

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY, OCTOBER 18, 2017

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 11:16 a.m., Frederick Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson  
LESYLLSEE M. WHITE, Board Member  
CARLTON HART, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS  
KAREN THOMAS  
ELISA VITALE  
MATT JESICK

The transcript constitutes the minutes from the Public Hearing held on October 18, 2017.

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

11:16 a.m.

1  
2  
3 BZA CHAIR HILL: All right, Mr. Moy. Whenever  
4 you're ready.

5 Case No. 13991-A, Application of Curt Hansen

6 SECRETARY MOY: Thank you, Mr. Chairman. Let's  
7 see the time is 11:16. Okay. We're in the public hearing  
8 session. The first case for action before the Board is a  
9 Request for a Modification of Significance.

10 This is to Application No. 13991-A of Curt Hansen,  
11 caption advertised for Modification of Significance to Revise  
12 the BZA Order No. 13991, which would permit the addition of  
13 an accessory fast food establishment to an existing retail  
14 grocery store, to expand the retail use to the basement, to  
15 change the operating hours to increase the number of  
16 employees from two to seven staff, and to increase the number  
17 of seats to 0 to 18 seats in the RF-1 zone at premises 522-  
18 1/2 K Street, N.E., Square 830, Lot 56.

19 Okay. Could the Applicant please come to the  
20 table?

21 BZA CHAIR HILL: Good morning, good morning. If  
22 you just push the microphone light there and just speak into  
23 the microphone please. Thank you.

24 MR. HANSEN: Again good morning Chairman, good  
25 morning members of the Board. My name's Curt Hansen. I'm

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1 the Applicant on this petition for Modification of  
2 Significance.

3 BZA CHAIR HILL: Okay, great. Mr. Hansen, did you  
4 swear yourself or did you get sworn in when you came in?

5 MR. HANSEN: Yes, I did get sworn in.

6 BZA CHAIR HILL: Okay, thank you. All right, Mr.  
7 Hansen. I guess there are some questions that we might end  
8 up having from you. But if you could go ahead and I guess  
9 give your presentation as to what you're trying to do, and  
10 the work that you've done in terms of the standards that  
11 might apply for your application, and we can see where we go  
12 from there?

13 I'm going to go ahead and just kind of put ten  
14 minutes on the clock just so I know where we are, and you can  
15 begin whenever you'd like.

16 MR. HANSEN: Okay, yes. The Modification of  
17 Significance seeks to add an accessory fast food  
18 establishment to this. It's a pre-existing deli/grocery  
19 store that had received a special exception back in 1983 to  
20 allow this store to prepare hot food to cook.

21 About a year ago or two years ago, I began  
22 renovations of the store to rehabilitate and improve the  
23 premises and I had placed in a wood burning and gas-fired  
24 oven to prepare food there, and put in essentially a  
25 commercial kitchen and everything's cooked out of the wood-

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1 fired oven, and this was pursuant to the 1983 exception.

2           After we opened, we found that a number of people  
3 in the neighborhood wanted to be able to sit and consume food  
4 there too. We had originally had some benches, so that  
5 people -- there's a large coffee bar in the premises where  
6 we have espresso drinks and brewed coffee. People I  
7 originally thought could have a cup of coffee while they're  
8 waiting for their food to be prepared, could also sit and  
9 work on WiFi and that sort of thing.

10           They indicated that they would like to be able to  
11 meet other people and consume their food there. We're not  
12 seeking sit-down service. We're simply seeking to have some  
13 tables and chairs, both on the first floor and on the  
14 basement, so that people could sit, meet, perhaps eat food,  
15 drink a cup of coffee, read a book, do whatever they want to  
16 be able to do.

17           Also, we seek to expand the hours which are  
18 presently at 9:00 in the morning until 8:00 p.m. at night.  
19 We seek to expand them to 7:00 in the morning until nine  
20 o'clock at night. This again is at the request of the  
21 neighborhood. I'm not sure we would actually be operating  
22 at seven o'clock in the morning unless there's a large demand  
23 for that. Right now, we would like to be operating at eight  
24 o'clock in the morning until nine o'clock at night.

25           Under the old Order, the Order indicated that at

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1 the time that the application was made there were only two  
2 employees. I was unaware of the fact that that finding of  
3 fact had been incorporated into an Order limiting the number  
4 of employees. But we seek to expand the number of employees.  
5 I indicated in the application that we would need a minimum  
6 of seven employees. Right now we have three employees. I  
7 don't anticipate in the immediate future that we would be  
8 expanding to a full contingent of seven employees.

9           But the trouble is that a lot of our employees,  
10 if I do expand, are seeking part-time help. So you know,  
11 with that sort of -- under those circumstances, if we have  
12 a person who works ten hours a week, we cannot fully meet the  
13 needs of the neighborhood by simply having two employees or  
14 four employees.

15           The other thing is that at the time that the  
16 initial Order was issued, the basement was being used for  
17 storage. It was actually being used for storage and there  
18 were bathrooms down there. When I did the rehabilitation and  
19 submitted plans to DCRA, we had to do more extensive work in  
20 the basement in order to meet. Although the basement is  
21 accessible by stairs, we had to make the bathrooms  
22 handicapped accessible, wheelchair accessible.

23           All of that increased my costs, and we wanted to  
24 expand the offerings of retail goods for the neighborhood and  
25 wanted to be able to expand into the basement. As to the

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1 impact in the neighborhood, the Office of Planning, the ANC  
2 and -- have all come in, weighed on this and DOT have all  
3 weighed on this. They see no negative impact.

4           What we are trying to do is address the needs of  
5 the neighborhood. We have become -- and I had submitted with  
6 the application a petition signed by over 800 individuals  
7 mostly who live in the neighborhood, who have gone to the  
8 store and have supported this petition. I've also submitted  
9 letters of support from the adjacent property owners, from  
10 the immediate adjacent property owners as well as the two  
11 property owners once removed.

12           The immediate adjacent property owners right now  
13 own vacant buildings. There's no one in those, living in the  
14 buildings and they're both being under rehabilitation. I  
15 spoke to Karen Evans last night, who had submitted her letter  
16 of support, and she is in the process of moving into her  
17 building over at 1010 - 6th Street, and she fully supports  
18 this.

19           The store has been operating as a grocery/deli  
20 with the ability to prepare foods for -- since the time of  
21 the 1983 Order, and certainly in the past year with the  
22 upgraded kitchen and upgraded food offerings, there has been  
23 no negative impact, no detrimental -- in fact, no one has  
24 ever voiced any sort of concern or qualification as to what  
25 we were doing, and therefore I think that we've met all of

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1 the criteria that the Board needs to consider on this  
2 application.

3           The only thing I would note would be that in the  
4 application, I did note that we would seek to increase the  
5 employees to seven. Again, what I would like to clarify  
6 that, in my application actually I had written and said that  
7 I simply would like to be able to not have any sort of  
8 qualifications on that, because no corner store has a  
9 limitation on the number of employees that they have under  
10 the regulations.

11           Now I understand that the ANC and the Office of  
12 Planning have indicated that they would like to see a  
13 qualification on the number of employees and that sort of  
14 thing, and I'm willing to go with the seven. But I would  
15 like to have it that it would be seven full-time positions,  
16 in case I'm in a position where I need to have three or four  
17 people filling one position. If the Board has any questions  
18 to me, I'm ready.

19           BZA CHAIR HILL: All right, great. Thanks Mr.  
20 Hansen. Does the Board have any questions for the Applicant?

21           VICE CHAIR HART: Mr. Hansen, thank you very much  
22 for your presentation. This was a little bit -- I don't  
23 know. Some of this is a little bit odd to me. You're a  
24 grocery store; correct?

25           MR. HANSEN: I'm grocery/deli, yes.

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1           VICE CHAIR HART:  And you sell, you know, regular  
2 grocery items?

3           MR. HANSEN:  That's correct.

4           VICE CHAIR HART:  So you know, you have a -- a  
5 substantial part of your business is that, is selling grocery  
6 items?

7           MR. HANSEN:  Yes.

8           VICE CHAIR HART:  And I understand that there were  
9 a lot of conditions and things that were being I guess  
10 included with both the Office of Planning and the ANC.  They  
11 were kind of wanting these things.  We can kind of get to  
12 that in a minute.  It seemed to be -- I was trying to  
13 understand what the rationale was for you to actually come  
14 here, because there were -- I'm trying to understand what the  
15 changes.

16           From '83, there were, you know, these findings of  
17 fact which is kind of just this is what is here.  But I  
18 wasn't really reading those as conditions.  And so I -- you  
19 know, I'm kind of at a loss for why you would need to come  
20 in here, and we'll talk to the Office of Planning to  
21 understand a little further.

22           But it seems as though this is something that you  
23 could -- the conditions are, you know, are really parts of  
24 the findings of fact and you're not really changing these,  
25 the actual -- you're changing the findings of facts and that

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1 to me is not conditions on the actual, you know. That would  
2 be changing -- I know I'm not saying that correctly.

3 But you understand what I'm saying. It seems odd  
4 to me to talk about the findings of fact and that they are  
5 the things that are actually changing, and not actual  
6 conditions that were put upon the business. And so that part  
7 of it is a little bit unclear to me, and I guess we can talk  
8 to the Office of Planning to understand that. But can you  
9 talk about that discussion that you had with the various  
10 folks here?

11 MR. HANSEN: I can talk about that. This is --  
12 okay. Before I opened, before I did any of the renovations,  
13 I went to --

14 BZA CHAIR HILL: Mr. Hansen, could you lean  
15 forward just for the mic a little bit more?

16 MR. HANSEN: I'm sorry.

17 BZA CHAIR HILL: That's all right.

18 MR. HANSEN: Before I did any of the renovations,  
19 before I went to my architect to get plans drawn up, I went  
20 to DCRA with my -- the 1983 Order, with the previous store  
21 owner because I wanted to renovate. I wanted to actually do  
22 it in conjunction with him. I'm not a store owner basically.  
23 I am now obviously, but my background is -- I was in law.  
24 I was a trial attorney.

25 So we went to DCRA, and I explained what I wanted

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1 to do, and I went to the ABC Board and I went to Office of  
2 Zoning, and I said I want to renovate. I would like to put  
3 in a kitchen and I don't want to have a restaurant. I don't  
4 want to have sit down service, but I want to be able to serve  
5 food, have takeout, and also I would like to have, you know,  
6 I planned to put in a couple of seats so people while they're  
7 waiting for their food they can, you know, sit and have a cup  
8 of coffee, because I want to put in a coffee bar.

9           And everyone told me that no problem, go ahead and  
10 do that. I say -- and so we drew up our plans. We did all  
11 of this. We submitted, I did all my renovations, I opened  
12 for business and then I got a visit from the Office of  
13 Zoning, telling me that I was in violation of this Order  
14 because the Order says no seating.

15           I explained that I -- my interpretation of this  
16 Order was no sit down service, no seating for sit-down  
17 service, and that's what I was trying to avoid. I did not  
18 want -- this is not a restaurant. We weren't equipped to do  
19 that. If I had that, I would have to have a -- if I had had  
20 sit-down service and served on plates with stainless steel  
21 utensils, I would have to have a commercial dishwasher and  
22 I didn't do that. I didn't want to have that. That's not  
23 what I --

24           But I received a notice of infraction and a fine,  
25 and I was told then to go and appeal that fine, and that they

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1 would then reduce the fine to zero and that I would need to  
2 apply for a change of C of O so I could have seating. I did  
3 that. I appealed, and instead of reducing the fine to zero  
4 they reduced it to \$200. At first they told me they weren't  
5 going to issue the fine at all, and they told me that this  
6 is precisely what they wanted. This is what they want to be  
7 able to see.

8 But nevertheless, I appealed it. We argued. I  
9 did not take it to a hearing because at the time of the  
10 hearing the attorney for the city indicated that I was going  
11 to lose, and that we would be -- she would be willing to  
12 enter into an agreement where I would simply pay a fine and  
13 not admit any sort of violation, because I honestly believed  
14 that I did not violate anything because the findings of fact  
15 that never been incorporated into the Order.

16 As an attorney, as a trial attorney, when we have  
17 an Order like this usually the findings of fact may be  
18 incorporated into that Order and that's all then part of the  
19 Order. But these weren't.

20 There were only two conditions, and that was I not  
21 have an illuminated sign and not have trash. So in any event  
22 while the appeal was pending, I went to apply for a new  
23 certificate of occupancy, and I did that in March while the  
24 appeal was pending, and I was told that I could not do that  
25 because this infraction was still pending and it was going

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1 to be on appeal.

2           So then I was told that the only way I could do  
3 this was to file this application for a Modification of  
4 Significance, and that I was in violation because I had more  
5 than two employees. I was in violation because I had retail  
6 down in the basement. I then immediately -- when I was told  
7 all of this, the only thing that I didn't do to become  
8 compliant was reduce my employees to two. I simply could not  
9 operate the business with simply two employees. That does  
10 not work.

11           But I removed the retail shelvings from  
12 downstairs. I removed all the chairs, and I moved all of the  
13 retail up to the first floor in order to become compliant,  
14 so that I would not receive another infraction and another  
15 fine. But you know, here I am and so for a year, I've not  
16 been able to operate within the vision that I had originally  
17 been told I could operate within.

18           VICE CHAIR HART: Are you operating now?

19           MR. HANSEN: Yes.

20           VICE CHAIR HART: Okay.

21           MR. HANSEN: I've been operating since November  
22 of last year.

23           VICE CHAIR HART: Okay. Well, I appreciate that  
24 information. it's very helpful background on it. I guess  
25 I was just a little bit confusing, because if you look at the

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1 Order, the original Order from '83, it does just have the two  
2 conditions, and those are very clearly spelled out what it  
3 is those conditions are and they're identified. So the rest  
4 of the things are -- they were findings of fact, things that  
5 actually were happening at the business when it was approved  
6 or before the business was approved back in '83.

7 BZA CHAIR HILL: Mr. Hansen, just real quick. Can  
8 you clarify for me what the two conditions are again that you  
9 understand them to be?

10 MR. HANSEN: The two conditions are at the very  
11 end of the Order, that the -- it says that "Accordingly, it  
12 is hereby ordered that the application is granted, subject  
13 to the following conditions: (1) Exterior signage shall be  
14 limited to one non-illuminated sign located at the K Street  
15 entrance. (2) Two garbage cans shall be placed on the  
16 subject site, and all parts of the lot shall be kept free of  
17 litter and debris."

18 When I -- before I opened, the Office of Zoning  
19 came to inspect and inspect my signage, inspect my lot and  
20 inspect the garbage cans. They also then said that they  
21 could inspect anything else within the building, and after  
22 they did that, they actually there was a storage area where  
23 I had not put a fireproof ceiling in one part of the storage  
24 area, and they required me to do that and I did that. But  
25 they went through the entire building and inspected the

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1 entire building and gave their approval.

2 BZA CHAIR HILL: Okay, okay. Mr. Hart, do you  
3 have more? Does anybody else have anything?

4 ZC CHAIR HOOD: Mr. Chairman, I just want to  
5 correct for the record. He says Office of Zoning, but it was  
6 the Zoning Administrator's office, which is in DCRA, and I  
7 think that's important because that is a very big mix-up here  
8 in this city. So I just want to make sure that the Office  
9 of Zoning, which is us, so this office, does not get confused  
10 with what's going on over at DCRA. So it's the Zoning  
11 Administrator's office of DCRA in which he's referring to  
12 that came out and did an inspection.

13 MR. HANSEN: Yes, Mr. Hood. I apologize and I --

14 ZC CHAIR HOOD: I hear that routinely. I did  
15 that for the public, not for you.

16 BZA CHAIR HILL: That's okay, it was for you.  
17 It's okay. All right, okay. Does anyone have anything for  
18 Mr. Hansen.

19 ZC CHAIR HOOD: I just seems -- I wasn't going  
20 to say this, but I'm going to say it. It just seems like  
21 your story, what you just told, it made me tired and I've  
22 been here 20 years. That's a whole lot to have to go  
23 through, and I think at the time the way they recorded in  
24 '83, because I know when I got here, there were certain  
25 things that were left out of conditions.

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1           So I think that's somewhere where we are. But  
2 anyway, I'll just -- enough said on that. But that's a whole  
3 lot to have to put that on burden, but anyway. I'll show my  
4 reaction when we vote.

5           BZA CHAIR HILL: Okay, all right. We're going to  
6 keep chugging along here then I guess. Mr. Hansen, you're  
7 done for now?

8           MR. HANSEN: I am.

9           BZA CHAIR HILL: Okay. We're going to turn to the  
10 Office of planning please.

11           MS. BROWN-ROBERTS: Good morning Mr. Chairman and  
12 members of the Board. For the record I'm Maxine Brown-  
13 Roberts in the Office of Planning, and I'll just try to  
14 answer some of the questions that I heard you mention. After  
15 we got this application, we had a number of the same  
16 questions you asked. So we went -- I went and spoke to the  
17 Zoning Administrator as to, you know, what was the  
18 difference.

19           He indicated to me that yes, you know, there has  
20 been some complaints filed with them concerning the operation  
21 of the establishment, and when the problem with doing some  
22 of the enforcement was that some of the things were mentioned  
23 as findings of facts and were not -- and were not conditions.  
24 And so he thought that to make it better for them to enforce  
25 the regulations at this time, because things have changed

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1 over the years, that they should be incorporated as  
2 conditions so he would be able to go in and enforce those  
3 things.

4 And so if you look at the original approval, where  
5 it talks about the scope of services to include the sale of  
6 sandwiches and hot food --

7 VICE CHAIR HART: Which Order are you referring  
8 to?

9 MS. BROWN-ROBERTS: I'm sorry, it's the Order for  
10 13991, and it's number nine.

11 VICE CHAIR HART: Thank you.

12 MS. BROWN-ROBERTS: And it even goes on to ten to  
13 talk about the hours and the service shall be carry out only  
14 and the tables and all of that. Those are all in just the  
15 findings at that time. And so the Zoning Administrator  
16 conveyed that he wanted to have these conditions -- whatever  
17 the conditions we came up with to be conditions and not to  
18 be just statements in the Order.

19 And so that's why we moved -- that's why we have  
20 all these conditions here, to state specifically what is --  
21 what the operation is going to be and under what conditions  
22 they can operate so there is clarity. Therefore, based on  
23 that, we are recommending approval to add the accessory fast  
24 food establishment to the existing retail grocery store, and  
25 to expand the retail grocery to the basement, which was

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1 something in the other Order that was not there.

2 We also wanted to modify the conditions to include  
3 all the stuff that was sort of in the -- in the findings of  
4 facts, and make them more specific in this area, and also to  
5 work with the Applicant to make sure these were the  
6 conditions, the hours of operations, etcetera, that he could  
7 -- that was satisfying to him.

8 I think one thing that he has talked about this  
9 morning was the number of employees. That was something that  
10 was in the application. If we want to modify that to say  
11 that you could have any combination of, you know, part-time  
12 or full-time workers, that's fine with us, okay. I'm  
13 available for questions.

14 VICE CHAIR HART: Mr. Chair, could I --

15 BZA CHAIR HILL: Sure please, go ahead.

16 VICE CHAIR HART: So Ms. Brown-Roberts, you just  
17 stated that the ZA, the Zoning Administrator wanted to have  
18 these -- wanted to have these as conditions because they were  
19 really not included as conditions in the original case back  
20 in '83, and that they were the actual findings of fact that  
21 are now being added to the conditions that are -- that are  
22 there now. So what you're saying is that this is really  
23 adding on these conditions to the two conditions that are  
24 existing now.

25 MS. BROWN-ROBERTS: Yes. These are additional,

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1 yes.

2 VICE CHAIR HART: And some of these conditions are  
3 a little bit hard to -- a little bit hard to follow. Not  
4 follow, but hard to understand in terms of, you know, the  
5 delivery of the food stuff. I mean some of the stuff seems  
6 outside of the Zoning Commission's -- the BZA purview, and  
7 I just -- I don't know.

