

GOVERNMENT OF THE DISTRICT OF COLUMBIA

BOARD OF ZONING ADJUSTMENTS

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PUBLIC HEARING

+ + + + +

In the Matter of:

APPLICATION OF MILDRED STEPPA Case No. 16227

APPLICATION OF D. MADDEN Case No. 16230

Room 220 South
441 4th Street, N.W.
Washington, D.C.

Wednesday
May 7, 1997

The above-entitled matter came on for
hearing, pursuant to notice, at 1:00 p.m.

BEFORE:

SUSAN MORGAN HINTON	Chairman
LAURA M. RICHARDS	Vice Chairperson
ANGEL F. CLARENS	Member
SHEILA CROSS REID	Member

STAFF PRESENT:

MADELIENE H. DOBBINS
REGINALD LYONS
TRACEY ROSE
JOHN NYARKU

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(1:27 p.m.)

CHAIRMAN HINTON: This hearing will please come to order. Good afternoon, ladies and gentlemen. This is the May public hearing of the Board of Zoning Adjustment of the District of Columbia.

I'm Susan Morgan Hinton, Chairman. Joining me today are Angel Clarens and Sheila Cross Reid.

Copies of today's hearing agenda are available to you. They are located to my left near the door.

All persons planning to testify either in favor or opposition are to fill out two witness cards, located at each end of the table in front of us. Upon coming forward to speak to the Board, please give both cards to the reporter who is sitting to my right.

The order of procedure for special exception and variance cases will be as follows:
(1) Statement of the witnesses of the applicant; (2) government reports, including the Office of Zoning, the Department of Public Works, the ANC, et al.; (3) persons or parties in support; (4) persons or parties in opposition; and (5) closing remarks by

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1 the applicant.

2 Cross-examination of witnesses is
3 permitted by persons or parties with a direct
4 interest in the case.

5 The record will be closed at the
6 conclusion of each case except for any materials
7 specifically requested. The Board and the staff
8 will specify at the end of the hearing exactly what
9 is expected.

10 Decisions in these cases must be based
11 exclusively on the public record. To avoid any
12 appearance to the contrary, the Board requests that
13 persons not engage the Board members in
14 conversation.

15 The Board will make every effort to
16 conclude the public hearing as near as possible to
17 6:00 P.M.

18 At this time, the Board will consider
19 any preliminary matters. Preliminary matters are
20 those which relate to whether a case will or should
21 be heard today, such as requests for postponement,
22 continuance or withdrawal or whether proper and
23 adequate notice of the hearing has been given.

24 If you are not prepared to go forward
25 with a case today or if you believe the Board should
26 not proceed, now is the time to raise such a matter.

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1 Does the staff have any preliminary matters?

2 MR. LYONS: Yes, Madam Chair. One
3 announcement at least: The first two cases noted on
4 the afternoon's agenda, application 16203 had been
5 withdrawn; also, application 16228 had been
6 withdrawn, and those cases will not be discussed at
7 all this afternoon.

8 Staff does raise a preliminary issue
9 with respect to the third case of the afternoon,
10 16227, of Mildred Steppa. The hearing notice in the
11 address identified -- indicates the wrong quadrant
12 of the city. Instead of Northeast, it should be
13 Southeast, and the lot noted is also incorrect.
14 Instead of being Lot 217, it should be Lot 27.

15 We, therefore, recommend that this case
16 be postponed for readvertisement. I should indicate
17 that it already is in the midst of being
18 readvertised for the June 18th hearing. However, I
19 believe counsel for the applicant is present and
20 wishes to make a statement to the Board about this
21 issue.

22 CHAIRMAN HINTON: Thank you. We'll hear
23 from the applicant.

24 MR. OSNOS: Yes. My name is Simon --

25 CHAIRMAN HINTON: You need to have a
26 seat so you can speak into a microphone, please.

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1 MR. OSNOS: Yes. Good afternoon. My
2 name is Simon Osnos, and I represent the applicant.

3 Despite the recommendation of Mr. Lyons,
4 I would ask the Board to go ahead and consider the
5 application today and make a finding that the notice
6 which has been provided to the community is adequate
7 notice.

8 I do not have a copy, but I believe ANC
9 6(b) has submitted a recommendation that the request
10 for exception be granted.

11 Second, the notice which was sent out to
12 the neighboring property owners incorrectly
13 identified the applicant's property as 501 4th
14 Street, N.E. rather than Southeast, but it did
15 indicate that the application was for a special
16 exception, to change a nonconforming use from a
17 grocery to a grocery and delicatessen; and since the
18 notice goes to the property owners within 200 feet
19 of the applicant's premises, I don't think there is
20 much chance that the property owners who did receive
21 notice were in any way confused or misled,
22 particularly since the store was posted in
23 accordance with the BZA procedures.

24 I think there has been adequate notice
25 to the community. There are some letters of
26 recommendation in the file from people who felt that

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1 they wanted to recommend the exception.

2 I think the applicant has done
3 everything necessary to bring the application on for
4 a hearing today. So I would ask the Board to find
5 that notice was adequate, that there is no good
6 cause for postponing the hearing another month and a
7 half, and to possibly go ahead on the merits of the
8 application today.

9 CHAIRMAN HINTON: Thank you. I'll hear
10 from the Board members in a minute, but I'm
11 inclined, just like you said, to -- Notice is very
12 important, and we not only have the wrong quadrant
13 of the city, but we have the lot number not posted
14 correctly, and it's not going to serve anyone if
15 this case is heard and decided and then contested
16 based on improper notice.

17 So I think that the best way to handle
18 it is to go ahead with proper notice, schedule it as
19 soon as we can, which is in six weeks, and proceed
20 at that time with a properly noticed hearing.

21 Are there any other opinions?

22 MS. REID: I would agree.

23 MR. CLARENS: I disagree. I'm always in
24 the minority. I think that, as we have Advisory
25 Neighborhood Commission report on this case -- this
26 is 16227? Is that correct? -- and we have a

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1 petition signed by a significant number of neighbors
2 of this property, we have a certificate of posting
3 of the property, so we have evidence that the intent
4 of the advertisement of the case has been met, and I
5 concur with the applicant that it serves no -- that
6 even though -- I'm a little bit more concerned about
7 the second issue.

8 I think the quadrant of the city, I
9 think, is immaterial and, if that's a typo error,
10 that I think that the evidence in front of the Board
11 is clearly that we must have been detrimental to the
12 knowledge of the neighbors for -- you know, for this
13 case.

14 The second issue, which has to do with
15 the actual lot number, is also, in my opinion,
16 insubstantial or -- because it's a legal number. I
17 think that everything in evidence from the ANC
18 report to the letters in support indicate an
19 understanding by the community of what building we
20 are talking about. It's a corner building. It's a
21 building that -- So I would ask the Board members to
22 reconsider, that it serves no purpose to postpone to
23 meet a legality while we have evidence that, in
24 fact, the neighborhood is aware of what's going on
25 and has had a chance to understand and respond to
26 it.

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1 CHAIRMAN HINTON: Well, the Chair has
2 not received the material on the case. So I'm not
3 prepared to go ahead with it.

4 MR. CLARENS: The Chair has not received
5 material on the case?

6 CHAIRMAN HINTON: No. It was not in my
7 package.s

8 MR. LYONS: We sent some out -- the
9 material in this case out yesterday.

10 CHAIRMAN HINTON: I haven't received
11 anything. So we lack a quorum to go ahead.

12 MR. OSNOS: You could not just review
13 the materials now, I assume, because the hearing is
14 underway? Do you normally review the file prior to
15 the hearing?

16 CHAIRMAN HINTON: We always review the
17 file prior to the hearing.

18 MR. CLARENS: It's a very small file
19 but, nevertheless, I -- Well, it's just simply that
20 -- Madam Chairperson, I always -- you know, taking
21 an attitude of sitting, you know, high and pretty
22 and saying, well, you know, that's okay, you guys
23 wait while we get our act together and, you know,
24 people are out there trying to do things and
25 business.

26 I'm not blaming you or you didn't get

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1 the material. I think that that's okay, if there
2 were errors, but I don't think the errors are
3 substantial. I think that we need to change that
4 attitude. We need to sort of go out of the way to
5 be helpful to the citizens of the city.

