be another area for 1010 people to go, because they traditionally go through the lot right now to that grassy area where they poop? The part where they go, I've seen them do it over and over again. So has that been figure out, or thought about, or just not really our problem because it's 1010 Mass' dogs that are doing it, or what? I mean, it's still going to be adding poop to the -- you know,

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so I'm just wondering, are they going to do the same thing, maybe, encourage their residents to maybe do that?

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

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

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

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

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

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

MR. GOLUB: I understand.

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

MR. GOLUB: Okay. Fair enough.

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

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

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

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

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

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

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

MR. BOARDMAN: Mr. Chairman, Members of the Board, thank you for allowing us to appear today. My name is John Boardman. I'm Executive Secretary Treasurer of Unite Here Local 25. A union with over 6500 hotel workers in the metropolitan area working to create middle-class jobs. I have been in the hotel industry for 35 years. Local 25 has been on the corner of 10th and K for over 40 years and has been here

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

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

Our members do not ride bikes. After eight hours on your feet, you want a way to get home, and some people have to drive, because as you may know, hotels and bars stay open past 12:00 midnight, when most transportation options in the District of Columbia diminish or cease to exist at all.

In any case, we are the owners of our office at least one block from the proposed hotel development. The Applicant's proposal to provide no parking at all represents a serious conflict with our work as an organization of hotel

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workers. Furthermore, based on our experience in the hotel industry, we believe that this proposal to build a new hotel near the convention center without providing parking would significantly impair the intent and purpose of zoning regulations to ensure adequate parking for residents and visitors.

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

Second, we are a democratic organization. The majority of our decisions that we make are approved by an executive board and our full membership at meetings. These meetings occur on a regular basis and involve attendance of up to 300 members. Third, our staff provides training to our rank and file leaders and membership on a regular basis. Training sessions often see up to 300 of our rank and file leaders and members coming

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to the office for half-day or full-day sessions.

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

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

Many of our members do not have cars, but many of them do come from less accessible parts of the city, and elsewhere, and for many of them, driving is the most efficient way to get to our office and still be able to manage their daily tasks. Already, it is often difficult for our members to find street parking when they visit their union. The problem is particularly acute during conventions or peak tourism periods.

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As the area around the convention center continues to develop, the situation is only going to get worse.

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

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

The convention center area is already dense with hotel uses. In fact, there are 11 hotels currently operating within 500 yards of the site. There are three more major hotels planned within that circle. If there were any office or residential project, demand for parking would be roughly constant and predictable. However, as with any hotel near a convention center, this project would have the highest impact during conventions and during peak tourism season.

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

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

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

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will refrain from driving to a hotel near a Metro.

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

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

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

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

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

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

MR. BOARDMAN: From our employees?

CHAIRPERSON JORDAN: Meaning, union members, those who are concerned about parking at their jobs for those hotels in

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the area.

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

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

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

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

MR. BOARDMAN: Yes, we would agree there.

CHAIRPERSON JORDAN: And I think I heard you, in your question, say on half, but there's only six spaces on that north side and they're going to take six spaces, that's 100 percent

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of the metered parking. I thought that's what you, in your question, maybe I was wrong.

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

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

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

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

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

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

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

MR. BOARDMAN: We're a block away.

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

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

CHAIRPERSON JORDAN: -- different. Okay. Well, let me back-off on that, because I thought you were like right

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there. You're a block away. Okay.

MR. BOARDMAN: We are actually, Mr. Chairman, less than half a block away. Yes, we're right there. We're on the corner of 10th and K.

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

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

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

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

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

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CHAIRPERSON JORDAN: What kind of subsidies are they?

MR. BOARDMAN: There are purchase subsidies, there are pre-tax deductions from your paycheck, subsidies that you can get, there are a variety of different things. It comes out of what's called a 125 Cafeteria Plan Option. There are ways to do it, in other words. And most employers that we deal with our forward-thinking and do that. I certainly commend this potential employer on being able to do that.

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

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

CHAIRPERSON JORDAN: Well, that's why I raised -- I mean, it wasn't in the TDM plan as I had a concern, that's why

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I raised it, because whatever's going to happen, if we do allow this, then we need to have it in our order, so that's why I raised it; raised the issue.