8 They make me somewhat uncomfortable to, you know,  
9 like the Condition No. 9 that talks about delivery of food  
10 service. It seems like the public space -- number seven.  
11 It seems like the public space stuff actually needs to go to  
12 the Public Space Committee.

13 MS. BROWN-ROBERTS: It would.

14 VICE CHAIR HART: And I don't know. Like I said,  
15 it just -- some of these seem like they are a little bit  
16 arbitrary. Seating is limited to eight and ten in the  
17 basement. I'm not even sure where that -- why these numbers  
18 are necessary. Is it because nine is too much or seven it  
19 too little? Again, I just don't know what these things are  
20 based on.

21 MS. BROWN-ROBERTS: Can I just -- can I address  
22 them one at a time?

23 VICE CHAIR HART: If you could, that would be  
24 helpful.

25 MS. BROWN-ROBERTS: Okay. So I spoke about the

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1 seven already. The hours of operations, that is something  
2 that we spoke to the Applicant about, because that's an  
3 impact on the neighborhood. So that's something that is  
4 usually included. That's something we spoke to the Applicant  
5 with, and he was in agreement.

6 The deliveries to the market shall be between the  
7 hours of 9:00 and 5:00 p.m. Again, deliveries, their  
8 deliveries by truck and that sort of thing. So we want to  
9 make sure that we keep those not too, you know, to disturb  
10 the neighborhood. Seating is limited. Again, the Applicant  
11 -- those are the numbers that we got from the Applicant  
12 regarding the number of seats.

13 Then number seven. There was a concern from -- I  
14 spoke to the single member district, the ANC Commissioner.  
15 She was concerned about the seating and would the number, I  
16 think, would the number, the 18, would it include those --  
17 would it be limited to just those that are inside the  
18 building, or would it include any seating that was within  
19 public space?

20 So we wanted to make it clear that this number was  
21 only related to the number within the building. If they  
22 wanted seating -- seating is requested for outside, that goes  
23 to the Public Space Committee and that would be something  
24 different. So we wanted to make that clear here. That there  
25 be no table service. Again, this was something that was

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1 taken from the findings of fact in the original application.

2           The delivery of food to customers by foot or  
3 bicycle. Again, that was something that we discussed with  
4 DDOT, and they wanted to try to minimize any parking issues,  
5 and this was how we addressed that. That's it.

6           VICE CHAIR HART: And are you -- I'm sorry, I keep  
7 on -- and so are you --

8           BZA CHAIR HILL: I was just saying can you respond  
9 to Ms. Brown-Roberts. She's like that's it.

10           VICE CHAIR HART: That's fine. Are you also  
11 saying that the Order, the findings of fact, do you do -- is  
12 this done frequently? Like is this, the changing or using  
13 the findings of fact or the findings of fact not actually  
14 having the information that is, you know, like you're adding  
15 on things that are findings of fact into actual conditions?

16           I haven't come across this. Again, I haven't been  
17 on the Board that frequently, but it just seems like we're,  
18 I don't know. If you could just -- if you could answer that.

19           MS. BROWN-ROBERTS: Yeah. This is something that  
20 they -- actually, the Zoning Administrator, Zoning  
21 Administrator has brought to our attention, that some Orders  
22 that they receive don't have the conditions explicitly set  
23 out, and sometimes it causes problems in enforcement. So  
24 this is to -- and that's something the office has started  
25 doing, to make sure that we state explicitly what are the

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1 conditions of approval.

2           So when they go to get their building permit and  
3 for enforcement, it is very clear what the conditions are.  
4 If it's in the findings of facts, there is no legal thing to  
5 enforce it. So that's what we're trying to do here, and as  
6 I say, I mean this not the first time that we've done this.  
7 I think this one is just a little longer than usual.

8           VICE CHAIR HART: And I guess I'm also trying to  
9 get to the -- connecting the conditions that you're proposing  
10 and the relief that is --

11           MS. BROWN-ROBERTS: It's a modification.

12           VICE CHAIR HART: Well, that's true. But these  
13 were actually supposed to be connected to the --

14           MS. BROWN-ROBERTS: The operation.

15           VICE CHAIR HART: Yeah, the original, because it's  
16 from '83 that you're really dealing with this.

17           MS. BROWN-ROBERTS: Uh-huh, yes.

18           VICE CHAIR HART: It just seems like it's, I don't  
19 know. I'm still grappling with this, so I appreciate the  
20 responses, but thank you.

21           BZA CHAIR HILL: Okay. I'm going to turn to the  
22 other members of the Board, but just real quick for me, Mr.  
23 Hansen, so you've seen all the conditions that the Office of  
24 Planning has for, right? I'm a little unclear. Are you in  
25 agreement with all their conditions?

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1           MR. HANSEN: Well, I am willing to accept them  
2 simply because I'm tired of pushing this rock up the hill and  
3 finding it rolling back down over me all the time. I think  
4 that they are -- I don't think that they are justified by  
5 law. I think that they are imposing undue restrictions on  
6 me to operate a corner store as permitted under the law, and  
7 I am not happy about it. But I'm willing to accept that if  
8 that's the only way I can operate this business.

9           And I really do -- and meet the needs of the  
10 neighborhood. The problem is is that when you're starting  
11 a new business, you have to -- you have to be flexible enough  
12 in order -- I had a particular vision. When I started this,  
13 I thought okay, I'm going to -- I'm going to put in a nice  
14 wood-fired oven and produce something nice out of that. I'm  
15 going to sell locally produced foods from all of these little  
16 companies that produce it in D.C.

17           I'm going to provide upscale things, as well as  
18 I'm going to provide all of the convenience store sort of  
19 things that you typically find in a neighborhood corner  
20 convenience store. I want to sell to every element of this  
21 neighborhood, and the neighborhood has changed a lot. I've  
22 owned this building since 1993 or so. So I'm aware of this,  
23 and I wanted to be inclusive.

24           I wanted this to be everyone's store, and I wanted  
25 it to be welcoming to everyone and I wanted people to come

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1 here and feel that they could sit, have a cup of coffee and  
2 they could talk. I'm an old socialist. I believe in  
3 exchanging sort of common values and that's sort of thing.  
4 That's what I wanted, and that was the vision.

5 Now the vision on the upscale food, on the dry  
6 goods has dropped because after I applied for my permits,  
7 Whole Foods opened up and then I find that Trader Joe's is  
8 opening up. So I have to pivot and change, and so I --

9 BZA CHAIR HILL: Mr. Hansen, I hear everything  
10 you've said and by the way, I think it's a very impassioned  
11 thing. I don't think anybody's going to have any issue with  
12 any of the things you have said. It sounds like a wonderful  
13 dream, a wonderful idea and I hope we can get you there in  
14 some capacity. So I do sense your frustration.

15 And so just to get back to -- we're going to work  
16 through this process and you'll see how it goes. I think  
17 you're going to get to somewhere at the end of this, okay.  
18 So hopefully that rock isn't going to roll right on top of  
19 you. But of the conditions that we currently have on the  
20 table, you are in agreement with them. There are some maybe  
21 that you have more or you'd like more flexibility with, but  
22 we can get to that point.

23 I mean generally you read all the conditions.  
24 There's the whole thing about the seven full-time employees  
25 that the Office of Planning said whether they're part-time

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1 or full-time or what have you, and I apologize for this  
2 microphone if I'm too close. I haven't gotten used to  
3 whether how loud it is out there.

4 So okay, that's the first one I just wanted to  
5 say. But I appreciate your clarification on everything that  
6 you've done so far, because I don't want to be part of the  
7 problem.

8 MR. HANSEN: The only thing that I would indicate  
9 is that the Office of Planning indicates ten seats down on  
10 the lower level, eight seats on the upper level. I would  
11 like to have flexibility. I'd like to have eight, be able  
12 to have 18 seats. How I divide them between the upper level  
13 and the lower level really depends upon what the neighborhood  
14 wants. I've got nice windows on the upper, but I also have,  
15 you know.

16 BZA CHAIR HILL: Okay. I'm with you, I'm with  
17 you. Okay. So does anybody have any questions for the  
18 Office of Planning?

19 ZC CHAIR HOOD: Can I go back to Ms. Brown-  
20 Roberts?

21 BZA CHAIR HILL: Yes, please.

22 ZC CHAIR HOOD: Ms. Brown-Roberts, typically in  
23 conditions to me, and I know it may be one or two that you  
24 may have an issue with, but Ms. Brown-Roberts, would you say  
25 that typically this is pretty much the standard of the Board

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1 when it comes to certain conditions in cases like this?

2 MS. BROWN-ROBERTS: Yes, Mr. Hood.

3 ZC CHAIR HOOD: Okay, all right, because to me  
4 they look so familiar. I just couldn't remember if the Board  
5 does do this. I think I have another question, and let's  
6 see. Okay. Let me kind of piggyback, go back where the  
7 Chairman was. Could you -- you've seen this, the conditions  
8 that they've --

9 MR. HANSEN: Yes.

10 ZC CHAIR HOOD: Which ones do you have a problem  
11 with or did you do that? Okay. Which ones -- you ready to  
12 do that?

13 MR. HANSEN: Yes.

14 ZC CHAIR HOOD: Which ones do you have a problem  
15 with?

16 MR. HANSEN: The division of seats between the  
17 upper and lower levels, as I indicated before.

18 ZC CHAIR HOOD: That was my next question to Ms.  
19 Brown-Roberts. Ms. Brown-Roberts, is that due to what the  
20 Zoning Commission did with the, what do we call it prepared  
21 foods? Is that --

22 MS. BROWN-ROBERTS: Actually no. That was from  
23 the Applicant. That was what was submitted in the initial  
24 vision.

25 ZC CHAIR HOOD: So the Applicant submitted how

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1 he wanted it divided?

2 MS. BROWN-ROBERTS: Yes, yeah. But I mean I'm  
3 willing to go with, you know, seating will be limited to 18.  
4 I have no --

5 ZC CHAIR HOOD: So it doesn't matter whether it's  
6 --

7 MS. BROWN-ROBERTS: It doesn't matter.

8 ZC CHAIR HOOD: Whether it's 16 on the top and  
9 two on the bottom?

10 MS. BROWN-ROBERTS: It doesn't matter.

11 ZC CHAIR HOOD: Okay. So I think we've resolved  
12 that issue, okay. All right. Thank you, Mr. Chairman.

13 BZA CHAIR HILL: Okay, all right. Now I'm just  
14 going to do this then. So number one, the exterior signs  
15 shall be -- I don't know if we're going to end up doing this  
16 or not, but we'll go through this exercise, okay? So the  
17 exterior signs shall be limited to a non-illuminated sign  
18 located on the K Street entrance. So that's what was there  
19 before. You don't have an issue with it, right? Number two  
20 -- say yes please or no?

21 MR. HANSEN: Yes.

22 BZA CHAIR HILL: Okay, thank you. Number two, at  
23 least two garbage receptacles shall be placed on the subject  
24 site and all parts of the lot shall be kept free of litter  
25 and debris. Commercial trash pickups shall be a minimum of

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1 two times a week?

2 MR. HANSEN: Yes, I accept that.

3 BZA CHAIR HILL: Okay. There shall be a maximum  
4 number of -- and if this does end up being proposed this way,  
5 I mean I'm just trying to understand what you are -- what you  
6 had been speaking to earlier. There shall be maximum of  
7 seven employees, whether full time or part time?

8 MR. HANSEN: Well, no. I would want a maximum of  
9 seven full-time positions. So one full time position could  
10 be used by two employees.

11 BZA CHAIR HILL: Okay, okay, okay. So a maximum  
12 of seven full time positions. Then Ms. Brown-Roberts, it  
13 seemed as though that was fine with the Office of Planning?

14 MS. BROWN-ROBERTS: (No audible response.)

15 BZA CHAIR HILL: Okay. The hours of operation  
16 shall be limited to 7:00 a.m. to 9:00 p.m. Monday through  
17 Friday, 9:00 a.m. to 9:00 p.m. Saturdays and 9:00 to 6:00  
18 p.m. on Sundays?

19 MR. HANSEN: I'd like to make that 7:00 a.m. to  
20 9:00 p.m. on Saturday, as opposed to 9:00 a.m. to 9:00 p.m.  
21 on Saturday.

22 BZA CHAIR HILL: Office of Planning have any  
23 issues with that? Yeah, I'd like coffee earlier on Saturday,  
24 you know, even if I do, don't get up that early. Five,  
25 deliveries to the market shall be between the hours of 9:00

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1 a.m. and 5:00 p.m.

2 MR. HANSEN: No objection.

3 BZA CHAIR HILL: Seating is limited to eight --  
4 oh, I'm sorry. Seating is limited to 18 anywhere in the  
5 store?

6 MR. HANSEN: No objection.

7 BZA CHAIR HILL: If seating is allowed in the  
8 public space, it will be in addition to the seating allowed  
9 in Condition 6?

10 MR. HANSEN: No objection.

11 BZA CHAIR HILL: There will be no table service  
12 provided. So there will be no table service provided.

13 MR. HANSEN: No objection.

14 BZA CHAIR HILL: Delivery of food to customers  
15 will only be by foot or bicycle. You can --

16 MR. HANSEN: I do object to that. Again, last  
17 week we had --

18 BZA CHAIR HILL: Okay, that's fine Mr. Hansen.  
19 So as I said, I don't know where we're going to go with this.  
20 The Office of Planning, and I was confused also. You know,  
21 if Uber comes, Uber Eats comes and picks up, do you have --  
22 I mean how does number nine kind of come into play? Pardon?

23 MS. BROWN-ROBERTS: I hadn't thought about that  
24 one. I suppose that's fine.

25 BZA CHAIR HILL: Yeah. Okay. So your objection

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1 -- so you would rather see number nine go away?

2 MR. HANSEN: Well, I want to be able to do  
3 delivery, and I've been told that I cannot. I've not found  
4 any regulation that prohibits me. The only regulation I  
5 could see was if I'm -- delivery service in a residential  
6 neighborhood, and a delivery service has been identified in  
7 the regulations --

8 BZA CHAIR HILL: Okay. So if I got rid of number  
9 nine, you'd be fine? You don't need number nine?

10 MR. HANSEN: I want to be able to --

11 BZA CHAIR HILL: Right. If it's not in there,  
12 it's not being mentioned and so -- right. So okay. So all  
13 right. So okay.

14 ZC CHAIR HOOD: Mr. Chairman, I would say eight  
15 and nine. I don't really see how those are enforceable from  
16 my standpoint.

17 BZA CHAIR HILL: Okay, all right. We're going to  
18 keep moving on here. Okay. I heard what you said there, all  
19 right. So let's see. Does anybody have any more questions  
20 for the Applicant or the Office of Planning?

21 MEMBER WHITE: One question.

22 BZA CHAIR HILL: Sure.

23 MEMBER WHITE: With respect to having seats  
24 outside, do you have to go before any kind of Committee?

25 MR. HANSEN: If I were to go for seats, I have to

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1 -- my understanding is that I have to submit an application  
2 to DOT. Now for whatever I've done, because initially again  
3 here's my problem. I have a fenced in front yard. It's not  
4 my property, but it is my exclusive use and possession.

5 I put in a raised flowerbed in there, and I  
6 received a citation from DOT because I didn't submit plans  
7 in this public parking space and have a traffic study done.  
8 So I think if I sneeze in there, I have to go before the  
9 Department of Transportation.

10 BZA CHAIR HILL: Don't you mean the Department of  
11 Health?

12 MR. HANSEN: Well, if I don't clean up after  
13 myself, yeah.

14 MEMBER WHITE: So maybe that could be incorporated  
15 as part of the condition. Yeah, if you think it's required,  
16 or we can decide and leave it up to him to make sure that he  
17 checks that --

18 BZA CHAIR HILL: He has -- you have to go to  
19 Public Space. We don't have anything to do with the Public  
20 Space, right. So we'd have to -- okay. So you'd have to go  
21 to Public Space for that. Okay. Is there anyone here  
22 wishing to speak -- oh, is there anyone here from the ANC?  
23 Oh, I love it. Please come forward, and I say I love it  
24 because you guys have been sitting here for a while. That's  
25 why I'm, you know, I can, you know. If you could please

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1 introduce yourselves from right to left.

2 MS. EDELMAN: Heather Edelman, Commissioner for  
3 ANC 6C06.

4 MR. ECKENWILER: Mark Eckenwiler, Commissioner  
5 6C04, and we are both here as authorized by the full ANC.

6 BZA CHAIR HILL: Okay, all right. So both  
7 commissioners, you obviously have five minutes each, and you  
8 can go ahead, and if you'd like to go first, Commissioner,  
9 you're welcome to.

10 MS. EDELMAN: Sure, thanks. So Heather Edelman.  
11 I would --

12 BZA CHAIR HILL: Commissioner, if you can lean  
13 forward a little bit more in your microphone. I'm sorry.  
14 It's hard for me to hear up here for some reason.

15 MS. EDELMAN: So I just wanted to make sure you  
16 understood that ANC6C commissioners voted unanimously to  
17 support the application, subject to a few conditions. If you  
18 want, I'm not sure where you're going to go with the  
19 conditions issue. But for, you know, for a bigger picture,  
20 we wanted to commend the Applicant for revitalizing this  
21 corner of 6th and K, and developing an attractive and  
22 inviting and a well-maintained store.

23 He's serving the community, the community is happy  
24 with the establishment, and he's making a lot of welcome  
25 contributions to the local area. We believe certainly that

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1 modifying the BZA's controlling Order from 34 years ago is  
2 warranted, and we just want to make sure that the business  
3 under his ownership or a future owner retains its principle  
4 use as a grocery store, and with the fast food use remaining  
5 subordinate to that.

6 And I use fast food just because that's the term,  
7 but it's certainly not fast food like Mickey D's that he is  
8 providing. The conditions that the ANC approved were the 18  
9 seats. We didn't discuss where exactly they were.

10 MR. ECKENWILER: Eighteen indoors.

11 MS. EDELMAN: Eighteen indoors, uh-huh, sorry, and  
12 supported authorizing up to six seats outdoors, but of course  
13 subject to DDOT and public space approval. For the hours,  
14 we supported the Applicant's request to be open 7:00 to 9:00  
15 Monday through Saturday, 7:00 to 6:00 on Sunday.

16 Regarding delivery service, the ANC supported  
17 delivery during the full hours of operation, and we did  
18 request foot or bicycle just because of the traffic  
19 conditions. I understand we have no control over Uber Eats  
20 coming in with a car.

21 We supported expanding to the basement and  
22 certainly increasing employees. Two seems challenging and  
23 seven full-time equivalent as Applicant proposed seemed  
24 acceptable. So again, we appreciate the Applicant's efforts  
25 to greatly improve the area and the corner, and we

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1 unanimously supported the application.

2 BZA CHAIR HILL: Okay, thank you Commissioner.  
3 Does anyone have any questions for Commissioner Edelman?

4 (No response.)

5 BZA CHAIR HILL: Okay. Commissioner Eckenwiler?

6 MR. ECKENWILER: Thank you, Mr. Chairman. I won't  
7 repeat what Commissioner Edelman said. I do just want to  
8 elaborate on a couple of points that were made earlier. Mr.  
9 Hart asked a number of questions about the 1983 Order. Our  
10 view very emphatically is that the entirety of that 1983  
11 Order sets out the constraints of the allowed operation.

12 It describes a use and then the Board at the end  
13 of that Order this will not be not an offensive use. This  
14 use is consistent with the neighborhood, and it is based upon  
15 the kind of use that was described explicitly throughout that  
16 Order. So the number of employees, the hours and so on. So  
17 even though things like hours weren't listed on the last page  
18 of the Order, we very much interpret those and we agree with  
19 the position of the Zoning Administrator that those are in  
20 fact conditions on the operation.

