

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

In the application of:

ORDER OF SAINT SULPICE	BZA No. 16111
THE WASHINGTON HOME	BZA No. 16263
GALLAUDET UNIVERSITY	BZA No. 16254
MASJID AL-ISLAM	BZA No. 16253
HOWARD UNIVERSITY	BZA No. 16110

Room 220 South
441 4th Street, N.W.
Washington, D.C. 20001

Wednesday
September 3, 1997

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

BEFORE:

SUSAN MORGAN HINTON, Chairperson
LAURA M. RICHARDS, Vice Chairperson
BETTY KING, Board Member
SHEILA CROSS REID, Board Member

STAFF PRESENT:

MADIELIENE H. DOBBINS, Director, Office of Zoning
TRACEY WITTEN ROSE, Office of Zoning
PAUL HART, Office of Zoning
ALBERTO BASTIDO, Office of Planning

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

1:03 p.m.

CHAIRPERSON HINTON: The hearing will please come to order. Good afternoon, ladies and gentlemen. This is the September 3 hearing of the Board of Zoning Adjustment of the District of Columbia. I am Susan Morgan Hinton, your Chairperson. Joining me today are Laura Richards, Vice Chair, Betty King, and we expect Sheila Cross Reid to be joining us shortly. Copies of today's agenda are available to you. They are located to my left to the door.

All persons planning to testify either in favor or opposition are to fill out two witness cards which are located at either 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: One is the statement of witnesses of the applicant; two, Government reports including the Office of Planning, the Office of Zoning, the Department of Public Works, and the ANC; three, persons or parties in support; four, persons or parties in opposition; and five, closing remarks by the applicant.

Cross examination of witnesses is permitted for persons or parties with a direct interest in the case. The record will be closed at the conclusion of each case except for any materials specifically requested. The Board and the staff will specify at the end of the case exactly what is expected.

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

The Board will make every effort to conclude the public hearing as near as possible to 6:00 p.m. If the afternoon cases are not completed at 6:00,

1 the Board will assess whether it can complete the pending cases remaining on the
2 agenda.

3 At this time, the Board will consider any preliminary matters.
4 Preliminary matters are those which relate to whether a case will or should be heard
5 today, such as requests for postponement, continuance, or withdrawal, or whether
6 proper and adequate notice of the hearing has been given. If you are not prepared
7 to go forward with a case or if you believe the Board should not proceed, now is the
8 time to raise such a matter. Does the staff have any preliminary matters?

9 MS. DOBBINS: Good afternoon, Madam Chairman and
10 members of the Board. The staff has several preliminary matters that relate to
11 cases this afternoon. In the first case of the afternoon, 16111, that case was not -- it
12 was not reposted, and in your package you do have a request for postponement.

13 CHAIRPERSON HINTON: We do. Is the applicant present?
14 Please come forward to the table. Everybody needs to speak into a microphone so
15 that it can be recorded.

16 MS. DOBBINS: And please make sure it is on. You should hold
17 the green button until the light stays on.

18 CHAIRPERSON HINTON: We need your name and home
19 address for the record.

20 MS. ROSATI: Carla Rosati, 1401 South Edgewood Street, #505,
21 Arlington, Virginia. I represent Theological College, the Sulpice Seminary of
22 Washington. Presently, our architect is not present.

23 CHAIRPERSON HINTON: Do you expect your architect today?

24 MS. ROSATI: Yes. He was to meet me here before 1:00 p.m.

25 CHAIRPERSON HINTON: Are you prepared to go forward with
26 the case?

27 MS. ROSATI: We -- I believe we were to request a
28 postponement.

1 CHAIRPERSON HINTON: Do you know why you are requesting
2 a postponement?

3 MS. ROSATI: I believe that because we originally -- the architect
4 requested that this hearing be held for September 17. He thought that we had
5 received that postponement and we understand that was not received. And since
6 we had not prepared all the things that we needed to do before the hearing, such as
7 posting the notices 15 days before -- we just posted them on the 26th of August.
8 That was preparatory to a meeting on the 17th of September. Nor have we filed
9 those affidavits.

10 CHAIRPERSON HINTON: Okay.

11 MS. ROSATI: We would like to request a postponement.

12 VICE CHAIRPERSON RICHARDS: Madam Chairperson, I can
13 see where the confusion would arise. You asked for something to the 17th. You call
14 and ask did I get my postponement and someone says yes. I would do it on the
15 17th.

16 CHAIRPERSON HINTON: Well, clearly there was a
17 misunderstanding. And since we can't be sure if the record is complete at this point
18 and we know that the cite wasn't posted, I think that we need to grant the request to
19 postpone. It will not be the 17th. It will have to be postponed to the next earliest
20 available agenda, which will probably be a couple of months delay.

21 MS. DOBBINS: It looks like it would be -- it could conceivably be
22 the first hearing on the November 5th.

23 MS. ROSATI: November 5?

24 MS. DOBBINS: That would be 1:00 p.m. for the public hearing.

25 MS. ROSATI: All right.

26 MS. KING: Is that definitely scheduled now, Ms. Dobbins? Can
27 they take that to the bank?

28 MS. DOBBINS: Yes, we would probably just -- yes, I am putting

1 it on the agenda now.

2 MS. ROSATI: Then we will prepare for November 5, at 1:00.

3 And to insure the posting of signs and the affidavits filed properly before then.

4 MS. DOBBINS: That is correct.

5 MS. ROSATI: Thank you.

6 CHAIRPERSON HINTON: And I believe all the applicant's pre-
7 hearing statements need to be in the record at least 14 days prior.

8 MS. DOBBINS: Right. Okay, so application 16111 is postponed
9 until 1:00 p.m. on November 5, 1997. The next item as a preliminary matter, there is
10 a request for postponement also in application 16110.

11 CHAIRPERSON HINTON: Could the person making the request
12 and the attorney for the applicant please come forward to the table? Mr. DePuy, we
13 have read your request. You have an opportunity to state briefly on the record why
14 you are requesting a postponement at this point.

15 MR. DEPUY: Thank you very much, Madam Chair, members of
16 the Board, Jacques DePuy, attorney for the Smith Property Holding Van Ness
17 Limited Partnership and the Van Ness South Tenants Association with respect to the
18 application of Howard University. We filed, as the Board is aware, a motion for a
19 continuance. I think it might be most instructive very briefly to indicate to the Board
20 what has happened subsequent to the motion being filed.

21 We filed the motion, as you know, August 11. We had a meeting
22 with the University on August 26. After that meeting, which we thought was
23 productive, we sent the University a very detailed list of proposed conditions to a
24 BZA order to elicit discussion and hopeful agreement. That was sent on August 28.
25 And unfortunately, we did not receive a response to that letter until this morning, just
26 11:45, several hours in advance of this hearing.

27 The response from the University from Mr. Moore was
28 essentially that the issues and concerns of our clients were addressed by the ANC

1 resolution. And while the letter indicates that the University is in support of most of
2 the issues and concerns we addressed, it takes the position that they have already
3 been addressed by the ANC resolution. We would beg to differ because the ANC
4 resolution deals with 12 items. The proposed conditions which we suggested and
5 which I have given you a copy of -- number 17, our conditions are much more
6 detailed. They are in the form of a proposed order, that is, conditions in typical BZA
7 language, which we thought was most productive, both for the University, for this
8 Board, and for our clients. And we don't believe that those issues have been
9 adequately addressed by the response, which simply refers to the ANC resolution.

10 CHAIRPERSON HINTON: I am sorry, I don't think you are
11 answering my question. Why can't this hearing go forward today?

12 MR. DEPUY: The members of the Association have not had
13 sufficient time to prepare for this application given the fact that it was a revised
14 application submitted in draft form. The Van Ness Tenants Association is a tenants
15 association that does not normally meet during August. It was able to get some
16 representatives together on short notice to meet with the University, but it was not
17 able to adequately prepare for this hearing today.

18 CHAIRPERSON HINTON: Is the Tenants Association aware
19 that the master plan has been on record at the BZA file since February?

20 MR. DEPUY: Yes. But the form that was on file was in draft
21 form. In fact, I believe the application still is in draft form. The Tenants Association
22 believed that there were revisions in process based on discussions that the ANC
23 and others were having with the University. But, in fact, the draft plan was never
24 finally submitted in final form to the best of our knowledge, nor was it revised.

25 CHAIRPERSON HINTON: So the issues that your clients have
26 come up with in the list is based on the draft plan, is that right?