MR. BOARDMAN: If you come to our building at the northeast corner of 10th and K during convention season, or when there are locally-based events at the convention center, you cannot get parking. The only reason that my staff can get parking there is because we have reserved spaces. If we did not have reserved spaces and we were just driving in and buying daily, we would be shutout, and that's now.

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

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

CHAIRPERSON JORDAN: Okay. Others, questions?

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

MR. BOARDMAN: Mr. Commissioner, I understand that there may be problems, I'm not a developer, I'm not a

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construction expert, but I believe that the zoning code anticipates the very things that we're talking about, finite numbers of spaces, and if we keep making decisions, incrementally or in the aggregate, we're going to exacerbate a problem which already exists. This is not going to create a problem, the problem is already there.

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

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

MR. MILLSTEIN: I have no questions.

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

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

CHAIRPERSON JORDAN: Thank you. Anyone wishing to speak in opposition? Anyone wishing to speak in opposition?

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

MR. ANDRES: Mr. Chairman, we have secured letters from both Colonial Parking and U Street Parking, that we can submit copies of, that identifies that there is availability in their parking facilities for supporting the parking related to this project.

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

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

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

MR. MILLSTEIN: So I would say, the way we do it now is,

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we have garages in the neighborhood, not on the same block, but at 10th and F, 11th and F, we have buildings with garages, we have buildings without garages, we valet. If there's a demand, like at Ford's Theater, we own the garage underneath Ford's Theater, during a Ford's Theater event, we put in extra parking because there's a heavy demand for parking.

So if there was a convention in town and we have a high occupancy rate, which we expect to have, and we need three or four extra drivers to take the cars a little bit further to another garage that's open, there's many opportunities, but you've got to be able to adjust on the fly on a demand basis, and we have relationships with Colonial Parking, U Street Parking, Atlantic Parking, they manage garages for us in other buildings that we own in some.

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

CHAIRPERSON JORDAN: The building might go to another

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use.

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

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

MR. MILLSTEIN: Understood.

CHAIRPERSON JORDAN: And so, you know, we really wish when you come here and we ask these questions, we're not asking these questions to be smart about it, we just really are trying to fill the void in our minds to making sure that we have pushed it as much as we can and that we're comfortable with the

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responses. And, you know, we're already starting with one guesstimation to another guesstimation, and here we are with a situation as you present it, thinking about knowing how conventions can be in this town, how parking garages can be full, and you're not too far from the convention center, so that's why we asked that question, and just raised it.

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

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

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

MR. MILLSTEIN: If I might clarify just a bit. These

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may be employees of Mr. Boardman within his union or they may not.

VICE-CHAIRPERSON HEATH: Sure.

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

CHAIRPERSON JORDAN: Right. And so there's two different issues regarding Mr. Boardman. One, and not really, he's not here necessarily talking about the employees, but he cannot not talk about the employees because it's in his system, even if he didn't want to, but he's also talking about the business operation. And one thing I was kicking in the back of my mind, which I thought you guys could even talk about, if I was on that side of the table, would have been a compromise to offer some type of X number of valet parkings per months that would allow him to go for his office operation, I'm not putting that out there, but that's the kind of stuff that we want you to talk about, because I think that's workable.

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

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

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

MR. BOARDMAN: But we appreciate your concern.

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

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

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we're going to tell the employees they need to car share and they can ride their bikes.

And I didn't realize the aspect to them standing on their feet eight hours might be one incentive why they don't do it. So I think, Mr. Millstein, we wanted you to respond.

MR. ANDRES: Yes. Well, with respect to other developments we worked on, there are some guidelines for providing transit subsidies relative to office workers, so just employees in general. So in that instance, you know, we can submit something into the record that we would coordinate with DDOT so it's an appropriate element of the TDM.

CHAIRPERSON JORDAN: Okay. Mr. Hughes, any other rebuttal, because I want to go through some of these TDM things, and then I want to see something from you, subsequently, as we move forward, but anything else? Let me go through some of these TDMs. I want to make sure we got these things all in if we get to the point of awarding relief. One, I'm going to use the DDOT -- did you have a new updated TDM that included DDOT's and everybody else's? No?