6 CHAIRMAN HINTON: All right.

7 MR. CLARENS: It's a very simple, very
8 straightforward case. We have no opposition in this
9 case. It might require maybe a ten minute break.
10 We can postpone. We can leave it to the end of the
11 day, if you want to do it, you know, whatever it is
12 that you want to do; but it seems to me that we
13 should try to --

14 CHAIRMAN HINTON: We have advertised for
15 a special exception. So there's been a
16 determination that this is a neighborhood facility.
17 Is that right? You're prepared to talk to us as
18 special exception? Okay. I've read the material.

19 MR. CLARENS: And the ANC --

20 CHAIRMAN HINTON: Let's go ahead with
21 the hearing today.

22 MR. CLARENS: And the ANC addresses it.

23 CHAIRMAN HINTON: Right. I'm agreeing
24 with you. Let's go ahead today. I'm ready. I
25 hadn't had the material, and it was not clear to me,
26 and I agree with Mr. Clarens. It's clear from

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1 what's been submitted to the record that there was
2 adequate notice.

3 MR. LYONS: Yes. My only position is
4 that, based on the Board's rules, accurate notice of
5 the property involved and the errors made, I
6 thought, could lead someone who read this notice to
7 a different conclusion, and avoid -- If they had
8 interest, they may not have pursued following this
9 case, and that that was basically the premise of my
10 recommending postponement.

11 MR. CLARENS: I see.

12 CHAIRMAN HINTON: Right, and that was my
13 concern also, that if I read -- If I were to receive
14 something about a change from a deli to grocery
15 store, whatever, in some quadrant of the city where
16 I didn't live, I'd probably throw it in the trash
17 can and say what do I care about that, you know.
18 That's my concern, that if someone read it and
19 thought that it was correct and, therefore, thought
20 it didn't -- wasn't anywhere near their
21 neighborhood, so they didn't care about it, then
22 they really didn't have the proper opportunity to
23 look into the case.

24 MR. CLARENS: I would concur with you if
25 it wasn't because this application comes accompanied
26 with a petition and is being signed. There are one,

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1 two, three, four, five, six, seven, eight, nine, ten
2 pages of signatures of people living in Southeast
3 and Northeast in the general vicinity, as far as I
4 could tell from looking at the addresses -- in the
5 general vicinity of this, and they are -- and that,
6 together with the ANC, and the ANC states that --
7 Well, again we are jumping the gun, but I think that
8 the ANC report, together with that, to me, it's
9 evidence before the Board that the intent of proper
10 advertising of the case was met, even with the
11 errors.

12 I think that the Board could make a
13 statement to that effect and proceed in order to
14 cure any defects, Mr. Lyons.

15 CHAIRMAN HINTON: Seeing no opposition,
16 I would tend to concur.

17 MR. LYONS: You may inquire about anyone
18 present in the audience who has an interest in the
19 case.

20 CHAIRMAN HINTON: Is there anyone here
21 with an interest in this case other than the
22 applicant? Is there anyone else in the audience
23 with an interest in case 16227? It's the
24 application of Mildred Steppa. Nobody? Okay. So
25 there's nobody.

26 Let's go ahead and hear it today.

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1 MR. OSNOS: Okay. I'll just take a seat
2 then in the audience? You'll call the case?

3 CHAIRMAN HINTON: Yes. Thank you. Is
4 there an Office of Zoning report?

5 MR. LYONS: The Office of Zoning did not
6 prepare a report.

7 The first two cases, 16203 and 16228
8 were withdrawn.

9 MR. CLARENS: So this is the first case
10 ?

11 MR. LYONS: Yes.

12 CHAIRMAN HINTON: Let's go.

13 MR. LYONS: Application 16227 of Mildred
14 Steppa, pursuant to 11 DCMR 3108.1, for a special
15 exception under Section 2003 to change a
16 nonconforming retail grocery store to grocery and
17 delicatessen - no seats on the first floor of a
18 structure in an R-4 district at premises 501 4th
19 Street, S.E., Square 794, Lot 27.

20 All persons wishing to testify in this
21 application, please rise to take the oath.

22 MR. OSNOS: Well, I'm not supposed to be
23 testifying. I'm going to make a brief statement on
24 behalf of the applicant. There are no witnesses
25 here today.

26 MR. LYONS: You have no one? You'll be

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1 representing the applicant as his attorney?

2 MR. OSNOS: Yes.

3 CHAIRMAN HINTON: Counsel can't testify
4 or put the facts on the record. You need witnesses.

5 MR. OSNOS: Well, in that case, I'll
6 just duck out into the hallway and see what has
7 become of my client, who was to have met me here at
8 12:45. Perhaps I can give my position after the
9 next case on the docket.

10 MR. CLARENS: You're asking for a --
11 After all my efforts, now you're asking for a time
12 out?

13 CHAIRMAN HINTON: We will continue this.
14 We'll have the next case, and then we'll speak to
15 you after the next case is over.

16 MR. OSNOS: It's not that I don't -- I
17 very much appreciate your efforts. It's my client's
18 efforts that I have a problem with.

19 CHAIRMAN HINTON: Okay. We're going to
20 continue that case. Can we call the next case,
21 please?

22 MR. LYONS: The next case is application
23 16230 of D. Madden, pursuant to 11 DCMR 3108.1, for
24 a special exception under Section 213 to establish a
25 parking lot in an R-4 District at premises 704 17th
26 Street, N.E., Square 4510, Lot 826.)

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1 All persons wishing to testify in this
2 application, please rise and take the oath.
3 Application 16230 of D. Madden.

4 CHAIRMAN HINTON: Is the applicant here?
5 Are you the applicant? The applicant is not here?

6 MR. LYONS: I know the applicant, and
7 he's not here.

8 CHAIRMAN HINTON: So? Looks like --
9 Well, we can't proceed with an applicant. So --

10 MR. CLARENS: We're done.

11 MR. LYONS: Would the Board like to just
12 take a short recess? If I can try to contact the
13 applicant --

14 MR. CLARENS: Well, we have a meeting at
15 two. Let's wait until two, and then if neither of
16 the two applicants show up, we'll dismiss the
17 application, and that's their problem.

18 CHAIRMAN HINTON: Let's give them ten
19 minutes, until five or two. If nobody is back at
20 five or two, we dismiss everything, tear it all
21 down.

22 (Whereupon, the foregoing matter went
23 off the record at 1:47 p.m. and went
24 back on the record at 1:54 p.m.)

25 MR. LYONS: Application 16227 of Mildred
26 Steppa, pursuant to 11 DCMR 3108.1, for a special

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1 exception under Section 2003 to change a
2 nonconforming retail grocery store to grocery and
3 delicatessen - no seating - on the first floor of a
4 structure in an R-4 District at premises 504 4th
5 Street, S.E., Square 794, Lot 27.)

6 All persons wishing to testify in this
7 application, please rise to take the oath. Please
8 raise your right hand.

9 Do each of you swear or affirm that the
10 testimony you are about to give will be the truth,
11 the whole truth, and nothing but the truth?

12 (Whereupon, witnesses were sworn.)

13 MR. LYONS: Please be seated.

14 CHAIRMAN HINTON: Please go ahead.

15 MR. OSNOS: Yes. Very briefly, this is
16 an application basically to put a sandwich -- I'm
17 sorry. This is an application to convert a grocery
18 store into a grocery store and delicatessen.

19 There's not really going to be a
20 substantial make-over of the business. There is
21 going to be a deli and meat case in the rear of the
22 store which will basically function as a sandwich
23 preparation area, and I believe in your materials
24 you have a copy of the applicant's proposed sandwich
25 menu.

26 The general manager of the applicant is

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1 here, and he will explain very briefly what changes
2 he plans for the business, and he will be able to
3 answer any questions.

4 I have a diagram which I'll ask the
5 applicant to identify. It shows the interior layout
6 of the store, and from this diagram you will be able
7 to see the limited nature of the changes that are
8 proposed to the physical layout and, indeed, to the
9 overall operation of the store.

10 May I hand this up?

11 CHAIRMAN HINTON: You may hand it to the
12 secretary. Thank you.

13 MR. OSNOS: The witness is named Tok, T-
14 o-k, last name Yi, Y-i.

15 MR. OSNOS: Mr. Yi, would you explain to
16 the Board members where on this diagram you plan to
17 have your sandwich counter?