27 MR. DEPUY: That is correct. That is correct.

28 CHAIRPERSON HINTON: Which has been available since

1 February.

2 MR. DEPUY: So we have responded to the one plan which is
3 before the Board, which is stamped draft.

4 CHAIRPERSON HINTON: Okay. Mr. Moore, do you want to
5 briefly address the issue before we make a ruling?

6 MR. MOORE: Yes. Madam Chairperson and members of the
7 Board, Jerry Moore for Howard University. The plan that was submitted pursuant to
8 the Board's order of December 18, 1996, was the plan that Howard would ask the
9 Board to act on today. That plan has been a matter of record since February 12,
10 1997 of this year. In addition, there have been numerous -- absolutely numerous
11 meetings between the University and anybody who would care to listen. That was
12 brought before the December 18th hearing, of which these movements did not care
13 to attend after the February document was submitted. In fact, on February 25 of this
14 year, Mr. Bryan Ledder, who represented himself to be the counsel for the South
15 Van Ness Tenants Association asked this Board not to decide the case but instead
16 to rehear the case. Shortly thereafter, on April 2 of this year, the University,
17 concerned about its relationship with its neighbors, asked this Board not to decide
18 the case at the public meeting on April 2 of this year, and the Board complied.
19 Subsequent to that, the University wrote a letter to Mr. Ledder dated April 29, 1997,
20 asking him -- and I would like to read the contents of that letter --

21 CHAIRPERSON HINTON: No, no. We have read it. It is in the
22 record. I think --

23 MR. MOORE: We have been everywhere with this.

24 CHAIRPERSON HINTON: Okay. So your position on this
25 request?

26 MR. MOORE: The University has to move forward. At the time
27 that this application was filed in 1995, the University wasn't under any pressure to
28 get this application decided. Now it is. The Federal Agency for the University has

1 told it it must move its library -- it must improve the library. We have no more time to
2 wait. And we think we have done our job in meeting with the community, and it is
3 just unfortunate that at the last second these group of citizens come in to raise some
4 questions. We have tried to be accommodating.

5 CHAIRPERSON HINTON: Okay. I think I have heard enough.
6 Thank you. I am going to make a motion that the Board deny the request to
7 postpone the hearing. I think that the information has been in the public record
8 since February and I think the University has made diligent attempts to solicit
9 comments from the neighbors and to make changes, if necessary, to the master
10 plan based on those comments. And having heard today that at this point the
11 University does need to move ahead with construction of one of the buildings that is
12 contained in the master plan, it is now getting to the point that it is an inconvenience
13 to the applicant to continue to delay. So I would look for a second on the motion.

14 MS. REID: Second.

15 CHAIRPERSON HINTON: All those in favor?

16 CHAIRPERSON HINTON: Opposed?

17 MR. MOORE: Thank you.

18 MR. DEPUY: Thank you.

19 MS. DOBBINS: Madam Chair, let's -- I need to make some -- I
20 need for the Board to make some determination about who will hear this.

21 CHAIRPERSON HINTON: Who will hear the application?

22 MS. DOBBINS: Yes. Mr. Franklin is, in fact, coming, and I am
23 trying to -- this is a further hearing. And I need to know if everybody is participating
24 in this and whether the record was read by all other members -- the previous record.

25 MS. KING: No.

26 MS. DOBBINS: Okay.

27 MS. KING: I was not aware that there was a previous record. I
28 was not informed.

1 VICE CHAIRPERSON RICHARDS: No, I was prepared -- going
2 to participate today, but I thought that reading the material that we got was sufficient.

3 MS. DOBBINS: This is a further hearing, and that was one of
4 the reasons we were so concerned about Mr. Franklin, who will appear today.

5 VICE CHAIRPERSON RICHARDS: We can read the transcript
6 and then decide it.

7 MS. DOBBINS: Yes, you can hear it today. My concern was to
8 make sure that the motion was adequate.

9 VICE CHAIRPERSON RICHARDS: Oh, all right.

10 MS. DOBBINS: Okay? You know, I expect you to hear it today
11 and you will also read the balance of the record that you have not before a decision
12 is made. But I am trying to make sure that the motion was appropriate. That was
13 my concern.

14 CHAIRPERSON HINTON: So, Ms. Richards, you were here for
15 the original hearing or not?

16 VICE CHAIRPERSON RICHARDS: I was here for the original
17 postponement, not the original hearing, no.

18 MS. DOBBINS: You see, that was the concern. Why don't we
19 just defer acting on the preliminary matter until it comes up. Mr. Franklin will be
20 here.

21 MS. KING: Oh, you are suggesting that Laura and I cannot vote
22 on this, is that it?

23 MS. DOBBINS: On the preliminary matter?

24 MS. KING: Yes.

25 MS. DOBBINS: Well, I would hate --

26 VICE CHAIRPERSON RICHARDS: That -- I don't think that kind
27 of procedural motion about sort of scheduling is the sort of thing that requires
28 intimate familiarity with the record.

1 MS. DOBBINS: Why don't we also just get a vote from Mr.
2 Franklin when he does come?

3 CHAIRPERSON HINTON: Why don't we do that.

4 MS. DOBBINS: Okay?

5 VICE CHAIRPERSON RICHARDS: Okay.

6 MS. DOBBINS: And that would --

7 CHAIRPERSON HINTON: Let's take a new vote when Mr.
8 Franklin -- I liked your idea of deferring it. Can we defer it? Because there is no
9 sense in beginning --

10 MS. DOBBINS: I don't want the Board to have any procedural
11 matters that will come before the Court unnecessarily.

12 CHAIRPERSON HINTON: Exactly. Right.

13 VICE CHAIRPERSON RICHARDS: Okay. That is fine.

14 CHAIRPERSON HINTON: Were you here, Ms. Reid?

15 MS. REID: I was here.

16 CHAIRPERSON HINTON: You were here.

17 MS. DOBBINS: Ms. Reid was here.

18 CHAIRPERSON HINTON: Okay. Very good. We will discuss
19 that issue when Mr. Franklin gets here then. We can move ahead to the second
20 case. I would like the staff to know that I would like to hear the Washington Home
21 case -- I would like to hear that after the second case -- after the next case, the next
22 one being Gallaudet.

23 MS. DOBBINS: Okay. So Gallaudet would be number 1.

24 CHAIRPERSON HINTON: Then the Washington Home.

25 MS. DOBBINS: Number two, Washington Home.

26 CHAIRPERSON HINTON: And then we can proceed.

27 MS. DOBBINS: Okay. The first case would be 16254, the
28 application of Gallaudet University pursuant to 11 DCMR 3108.1 for a special

1 exception under Section 210 for an amendment to an approved campus plan and
2 further processing under the amended plan for an addition to an existing field house
3 in an R-4 district at premises 800 Florida Avenue, N.W. This is square 3591, parcel
4 141/69. All persons intending to testify in this case, please stand to take the oath.

5 MR. COLLINS: Madam Chairperson, maybe this is a good time
6 for a preliminary on this matter?

7 CHAIRPERSON HINTON: Oh, you have a preliminary matter?

8 MR. COLLINS: Well, no. Not necessarily. My witnesses,
9 including the President of the University, are on the way here. We didn't anticipate
10 the postponement of the first case and he had a meeting. So he is on the way now.

11 CHAIRPERSON HINTON: Okay. That is fine.

12 MR. COLLINS: I have talked to Ms. Prince and possibly we
13 could argue the first issue in that case. And then when the President comes back,
14 we could go back to the Gallaudet case?

15 CHAIRPERSON HINTON: Fine. That is fine with me.

16 MS. PRINCE: We also have an architect on the way. However,
17 our place is completely uncontested, and we do have one preliminary matter that
18 perhaps we could dispose of and that was an appeal of the filing fee.

19 MS. DOBBINS: Now this is in the Washington Home.

20 CHAIRPERSON HINTON: You are right. We had that listed.

21 Why don't we -- Ms. Dobbins, can we call the --

22 MS. DOBBINS: We didn't call it yet. Wait, wait, wait. Okay.

23 CHAIRPERSON HINTON: Can we call the third case?

24 MS. DOBBINS: Yes, you can.

25 CHAIRPERSON HINTON: And we will move back to the second
26 case when they are ready.

27 MS. DOBBINS: Okay. So we are going to call as the -- is this

28 16253?

1 CHAIRPERSON HINTON: Yes.

2 MS. KING: 16263, isn't it?

3 CHAIRPERSON HINTON: 16263.

4 MS. DOBBINS: Okay.

5 CHAIRPERSON HINTON: Washington Home.

6 MS. DOBBINS: Washington Home. This is application 16263,
7 the application of the Washington Home pursuant to 11 DCMR 3108.1 for a special
8 exception under Section 219 to increase an existing healthcare facility from 189 to
9 201 beds in an R-1-B district at premises 3720 Upton Street, N.W. This is square
10 1825, lot 818. All of those wishing to testify in this matter please stand and take the
11 oath.

12 (Whereupon, all witnesses were duly sworn.)

13 MS. DOBBINS: This case does have a preliminary matter
14 associated with the fees. This was called as a preliminary matter with the case
15 because it was not necessarily going to be determinative of whether it would move
16 forward today or not. I think those matters -- information is in your packet related to
17 the request for a waiver or a reduction in the fees.

18 CHAIRPERSON HINTON: We do have the --

19 MS. DOBBINS: And the calculation -- the way the fees are
20 calculated.

21 CHAIRPERSON HINTON: The fee has come out to be
22 \$4,000.00. The fee, according to the BZA fee schedule, is calculated on the number
23 of homes -- I am sorry, the number of beds in the home. This is the way that the
24 BZA has always done it. In this case, the numbers come out to seem a little bit
25 extreme. However, what we need to realize is that even though there is a small
26 addition of beds, the application that the BZA is hearing today is for the total number
27 of beds and not for the addition. And all of the impacts that we will try to determine
28 and think about will be based on the total number and not on the addition. So, I

1 think that it is in the best interest of the BZA to go ahead with the way we normally
2 apply the fee schedule to the applications.