MR. ANDRES: Well, DDOT reviewed ours, so DDOT --

CHAIRPERSON JORDAN: But you just said here at the table that you had some things that had not made it into it.

MR. ANDRES: Well, there are some additional ones that are identified in the OP letter; in the OP review.

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CHAIRPERSON JORDAN: Okay. Let's step through it and you help me --

MR. ANDRES: Okay.

CHAIRPERSON JORDAN: -- where we've changed it, because I'm getting even more confused. No banquet facilities shall be provided, right? That's one. To ensure hotel guests are aware that no onsite parking would be available, the Applicant shall indicate on the hotel Web site and in the hotel registration confirmations that no parking would be available. B, encourage alternative modes of transportation, whatever that means. That's really flighty. C, inform users of locations of off-street parking. D, provide a staff member to direct guests arriving by car at the door or to nearby parking garages to ensure no illegal parking occurs in front of -- wait a minute.

Provide staff members to direct guests arriving by car at the door?

MR. ANDRES: So this is similar to the 627(h), where when somebody pulls up, they see these three empty parking spaces and think they can park there.

CHAIRPERSON JORDAN: Okay.

MR. ANDRES: We're saying, well, when they pull up, there's somebody going to meet them there and say, you're not parking here, you can unload here, but you're not parking here.

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CHAIRPERSON JORDAN: Okay. That's D, and E, work with nearby parking garages to provide overnight parking for hotel patrons. Whatever that means. That's loose too. Three, the Applicant -- see, that last E, I think it needs to be strengthened. So take a look at strengthening E. Three, the Applicant shall provide a transportation demand plan to include the following; a transportation and management coordinator as a point of contact for coordinating and implementing monitoring TDM strategies, B, a transit screen in the lobby with real-time updates and provide print copies of transportation options, C, brochures detailing the marketing plan promoting -- brochure detailing the marketing plan?

MR. ANDRES: Yes, so --

CHAIRPERSON JORDAN: No, I understand. I think it's not worded properly, but I understand what you're trying to say. Brochure detailing the marketing plan promoting -- anyway, I understand what you're saying, but let's tighten up the working for C.

MR. ANDRES: Okay.

CHAIRPERSON JORDAN: I think you got some misplaced things here. D, Capital Bikeshare passes to guests as part of Capital Bikeshare Bulk Membership Program for Hotels -- you see what I mean? Capital Bikeshare passes to all guests as

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part of the Capital Bikeshare Membership Program for Hotels upon request. So there's already a program for hotels?

MR. ANDRES: Yes, there is.

CHAIRPERSON JORDAN: Okay. Not to exceed \$5000. I don't think you should probably have a limit to it because this is something that's being -- you know, I don't think there should be a limit. I think if people are going to Bikeshare membership, whatever it's going to cost, you're going to stop them with \$5000 and say, no, we're not going to provide you a bike share when this is something that you've been pushing in front of this Board that they have the opportunity for bike membership? That's just my thought, but E, secure onsite bicycle parking spaces for employees, including brochures and links to Web site on bicycling in the District of Columbia for Capital Bike Share.

I don't know if we include within there, also, the 14 long-term bicycle?

MR. ANDRES: Well, that's what the onsite bicycle spaces are.

CHAIRPERSON JORDAN: That's what that is? E is that?

MR. ANDRES: Yes. The short-term bicycle spaces are actually bike spaces not in the building, but within DDOT public space, which we would have to coordinate with them.

CHAIRPERSON JORDAN: And that's what they're saying

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they would like for you to do.

MR. ANDRES: Yes. So E is the 14 bicycle spaces within the building that we're providing.

CHAIRPERSON JORDAN: Okay. F, a ride matching rideshare program for employees with detailed carpooling information, refer interested employees to other -- this has no real teeth here. I hear you and I see what you got. I would offer that, and let's make this E -- and, you know, this is me talking. The Board hasn't weighed-in. Four, that the Applicant shall provide a financial incentive to employees for transit, and you've got to work with the wording. I don't know what it is.

