

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT  
PUBLIC HEARING

-----X  
In the Matter of: :  
APPLICATION OF THE EXXON CO., USA : CASE NO. 16234 :  
APPLICATION OF THE WYOMING : :  
HOTEL GROUP : CASE NO.  
16237 :  
-----X

P.M. SESSION

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

Wednesday, May 21, 1997

The above-entitled matter came on for hearing,  
pursuant to notice, at 2:00 p.m.

BEFORE:

SUSAN MORGAN HINTON, Chairperson  
ANGEL F. CLARENS  
SHEILA CROSS REID  
MAYBELLE TAYLOR BENNETT

STAFF PRESENT:

REGINALD LYONS  
TRACEY WITTEN ROSE  
JOHN NYARKU

## A-G-E-N-D-A

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

(3:10 p.m.)

CHAIRPERSON HINTON: This hearing will please come to order. Good afternoon, ladies and gentlemen. This is the May 21st public hearing of the Board of Zoning Adjustment of the District of Columbia.

I'm Susan Morgan Hinton, Chair. Joining me today are Angel Clarens, who will be here in one minute; Sheila Cross Reid; and Maybelle Taylor Bennett, representing the zoning the commission.

Copies of today's 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.

They are on the table in front of us. Upon coming forward to speak to the Board, please give the 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 witnesses of the applicant; (2) government reports including the Office of Planning, the Office of Zoning, the Department of Public Works, and the ANC; (3) persons or parties in support; (4) persons or parties in opposition; and (5) closing remarks by the applicant.

Cross-examination of witnesses is permitted for persons or parties with a direct interest in the case. I'm looking at you thinking, you probably know this as well as I do.

The record will be closed at the conclusion of each case except for any material specifically requested. The Board and the staff will specify at the end of the hearing exactly what is needed.

1                   The decision of the Board in these contested cases  
2 must be based exclusively on the public record. To avoid any  
3 appearance to the contrary, the Board requests that persons present  
4 not engage the members of the Board in conversation.

5                   I'm not going to read the 6:00 part. At this time, the  
6 Board will consider any preliminary matters.

7                   Preliminary matters are those which relate to whether  
8 a case will or should be heard today, such as requests for  
9 postponement, continuance, or withdrawal, or whether proper and  
10 adequate notice of the hearing has been given.

11                  If you are not prepared to go forward with the case  
12 today or if you believe the Board should not proceed, now is the time  
13 to raise such a matter. Does the staff have any preliminary matters?

14                  MR. LYONS: Yes, Madame Chair. The last case  
15 scheduled for the afternoon, the appeal of the Capitol Hill Restoration  
16 Society, number 16235, there is a joint request of the appellant as well  
17 as the property owner to postpone the hearing of the appeal  
18 indefinitely, so that they can move in a direction of coming to some  
19 compromise on the issues that are raised.

20                  CHAIRPERSON HINTON: Very good. I think that we  
21 should grant that request for postponement.

22                  MR. LYONS: Okay. And we will wait until the  
23 applicant, the appellants, or either of the parties indicate that they wish  
24 to proceed or that the appellant may withdraw the application.

25                  CHAIRPERSON HINTON: Yes. Are we ready for the  
26 first case?

27                  MR. LYONS: The first case of the afternoon is  
28 numbered 16234 of the Exxon Co., USA, a division of the Exxon  
29 Corporation, pursuant to 11 DCMR 3108.1 and 3107.2, for special

1 exceptions under section 743.1 and 774.2, to establish a new gasoline  
2 service station and to waive the rear yard requirement and a variance  
3 to allow a gasoline service station to be located within 25 feet of a  
4 resident's district under subsection 706.3, for the reconstruction of an  
5 existing gasoline station with a convenience store in a C3A district at  
6 premises 4501 Benning Road, N.E., square 5085, lot 56.

7 All person wishing to testify in this application, please  
8 rise to take the oath.

9 (Whereupon the witnesses were first duly sworn,  
10 examined, and testified as follows.)

11 MR. COLLINS: Good afternoon, Madame  
12 Chairperson and members of the Board. My name is Chris Collins  
13 with Wilkes, Artis, Hedrick & Lane. Seated to my right is Shelley Le  
14 Platt with Exxon.

15 We're here this afternoon to discuss our application  
16 which includes two special exceptions and one variance to allow for  
17 the redevelopment of an existing gasoline station at 4501 Benning  
18 Road, N.E.

19 There's been a gasoline station at this site for the past  
20 50 years. The present station has been there approximately 20 years  
21 and was approved by the Board in 1977 in BZA case no. 12280, which  
22 is attached at page 19 of our statement of the applicant, Exhibit G.

23 The station is located at the major intersection of East  
24 Capitol Street and Benning Road in the C3A zone. The statement of  
25 the applicant which we submitted to the record indicates the reasons  
26 why the special exception and variance relief should be granted.

27 The exhibits that are attached to that statement  
28 include plats, a zoning map, prior zoning orders from this Board,  
29 testimony outlined, and then the traffic report prepared by Mr. Morris.

1                   We're unaware of any opposition to this application. I  
2 spoke with ANC 7-D myself. I know I'm not supposed to testify, but  
3 just to give you information I spoke to Ms. Faison who is a staff  
4 member there.

5                   She confirmed after speaking with the single member  
6 district commissioner that in her words they have absolutely no  
7 objections for two reasons. Number one, because there are no other  
8 stations on that area, that side of Benning Road.

9                   And secondly, because they support investment  
10 which improves the neighborhood. So, I checked that with her twice  
11 on two occasions.

12                  On that basis, they told us we did not need to attend  
13 the May 13th ANC meeting. They said a letter would be sent, but I did  
14 not see one in the file.

15                  Unless there are any questions, I'd like to turn to our  
16 witness, Shelley Le Platt.

17                  CHAIRPERSON HINTON: I don't think there are any  
18 questions. If I can just check, is there anyone here in opposition to the  
19 case? We have no opposition in the record. So, we can sort of go  
20 through really a brief presentation.

21                  MR. COLLINS: Would you proceed with your  
22 testimony please?

23                  MS. LE PLATT: Good afternoon. My name is Shelley  
24 Le Platt. I'm Exxon Co., USA. I'm an engineer employed by Exxon  
25 out of Greenbelt, Maryland.

26                  My home address is 3620 Sherbrooke Circle, Number  
27 304 in Woodbridge, Virginia. I'd like to start my presentation just with  
28 a description of the existing conditions of the site.

29                  Again, this is a station that's located at the northwest

1 corner of East Capitol Street and Benning Road. Just a general  
2 character of the rest of the vicinity, located east of, across the street of  
3 Benning Road of our site in this area is a metro station.

4 Next to that is a Shrimp Boat Restaurant. Catecorner  
5 from the intersection is some other type of vacated building. I believe  
6 it was probably a fast food restaurant.