21 If going forward the view of the ZA within DCRA  
22 is that it would be easier for enforcement, from an  
23 enforcement standpoint to have those listed as explicit  
24 conditions, that's really between you and the ZA. We think  
25 either way, it's a condition of the Zoning Order. It sets

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1 out the parameters for the use, as opposed to saying well you  
2 get a blank check. As long as you have two trash cans and  
3 a sign meeting certain characteristics, you can basically go  
4 to town. The rest of the Order is carrying weight as well.

5 And I did just want to, you know, remark on one  
6 thing. The Applicant implied at one point that this would  
7 be a matter of right use, but in fact if we look at the  
8 current corner store regs, one of the things they say is  
9 there shall be no on-site cooking of food. I raise that not  
10 to object, because that's something that was allowed under  
11 the 1983 Order and we support that.

12 But let's not, you know, labor under any illusions  
13 this would be matter of right under ZR 16. It's not, and  
14 that's 11 Subtitle Section 254.8, if anyone needs a citation  
15 for that. Obviously, I'm happy to answer questions, but I  
16 don't want to take up anymore of the Board's time. Thank  
17 you.

18 BZA CHAIR HILL: Okay, thank you. First of all,  
19 thank you all both for coming down. I know that I've seen  
20 one commissioner here a couple of times before, and so it  
21 does -- it obviously is important to the community that you  
22 come down, and thank you all much, very much for coming down.  
23 It is appreciated by us because we can ask questions more  
24 directly to the ANC members. Does the Board have any  
25 questions for either Commissioner?

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1           ZC CHAIR HOOD: Mr. Chairman, Mr. Eckenwiler or  
2 the other Commissioner, if you could -- and I forgot your  
3 name, I'm sorry Commissioner.

4           MS. EDELMAN: Edelman.

5           ZC CHAIR HOOD: Edelman, excuse me. In Condition  
6 8 I believe it is, it says there will be no table service  
7 provided. Is that one of the conditions you all worked out?

8           MS. EDELMAN: That we discussed it. It's what the  
9 Applicant -- that's what I thought the Applicant wanted, was  
10 to not provide table service.

11          ZC CHAIR HOOD: Oh, the Applicant wanted not to  
12 provide it. Because I know when I'm in Ward 1, I see all the  
13 little facilities like that. I see people waiting on tables  
14 all the time. So I didn't want to disenfranchise this guy.  
15 But if that's what you wanted, then I'm perfectly fine. If  
16 you're happy, I'm happier.

17          MR. HANSEN: I am prepared -- I did not plan to  
18 do table service.

19          ZC CHAIR HOOD: Okay, okay. We don't need to go  
20 no further. Okay, thank you.

21          BZA CHAIR HILL: Okay. So now I'm back to the --  
22 so do the Commissioners care whether there's table service  
23 or not? I don't understand. That's what I'm not clear on.

24          MS. EDELMAN: So as far as -- I guess I'm not  
25 expecting to have a restaurant on the corner. It's a corner

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1 store, and he makes some nice pizza and people can sit down  
2 and eat it if they want. But --

3 BZA CHAIR HILL: I guess I'm just trying to  
4 clarify. Limiting him from being able to provide table  
5 service, as far as I understand it, is that nobody can come  
6 and take your order and bring your pizza to the table. Do  
7 the Commissioners care whether or not there's table service?

8 MS. EDELMAN: You know, what the ANC voted on was  
9 as long as there is not table service.

10 BZA CHAIR HILL: Okay. So that's not -- okay, all  
11 right. Okay, all right. No more questions for the  
12 Commissioners? All right. Okay, sure please.

13 MEMBER WHITE: So your position is that the  
14 current regulations and the current Order allow for on-site  
15 cooking on the premises?

16 MS. EDELMAN: Yes.

17 MEMBER WHITE: Okay, thank you.

18 BZA CHAIR HILL: Okay, all right. Thank you all  
19 very much. Let's see. Is there anyone here wishing to speak  
20 in support of the application?

21 (No response.)

22 BZA CHAIR HILL: Is there anyone here wishing to  
23 speak in objection to the application?

24 (No response.)

25 BZA CHAIR HILL: All right. With that, would the

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1 Applicant like to add anything else? Go ahead, Mr. Hansen.

2 MR. HANSEN: Just in conclusion Chairman, as I've  
3 said before, on this application, I submitted the application  
4 because it had come to my attention that the Zoning  
5 Administrator interprets this Order, that all the findings  
6 of fact that occurred 34 years ago are part of the Order, and  
7 I am limited to that.

8 I wanted to do away with that limitation. What  
9 I ultimately -- what I truly wanted was simply to be able to  
10 operate this store within the full panoply of the regulations  
11 for corner stores in residential neighborhoods, with the  
12 added special exception allowing me to cook. Corner store  
13 can serve food. A corner store can have seating. A corner  
14 store can do all of these sort of things, but a corner store  
15 under the regulations may not cook.

16 I was granted that exception back in 1983, and as  
17 a result they want to limit me from everything else, and  
18 impose all of these restrictions on me. I simply ask not.  
19 But I am perfectly willing to accept the limitations that  
20 they impose, although I'm not happy, if they will allow me  
21 at least to do my business, to conduct my business, which the  
22 neighborhood wants.

23 The issue on seating on the outside, that's  
24 another issue for another day I believe, if I were to apply  
25 to Public Space for a public space permit for an outdoor

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1 café, which I have no desire to do. Just so that it's  
2 understood, I have no desire to have an outdoor café because  
3 I don't have an in-house consumption/drinking permit, and if  
4 people go out there I can't monitor whether or not they're  
5 going to be consuming beer, and I could lose my ABC license  
6 and I don't want that.

7           Also, if I have a lot of tables and chairs, what  
8 happens after I close and all that. So it's a lot of  
9 headaches. But what I would like ultimately would be to have  
10 a garden out there, with some benches so that people can sit.  
11 I find that this neighborhood, and here's my socialist rant  
12 again.

13           I've been told that my whole application was one  
14 big long rant, but this neighborhood has a dearth of open  
15 spaces for public use, and as a result the poorer people in  
16 the neighborhood sit out tables and chairs on the street, or  
17 they and out on the stoops, and they'll hang out on my stoop,  
18 which I don't oppose because they have no other place to go.

19           And if I can provide a little bit of a green place  
20 with some rules and regulations that allow no consumption of  
21 alcohol, no gambling, no this or that, that's really what I  
22 want. But if I limit it to six seats and I then have to  
23 apply for a sidewalk café, although I'm not going to serve  
24 and I have to pay a lot of money, it's not going to happen.  
25 That's it. I'm sorry.

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1 BZA CHAIR HILL: Okay, let's see. Yeah, Mr.  
2 Hansen. I think -- what's the name of the place again?

3 MR. HANSEN: Old City Market and Oven.

4 BZA CHAIR HILL: Old City Market and Oven. And  
5 where is it located again?

6 MR. HANSEN: 6th and K, N.E., 522 K Street, N.E.

7 BZA CHAIR HILL: Okay, all right. Okay. Let's  
8 see. Does the Board have any further questions for the  
9 Applicant?

10 (No response.)

11 BZA CHAIR HILL: Okay. I'm going to go ahead and  
12 close the hearing. Is the Board ready to deliberate? Okay.  
13 I am kind of interested -- well, all right. So the hearing  
14 is closed. We'll go ahead and deliberate. As far as the,  
15 you know, we as a board get feedback from a variety of  
16 different places.

17 You know again, the Office of Planning, the Zoning  
18 Administrator, the Office of the Attorney General, the  
19 different staff people that we have and there has been some  
20 discussion in terms of what the old Order said and, you know,  
21 the grocery use and Mr. Hart was mentioning whether or not  
22 this Applicant even needed to be here for this.

23 I could go and have that discussion as to whether  
24 or not this Applicant has to be here, and I'm willing to have  
25 that discussion. I am also just more in favor at this point,

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1 after all of the work that's gone through from all the  
2 different players, and also the understanding that the Zoning  
3 Administrator, had the Zoning Administrator's thoughts that  
4 if there were now conditions that were in the Order that  
5 previously were just part of the, you know -- finding of  
6 facts, thank you, I'm also fine with that.

7           So I just kind of, you know, depending upon you  
8 all want to do, I'd be moving forward and in support of this  
9 with the conditions that have been placed and agreed upon,  
10 except I would be taking away probably the no table service  
11 provided, because as Chairman Hood had mentioned, it's kind  
12 of difficult to enforce that. At the same time, I just don't  
13 understand -- I'm trying to do the best thing that I could  
14 in terms of providing more flexibility for the Applicant.

15           So that the neighborhood, if they want to get, you  
16 know, the paper plates served there to the table, then that's  
17 -- I don't want to stand in the way. So anyway, those are  
18 my thoughts, and I'm happy to hear what the rest of the Board  
19 has to say.

20           VICE CHAIR HART: Just a point of clarification,  
21 Mr. Chairman. You were -- you said that you would be okay  
22 with removing, I guess, Condition No. 8. But the other  
23 conditions you are -- I need to understand which conditions  
24 are we --

25           BZA CHAIR HILL: All the other -- I'd just be

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1 removing Conditions 8 and 9, and again primarily because  
2 Chairman Hood said it's kind of hard to enforce that one, and  
3 the -- and then also all of the other conditions the ANC, as  
4 well as the Applicant. I mean there were -- there was one  
5 further item that seemed to be different in terms of like the  
6 hours of operations, that Sunday was also going to be allowed  
7 at 7:00 a.m. So I would be also in favor of that.

8 So basically it would be from 7:00 to 9:00 Monday  
9 through Friday, and then from 7:00 to 9:00 on Saturday and  
10 then 7:00 to 6:00 on Sunday is what I got for the hours and  
11 so, but that's where I was.

12 VICE CHAIR HART: And the number of employees?  
13 Did you say that too?

14 BZA CHAIR HILL: Yeah, I'm sorry, exactly. In  
15 terms of like the 18 seats anywhere, the number of employees  
16 being at seven full-time however that configuration happens,  
17 and those are the only ones that I thought were in  
18 discrepancy.

19 VICE CHAIR HART: Yeah. Mr. Chairman, yeah. I  
20 think that the issue that I had was really around the --  
21 whether or not the conditions were really necessary. Whether  
22 or not this was -- that this was an actual Modification of  
23 Significance, because there were only two conditions that  
24 were actually included in the original case, it didn't seem  
25 as though that was -- that the other -- that the conditions

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1 that were being proposed now were actually kind of new  
2 conditions.

3 I understand the -- where the Zoning Administrator  
4 is coming from. I also understand that the Applicant has  
5 been through quite a bit of kind of push and pull through  
6 this process, and have some, you know, feeling that the  
7 Applicant would, you know, is having to go through all of  
8 this and it's a difficult thing to go through for a business  
9 that's actually already being used or being run, and it just  
10 seems as though it's not that helpful for you to have to go  
11 through all this process.

12 I do appreciate the ANC Commissioners coming down  
13 here, and I understand that there are, Mr. Eckenwiler brought  
14 up the issue about the findings of fact being the kind of in  
15 some ways the baseline for what was being approved by the BZA  
16 at that point. I was just making the point that it -- these  
17 were brand new conditions, and so that was the issue that I  
18 was, you know, having more of a problem with.

19 Mr. Hood brought up that these are generally  
20 conditions that are in Orders for these types of  
21 establishments. I haven't had to do a lot of these, so I  
22 appreciate that information. The bicycle one was a little  
23 bit odd to me, the deliveries was a little bit odd to me  
24 because of the Uber and all the other kind of delivery types  
25 of services that are out there, that I just wasn't sure how

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1 to, you know, to deal with -- to understand how you could  
2 address or enforce that was hard.

3 I mean I don't have an issue with the -- with the  
4 rest of the conditions that the Chairman just spoke about.  
5 I just thought it was just -- it seemed a little bit off to  
6 actually have to go through that process, because I thought  
7 it was somewhat of an unnecessary process. But I can  
8 actually be supportive of the -- and I am supportive of the  
9 conditions as they are.

10 Again, it was just trying to understand whether  
11 or not that whole process was necessary. But we are here now  
12 so, and I'll leave it at that.

13 MEMBER WHITE: I guess I'll chime in too. I  
14 didn't see any specific problems with this, other than the  
15 fact that, you know, this was an Order from 1983. I wasn't  
16 sitting on the BZA during that time, but where was I? I was  
17 still in college. So it's kind of interesting that you're  
18 having to come back all these years later just to kind of  
19 clarify things that are -- that should have been in the Order  
20 that are part of the findings of fact.

21 So now I kind of definitely understand why it's  
22 important to have clarification in orders, you know, when we  
23 make rulings. But the issues surrounding what the  
24 neighborhood has said regarding your property, it sounds as  
25 though the neighborhood is in support of the work you're

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1 doing, that it's an added business that is kind of integrated  
2 into their lives. ANC is supportive.

3 I'm glad we were able to kind of specify some of  
4 the specifics that should have been in there, like the issues  
5 regarding the hours of operations, employees that you're  
6 going to be bringing in, as well as seating. So unless  
7 there's something I'm missing from a procedural perspective,  
8 I am supportive of the request.

9 ZC CHAIR HOOD: Mr. Chairman, I would agree with  
10 all the comments I've heard thus far from my colleagues. To  
11 me, I just look at this Order as the Commissioner mentioned  
12 about the findings of fact and the old Order, I think, still  
13 carries. But formatting has changed over the years. This  
14 actually started probably around the time I first got on,  
15 when we started trying to craft conditions and make them more  
16 explicit and make them more clear for predictability.

17 To me, I know it put this Applicant through some  
18 -- and there were some other factors involved. But I think  
19 this is more clean than what has been done previously, and  
20 I'm going to be voting in favor of it as is now. I do want  
21 to say while I said those conditions I don't think are  
22 enforceable, they may be. But then that puts you in a whole  
23 other ball game and having the proof and it's almost like  
24 being a private detective.

25 I just would hope he would continue to be the good

1 neighbor from what I'm hearing for the most part and, you  
2 know, the ANC. You have a great ANC over there who works  
3 very hard and I'm hoping you would continue that good  
4 relationship. If there was a problem, I'm sure they can do  
5 it without us. So that's my comments, Mr. Chairman.

6 BZA CHAIR HILL: And so just for clarity for me,  
7 Chairman Hood, you don't have any objection to removing  
8 Condition 8?

9 ZC CHAIR HOOD: Eight or nine, but I heard -- I  
10 don't want to interfere with the work that the ANC has done  
11 so, you know, I really -- whatever you all decide. But I  
12 just know I don't think 8 and 9 are enforceable from my  
13 standpoint, because why bring you -- if I'm working there I  
14 don't know who's bringing your pizza to the table. So I mean  
15 that's just --

16 BZA CHAIR HILL: Okay, all right. Okay, all  
17 right. Okay. Then I want to make a motion to approve  
18 Application -- help me out please -- Application No. 13991-A  
19 with the conditions, and I'm going to read them again.  
20 Exterior signage shall be limited to one non-illuminated sign  
21 located on the K Street entrance; at least two garbage  
22 receptacles shall be placed on the subject site and all parts  
23 of the lot shall be kept free of litter and debris.  
24 Commercial trash pickup shall be a minimum of two times per  
25 week.

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1           There will be a maximum of seven full-time  
2 employees. Hours of operations shall be limited to 7:00 a.m.  
3 to 9:00 p.m. Monday through Friday, 7:00 to 9:00 p.m. on  
4 Saturday and 7:00 a.m. to 6:00 p.m. on Sunday. Deliveries  
5 to the market shall be between the hours of 9:00 a.m. and  
6 5:00 p.m.

7           Seating is limited to 18 people anywhere in the  
8 building. If seating is allowed in the public space, it will  
9 be in addition to the seating allowed in the building in  
10 Condition 6 that is, and then that is my motion. Asking for  
11 a second.

12           ZC CHAIR HOOD:     Second.

13           BZA CHAIR HILL:    The motion has been made and  
14 seconded. All those in favor?

15           (Chorus of ayes.)

16           BZA CHAIR HILL:    All those opposed?

17           (No response.)

18           BZA CHAIR HILL:    The motion passes. Mr. Moy.

19           SECRETARY MOY:     Staff would record the vote as  
20 4 to 0 to 1, this on the motion of Chairman Hill to approve  
21 the application for the relief requested along the conditions  
22 as he's read into the record. Second the motion Mr. Anthony  
23 Hood. Also in support Ms. White and Vice Chair Hart, with  
24 a Board seat vacant. Motion carries, sir.

25           BZA CHAIR HILL:    Thank you. Summary Order, Mr.

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1 Moy?

2 SECRETARY MOY: Yes sir.

3 BZA CHAIR HILL: Good luck, Mr. Hansen.

4 MR. HANSEN: Thank you very much.

5 BZA CHAIR HILL: So we are going to go out of  
6 order here, and we are going to take a two minute break. But  
7 I am going to try to get out of here relatively  
8 expeditiously. However, the last case we are going to move.  
9 There was an error in the Order. Where is my agenda? So the  
10 next case is going to 19588, followed by 19547, and we're  
11 going to close with 19587, just to let you all know, and two  
12 minute break. Thank you.

13 (Whereupon, the above-entitled matter went off the  
14 record at 12:24 p.m. and resumed at 12:31 p.m.)

15 BZA CHAIR HILL: All right Mr. Moy, whenever you  
16 like.

17 Case No. 19588, Application of John Goodwyn

18 SECRETARY MOY: All right, thank you Mr.  
19 Chairman. It's 12:32. All right, the next application, if  
20 I can have parties to the table, to Application 19588 of John  
21 Goodwyn, captioned Advertiser Special Exception Relief under  
22 -- this is under Subtitle D, Section 5201, from the occupancy  
23 requirement; Subtitle D, Section 304.1 and the rear yard  
24 requirements; Subtitle D, Section 306.2.

25 This would construct a rear deck addition to a one

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1 family dwelling, R3 zone. This is at 2334, I'm not sure how  
2 to pronounce it as Huidekoper, copper, H-U-I-D-E-K-O-P-E-R  
3 Place, N.W., Square 1301, Lot 680.

4 BZA CHAIR HILL: Okay great, thank you. If can  
5 you please introduce yourself?

6 MR. GOODWYN: Good morning. My name is John  
7 Goodwyn.

8 BZA CHAIR HILL: Great. Mr. Goodwyn, how do you  
9 pronounce where you live?

10 MR. GOODWYN: Huidekoper, I think.

11 BZA CHAIR HILL: Okay, good enough. All right.  
12 So Mr. Goodwyn, if you can go ahead and just give a brief  
13 overview as to what you're trying to and how you've met the  
14 standard for us to grant the relief. I mean from the record,  
15 I think that it's pretty clear into what again you're trying  
16 to do. But we would like to give you an opportunity to let  
17 us know.

18 The Office of Planning was also thinking that you  
19 needed relief from C-202. I don't know if you're aware of  
20 that or understand what that means.

21 MR. GOODWYN: I don't fully understand it. I am  
22 aware of it. We've had conversations back and forth about  
23 it. It's fine with me.

24 BZA CHAIR HILL: Okay.

25 MR. GOODWYN: There's nothing about it I oppose.

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1 BZA CHAIR HILL: Okay, all right. And Mr. Moy,  
2 you didn't read that when you read it, did you?

3 SECRETARY MOY: No, not yet.

4 BZA CHAIR HILL: Okay, all right. There you go.  
5 All right. So please Mr. Goodwyn, begin whenever you're  
6 like, and I'm going to just give you like five minutes here  
7 to go ahead. All right, thanks.

8 MR. GOODWYN: Perfect. We have an existing deck  
9 in our backyard that's old and tired, and we would like to  
10 demolish it and build a new one that's slightly larger. The  
11 size of the new deck will not exceed the pushback of our  
12 neighbors to one side's extension and our neighbors to the  
13 other side's deck. It will, however, eat into the setback  
14 from the alley, and it will eat into the lot usage. That's  
15 essentially it. It's going to be a new deck and a  
16 replacement of a deck and a replacement of a shed.