3 MS. KING: Madam Chairman?

4 CHAIRPERSON HINTON: Yes?

5 MS. KING: May I ask if we have any legal leeway to -- I mean, is
6 this traditional or is it a regulation or something that we cannot reconsider?

7 MS. DOBBINS: It is a rule -- the fees are included in the rules of
8 the Board. The Board does have the authority to waive because of the general
9 waiver provision, and the Board has done that on a case-by-case basis when there
10 has been some extraordinary circumstances associated. When it appeared unfair or
11 there was a -- in some cases, the Board's fees overlap, meaning that if you have
12 multiple lots, you may be required to provide a fee for each varying kinds of relief.

13 MS. KING: I understand.

14 MS. DOBBINS: So the Board has, in cases like that when it has
15 been oppressive or has determined that that was not what the fee was intended to
16 do, they have waived those fees. However, in cases where it is based on the
17 number of beds or the number of children, et cetera, the Board has continuously
18 made a determination that when an addition is added, the Board is at that point
19 making a decision based on the total facility again. Again, in some instances -- if
20 you will look at the fee schedule, you will not that there -- and I think in this instance
21 too -- there is a cap where when you get over a certain number, you still pay the
22 same amount. And I think the cap applied in this case.

23 MS. KING: Ms. Dobbins, when was the fee paid for the 1989
24 beds?

25 VICE CHAIRPERSON RICHARDS: It was approved in 1986.

26 MS. PRINCE: 1986 was the fee for the 189 beds.

27 MS. KING: 1986. Okay, thank you.

28 MS. DOBBINS: And the fees were increased in 1994. The fee

1 was overall redone.

2 MS. PRINCE: But I would argue that we are being charged
3 twice for the same beds.

4 MS. REID: Okay. Now let's look at this with a sense of fairness.
5 If, in fact, they have already paid for the 189 --

6 MS. DOBBINS: But that is not how fees are calculated -- about
7 whether you have paid before.

8 MS. REID: Okay, but let me do this.

9 MS. DOBBINS: Yes, I am sorry.

10 MS. REID: Okay. Here is what I don't understand. If, in fact,
11 you are talking about an application that pertains to only 12 beds, but then you are
12 going to levy the fees based on all the beds, I don't understand that. That doesn't
13 make a lot of sense to me.

14 MS. DOBBINS: I don't think the application is just for 12 beds.
15 The addition is for 12 beds. But when you look at the application, you look at the
16 impacts associated with the facility.

17 CHAIRPERSON HINTON: Right. The application --

18 MS. DOBBINS: Which is increase of 12 beds.

19 CHAIRPERSON HINTON: The application is for 201 beds.

20 MS. REID: Okay, now what was the issue regarding it being
21 paid for twice. I need to understand that.

22 MS. DOBBINS: That is the applicant's interpretation of how the
23 fees are calculated and that they are being charged twice.

24 MS. KING: And the 189 were paid for 11 years ago, is that
25 correct?

26 MS. DOBBINS: Yes, at least.

27 MS. PRINCE: Yes, and the beds have been in operation that
28 entire time. And today we are seeking permission for 12 additional beds only. And

1 were that application to be denied, we would retain the right to operate our 189
2 beds. So although I agree that you do look at the home in its entirety and in its
3 functioning for purposes of the evaluation of the 12 beds, we are in fact seeking
4 approval of only 12 beds today. And I would say historically, up until about 1986,
5 the way this provision was interpreted was that you were only charged for the
6 additional beds or the additional number of students. And I understand the
7 interpretation today is that you are charged for the whole. But were this case to be
8 approved --

9 MS. DOBBINS: I am not sure that that is true.

10 MS. KING: Could I see a copy of the current fee schedule and
11 regulations?

12 MS. DOBBINS: Yes, they are in Chapter 33.

13 MS. KING: What subsection? 33 what?

14 MS. DOBBINS: 3380.

15 MS. KING: What is provided in 3380.3 and 3380.4, except as
16 provided.

17 MS. DOBBINS: This is 3380. That is the way we are --

18 MS. KING: For the Government?

19 MS. DOBBINS: For the Government. And these are appellants.
20 They are not applicants. So this is an application, not an appeal. So this is
21 calculated and the maximum is \$4,000.00. So once they get to that, no matter how
22 many beds, that is where you stop.

23 MS. KING: \$80.00 for each person housed based on the
24 maximum capacity requested. I see it is quite clear. It says for --

25 CHAIRPERSON HINTON: Well, it is not silent. It says it is
26 based on the total.

27 MS. KING: Based on the maximum capacity requested, and
28 their maximum capacity requested is 201 beds.

1 MS. REID: But the issue regarding -- I don't understand. She
2 was saying what was incorrect was --

3 CHAIRPERSON HINTON: We need to talk on the microphone.

4 MS. REID: So I guess what I am trying -- what I am pondering is
5 understanding the issue regarding Ms. Prince's stipulation stating that they had paid
6 for the 189 before. Now am I to understand that each time there is any request for
7 any extension or additional beds, even if they request one bed or two additional
8 beds sometime in the future subsequent to this date, that they will be charged for the
9 entire amount each time they apply? Is that my understanding?

10 MS. DOBBINS: That is right.

11 VICE CHAIRPERSON RICHARDS: Part of the reason the fees
12 were raised, in addition to the need to recover costs, was to create a barrier to
13 access to screen out frivolous applications and piecemeal applications.

14 MS. KING: Well, all of that notwithstanding, whether we like it or
15 not, these are the regulations. They were presumably published. There was ample
16 time for public comment. They were republished and published and republished and
17 commented on. It seems to me that it is virtually impossible to interpret this Section
18 3380 in any other way, unfortunately, much as one might like to.

19 MS. DOBBINS: And I think the provision or the clause that says
20 based on the maximum capacity requested is how we come to that.

21 CHAIRPERSON HINTON: It is pretty clear -- it is clear. So I
22 believe we had a motion to deny the request to waive or reduce the fee.

23 VICE CHAIRPERSON RICHARDS: Second.

24 CHAIRPERSON HINTON: All those in favor?

25 STAFF MEMBERS: Aye.

26 CHAIRPERSON HINTON: Opposed?

27 MS. REID: Aye.

28 MS. DOBBINS: Staff would record the vote as 4-0 to deny the

1 motion to waive the fees.

2 VICE CHAIRPERSON RICHARDS: Three to one.

3 MS. DOBBINS: Oh, three to one.

4 MS. KING: Who -- oh.

5 CHAIRPERSON HINTON: Ms. Reid.

6 MS. DOBBINS: Ms. Hinton, Ms. Richards, Ms. King to deny.

7 Ms. Reid opposed to the motion.

8 CHAIRPERSON HINTON: Okay.

9 MS. DOBBINS: Okay, are we going to move into the
10 application?

11 CHAIRPERSON HINTON: Let's move directly into the
12 application. Ms. Prince, we have a very thorough record in front of us and we have
13 no opposition.

14 MS. PRINCE: No opposition.

15 CHAIRPERSON HINTON: I think we all understand that this is a
16 reconfiguration of the interior space to allow additional beds. There is no exterior
17 changes to the building.

18 MS. PRINCE: None.

19 CHAIRPERSON HINTON: You addressed quite thoroughly the
20 regulations for special exception, the impacts, and all those. If you want to maybe --
21 is there anything you need to add to your statement at this time?

22 MS. PRINCE: I don't believe there is anything I need to add
23 except that we have the support of ANC 3C in addition to 3F, and Phil Mendelson
24 would have liked to have been down here, but I couldn't call him in time.

25 CHAIRPERSON HINTON: Okay. Thank you.

26 MS. PRINCE: But otherwise, we have --

27 CHAIRPERSON HINTON: And you will stand on your record?

28 MS. PRINCE: We will stand on the record except that I would

1 like to submit Sandra Long's testimony. She is the Chief Executive Officer.

2 CHAIRPERSON HINTON: Very good. Is that in writing or did
3 you want to --

4 MS. PRINCE: We have it in writing.

5 CHAIRPERSON HINTON: Okay. Very good.

6 MS. PRINCE: And I don't know if you would like me to address it
7 now or later, but expedited treatment by this Board would be most appreciated given
8 the circumstances that the Home faces at this time.

9 CHAIRPERSON HINTON: Okay. And I think, just for the record,
10 you were placed on the agenda in an expedited manner.

11 MS. PRINCE: We were. But the Home could literally fill these
12 beds today. And every day that we wait for an order is a day of lost income to the
13 Home.

14 CHAIRPERSON HINTON: Okay. Let me move on then. Are
15 there any questions from the Board of the applicant?

16 VICE CHAIRPERSON RICHARDS: I have none.

17 MS. KING: I have none.

18 MS. REID: I have none.

19 CHAIRPERSON HINTON: Okay. Government reports. I
20 believe we have a report from the Office of Planning. Do we? No.

21 MR. BASTIDA: No, Madam Chairperson.

22 MS. DOBBINS: No. The Office of Zoning just would give an oral
23 report basically to recommend approval. But you have everything else in the record.
24 We think the applicant's record meets the burden of proof.

25 CHAIRPERSON HINTON: Very good.

26 MS. DOBBINS: So we are recommending approval.

27 CHAIRPERSON HINTON: Okay. And we have heard that both
28 ANC 3C and 3F have indicated their support. Are there ANC persons in support?