I also believe that you should have some type of agreement with the adjacent garages, but that's just my thought. Board, anybody in the Board has anything else or want to correct what I said, or anything? Please, because I'm just kind of doing this stuff on the fly.

Oh, there's two D's? Oh, there are two D's. Hotel reservation confirmation will state that -- yes, so you got, kind of, two D's in somebody's report, the OP report, or somebody had two D's, so let's make sure we straighten that out. And I am still open. I don't know what you can talk in regards to limiting the impact upon the community. That's another issue, so this is what I would recommend that we do.

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I would like to see an updated conditions proposed and fill-in the blanks. I think that the two parties still have some conversation ongoing. I would take this, smooth this over, unless the Board wants to make a decision on this today, but I don't know if we're ready because we don't have the information that we believe is necessary, is that what -- that we move this over to -- uh, oh. What kind of decision stuff do we have on the 28th; decision on the 28th? Not hearing, but decision.

MR. MOY: Oh, decision? The Board's looking very good in that area, sir.

CHAIRPERSON JORDAN: Okay. That was a savior, that you get us the information by the 21st with the proposed changes and some other recommendations. And I do, again, would recommend that you have conversation with party in opposition about trying to resolve that issue. I think there's some ways responsible, I don't know whether they're legal or not, but have the conversation about doing it, because it's very important. And like I said, we can -- I think this is really rough. I think you guys -- I mean, really, it's rough. I think standing alone, this building by itself, not without anything else in the neighborhood, it's an easier swallow, but so much is happening there.

And we've used these same numbers, I guess we take it

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from one report, we put it in here, we move it around, take the title off, and flip them in, and we see it, and we know there's three other hotels coming in this area. Yes, each project, I'm aware, stands on its own bottom. Sometimes that's not logical that they stand on their own bottom in the realm of us looking on the impact of the community, and for the impact of the community, we're allowed to go beyond that.

This is a term. You're talking about 65 spaces, not 3, 4, 5, or 6, we're talking about 65, right? Is that okay with you, Board, or do we need to -- I mean, I don't want to be dictating and dominating this conversation, but -- so we usually walk in unison. We all understand? We have these looks about us so that we know where we are. So that would be the order and we really appreciate everybody coming down and really working on this.

We know how difficult this situation is. Everything is finite in the District, you know, we can't grab any more land, and push out, and all that kind of stuff, so yes. Okay? I can't take any other comments from anybody at this point, but, Mr. Hughes, you would like --

MR. HUGHES: May I have just have some clarification? This is going to be decided by the Board at its July 28th meeting?

CHAIRPERSON JORDAN: That's correct.

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MR. HUGHES: And you'd ask for anything -- our submission, by July 21st?

CHAIRPERSON JORDAN: That's correct.

MR. HUGHES: Okay. So both parties would -- you're looking for something from the Applicant.

CHAIRPERSON JORDAN: Yes, I'm looking for what we talked about, the conditions, if we do --

MR. HUGHES: Got it.

CHAIRPERSON JORDAN: -- and, yes, I don't think Mr. Boardman's going to submit anything. He's submitted what he has to say and I'm not looking for any other argument from you. I'm not asking -- and some other cases, next thing you know, the attorneys shout in all kinds of argument, and that was out of bounds, so I just took it and tore it up. Mr. Boardman?

MR. BOARDMAN: Mr. Chairman, there have been things brought to light here in the hearing by the Applicant that we may wish to address in a submission, it would be in writing, if the Board would --

CHAIRPERSON JORDAN: Argument or just how you can resolve some things?

MR. BOARDMAN: I think it would be in response to some of the issues which were not contemplated coming in here, but --

CHAIRPERSON JORDAN: I'm not inclined to accept that

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because that opens up a whole can of worms and we would have to put this on for the 28th for a hearing as opposed to -- I don't see anything that we have not talked about or covered, but I think if you would, you can respond to the -- by the 25th or what is that Friday?

MR. BOARDMAN: 21st.

CHAIRPERSON JORDAN: What's that Friday?

MR. MOY: That Friday, sir, would be the 24th.

CHAIRPERSON JORDAN: By the 24th, you can respond to the new set of TDM measures that they would submit.