7 South, across East Capitol Street is an operating  
8 Texaco station. Our site is bordered on the north by a public alley that  
9 is approximately 15 feet wide. It is a public alley.

10 On the lot north on the other side of the public alley is  
11 another vacated building that used to be a Burger King. Onto the west  
12 of our property is another lot that is owned by Exxon, but development  
13 of that property is not included in this application.

14 The site contains 19,372 square feet of land area.  
15 The site is irregular in shape with approximately 170 linear feet of  
16 frontage along both Benning Road and East Capitol Street.

17 The gasoline station, as Mr. Collins mentioned, was  
18 established as a gasoline use about 50 years ago. The last  
19 modernization took place 20 years ago.

20 Currently on the site is a free-standing canopy with  
21 three pump islands serving six vehicles at a time with a small kiosk for  
22 sales and also another small building for restrooms.

23 With that, I'd like to describe the modernization that  
24 we proposed. We're going to completely clear the site of all the  
25 existing structures and improvements.

26 And in its place, install a canopy with four pump  
27 islands in a -- configuration, which would serve eight customers at one  
28 time. Those are going to be located under a canopy with improved  
29 lighting.

1                   There will be a canopy connection which will provide  
2 cover for customers who wish to go to the convenient store which will  
3 have approximately 11,00 square feet of sales area.

4                   As part of the improvement, we're also going to be  
5 improving the paving by installing new and improved asphalt and  
6 concrete paving. We're going to provide a total of nine parking spaces  
7 directly in front of the convenience store.

8                   The entrances off of Benning Road, the two entrances  
9 off of Benning and the one entrance to East Capitol Street are  
10 existing, and they will remain in place.

11                   Also as part of this application, we will provide  
12 improved lighting under the canopy. We'll provide better and new  
13 air/water facilities. We'll provide in this area to the north of the C  
14 store, directly north, an enclosed trash enclosure.

15                   And we'll also be improving the landscaping. Just to  
16 quickly describe the landscaping that we have on the site.

17                   We're providing trees in this area directly behind the C  
18 store and to the north along the public alley that are taller in character  
19 to provide some shielding from the properties back here.

20                   Also along this area, we've got more trees that are  
21 roughly 10 to 12 feet in height, 14 inches on center. In this area, we're  
22 proposed to plant rhodadendrums that are roughly 24 inches in height,  
23 making sure that they don't grow tall enough where they block  
24 anybody's vision as they come in or out of the site.

25                   This tree is existing. It will remain in place. And  
26 these three trees along the side along East Capitol Street are  
27 thornless honey locust which will be 12 to 14 feet in height.

28                   That concludes my presentation on our existing and  
29 proposed. If you have any questions, I'd be happy to answer them.

1 CHAIRPERSON HINTON: Do we have any  
2 questions so far?

3 MS. BENNETT: Can you show us the proximity to the  
4 residential district? I understand you own lot 840 I think it is.

5 MS. LE PLATT: Yes. This is the lot that we own.  
6 And the residential is right on the other side of that lot.

7 MS. BENNETT: Now, the lot itself is not R-5? Is it R-  
8 5-A?

9 MR. COLLINS: It is R-5-A. Correct. If you look at the  
10 zoning map which is attached to our statement of the applicant, you'll  
11 see that this site abuts the R-5-A zone.

12 The other Exxon lot, lot 840, is also in the R-5-A zone.  
13 It's a vacant lot immediately to the west of this site. It's page 12 of the  
14 statement of the applicant, Exhibit B.

15 MR. CLARENS: So, the waiver of the rear yard  
16 requirement, what is the intention of Exxon as to the use of that lot at  
17 the rear of the property?

18 MS. LE PLATT: We don't have any plans at this time  
19 to do anything with that lot. I believe it's residentially zoned. And we  
20 don't really see any --

21 MR. CLARENS: How large is that lot? It's just  
22 basically the continuation of the north property line towards East  
23 Capitol Street. It's kind of a triangularly shaped lot?

24 MS. LE PLATT: Yes, it is. And it's approximately  
25 14,500 square feet of land area, the adjacent lot.

26 MR. CLARENS: And don't you need relief also for a  
27 side yard requirement? Or there's no side yard requirement?

28 MS. BENNETT: Just rear yard.

29 MR. CLARENS: Just rear yard. I see.

1 MR. COLLINS: The reason we need the relief from  
2 the 25-foot requirement has changed over time. If you look at the last  
3 case over 20 years ago, there was a request for waiver from the 25-  
4 foot requirement because actually part of the construction in that time  
5 was on the R-5-A portion of the site.

6 It used to be the case until relatively recently that as  
7 long as the improvements themselves were at least 25 feet away from  
8 a residential zone, even though a property may abut a residential  
9 zone, no variance was required.

10 But it was about six or seven years ago that the  
11 zoning administrator took the position that the fact that your property  
12 abuts a residential zone, even though the improvements may be  
13 farther away, the fact that the property abuts made you get a variance.

14 So, you'll see in a number of these Exxon cases  
15 where the prior cases did not include a variance. The new ones do.  
16 It's because of a change in the interpretation.

17 This case, the building does abut right up against at  
18 the very corner on the western lot line.

19 MR. CLARENS: What is the present state of that?  
20 Let me see if I understand this correctly. There is a triangularly-  
21 shaped lot that is zoned residential R-1-B?

22 MS. BENNETT: R-5-A.

23 MR. CLARENS: R-5-A. And that is approximately,  
24 it's a continuation of the north side as we said. So, it's a triangular lot.  
25 So, it would be difficult to -- and my question is, is that a lot that is  
26 perceived -- I see it.

27 MS. BENNETT: If you look at item number 11, you  
28 can see Exhibit A-2.

29 MR. CLARENS: I see. So, shouldn't we be looking at

1 that lot in fact as far as the landscaping and the impact, the visual  
2 impact, that this building has?

3 Shouldn't this lot be -- for purposes of understanding  
4 that impact, not for legal purpose of actually joining the two lots, but  
5 shouldn't we look at the two lots in conjunction?

6 MR. CLARENS: Not necessarily. Exxon may choose  
7 tomorrow to sell that lot for residential development. We just don't  
8 know at this point. It's tied up in the corporate headquarters.

9 And it was something that we just did not have the  
10 answer to today as to what the future of that is. We don't have it. But  
11 the site is 14,628 square feet in size. So, it's capable of being  
12 developed for something.

13 There's just no market for it now. It was a vacant site  
14 20 years ago, as part of this application 20 years ago. And it remains  
15 in the same condition. It has volunteer growth on it. It is heavily  
16 vegetated, and it remains as a --

17 MS. BENNETT: What's volunteer growth?

18 MR. COLLINS: The trees just grow up because the  
19 birds fly over and up and seeds come, and it grows up. Locust trees  
20 typically are volunteer growth. And that's probably what's on that site.

21 CHAIRPERSON HINTON: Are you done?

22 MR. CLARENS: Well, no. I am concerned with the  
23 variance and the proximity of the building to that residential zone.