18 MR. YI: Here is right now meat case we
19 have here. So we're going to use this meat case for
20 the deli. All the deli meat to be displayed go
21 inside the meat case.

22 CHAIRMAN HINTON: Okay. So currently
23 you do not make sandwiches, but you would -- Is that
24 the change in your business, that now you want to
25 make individual sandwiches for sale?

26 MR. YI: Well, we carry a deli license.

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1 It means we're not, but it's going to be changed.
2 Nothing will be changed. It's a grocery store plus
3 sandwiches, and the salads.

4 We couldn't cut the watermelon, because
5 we don't have a license. See, the stores around --
6 and we have a store around the neighbors -- Mostly,
7 they -- As you can see, we have 170 patients --
8 neighbors. They signed, because they like to have a
9 deli like this. I asked the people we applied the
10 deli license to the Board, asked their opinions.

11 We are going to open the deli counter
12 department. So what do you think? None of them
13 said no. Everybody say they welcome, they like to
14 have that idea.

15 CHAIRMAN HINTON: Okay. So that hours
16 of operation are not going to change?

17 MR. YI: Hours of operation not change,
18 no.

19 CHAIRMAN HINTON: And there's not going
20 to be any change to the size of the store? You're
21 merely going to be preparing --

22 MR. YI: No. Same size. Nothing is
23 changed.

24 CHAIRMAN HINTON: Okay. Deli in
25 addition to grocery?

26 MR. YI: Yes, ma'am.

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1 CHAIRMAN HINTON: Is that right?

2 MR. YI: Yes.

3 CHAIRMAN HINTON: And this is a special
4 exception. Is that right?

5 MR. YI: Yes, ma'am.

6 CHAIRMAN HINTON: So you need to tell us
7 if there are going to -- what impacts this change
8 will have on the neighborhood. Is there going to be
9 -- Are there going to be more customers at different
10 times?

11 MR. CLARENS; Madam Chairperson, maybe
12 first we need to establish that it is, in fact, a
13 neighborhood facility. I think that maybe Mr. Yi
14 could tell us a little bit about who the users --
15 who's your market, the people you serve?

16 MR. YI: Well, mostly around the
17 neighbors. The next sandwich shop is about three-
18 four blocks away. Like a Saturday, Sunday, most of
19 the neighbors they just husband or wife -- they are
20 both working people, middle income, I would say,
21 upper middle income people. Like a Saturday,
22 Sunday, they don't like to work. I mean, they don't
23 like making cooking things.

24 They come to looking us, you know, our
25 tuna or chicken salad subs. So they can, you know,
26 eat with families. Then plus we can sell green

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1 salad. We can't cut any lettuce, because we don't
2 have a license. We can't cut the watermelon.

3 Watermelon like that, mostly one or two
4 peoples one family. I can't take that whole.
5 They're too big. Can you cut them up half,
6 whatever? I can't cut, because I don't have a
7 license.

8 MR. CLARENS: But you are serving people
9 around in the immediate neighborhood?

10 MR. YI: Yes.

11 CHAIRMAN HINTON: Okay. Which makes it
12 a neighborhood facility, which makes that a special
13 exception.

14 MR. YI: Yes. We're not trying to get
15 with a daily license, but trying to get more
16 convenience for the neighbors. That's what I'm
17 trying to do.

18 CHAIRMAN HINTON: Okay. What change do
19 you foresee that might impact the neighborhood,
20 based on getting this deli license?

21 MR. YI: Basically, I don't see anything
22 that's going to be changed if we have a deli
23 license.

24 CHAIRMAN HINTON: Will you have more
25 customers?

26 MR. YI: Well, I don't know about that

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1 either, because we are in residence area. It's not
2 commercial joining. So mostly we deal with the
3 peoples around the neighborhood where we live now
4 always nearby the store.

5 So there is a couple of schools there,
6 private schools. So school children, they want a
7 sandwich shop, too. There's one across the street
8 and one behind the store.

9 MS. REID: There would not be any
10 cooking there on the premises?

11 MR. YI: No, ma'am, no hot cooking.
12 Just strictly sandwiches.

13 MS. REID: Cold sandwiches?

14 MR. YI: Yes, ma'am.

15 MS. REID: Okay. And where on your
16 diagram is the food preparation area?

17 MR. YI: It's going to be behind the
18 meat counter.

19 MS. REID: What do you have, a kitchen?

20 MR. YI: Well, we have everything there,
21 ma'am, tables, disposals. I know a little bit about
22 the regulation of the Health Department. We have
23 all the things that we need right now.

24 MS. REID: So this area on the right,
25 right behind where the sink is and -- in between the
26 sink and the walk-in box is going to be the food

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1 preparation area?

2 MR. YI: Yes. We have the walk-in box
3 there, too, and we have separate refrigerator, so we
4 can put in all the deli meats, plus we have a big
5 meat case here. We can use part over there. We
6 have plenty of room for this.

7 MR. CLARENS: Let me review the
8 regulations for the Board's benefit. We are acting
9 under the recommendation of the Zoning
10 Administrator's letter to Mr. Osnos in which it says
11 that, if we -- if this use, this facility, is
12 determined to be a neighborhood facility, which I
13 believe the Board has already done, we are in
14 authority to grant a special exception under
15 provisions of Section 2003 of DCMR 11.

16 2003 says changing uses within
17 structures, and, one, says that if we approve as
18 authorized under 3105 through 3108 a nonconforming
19 use, which is what we have here -- We have an R-4
20 District in which we have a grocery store, and it
21 says that a nonconforming use may be changed to a
22 use that is permitted as a matter of right in the
23 most restrictive district in which existing
24 nonconforming use is permitted as a matter of right,
25 subject to the conditions set forth in this section.

26 So it is the most restrictive district

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1 in which a grocery store is permitted would be a C-
2 1, and in a C-1 a delicatessen is also allowed. So,
3 therefore, we may proceed to second paragraph, 2003.
4 The proposed use shall not adversely affect the
5 present character or future development of the
6 surrounding area, in accordance with this title.
7 The surrounding area shall be deemed to encompass
8 the existing uses and structures within at least 300
9 feet in all direction of nonconforming use.

10 So it seems to me that we have evidence
11 or we have testimony, in any case, that the nature
12 of the change is small in character and will not
13 adversely affect the present character or future
14 development in the surrounding area.

15 The proposed use -- Item 3: The
16 proposed use shall not create any deleterious
17 external effects, including but not limited to
18 noise, traffic, parking and loading consideration,
19 elimination, and design and siting effects.

20 Then that brings us then to an issue.
21 When you prepare food, including the cutting of
22 watermelons, which is an example that you have used,
23 there's going to be some discarded pieces that
24 you're going to have to throw away.

25 So is this going to change the way that
26 you are handling the refuse and the garbage pick-up?

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1 Is this something that we should be concerned about?
2 How are you going to handle that? There's going to
3 be a difference now, because right now your store
4 should not be producing significant amount of
5 garbage that might attract rodents or animals of any
6 kind.

7 With changing to a deli, you are going
8 to be discarding pieces of lettuce, tomatoes,
9 watermelons, ham, whatever, and that's going to be
10 thrown away. Can you tell us a little about what
11 provisions are you making or are you changing any of
12 the provisions regarding trash collection?

13 MR. YI: Yes, I do. Right now we have
14 about two times a day -- collect trash two times a
15 week, but we have a smaller container right now.
16 We're going to change to a little larger, next
17 bigger containers, and we're going to ask three
18 times -- collect it three times a week. That's the
19 way we keep it clean.

20 MR. CLARENS: There will be no changes
21 to the exterior of the business?

22 MR. YI: Not much, but we're going to
23 have some fresh paint jobs we're going to have after
24 we get approval by the Board. So --

25 MR. CLARENS: Item 4: When a
26 nonconforming use has been changed to a conforming

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1 or more restrictive use, it shall not be changed
2 back. So that's not applicable.

3 A residential district proposed use
4 shall be either a dwelling, flat, apartment house or
5 a neighborhood facility. We've determined that it's
6 a neighborhood facility.