MR. BOARDMAN: Thank you.

CHAIRPERSON JORDAN: All right. And the same thing for Planning, if they wish to do so, or DDOT, or whoever, okay? Does that make sense to everybody? Can't we all just get along? Okay. We really thank you for your time and work. You know, we'll work it out. Maybe. Thanks. Let's move right into, if we can, the next hearing. Vice Chair Heath is going to leave us.

MS. QUINN: Commissioner Quinn, it's your day with us.

MS. QUINN: I mean, I would have thought you guys would have had lunch or some snacks out here.

CHAIRPERSON JORDAN: There used to be a time when we were here until 6 o'clock, 10 o'clock. You know what though? You know what I feel coming, Ms. Thomas? I feel that alarm

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sound coming, which is another problem. What was it? Two weeks ago. We periodically, as you know, Sullivan, we get those fire alarms for some reason. Somebody runs around and pulls fire alarms and really ruins our day. Let's then move into this last case. Mr. Moy, you want to call it?

MR. MOY: Yes, sir. Thank you. That would be Application Number 19018, application of North Capitol Number One Land Trust at property 2826 North Capitol Street, NW.

CHAIRPERSON JORDAN: Okay. All right. Please identify yourselves.

PARTICIPANT: I'm the developer who renovated the property and sold it to the two buyers who are living there currently.

CHAIRPERSON JORDAN: Okay. Seller. All right. Mr. Sullivan.

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

CHAIRPERSON JORDAN: Okay.

MS. SLATTERY: Hi. Colleen Slattery and I --

CHAIRPERSON JORDAN: Flattery or Slattery?

MS. SLATTERY: Slattery, S-L-A-T-T-E-R-Y. And I purchased 2026 North Capital Number 2.

CHAIRPERSON JORDAN: Okay.

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

CHAIRPERSON JORDAN: Teri Janine Quinn. Very good. This is a rough one. I'm going to tell you right out the box, it's very rough. We have OP recommending -- OP not being able to recommend approval. The ANC also, is that correct?

MS. QUINN: That's correct.

CHAIRPERSON JORDAN: Not recommending approval. And I think it's a lift, even from my preliminary review from the Board, so, Mr. Sullivan, I'm going to say, why don't you have it at because I'm not understanding exceptional condition and circumstances, I'm not understanding the practical difficulty. First, let me go back, let me re-circle myself, who's the Applicant?

MR. SULLIVAN: Currently, the Applicant is Ms. Slattery and I prepared a letter to amend that, and it looks like I failed to bring that with me, and I have a letter of authorization with her, so I can supplement the record.

CHAIRPERSON JORDAN: So the Applicant --

MR. SULLIVAN: The Applicant, currently, is -- she's the owner of the property right now. The initial Applicant and the owner of the property at the time when we filed the application was the developer.

CHAIRPERSON JORDAN: So you're trying to make an oral motion to change the Applicant.

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MR. SULLIVAN: Please, if I may, Mr. Chairman, and I can supplement that with --

CHAIRPERSON JORDAN: I have some concerns about it, and we'll talk about it later, but we'll go ahead and do so, if that's okay. I'm just going to be real upfront. You know, it's a situation of whose hands are clean and whose hands are not clean, and so this started with the seller, whose hands may, may not be clean, and now we normally, those things, as the authorization would flow from the person who owned the property to the Applicant, now is going to Ms. Slattery as the purchaser/owner, but I still think we have some issues here about what's gone on in this property, but go ahead, Mr. Sullivan.

MR. SULLIVAN: Thank you, Mr. Chairman, and to make it easy, we're not claiming that the practical difficulty has to do with actions of the developer, vis-a-vis, the purchaser. The conditions that lead to the unique condition and the practical difficulty were related to the property and the developer's interaction with that property prior to that sale. I'll set it up for you and then I'll have them testify.

CHAIRPERSON JORDAN: But at the time that the new owner took the property, were they aware that there was government violation issues on the property?

MR. SULLIVAN: I'll have the current owner answer that

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question.