1 Persons or parties in opposition? Closing remarks by the applicant?

2 MS. PRINCE: As I mentioned, I feel strongly that the burden of
3 proof has been met and we are very pleased to have the support of ANC's 3C and
4 3F. We are also very pleased with the expedited treatment that we have received
5 from the Board of Zoning Adjustment, but it is literally a matter where every day
6 hurts the Home. So we would not only ask for an expedited decision and summary
7 order, but if we could receive that summary order in just the fastest turnaround
8 possible, we will have those beds filled the day we have a certificate of occupancy
9 for the additional beds.

10 CHAIRPERSON HINTON: Okay. Very good. Do I have a
11 motion?

12 VICE CHAIRPERSON RICHARDS: So moved.

13 MS. KING: Second.

14 CHAIRPERSON HINTON: And that would be to approve the
15 application?

16 VICE CHAIRPERSON RICHARDS: Yes.

17 MS. KING: Yes.

18 CHAIRPERSON HINTON: All those in favor?

19 STAFF MEMBERS: Aye.

20 MS. KING: Do we have to take some kind of vote on summary?

21 CHAIRPERSON HINTON: No, we don't. Are there any
22 conditions? I don't believe we need to attach any additional conditions.

23 VICE CHAIRPERSON RICHARDS: No. I mean it is --

24 MS. KING: No.

25 CHAIRPERSON HINTON: Okay. Very good.

26 MS. DOBBINS: What was the vote?

27 CHAIRPERSON HINTON: Would you want to record the vote?

28 MS. ROSE: Staff would record the vote as 4 to 0, Ms. Richards,

1 Ms. Reid, Ms. King, and Ms. Hinton to approve with the issuance of a summary
2 order.

3 CHAIRPERSON HINTON: Could we have an expedited
4 summary order, please?

5 MS. ROSE: Yes. I was trying to figure what that meant.

6 CHAIRPERSON HINTON: Well, whatever that means, we would
7 like to have one.

8 MS. DOBBINS: It means that the Board needs to review in a
9 summary manner, which means typically we give the Board 7 days to review the
10 order, be it a summary order or not. So we would give you less time. So we would
11 try to get it out within a week as opposed to two weeks. Is that appropriate?

12 CHAIRPERSON HINTON: Very good. Thank you.

13 MS. PRINCE: Thank you very much.

14 CHAIRPERSON HINTON: Thank you. Mr. Collins, are you
15 ready?

16 MR. COLLINS: Yes.

17 CHAIRPERSON HINTON: Okay. Let's go back to Gallaudet
18 University.

19 MS. DOBBINS: I think I probably should read it into the record
20 again. Do I need to do that? I'll read part of it.

21 VICE CHAIRPERSON RICHARDS: I don't know. Why don't you
22 just --

23 MS. KING: Just the reference to the docket number.

24 MS. DOBBINS: I will read the number and the name.

25 VICE CHAIRPERSON RICHARDS: Moving right along.

26 MS. DOBBINS: This is application 16254 of Gallaudet
27 University, which was previously read into the record. All those persons intending to
28 testify in this matter, please stand to take the oath.

1 (Whereupon, all witnesses were duly sworn.)

2 CHAIRPERSON HINTON: I am sorry, I missed it. Are there
3 persons in opposition to this application in the audience? I don't recall any
4 opposition in the file. Which means, Mr. Collins, we can move forward in an
5 expedited manner. The record is really very complete. If you want to take maybe
6 five or ten minutes to go through a presentation. Five would be preferable I am
7 hearing.

8 MR. COLLINS: Thank you, Madam Chairperson and members
9 of the Board. My name is Christopher Collins with the law firm of Wilkes, Artis,
10 Hedrick & Lane. With me is Paul Tummins of our office and seated to my right is Dr.
11 I. King Jordan, President of Gallaudet University. To the far right is Mr. Gene Cheek
12 with Lippmeyer Grant, who is the architect of the project.

13 This is an application for a slight amendment and further
14 processing of the campus plan for a small addition to the field house. The 1992
15 campus plan included this field house addition and that was approved at a height of
16 24 feet and 40,000 square feet of additional floor area. The proposal before you at
17 this time is for a field house addition with a height of a maximum of 26 feet maximum
18 and a gross floor area of 12,590 square feet plus 1,665 square feet of mechanical
19 space for a total of 14,255 square feet. The footprint has also changed slightly. The
20 footprint is oriented away from West Virginia Avenue and more toward the
21 University. So in many respects, it is an improvement over the previously approved
22 campus plan configuration.

23 The plan has been reviewed by the Office of Planning, the
24 Advisory Neighborhood Commission, and the Gallaudet Community Relations
25 Council, and we are unaware of any opposition to the application. We have two
26 witnesses today, Dr. Jordan, the President of Gallaudet University, and Gene
27 Cheek, the architect of the project. And unless there are any questions, I would like
28 to go first to Dr. Jordan.

1 CHAIRPERSON HINTON: I hate to cut anyone off, but I am not
2 sure it is necessary.

3 MR. COLLINS: All right.

4 CHAIRPERSON HINTON: Okay. I think we understand the
5 nature of the application. Perhaps we could just move to Board questions. Are
6 there any questions of the applicant?

7 VICE CHAIRPERSON RICHARDS: I have none.

8 MS. KING: I have none.

9 MS. REID: I have none.

10 MR. COLLINS: I am sensitive that we have to make a record
11 and we do need to at least have the witnesses adopt the testimony. So I would then
12 ask Mr. Cheek, who is the architect of the project, if he would adopt the statement of
13 the applicant, pages 2 through 4, as his testimony in this case?

14 MR. CHEEK: Good afternoon, Madam Chairperson and
15 members of the Board. My name is Gene Cheek, and I am with the firm of
16 Lippmeyer Grant Architects, and I would like to adopt as my testimony the
17 information contained on pages 3 and 4 of the statement -- or 2 through 4, excuse
18 me, of the applicant, which addresses how the application meets the specific
19 requirements of the zoning regulations. We have exhibits today that we can go
20 through with you to explain the project and how it meets the zoning specifics, and I
21 will be happy to do that at this point.

22 CHAIRPERSON HINTON: I think it is not necessary. We have
23 the drawings in the record and we have read the statement of the applicant. But we
24 appreciate it. Were there any questions of the architect from the Board?

25 VICE CHAIRPERSON RICHARDS: No. It looks okay to me.

26 CHAIRPERSON HINTON: It looks good to us. Let's move on to
27 the reports of the Government. And I believe we have an Office of Planning report?

28 MR. BASTIDA: Yes, Madam Chairperson. For the record, my

1 name is Alberto Bastida with the D.C. Office of Planning. The Office of Planning
2 submitted its report on August 14, and it recommended favorable on the proposal.
3 The applicant meets all the requirements of the zoning regulations. The only
4 difference between our report and what the applicant proposes is that the proposed
5 addition height has been raised to a maximum of 26 feet. At the time I prepared the
6 report that was discussed, but because I had to -- I was going on leave and I wanted
7 to provide the report in a timely fashion, we decided to go with the 24 feet height and
8 amend it at the public hearing, which I am presently doing. I talked to the applicant
9 yesterday. I have no objection -- the Office of Planning has no objection to the
10 maximum of 26 feet. It might not come to that. It might be 25'6" or maybe 25'8", but
11 it will not exceed 26 feet. That concludes my presentation. If you have any
12 questions, I will try to answer them. Thank you.

13 CHAIRPERSON HINTON: Thank you. Are there any questions
14 of the Office of Planning?

15 MS. KING: No.

16 CHAIRPERSON HINTON: Do you have any cross examination
17 questions?

18 MR. COLLINS: I do not.

19 CHAIRPERSON HINTON: Okay. Department of Public Works, I
20 don't believe we have a report. ANC is next. I don't recall an ANC letter. Do you
21 have one?

22 MS. KING: Well, I know that there was a great report of
23 meetings and so forth, but I don't know that we have a letter. Do you all have a
24 letter?

25 MR. COLLINS: From the ANC?

26 MS. KING: From the ANC?

27 MR. COLLINS: Yes, we do. I would be pleased to submit it into
28 the record.

1 MS. KING: Would you do that?

2 MR. COLLINS: There are two letters I have. One from Advisory
3 Neighborhood Commission 5B and one from the Gallaudet Community Relations
4 Council.

5 MS. KING: We have the Community Relations Council one, but I
6 don't recall the --

7 CHAIRPERSON HINTON: I don't recall that one also.

8 MS. KING: If we could copy the ANC one for our record.

9 CHAIRPERSON HINTON: We have a letter from ANC 5B dated
10 August 8.

11 VICE CHAIRPERSON RICHARDS: Are they amenable?

12 CHAIRPERSON HINTON: I am reading it. It is kind of long.

13 VICE CHAIRPERSON RICHARDS: Oh, yes. It is in the OP
14 report.

15 CHAIRPERSON HINTON: Under item F, it says although a
16 quorum was not established, the 6 commissioners present voted unanimously to
17 support the addition.

18 VICE CHAIRPERSON RICHARDS: How big is that ANC?

19 MS. KING: It is very big.

20 CHAIRPERSON HINTON: It doesn't say what a quorum is.

21 VICE CHAIRPERSON RICHARDS: Well, let's take it for what it
22 is worth.

23 CHAIRPERSON HINTON: So without a quorum, we will take it
24 as support from the voting members, but it is not entitled to great weight.