7 Item 6: For the purpose of the sanction
8 of this -- are listed in the following order of
9 decreased use restriction. Okay, and C-1 is a more
10 -- is a less restrictive use than an R-4, but for
11 the purpose of what we are doing, which is the
12 delicatessen and the grocery, a C-1 and a C-1 is the
13 same level.

14 Finally, item 7: The Board may require
15 the provision of or direct changes, modifications or
16 amendments to any design plans, screening,
17 landscaping, type of lighting, nature of any sign,
18 pedestrian or vehicular access, parking and loading,
19 hours of operation or any other restrictions or
20 safeguard it may deem necessary to protect the
21 value, utilization or enjoyment of the property in
22 the neighborhood.

23 I'm still concerned with the trash.
24 Where is the trash receptacle located?

25 MR. YI: It is behind the buildings.

26 MR. CLARENS: And it is an alley?

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1 MR. YI: It's something like the alley.
2 It's about -- We have a special door there open to
3 that.

4 MR. CLARENS: So it's screened?

5 MR. YI: Yes, sir.s

6 MR. CLARENS: And it's not visible from
7 the outside?

8 MR. YI: No, it's not screened, sir.
9 It's open air, but there's a special space for the
10 trash. So big trash can goes inside there. So we
11 put it there. Then trash men take it away, then put
12 a top over that. It's pretty much the sanitation.

13 MR. CLARENS: That's the provisions for
14 granting a special exception.

15 CHAIRMAN HINTON: Very good. Thank you
16 for taking us through them.

17 This actually shows a public alley to
18 the rear -- the survey does. So is there a public
19 alley to the rear of your lot?

20 MR. YI: No, it's not public, ma'am.
21 It's private, I think.

22 MR. CLARENS: The plat shows it's a
23 public alley. Now is this a door at the rear?
24 Where's the entrance door in your layout here? Your
25 entrance door is at the front in this?

26 MR. YI: Right here, sir.

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1 MR. CLARENS: Yes, in this corner?
2 MR. YI: Yes, sir.
3 MR. CLARENS: I see. And is this a rear
4 door?
5 MR. YI: Rear door is --
6 MR. CLARENS: And that rear door then
7 goes out into the sidewalk?
8 MR. YI: This sidewalk, yes.
9 MR. CLARENS: This is a sidewalk?
10 MR. YI: Yes.
11 MR. CLARENS: And then there is a back
12 patio?
13 MR. YI: And the trash is back here, and
14 we don't use front door to the customer areas. It
15 goes to back, and it goes to --
16 MR. CLARENS: Okay. The last concern
17 that I have on her version is the pictures that we
18 have -- and I don't have -- Is that the file for
19 this case?
20 CHAIRMAN HINTON: This is the file.
21 MR. CLARENS: This is the file for this
22 case. The reason that the windows facing the
23 street are so opaque, so covered up with wood,
24 etcetera, etcetera, is due to what? Is due to that
25 they are in use for display on the inside as well as
26 for protection of the business?

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1 You know, I'm looking at the pictures in
2 your file that you provided us with, the external
3 pictures, and I'm talking about the windows that are
4 on both sides, on both streets. Are those -- They
5 have very little window left. They used to be bay
6 windows, and they are now covered up.

7 MR. YI: Well, we don't need all this
8 window open so everybody can see through. It's just
9 covered up. That's plywood.

10 MR. CLARENS: And that's for security
11 purposes and for display of material on the inside?

12 MR. YI: Well, it's not security
13 purpose, but we have something -- a lot of
14 merchandise behind that. Yes. Well, it's been like
15 that for many, many years, I believe. So we just
16 leave it like that.

17 MR. CLARENS: But you are going to --

18 MR. YI: We're going to open a couple of
19 the windows. It's pretty dark right now.

20 MR. CLARENS: You're going to open it
21 up, and you're going to paint it?

22 MR. YI: Yes.

23 MR. CLARENS: And you're going to change
24 the sign from "Grocery" to "Grocery/Delicatessen"?

25 MR. YI: We need a little sign so people
26 can know that we start the sandwiches, not a big

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1 sign but --

2 CHAIRMAN HINTON: Okay. If that
3 concludes our questions, and that concludes the
4 presentation of the applicant?

5 MR. OSNOS: Yes.

6 CHAIRMAN HINTON: Okay. Let's go into
7 the government reports. We have no report from the
8 Office of Planning or Zoning. We have no report
9 from DPW. There is something in the file from the
10 ANC? Do you have the file?

11 MR. CLARENS: Yes, I think I can find
12 it.

13 CHAIRMAN HINTON: Oh, here we go, ANC-
14 6B. The Commission voted 10-0 to support the
15 application, and the applicant provided evidence of
16 neighborhood support. Applicant pledged that he
17 would continue his policy prohibiting the sale of
18 single beers, and pledged to give up the deli
19 license in the event that it caused problems.

20 This meeting was properly noticed. It
21 was the April 9th meeting, and a quorum of
22 Commissioners was seven, the vote 10 to zero. Very
23 good.

24 There's not an ANC representative here?
25 I should have asked that first. Seeing none, very
26 good.

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1 Are there persons or parties in support
2 of the application? Persons or parties in
3 opposition?

4 MR. CLARENS: Let the record show, Madam
5 Chairperson, that there are, as I mentioned before,
6 seven pages -- I thought it was seven.

7 CHAIRMAN HINTON: I think 9 pages.

8 MR. CLARENS: -- nine pages of signatures
9 in support.

10 CHAIRMAN HINTON: And no opposition in
11 the file? Very good. Closing remarks by the
12 applicant?

13 MR. OSNOS: I don't have much in the way
14 of closing, just again to reiterate that there's not
15 much alteration to the inside. So that the real --
16 The layout and the -- The layout is not being
17 changed. The use of the facility is not in any real
18 sense being intensified.

19 It is a neighborhood facility. It is
20 for the convenience of people in the neighborhood,
21 and I think, from the record evidence and from the
22 ANC's recommendation, it's clear that the impact is
23 not going to be adverse on the community.

24 CHAIRMAN HINTON: Thank you.

25 MR. CLARENS: Madam Chairperson, I move
26 approval of this application with one condition,

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1 that the garbage be removed three times a week, as
2 testified by the applicant, and that's all.

3 MS. REID: Second.

4 CHAIRMAN HINTON: Thank you. Properly
5 moved and seconded. All those in favor, aye?
6 Opposed? None. Did you record the vote?

7 MR. LYONS: That condition was the only
8 condition? No hours of operation or --

9 CHAIRMAN HINTON: We had testimony that
10 they are not changing from what they had. So that
11 is the only condition.

12 MR. CLARENS: I guess we didn't deal
13 with that.

14 CHAIRMAN HINTON: No, we didn't.

15 MR. CLARENS: The testimony is that
16 there is no change in the hours of operation. You
17 will continue to operate the same hours that you --

18 MR. YI: Same hours.

19 MR. CLARENS: I have not recommended any
20 time limitation, because I didn't see any need for
21 that, any time meaning a period of time.

22 CHAIRMAN HINTON: I agree.

23 MR. LYONS: I didn't know whether Ms.
24 Richards had cast a vote.

25 MS. RICHARDS: I did not cast a vote,
26 not having heard all of the presentation.

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1 MR. LYONS: Staff then will record the
2 vote as being three to zero to approve the
3 application, and the issuance of a summary order.

4 CHAIRMAN HINTON: Yes.

5 MR. LYONS: Mr. Clarens, Ms. Reid and
6 Ms. Hinton to approve; Ms. Richards, not voting, not
7 having heard the case. I believe that's it.

8 CHAIRMAN HINTON: Thank you.

9 MR. LYONS: The next case is application
10 16230 of D. Madden, pursuant to 11 DCMR 3108.1, for
11 a special exception under Section 213 to establish a
12 parking lot in an R-4 District a premises 704 17th
13 Street, N.E., Square 4511, Lot 826.

14 All persons wishing to testify in this
15 application, please rise to take the oath. Please
16 raise your right hand.

17 Do each of you swear or affirm that the
18 testimony you are about to give will be the truth,
19 the whole truth, and nothing but the truth?

20 (Whereupon, witnesses were sworn.)

21 MR. LYONS: Please be seated.

22 CHAIRMAN HINTON: Before we get started
23 with the applicant, we're going to take a very brief
24 two-minute break. Thank you.