17 BZA CHAIR HILL: Okay. Does the Board have any  
18 questions of Mr. Goodwyn?

19 (No response.)

20 BZA CHAIR HILL: All right. I'm going to turn to  
21 the Office of Planning.

22 MR. JESICK: Thank you Mr. Chairman and Members  
23 of the Board. My name is Matt Jesick. The Office of  
24 Planning is happy to rest on the record in support of this  
25 application. I'd be happy to take any questions. Thank you.

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1           BZA CHAIR HILL: Mr. Jesick, I've read through the  
2 Office of Planning's report and I think it's been very  
3 concise. Thank you very much. Does anyone have any  
4 questions of the Office of Planning?

5           (No response.)

6           BZA CHAIR HILL: All right. Mr. Goodwyn, do you  
7 have any questions of the Office of Planning?

8           MR. GOODWYN: No sir.

9           BZA CHAIR HILL: Okay. Is there anyone here from  
10 the ANC?

11          (No response.)

12          BZA CHAIR HILL: Is there anyone here wishing to  
13 speak in support?

14          (No response.)

15          BZA CHAIR HILL: Is there anyone here wishing to  
16 speak in opposition?

17          (No response.)

18          BZA CHAIR HILL: All right, Mr. Goodwyn. There  
19 was a reason why you were next. Is there anything else you  
20 would like to add?

21          MR. GOODWYN: No sir.

22          BZA CHAIR HILL: All right. Is there anything  
23 else the Board would like to ask Mr. Goodwyn?

24          (No response.)

25          BZA CHAIR HILL: All right. I'm going to go ahead

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1 and close this hearing. Is the Board ready to deliberate?  
2 Would someone else like to deliberate? No, all right. I've  
3 gone over the record and as indicated from the hearing here,  
4 I didn't really have any questions about anything. I thought  
5 it was very clear cut. In terms of the analysis the Office  
6 of Planning had provided and I would agree with that  
7 analysis, as well as the analysis and support, I should say,  
8 of ANC 3B.

9           There was also a petition with some signatures in  
10 support, although that doesn't necessarily convey to the  
11 zoning issues. But I don't have any questions. Does anyone  
12 have anything else to add?

13           MEMBER WHITE: My only comment would be whether  
14 or not we need to add Subtitle C, Section 202 under non-  
15 conforming structure.

16           BZA CHAIR HILL: I would think we'd go ahead and  
17 add that in as well. Okay, all right. So that being the  
18 case, then I'd make a motion to approve Application No. 19588  
19 of John Goodwyn, pursuant 11 DCMR Subtitle X, Chapter 9 for  
20 a special exception under Subtitle D, 5201, as well as C 202  
21 from the lot occupancy requirements of Subtitle D, 304.1 and  
22 the rear yard requirements of Subtitle D, 306.2, to construct  
23 a rear deck addition to a one family dwelling and R3 zone on  
24 premises 2334, and I've put myself in a spot, H-U-I-D-E-K-O-  
25 P-E-R Place, N.W., Square 1301, Lot 680 and ask for a second.

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1 MEMBER WHITE: Second.

2 BZA CHAIR HILL: Motion has been made and  
3 seconded. All those in favor?

4 (Chorus of ayes.)

5 BZA CHAIR HILL: All those opposed?

6 (No response.)

7 BZA CHAIR HILL: The motion passes Mr. Moy.

8 SECRETARY MOY: Staff would record the vote as  
9 4 to 0 to 1. This is on your motion Mr. Chairman, including  
10 the application be amended to include the non-conforming  
11 structure provision, Subtitle C, Section 202. Second the  
12 motion Ms. White. Also in support Mr. Anthony Hood, Vice  
13 Chair Hart. We have a Board seat vacant. The motion  
14 carries.

15 BZA CHAIR HILL: Thank you. Summary Order, Mr.  
16 Moy.

17 SECRETARY MOY: Thank you.

18 BZA CHAIR HILL: Thank you.

19 MR. GOODWYN: Thank you, sir.

20 (Pause.)

21 Case No. 19547, Application of Helmus and Rudavsky

22 SECRETARY MOY: All right. Next case before the  
23 Board I believe, if I can have parties to the table to  
24 Application No. 19547 of Todd Helmus and Rena Rudavsky. This  
25 is a special exception application under Subtitle C, Section

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1 703.2 (b) from the minimum lot or rather minimum parking  
2 requirements of Subtitle C, Section 701, which would convert  
3 an existing accessory building into additional living space  
4 for an existing one family dwelling, RF-1 zone at premises  
5 714 4th Street, N.E., Square 777, Lot 68.

6 BZA CHAIR HILL: Thank you, Mr. Moy. If you'd  
7 please introduce yourselves?

8 MR. HELMUS: Todd Helmus. I'm the Applicant at  
9 714 4th Street.

10 MS. BOYETTE: Melissa Boyette. I'm an architect  
11 with Old City Design Studio. I live at 1317 D Street, N.E.

12 BZA CHAIR HILL: Okay, great. Did you guys get  
13 sworn in earlier?

14 (No response.)

15 BZA CHAIR HILL: Okay, great. All right. So I  
16 guess Ms. Boyette, are you going to be presenting? Okay.  
17 So I think the record is pretty clear. I don't have a lot  
18 of questions, unless the Board has any other particular  
19 questions. I'd just like to kind of hear a little bit about  
20 what it is you're trying to do and how you're meeting the  
21 standard for us to grant the relief.

22 I'm going to go ahead and just put five minutes  
23 on the clock, just so I know where we are. Thank you.

24 MS. BOYETTE: I'll take less. So just to describe  
25 a little bit, it's an existing accessory structure behind a

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1 rowhouse. The volume of the accessory structure is not  
2 changing at all. The structure will be used as a secondary  
3 principal dwelling unit, and there's a brick wall behind,  
4 that is on the alley.

5 There's a 16 foot alley behind the house, I'm  
6 sorry behind the garage, and we are -- as I mentioned there's  
7 no change to light and air because the volume of the  
8 structure is staying as it is, and we're just requesting the  
9 relief from the parking.

10 It's right near H Street, very close to Union  
11 Station. So that was our justification for eliminating the  
12 parking space.

13 BZA CHAIR HILL: Does the Board have any questions  
14 of the Applicant?

15 (No response.)

16 BZA CHAIR HILL: All right. I'll turn to the  
17 Office of Planning.

18 MS. VITALE: Good afternoon Mr. Chair, Members of  
19 the Board, Elisa Vitale with the Office of Planning, and we  
20 will rest on the record in support of the Applicant's relief  
21 request. I'm happy to answer any questions. Thank you.

22 BZA CHAIR HILL: Okay, Ms. Vitale. Thank you for  
23 your report. I thought it was also very clear. Does the  
24 Board have any questions of the Office of Planning?

25 (No response.)

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1 BZA CHAIR HILL: Okay. Does the Applicant have  
2 any questions of the Office of the Planning?

3 (No response.)

4 BZA CHAIR HILL: Okay. Is anyone here from the  
5 ANC?

6 (No response.)

7 BZA CHAIR HILL: Is there anyone here wishing to  
8 speak in support?

9 (No response.)

10 BZA CHAIR HILL: Is there anyone here wishing to  
11 speak in opposition?

12 (No response.)

13 BZA CHAIR HILL: All right. We'll come back to  
14 the Applicant. Is there anything else you'd like to add?  
15 Any final questions of the circle that I've just read from  
16 the Board? No, all right. Okay. I'm going to close the  
17 hearing. Is the Board ready to deliberate?

18 VICE CHAIR HART: Sure, Mr. Chairman.

19 BZA CHAIR HILL: Okay, please.

20 VICE CHAIR HART: Yeah. I appreciate the  
21 Applicant providing their testimony as well as the Office of  
22 Planning's testimony and the Office of Planning's report.  
23 I felt that the Applicant has, you know, met the criteria  
24 that was set forth in the zoning regulations. I note that  
25 DDOT did indicate that the Applicant's submissions satisfied

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1 its requirements for TDM plan and they supported their relief  
2 requested.

3 I don't think that there's much of a large case  
4 here. I think you've shown that, and I would be supportive  
5 of this and would make a motion, if no one else has any other  
6 comments.

7 MEMBER WHITE: Mr. Vice Chair, I support your  
8 motion and second it.

9 VICE CHAIR HART: Actually, I haven't made the  
10 motion yet.

11 MEMBER WHITE: Okay, oh.

12 VICE CHAIR HART: I make a motion for, to approve  
13 Case No. 19547 as read by the Secretary and amended for, I  
14 don't remember the -- not amended but --

15 (Simultaneous speaking.)

16 MEMBER WHITE: Sorry I jumped the gun there, Mr.  
17 Vice Chair. Yes, I second your motion for Application 19547.

18 BZA CHAIR HILL: Okay. Motion has been made and  
19 seconded. All those in favor?

20 (Chorus of ayes.)

21 BZA CHAIR HILL: All those opposed?

22 (No response.)

23 BZA CHAIR HILL: Motion passes. Mr. Moy.

24 SECRETARY MOY: Staff would record the vote as  
25 4 to 0 to 1, this on a motion of Vice Chair Hart to approve

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1 the application as requested, seconding the motion Ms. White.  
2 Also in support Mr. Anthony Hood and Chairman Hill, a Board  
3 seat vacant. The motion carries.

4 BZA CHAIR HILL: Summary Order, Mr. Moy?

5 SECRETARY MOY: Yes sir. Thank you.

6 BZA CHAIR HILL: Thank you. Thank you all.

7 (Pause.)

8 MR. DETTMAN: Mr. Chairman? Mr. Chairman, I'm  
9 sorry to interrupt. With the switch-up in the agenda order,  
10 Dennis Hughes from the attorney representing the Applicant  
11 had to run down and throw some more money in the meter.

12 BZA CHAIR HILL: Okay.

13 MR. DETTMAN: He went down with the break, so  
14 he'll be up in just a minute.

15 BZA CHAIR HILL: Okay, okay.

16 MR. DETTMAN: Before you called the case. I'm  
17 sorry.

18 BZA CHAIR HILL: Let's just take a couple of  
19 minutes here. Let's do that, okay, until the person gets  
20 here. Oh, the person got here. Okay, all right. Then Mr.  
21 Moy, you can go ahead -- oh no, that's -- oh okay. There's  
22 another person we're waiting on in terms of the -- there's  
23 a parking meter issue or something. So we'll just wait a  
24 couple of minutes. Thank you.

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

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1 record at 12:43 p.m. and resumed at 12:44 p.m.)

2 Case No. 19587, Application of Ace Cash Express, Inc.

3 SECRETARY MOY: All right. I believe Mr.  
4 Chairman the Applicants' full entourage is here. So to read  
5 the case, Application No. 19587 of Ace Cash Express, Inc.  
6 This is a request -- this is a special exception under  
7 Subtitle H, Section 1200 from the designated use requirements  
8 of Subtitle H, Section 1101.3(a), to permit a financial  
9 service use in the NC-9 zone at premises 512 H Street, N.E.,  
10 Square 832, Lot 13.

11 I believe Mr. Chairman in your record there's a  
12 request for party status under Exhibit 35, which was untimely  
13 filed.

14 BZA CHAIR HILL: Okay, great. Thanks, Mr. Moy.  
15 Yeah, we'll get to that party status item first. But first,  
16 before we do that, if we could just please if you'd introduce  
17 yourselves?

18 MR. HUGHES: Good afternoon, Mr. Chairman. I'm  
19 Dennis Hughes, an attorney with Holland and Knight, land use  
20 counsel for the Applicant.

21 MR. NORRINGTON: I'm Eric Norrington with Ace Cash  
22 Express.

23 MR. DETTMAN: Good afternoon. Shane Dettman,  
24 Director of Planning Services with Holland and Knight.

25 BZA CHAIR HILL: Okay. Is the person here who was

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1 requesting party status here? If you could come forward?  
2 Just go ahead and push that button there, and if you'd  
3 introduce yourself for the record?

4 MR. LEFEBURE: Yeah. My name is Jason Lefebure.  
5 I'm a resident of the District of Columbia, a property owner  
6 of 510 H Street.

7 BZA CHAIR HILL: Okay. Let's see. Did you all  
8 get sworn in earlier?

9 (No audible response.)

10 BZA CHAIR HILL: Okay, all right. So Mr.  
11 Lefebure, Lefebure? So Mr. Lefebure, I guess there's two  
12 issues really. One is again trying to find out specifically  
13 why you think you should be given party status, and then the  
14 second is that there's an issue with the untimely nature of  
15 your filing. So I guess first if you could tell the Board  
16 why you think that your situation is unique in terms of your  
17 relationship to this case, and then secondly, just why your  
18 filing is untimely.

19 MR. LEFEBURE: Sure. So I'll start with the  
20 latter first. Basically, it's filed untimely because I'm not  
21 up to speed necessarily of when these things are due and so  
22 forth. You know, I had been speaking with other neighbors  
23 and ANC party folks in the neighborhood, and they said no,  
24 you have to follow this process if you want to be in  
25 opposition as a party. So that ultimately was the late

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1 filing reason. I just was simply not aware of the procedure.

2 As far as why I should be a party to this, I am  
3 the neighbor of this property and I have, you know, strong  
4 feelings about what is on our block, how it's transitioning,  
5 what's evolving, as well as what's in the neighborhood. And  
6 also as a property owner, how that could possibly impact my  
7 future investment.

8 BZA CHAIR HILL: Okay, let's see. So I don't know  
9 what the Board has to say and I will let them weigh in. I  
10 mean I really don't -- I mean the untimely nature of your  
11 filing is like a day or two days. It's like eight days, I  
12 mean and so it is somewhat substantial. However, you know,  
13 you being the adjacent party that -- well really -- so if you  
14 were an attorney, I wouldn't think twice about -- well I  
15 shouldn't say I wouldn't think twice.

16 I would be much more comfortable about not  
17 allowing you a party status because it's your job. The fact  
18 that you're just, you know, a citizen that didn't understand  
19 the process and were late, I would be more inclined -- I  
20 would be more inclined to grant you party status, not only  
21 because of that but also because you are the adjacent  
22 neighbor. Does the Board have any thoughts before -- on that  
23 comment?

24 MEMBER WHITE: Yeah. I agree with your comments,  
25 Mr. Chair. Because he's an adjacent neighbor, I'm really

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1 interested in what he has to say. So he doesn't necessarily  
2 have to have party status for that, but I would have no  
3 problem at this point in granting party status for him.

4 ZC CHAIR HOOD: I would agree, Mr. Chairman,  
5 because I think that the party status is how you're uniquely  
6 affected and how you're impacted more than anyone else in the  
7 common area. But I think when you -- again, I would go along  
8 with the Chairman. You want to kind of make sure how you're  
9 uniquely affected and how it's going against you, as opposed  
10 to generalizing and making everyone else. Because you have  
11 to basically specified out of why it's a problem for you.  
12 But anyway, I just -- in other words, long story short, you  
13 don't want to include everybody in the neighborhood, if you  
14 look at the rule it talks about how you're distinctly and  
15 uniquely affected on account of a proposed zoning action,  
16 that of others in the general public.

17 That's what it says. So but anyway, as the  
18 Chairman's already mentioned, I would concur that you can  
19 have party status.

20 BZA CHAIR HILL: Okay, all right. So -- I'm  
21 sorry. Mister --

22 MR. LEFEBURE: Lefebure.

23 BZA CHAIR HILL: Lefebure, thank you.

24 MR. LEFEBURE: It's like I left my beer some  
25 place.

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1           BZA CHAIR HILL: That's great. All right. So Mr.  
2 Lefebure, you're going to get -- we're going to grant you  
3 party status, and so what that means is you'll have an  
4 opportunity to present also in the same amount of time as the  
5 Applicant. You will have an opportunity to cross examine,  
6 and also then I think an opportunity -- I lost my LAG there  
7 for a second, but we'll give you an opportunity to a  
8 conclusion, and you'll also have an opportunity to ask  
9 questions of everybody. You're now a party. Do you kind of  
10 understand how party status works?

11           MR. LEFEBURE: I think so. I'm not sure.

12           BZA CHAIR HILL: Okay, that's all right. So we'll  
13 walk you through it. We've done this before. The only thing  
14 I would like to again specify, and this is something that I  
15 really want to try get ahold of. In terms of cross-  
16 examination, and this is something that again people that  
17 aren't professional attorneys sometimes they get a little  
18 carried away, it's just about whatever the testimony was that  
19 was being given.

20           You're not like stating your case. You'll have  
21 an opportunity to state your case. It's just kind of, you  
22 know, asking questions of whatever it was that the Applicant  
23 had presented, okay? We'll do our best to kind of walk you  
24 through.

25           ZC CHAIR HOOD: Mr. Chairman, you do have an

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1 objection from the Applicant. We might want to speak on  
2 that.

3 BZA CHAIR HILL: Oh sorry. No, sure. Of course,  
4 I'm sorry.

5 MR. HUGHES: Well I mean thank you, Mr. Hood and  
6 our objection is noted in the record that we submitted  
7 yesterday, while we didn't believe this individual qualifies  
8 for party status. But I take your joke about lawyers in good  
9 humor. But I would just note that Mr. Lefebure has been  
10 before this Board on at least three occasions as an  
11 Applicant. So he has some experience with how the rules  
12 work.

13 BZA CHAIR HILL: Okay, that's fine. So I  
14 appreciate it, and again Mr. Hughes, it's your job to object  
15 to things that are coming up for your client. So I  
16 appreciate that objection, and so you know, again the way  
17 we're getting to this is he's the adjacent neighbor. I mean  
18 if he was -- if he was like three doors down or something,  
19 I doubt that we would have given him party status. But  
20 again, so okay. But objection noted.

21 MR. HUGHES: Thank you.

22 BZA CHAIR HILL: Okay. All right. So that all  
23 being the case, Mr. Dettman, I guess, you're going to be  
24 presenting, is that correct? Or no, Mr. Hughes.

25 MR. HUGHES: I'll be very quickly giving a

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1 summary, and then I'll turn it over to Mr. Norrington and  
2 then to Mr. Dettman for technical compliance summary. We've  
3 already provided it in our prehearing statement, but he'll  
4 give it some additional color.

5 BZA CHAIR HILL: Okay, great. And Mr. Lefebure.  
6 Can you say it again?

7 MR. LEFEBURE: Lefebure.

8 BZA CHAIR HILL: Lefebure, Mr. Lefebure. So  
9 you'll have the same amount of time that they have, okay?

10 MR. LEFEBURE: Sure.

11 BZA CHAIR HILL: Okay, all right. Whenever y'all  
12 would like to start.

13 MR. HUGHES: okay, great. Good afternoon Mr.  
14 Chair, Members of the Board, Dennis Hughes, as I mentioned  
15 before with Holland and Knight here on behalf of the  
16 Applicant, Ace Cash Express. Mr. Chair, one other  
17 preliminary matter. We'd like to introduce Mr. Dettman as  
18 an expert witness in zoning and planning. He has been  
19 qualified by this Board before I believe, and excuse me, his  
20 resume is in our prehearing statement.

21 BZA CHAIR HILL: Okay, yeah. I thought Mr.  
22 Dettman, aren't you already in the book, our book as an  
23 expert?

24 MR. DETTMAN: I am.

25 BZA CHAIR HILL: Okay, yeah. Okay. So we'll

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1 allow him in as an expert. Thank you, Mr. Hughes.

2 MR. HUGHES: Thank you very much. So we're here  
3 before you this afternoon to request special exception  
4 approval to allow financial services use to exceed the 20  
5 percent ground floor level restriction in the NC-9 zone. As  
6 you'll hear from our witnesses, this approval is needed to  
7 allow the Applicant to relocate within a half block of its  
8 current and long-standing location.