25 MR. COLLINS: I understand. Thank you.

26 CHAIRPERSON HINTON: Okay. Thank you. And we will -- let
27 me pass this back. Are there persons or parties in support? Persons or parties in
28 opposition? Closing remarks by the applicant?

1 MR. COLLINS: Madam Chair and members of the Board, we
2 thank you for considering this application. We do believe that the statement of the
3 applicant plus the exhibits that were submitted and the testimony in writing as
4 adopted by the architect explain how the application meets the test for special
5 exception relief. We would respectfully request a bench decision, and if the Board is
6 so inclined to approve, then we would also ask for issuance of a summary order on
7 an expedited basis in this case. I do not mean to be like the boy who cried wolf.
8 You have heard several cases today requesting expedited summary order. We do
9 have the order in draft in both summary fashion and findings and conclusions for
10 submission right now for you to take a look at. This Board has approved, since the
11 time of the 1992 campus plan and including the campus plan, this Board has
12 approved 4 projects on the campus by summary order. So we believe it would be
13 appropriate as a summary order right now. And if you are so inclined to approve, we
14 have that in draft form for your consideration.

15 VICE CHAIRPERSON RICHARDS: Why don't we take a look at
16 it and wrap this up now.

17 CHAIRPERSON HINTON: Agreed. Could you submit the draft
18 of the summary order?

19 MR. COLLINS: Yes.

20 MS. KING: While that is being circulated, I would like on behalf
21 of the Board to thank President Jordan for coming down. I apologize for not hearing
22 him, but I think perhaps the outcome is going to be satisfactory, so you don't mind --
23 I hope not at any rate.

24 MR. JORDAN: I appreciate the opportunity to appear before you
25 and have no problem at all with not testifying.

26 MR. COLLINS: While you are reading that, the purpose of the
27 request for expedited consideration is that we need to proceed with construction and
28 pouring the foundation as soon as possible for the wintertime and backing up from a

1 winter date through the permit processing phase -- hiring the contractor, getting the
2 bids in, all those things necessary. We find that we must begin almost immediately.
3 The architect has already proceeded to construction documents for the project in
4 anticipation of moving forward.

5 CHAIRPERSON HINTON: Okay.

6 VICE CHAIRPERSON RICHARDS: You know, Madam
7 Chairperson, given that he has provided us with a draft findings of fact order, I am
8 inclined to adopt the longer one. I think in addition to any usefulness it may have in
9 this particular case, it is nice to have sort of a short order on record for future
10 guidance when you don't have the counsel preparing draft orders..

11 CHAIRPERSON HINTON: I agree. The longer orders -- I find
12 the longer orders are very helpful when we have to go back and review the record.
13 And since you have already prepared it and I don't think that it will delay -- is there
14 any delay that you would see in us adopting the longer order?

15 MR. COLLINS: No. I ask you, do you see any delay? I hope
16 there would not be. We would be prepared to assist the staff in any way possible to
17 insure that the order be issued as quickly as possible. We will work with the staff on
18 that.

19 CHAIRPERSON HINTON: Okay.

20 VICE CHAIRPERSON RICHARDS: Let's move to adopt the
21 longer orders prepared in draft by the applicant.

22 MS. KING: I second that motion.

23 CHAIRPERSON HINTON: Ms. Dobbins had something to say.

24 MS. DOBBINS: I just wanted the Board to make sure that they
25 had no intention of conditioning this order. I think there was a mention of 26 feet or
26 something. It is a special exception. I just wanted to make sure that you didn't
27 intend to put any conditions on it.

28 VICE CHAIRPERSON RICHARDS: There is a height of 26 feet

1 in the draft order, and if it comes up a foot short, I don't think that that would pose a
2 problem.

3 MS. DOBBINS: I am just asking if the Board had any intentions
4 of conditioning the order before it adopted the order.

5 VICE CHAIRPERSON RICHARDS: Then I suggest that we
6 include -- I would say or less -- 26 feet or less.

7 MS. KING: Or a maximum height of 26 feet.

8 VICE CHAIRPERSON RICHARDS: It is finding of fact number
9 5.

10 MS. KING: Number 5, the next to the last line -- a maximum
11 height.

12 VICE CHAIRPERSON RICHARDS: All right. We will insert
13 maximum.

14 CHAIRPERSON HINTON: Very good.

15 VICE CHAIRPERSON RICHARDS: Okay.

16 CHAIRPERSON HINTON: And then we have no conditions.
17 And under -- thank you, Ms. Reid. Under conclusions of law, we will not be giving
18 great weight to the ANC.

19 VICE CHAIRPERSON RICHARDS: Good catch-all.

20 CHAIRPERSON HINTON: So if the staff will make those two
21 changes.

22 VICE CHAIRPERSON RICHARDS: We will just delete this
23 entire paragraph.

24 CHAIRPERSON HINTON: Okay. And Ms. Richards, you made
25 a motion to grant the application and adopt the order?

26 VICE CHAIRPERSON RICHARDS: Yes, as edited by the Board
27 at this time.

28 MS. KING: And I second.

1 CHAIRPERSON HINTON: Seconded by Ms. King. All those in
2 favor?

3 STAFF MEMBERS: Aye.

4 CHAIRPERSON HINTON: Opposed?

5 MS. ROSE: Staff will report the vote as 4 to 0 to grant the
6 application and adopt the longer proposed order. Ms. Richards, Ms. King, Ms. Reid,
7 and Ms. Hinton to grant.

8 MS. KING: I am sorry, I can't hear. I can't hear. Is your
9 microphone on?

10 MS. ROSE: Yes.

11 MS. REID: If you turn yours off, the speaker comes on.

12 MS. ROSE: Did you want me to repeat the vote? The vote is 4
13 to 0. Ms. Richards, Ms. King, Ms. Reid, and Ms. Hinton to grant the application and
14 adopt the longer proposed order.

15 VICE CHAIRPERSON RICHARDS: As amended.

16 MS. ROSE: As amended.

17 CHAIRPERSON HINTON: Thank you.

18 MR. COLLINS: Thank you very much.

19 MS. DOBBINS: The next application, 16253, the application of
20 Masjid Al-Islam, Incorporated, pursuant to 11 DCMR 3107.2 for a variance from the
21 off-street parking requirements, subsection 2101.1, for a church seating 250 in an R-
22 5-8 district at premises 4603 Benning Road, S.E. This is square 5352, lot 41. All
23 those intending to testify, please rise to take the oath.

24 (Whereupon, all witnesses were duly sworn.)

25 CHAIRPERSON HINTON: Hello. Could we have your name
26 and home address for the record, please?

27 MS. SMARR: My name is Mrs. Martharene Smarr, and I live at
28 4529 C Street, S.E. My zip code is 20019.

1 CHAIRPERSON HINTON: Your last name?

2 MS. SMARR: S M A R R.

3 CHAIRPERSON HINTON: Thank you.

4 MS. KING: Do we have anything from DPW, OP, or ANC on
5 this?

6 MS. SMARR: My concerns regarding the off-street parking are --
7 the building on the premises of 4603 Benning Road, S.E., square 5352, lot 4, has
8 been vacant for more than 7 years.

9 CHAIRPERSON HINTON: Excuse me, Ms. Smarr. Are you the
10 applicant? The applicant goes first. Why don't we start with the applicant. Could
11 you give your name and home address for the record?

12 MR. REAMS: My name is Abdul Ali Musa. My given name is
13 Clarence Reams. I am the ma'am or minister at Masjid Al-Islam. My address is
14 5021 A Street, S.E. Our application is for a parking variance. This building that the
15 application deals with is at the corner of C Street and Benning Road, 4603. The
16 original building permit or the original paperwork and the architect work was done in
17 1982. The building was started and it was stopped. It is a big shell of a building.
18 The building is there, but there is no facilities like plumbing or what have you. We
19 bought the building from another church. The building was not used. It was never
20 finished. It was never completed. Originally in 1982, it was not necessary to have
21 parking -- it was not necessary to have one parking space for every 10 persons. So
22 it was given on the land itself 6 parking spaces by the original plan. If the church
23 had been completed, it wouldn't be necessary. It would be grandfathered in
24 -- the parking. But now we bought it last year and now we are applying to you to
25 give us a variance for the parking. We don't have parking on the -- there is no more
26 room on the lot for parking. So we need your approval to finish the building -- to do
27 any work at all, you have to approve or you have to give us a variance for at least
28 another 25 parking spaces, and there is no room on that land for that.

1 CHAIRPERSON HINTON: The building was originally built as a
2 church, is that right?

3 MR. REAMS: As a church.

4 CHAIRPERSON HINTON: But it was never finished and never
5 used?

6 MR. REAMS: Never finished and never used.

7 CHAIRPERSON HINTON: And there are six existing parking
8 spaces on the site?

9 MR. REAMS: Yes.

10 MS. KING: Excuse me, it was built or was in the process of
11 being remodeled?

12 MR. REAMS: In the process -- no, no, it was built from --

13 MS. KING: In fact, what you have is a building that is under
14 construction and has never been completed the first time, is that right?