24 And I would need to find, in order to grant the  
25 variance, we have to find that there is a practical difficulty in  
26 developing the lot in a way that a variance would not be required.

27 So, can you address the issue of why that building  
28 cannot be rotated in a way that that corner would not be in as close  
29 proximity or if the linkage can be compacted a certain number of feet?

1                   You need to explain, and I'm talking to the expert  
2 witness, why should we grant this variance while there seems to be  
3 perhaps some obvious, although perhaps not valid, ways in which the  
4 building can be located on the site that would perhaps either eliminate  
5 or decrease the impact of the variance on the residential zone.

6                   MR. COLLINS: Just to clarify, Ms. Le Platt finished  
7 describing the existing and proposed improvements. It hadn't yet  
8 gotten to the justification for the variance relief. So, she's prepared to  
9 do that now. We haven't made our case yet.

10                  MR. CLARENS: I jumped the gun.

11                  MS. LE PLATT: We do feel like we meet the criteria  
12 for variance relief to allow the station within 25 feet of a residential  
13 zone. Number one, the property is affected by an exceptional  
14 situation or condition.

15                         It is irregular in shape. This is also the only  
16 commercially zoned lot on the block of Benning Road which does not  
17 have an alley separating it from the adjacent residentially zoned  
18 property. If the alley were present, no variance relief would be  
19 required.

20                         Secondarily, strict application of the regulations would  
21 impose a practical difficulty on us. Number one, it would require the  
22 convenience store building to be shifted 25 feet to the east.

23                         This would result in insufficient area on the site for  
24 maneuvering of vehicles and would not accommodate the turning  
25 radius of our tanker truck that delivers gasoline product to the site.

26                         Thirdly, moving the convenience store to the west  
27 adjacent to the lot line will maximize the area on the site available for  
28 vehicular movements and would promote internal circulation.

29                         Relief can be granted without substantial detriment to

1 the public good. The site has been used for a gasoline station for 50  
2 years. The site is zoned C-3-A, and the area includes a variety of  
3 retail uses.

4 The gasoline station abuts a vacant residentially  
5 zoned piece of land owned by Exxon, which is not proposed for  
6 development, as mentioned before. And placement of improvements  
7 as proposed will help shield the gasoline station from the nearest  
8 residential uses.

9 And just also one other thing is that the property here  
10 with contours, it slopes up pretty sharply, the grading. And that makes  
11 it even more difficult to really develop from our standpoint.

12 CHAIRPERSON HINTON: One of the things that I've  
13 often read in reading some other orders from court cases on  
14 variances, is a lot of times people will make note of a fact when they  
15 have a variance request like this for rear yard or side yard or  
16 something like that.

17 They say there are no available adjacent lots that  
18 could be combined into this lot to negate the need for the variance.  
19 So, what I have to ask you is if Exxon owns both of those lots, why  
20 can't Exxon combine them into one lot?

21 MR. CLARENS: It would not be relief.

22 MS. BENNETT: It's still a residential district. It's still  
23 zoned R-5-A.

24 MR. CLARENS: It will not change the zoning of the  
25 lot.

26 MS. BENNETT: And it says within 25 feet of the  
27 district, not a use, not a residential building --

28 MR. CLARENS: And in the C-3-A district, you're not  
29 required to have a rear yard?

1 MR. COLLINS: You are required. We're asking for a  
2 special exception to reduce the rear yard requirement.

3 MR. CLARENS: To zero.

4 MR. COLLINS: To seven and a half feet.

5 MR. CLARENS: And how was that seven and a half  
6 feet calculated?

7 MR. COLLINS: From the center line of the alley.

8 MR. CLARENS: Is the East Capitol Street going to be  
9 your front?

10 MR. COLLINS: For zoning purposes.

11 MR. CLARENS: For zoning purposes.

12 MR. COLLINS: So, the lot line abutting the alley is  
13 the rear lot line. In the C-3-A zone, we can use half the alley for the  
14 rear yard.

15 And we're also entitled in a C-3-A zone to request a  
16 special exception to eliminate, reduce or eliminate, the rear yard  
17 requirement. And Ms. Le Platt can review that provision as well.

18 CHAIRPERSON HINTON: So, the lot line that's  
19 adjacent to the residentially zoned property, is actually your side?

20 MR. COLLINS: Side yard.

21 CHAIRPERSON HINTON: And there is no side yard  
22 set back requirement for the building?

23 MR. COLLINS: That is correct.

24 CHAIRPERSON HINTON: Okay. Were you  
25 finished? Why don't we try to let the applicants finish and then we'll  
26 ask questions. That might just move along a little quicker.

27 MR. COLLINS: Ms. Le Platt, you've addressed the  
28 criteria for variance relief. Could you address the criteria for special  
29 exception relief?

1 MS. LE PLATT: I'll refer mostly to the statement of  
2 the applicant. Again, we do feel that we do meet the criteria for all  
3 special exception relief pursuant to section 743.1.

4 If you refer to page three and four of the statement,  
5 and if you'd like, I can go through in more detail on all of this. With the  
6 exception of section 706.4, which refers again to the station within 25  
7 feet of a residential zone, we do meet all the requirements under  
8 section 743.1.

9 With referral to section 2302, again with exception to  
10 the variance we're asking for the 25 feet within a residential zone, we  
11 do meet all the criteria for special exception relief. And that is shown  
12 on page four and five of the applicant's statement.

13 With respect to section 774.2, if you refer to page five  
14 and six of the applicant's statement, we do meet all requirements for  
15 special exception relief.

16 And finally, with respect to section 3108.1, if you refer  
17 to again page six and seven of the applicant's statement, we do meet  
18 all the criteria for special exception relief. And again, I'll be happy to  
19 address any of the particulars of those sections with you.

20 CHAIRPERSON HINTON: You are very clear in the  
21 report. I had a question. Reading through here, there is a 2302.2 and  
22 2302.4. And it seemed to me that you may need variances from those  
23 also. Had you looked at those at all?

24 MR. COLLINS: Yes, we looked at that. And the  
25 Board has ruled in the past that in a situation where there's a  
26 preexisting driveway, 2302.2 is the same as 706.3.

27 And in previous cases before the Board, the Board  
28 has ruled that the variance section from 706.3 is sufficient to  
29 encompass both. And that's how that's been ruled upon.

1 CHAIRPERSON HINTON: Okay.

2 MR. COLLINS: 2302.4, the Board has ruled upon  
3 that as well. For a preexisting curb cuts permitted to remain as such.  
4 Those were built at a time when the requirement was 25 feet from an  
5 intersection as opposed to 40 feet.

6 The 40 feet requirement came in March 1 of 1985  
7 when the parking regulations were entirely redone. Preexisting curb  
8 cuts were allowed to remain as such.

9 And that's what we have in this situation. They are at  
10 41 and 39 feet in dimension, far exceeding the 25-foot requirement,  
11 but certainly one foot less. But they're kind of grandfathered in as  
12 preexisting.