MS. SLATTERY: I was not until about a week and a half before I actually closed on the property, and by then, you know, all the loans had been fixed, and real estate agents, et cetera. It took a very long time to close, and I moved in and made an offer on the place in January, moved in in February, and closed in late April.

CHAIRPERSON JORDAN: So why did you close knowing that there were governmental violations pending?

MS. SLATTERY: By that time, I had already moved into the property and I was -- you know, I had no other place to live, and it was, you know, really, at the very end right before I signed the documents, so there was, you know, a fair amount of pressure on me, both in terms of having to move out when I've already moved in and not having another place to live, and thinking that I was going to be able to close on the property, and that the property included the decks that we are talking about today.

CHAIRPERSON JORDAN: Okay. Mr. Sullivan?

MR. SULLIVAN: Yes, Mr. Chairman, from the beginning, the situation is, and the developer will testify about this, as will Ms. Slattery, a permit application for decks on the second and third floor was approved.

CHAIRPERSON JORDAN: Those are not in the record.

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MR. SULLIVAN: They should be in there. I'll pass it out again, the --

CHAIRPERSON JORDAN: Where are they in the record? Do we have them in the record? Because they're not in the record, nor are the permits in the record.

MR. SULLIVAN: There is -- I'll pass it out. These are the photos and the plans that are part of the permit record.

CHAIRPERSON JORDAN: Okay. I'll let you finish that, but the follow-up question to that is, the decks were not approved as they are, regardless, right?

MR. SULLIVAN: That's correct. And I've actually -- I think we could bifurcate this application and this request. There's a part of the request that relies on a reliance argument. The reliance on the permit approval for a certain deck size.

CHAIRPERSON JORDAN: I don't have the permit application, nor I have the permit sign-off, nor the permit in the record.

MR. SULLIVAN: It should have been filed with the application in the pre-hearing statement.

CHAIRPERSON JORDAN: Okay. Let's take a timeout. Does anybody have that, that we've seen in the record? I know I went up and down the record looking for it. Have you seen it? Can you point it to us? It's part of your pre-hearing

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statement.

COMMISSIONER TURNBULL: Exhibit 24 is the pre-hearing statement, right?

CHAIRPERSON JORDAN: Let me, so we can save some time, it's not in the record. And it's my understanding too, Mr. Sullivan, that there is contention about what DCRA may have approved or not, because you said in your statement that they're saying, since no one signed off on out or sealed, whatever you have is not signed off on the seal. They're claiming that they did not approve it? Am I right or wrong?

MR. SULLIVAN: They're not claiming that they did not approve it. They said they didn't stamp that particular page, but it was in the permit plans. I think at this point, I would ask for a delay to confirm that and if I could get something in writing from the Zoning Administrator, I --

CHAIRPERSON JORDAN: We really need to see this and drill down to --

MR. SULLIVAN: I was going to rely on the testimony of it.

CHAIRPERSON JORDAN: Not on this one, and here's the other thing that's missing, so that you know, you're saying that the expense in correcting this, going back, if they have to get rid of and undo all of that stuff, is burdensome, correct? That's the practical difficulty, correct?

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MR. SULLIVAN: That's correct.

CHAIRPERSON JORDAN: There is no documents in the file that indicates what that expense is, okay?

MR. SULLIVAN: Okay.

CHAIRPERSON JORDAN: You know, you have to support it in the record and I didn't see it, so I think you're correct. And I think it's a lift. You have two parties that get great weight who are not supporting this and I also would like to see the purchase contract. We've had kind of a similar thing two weeks ago, and we want to see the purchase contract too.

MR. SULLIVAN: Okay. If I may ask, I'm curious about that element of the purchase contract because my argument is two part, one, its reliance on the permit, and we'll clear-up that documentation, the other is, a de novo request for the additional space on the deck based on other unique conditions and practical difficulty that we can argue. So the transfer of the property, I'm not claiming the transfer had any impact on that. We're happy to provide it. I haven't asked the developer or the purchaser, but I don't think it has anything to do with the case.

I'm not claiming that the practical difficulty was some harm caused from a seller selling something to a purchaser.