9 The Applicant very much wants to remain in this  
10 community. However, the existing location is scheduled for  
11 a total renovation that will require the Applicant to find  
12 a new home after nearly 30 years. The proposed location is  
13 within a few storefronts of the existing location, but has  
14 a much smaller footprint. It's a single story building with  
15 a ground floor that's less than 1,500 square feet and has  
16 been vacant for a number of years.

17 Given its small size, technical compliance with  
18 the 20 percent limit's not feasible, and special exception  
19 approval is thus requested. Before I turn to our witnesses,  
20 I'd like to note that the hearing record includes a  
21 recommendation of support from the Office of Planning at  
22 Exhibit 34. We appreciate their review and input, and we  
23 request that the Board grant the Office of Planning the great  
24 weight to which it's entitled.

25 There's also a report from the Department of

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1 Transportation at Exhibit 22 indicating no objection. The  
2 Applicant has undertaken extensive outreach in the community.  
3 We are pleased to note a number of letters of support that  
4 have been submitted to the record, including from the not Mr.  
5 Lefebure but the owner to the immediate east of the property  
6 at 514 H Street, N.E.

7           That is -- that was submitted to the record. I  
8 don't have the exhibit number, but it was submitted I believe  
9 yesterday. And also we have letters of support from business  
10 owners immediate across the street from the subject property,  
11 and we submit into the record a petition of nearly 300  
12 signatures in support.

13           Finally, I'd like to confirm that the Board has  
14 received our prehearing statement that I keep referencing in  
15 Exhibit 31, and that sets forth in more detail our compliance  
16 with the burden of proof in this case, and which Mr. Dettman  
17 will summarize. Now I'd like to introduce Mr. Eric  
18 Norrington, senior vice president of Ace, and would you  
19 please present your testimony?

20           MR. NORRINGTON: Good afternoon, Mr. Chairman,  
21 Members of the Board. I'm Eric Norrington for the record.  
22 I'm here to speak on behalf of Ace Cash Express. A little  
23 background on our company. We were found in 1968. We're  
24 going to celebrate our 50th anniversary as an ongoing  
25 business next year. We have about 1,000 stores in 22 states

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1 and the District of Columbia.

2           We opened the store that is the subject of this  
3 hearing in 1990. So we've been serving this community and  
4 been on that street corner for about 27 years. We're a  
5 leading retailer of financial services to the unbanked and  
6 underbanked, including check cashing, bill payment. We have  
7 a fast-growing prepaid debit card platform, which in fact  
8 takes the unbanked to being banked with an FDIC insured  
9 institution. On an annual basis, we see about 32 million  
10 customer visits every year across our entire store network.

11           Sometimes we hear that -- or people are concerned  
12 that we're not regulated. Believe me, we are regulated. We  
13 are regulated by the federal government, and we are  
14 regulated, as I'll get to in just a moment, by the District.  
15 But this is just to give you the menu of federal regulations  
16 that we have to adhere to. We also are registered as a MSB,  
17 money service business with the federal government, and we  
18 are examined by the federal government.

19           But we are -- and much like a bank, we have to  
20 report to the Treasury Department and FinCEN, etcetera,  
21 etcetera, on transactions. So while the front of our house  
22 may look like a retail establishment, the back of our house  
23 looks like a bank. And then here in the District, we are  
24 regulated by the Department of Insurance, Securities and  
25 Banking. We have 12 active licenses. We also have a money

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1 transmitter license.

2           In the last 12 months, we've received only two  
3 customer complaints within the District, and on our most  
4 recent Washington, D.C. money transmitter and check cashing  
5 exam by the Department of Insurance, Securities and Banking,  
6 we were rated satisfactory and received no violations.

7           Getting down to what's going on on H Street and  
8 our store number 618, we're a pretty good employer. We pay  
9 benefits. We have a 25 percent matching 401(k) against  
10 employee contributions, and we recap here salaries, benefits,  
11 etcetera. I won't go through all of these.

12           Our customer transactions are really spread across  
13 the District. We find that our stores are patronized by  
14 people where they live and where they work, and where it's  
15 convenient for them to transact. So this merely recaps that,  
16 gives you the volume of checks that we cash, the money orders  
17 and the bill payments. The bill payment business is a  
18 growing business for us. This is where you can come in at  
19 the last minute and pay your utility bill. Our computer  
20 talks to the utility computer. You get a receipt and you're  
21 paid and that's great peace of mind to our customers.

22           We're also active. One of our core values is  
23 community commitment, and we work with a number of charities  
24 across the country. Here in the District, we've worked for  
25 many years with a charity calls MenzFit, that helps

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1 individuals get back into the workforce. We provide money  
2 for them for financial literacy training, interview skills  
3 and so on. I believe we have a letter of support from the  
4 founder, Brenda Willingham.

5           So we look at the existing property that we would  
6 like to move to and renovate, and these are the existing  
7 conditions. Then we are planning to transform the building,  
8 as you see here. At the ANC meeting, one of the preliminary  
9 ANC meetings, I guess we got some feedback about the size of  
10 the windows. So we did -- that's the third rendering there,  
11 the second new rendering.

12           We think it was a great idea, because it allows  
13 more light in. I think it makes the building more  
14 attractive. So we're happy to do that, and that's part of  
15 our submission today. We also, I think has been mentioned,  
16 we've received the support from the community. We notified  
17 some of our long-standing neighbors of our situation and they  
18 stepped up and wrote letters very complimentary about our  
19 staff.

20           With many of these businesses, we share customers.  
21 They send customers to us, we send customers to them. As I  
22 said, we've been part of the community for 27 years and we  
23 think we're a good neighbor and we think we're an important  
24 part of the life in the District.

25           So because it's difficult for our customers to

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1 come forward, we think it's important that you hear from the  
2 voice of the customer. So we set up a camera in the lobby  
3 of our store there on H Street, and we asked some of the  
4 customers to tell you a little bit about their experience  
5 with Ace.

6 [VIDEO PLAYS.]

7 MR. HUGHES: Okay, thank you, Eric. Just to close  
8 our presentation, I'd like to ask Mr. Dettman to summarize  
9 our statement in compliance, on how the application meets the  
10 various burdens under the multiple special exceptions test  
11 for this zone.

12 MR. DETTMAN: Good afternoon Mr. Chairman and  
13 Members of the Board, Chairman Hood. My testimony today will  
14 first introduce some aspects of the subject property,  
15 specifically those that are relevant to the area of relief  
16 that we're requesting today. Looking quickly at the subject  
17 property, you can see here on an excerpt of the zoning map  
18 the subject property is located in the NC-9 zone. This other  
19 dot here off to the right here is actually the existing  
20 location of the Ace Cash Express retail store, which again  
21 has been there for approximately 30 years, about 27 years.

22 So as Mr. Hughes said, the proposal is just to  
23 relocate the existing store only a few storefronts away, and  
24 again the subject property is located in the NC-9 zone. The  
25 NC-9 zone is one of several zones collectively referred to

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1 as the H Street, N.E. neighborhood mixed use zones. Those  
2 zones are intended to, among other purposes, to encourage  
3 clustering of uses into unique subdistricts.

4 The subject property is located in the old H  
5 Street residential subarea under ZR-58 when the H Street  
6 overlay was created. The purposes of the NC zones also is  
7 to establish design guidelines for new and rehabilitated  
8 buildings. Here you can see the subject property within its  
9 context on the 500 block of H Street.

10 It's a fairly low or moderate scale block. You  
11 can see with a range of uses ranging from retail office. We  
12 have an office building immediately to our west at 510 H  
13 Street. We have an institutional use immediate to our east  
14 at 514 H Street, and other uses such as retail and eating and  
15 drinking establishments.

16 Specifically about the subject property, you can  
17 see here an excerpt of the surveyor's plat that we submitted  
18 to the record and then the aerial photo. As you can see from  
19 the surveyor's plat, the subject property is very small and  
20 narrow. It's only about 19 feet wide of street frontage  
21 along H Street. It has a land area of approximately 1,600  
22 square feet and a footprint. The existing building footprint  
23 is about 1,425 square feet.

24 The existing building is a one story building of  
25 brick construction. According to the D.C. HistoryQuest

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1 website, the building was built approximately around 1936.  
2 It's currently vacant. The last C of O that we could find  
3 on record at DCRA was 2009 for a child development center.  
4 You can see the signage there is from the old child  
5 development center. It's been vacant for some time.

6 In terms of the zoning requirements and  
7 limitations that eventually lands us here in front of the  
8 Board, under the H Street NE Neighborhood Mixed Use Zones,  
9 any building that occupies or is constructed on a lot in a  
10 designated use area, H Street is the designated use area  
11 within an NC zone, including the NC-9, shall provide  
12 designated retail and service establishments on the ground  
13 level in accordance with proscribed requirements.

14 The NC zone designated uses, the specific  
15 designated uses are those permitted in the following use  
16 groups and they're listed there. You can see that financial  
17 and general services is one of the designated use groups  
18 under ZR 16. Ace Cash Express falls within the financial  
19 services use group.

20 Also designated usage shall occupy at least 50  
21 percent of the ground floor, subject to certain requirements.  
22 Under ZR 58 when the H Street Overlay was implemented, the  
23 overlay put in place a 20 percent limitation on the ground  
24 floor level, and it imposed that limitation on financial  
25 services, travel agencies and other ticket offices.

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1           That limitation carries over to ZR 16. So of the  
2 designated use categories that are listed before you in  
3 satisfying that 50 percent of the ground floor designated use  
4 requirement, you're limited to 20 percent for financial  
5 services. The intent of that 20 percent limitation was not  
6 to keep these uses exceedingly small, but in fact it was  
7 intended to prevent them from getting exceedingly large, like  
8 in these large floor footprint buildings.

9           You didn't want, you know, a recent building on  
10 H Street like the Apollo has a huge ground floor. The zoning  
11 regulations don't want the entire ground floor filled with  
12 financial service uses, travel agencies and ticket offices,  
13 so it limited them to 20 percent, not necessarily applicable  
14 or put in place for purposes of a small property like this  
15 one.

16           So the Applicant's request, as you know, we want  
17 to relocate the existing financial services use from 601 H  
18 Street. We'd like to occupy the entire ground floor of the  
19 subject property, which is approximately 1,425 square feet.  
20 That's the existing footprint of the one story building. No  
21 proposed additions or enlargements are proposed. So the  
22 Applicant is unable to meet the 20 percent ground floor  
23 limitation on financial services, as it would limit the  
24 proposed use to only approximately 285 square feet of the  
25 existing building.

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1           So a special exception is requested, and as you  
2 know Board members, that relief granted through a special  
3 exception is presumed appropriate, reasonable and compatible  
4 with other uses in the same zoning classification, provided  
5 the specific regulatory requirements for the requested relief  
6 are met. For such a modest special exception request, there  
7 are -- there's a very long list of criteria that have to be  
8 met. So I will do my best to summarize them very quickly for  
9 you.

10           They are described and discussed in much more  
11 detail in our prehearing statement. But essentially there  
12 are four areas in the zoning regulations that lay out the  
13 criteria that have to be met. Those are located in Subtitle  
14 H, Section 1200.1(a) through (g). You also have to meet the  
15 general special exception criteria of Subtitle X, Chapter 9.  
16 You have to show that you are generally consistent with the  
17 criteria that are applicable actually to new construction,  
18 but you have to show that you're generally consistent with  
19 the design requirements of Subtitle H, Section 909.

20           You also have to show that you're consistent with  
21 the design guidelines of the H Street strategic development  
22 plan. So here are the list of criteria under 1200.1(a)  
23 through (g). I'm not going to go through them individually.  
24 I'll just highlight a few of them.

25           Specifically, for the showing that you are

1 generally consistent with the purposes and intent of the NC  
2 zones, this is a list of the general NC zone purposes and  
3 100.2(a) talks about providing for a varied mix of uses.  
4 This is going to be able to maintain a long-standing use, 27  
5 years in the District at this location, providing financial  
6 services to District residents, many of them living in the  
7 immediate surroundings. It's also going to put a long-vacant  
8 property back to productive use.

9           100.2(c), purpose. It's also going to help  
10 maintain and support an appropriate range of shopping and  
11 service uses on the corridor. Again, 31,000 customer visits  
12 to the existing location and the mapping of that location is  
13 shown in Exhibit 7(a) and (b) of the case record. It's a  
14 long-standing use that not only long-standing businesses on  
15 the corridor rely upon the financial services provided by  
16 Ace, but also fairly recent businesses have employees that  
17 rely upon Ace Financial Services.

18           The special exception will also help with the  
19 retention of a variety of retail, entertainment and service  
20 establishments on the corridor. This list before you here  
21 is actually the specific stated purposes of the NC-9 through  
22 NC-17 zones. I'll address the policies and goals of the H  
23 Street NE strategic development plan momentarily.

24           But under 901.1(c) of the regulations, we're going  
25 to be providing substantial improvements that are consistent

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1 with the character of the H Street commercial corridor. It's  
2 a full interior renovation as shown in the rendering of the  
3 record, removal of security grills that are not going to come  
4 back. Brand new doors and windows that will be compatible  
5 with the H Street corridor, general facade improvements and  
6 also context-sensitive signage and lighting.

7           1200.1(b), it's going to enhance the urban design  
8 features of the vicinity, put a property back to productive  
9 use. It's going to activate the streetscape. Currently,  
10 it's not activated at all. It's been long vacant, and also  
11 substantial aesthetic improvements.

12           1200.1(c), the property is very small and narrow.  
13 This goes to the exceptional circumstances exist pertaining  
14 to the property itself, or to economic and physical  
15 conditions in the immediate area that justify the exception  
16 or waiver. As I mentioned, the property is very small and  
17 narrow, where a 20 percent limitation would limit the  
18 proposed matter of right, designated financial services use  
19 to only 285 square feet of the ground floor.

20           In terms of vehicular access and egress, there's  
21 no parking or loading required, and there's none provided.  
22 Trash will be serviced through the existing public alley at  
23 the rear of the property, and no curb cuts are proposed.

24           Under 1200.1(f), the business hours, the noise  
25 associated with the operation of the proposed use, it's going

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1 to operate very similar to a small retail use, a travel  
2 agency or a branch bank. It's not anticipated that any noise  
3 or very little noise will emanate from the property.

4 Not to mention there are no adjacent residential  
5 uses. The closest residential uses are to the north on the  
6 opposite side of the alley, and all of the activity to the  
7 proposed financial services use will be at the south along  
8 H Street.

9 We're consistent also with the design intent of  
10 the H Street Overlay. Again, all of these requirements  
11 specifically apply to new construction, but as part of the  
12 special exception you have to demonstrate that you're  
13 generally consistent with it. There's a requirement that 75  
14 percent of the street wall is built to the property line.  
15 The existing building 100 percent of the street frontage is  
16 built to the property line.

17 These regulations talk about the preservation of  
18 existing facades for new construction. We are preserving the  
19 existing facade, the 1930's facade, and we're substantially  
20 improving it. 909.1(d) is not applicable, but nonetheless  
21 the project will install all new storefront window systems  
22 including transom windows.

23 Option to increase the window openings, as Mr.  
24 Norrington testified to, which is a direct response to a  
25 recommendation made by the member of the ANC PZE Committee

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1 during their meeting, which they voted 2 to 1 in support.

2 909.1(e), security grills. They're limited to 70  
3 percent transparency. The existing security grills will be  
4 removed and they will not be put back in place. There will  
5 be a public entrance on H Street. 909.1(h). The ground  
6 floor level of each new building or building addition shall  
7 have a uniform minimum floor to ceiling height. Again, not  
8 applicable, but if you look at the interior, existing photos  
9 of the interior, this building has an exceptionally already  
10 a high floor to ceiling height for a 1930's building.

11 We're not providing any projecting signs or any  
12 roof signs under 909.1(j) through (l), only a single facade  
13 sign, panel sign is going to be installed on the facade, as  
14 shown in the renderings here, and it will be lit not  
15 internally lit, not from behind. It will actually be lit  
16 overhead with some well-designed fixtures.

17 The special exception will help implement the  
18 policies and goals of the H Street NE Strategic Development  
19 Plan. The plan was prepared to help reestablish H Street as  
20 a safe, attractive destination offering a unique combination  
21 of neighborhood goods and services, places to live, work and  
22 shop, eat, cultural enrichment and entertainment.

23 The plan is designed to achieve community goals  
24 such as helping existing businesses to grow and thrive on the  
25 H Street corridor. Also the re-use of numerous vacant lots

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1 and storefronts and to create a desirable mix of commercial  
2 offerings.

3           Recommendations and strategies of this plan are  
4 also focused on helping achieve several interrelated  
5 objectives, such as retaining existing businesses, creating  
6 a strong sense of place that respects the corridor's rich  
7 architectural and social history, preserving an adaptative  
8 reuse of existing buildings.

9           The special exception will help achieve these  
10 goals and objectives by allowing the Applicant to relocate  
11 its existing location that has existed on the H Street  
12 corridor for approximately 27 years, allowing this long-  
13 standing financial services use to continue to meet the needs  
14 of the surrounding area's residents, workers and visitors,  
15 and allow the Applicant to continue to grow and thrive along  
16 the rapidly revitalizing H Street corridor.

17           In addition, the requested relief proposes to  
18 adaptively reuse an existing building and put a vacant  
19 property storefront back to productive use, which will  
20 increase safety and encourage safe and efficient conditions  
21 for pedestrians.

22           The project is also consistent with the design  
23 guidelines of the H Street NE Strategic Development Plan.  
24 According to the strategic development plan, the design  
25 guidelines were intended to deliver clear descriptions for

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1 the most important elements of development, while permitting  
2 a degree of freedom to share individuality and identity.

3           The design guidelines are split into two sections,  
4 development guidelines and architectural standards. The  
5 development guidelines are focused on building location,  
6 height, setbacks and parking locations. They're generally  
7 not applicable to this project because it's an existing  
8 building with no additions proposed.

9           The architectural standards, however, are germane  
10 to the subject application as they focus on storefronts,  
11 windows and doors, awnings, canopies, walls, roofs.  
12 Regarding the standards pertaining to storefronts and windows  
13 and doors, the proposed improvements to the exterior of the  
14 building are consistent with the new window and door  
15 storefront. The new window and door storefront system will  
16 consist of clear glass that allows unobstructed views into  
17 the proposed financial services use, and the existing transom  
18 windows across the facade will remain. There's also the  
19 option to enlarge the window openings per the recommendations  
20 of the ANC PZE Committee.

21           The existing brick facade will either be left  
22 unpainted as it's shown here in the rendering, or consistent  
23 with the guidelines it may be painted with a single primary  
24 color, with a potential for one trim color that's  
25 specifically identified in the guidelines. As I've already

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1 stated, the proposed improvements would be a dramatic  
2 improvement in what currently exists, and as shown on this  
3 slide will be a positive, contextual contributor to the  
4 streetscape of the H Street corridor.

5 The remaining architectural standards pertain to  
6 awnings, canopies, walls and roofs. They're not applicable  
7 to the Applicant since we're not proposing any canopies,  
8 walls or roofs or new construction.

9 Finally, with respect to the general special  
10 exception criteria under sub-X, Section 901, 901.2(a) says  
11 that the Board needs to find that the special exception  
12 will be in harmony with the general purpose and intent of the  
13 zoning regulations and the zoning maps. The special  
14 exception, if granted, will promote convenience, prosperity  
15 and the general welfare of the customers that rely upon an  
16 existing Ace location, including the numerous residents that  
17 live in close proximity. Again, that's mapped in our record.

18 There will be no impact to light and air, and no  
19 undue concentration of population or overcrowding of land.  
20 Also, it's not inconsistent with the purpose of the 20  
21 percent ground floor limitation on financial services uses,  
22 travel agencies and other ticketed offices. As I've  
23 mentioned before, that limitation was really put in place to  
24 make sure that they don't get too big, not to keep them  
25 exceedingly small on a property like this.

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1           901.2(b), the Board needs to find that the special  
2 exception will not tend to affect adversely the use of  
3 neighboring properties in accordance with the zoning  
4 regulations and zoning map. The proposed financial services  
5 use has existed less than 200 feet away for approximately 27  
6 years without any problems whatsoever.