13 CHAIRPERSON HINTON: Does that conclude your  
14 presentation?

15 MR. COLLINS: Unless there are questions on the  
16 specific areas. I know that Mr. Clarens had a question on the rear  
17 yard. And we'll be happy to go through those specific provisions.

18 Ms. Le Platt just mentioned them and referred to the  
19 section. If that's sufficient, then we'll rest on that.

20 CHAIRPERSON HINTON: Okay. Are there any  
21 questions? No questions.

22 MS. BENNETT: I have none.

23 CHAIRPERSON HINTON: Let's move to the Office of  
24 Zoning report.

25 MR. LYONS: Madame Chair, likewise with other  
26 reports, the Office of Zoning would request a waiver to allow the  
27 submission of its report.

28 CHAIRPERSON HINTON: Thank you. So waived.

29 MR. LYONS: Mr. Nyarku will present the Office's

1 report.

2 MR. NYARKU: Good afternoon, Madame  
3 Chairperson and members of the Board. My name is John Nyarku,  
4 zoning specialist for the Office of Zoning. You have before you OZ's  
5 report on application number 16234, dated May 16, 1997.

6 The applicant is requesting special exceptions on the  
7 subsections 743.1 and 774.2 to reconstruct gasoline service station  
8 and to waive the rear yard requirement and a variance from  
9 subsection 706.3 to allow gasoline service station within 25 feet of a  
10 residential district for the reconstruction of an existing gasoline service  
11 station with a retail convenience store.

12 The special exceptions requested in this case must  
13 comply with the provisions of the sections I've just said. The applicant  
14 complies with the -- requirements of these subsections.

15 It probably has been used as a gasoline station for a  
16 number of years, and the proposal according to the traffic report by  
17 Robert L. Morris will not create any dangerous or other objectionable  
18 traffic conditions in the area.

19 With regard to the variance, the applicant faces a  
20 particular difficulty if strict application of the -- is imposed.

21 The proposed improvements therefor, OZ believes  
22 will not be detrimental to the public good nor impair the intent,  
23 purpose, and integrity of the zone plan as embodied in the zoning  
24 regulations and --

25 For the record, I will read the recommendations minus  
26 the conditions enumerated in the report.

27 OZ is of the opinion that the applicant has met a  
28 burden of proof relative to the zoning relief being sought under  
29 subsection 743.1, 744.2, and 706.3 of 11 DCMR.

1 OZ believes that the current of the neighborhood is  
2 not likely to be affected adversely by the proposal and that the use  
3 and operations of the facility will not impair the intent, purpose, and  
4 integrity of the zoning regulations and --

5 OZ, therefore, recommends approval of this  
6 application subject to the conditions enumerated in the report. This  
7 will conclude my report. And I will be glad to answer questions that  
8 the Board may have.

9 CHAIRPERSON HINTON: Thank you. Are there any  
10 questions? Mr. Clarens?

11 MR. CLARENS: Mr. Nyarku, were you able to contact  
12 any of the neighbors, ANC, etc., when preparing your report?

13 MR. NYARKU: No, I didn't contact the ANC, but I  
14 went for a site visit.

15 MR. CLARENS: Let me ask you, and this is both for  
16 you and for the applicant. Is there going to be a telephone, a public  
17 telephone, outside the facility? And you had no reaction on the part of  
18 the neighborhood or of the neighbors as to the placement of an  
19 exterior pay telephone?

20 MS. LE PLATT: No, we did not.

21 MR. CLARENS: There's been no reaction to it.

22 MS. BENNETT: Does there exist one now?

23 MS. LE PLATT: Yes, there does.

24 MS. BENNETT: And does it receive calls?

25 MS. LE PLATT: I'm not aware of it if it's outgoing,  
26 ingoing as far as the existing phones go. We do propose that the  
27 phones be placed next to the C store, as you're facing the convenient  
28 store, just to the left of the convenient store.

29 MR. CLARENS: I'm not sure exactly, Madame

1 Chairperson, and maybe Ms. Bennett can help us here. But I know  
2 that that has been -- let me back up here a little bit.

3 I am not terribly familiar with the general character of  
4 the area. So, let me make a very direct question. Do we have any  
5 presence of drug trafficking?

6 MS. BENNETT: Oh, yes. You're not that far from  
7 Simple City and a few other places in that area. And it's well travelled.  
8 You got well travelled arteries in all directions.

9 And there's a hangout factor at the Shrimp Boat. And  
10 there's a mall diagonally across the street from this Exxon station that  
11 can also be a hangout factor, especially late in the evening.

12 MR. CLARENS: So, should we be perhaps well  
13 advised to discuss the possibility of asking them to move those  
14 telephones indoors?

15 MS. BENNETT: Well, you know -- indoors? That's a  
16 thought. I was going to say we have had some cases where we got  
17 pretty specific about whether there should be any at all.

18 In a gas station situation, though, where you can have  
19 breakdowns and trouble, and people may need to call for help and  
20 whatnot, you wouldn't want to eliminate them.

21 But you would want to do whatever people do to keep  
22 them from being used in the practice of any underground dichotomy.

23 MS. REID: One way would be to eliminate the  
24 incoming calls so that you don't have people -- discourage loitering  
25 around waiting for a phone to ring.

26 MS. BENNETT: Right.

27 MR. CLARENS: So, we could do that as a condition  
28 of the order that the telephones be installed only as outgoing,  
29 elimination of the incoming capability of the phone.

1 MS. LE PLATT: We would be agreeable to that.

2 CHAIRPERSON HINTON: Anything else? I had a  
3 question about condition number four because it's a condition on the  
4 adjacent lot, which I don't remember. Maybe the staff can speak to  
5 that. Can we really condition an adjacent lot?

6 MR. NYARKU: Since it's close to the gas station, if  
7 the grass is cut and kept clean, it will help. First of all, the area will be  
8 clean if refuse is collected and the general appearance will be clean.

9 CHAIRPERSON HINTON: I think I understand why.  
10 My question is legally, can we condition a separate property?

11 MS. BENNETT: Even if it is owned by the --

12 CHAIRPERSON HINTON: Yes, it happens to be the  
13 same owner. I think that's more of a coincidence. Do you know what  
14 I mean? I don't think we can assume that we can tie these two  
15 properties together in a condition. That's my concern.

16 Now, the condition of that lot, is it tree covered  
17 currently? What was your opinion of what it looked like?

18 MR. NYARKU: Just wild growth.

19 MS. BENNETT: Volunteer.

20 MR. NYARKU: Weeds. Right. Not intentionally  
21 planted.

22 CHAIRPERSON HINTON: Your advice would be that  
23 it needs to be cared for a little more to look presentable?

24 MR. NYARKU: Correct, because when they come  
25 there and eat and buy something -- and wild growth.

26 MR. CLARENS: Because this is a special exception,  
27 and the condition can be worded in such a way that as long as the  
28 property continues to belong to the same owner or something, that's a  
29 troublesome aspect.