CHAIRPERSON JORDAN: Well, we have a new Applicant has taken in light of knowing there's zoning violations and coming

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in and asking for the relief, and --

MR. SULLIVAN: Well, technically, there was a temporary C of O, so the Zoning Administrator, when he looked at this, and which is the reason we know that this was approved, he wouldn't have issued a temporary C of O if he didn't feel some responsibility for approving it in the first place.

CHAIRPERSON JORDAN: He issues temporary C of O's on various reasons and various matters. We cannot assume that. It could have been the fact that an application is pending. It could have been all kinds of stuff and he gives some deference to Applicants during the pending time, so let's not do that. I would like to see the purchase contract and you don't have to provide if you don't want to provide it. That's up to you. It's your case to prosecute and you can deal with it, but I would like to see it.

So let's set this -- I'm not looking at the 28th, what's the 28th like for you? Mr. Moy, how many cases we got on the 28th? What's Mr. Turnbull --

MR. MOY: Yes, Mr. Turnbull's on the 28th and then Mr. Turnbull's also on for September 29th. On the 28th, the Board now has about nine cases, I think. If you want to go out with a bang before the August recess.

CHAIRPERSON JORDAN: And how many decision cases do we have?

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MR. MOY: One, two, three, four.

CHAIRPERSON JORDAN: All right. Start at 8 o'clock. All right. So let's do that. We'll put it on the 28th and tick-tock, the 28th is locked, and nobody else can play.

MS. QUINN: Mr. Chairman?

CHAIRPERSON JORDAN: You wanted to make a statement on the record so you don't have to come back?

MS. QUINN: No, I want to be here.

CHAIRPERSON JORDAN: Okay.

MS. QUINN: But I am concerned about being here for another entire day. As you know, I'm a volunteer --

CHAIRPERSON JORDAN: Well, so are we. You think we get paid for this?

MS. QUINN: So I am concerned about coming here and being here for another full day of entertaining hearings.

CHAIRPERSON JORDAN: I'll tell you what you can do, you can -- well --

COMMISSIONER TURNBULL: Is this going to be your only one? Are you only here for --

MS. QUINN: Well, you know, the other matter was set for that day as well, so I'll probably just be here for both of those. That's 19018 is already set for that day.

CHAIRPERSON JORDAN: But that happens a lot and I can't guarantee that we'll get ahead. We could let you make your

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statement on this case and not -- but you said you wanted to be here.

MS. QUINN: I absolutely want to be here.

CHAIRPERSON JORDAN: Oh, I understand that. So we have to ride it. We'll see what the docket looks like on that day. That's ten cases. Hopefully some of those will fall off.

MR. MOY: Anything's possible, Mr. Chairman.

CHAIRPERSON JORDAN: Yes. I might even look at it and maybe even move some things in advance if they're set by us and not set by --

MR. MOY: Oh, agree.

CHAIRPERSON JORDAN: -- publication, so we might move some.

MR. MOY: Absolutely. I'll certainly keep my eye on those.

CHAIRPERSON JORDAN: You and I, let's talk about that, so let's do that. So your date's the 21st. And I mean, we really need to see the evidence and I understand your reliance argument, but I need -- no, 21st to submit --

MS. QUINN: To submit the documents. Okay. Got it.

MR. MOY: Mr. Chairman?

CHAIRPERSON JORDAN: Yes.

MR. MOY: For additional filings, do you want that a week before or two weeks before, sir?

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CHAIRPERSON JORDAN: 21st.

MR. MOY: Oh, 21st. Okay.

CHAIRPERSON JORDAN: Okay. Because you're going to have to drill down into this issue, and I understand your reliance issue, but I understand that's being contested, and, you know, I don't know if we need somebody from DCRA here, but I don't know. So let's just see where we are, okay? So the 28th. Thanks to everybody for spending the day with us. It's been real. Appreciate it. So the 28th. Is there anything else coming before the Board today?

MR. MOY: Not today, sir.

CHAIRPERSON JORDAN: Please say no.

MR. MOY: Not today, sir.

CHAIRPERSON JORDAN: Oh, thank you. All right. So then let's be in adjournment. Thank you, all. Thanks, everybody.

(Whereupon, the hearing in the above-entitled matter was concluded at 1:30 p.m.)

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