7           The proposed use is compatible with the character  
8 and range of uses on the block, and finally there will be no  
9 impact on neighbor's ability to use their properties in  
10 accordance with the zoning regulations and the map. Mr.  
11 Chairman, that concludes my testimony and I'm happy to answer  
12 any questions.

13           BZA CHAIR HILL: Okay great, thank you. Let's  
14 see. Before I move, yeah. Does the Board have any questions  
15 for the Applicant?

16           VICE CHAIR HART: Just a quick question.

17           BZA CHAIR HILL: Sure.

18           VICE CHAIR HART: What was the -- this isn't just  
19 for the Applicant. Anyone can answer. What's the size of  
20 the existing facility?

21           MR. HUGHES: Eric, could you -- the size of the  
22 existing facility?

23           MR. NORRINGTON: I think it's about the same.

24           BZA CHAIR HILL: You need your push your  
25 microphone button there sir.

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1 MR. NORRINGTON: To the best of my knowledge, it's  
2 about the same, number of square feet.

3 VICE CHAIR HART: Thank you, and you said that  
4 you'd be taking off the security grills that are on the  
5 existing building?

6 MR. NORRINGTON: Yes, that's correct.

7 VICE CHAIR HART: And you're not looking at  
8 replacing those?

9 MR. NORRINGTON: Absolutely not, no. We don't --  
10 you wouldn't find those on any of our stores.

11 VICE CHAIR HART: Thank you.

12 BZA CHAIR HILL: Okay, all right. So Mr.  
13 Lefebure, you're going to have an opportunity now to go ahead  
14 and ask questions of the Applicant based upon what they had  
15 submitted. So what -- and you are then going to have an  
16 opportunity to present your own testimony as to your  
17 presentation. So this portion of it is again just cross-  
18 examination, meaning if there's any questions that you have  
19 for any of the people that presented, and specifically --  
20 again specific to their testimony.

21 We've read your submittal in terms of why you're  
22 opposed to this, and you will have an opportunity to speak  
23 more in-depth of that during your presentation. However,  
24 this again is -- and you'll have an opportunity also to  
25 cross-examine Office of Planning when they present their

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1 report. But this is your opportunity if you have any  
2 clarifying questions about what was presented.

3 I would like to just note one thing. Like I did  
4 read in your testimony that, you know, it seems as though  
5 you're opposed to this type of business, and so we got that.  
6 I guess what I'm just trying to get at, there's a lot of like  
7 loaded words and questions and things. I'm just -- I'm  
8 asking you to cautiously work through opposition, as well as  
9 choosing your words correctly or trying to in terms of your  
10 questions to the Applicant.

11 So after that long speech there, do you have any  
12 questions for the Applicant based upon what they presented  
13 thus far?

14 MR. LEFEBURE: I have just a few questions. So  
15 you're going to be removing -- security obviously is a big  
16 concern of mine. Having an office right next door to this  
17 type of facility that has financial I guess transactions  
18 happening. And so I would just like to know are there going  
19 to be security cameras, are there going to be security  
20 guards? What is the sort of protocol, I guess, for that type  
21 of thing, knowing that the police were at our office  
22 yesterday pulling footage off our security camera for  
23 activity in the alley?

24 BZA CHAIR HILL: Okay. So the question, you got  
25 that Mr. Dettman or whoever wants to answer it about

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1 security?

2 MR. NORRINGTON: Yes. We have a security setup  
3 in all of our stores. All of our clerks are behind  
4 Plexiglas, and we generally have a much less -- we have a  
5 lower rate of incidents of robbery and these types of crimes  
6 than most other financial institutions. We are not planning  
7 at this time to have any cameras installed.

8 BZA CHAIR HILL: Okay. So you don't have any --  
9 your answer for the outside, there's no security outside.  
10 It's all inside the building?

11 MR. NORRINGTON: Correct.

12 BZA CHAIR HILL: Okay, all right. Mr. Lefebure,  
13 you have another question?

14 MR. LEFEBURE: Is there a proposed time line that  
15 would be for construction, for them to actually do the build  
16 out? I'm just --

17 BZA CHAIR HILL: Okay, that's fine. Okay. I mean  
18 it wasn't necessarily during his presentation, and it's a  
19 benign question.

20 MR. LEFEBURE: Sorry.

21 BZA CHAIR HILL: That's all right. What's the  
22 time line?

23 MR. NORRINGTON: We're going to move as quickly  
24 as we possibly can, because we're facing a situation where  
25 our current landlord that really forces us to take action and

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1 move quickly.

2 BZA CHAIR HILL: Okay. Mr. Lefebure.

3 MR. LEFEBURE: And I don't have any other  
4 questions. The only one I have a kind of a question I guess.  
5 I don't know if it's -- you mentioned 514, the other  
6 neighbor, which is -- I do believe it's a church, and I don't  
7 know if that's an active church anymore or not. But you  
8 know, it's only open on Sundays.

9 BZA CHAIR HILL: I'm sorry, what was your question  
10 though?

11 MR. LEFEBURE: I don't know the -- I'm trying to  
12 think of the best way to put it, but --

13 BZA CHAIR HILL: Whether the church has any  
14 opposition? Is that what your question is?

15 MR. LEFEBURE: Yeah, was the opposition from the  
16 church, or the support from the church or was it from the  
17 building owner?

18 BZA CHAIR HILL: Okay. Was the support from the  
19 church or the building owner?

20 MR. NORRINGTON: The support is from the property  
21 owner.

22 BZA CHAIR HILL: Okay, and so that's not who  
23 actually is a tenant of the establishment. Is that what the  
24 question, the difference in the question is?

25 MR. LEFEBURE: I don't know.

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1 BZA CHAIR HILL: You need to push the microphone.

2 MR. LEFEBURE: I'm sorry, I don't know.

3 BZA CHAIR HILL: That's all right. You're saying  
4 there's a church there.

5 MR. LEFEBURE: There's a church there. I don't  
6 know if the church is the owner, if that's where it's coming  
7 from. I don't know.

8 BZA CHAIR HILL: Okay. So I'm just trying to  
9 clarify also. Is the church the owner and they're the ones  
10 that were in support, or is the church a tenant and the owner  
11 was in support?

12 MR. NORRINGTON: To my knowledge, they're one in  
13 the same.

14 BZA CHAIR HILL: Okay, all right. Okay.

15 VICE CHAIR HART: Actually Mr. Chairman, just  
16 noting the Applicant's, I don't know what exhibit this is,  
17 but the PowerPoint that you guys presented, it says there's  
18 support and it's, I don't know, page like 10 or 12 or  
19 something. It just says "Adonai Ministry, Inc."

20 MR. LEFEBURE: International.

21 VICE CHAIR HART: International, Inc., owner, 514  
22 H Street. So I don't know if that's the same church that  
23 you're speaking of, or if it's, you know.

24 BZA CHAIR HILL: Okay. On the letterhead for the  
25 support, it does say the church on the letterhead. So I

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1 guess they're one in the same.

2 MR. LEFEBURE: Okay.

3 VICE CHAIR HART: I just wanted to clarify.

4 BZA CHAIR HILL: All right.

5 ZC CHAIR HOOD: Mr. Chairman?

6 BZA CHAIR HILL: Sure, of course.

7 ZC CHAIR HOOD: The point is I hear the opponent  
8 mention about cameras, and you mentioned you weren't going  
9 to have cameras outside. This is a side note, but you know  
10 the city has a program, you've probably heard this. So I  
11 would ask Mr. Dettman and Mr. Hughes to help you look into  
12 that, if that's something you want to do, and it's a big  
13 discount from what I'm hearing from business owners.

14 So if this is approved and you move forward, you  
15 might want to look into that. That might make it a little  
16 easier on the person in opposition.

17 MR. NORRINGTON: We will. Absolutely, we'll take  
18 that into consideration. Thank you, sir.

19 BZA CHAIR HILL: Okay, all right. So Mr.  
20 Lefebure, I'm going to go ahead and let you present to us.  
21 You have it looks like up to 20 minutes. I don't know if  
22 you're going to use that much or not, and again we do have  
23 your testimony in the record. It sounds as though whether  
24 or not you've been through this process or understand the  
25 process, I mean please go ahead and give your presentation.

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1 Again, just trying to encourage you to be sensitive about  
2 some of the issues that you might bring up, and also then  
3 pointing out that we're here about zoning.

4           So you know, there are obviously issues that you  
5 could point to in terms of like would the property appear to  
6 tend to effect diversely use of the neighborhood property.  
7 I mean to the extent that you can speak to the zoning issues  
8 that are before us, that would help us to focus in on what  
9 your opposition is. Begin whenever you'd like.

10           MR. LEFEBURE: Okay, thank you. So obviously  
11 you've all read my application or you have that party  
12 application, and I stated many issues and concerns with the  
13 proposed variance in the use of the 512 H Street, N.E., and  
14 it is next door to my property at 510 H Street.

15           I also know that Ace is already aware of my  
16 opposition and I'm going to speak a little about that, and  
17 I have also received letters which I'm sure you've also seen  
18 the letter just in opposition to me being party, to reinforce  
19 that position. I am not a lawyer and I do not speak  
20 legalese, so, however I'm very aware of how H Street  
21 neighborhood has changed and developed over the past 14 years  
22 since purchasing our property and relocating my business to  
23 the corridor.

24           As a small business, this was a huge risk to take,  
25 but it was a risk I believe that would benefit me and my

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1 company in the future, and to help support the much-needed  
2 changes in the neighborhood. So this was back in 2004  
3 whenever we had bought and purchased and rehabilitated the  
4 property.

5 Since then, I have watched businesses open. I  
6 have seen apartment buildings rise, and I've watched the  
7 trolley car system become a reality. This is all to serve  
8 and support the growing neighborhood and to foster future  
9 growth, which I am in full support of.

10 On October 9th, I received a package from senior  
11 VP Ace Eric Norrington, that contained much of the  
12 information that's outlined in their application, as well as  
13 the fact that they donate and give back to H Street or give  
14 back to communities they serve. However, I personally have  
15 not seen or know of any such giving back to the H Street  
16 community directly.

17 On October 10th, I emailed Shane Dettman of  
18 Holland and Knight and Eric Norrington and stated my concerns  
19 for the proposed relocation of Ace to 512 H Street. I did  
20 not get a response from Shane Dettman, but Eric Norrington  
21 replied and thanked me for my candid responses, and offered  
22 to stop by to meet me in person, as he was going to be in  
23 town for a meeting.

24 I agreed to meet Eric, and I was able to tell my  
25 story about my company's journey to H Street. I told him how

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1 I revitalized our property when at the time there was no  
2 other activity at H Street, and all the zone hearings that  
3 they referenced that I had to attend with my attorneys and  
4 with my architects to move our project forward a long time  
5 ago.

6 Today, my company, we have approximately 20  
7 employees that frequent all the local establishments in the  
8 neighborhood, and we even have some of them who live in the  
9 neighborhood and call H Street their home. I told Eric that  
10 I have watched from afar, we have a roof deck and I have seen  
11 the Ace be a place of very interesting activity from time to  
12 time. There's often loitering, panhandling and littering.

13 I also said to him directly that this is not what  
14 I would really want to have next door to my business. With  
15 31,000 people per year, that's a lot of people coming in and  
16 out of what I would call our block a sort of smaller volume  
17 sort of retail district. You know, there was the pet store,  
18 it's gone. Now it's a dog training. There's a tattoo shop,  
19 there's nail salons.

20 It's people who frequent businesses on a regular  
21 basis in smaller volumes. I also told him that there are  
22 many other options on H Street to consider, that are farther,  
23 I don't know what direction, but going out like 6th, 7th,  
24 8th, 9th Street. There's many, many buildings and properties  
25 that are for lease in that area that would be better suited

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1 for the density that is in those areas now, with other types  
2 of businesses that have higher volume.

3 Not to mention that there are currently two other  
4 Ace locations in the H Street corridor and Benning Road area,  
5 and I don't know. I think there's maybe like 12 to 15 more  
6 in the D.C. Metro area. So I think there's plenty of  
7 services available by the Ace Corporation to fulfill the  
8 needs of the others who might miss this location.

9 I talked to Eric for a while, and it was pretty  
10 clear to me that he was not fully aware of the growth and  
11 change that's occurred in the H Street neighborhood over the  
12 past 27 years, from him being from Texas is the main issue,  
13 and I encouraged him again to walk the street to see what was  
14 there, and to look at other opportunities that may be a  
15 better fit for his business.

16 While I am in favor of seeing 512 H Street to be  
17 revitalized, I remain strongly opposed to it being an Ace  
18 Cash Express on the property. I know that it is selfish-  
19 sounding, but as a community member, business owner and  
20 property owner on the H Street corridor, I know that I do not  
21 stand alone in this decision to not support the proposed  
22 request of the variance for 512 H Street.

23 BZA CHAIR HILL: Okay, great. Thank you. I do  
24 have a couple of questions, but does the Board have any  
25 questions for the party in opposition?

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1 MEMBER WHITE: I'm looking at this map that the  
2 Applicant gave with the picture of the frontage.

3 MR. LEFEBURE: Yes.

4 MEMBER WHITE: So you're at 510?

5 MR. LEFEBURE: Correct.

6 MEMBER WHITE: And it's an office. It's a first,  
7 second and third floor?

8 MR. LEFEBURE: We're a design studio, yes.

9 MEMBER WHITE: Design studio, and so you have  
10 parking at the back, is that right?

11 MR. LEFEBURE: I have two parking spots in the  
12 back.

13 MEMBER WHITE: Okay, okay. And you said there are  
14 cameras in the back as well?

15 MR. LEFEBURE: We have cameras on our front, our  
16 back and on our roof.

17 MEMBER WHITE: Okay, okay, and the business that's  
18 next door to yours, 508, what is that?

19 MR. LEFEBURE: It used to be a pet store. They've  
20 recently closed. Now it is Spot On Dog Training. So they  
21 do puppy and dog training programming.

22 MEMBER WHITE: Okay, and then the other store past  
23 the church, what is that, Fatty's?

24 MR. LEFEBURE: Fatty's is a tattoo shop.

25 MEMBER WHITE: A tattoo shop. Okay.

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1 MR. LEFEBURE: And I do believe there's a Peet's  
2 Coffee coming in on the corner at the very end.

3 MEMBER WHITE: And do you notice people kind of  
4 loitering and trash and standing around some of those  
5 businesses as well or --

6 MR. LEFEBURE: Well, the only business that I  
7 really notice more trash from is the pizza shop, which is --  
8 might be visible. I guess it's to the left of -- well, it's  
9 not on the map, but it's two more up from the pet store. So  
10 you know, we do get pizza plates and stuff blowing around.  
11 But other than that, our side of the street tends to be  
12 fairly quiet.

13 MEMBER WHITE: Okay, all right.

14 ZC CHAIR HOOD: Mr. Chairman.

15 BZA CHAIR HILL: Yeah, sure. Go ahead.

16 ZC CHAIR HOOD: Mr. Lefebure, let me ask straight  
17 to the point. I know you may have -- maybe I missed it.  
18 What are the adverse impacts of this request?

19 MR. LEFEBURE: As you can see from our property,  
20 we have very large glass windows in our front floor. We're  
21 adjacent to the property. They have very, you know, limited  
22 square footage out front compared to the current facility  
23 that they have now. I see 31,000 people standing out front  
24 of my window and my door as a possible concern to impact my  
25 business and my clients and staff who are coming in and out

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1 of the property.

2 ZC CHAIR HOOD: Okay. So that is a hypothesis,  
3 31,000 standing out front.

4 MR. LEFEBURE: Well, I meant a year. That's about  
5 100 people a day.

6 ZC CHAIR HOOD: So you're saying the pedestrian  
7 traffic and the traffic that you see will increase  
8 tremendously?

9 MR. LEFEBURE: Considering what the other  
10 businesses are local to me, yes. A tattoo shop, I don't  
11 think there's 100 people going in and out a day; I know  
12 there's not 100 people going in and out of the dog training  
13 place or a church.

14 ZC CHAIR HOOD: Okay, all right. Thank you.

15 BZA CHAIR HILL: I've got a couple of questions.  
16 All right, I'm sorry. So you said that you guys have been  
17 there for how long now?

18 MR. LEFEBURE: We purchased the building in 2004.

19 BZA CHAIR HILL: 14 years ago.

20 MR. LEFEBURE: And we took occupancy in 2007.

21 BZA CHAIR HILL: And you guys built out there?

22 MR. LEFEBURE: Correct. We had to apply for a  
23 special variance. We took advantage of the half FAR credit  
24 from Facade (phonetic), and we put a roof deck up on our  
25 roof, mainly because there was nothing on H Street at the

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1 moment and I created a space for my staff to enjoy their  
2 lunch.

3 BZA CHAIR HILL: Okay. Mr. Helmus, is it Helmus?  
4 Who's the -- I'm sorry. Your name there at the end?

5 MR. NORRINGTON: Eric Norrington.

6 BZA CHAIR HILL: Oh Norrington. I don't know  
7 where I got Helmus from.

8 MP From Hughes.

9 BZA CHAIR HILL: Oh Hughes. No, maybe I got  
10 another -- so Mr. Norrington, I was just curious. Like how  
11 long is your lease? You didn't buy right? You leased the  
12 building? I'm just curious about how --

13 MR. NORRINGTON: The lease we entered into?

14 BZA CHAIR HILL: Yeah.

15 MR. NORRINGTON: I don't have --

16 BZA CHAIR HILL: Like a ten year? I'm just  
17 curious.

18 MR. NORRINGTON: Something like that. Yes, yeah.

19 BZA CHAIR HILL: All right. Okay. So I don't  
20 know, Mr. Hughes, if you're going to cross examine or have  
21 any questions. I do think that there are some items that I'd  
22 like to talk through, in terms of security and loitering,  
23 panhandling and that kind of stuff or whatever. But do you  
24 have any questions for the party in opposition?

25 MR. HUGHES: Well, maybe just one or two.

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1 BZA CHAIR HILL: Sure.

2 MR. HUGHES: You're familiar with the designated  
3 uses in the neighborhood, commercial zones? That's the  
4 nature of this application.

5 MR. LEFEBURE: Yeah.

6 MR. HUGHES: And these are similar to the ones  
7 that were in place when you took occupancy of your property?

8 MR. LEFEBURE: Correct.

9 MR. HUGHES: Okay, and these -- I mean I  
10 understand what I'm hearing is concern about foot traffic.  
11 I think we averaged out and did math, 31,000 store visits  
12 over a year is less than 100 a day, and I'm not sure how that  
13 breaks up over the course of the day. But these are all uses  
14 that encourage foot traffic on -- in the neighborhood.

15 BZA CHAIR HILL: Okay, I'm sorry Mr. Hughes.  
16 What's your question?

17 MR. HUGHES: My question with that background is  
18 how is the ground floor of your property currently used,  
19 because you talked about impacts to your employees. Is it  
20 being used for one of these uses?

21 MR. LEFEBURE: Yes. My business is art and  
22 design.

23 MR. HUGHES: Is it under the -- well, that  
24 legalese I guess, but I would just perhaps leave that in the  
25 record, that the --

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1 BZA CHAIR HILL: That his business is a commercial  
2 business. That's your statement.

3 MR. HUGHES: Correct.

4 BZA CHAIR HILL: Okay, all right. Anything else.

5 MR. HUGHES: And just, just in terms of questions

6 --

7 BZA CHAIR HILL: Yes, questions.

8 MR. HUGHES: --to Mr. Lefebure, no I think that's  
9 it.

10 BZA CHAIR HILL: Okay. All right great. Okay.  
11 Then does anybody have any more questions for the party  
12 status or the Applicant before we turn to the Office of  
13 Planning?

14 (No response.)