1                   This is a funny lot that has an awkward topography  
2                   and an awkward shape that it's potentially marketable, but less  
3                   marketable now that the store is going to be right there smack at the  
4                   edge.

5                   And I don't know how to deal with that. But it would  
6                   make it a lot more -- the adverse impact components will be greatly  
7                   ameliorated if somehow that lot was taken care of, as Mr. Nyarku has  
8                   suggested.

9                   CHAIRPERSON HINTON: Right. You're right.

10                  MR. COLLINS: There is a clean it or lien it statute.  
11                  There are ways to deal with that. This condition did appear 20 years  
12                  ago in the last approval.

13                  But it's repeated verbatim in this application, but it  
14                  doesn't need to be seeded because it's been growing for 20 years.  
15                  So, I don't think that Exxon would object to maintaining it.

16                  But to seed it and to landscape it is probably 20 years  
17                  beyond that. It's been seeded and landscaped already. It's just a  
18                  matter of maintaining it I think at this point.

19                  CHAIRPERSON HINTON: And keeping it free of  
20                  debris.

21                  MR. COLLINS: Sure.

22                  CHAIRPERSON HINTON: Okay. All right. Did you  
23                  have any cross-examination questions?

24                  MR. COLLINS: I have concerns about some of the  
25                  conditions. I'm not sure whether they should be -- we could state  
26                  them in our closing statement.

27                  MR. CLARENS: So, Mr. Collins, basically on  
28                  provision number four from the OZ report, your sense is that except  
29                  for the seeding and landscape, the notion of maintaining it in good

1 condition and keeping it free of refuse or debris is something that can  
2 be conditioned on this order, even though the lot is really not before  
3 us?

4 I'm not sure. This question is not only to you, but also  
5 to the staff. Mr. Lyons, we are imposing a condition on a lot which is  
6 not really before us.

7 MR. LYONS: I would have to say the Board does not  
8 have the authority to do that.

9 MS. BENNETT: Because the relief sought is for  
10 square 5085, lot 556.

11 CHAIRPERSON HINTON: Right. I would think Mr.  
12 Collins would object just on principle.

13 MS. BENNETT: Well, he's not trying to stir up  
14 anything.

15 CHAIRPERSON HINTON: Well, I'm a little concerned  
16 about setting a precedent of conditioning a lot that's adjacent to the lot  
17 that we're reviewing.

18 MR. COLLINS: In fact, it was done 20 years ago. I  
19 didn't do it 20 years ago, and Ms. Le Platt didn't do it 20 years ago, but  
20 it was done. So, we would go along with the staff's view regarding  
21 authority.

22 MR. LYONS: I think it was probably done because  
23 the applicant agreed to do it. And the Board imposed it, kept it as a  
24 condition.

25 CHAIRPERSON HINTON: All right, moving along.  
26 There's no one here from the ANC? Is that right. I have written that  
27 we have no reports from the ANC. Has one come into the record?

28 MR. LYONS: No report had been received that I'm  
29 aware of, Madame Chairman.

1 CHAIRPERSON HINTON: Okay. Mr. Collins, would  
2 you mind sort of repeating what it was that you said about the ANC?  
3 Was that the opinion of the single member district commissioner?

4 MR. COLLINS: It was the single member district  
5 commissioner. I spoke to Ms. Faison, who is the staff person, on  
6 several occasions. I first called and asked if we could be on the  
7 agenda, explained the situation.

8 She said she'd get back to me. And when she got  
9 back, she had asked more questions. I explained the answers to the  
10 questions. She then thanked me and called the single member district  
11 commissioner herself.

12 We agreed that I'd call back a third time, which I did.  
13 And her words were that there were, as I said, absolutely no  
14 objections. Those were her words.

15 She related the conversation to the SMD that there  
16 were absolutely no objections because of two reasons. Number one,  
17 there's no other stations on that side of Benning Road.

18 And secondly, they support any investment which  
19 improves the neighborhood. And she said she sent a letter.

20 CHAIRPERSON HINTON: Very good. Okay.  
21 Persons in support? Persons or parties in opposition? Seeing none,  
22 concluding remarks.

23 MR. COLLINS: Just that we want to thank you for  
24 your time and attention to this matter. I just have two matters I want to  
25 bring up on the OZ report, that which we spoke of earlier.

26 And that is, for conditions number two and three.  
27 Condition number two, it's my view that that's really not a zoning  
28 condition.

29 That says that the proposed canopy shall comply with

1 all requirements of the District of Columbia and with the AISC. To the  
2 extent that the city has adopted AISC standards, those will be  
3 complied with as part of the building code and -- process.

4 But to the extent that the city may have adopted a  
5 different standard, I'm concerned about that condition. Besides the  
6 fact I don't think generally it's a zoning condition at all. And I propose  
7 that it be not adopted by the Board.

8 Condition number three talked about the canopy  
9 having indirect lighting which will not spill beyond the subject property.  
10 That may just be a different kind of nomenclature.

11 The canopy has direct lighting. Not indirect lighting, it  
12 aims directly downward onto the site. And that's how it lights the site.  
13 It does not spill outward. It's designed such that it does not spill  
14 outward.

15 And it will not spill outward beyond the property lines.  
16 And that's standard of all the other Exxon canopies that you've seen of  
17 the last years. But the fact is, it is direct lighting and not indirect.

18 MS. BENNETT: So, if that word "indirect" were  
19 changed to "direct", you wouldn't have a problem with it because that's  
20 what's being provided?

21 MR. COLLINS: That's correct. Or stricken. Either  
22 way. Either "direct" or nothing there is fine. But I think Mr. Nyarku  
23 and I are probably talking about the same kind of lighting. It's just a  
24 question of the word that's all.

25 CHAIRPERSON HINTON: Okay. Is that it?

26 MR. COLLINS: That's it.

27 CHAIRPERSON HINTON: Okay. Very good. We  
28 seem to have a complete record, so we can make a decision today if  
29 everybody is agreeable. Do I have any motions?

1 MS. BENNETT: Madame Chair, I move for approval  
2 of application 16234 with conditions found in the OZ report, one, three,  
3 and four. Four, with the words "seeded, landscaped, and 'and'"  
4 stricken so that it reads, "The abutting lot 840 shall be maintained in  
5 good condition and free of refuse or debris."

6 And the only reason I said even in the light of our  
7 conversation, I realize I don't have a second, but in any case, is it got  
8 in there 20 years ago.

9 It is a desirable feature I think. It's kind of in there,  
10 and I would just as soon keep it in there. Without chancing setting a  
11 precedent, it is something to which the applicant early on agreed.

12 I think in the spirit of good neighborliness, it would be  
13 nice to keep it there. I think if the ANC were vigorous, upset, and  
14 agitated about the manner in which there are people who throw things,  
15 debris and whatnot, over there from time to time, the applicant would  
16 probably say, "Well, look. You know, we own it.