15 MR. REAMS: Never -- I have a couple of pictures to give you an
16 idea.

17 CHAIRPERSON HINTON: We have those.

18 MS. KING: We have those.

19 CHAIRPERSON HINTON: We have those in the record.

20 MR. REAMS: Okay. That means that it was started -- it is a
21 shell. It has a roof and it has the walls. It has the structures there, but it doesn't
22 have plumbing. Now it has electricity, but it doesn't have any other facilities at all,
23 and we can't continue -- you have to have a building permit to do all of that. In order
24 to get a building permit, we have to have your approval for the parking variance.

25 CHAIRPERSON HINTON: Okay.

26 MR. REAMS: And I would like to mention that we purchased this
27 building over a year ago and we have been waiting a long time. The building is
28 sitting there. We are paying taxes and we are not getting any use out of it. We can't

1 build on it. We are a small community with small resources.

2 MS. KING: As a religious organization, are you not tax exempt?

3 MR. REAMS: You can't get tax exempt on the building until the
4 building is finished.

5 MS. KING: Oh, I see.

6 MR. REAMS: So we are like in jail. We can't get nothing. In
7 fact, we pay a higher tax on it while it is sitting there than we would if we paid a
8 regular tax without religious exemption.

9 MS. KING: I see.

10 MR. REAMS: So we are really in a serious situation.

11 CHAIRPERSON HINTON: And the variance you are requesting
12 is from the number of off-street parking spaces, is that right?

13 MR. REAMS: Right. We have to have a variance.

14 CHAIRPERSON HINTON: How many people would normally
15 attend your service on Friday?

16 MR. REAMS: Well, we hoped that it is filled. We expect now
17 about 100.

18 CHAIRPERSON HINTON: About 100 people.

19 MR. REAMS: About 100 people. But it will hold more than that.

20 CHAIRPERSON HINTON: Okay.

21 VICE CHAIRPERSON RICHARDS: Where do you meet now?

22 MR. REAMS: Well, we meet in various mosques and centers
23 right now. We don't have --

24 VICE CHAIRPERSON RICHARDS: With a congregation of
25 about 100?

26 MR. REAMS: Yes. We have a congregation of 100 regularly.
27 For the last couple of yours, it has been standard at about 100.

28 CHAIRPERSON HINTON: What is the availability of on-street

1 parking or public transportation, if you were to get the variance, how would people
2 park?

3 MR. REAMS: Oh, we have a letter from the Greater Arc Baptist
4 Church or Greater Arc Temple, which is at the corner -- it is at the corner -- it is at
5 4551 Benning Road. We have cleared with them and we have a letter that any extra
6 parking that is needed, that we will rent space. They will give us all the space we
7 need. Plus, our parking is on Friday, when there is really very little problem with
8 parking. Most of the people are at work and our services always start around noon.
9 So in the summer, it starts around -- in the winter, it starts around 12:30, and in the
10 summer, it starts about 1:30. That is about an hour. The latest it would be finished
11 around 2:30 -- no later than 3:00 in the summer. So usually we wouldn't interfere
12 with the neighbors or any other groups.

13 CHAIRPERSON HINTON: And this is at a time when this
14 parking lot normally is not in use? When the parking lot is not --

15 MR. REAMS: It is not. That is the beauty of it. Because the
16 church uses it on Sunday. So they said, no problem at all. We have a letter if you
17 need it for the record.

18 CHAIRPERSON HINTON: And how close is that parking lot to
19 your church?

20 MR. REAMS: It is one block away. It is exactly one block away.

21 CHAIRPERSON HINTON: Great. We would like to have that
22 letter in the record.

23 MR. REAMS: Sure.

24 CHAIRPERSON HINTON: Okay. Are there any questions from
25 Board members?

26 VICE CHAIRPERSON RICHARDS: Not -- well, I guess just one.
27 There are about six parking spaces already on the lot, but you are seeking a 100
28 percent variance. Why won't those six spaces count toward your 25?

1 MR. REAMS: The six probably would count, but technically you
2 need -- the building would probably hold -- the way we estimate it -- because we
3 don't use chairs. We sit on the floor for our service. So we figure that it would be
4 250 -- about 250 people. So technically you need -- for every 10 people, you need
5 one parking space. So we need a variance for actually about 19 spaces, because
6 we have the six already. But it was written for 25 just to make sure everything is
7 covered.

8 CHAIRPERSON HINTON: You intend to maintain the 6 spaces
9 on the site? To keep them there?

10 MR. REAMS: Yes, we do.

11 CHAIRPERSON HINTON: Okay. Are there any other questions
12 from the Board members? No. Let me move to the Government reports. I don't see
13 any Government reports.

14 MR. HART: There is none in your package. I would like to make
15 an oral report, if it is all right with you.

16 CHAIRPERSON HINTON: Thank you, Mr. Hart, from the Office
17 of Zoning.

18 MR. HART: The Office of Zoning is of the opinion that the
19 applicant would be faced with a practical difficulty if this application is not granted.
20 The property currently does not have enough space on site to comply with the
21 current requirements of parking. The inherent physical characteristics of the
22 property create a practical difficulty for the applicant's ability to provide the required
23 parking spaces related to the proposed use.

24 The Department of Public Works is of the opinion that the
25 requested variance would not develop any area impacts that might be detrimental to
26 the public good or would generate severe adverse impacts in terms of traffic,
27 parking, noise, environmental quality, or any other objectionable condition.

28 Also, they are of the opinion that the requested relief can be

1 granted without substantially impairing the intent, purpose, and integrity of the zone
2 plan as embodied in the zoning regulations and map.

3 The Office of Zoning is of the opinion that the applicant has met
4 the burden of proof relative to the zoning relief being sought in this case. The Office
5 of Zoning believes that granting the relief sought would not affect the neighborhood
6 adversely. Also, it would not severely impact the intent, purpose, or integrity of the
7 zoning regulation. Accordingly, the Office of Zoning recommends approval of this
8 application.

9 CHAIRPERSON HINTON: Thank you. Are there any questions
10 from the Office of Planning -- Zoning? Does the applicant have any cross
11 examination questions of the Office of Planning -- Zoning?

12 MR. REAMS: No.

13 CHAIRPERSON HINTON: Okay. You said that you have a
14 report from DPW?

15 MR. HART: No. It was a verbal -- oral report.

16 CHAIRPERSON HINTON: Very good.

17 MR. HART: You know, they went out to look at the site and then
18 called me and made the report and I included --

19 MS. KING: And they said that it was adequate?

20 CHAIRPERSON HINTON: They said there would be no area
21 impacts by the variance?

22 MR. HART: That is exactly right.

23 CHAIRPERSON HINTON: Okay. Are there any persons or
24 parties in support? Persons or parties in opposition? Yes, Mrs. Smarr.

25 MS. SMARR: I am Mrs. Smarr. The building on the premises of
26 4603 Benning Road, S.E., square 5352, lot 4, has been vacant for more than 7
27 years. During that time period, numerous persons and organizations have been
28 interested in purchasing the building, but decided not to construct anything on the

1 site. The building requires a lot of reconstruction before it can be fully occupied.
2 The building has in the past retained water in the lower basement area because of a
3 spring that has been in the area for years. In addition to the construction on the site,
4 the inside requires a great deal of landscaping. The building is located in a
5 residential area. It is across from apartment units. It is on the main street, which is
6 Benning Road, S.E., and is directly below C Street, S.E. residences.

7 My concern today is the application for off-street parking for the
8 members who will use the building for a Moslem faith church. It is requested that
9 the Board consider the following items before making its decision to grant the
10 application for off-street parking on the hill of C Street, S.E., and the surrounding
11 areas.

12 The space adjacent to the church will accommodate
13 approximately 3 cars, depending on the size of the cars. This area is small and will
14 not accommodate six cars. The residents in the apartments use the on-street
15 parking next to the building, Across the street from the building, and on Benning
16 Road. A homeowner whose residence is adjacent to the building, will have a
17 parking site next to her residence. The area has a vacant home on the premises
18 and has been abandoned for over 7 years and it does not have parking available.
19 The sum adjacent to the building in question has a parking lot. Will the members
20 impose on this establishment for parking? The parking will be congested on C
21 Street, S.E. Often guests will visit residents on C Street and there have been
22 blocked driveways. The residents on C Street, S.E. have had accidents with the
23 cars blocking their driveways because they have parked too close to the entrance.
24 During the school hours, there is a bus that uses C Street from Benning Road to
25 pick up children at the school on a day-to-day basis. No traffic is allowed to enter C
26 Street, S.E. or Texas Avenue when the bus is in the vicinity.

27 It is requested that the Board takes into consideration the points
28 mentioned before making its decision on the application for off-street parking on C

1 Street, S.E. Sincerely, Mrs. Smarr, resident of 7804.

2 CHAIRPERSON HINTON: Thank you. Are there any
3 questions?

4 MS. KING: Yes. Where is your home in relationship to the -- or
5 your property --

6 MS. SMARR: 4529 C Street. We are in that area. I am up on
7 the hillside. I have to go down or come up. And this is on the adjacent corner where
8 we live.

9 VICE CHAIRPERSON RICHARDS: To what extent will the
10 problems you've raised be ameliorated if the church members or the mosque
11 members use the Baptist Church parking lot?