15 BZA CHAIR HILL: Okay. Turn to the Office of  
16 Planning.

17 MS. THOMAS: Good afternoon Mr. Chair, Members of  
18 the Board. Karen Thomas with the Office of Planning. For  
19 the record, we believe that the Applicant thoroughly  
20 explained how the application would satisfy the regulations,  
21 particularly the H Street NE Strategic Development Plan,  
22 referenced under Subtitle H, Section 1202, which we don't  
23 believe is applicable. A lot of it is not applicable in this  
24 instance because it is an existing building.

25 It does, however, where relevant satisfy the

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1 architectural guidelines for storefronts. So with that, we  
2 believe that the proposal is in harmony with the general  
3 purpose and intent of the regulations, which is in part to  
4 support the adaptive reuse of existing buildings along the  
5 H Street corridor anticipated under the H Street Strategic  
6 Development Plan.

7           While this is not a historic district, we believe  
8 the proposal for the building's front facade will maintain  
9 the character as anticipated under the regulations, and we  
10 don't believe that the proposal would affect -- would  
11 negatively affect or adversely affect the use of neighboring  
12 property, as the use currently exists across H Street and the  
13 facility of the proposed location. So with that, I would  
14 stand on the record and be happy to take any questions.  
15 Thank you.

16           BZA CHAIR HILL: Okay. Does the Board have any  
17 questions for the Office of Planning.

18           MEMBER WHITE: One question. Is there anything  
19 unique about this type of business that has any type of  
20 impacts that the Office of Planning looks at for purposes of  
21 approving these types of applications?

22           MS. THOMAS: Mostly for trash and that might be  
23 an adverse impact. We did a recent case for a financial  
24 services building, actually for an ATM for Bank of America's  
25 ATM that came in to occupy a small space similar to this one,

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1 and it had to occupy the entire building because for the ATM,  
2 we didn't even anticipate that they would need so much space.

3 Not just -- it's not just what you see to the  
4 front, but to answer the question with respect to impacts,  
5 mostly it would be trash and maybe when the security van  
6 comes, the Brinks trucks and stuff like that.

7 MEMBER WHITE: There's parking in the back?

8 MS. THOMAS: There is no --

9 MEMBER WHITE: There will be parking or --

10 MS. THOMAS: There is no parking presently in the  
11 back, and we can have the Applicant explain that further.  
12 But there's no parking in the back.

13 MEMBER WHITE: Okay. So the security trucks would  
14 come to the front when they're taking money?

15 MS. THOMAS: Yes.

16 MR. NORRINGTON: Yes, that's correct.

17 MS. THOMAS: It's anticipated that that will be  
18 the case, yes.

19 VICE CHAIR HART: Mr. Chairman. Ms. Thomas, could  
20 you talk a little bit about the -- the Applicant is looking  
21 at using 100 percent of the ground floor for this particular  
22 use. I understand that it's a small footprint. If you could  
23 talk a little bit about kind of how you see that aspect of  
24 it, because they're going, you know, 20 percent is what is  
25 allowed. They're going much larger than that. Could you

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1 just talk a little bit about that?

2 MS. THOMAS: Yes. So if you would allow just the  
3 20 percent, that would be about approximately 285 square feet  
4 for -- if you look at a typical bank, you would have people  
5 potentially queueing and coming in and out. So they would  
6 need more space. It will require more frontage to do that,  
7 to accommodate that. So yes, the frontage would require a  
8 larger volume than 285 square feet, than to have the back of  
9 operations that you typically wouldn't see, which would be  
10 potentially some office space behind for the employees and  
11 things to use to do certain transactions that we don't  
12 typically see.

13 So it would require a little bit more space, and  
14 I think particularly for queueing, it would require some more  
15 space.

16 VICE CHAIR HART: And this -- that 20 percent is,  
17 from what I kind of understand from other -- from the  
18 development, that 20 percent is, it would be one thing if you  
19 had a much larger footprint, a much larger building that  
20 you're putting something in.

21 MS. THOMAS: Right, and as Mr. Dettman rightfully  
22 pointed out, that was to prevent the larger institutions  
23 occupying an entire space like say what happens on the Whole  
24 Foods ground floor. Let's say a larger bank, banking  
25 institution, financial institution, and that was the whole

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1 intent of this type of regulation, which was put in place.  
2 It was sort of a carryover from when we were looking at  
3 financial institutions taking over the corner store, corner  
4 spaces downtown and it sort of carried over into this part  
5 of H Street.

6 But understanding that these are smaller  
7 buildings, it wouldn't apply so much to smaller footprints,  
8 but was intended for larger spaces, as Mr. Dettman pointed  
9 out.

10 VICE CHAIR HART: Thank you, thank you.

11 BZA CHAIR HILL: I just had one question actually.  
12 As far as the argument that I think it was Mr. Dettman had  
13 made about -- maybe he just kind of referred to this, that  
14 this was set up primarily so there weren't large floor plates  
15 that were taken up. Would you agree with that?

16 MS. THOMAS: Yes, that is it. That was the  
17 intent.

18 BZA CHAIR HILL: Okay, okay, all right. Anybody  
19 else from up here have any questions for the Office of  
20 Planning?

21 (No response.)

22 BZA CHAIR HILL: All right. Does the Applicant  
23 have any questions for the Office of Planning?

24 MR. HUGHES: No thank you.

25 BZA CHAIR HILL: Does the party status have any

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1 questions for the Office of Planning?

2 MR. LEFEBURE: Nope.

3 BZA CHAIR HILL: Okay, all right. So let's see.  
4 Then we have to go to -- if there's anybody here from the  
5 ANC. Please, come on forward.

6 MR. MILLER: Good afternoon. How are you all  
7 doing today?

8 BZA CHAIR HILL: Good, thank you. How about  
9 yourself?

10 MR. MILLER: I'm doing very well.

11 BZA CHAIR HILL: And what's your name sir?

12 MR. MILLER: My name's Christopher Miller. I'm  
13 the Commissioner for Single Member District 6C05.

14 BZA CHAIR HILL: Okay. You said Miller?

15 MR. MILLER: Yes.

16 BZA CHAIR HILL: Okay, and Commissioner Miller,  
17 were you sworn in today?

18 MR. MILLER: Yes, I was.

19 BZA CHAIR HILL: Okay, great. So Mr. Miller or  
20 Commissioner Miller, you're allowed five minutes to testify  
21 for the ANC, and so begin whenever you like.

22 MR. MILLER: Sure. I should note that as the ANC  
23 deadlocked 3-3 on this matter, I'm here in my -- as an  
24 individual, and not as the official ANC representative.

25 BZA CHAIR HILL: Okay. Then you get three

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1 minutes. I'm sorry about that, but go ahead.

2 MR. MILLER: Sure. I've been a Commissioner for  
3 Single Member District 6C05 for nearly three years. I've  
4 lived in the neighborhood, in the same house for seven years.  
5 Since that time, that portion of the H Street corridor had  
6 undergone a great transformation. Tenants that were eyesores  
7 that brought little or very nothing to the neighborhood  
8 vibrancy have been replaced with all manners of exciting  
9 businesses, from retailers to restaurants.

10 One of the biggest exceptions to this is the  
11 current location of Ace Cash Express. It tends to exist in  
12 two states of nature. There's either a line of people  
13 waiting to be served with loitering and panhandling, or the  
14 space is empty and vacant. In short, it's not the best way  
15 to build upon the ongoing revitalization of the H Street  
16 corridor, and will adversely affect the neighborhood.

17 While I don't doubt their assurances that they  
18 will renovate 512 H Street greatly, this is outweighed by the  
19 fact that a check cashing business such as this will prevent  
20 existing businesses from thriving due to the eyesore that I  
21 discussed previously, and the unattractive, unused space at  
22 night. It will also not improve the perception of the H  
23 Street corridor as it a street state deadener. If anything,  
24 removal of Ace from the neighborhood will improve the  
25 perception of the corridor.

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1           The current location and new location provides  
2 nothing unique and my constituents can do better than having  
3 Ace Cash Express in the neighborhood. I also want to address  
4 a couple of other matters. I notice Ace submitted the video  
5 and the customer petitions. Ultimately, I find this  
6 irrelevant in that I don't doubt the loyalty of their  
7 customers. But the vast majority of petition signatories do  
8 not live in the neighborhood and don't have a stake in the  
9 vibrancy of the H Street corridor.

10           In addition, the special exception process is not  
11 a popularity contest. Otherwise, every fast food  
12 establishment and adult entertainment center would have a leg  
13 up on the process. I also want to note that there are  
14 numerous facilities in the neighborhood that provide similar  
15 services without some of the predatory fees charged by Ace,  
16 and that in short, in the three years that I have been  
17 Commissioner, this is the first time I've come to speak in  
18 opposition to a special exemption.

19           This application is important to me and my  
20 constituents, and I just believe that granting this special  
21 exception will not further activate the H Street corridor or  
22 fulfill the purposes of the H Street Overlay.

23           BZA CHAIR HILL:     Okay, great.     Thank you.  
24 Commissioner Miller, I have a quick question for you. So it  
25 seems like you guys were deadlocked 6-6, so I guess I have

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1 a few question, or 3-3 thanks, so six members. Is it --are  
2 you a six member board or is it -- are you missing somebody?

3 MR. MILLER: Correct. We're an ungainfully  
4 designed six member board.

5 BZA CHAIR HILL: Okay, and so obviously then  
6 you're one of the three that were in opposition. Can you  
7 tell me a little about the three that were in support?

8 MR. MILLER: Sure. I should note as a quick note,  
9 Commissioner Eckenwiler was also in opposition, and he  
10 planned to testify here as well until he had to go back to  
11 his day job. The opinion in support of Ace was that my  
12 position, so to speak, was elitist and that if 31,000 people  
13 needed to use the facility and it had a value, whereas I  
14 guess my opinion is 31,000 customers is out of sync with the  
15 existing commercial nature of the H Street corridor.

16 BZA CHAIR HILL: Okay. Well, I appreciate you  
17 being honest. Okay. So does anybody have any questions for  
18 the party in opposition I suppose?

19 ZC CHAIR HOOD: I have some questions.

20 BZA CHAIR HILL: I'll hear from the Board.

21 MR. HUGHES: He's not a party in opposition.

22 ZC CHAIR HOOD: But I have a question for the  
23 Commissioner though.

24 BZA CHAIR HILL: Hold on. Okay, wait a minute.  
25 Now I'm just confused a second because I've been asked to

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1 clarify that he's not a party in opposition. He wasn't here  
2 representing the ANC.

3 ZC CHAIR HOOD: He was not representing the ANC.  
4 He was representing himself as a single member district ANC  
5 Commissioner.

6 BZA CHAIR HILL: Okay.

7 ZC CHAIR HOOD: Am I correct?

8 BZA CHAIR HILL: Correct.

9 ZC CHAIR HOOD: Okay. Is this your single member  
10 district?

11 MR. MILLER: Yes.

12 BZA CHAIR HILL: So is he a party in opposition?

13 ZC CHAIR HOOD: He's in opposition, but he has  
14 no authority to speak for the ANC.

15 BZA CHAIR HILL: Right, right. He's not speaking  
16 for the ANC, I know. I'm saying he's a party -- not sorry,  
17 party. He's in opposition. That's what I meant by it. Not  
18 party in opposition. Had a person in opposition.

19 VICE CHAIR HART: Yeah. We've jumped past the ANC  
20 section.

21 BZA CHAIR HILL: It happened without my knowledge,  
22 but I just was clarifying for myself, and I appreciate you,  
23 Mr. Hughes, pointing out that he's not a party in opposition.  
24 He is a person in opposition. Okay. So that being the case,  
25 I'm back here with the Board. Does the Board have any

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1 questions for the person in opposition?

2 ZC CHAIR HOOD: Can I -- I'm going to still call  
3 him a Commissioner, because he's --

4 BZA CHAIR HILL: Sure, please.

5 ZC CHAIR HOOD: Let me ask you, you all -- I'm  
6 reading this letter and I actually read that one sentence,  
7 and I know you're not here to speak to the full Commission.  
8 I'm sure Chairperson Wirth can definitely do that on her own.  
9 But it says the Commission voted 3-3 to support the  
10 application. So the Commission was divided on support for  
11 the application, and you all asked us to give you great  
12 weight. You know you don't get great weight.

13 MR. MILLER: Correct, and Commissioner or the  
14 Chairwoman's letter was incorrect. The motion was to oppose  
15 the application, not support it. So it deadlocked 3-3 in  
16 opposition, not in support.

17 ZC CHAIR HOOD: Okay. I can only go by --

18 BZA CHAIR HILL: It's the flip side.

19 MR. MILLER: Yeah it's --

20 ZC CHAIR HOOD: Okay. I'm just going by what I'm  
21 reading.

22 MR. MILLER: Right. I just wanted to correct the  
23 record.

24 ZC CHAIR HOOD: Okay. Now let me ask you this.  
25 Is H Street, I know what the policies were and I know how H

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1 Street got the birth, it got started. It was a storage  
2 facility, Mr. Eckenwiler remembers. Nobody wanted it. But  
3 that actually got everything started that you see going on  
4 down there now. So I'm hearing at least in your testimony  
5 you said that you thought that it would cause too much  
6 traffic or pedestrian, I'm going to say pedestrian traffic,  
7 because I know what the traffic is like on H Street.

8 But I think the policies some years ago was set  
9 for that to be pedestrian traffic on H Street, am I correct?

10 MR. MILLER: Yes, you are correct, although I do  
11 believe the original version of the H Street Overlay, until  
12 it was recently changed, explicitly removes check cashing  
13 services as preferred retail uses on the H Street corridor.

14 ZC CHAIR HOOD: I don't remember that, but I do  
15 know about the neighborhood services, and I agree with the  
16 Applicant on the 20 percent, because I helped put those in  
17 place, as well as the H Street Overlay. I'm just concerned  
18 that some of the things -- to me, some of this argument, and  
19 I kind of understand about the additional emphasis that's  
20 going to be put in place.

21 So I understand what you're saying. But some of  
22 them, it's one down the street, one up the street. I've been  
23 around here long enough to hear people say not in my  
24 backyard, and I don't want us to go down that road, because  
25 there are probably people in this area that can use that type

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1 of facility, who might not have a bank account, and I don't  
2 know what all the services they do.

3 I've never been in Ace. I do know where their  
4 current location is, it's a lot more square footage than what  
5 we were told. I don't believe it's the same square footage.  
6 I may disagree with that a little bit, but that was the  
7 testimony provided. So anyway, let me continue to think  
8 through this as we go forward. Thank you, Mr. Chairman.

9 BZA CHAIR HILL: Thank you. Okay. Does anybody  
10 have any more questions for the witness? No, okay, all  
11 right. Hold on one second. I'm sorry, just one second. All  
12 right, sure. Mr. Hughes.

13 MR. HUGHES: I'm not going to ask Mr. Miller any  
14 questions.

15 BZA CHAIR HILL: Okay.

16 MR. HUGHES: I just want to clarify. The ANC  
17 report was, as Commissioner Hood noted, 3 to 3. It was --  
18 there was a PZE. It went before their PZE Committee, which  
19 voted 2 to 1 in support of the application, and Commissioner  
20 Miller, I believe, motioned at the full ANC meeting that he  
21 was in opposition to the application. There was the full  
22 vote. So what he was saying earlier about it actually being  
23 a vote to 3 to 3 to oppose rather than to support.

24 BZA CHAIR HILL: That's okay. Well we -- I  
25 appreciate what you're trying to clarify, is that in the

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1 record what we have, it says 3 to 3 -- 3 to 3 in support,  
2 whatever it is, right. I mean that's just what we have in  
3 the record.

4 (Simultaneous speaking.)

5 BZA CHAIR HILL: Regardless, nothing is happening.  
6 It's a 3 to 3 tie, you know. Which right, you need a 7th  
7 member or you should lose somebody maybe, you know. But then  
8 so --

9 MR. HUGHES: I just want to reinforce that his  
10 testimony is not on behalf of the ANC but and --

11 BZA CHAIR HILL: Yes, got that.

12 (Simultaneous speaking.)

13 MR. HUGHES: -- as an individual in opposition.

14 BZA CHAIR HILL: Okay, all right. Mr. Miller, do  
15 you have anything to add before you leave?

16 MR. MILLER: No. Pleasure speaking with all of  
17 you today.

18 BZA CHAIR HILL: Okay, thank you. Thanks for  
19 coming down, Commissioner. All right. Is there anyone here  
20 which will speak in support?

21 (No response.)

22 BZA CHAIR HILL: Is there anyone here which will  
23 speak in opposition?

24 (No response.)

25 BZA CHAIR HILL: Okay, all right. Let's see then.

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1 Mr. Lefebure, Lebear, yeah.

2 MR. LEFEBURE: Lefebure.

3 BZA CHAIR HILL: Gosh, Lefebure sorry. Mr.  
4 Lefebure, do you have a-- would you like to say anything in  
5 conclusion, and then I'm going to give the attorney time for  
6 rebuttal?

7 MR. LEFEBURE: No. I think, you know, I've said  
8 what I needed to say. I think I was pretty clear in, you  
9 know, how I feel that it's going to impact, you know. I do  
10 want to see that property revitalized. I'm in full support  
11 of that. But at the same time, I have to also make sure  
12 that, you know, it's something that is needed in the  
13 community. As I said, I am a property owner and a business  
14 owner, and I just can't get behind it.

15 BZA CHAIR HILL: Okay. I do have Mr. Hughes  
16 before you, give you rebuttal and then also conclusion if  
17 that's fine at the same time. Just a little bit of questions  
18 for -- I mean there are a variety -- and please, fellow Board  
19 members, speak up. There were a lot of different -- there  
20 are a lot of different concerns that we've heard in  
21 particular to this business, right.

22 The only things that I have, you know, in terms  
23 of any kind of zoning stuff, you know, again like the adverse  
24 impact, right, to kind of the neighboring property. So I'm  
25 just a little curious in terms of the new business that is

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1 coming in, as to if there's any mitigating -- is there  
2 anything you could offer up to the neighborhood, the ANC in  
3 terms of like --

4           You know, I'm just kind of curious. Like you  
5 know, how do you handle like security, loitering, you know.  
6 Are those concerns in your business establishment, and if so  
7 how do you address those, and is there anything that you can  
8 offer in particular that might be different with this  
9 location?

10           I mean I can see obviously you're going to do a  
11 lovely job to the storefront there, and but is there anything  
12 you can offer up in terms of like additional security, any  
13 thoughts that you might have about any of the particular  
14 items of opposition that the ANC Commissioner and the party  
15 in opposition has brought up?

16           MR. HUGHES: Well Mr. Chairman, I would only note,  
17 and I'm not sure this is necessarily an answer, there's one  
18 of those bike racks right outside our existing location, and  
19 there is activity around those bike racks. I'm wondering if  
20 that is -- Ride Share, is that seen as loitering? I mean we  
21 normally do not have loitering.

22           Our customers are like every other retail  
23 customer. They want to come in, they want to transact, and  
24 they want to get on with their life. They go out the door  
25 and on down the street. So that's not really a problem that

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1 we have. It's not been brought to our attention previously.

2 BZA CHAIR HILL: Okay, okay, so if -- and I'm not  
3 necessarily saying that it is a problem. I'm just kind of  
4 listening to what has been brought up with different people  
5 that have provided testimony.

6 So whether or not there's a bike share out front  
7 there and that turns into why there's more people in front  
8 of that particular establishment. But I guess I would  
9 imagine that if you, and as Chairman Hood had mentioned in  
10 terms of like security cameras, that might be something that  
11 you would consider taking into consideration.

12 MR. NORRINGTON: Yes. We will take that into  
13 serious consideration, if that's sort of what's going on on  
14 H Street, we're happy to be a part of that.

15 MR. HUGHES: Mr. Chairman, I'd like to ask Mr.  
16 Dettman just to respond very briefly about, to give a little  
17 bit more context at the existing location, and perhaps --  
18 well, I'll just turn it over to him and he'll be real brief.