25 (Whereupon, the foregoing matter went
26 off the record at 2:18 p.m. and went

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1 back on the record at 2:25 p.m.)

2 CHAIRMAN HINTON: We're back on the
3 record. Come forward, please.

4 MR. MADDEN: Good afternoon. My name is
5 Donald Madden. Madam Chairperson and the Board
6 members, I come before you today to ask your
7 approval in allowing me to turn an area that would
8 beautify the neighbor into a parking area, and from
9 all indications it's been supported 100 percent by
10 the ANC and the community is welcoming it, and a
11 proven fact that a lot across the street that was
12 surfaced by the church and a fence put around it
13 eliminated a dumping problem that exists in that
14 area.

15 Currently, I have to have that lot
16 cleaned once a month, taken to the dump, because
17 people are just coming by and dumping, and I think
18 this would benefit the community. I know it would
19 benefit the people that's parking there. Since
20 they've moved a laundromat into that area, it's very
21 difficult to find a parking space there during the
22 day.

23 I don't want to take up much of your
24 time. I have detail to go into, but I'll entertain
25 any questions; but as you can see, the lot will have
26 shrubbery and a seven-foot fence.

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1 The lot will have a seven-foot fence and
2 would have shrubbery which would beautify the area.
3 This is -- Those of you who may not be familiar with
4 where it's located, it's across from Hechinger Mall,
5 behind a laundromat that's on the corner at 17th and
6 Benning Road. This is 17th and Gayles Place, which
7 is classified as an alley.

8 MR. CLARENS: The Hechinger Mall -- can
9 you point out the Hechinger Mall and your land? Is
10 it a triangular piece of land?

11 MR. MADDEN: Yes. This is Hechinger
12 Mall here, sir. Right. It's like diagonally across
13 from the lot, and part of the Hechinger Mall is
14 directly across the street on Benning Road from it,
15 the side of Hechinger Mall that parallels by 17th
16 Street.

17 There is only one opposition to this
18 application, and in that letter there's some false
19 information. Since I've had the lot, it's never
20 been leased out to anyone. I've always been the
21 only use of that lot, and the person that protested
22 is in opposition to me, because she attempted to
23 purchase the lot from me, and I refused to sell it.
24 As a result, I think that's created the protest.

25 CHAIRMAN HINTON: You might concentrate
26 on the aspects of your application. Can you tell us

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1 what you propose this parking lot to be used for?

2 MR. MADDEN: The parking lot will be
3 used as parking company vehicles and for employees
4 currently working at Northeast Medical Center and
5 people in the community that desire to come there to
6 park. From indications from the people that's
7 working in that area, they're required to park
8 sometimes two or three blocks away in order to get
9 to work, and --

10 CHAIRMAN HINTON: What company vehicles
11 will there be?

12 MR. MADDEN: It would be my company's.

13 CHAIRMAN HINTON: What company is that?

14 MR. MADDEN: DRM & Associates, Inc. I
15 run a limousine service.

16 CHAIRMAN HINTON: So these are
17 limousines?

18 MR. MADDEN: Right.

19 CHAIRMAN HINTON: Are there things other
20 than limousines that are going to be parked there?

21 MR. MADDEN: No.

22 CHAIRMAN HINTON: How many company
23 vehicles will be parked there?

24 MR. MADDEN: Probably no more than two
25 and probably no more than three hours a day, and it
26 would be during the daylight hours, and we're closed

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1 in the evening. No vehicles would be on the lot in
2 the evenings.

3 MR. CLARENS: So the rest of the parking
4 spaces will be occupied by long term --

5 MR. MADDEN: Short term parking by
6 people that's working in the Medical Center and
7 people that may be coming to the laundromat and
8 residents in that area that may have a need to park
9 there.

10 CHAIRMAN HINTON: Isn't there going to
11 be a fence and a gate?

12 MR. MADDEN: There will be a fence and a
13 gate, completely surrounding the area, seven-foot
14 fence.

15 CHAIRMAN HINTON: But will the gate --
16 What hours will the gate be open and the parking be
17 able to be accessed?

18 MR. MADDEN: From seven to 6:00 p.m.

19 CHAIRMAN HINTON: 7:00 a.m. to 6:00
20 p.m., the gate will be unlocked, and anyone can park
21 in there?

22 MR. MADDEN: Yes. It will be controlled
23 by -- Basically, the people at the Medical Center
24 will have access to that lot, and the gate would not
25 be -- no -- open. No, I'm sorry. The gate will be
26 locked. The people that park there will have keys

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1 to get in there.

2 CHAIRMAN HINTON: So this is private
3 parking? The gate is going to be locked at all
4 times, and only people who have made prior
5 arrangements can park?

6 MR. MADDEN: For security reasons, yes.

7 MR. CLARENS: This is not short-term.
8 It's long-term. You're going to have agreements
9 with the people who are going to park there, and
10 they're going to pay you a certain amount to park on
11 this property?

12 MR. MADDEN: From those hours, yes.

13 MR. CLARENS: Yes, for those hours.

14 MR. MADDEN: Right.

15 MR. CLARENS: But on a long-term basis,
16 meaning they will be signing leases with you,
17 basically, for the spaces for periods of a month at
18 a time?

19 MR. MADDEN: Yes, sir. All the spaces
20 would not be leased out. I have to keep at least
21 two spaces there for my limousines, which -- called
22 limousine, but they are Rolls Royces, and they're
23 short, not the real long limousines that you may be
24 speaking of or thinking of. They are regular size
25 cars. So it wouldn't be any problem entering or
26 exiting that area.

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1 CHAIRMAN HINTON: Okay. How does your
2 application comply with Section 213.7 of the
3 regulations? Have you looked at that? I'll read it
4 while you're getting it out.

5 The majority of the parking spaces shall
6 serve residential uses or short-term parking needs
7 of retail, service, and public facility uses in the
8 vicinity.

9 Seems to me your testimony says this is
10 going to be company vehicles and the long-term
11 parking needs of employees in the area, and it's
12 going to be gated at all times. So it's not public
13 access. It's by prior private arrangement.

14 MR. MADDEN: Basically, it's prior
15 arrangements, because of security. This was
16 discussed with ANC at length, and they understand
17 that that area is not really secure, and the people
18 are having problems now having their vehicles broken
19 into. So it would behoove everyone to be able to
20 say they own a secure lot.

21 MS. RICHARDS: There are some rowhouses
22 in the same area. What's the relationship of the
23 rowhouses to the parking lot? Is it going to be
24 backyards facing the fence or what?

25 MR. MADDEN: It's a backyard that goes
26 along, which is parking for the residents. It's a

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1 long driveway in the back of the house, about, oh,
2 130 feet, I guess, before you get to the house off
3 the alley, which some people use as gardens. The
4 one adjacent to it is just a driveway, and the house
5 is vacant, been vacant for three or four years.

6 CHAIRMAN HINTON: Before we get to --
7 can I just -- Have you concluded your presentation?
8 We'll get to questions, once we --

9 MR. MADDEN: If that answers the
10 question, yes.

11 CHAIRMAN HINTON: You've concluded? Ms.
12 Reid?

13 MS. REID: Mr. Madden, in the
14 regulations it does say that the vehicles should
15 only be for short-term, and that -- we interpret
16 that to mean for a few hours. Now you said this
17 limousine would be for two or three hours at a time.

18 MR. MADDEN: That's correct.

19 MS. REID: Okay. Now it's going to
20 service also the medical building. Is that correct?

21 MR. MADDEN: It would serve the medical.

22 MS. REID: Okay. However, the thing at
23 issue then becomes how long will the people who park
24 there park their cars?

25 MR. MADDEN: Some of them, you know,
26 will be there for two or three hours or maybe eight

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1 hours, for the duration of their --

2 MS. REID: Okay, because what the
3 Chairperson was saying was that they could not --
4 not long-term, not all day. For a few hours, but
5 not all day. So in your testimony you're saying
6 that the employees are going to be parking there.
7 Then the interpretation that we have is that long-
8 term would not be acceptable to have it.

9 MR. MADDEN: Okay. The way I understood
10 long-term, if they were going to park there in the
11 evenings, all day, which was a 24-hour period, which
12 that is not permissible.