12 MS. SMARR: Parking -- parking on the street. We have a
13 driveway. We have to come up and swing up to go into our driveway. If they park at
14 our driveway exit, we cannot go in and we cannot come out.

15 VICE CHAIRPERSON RICHARDS: So if they are in the Baptist
16 Church parking lot, you are okay?

17 MS. SMARR: Pardon?

18 VICE CHAIRPERSON RICHARDS: If they are using the Baptist
19 Church parking lot, you are not affected?

20 MS. SMARR: We are not affected. But if they do not use that,
21 we are affected with parking.

22 VICE CHAIRPERSON RICHARDS: Thank you.

23 MS. KING: Have you discussed this with your Advisory
24 Neighborhood Commission? Is there a Commission?

25 MS. SMARR: Yes. We met two weeks ago Saturday. Yes.

26 MS. KING: And have they passed a resolution? Did the
27 Advisory Neighborhood Commission pass a resolution?

28 MS. SMARR: No, they are interested the same as I for the

1 parking area and the time of service and the residents living in that area, especially
2 the bus coming up to pick up the children at schooltime.

3 CHAIRPERSON HINTON: But did they take a vote? Did they
4 decide --

5 MS. SMARR: No, they are out for the summer. But they will
6 resume again in about two weeks into this month.

7 MR. REAMS: Can I comment on some of the issues that she
8 raised?

9 CHAIRPERSON HINTON: Not yet.

10 MS. KING: Would you wait just a minute? When you refer to
11 children coming home from school, what time do the children come home from
12 school?

13 MS. SMARR: They come at 3:00.

14 MS. KING: At 3:00?

15 MS. SMARR: Yes.

16 MS. KING: They get out of school or they arrive home at 3:00?

17 MS. SMARR: No, they get out. The parents come up to pick
18 them up, and we can't get out. When they come up, we can't get out of the
19 driveway. We know their time, so we kind of schedule around it sometimes. But if
20 the bus comes there, you can't do anything.

21 MS. KING: But that has nothing to do with this gentleman's
22 mosque.

23 MS. SMARR: Well, if they are going out to go on trips and they
24 have buses up there or if something special is at the school, then you just can't go
25 up there. No.

26 MS. KING: I understand that, but that is a traffic problem that is
27 not created by the mosque. That is created by the school.

28 MS. SMARR: Only if the residents there are having company or

1 something like that and they are parking, we cannot park. That means we will have
2 to go down to the church and ask them to come move their vehicles so we can park.

3 CHAIRPERSON HINTON: One of the things that the Board can
4 consider as a condition is requiring or asking the church to make sure that their
5 members understand that if they are parking on the street, they not block any of the
6 driveways that would prevent the residents from coming and going. So that is
7 something that we can consider. As the applicant, you have an opportunity for
8 closing remarks. So when we get to that, you --

9 MR. REAMS: Sure. Okay.

10 CHAIRPERSON HINTON: And you also have an opportunity to
11 ask any questions of this person, if you have questions. But if you just have
12 comments, you can do that in closing remarks.

13 MR. REAMS: Okay.

14 MS. DOBBINS: Madam Chairperson?

15 CHAIRPERSON HINTON: Yes.

16 MS. DOBBINS: One item that I wanted to be sure of -- one thing
17 that I need for the Board to make very clear is when we have parties or persons, that
18 the party status carries specific privileges and it also requires us to do certain things.
19 So I don't know if Ms. Smarr was requesting party status or whether she was a
20 person providing testimony in opposition to the application.

21 CHAIRPERSON HINTON: We had no request for party status.

22 MS. DOBBINS: No, we have no oral -- we have no written
23 request.

24 CHAIRPERSON HINTON: We had no any request.

25 MS. DOBBINS: Okay. All right.

26 CHAIRPERSON HINTON: Okay, closing remarks by the
27 applicant?

28 MR. REAMS: Thank you for hearing our case. On the few

1 things that was mentioned by the sister about the building. It was vacant for several
2 years, but we decided that it was time that something be done with it. So we took it
3 upon ourselves to initiate purchasing the property to improve the community. In fact,
4 we made it a point to be active in the Southeast specifically for that reason. And
5 anyone who knows about our communities, we walk through the community during
6 the week, at a minimum of every Saturday, and it is already -- the neighbors in the
7 neighborhood in that Southeast area and Benning Road area would testify or would
8 mention that we have already had a positive impact in the projects up on the hill and
9 in that neighborhood. The Muslim community have had a positive impact in the
10 neighborhood already. And when we want to remodel the building, we already
11 raised the funds. We know that the building needs a lot of help. So we bought the
12 building and we have already saved from now over \$50,000.00, which we know it
13 will take about \$150,000.00 at least to bring the building up to par. We already know
14 that and we are already in the process. So we know the problems that the building
15 had. The basement is dry now because we could do some work in there installing
16 pumps and what have you.

17 As far as the little house next door, that little house doesn't
18 belong to us. That is the little house -- but actually, their fence is on our property.
19 So we have more property than it looks like because they built a fence and it is up
20 next to our building. But actually our property goes up about three feet away from
21 their building. That is where part of our parking will be at. But as far as if they ever
22 remodel or clean up the place, they can use our parking lot anytime they like.

23 And as far as the building being left, we think that it is an asset to
24 the community that we come in and bring the building up to par instead of having it
25 sit there for 7 or 8 more years, and all the time it is an eye sore. Children break out
26 the windows. Drug addicts -- we have had to clean drug addicts out of there that
27 was hanging out in there. In fact, they was using it almost -- going and stealing from
28 everybody and they would come back and hide in there and go out and steal. So we

1 ran them out. We cleaned that up. That is already a positive impact on the
2 neighborhood. And we would hope that we would have that type of impact on a
3 continual basis in the community.

4 CHAIRPERSON HINTON: Thank you. Board members, do I
5 have a motion?

6 VICE CHAIRPERSON RICHARDS: I think we could fashion
7 some kind of order of approval. So I move approval and they will do conditions if we
8 get a second.

9 MS. KING: You have a second.

10 CHAIRPERSON HINTON: Okay. We will let Ms. King second.
11 Mrs. Richards, conditions? I would assume that we are approving a variance for 19
12 spaces since there are 6 on site. And I would like there to continue to be 6.

13 MR. REAMS: Absolutely.

14 CHAIRPERSON HINTON: So the variance is for 19.

15 VICE CHAIRPERSON RICHARDS: And really, I think that they
16 have established the practical difficulty and they have also established -- yes, I will
17 speak into the microphone. They have established the practical difficulty and by
18 virtue of their ability to park on the Baptist Church parking lot, they have ameliorated
19 adverse impacts -- some existing adverse impacts. This certainly will enhance the
20 zoning regulations -- preserve their integrity and enhance the neighborhood. So I
21 think that is about all we can do with this one.

22 CHAIRPERSON HINTON: I agree. I would just like to list a
23 condition that the church leadership will be sure to inform all of the members that
24 parking is available on the Baptist Church lot, and if the patrons do choose to park
25 on the street, that they will endeavor not to block any of the driveway entrances.

26 MR. REAMS: We will take care of that. In fact, we will monitor it
27 ourselves to make sure that it happens correctly.

28 CHAIRPERSON HINTON: Great. Any other conditions? No.

1 All those in favor?

2 STAFF MEMBERS: Aye.

3 CHAIRPERSON HINTON: Opposed?

4 MS. ROSE: Staff would record the vote as 4 to 0 with Ms.

5 Richards -- who made the second?

6 CHAIRPERSON HINTON: Ms. King.

7 MS. ROSE: Ms. King, Ms. Reid, and Ms. Hinton to approve with
8 conditions as amended.

9 CHAIRPERSON HINTON: Thank you. We are going to take a
10 five minute break before we move on to the last case of the day.

11 (Whereupon, at 2:17 p.m. off the record until 2:28 p.m.)

12 MS. DOBBINS: This is application 16110 of Howard University
13 pursuant to 11 DCMR 3108.1 for a special exception under Section 210 and 302.1
14 to update and approve the west campus plan in R-1-A/R-2 district at premises 2900
15 Van Ness Street, N.W. This is square 2049, lot 810. All persons intending to testify
16 in this case, please stand to take the oath.

17 (Whereupon, all witnesses were duly sworn.)

18 MS. DOBBINS: Madam Chair and members of the Board, Mr.
19 Franklin will not be joining the Board, but we will read the record. I also have an
20 absentee vote for Mr. Franklin regarding the motion to postpone. I think the record
21 needs to reflect his action on that matter. Mr. Franklin supports the motion not to
22 postpone this matter. So the record should reflect -- what was the vote on that?

23 CHAIRPERSON HINTON: This is the motion to deny the
24 request to postpone?

25 MS. DOBBINS: Yes. I did record a vote. I thought I did.

26 MS. KING: Ms. Dobbins, am I able to vote on this matter or not?

27 MS. DOBBINS: You are going to hear testimony. I wanted to
28 make sure that the members who heard this case before were on the record in this

1 preliminary or the procedural matter. So it won't matter whether you vote on it or
2 not, as long as I have members voting on it who participated prior.