17 We might as well go ahead and keep it up in the  
18 interest of improving and being able to continue to run an improved  
19 business on that corner."

20 So, I would proffer that we leave it in and that we just  
21 allow for them to maintain it in good condition without the seeding and  
22 landscaping.

23 CHAIRPERSON HINTON: Very good. And number  
24 three, the word "indirect" will be changed to "direct."

25 MS. BENNETT: That's right.

26 CHAIRPERSON HINTON: All those in favor?

27 MS. BENNETT: Was there a second?

28 MR. CLARENS: I second.

29 CHAIRPERSON HINTON: Mr. Clarens did.

1 CHORUS: Aye.

2 CHAIRPERSON HINTON: All those opposed?

3 MR. LYONS: The staff would report the vote as being  
4 4 to 0 to approve the application with conditions. Ms. Bennett, Mr.  
5 Clarens, Ms. Reid, and Ms. Hinton to approve. Ms. Richards is not  
6 present and not voting. A summary order?

7 CHAIRPERSON HINTON: Summary order. That  
8 moves us to the last case of the day.

9 MR. LYONS: The last case of the afternoon is  
10 application 16237 of the Wyoming Hotel Group pursuant to 11 DCMR  
11 3107.2 for a variance to allow the non-conforming use of a structure to  
12 extend to an enlargement of the structure under subsections 2002.3  
13 and 2002.5 and a variance from the off-street parking requirements of  
14 subsection 2101.1 for an addition to an inn and an R-5-D district at  
15 premises 2118 Wyoming Avenue, N.W., square 2528, lot 307.

16 All persons wishing to testify in that application please  
17 rise to take the oath.

18 (Whereupon the witnesses were first duly sworn,  
19 examined, and testified as follows.)

20 MR. GIORDANO: Good afternoon, Madame Chair  
21 and members of the Board. I'm Nick Giordano with Brennan Beer  
22 Borman Architects. I'm here on behalf of the Wyoming Hotel Group.

23 Unfortunately, the owner had some crisis on another  
24 property, and the manager for the owner is not here today. We have  
25 asked him to send a letter via fax authorizing me as his agent. I don't  
26 know if you can see if it's come yet.

27 MS. BENNETT: Did a fax come in?

28 MR. LYONS: I will check.

29 CHAIRPERSON HINTON: You can go ahead.

1 MR. GIORDANO: Okay. The existing structure is an  
2 inn which is currently non-conforming use in the R-5-D. For that  
3 reason, we're here to ask for relief through section 3107.2 from  
4 section 2002.3 and 2101.1.

5 The existing lounge in the hotel is really the issue at  
6 hand. There's no intended increase in rooms or use. The lounge  
7 currently is kind of small and narrow.

8 The seating arrangement in there is kind of limited.  
9 The lounge is used for coffee and tea in the afternoon, breakfast  
10 coffee and continental breakfast in the morning.

11 What the owner would like to do is to enclose part of  
12 the existing courtyard with a solarium type structure so that he can  
13 use it all year round. Currently, he only uses it in fair weather because  
14 it's exposed to the elements.

15 And basically, this would be the same use as the  
16 existing lounge. This courtyard is concealed from the alley behind as  
17 well as from the street. It's in the center of a U-shaped building.

18 There's a three-foot service or personnel alley along  
19 the perimeter of this, which is the only view you can see with the  
20 exception of the adjacent buildings on Connecticut.

21 They are office use, and I'm not sure I remember  
22 which embassy that is, but there's an embassy on the corner. The  
23 existing courtyard is about 60 below the adjacent grade.

24 That's the same level as the lobby. The height of the  
25 structure will then extend about 5 feet above grade. So, it does not  
26 make even much view for the few windows it can see.

27 Half of the courtyard is intended to be enclosed with a  
28 roof to prevent rain. The other slightly less than half will have a trellis  
29 for growing various types of greens.

1                   This is the section that shows exactly what is intended  
2 to happen as far as the scale of it relative to the ground. And unless  
3 there are some questions, I believe that's all we have. The fax did  
4 come in?

5                   CHAIRPERSON HINTON: Yes. Do you want to  
6 address the test for use variance? Do you know what that is?

7                   MR. GIORDANO: I'm not sure what you're asking.

8                   CHAIRPERSON HINTON: Okay. For a use variance  
9 to be approved, you need to show that there is extraordinary  
10 conditions in your property that causes a hardship in using the  
11 property.

12                  MR. GIORDANO: Yes, I'm sorry. That was  
13 addressed in the letter. Excuse me. The hotel industry today is  
14 increasing in Washington, D.C. And basically, the people that are  
15 getting more and more market share is by increasing their emphasis  
16 on guest services.

17                  Guest services are such things as the health club, the  
18 pool, or the lounge. This property has none of the above, with the  
19 exception of the lounge. It's a small property.

20                  And to increase his attraction to prospective visitors is  
21 to increase his lounge for full year round use. Due to the fact that he  
22 cannot expand by right in the R-5-D, he is put into a burden to keep up  
23 with his marketplace. And that's basically what the reason is.

24                  CHAIRPERSON HINTON: How large is the existing  
25 lounge, the public area where your guests can sort of congregate?

26                  MR. GIORDANO: This is the existing lounge. It's  
27 approximately 8 feet by 20 feet. Most of the circulation into the front  
28 lobby.

29                  CHAIRPERSON HINTON: And how many guest

1 rooms are there?

2 MR. GIORDANO: There is 25,000 square feet in the  
3 inn, and the guest room count is I believe it's 16 per floor, four floors.

4 CHAIRPERSON HINTON: Sixteen times four. Sixty-  
5 four.

6 MR. GIORDANO: Sixteen per floor, and there's four  
7 floors.

8 CHAIRPERSON HINTON: Is that a total of 64? I'm  
9 just doing this math in my head.

10 MR. GIORDANO: Yes, 64 plus two more down here.  
11 Four more, 68 total.

12 CHAIRPERSON HINTON: Sixty-eight rooms. Is that  
13 the only sort of public lounge area that's provided?

14 MR. GIORDANO: Yes. There's the entrance desk  
15 that walks through this area here because it's submerged from the  
16 street, come down, come back up to the lounge.

17 Then the stair hall which has a little bit of area in front  
18 of it. It's basically just a table with flowers on it. There's no seating in  
19 this area. And so this is your basic lounge.

20 And you're right into the corridor which is service and  
21 four guest rooms. There really aren't any amenities other than this  
22 small lounge.

23 CHAIRPERSON HINTON: Okay. Thank you. Are  
24 there any questions from Board members? Does that conclude your  
25 presentation?

26 MR. GIORDANO: Do I need to address the parking  
27 as well?

28 CHAIRPERSON HINTON: Oh, yes. Please do.

29 MR. GIORDANO: Okay. The existing parking is

1 come down this ramp and the parking is just under the structure itself.  
2 There is no ability on the site to increase that parking.