13 MS. REID: I think we need to clarify
14 how long vehicles can park there, because short-term
15 is, obviously -- can be interpreted in different
16 ways. I, too, had a different interpretation until
17 it was just clarified to me.

18 MS. RICHARDS: I agree, but I think that
19 he's -- Clearly, the rules contemplate -- You know,
20 the regulations as written contemplate that you can
21 only have short-term parking as a matter of right.
22 I think he would like to establish that he's
23 entitled to maybe some relief.

24 Well, he's not supposed to have a
25 commercial parking lot at all in a residential zone,
26 and he's saying, well, I think I can establish a

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1 special exception for the added -- I think he can
2 also attempt to show that he's entitled to a special
3 exception from the short-term provisions. I mean,
4 that's his burden to show.

5 MS. REID: Okay. Is that what you were
6 --

7 MR. MADDEN: Yes, ma'am. Sorry if I
8 didn't portray that. I'm sorry?

9 MR. CLARENS: Just to clarify, I think
10 the regulation is fairly clear. 213.7 says a
11 majority of the parking spaces shall serve
12 residential uses or short-term parking needs of
13 retail, services, facilities, uses in the vicinity.

14 That is a qualifier to the granting of
15 permission to operate a parking lot in an R-1 --
16 therefore, an R-4 -- zone. So it is not a -- no
17 provision for not satisfying that requirement, that
18 requirement mostly satisfied.

19 CHAIRMAN HINTON: Exactly.

20 MS. REID: I stand corrected.

21 MR. MADDEN: I'm sorry, sir. You lost
22 me.

23 MR. CLARENS: We're operating under item
24 213 of DCMR 11, which talks about parking lots in
25 residential districts, starting with R-1, but it
26 applies to all residential districts. This is how

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1 it came to us, I believe.

2 It is under that provision of the
3 regulations that we are looking at your application.
4 So if that's the case, then it says that the Board,
5 us, we can give you permission to operate a parking
6 lot in a residential district if you meet these
7 requirements, and then it lists eight requirements -
8 - well, seven requirements in addition to that first
9 one.

10 The item 213.7 says that a majority of
11 the parking spaces shall serve residential uses.
12 Doesn't mean a residential zone or -- and it doesn't
13 meet that. According to your testimony, it's not
14 going to do that -- or short term parking needs of
15 retail, service, and public facility uses in the
16 vicinity.

17 Now service, retail -- You have talked
18 about a laundromat which is nearby, but the
19 laundromat, I cannot imagine how in the way that you
20 are mentioning this thing is going to be operated,
21 could be served by this parking, because you go to
22 the laundromat, you know, once a week or whatever it
23 is that you go and do your laundry.

24 So unless you had -- You're not going to
25 be serving these people.

26 MR. MADDEN: The main service is for the

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1 people at the Medical Center. That's the one
2 expressed the greatest need.

3 MR. CLARENS: Okay. So would that then
4 be categorized as a service facility, the medical
5 center?

6 MR. MADDEN: Yes.

7 MS. RICHARDS: For the users. That's
8 not for the employees, you know. Employment is in
9 commercial parking.

10 MS. REID: There would be people -- are
11 the people going to the medical center using his
12 services, parking for the guests or the patients of
13 the medical center?

14 MR. MADDEN: The need they expressed to
15 me is where, if you went to the medical center now,
16 you have a lot of employees that crowds the lot, and
17 other people in the approximate area crowding the
18 lot to go into McDonald's and etcetera. The people
19 have no facility around there to park.

20 So as a person that has the space there
21 that I can serve my needs and also help the
22 community, I am willing to open it up to other
23 people to park on it. However, if that is
24 prohibited from serving the lot and etcetera, then
25 I'll just park my vehicles on it; but the area would
26 be improved tremendously by having the parking lot

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1 there, and I think it would benefit others in the
2 area.

3 MS. REID: When you say people who will
4 be parking there, are you saying people who have
5 appointments to go and see the doctors or the
6 dentist or whoever they're going to visit at the
7 medical center? Is that what you're saying? You're
8 saying the people who will be parking in there.

9 MR. MADDEN: Mainly the idea was for the
10 people that service the people that's in the medical
11 center, because their cars are being broken in in
12 that area.

13 MS. REID: The employees.

14 MR. MADDEN: Mostly employees. One came
15 to me has requested a need for the parking, and --

16 CHAIRMAN HINTON: Do you own residential
17 property in the area?

18 MR. MADDEN: I do.

19 MS. RICHARDS: Owner occupied
20 residential property?

21 MR. MADDEN: Occupied? Yes. I have
22 some of the most expensive residential property in
23 that area. I am a developer and been in the city
24 for 20 years, and I specialize in taking eyesores
25 and turning them into nice facilities.

26 For example, if you remember Charity

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1 Baptist Church --

2 CHAIRMAN HINTON: I think you've
3 answered the question, really. What I was trying to
4 get at is your statement that, if the parking can't
5 be used for the employees of the medical facility,
6 you still have an interest in parking your company
7 vehicles.

8 MR. MADDEN: Yes, I would.

9 CHAIRMAN HINTON: Where is the company
10 located?

11 MR. CLARENS: Is there any other way --

12 CHAIRMAN HINTON: Where is the company
13 headquartered?

14 MR. MADDEN: In the same -- Ward 6, 243
15 K Street, N.E. is my office.

16 CHAIRMAN HINTON: 243 K Street? How far
17 is that from this property?

18 MR. MADDEN: Maybe a mile.

19 CHAIRMAN HINTON: A mile?

20 MR. MADDEN: My vehicles are currently
21 up by Catholic University, which is considerable
22 ways away. Then at times for servicing the area,
23 then I would need to maybe park them there for a few
24 hours.

25 CHAIRMAN HINTON: And other than the few
26 hours that they might be on this site, where are

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1 they? MR. MADDEN: They are housed
2 indoors by Catholic University, down the street. I
3 can't think of the street, currently. There's a
4 large lot there, and also indoors for the Rolls
5 Royces and the limousines.

6 CHAIRMAN HINTON: And you'll continue to
7 keep them there?

8 MR. MADDEN: Yes, because it's not
9 secure to have that type of vehicle sitting down
10 there overnight. I wouldn't --

11 MR. CLARENS: Is there any other way
12 that you can secure this parking lot and yet make it
13 accessible to short-term parking?

14 MR. MADDEN: Yes.

15 MR. CLARENS: Is there any other way
16 that it can be -- that you can -- Short of a gated
17 and keyed entrance or a card entrance, is there any
18 other way that this could be made available so that,
19 if I am a customer of the laundromat, I can actually
20 drive into this place and walk to the laundromat and
21 park for a couple of hours while I'm doing my
22 laundry?

23 Is there any operation or way in which
24 you can change the operation to make it available to
25 short-term, while at the same time make it available
26 -- and I'm thinking, but that wouldn't secure the

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1 lot except at night where you can simply close it.

2 MR. MADDEN: No one will be there at
3 night. No one will park on there at night.

4 MR. CLARENS: No one will park there at
5 night. So you could have a gate that's closed at
6 night, but during the day is there any other way
7 that then a gate that opens and closes with a card
8 or a key that you could make this lot available to
9 satisfy the requirements of the regulations, which
10 ask for a short-term availability of the parking
11 spaces?

12 MR. MADDEN: Yes. That can be done.
13 That can be arranged by only limiting the number of
14 spaces that I would give to the people working in
15 the facility, which as I understand by the
16 regulation, a majority would be for the public.
17 That could be easily arranged. That's no problem.
18 I'm willing to do that.

19 Like I say, you know, my vehicles, if
20 they are there, which is very seldom that they would
21 be on the lot, period, is the exception rather than
22 the rule that a vehicle would be there; but in case
23 I would need it, you know, they could be there for -
24 -

25 MR. CLARENS: How many parking spaces
26 you have proposed? Twelve?

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1 MR. MADDEN: Nine, sir.

2 MR. CLARENS: Nine. So you are saying
3 that you are -- So you would give four spaces, you
4 would dedicate to people who work at the medical
5 center?