19 BZA CHAIR HILL: Sure.

20 MR. DETTMAN: Just to note, Mr. Chairman, about  
21 loitering and pandering, I've been to the subject property  
22 several times since we filed this application. We actually  
23 back in May we met with Commissioner Miller on site to show  
24 him the renderings. There's no loitering. There's no  
25 pandering going on. It's my understanding that -- and I

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1 think this was -- it was a BZA case.

2           The existing property at 601 H Street, it's  
3 actually part of a single building that spans the entire  
4 south side of the 600 block of H Street. There was a big BZA  
5 case, and it was the existing office building that Ace is  
6 currently located in. There is another existing office  
7 building at the other end of the block, and in the middle was  
8 -- used to be the D.C. Department of Employment Services.

9           And it's my understanding, and you can actually  
10 go and Google Street View, and go through the years of Google  
11 Street View, and you can see that my understanding is that  
12 I've been told that there may have been a lot of loitering  
13 at one time, and it was associated with that office use, the  
14 D.C. Department of Employment Services.

15           You can go on Google Street View and you can see  
16 when Employment Services was there. There's people all over  
17 the place.

18           BZA CHAIR HILL: Okay, I'm sorry. So Mr. Dettman,  
19 I appreciate it and I don't want to drag this on too much in  
20 terms of I was just trying to provide some kind of  
21 clarification. If there was anything that could possibly be  
22 offered, and I would assume that, you know, as given -- as  
23 a business owner, as a retail environment, you know, you are  
24 going to do the best you can to stop any kind of, you know,  
25 loitering or anything in front of your establishment.

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1 MR. NORRINGTON: Yes, that's correct. That's not  
2 a good retail presentation.

3 BZA CHAIR HILL: Okay, so you would -- so those  
4 are some things -- those are things that you actively take  
5 into consideration?

6 MR. NORRINGTON: Yes.

7 BZA CHAIR HILL: Okay, all right. Does anybody  
8 have -- I'm sorry. Go ahead, Mr. Hood.

9 ZC CHAIR HOOD: This probably is going way off  
10 the bend, and I hate to do this. But Ace is, you know, you  
11 cash checks and stuff, right?

12 MR. NORRINGTON: Yes sir.

13 ZC CHAIR HOOD: In this day in society, I don't  
14 see nobody cashing a check staying around outside. I'm  
15 having a problem figuring that out. So I guess is the people  
16 coming from somewhere else? I mean even if you want to go  
17 in there and get your social security check, if you had all  
18 these people standing out in front of your place, I'm not  
19 coming in there. So I mean some of this is just not adding  
20 up to me. I don't know.

21 MR. NORRINGTON: Well listen. We'd like to have  
22 people standing, you know, out the door and down the block,  
23 but that's not the nature of our business. We're not Apple.  
24 We don't have those sort of events at our store. Our  
25 customers are interested in speed of service, and that's

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1 something we're working on. They want to come in, pay their  
2 bill, buy their money order and get on about their lives.

3 ZC CHAIR HOOD: Right, and I believe that from  
4 what I'm hearing is that people are loitering. You probably  
5 have a lot of that going on up and down H Street, and  
6 probably all over the city. But I just cannot see a place  
7 that's dealing with finances in this day and time, people  
8 standing out there. But anyway, that's going down another  
9 road. Sorry about that, Mr. Chairman.

10 BZA CHAIR HILL: That's all right, that's all  
11 right Chairman Hood. So Mr. Hughes, go ahead and please if  
12 you'd like to give your rebuttal and conclusion at the same  
13 time.

14 MR. HUGHES: Sure, sure, sure.

15 BZA CHAIR HILL: And I'm sorry? Were you about  
16 to say something?

17 MR. HUGHES: I was, but I can always start --

18 BZA CHAIR HILL: Okay. We're going to go ahead  
19 and give you five minutes.

20 MR. HUGHES: Okay. Well, it won't take nearly  
21 that. But I want to ask a question again. Mr. Hood, there  
22 was some conversation before with Mr. Miller was still here  
23 about check cashing, check cashing and under the old  
24 regulations, and do you need any clarification on this?

25 There's no reference to anything like that in the

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1 current regulations, but we believe, and this is a carryover  
2 from the ANC meeting, that there was some misinformation  
3 shared at that meeting about the old regulations. And so Mr.  
4 Dettman's glad to clarify --

5 ZC CHAIR HOOD: Are you talking about the 58 or  
6 the --

7 MR. HUGHES: Yes, the 58.

8 ZC CHAIR HOOD: The 58 regulations versus 16.  
9 I don't think I'll need that, because I don't think we  
10 changed that.

11 MR. HUGHES: There was a comment at the ANC  
12 meeting and Mr. Miller alluded to it.

13 BZA CHAIR HILL: I think we're okay. Chairman  
14 Hood seems clear.

15 MR. DETTMAN: It's just a quick --

16 (Simultaneous speaking.)

17 MR. DETTMAN: So just to answer your question  
18 about you don't think you changed it, you didn't change  
19 anything. Under ZR 58, the same limitations, the same  
20 permissions that are applicable to check cashing and all  
21 that, it's the exact same. The provision that the ANC is  
22 kind of latching onto is that under the old, the H Street  
23 retail subdistrict, and we're not located -- the subject  
24 property is in the residential.

25 But in the retail subdistrict, when it was

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1 identifying what were the preferred uses, it says "banking  
2 or financial institution, excluding check cashing services."  
3 So we're not in that subarea. But also it doesn't say that  
4 it was a prohibited use. It doesn't say it's not a matter  
5 of right use. It's just not a preferred use.

6 ZC CHAIR HOOD: Right, got it.

7 MR. HUGHES: It was just red herring and I'm sorry  
8 --

9 BZA CHAIR HILL: That's all right, that's fine.

10 MR. HUGHES: So I'll take back my five minutes.  
11 So Mr. Chair, members of the Board, thank you very much for  
12 your time. We believe -- I mean I think the application  
13 boils down to a long-standing use in the community, a needed  
14 use as our filings and our testimony has shown. There are  
15 folks in the -- within ANC 6C, within all the various SMDs  
16 that are customers of this use. It's been a successful use.

17 They want to stay in the community. They can't  
18 stay in their current location. They're looking to stay as  
19 close to their current location as possible. They're looking  
20 to improve the streetscape, put in play or back into  
21 operation -- I don't want to say abandoned, but a vacant, a  
22 long-vacant property, improve its streetscape, its appearance  
23 and they're not looking to expand the footprint.

24 It's essentially moving down half a block, and so  
25 it's not introducing anything new. It's just a move, and so

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1 we believe we've met the test, the various tests for special  
2 exception, and we thank you for your time. We're certainly  
3 pleased to look into the security, the security camera  
4 program that Mr. Hood suggested, and with that, we'll  
5 conclude and look forward to your hopefully favorable vote.

6 BZA CHAIR HILL: Okay. Does the Board have any  
7 more questions for anybody?

8 ZC CHAIR HOOD: I just want to clarify. There  
9 was money out there, so y'all look for it. But it was out  
10 there. I don't know if it's still there about the cameras.

11 MR. HUGHES: Uh-huh.

12 ZC CHAIR HOOD: That was a while back, about a  
13 year ago. It's still there? Okay, good. All right, thank  
14 you.

15 VICE CHAIR HART: Mr. Chairman, just one question.

16 BZA CHAIR HILL: Certainly.

17 VICE CHAIR HART: And that is I understand that  
18 you all are not proposing security grills and I know I'm kind  
19 of talking about this. I just want to make sure that they  
20 don't come back at some point because of some issue that  
21 happens, and so I didn't know if the Board was thinking about  
22 or if the Applicant would be okay about not allowing, having  
23 a condition that does not allow security grills to be placed  
24 back.

25 I understand that the -- it looks like the

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1 criteria would allow security grills that have no less than  
2 70 percent transparency, and that none are proposed. But I  
3 just almost feel like we need to say something about it, so  
4 that they don't come back to this location. I don't know  
5 what the rest of the Board, and I didn't know if I should  
6 talk about this now or --

7 MR. HUGHES: If that's the Board's preference, the  
8 Applicant doesn't object -- they have no objection to the  
9 condition.

10 MR. NORRINGTON: We have no objection.

11 BZA CHAIR HILL: Okay. That's -- I mean I think  
12 that that's a fair comment. I suppose before we end the  
13 hearing here, again just in terms of clarifying with the  
14 Applicant, you know, if we do get to deliberations today and  
15 if this does actually get approved, you know, Mr. Norrington,  
16 I guess you know, and Mr. Dettman and Mr. Hughes, I mean at  
17 least I know Mr. Hughes and Mr. Dettman will come back before  
18 us again and Ace perhaps will be back before us for another  
19 location.

20 I just need really to -- I want to stress again  
21 what has been, you know, I don't want to go into whether  
22 loitering happens. I mean just being a good neighbor is what  
23 I would assume everyone wants, right. And so, you know, just  
24 stressing that, you know, being a good neighbor, making sure  
25 that if there are any issues particularly with your

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1 neighbors, that those issues get addressed.

2           So I guess Mr. Norrington, I'd just like to hear  
3 from you that you will do whatever you can to make sure that  
4 your neighbors are happy with you being there?

5           MR. NORRINGTON: Absolutely Mr. Chairman. As a  
6 retail company, as my testimony I'll refer to earlier, we  
7 think of ourselves as a retailer. We want a friendly, open  
8 business that people can come into. Loitering is a problem.  
9 Bars on the windows, it's simply not anything we do. We take  
10 them down. We don't put them up.

11           BZA CHAIR HILL: I get it. So Mr. Norrington,  
12 you're going to be in contact with Mr. Labeer, Leferber.

13           MR. NORRINGTON: Yes. I call him Jake.

14           BZA CHAIR HILL: Jake. Okay, great.

15           MR. NORRINGTON: We had a very nice meeting in his  
16 office. I am glad to have him as a neighbor, and I hope that  
17 he and I can work together if there are issues. I am  
18 committed to do that.

19           BZA CHAIR HILL: Okay, because if Mr. Lefebure  
20 comes down and testifies against you at another location  
21 because of what you're doing at this location, I will be more  
22 -- I think we as a Board will listen a little bit more  
23 intently. So I'm just trying to --

24           MR. NORRINGTON: That's fair.

25           BZA CHAIR HILL: Okay, all right. All right.

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1 With that, has anybody got anything else? Okay. All right.  
2 I'm going to close the hearing then. Is the Board ready to  
3 deliberate? Would anyone like to start?

4 MEMBER WHITE: Since they did a lot of the  
5 talking, you know this is an interesting case. Ace Cash  
6 Express, Inc., Application 19587. You are asking for a  
7 special exception under Subtitle H, Section 1101.3(a).  
8 Looking at the record, you know, I was able to look at the  
9 facts as well as the criteria in order to meet, to make a  
10 decision on whether or not the special exception criteria was  
11 met.

12 I appreciate Commissioner Miller coming in,  
13 speaking on behalf of himself regarding some of the events  
14 that took place at the ANC meeting, as well as getting  
15 feedback from Ms. Thomas. So my perception is that I believe  
16 that they met the criteria for a special exception. Now, you  
17 know, I can understand why Mr. Lefebure had some concerns  
18 about, you know, having this type of business next door.

19 But I think, you know, some of his perceptions  
20 were just perceptions, I think. I think, you know, the  
21 perception is that these types of businesses in some cases  
22 may draw some unwanted attention. But I think all in all,  
23 I mean it's a legitimate business that will allow many  
24 residents in the city to be able to execute various financial  
25 transactions.

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1           So my position on this is that while I am very  
2 sensitive to the feedback from Mr. Lefebure in terms of his  
3 concerns, I'm probably more likely to support this now based  
4 upon the comments of, you know, the head for Ace Express,  
5 expressed a desire to be a good neighbor and to continue to  
6 contact and stay in touch with, to make sure with Mr.  
7 Lefebure, to make sure there's no loitering and serious trash  
8 issues and perhaps following up on trying to have a security  
9 camera placed on the building.

10           So with that Mr. Chairman, those are my comments.  
11 I don't know if anybody else has any supplemental comments.

12           ZC CHAIR HOOD:    Is that a motion?

13           BZA CHAIR HILL:  No, no, I've got some comments.

14           MEMBER WHITE:  He's got some comments.

15           VICE CHAIR HART:  My only addition to that would  
16 be the one condition around the security grills, and I don't  
17 know if it's something to the effect of the Applicant shall  
18 not provide security grills on the -- I don't want to say  
19 front facade of the building.  I don't know, something to  
20 that effect.  But I just thought we should just say something  
21 about it, so that we don't see those, you know, back on the  
22 building.

23           BZA CHAIR HILL:  Sure, right.  The Applicant shall  
24 not provide security -- what is it?

25           VICE CHAIR HART:  Yeah.  The Applicant shall not

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1 provide, not construct security grills? I don't know what  
2 you call it.

3 BZA CHAIR HILL: Install?

4 MEMBER WHITE: Install security grills.

5 VICE CHAIR HART: Security grills on the front  
6 facade of the building.

7 BZA CHAIR HILL: Okay.

8 ZC CHAIR HOOD: Mr. Chairman, let me just add.  
9 I want to go back to your statement about who we will see  
10 again. I've been here long enough to see people again. So  
11 I'm sure the Chairperson has mentioned the good neighbor  
12 policy. So I'm sure you'll make it work. You'll work with  
13 your neighbors. I've always called it the good neighbor  
14 policy. The Chairman calls it a good neighbor.

15 But the good neighbor policy means you will  
16 continue to work with your neighbors, and if you see a  
17 problem, you're not going to have to come to the city to get  
18 it straightened out. You're going to work on it with your  
19 neighbors. So we're going to be looking forward to hearing,  
20 seeing -- well, not hearing back from you, but knowing that  
21 that's working.

22 MR. NORRINGTON: Yes sir.

23 ZC CHAIR HOOD: We strongly encourage that you  
24 do that. Thank you.

25 BZA CHAIR HILL: Yeah, no, and as the Chairman had

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1 just mentioned again, you're not a local local organization,  
2 and so that's why we want to, you know, continue to stress  
3 those things. So the only thing I wanted to add again was  
4 just that I do think that the criteria has been met, based  
5 upon a lot of the analysis that the Office of Planning has  
6 given forward.

7 I think that the testimony given, I really do hope  
8 that because of all the testimony that was given, there is  
9 more communication and a good -- that the Applicant, that the  
10 party status, the person in opposition as well as just the  
11 neighborhood in general, as well as the ANC there in general,  
12 feel good about this addition.

13 I mean again it was across the street before, but  
14 continued use of the neighborhood. Just kind of smiling, but  
15 I've been around -- I haven't been around a really long time,  
16 but I have been around long enough to know H Street has  
17 changed, things have changed. I remember when there was  
18 nothing there also, and that, you know, to the -- and I just  
19 had to smile.

20 So you know, the party status in opposition, they  
21 did very well there in that neighborhood there at the right  
22 time that they happened to find themselves. So I hope that  
23 again they have good neighbors now moving forward. So I  
24 continue to stress that, knowing that now the gentleman from  
25 Ace is going to go somewhere else. But Mr. Dettman and Mr.

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1 Hughes will be back around and we'll see also how this moves  
2 forward. So with that being the case -- go ahead, sure of  
3 course. Sure please.

4 MEMBER WHITE: I have one question. With respect  
5 to assuming that we move forward with this, would it be  
6 appropriate or inappropriate to include a condition regarding  
7 the whole good neighbor policy of discouraging loitering and  
8 making sure that there's no substantial accumulation of  
9 trash?

10 BZA CHAIR HILL: I don't know how we make that a  
11 condition, other than -- I'm looking at that we've lost our  
12 way. Gee, I guess, you know.

13 ZC CHAIR HOOD: I've never seen a condition.  
14 It's always a strong encouragement.

15 BZA CHAIR HILL: Right, right, right. It's strong  
16 encouragement.

17 MEMBER WHITE: Well, a strong encouragement would  
18 be sufficient.

19 BZA CHAIR HILL: Okay, all right. So that being  
20 the case, I'll go ahead and make a motion to approve  
21 Application No. 1 -- yep, sure.

22 MR. HUGHES: Mr. Chairman, I'm sorry. Just if  
23 this is -- because you've gotten into the security grills and  
24 design, we had proposed an optional facade preference as a  
25 result of the comment we received from the PZE Committee of

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1 the ANC. It was the more expansive windows, and that would  
2 be the preference if we can.

3 BZA CHAIR HILL: Yes, yes.

4 MR. HUGHES: But may we have flexibility on this  
5 issue in terms of both approaches?

6 BZA CHAIR HILL: Yeah. I don't think we had any  
7 -- I guess did we have final plans? I mean I --

8 MR. HUGHES: This was the extent of the plans of  
9 the interior.

10 BZA CHAIR HILL: I guess we can allow flexibility.  
11 I mean I like Option 2 myself, but you know, whatever. Mr.  
12 Moy.

13 SECRETARY MOY: Well there is Exhibit 7 with the  
14 plans, and for some reason I'm having problems with the  
15 computer. But certainly with the -- you can update that.  
16 You can update those plans with the current Option C, which  
17 is under Exhibit 44B.

18 BZA CHAIR HILL: Okay, so we'll allow flexibility,  
19 and can you update the plans then for us in the record?

20 SECRETARY MOY: It is in the record.

21 BZA CHAIR HILL: Oh, with the new option? Okay.  
22 So there's nothing I have to say.

23 MR. HUGHES: Right. It's this sheet, I believe.

24 BZA CHAIR HILL: Right. But I mean the plan's in  
25 the record or Option No. 2.

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1 MR. HUGHES: That's correct.

2 SECRETARY MOY: It's Exhibit 44B.

3 BZA CHAIR HILL: Okay. So there's nothing to  
4 change. I mean you have the plans there.

5 MR. HUGHES: We just wanted to note it, since we  
6 were getting into conditions about grills.

7 BZA CHAIR HILL: Sure.

8 MR. HUGHES: If someone at DCRA were to have a  
9 question down the road --

10 BZA CHAIR HILL: Sure. We'll let them know that  
11 there's flexibility, but you've submitted the plans for  
12 Option No. 2. So but we will allow for flexibility, yeah  
13 we'll allow flexibility with that.

14 MR. HUGHES: Okay great. Thank you.

15 BZA CHAIR HILL: Okay.

16 MR. HUGHES: Sorry for the interruption.

17 BZA CHAIR HILL: That's all right. You were just  
18 about to get a yes. So we're going to go ahead and make a  
19 motion to approve Application No. 19587, for Ace Cash Express  
20 Incorporated as read by the Secretary, with the condition  
21 that they shall not install security grills on the front  
22 facade, and I ask for a second.

23 VICE CHAIR HART: Second.

24 BZA CHAIR HILL: The motion has been made and  
25 seconded. All those in favor?

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1 (Chorus of ayes.)

2 BZA CHAIR HILL: All those opposed?

3 (No response.)

4 BZA CHAIR HILL: The motion passes. Mr. Moy.

5 SECRETARY MOY: Staff will record the vote as 4  
6 to 0 to 1. This is on the motion of Chairman Hill to approve  
7 the application for the relief requested. Second the motion  
8 Vice Chair Hart. Also support Mr. Hood and Ms. White, a  
9 Board seat vacant. The motion carries, sir.

10 BZA CHAIR HILL: All right. We've got to do a  
11 full order right now, Mr. Moy?

12 SECRETARY MOY: That's correct.

13 BZA CHAIR HILL: Okay.

14 (Pause.)

15 MR. HUGHES: Thank you all very much.

16 BZA CHAIR HILL: All right. Yes, thank you so  
17 much. Mr. Moy, is there anything else for us today?

18 SECRETARY MOY: Not from the staff, sir.

19 BZA CHAIR HILL: Okay. Then we stand adjourned.

20 (Whereupon, the above-entitled matter went off the  
21 record at 2:15 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC BZA

Date: 10-18-17

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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Court Reporter

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