3 That parking is not even enough to meet today's  
4 requirements. So, that's why we're asking for relief from that.

5 CHAIRPERSON HINTON: And the parking is set on  
6 square footage or number of guest rooms? What's the requirement?

7 MR. GIORDANO: Guest rooms.

8 CHAIRPERSON HINTON: The requirement is based  
9 on guest rooms.

10 MR. GIORDANO: Right.

11 CHAIRPERSON HINTON: And you're not adding any  
12 guest rooms?

13 MR. GIORDANO: No, we're not adding guest rooms  
14 at all.

15 CHAIRPERSON HINTON: So, you're currently not in  
16 compliance with the requirement.

17 MR. GIORDANO: Right. But we wouldn't have to  
18 increase our parking for this because we're not adding guest rooms.

19 CHAIRPERSON HINTON: Okay. So, that is an  
20 existing condition, the parking problem.

21 MR. GIORDANO: That's an existing condition. That  
22 would conclude it.

23 MR. CLARENS: Mr. Giordano, this is a picture of the  
24 hotel or the inn that is in the package that was given to us.

25 I'm having trouble understanding your plan in  
26 relationship to this picture. What is it that I'm looking at when I'm  
27 looking at this picture?

28 MR. GIORDANO: That's the front view from  
29 Wyoming. What you're seeing is the face along here. Now, this area

1 doesn't show because this is actually the garage going down which  
2 you see on the bottom left of that photo.

3 This is the garage entry. What you're looking at is the  
4 face across here.

5 MR. CLARENS: I see. So, these double doors are  
6 the double doors -- this is a window which is -- and then there is a  
7 door here. There's a courtyard in front, sunken courtyard of some  
8 sort.

9 MR. GIORDANO: In front of the building.

10 MR. CLARENS: In front of the building, and then this  
11 is a driveway. I see. So, I'm looking at two bays, and there's a third  
12 bay missing.

13 MR. GIORDANO: Yes, because it's the drive at this  
14 level.

15 MR. CLARENS: I see. At that level. I get you.  
16 Okay. But now, I also see five stories above the lobby.

17 MR. GIORDANO: Well, then I'm mistaken. You're  
18 right. There is five stories. That would increase your room count by  
19 another 16 rooms.

20 MR. CLARENS: Okay. So, then this patio is actually  
21 behind this last bay?

22 MR. GIORDANO: Correct. The building is U-shaped,  
23 sort of a flat U. And the courtyard is in the middle.

24 MR. CLARENS: Okay. And then you have a party  
25 wall condition?

26 MR. GIORDANO: There's a three-foot service alley  
27 right here.

28 MR. CLARENS: There's a three-foot service alley.

29 MR. GIORDANO: Right. And then, the adjacent

1 property. This is the actual alley on the back.

2 MR. CLARENS: What is the relationship with that  
3 courtyard to that alley now?

4 MR. GIORDANO: Currently there is a brick wall to  
5 grade which is about 6 feet. And then on top of that, you'll see  
6 another picture on there looking from this view back. You'll see a  
7 wooden fence. That's currently what's there.

8 MR. CLARENS: I see it, a -- wooden fence.

9 MR. GIORDANO: It's just a plain wooden fence.  
10 That fence is actually about three feet taller than the structure will be.

11 MR. CLARENS: So, then this picture is basically a  
12 picture of that fence?

13 MR. GIORDANO: Yes, standing at the alley looking  
14 at that fence.

15 MR. CLARENS: In the alley looking that way. So,  
16 then what we're doing is we're removing this fence, maintaining the 6-  
17 foot high brick wall, and then building on top of that a glass --

18 MR. GIORDANO: The new structure is lower than  
19 that in actuality because the base for this, the ground for this is  
20 actually 6 feet below the bottom of that fence.

21 MR. CLARENS: Below the bottom of the fence.

22 MR. GIORDANO: That fence is about 7 feet.

23 MR. CLARENS: So, your glass structure will  
24 commence at the top of this fence, at the top of the --

25 MR. GIORDANO: We will add brick here to come up  
26 to 11 feet. The glass will actually be just on this side. From the alley  
27 side, from this pedestrian alley, you won't see any really of the glass.

28 MR. CLARENS: The only part that you're enclosing,  
29 is there still going to be -- that area there is still -- which is the area

1 that you're enclosing and which is the area --

2 MR. GIORDANO: We're enclosing the larger area,  
3 slightly more than half. The other will just have a painted white steel  
4 trellis come out, and we'll grow some vines on it.

5 I don't know if you can read this from here. Want me  
6 to bring it up a little closer?

7 MR. CLARENS: I can see it from there. Actually,  
8 we're going to have to keep those anyway. Can you bring it over?

9 MR. GIORDANO: See, on the left is the hard roof.  
10 On the right is the trellis.

11 MR. CLARENS: I see. So, there's going to be a hard  
12 roof. And there's a roof plan.

13 MR. GIORDANO: Right, with a couple of skylights in  
14 it.

15 MR. CLARENS: Four skylights. Okay. This is a  
16 building which is on the south side of Wyoming?

17 MR. GIORDANO: Correct.

18 MR. CLARENS: And across the street from the  
19 embassy of Macedonia, which this Board reviewed not too long ago.

20 CHAIRPERSON HINTON: Really? But not me. You  
21 guys. Are there any other questions? I am completely lost.

22 MR. CLARENS: We just heard from the applicant.  
23 Now, we're moving onto the Office of Zoning. You can say to the  
24 record that there's nobody else in the audience to cross-examine.

25 CHAIRPERSON HINTON: That's right. There is no one else  
26 in the audience to cross-examine.

27 MR. GIORDANO: This was presented to the local  
28 ANC, and they were forwarding a letter in approval of this. Their  
29 president said he'd be here, but he's not appeared either. And I don't

1 know where he is.

2 CHAIRPERSON HINTON: We'll check to see. The  
3 Board members haven't seen that letter yet. I don't know if it has  
4 come in in the last couple of days.

5 MR. GIORDANO: If it hasn't, then we'd like to leave  
6 the case open until you get it.

7 CHAIRPERSON HINTON: We could. Mr. Nyarku.

8 MR. NYARKU: Good afternoon again, Madame  
9 Chairperson and members of the Board. My name again is John  
10 Nyarku, zoning specialist with the Office of Zoning.

11 You have before you OZ's report on application  
12 number 16237. The applicant is requesting a variance from  
13 subsection 2002.3 and 2002.5 to enclose 645 square feet of an  
14 exterior patio of the inn in order to enlarge the existing lounge.

15 The Office of Zoning is of the opinion that the  
16 applicant will be faced with undue hardship in their ability to use the  
17 patio for the convenience of guests if this ampliation is not granted.

18 The existing lounge is extremely restricted and is  
19 considered inadequate by today's standards relative to the number of  
20 existing guest rooms. OZ also believes that the applicant will be faced  
21 with practical difficulties if this application is not granted.