6 MR. MADDEN: I could do that. No
7 problem.

8 MR. CLARENS: And the other five -- and
9 you would be willing to pave, fence, and landscape
10 this lot, be able to rent only four of the spaces to
11 people in the medical facility, and have the other
12 five reserved, basically, for your use; but I wonder
13 if that's still -- Well, that still, I'm not sure,
14 satisfies. You know, that's not where I was going
15 with my question.

16 MR. MADDEN: I think that does, sir,
17 from my discussion with ANC. That would.

18 CHAIRMAN HINTON: I would like to move
19 to the Office of Planning Report and, if we have
20 more questions after that --

21 MR. MADDEN: Will I get a chance to
22 speak later?

23 CHAIRMAN HINTON: You have closing
24 remarks. The Office of Zoning report.

25 MR. NYARKU: Good afternoon, Madam
26 Chairperson and other members of the Board. My name

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1 is John Nyarku, a zoning specialist at the Office of
2 Zoning.

3 You have before you OZ's report on
4 application number 16230 dated May 2, 1997. The
5 applicant is requesting a special exception to
6 construct a parking lot on the subject site for the
7 applicant's company vehicles to carry out daily
8 business activities.

9 The parking facility will also provide
10 overspill parking for the adjacent Greater Northeast
11 Medical Center, as well as business located on
12 Benning Road, N.E.

13 The site is located in its entirety
14 within 200 feet of industrial CM-1 district -- The
15 availability of this parking lot would reduce some
16 overspill parking from existing businesses on the
17 surrounding streets in the area.

18 The special exception request in this
19 case must comply with the provisions of Section 213
20 of the zoning regulations, copies of which are
21 attached to the report.

22 On pages 3 and 4 of this report is our
23 recommendation, which I will read into the record:

24 The Office of Zoning is of the opinion
25 that the proposed parking lot will not have adverse
26 effects on the surrounding neighborhood. OZ is not

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1 aware of any unsafe conditions existent at the site
2 that would create adverse traffic conditions.
3 Rather, the lot will reduce parking congestion that
4 would otherwise be created by automobiles parking on
5 the surrounding residential streets.

6 OZ believes that the proposed parking
7 lot with nine spaces is reasonably necessary and
8 convenient to the neighborhood, since it is a local
9 facility. Its use would not have an objectionable
10 adverse effects by reason of noise, traffic or other
11 conditions, and it would be in harmony with the
12 general purpose and intent of the zoning
13 regulations. Furthermore, it is the
14 intent of the zoning regulations to provide for the
15 reasonable use of this property. The Office of
16 Zoning, therefore, recommends approval of this
17 application, subject to the following conditions:

18 (1) Approval shall be for a period of
19 five years. It shall be subject to renewal in the
20 discretion of the Board upon the filing of a new
21 application in a manner described by the zoning
22 regulations.

23 CHAIRMAN HINTON: Okay. I don't think
24 it's necessary to read the rest of this verbatim.
25 We have read certain parts.

26 MR. NYARKU: So this completes my report

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1 then. I will be glad to answer any questions that
2 the Board may have. Thank you.

3 CHAIRMAN HINTON: I have a question
4 about regulation 213.7 and how you believe that that
5 location complies with that regulation.

6 MR. NYARKU: Since the majority of the
7 parking spaces shall serve residential use or short-
8 term parking needs of retail, service and public, I
9 believe it's going to be -- since we have the
10 medical facility nearby, it's going to be of
11 service, and since it's a service facility,
12 applicant is going to provide a number of the spaces
13 that will be of service in that regard.

14 CHAIRMAN HINTON: When you reviewed this
15 application, was it clear to you that the spaces
16 would be contained behind a seven-foot fence and
17 locked at all times?

18 MR. NYARKU: Yes.

19 CHAIRMAN HINTON: Okay. So that people
20 at the medical clinic that would have access to the
21 parking would be who?

22 MR. NYARKU: According to applicant, the
23 employees.

24 CHAIRMAN HINTON: The employees. So in
25 the opinion of the Office of Zoning, does that
26 constitute short-term parking?

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1 MR. NYARKU: Well, the applicant also
2 said that he was prepared to make some adjustments
3 for people who will be using the services at the
4 medical center, in addition to the employees. There
5 were some kind of different services.

6 CHAIRMAN HINTON: In the hearing today?

7 MR. NYARKU: No.

8 CHAIRMAN HINTON: Previously?

9 MR. NYARKU: Yes.

10 CHAIRMAN HINTON: Well, I guess part of
11 my concern is I don't understand how that can be
12 done with the angled parking that is shown on the
13 plan. Where would the fence be located, and how
14 would those spaces still function with a fence in a
15 different location?

16 MR. NYARKU: Where do you see that?

17 CHAIRMAN HINTON: I'm asking you what
18 your understanding is of how that --

19 MR. MADDEN: Already a fence there.

20 CHAIRMAN HINTON: You can't help him.
21 He has the information. What's your understanding
22 of how that would work then, because it's unclear to
23 me how a fence would work with the angled parking
24 that's proposed? Where would this fence -- I mean,
25 surely you talked about it.

26 MR. NYARKU: Yes.

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1 CHAIRMAN HINTON: Where would the fence
2 be?

3 MR. NYARKU: It's going to be around the
4 area in the parking lot area, in the area of the
5 fence. That's what I understood.

6 CHAIRMAN HINTON: Okay. So based on
7 today's testimony, it's still -- it's your opinion
8 that the applicant complied with this section of the
9 regulations?

10 MR. NYARKU: Yes.

11 CHAIRMAN HINTON: Even though it's for
12 employee parking?

13 MR. NYARKU: It's not totally --
14 according to discussion with him, not totally for
15 employee parking, but he will make adjustment,
16 arrangements for special use as well as people who
17 will be using the services of the Northeast Medical
18 Center.

19 CHAIRMAN HINTON: Okay. Well, how will
20 that be done?

21 MR. NYARKU: That could be worked out
22 with him -- It takes time to work it out with him -
23 - as the Board may see fit to make --

24 CHAIRMAN HINTON: Are there any other
25 questions from Board members?

26 MS. REID: I had a question. It's about

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1 the fence again. Did you ascertain whether this was
2 going to be just a straight chain link fence without
3 any barbed wire on top, etcetera?

4 MR. NYARKU: No. He didn't mention that
5 there will be a barbed wire.

6 MS. REID: Come again?

7 MR. NYARKU: He did not mention to me
8 there's going to be a barbed wire.

9 CHAIRMAN HINTON: Are there any other
10 questions? I see no report from DCW. Did anyone
11 else? No? Do we have anyone from the ANC? We have
12 no one. We do have a letter, ANC 6-A. Supports the
13 application. Let's see if we have a vote. Excuse
14 me?

15 MR. CLARENS: Unanimous.

16 CHAIRMAN HINTON: Unanimously approved.
17 We don't know how many -- Do we know how many
18 commissioners were there?

19 MR. CLARENS: You have a list, and you
20 have a roll call, and you have one, two, three,
21 four, five, six, seven, eight, eight out of 12.

22 CHAIRMAN HINTON: Looks like a quorum,
23 eight out of 12 which we'll assume is a quorum.

24 MS. RICHARDS: I did want to clarify one
25 other thing. This is now a vacant lot, you
26 indicated.

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1 MR. MADDEN: Yes, ma'am, it is.

2 MS. RICHARDS: What's on there now? I
3 mean, what happens on the lot, just casual parking,
4 come and park or what?

5 MR. MADDEN: No. It's fenced in, and
6 it's secured, but the people drive up and dump on
7 it, and that's -- which causes me extreme financial
8 problems cleaning the lot, picking the stuff that
9 other people are dumping.

10 At the current time, the residents --
11 and my lot is the only one down there that's vacant
12 and used to dump on. Since the church has paved one
13 across the street, they're not having that problem
14 any longer, and I think this would eliminate the
15 problem if you allowed me to put the lot there.

16 MS. RICHARDS: How high is the fence you
17 have now?

18 MR. MADDEN: I believe it's five-six
19 feet -- five feet, I guess, but the general proven
20 fact is, once the area is paved and the shrubbery
21 and it looks nice, people find other places to dump.

22 MS. RICHARDS: Now this sort of comes
23 together for me.

24 MS. MADDEN: And this is not a money
25 maker, as you can see. Nine parking spaces is not
26 going to pay me back in 20 years what it cost me to

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1 surface this and put a fence up around there and
2 keep it beautified. So it's not a money maker at
3 all for nine spaces. There's no way it could be.