22 The subject -- non-conforming with enactment of the -  
23 - relative to this -- issue and related to parking requirements.

24 With this application, the applicant is proposing to use  
25 the entire patio area to enlarge the lounge for the inn and provide a  
26 trellis. The allowed square footage for the project is 28,875 square  
27 feet.

28 That's 3.5 -- the existing square footage is 25,693  
29 square feet. The additional 645 square feet for the lounge brings the

1 total to 26,000, less than the allowed square footage by 2,537 square  
2 feet, 0.31 --

3 The OZ is of the opinion that the applicant has met  
4 the burden of proof relative to this zoning relief being sought in this  
5 case.

6 A number of restricted physical characteristics that  
7 are inherent in the property create both an undue hardship and a  
8 practical difficulty with the applicant in their ability to reasonably use  
9 the property in its entirety.

10 OZ believes that granting the relief sought would not  
11 affect the neighborhood adversely nor impair the intent, purpose, and  
12 integrity of the zoning regulations.

13 Accordingly, OZ recommends approval of this  
14 application. This concludes my report. And I will be glad to answer  
15 any questions that the Board members may have.

16 CHAIRPERSON HINTON: I don't have any. Any  
17 questions of Board members?

18 MS. BENNETT: I have none.

19 CHAIRPERSON HINTON: There appear to be none.  
20 Thank you. Have we received the ANC report? I have the file.

21 MR. LYONS: No, Madame Chair.

22 CHAIRPERSON HINTON: Did you have any cross-  
23 examination questions at the Office of Zoning?

24 MR. NYARKU: No, I didn't.

25 CHAIRPERSON HINTON: I think we have a report  
26 from the ANC here. We have a report in the file from ANC 1-D which  
27 appears to have been received May 13th, which says, "At the May 7th  
28 meeting, the commission reviewed the application.

29 The only concern expressed by the commission as

1 well as the community was whether granting the variance will permit  
2 the Wyoming to obtain more permissive zoning changes in the future  
3 due to increased square footage of their building.

4 The commission voted unanimously to approve the  
5 Wyoming's application provided that the increased square footage of  
6 the property not be used as a basis for future zoning changes,  
7 variances, or requests."

8 I do remember reading this. I guess it was in our  
9 package. So, you have support of the ANC. Very good. There's no  
10 one else in the audience. So, we have no one in support or  
11 opposition. Would you like to make closing remarks?

12 MR. GIORDANO: We'd like to thank you for your  
13 time. The owner would certainly appreciate a favorable response on  
14 this.

15 CHAIRPERSON HINTON: I have one question for  
16 you. Rather than seek a variance to increase your square footage,  
17 was there any consideration of remodelling part of that first floor,  
18 maybe to lose a guest room or two to have the kind of lounge space  
19 that you need?

20 MR. GIORDANO: We remodelled this inn for the  
21 owner in -- I can't remember exactly, but I think it was '91 or '92. At  
22 that point, he lost three rooms on the ground floor. And he wasn't  
23 about to lose anymore. That was basically to get the lounge that he  
24 has now.

25 CHAIRPERSON HINTON: What's the occupancy? Is  
26 it always --

27 MR. GIORDANO: It's a very popular little inn.

28 CHAIRPERSON HINTON: Okay. But is it always  
29 full? I can't imagine it's 100 percent occupancy.

1 MR. GIORDANO: No. There's no such thing as a  
2 full-time, 100 percent in Washington, but you will have weeks and  
3 months even, certain times a year where you do need every room,  
4 and that's where you make your money because you charge higher  
5 prices. And those are the spring seasons and the fall seasons.

6 CHAIRPERSON HINTON: The square footage that is  
7 in this application, how many rooms would that be if it were taken out  
8 of guest rooms rather than adding square footage to the building?

9 MR. GIORDANO: Well, it's really more physical  
10 constraint. The lounge that is currently there, as you saw, was fairly  
11 narrow and long, which is not terribly efficient use.

12 To take out more guest rooms, the only way we could  
13 go is to continue the length of that. And I can show you on the plan.  
14 To continue the length of that would really make it a bowling alley.

15 CHAIRPERSON HINTON: So, even longer than 20  
16 feet?

17 MR. GIORDANO: Yes. It's still the same width  
18 because you have a certain width of the property and a fire stair and a  
19 corridor to get back to the -- let me show you. You see the fire stair,  
20 the elevator, corridor?

21 CHAIRPERSON HINTON: I do.

22 MR. GIORDANO: So, to make it longer -- well, that's  
23 where their guest room is right there. You just keep making it long.

24 CHAIRPERSON HINTON: Thank you. Any other  
25 questions from Board members? No. I think that concludes our  
26 hearing then. Why don't we try to make a decision today that way we  
27 won't have to remember.

28 MR. CLARENS: Madame Chairperson, I believe that  
29 the burden of proof has been met. I move approval of the application.

1 MS. BENNETT: Second.

2 CHAIRPERSON HINTON: Very good. Would you  
3 like to put on the record how you view the unusual condition and the  
4 hardship that's created?

5 MR. CLARENS: I think it is in the testimony. I think  
6 it's fairly clear, but I think that the plan as has been represented in the  
7 last statement makes it very clear that this is a visible expansion.

8 I think that the Office of Planning stated the rationale  
9 as well as the applicant for meeting the burden of proof. There is a  
10 practical difficulty in meeting a changing marketplace.

11 And it is the need of the marketplace that drives the  
12 requirements of this inn to request this specific variance. And I find  
13 that it is totally appropriate and should be granted.

14 CHAIRPERSON HINTON: Would you agree that  
15 based on the interior configuration the additional space cannot be  
16 found other than making this addition?

17 MR. CLARENS: Well, that it could be found, but that  
18 it is a practical difficulty to expand it that way.

19 CHAIRPERSON HINTON: It's a practical difficulty. Is  
20 this a use variance?

21 MR. CLARENS: There's no adverse impact to the  
22 community. It is an interior space. It does enclose some outside  
23 space, but I don't think that it would affect the open air requirement.

24 The zoning regulations and the intent of the zoning  
25 regulations I don't think greatly suffer substantially from the granting of  
26 this application. For those reasons, I recommend approval.

27 CHAIRPERSON HINTON: Very good. Okay. Let me  
28 call the question. All those in favor?

29 CHORUS: Aye.

1 CHAIRPERSON HINTON: Opposed? Hearing none.

2 MR. LYONS: The staff would record the vote as  
3 being 4 to 0 to approve the application. Mr. Clarens, Ms. Bennett, Ms.  
4 Hinton, and Ms. Reid to approve. Ms. Richards is not present, not  
5 voting. A summary order?

6 CHAIRPERSON HINTON: Yes. Very good. That  
7 concludes our hearing.

8 (Whereupon, the proceedings were concluded at 4:25  
9 p.m.)