4 So as I say, I'm trying to help the
5 neighborhood, because I have many properties in this
6 area, and I think it would benefit the whole
7 community, as the ANC has testified.

8 MS. RICHARDS: In light of what you've
9 said about the dumping problem, have you ever been
10 like subject to clean it or lien it?

11 MR. MADDEN: There was a proposal --
12 There was one, but that was canceled, because -- and
13 I never had that, because we -- when they called,
14 you know, we clean it. So that hasn't been a
15 problem.

16 MS. RICHARDS: I have no further
17 questions.

18 CHAIRMAN HINTON: I'm looking for
19 something. I was looking for photographs in the
20 file, and I see the photographs where the signs were
21 posted for the hearing. What property is that that
22 they were posted on?

23 MR. MADDEN: That is the property it's
24 posted on that we are speaking of now.

25 CHAIRMAN HINTON: Okay. Maybe we have
26 the wrong -- Mr. Lyons, could you come take a look

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1 at this? The tractor trailer that's shown in this
2 photo -- is this on your lot?

3 MR. MADDEN: Yes, it is. It's in the
4 process of being moved to where I keep my
5 limousines.

6 CHAIRMAN HINTON: How long has it been
7 there?

8 MR. MADDEN: Three years -- two or three
9 years.

10 CHAIRMAN HINTON: Okay.

11 MS. REID: Does it belong to you?

12 MR. MADDEN: Yes, it does.

13 CHAIRMAN HINTON: If that concludes all
14 of our questions, we'll move on to persons in
15 support. Are any persons or parties in support?
16 Any persons or parties in opposition? Seeing none
17 in the audience, we do have a letter in the file, a
18 letter in opposition.

19 Has everyone read it, Board members, all
20 familiar with it? It's a letter from Richards 1647
21 Limited Partnership who say they are the owners of
22 the Northeast Medical Center. They say they have no
23 knowledge of this proposed parking lot. Either they
24 or their tenants have no knowledge of it and, since
25 they have free parking on the medical lot -- medical
26 center lot, they are not likely to pay for parking

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1 here, and they urge us to reject the application.

2 They do also note the presence of the
3 rusting tractor trailer that's been there, they say,
4 for a long time, at least five years.

5 That is the only opposition that's in
6 the file. You have closing remarks?

7 MR. MADDEN: I get an opportunity to
8 rebut?

9 CHAIRMAN HINTON: You have closing
10 remarks now, yes.

11 MR. MADDEN: Okay. I'm willing to work
12 with the Board, as I've been in the process since
13 this application, to make whatever adjustments
14 necessary to improve this area and to put a parking
15 lot there. As I mentioned before, this is not for
16 benefit of a money maker for a limited number of
17 spaces there.

18 To answer questions about the fence and
19 so forth, the fence would be attractive. The area
20 would be beautified, and there is enough space on
21 the lot that the people will not have to back out of
22 the lot. That's why it's only nine spaces. They
23 turn around, even though it's a 45 angle parking.
24 You turn around and there's enough space for them to
25 drive out of the lot. That's why the limitation of
26 nine.

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1 Normally, it's enough space there for
2 approximately 21 cars to park there, but to require
3 them to possibly back out of the lot. So it's
4 reduced down to nine.

5 There is a need for parking. Those that
6 have gone past there, there's double parking that's
7 required now in the area, and this would help
8 eliminate it, possibly not totally, but it would
9 improve the parking facilities -- need for parking
10 in that area, and it would greatly benefit the staff
11 that's working there, as they express, walking in
12 the dark from two or three blocks away. In the
13 wintertime, it's not conducive, and I'm willing to
14 allow the people that's coming to the laundromat or
15 people coming there to get service at the facility
16 to park on the lot.

17 I'm willing to make that amendment with
18 the Board, and we'll work that out, and I could
19 leave it open for people to come in there and park
20 with the exception of the required spaces that I
21 would maintain, but would charge for some spaces,
22 and that could be amended.

23 I would like for the Board to make a
24 bench decision and render expedited order, if
25 possible.

26 Thank you very much.

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1 CHAIRMAN HINTON: Thank you.

2 MR. CLARENS: Madam Chairperson, I would
3 recommend to the Board that we take this up in our
4 June meeting, and that we leave the record open to
5 receive from the applicant a proposed program for
6 utilizing this lot that will satisfy the
7 requirements of 213.7.

8 MS. RICHARDS: I can go with that. I'd
9 like to see kind of a landscaping and fence plan.

10 MR. CLARENS: Well, he has that. He has
11 a landscaping, and he has all of that provided. I
12 think it's 213.7, and it has to do with the
13 operation of the lot, and what he's proposing does
14 not meet 213.7.

15 We cannot tell him how he can operate
16 the lot, but that this lot can be operated in order
17 to satisfy 213.7, and if he can do that, then I for
18 one don't have a problem. If he cannot do it, then
19 the application fails.

20 MS. REID: In addition to the conditions
21 that were brought to us from the Zoning Office add
22 another condition that the parking lot be used only
23 for short-term parking.

24 CHAIRMAN HINTON: Mr. Clarens, since Ms.
25 Richards is in agreement with you, I'm willing to do
26 that. I really think today's hearing was the time

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1 to put that information on the record, and I haven't
2 heard it; but if you think that it may be coming in,
3 I'm willing to leave the record open and set this
4 for a decision on our June meeting date.

5 MR. LYONS: The information the Board
6 has requested must be filed by June 28th -- I'm
7 sorry, May 28th, and at its June 4th meeting the
8 Board will consider a decision in the application.

9 CHAIRMAN HINTON: Thank you. That
10 concludes our public hearing for today. We are
11 going to return to a continuance of our public
12 meeting from this morning.

13 MR. CLARENS: So we want to add --
14 request the applicant to submit what type of
15 planting, what type of evergreen planting he's
16 intending to use; and we want a specific plan made.
17 We also -- I have concerns about the 45 degree
18 parking, and that configuration, and the ease with
19 which people are going to be able to drive in and
20 drive out.

21 So in conjunction -- So I'm not sure
22 exactly where we go from here, but it seems to me
23 that in the past these kind of applications would go
24 to DPW, who would make then a recommendation as to
25 whether this parking lot, in fact, worked.

26 I don't see how parking space number 3

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1 gets out of where it is without backing all the way
2 out onto the street, how it can turn around. So
3 somebody has to come and tell us how that is
4 happening.

5 MS. RICHARDS: That would conclude what
6 we'd like to see, whether it's from DPW or the
7 applicant. Okay, now we're done.

8 CHAIRMAN HINTON: Well, there was a memo
9 sent to DPW. Apparently, we have no response. So
10 are you asking a second request of DPW?

11 MR. CLARENS: It's not good enough to
12 tell us that people are going to get out of there.
13 If people are going to get out of there, well, how
14 are they going to get out of there? I mean, you
15 have no dimensioned site plan. There are no
16 dimensions in this one that I have. I didn't see
17 any.

18 So I have no way of knowing how people
19 are going to come in that 45 turnaround and exit,
20 you know, looking forward in this kind of an
21 arrangement, and you have not addressed that issue.

22 So I am giving you the benefit of the
23 doubt by leaving the record open for you to satisfy
24 in whichever way you can the issues that are of
25 concern to the Board, which is 213.7, the type of
26 planting that you are going to use -- You've

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1 specified the fence, and that's okay -- and the
2 actual traffic pattern that is going to be utilized
3 to get people in and out of this facility, in
4 conjunction with the operation of the facility that
5 you need to provide, which I think you've gotten by
6 this point the gist of the position of, apparently,
7 the Board that what you are proposing doesn't meet
8 213.7.

9 So I think that, with those things in
10 mind, then the record is left open for you to submit
11 those materials by the dates that the secretary has
12 stated, and then we'll take it up in June.

13 MR. MADDEN: I appreciate that. No
14 problems satisfying that.

15 CHAIRMAN HINTON: Thank you. Is that
16 it? Are we done? Okay. That concludes the
17 hearing.

18 (Whereupon, the foregoing matter went
19 off the record at 3:10 p.m.)

NEAL R. GROSS

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