3 MS. KING: All right. But on the matters before us today, am I
4 entitled to vote or not?

5 MS. DOBBINS: You will not vote today. No one will vote today.

6 MS. KING: No, but I mean, when it comes to a vote, will I be
7 entitled to vote?

8 MS. DOBBINS: When it comes to a vote, you will have read the
9 balance of the record.

10 MS. KING: Okay.

11 MS. DOBBINS: You will read the previous information as will
12 anyone sitting today who did not hear the first case. And Mr. Franklin will read the
13 record for today's proceeding and will participate on the vote.

14 MS. KING: Thank you.

15 MS. DOBBINS: So there will be no decision today.

16 MS. KING: I understand that.

17 MS. DOBBINS: But we will provide you what you need in order
18 to vote in this matter.

19 MS. KING: Thank you.

20 MS. DOBBINS: I thought I had a vote. Well, I don't see it. I
21 think staff recorded the vote as 4 to 0 with the members who were here. So the
22 record should reflect the vote as 5 to 0 to deny the motion to postpone the
23 application of Howard University. So the Board can proceed today.

24 CHAIRPERSON HINTON: Very good. And if I could just lay
25 some ground rules. We are here to continue a hearing. We don't need to repeat
26 everything that has gone on before. We will go through the order -- the procedure
27 that will give the applicant an opportunity to briefly tell us what has happened since
28 we were here last. We will also hear from the Office of Planning. And then we will

1 hear from any community members that want to put any information on the record.
2 Okay?

3 MR. MOORE: Thank you, Madam Chairperson. Jerry Moore,
4 law firm of Arter and Hadden, counsel to Howard University.

5 Madam Chair, in view of the fact that this is a further hearing on
6 this case, I would ask the Board to vary from normal procedure and hear the ANC
7 prior to hearing Howard University. The ANC representative has time constraints
8 and I would like to get his testimony on the record.

9 CHAIRPERSON HINTON: That is fine. Before we do that, is
10 there anyone here in opposition to the case? Everyone who stood is either part of
11 the applicant's group or in support? Very good. Why don't we go ahead with the
12 ANC then.

13 MR. STRAUSS: Good afternoon. Thank you for hearing me and
14 especially thank you for hearing me out of turn. My name is Scott Strauss. I am the
15 chairman of Advisory Neighborhood Commission 3F. We are the Commission in
16 which the University is located. We are pleased to be here today to present a
17 resolution that we have passed on the matter of the Howard campus plan which has
18 been provided to you previously by letter dated August 14 from our office.

19 We support approval of the plan with certain conditions that are
20 delineated in the resolution and which we understand the University agrees to abide
21 by. My purpose in speaking briefly to you today is to give you a sense of what we
22 went through to get to this resolution and the conditions. We held a series of
23 informational meetings with Howard and with the community in June and August.
24 We held a meeting in June specifically for the purpose of collecting information from
25 the community about Howard University and its impact upon the community and the
26 proposed campus plan. In August, we held a special meeting. We don't generally
27 meet during the summertime. We held a special meeting to consider and vote on
28 the resolution that we passed and that we present today.

1 We took every opportunity to hear community concerns about
2 Howard, whether they were legitimate and reasonable or not legitimate and
3 unreasonable. And we did hear all sorts of things. We did hear complaints, but I
4 should be clear we heard a good deal of support for the University. We received a
5 petition from 50 residents of the Van Ness Apartment buildings in support of the
6 University.

7 The conditions that we drafted, we negotiated with Howard on
8 those conditions. They were voted upon unanimously by our Commission, and one
9 of our commissioners lives in the Van Ness Apartment buildings and voted in favor
10 of these conditions.

11 I don't propose to go through each of them. I know that they are
12 in the record and I don't know that I need to do that. I appreciate your consideration.
13 I want you to know that I think we have, through this process and through these
14 series of meetings we have had with Howard and the discussions we have had
15 between Howard and the community, that we forged a positive and a productive
16 relationship with Howard and we look forward to working with them as time goes on
17 and this process goes on. I will be happy to answer any questions that you may
18 have.

19 CHAIRPERSON HINTON: Did you say that it is your
20 understanding that the University has accepted the conditions?

21 MR. STRAUSS: Yes. Yes. It is my understanding that these
22 conditions, as I say, were negotiated with the University and that they are willing to
23 abide by them. That is the basis on which we have supported approval of the plan.

24 CHAIRPERSON HINTON: Are there any questions from the
25 Board members?

26 MS. KING: No.

27 MR. STRAUSS: Thank you.

28 CHAIRPERSON HINTON: Thank you. I was just reading --

1 looking through my package, and I see a motion for party status, which we probably
2 need to deal with at the beginning of this hearing. Is there anyone here representing
3 the Van Ness East Condominium Association?

4 MS. KING: Were they aware of the hearing?

5 CHAIRPERSON HINTON: They were aware of the hearing. We
6 have a letter from their attorney withdrawing his representation of this group.

7 MS. KING: But who was Jacques DePuy representing when he
8 was here earlier today?

9 CHAIRPERSON HINTON: Not Van Ness East. Does anyone
10 remember? Van Ness South. And they are not here now, is that right? There is no
11 one here from Van Ness South either. Mrs. Dobbins, what do we do with the motion
12 for party status when no one appears?

13 MS. DOBBINS: You look at the motion itself and make a
14 determination whether they can be granted party status. But that -- you can grant it,
15 but if they don't participate, there is no need. The request for party status has to
16 give you the reasons why you should grant it. If you have those reasons, then -- I
17 don't understand why persons are not here or parties are not here.

18 MS. REID: Well, if they request party status and they are not
19 here, isn't that kind of moot?

20 VICE CHAIRPERSON RICHARDS: We can just dismiss the
21 request.

22 MS. DOBBINS: You can look at the request and make a
23 determination of whether you are going to grant it or not.

24 MS. REID: What would be the purpose of granting it if they are
25 not here?

26 MS. DOBBINS: Well, you have to make that decision.

27 VICE CHAIRPERSON RICHARDS: I would dismiss the request.

28 MS. DOBBINS: You have got two of them. Both of them.

1 CHAIRPERSON HINTON: Which is the other party?

2 MS. DOBBINS: Van Ness South.

3 VICE CHAIRPERSON RICHARDS: If they come back, then we
4 can deal with that.

5 CHAIRPERSON HINTON: I agree. I think that not showing up
6 at the hearing is pretty clear indication that they are not really interested in
7 participating. So I would --

8 MS. DOBBINS: So Van Ness South and Van Ness East.

9 CHAIRPERSON HINTON: And East. And I would move that we
10 deny both motions for party status.

11 MS. REID: I second.

12 CHAIRPERSON HINTON: All those in favor?

13 STAFF MEMBERS: Aye.

14 CHAIRPERSON HINTON: Okay. Having done that, why don't
15 we move back to the applicant.

16 MR. MOORE: Madam Chairperson, one other procedural
17 matter. Since the persons were sworn in wishing to testify, several other persons
18 have come into the room that I know that wish to testify on this case today. They
19 need to be sworn in, please.

20 CHAIRPERSON HINTON: Are these persons in support?

21 MR. MOORE: Yes, ma'am.

22 CHAIRPERSON HINTON: Very good.

23 MS. DOBBINS: Okay. Would those persons who have not been
24 sworn please stand and take the oath?

25 (Whereupon, all additional witnesses in this matter were duly
26 sworn.)

27 MS. KING: I was just going to suggest -- I mean, there is no
28 opposition. The opposition seems to have melted away. And I wonder if in the

1 interest of time if we couldn't ask Mr. Moore to truncate his presentation, within the
2 need to establish whatever you need to establish. But I would urge you to do it in
3 the briefest possible time.

4 MR. MOORE: Thank you, Mrs. King.

5 CHAIRPERSON HINTON: Thank you.

6 MR. MOORE: We shall strive to be brief. But as Mr. Collins
7 before me, I am also concerned with status of the record. In the event that some
8 opposition appears mystically after this hearing, I need to have some things said into
9 the record. So we will strive to be very brief.

10 This application seeks the approval of the 1997 Howard
11 University campus plan. As you know, this is the second hearing of this application.
12 At the first hearing held on December 18, 1996, the University presented expert
13 testimony detailing the physical attributes of the site, the land use history, and the
14 planning merits of the 1997 plan. Also, the Commission received expert testimony
15 from Osbourne George of O.R. George and Associates, who has undertaken a
16 traffic and transportation analysis of the campus and its surrounding community in
17 the context of the proposed plan. His report and expert testimony are in the record.

18 The Board has also heard testimony from Robert Malcion and
19 Dr. Denise Purdy, both of whom are representatives of Howard University who
20 spoke to the overall philosophy of the 1997 campus plan and highlighted issues that
21 the University has made of the site -- or highlighted the uses that the University has
22 made of the site since 1974. We emphasize that all of this testimony and evidence
23 was unchallenged and uncontroverted in the record. No parties appeared in
24 opposition to this case at the public hearing.

25 Many things have happened since December 18. Respectfully,
26 the University invites the Board's attention to Exhibit A of the supplemental
27 memorandum in support of the application which details the pertinent events that
28 have occurred in this long application process. As we understand it, the Board

1 decided in July that it would schedule this rehearing to accord community residents,
2 some of whom had said that they had not had proper notice of the first hearing, an
3 opportunity to comment on the record on Howard's proposed plans.

4 Representatives of the University have been working very hard
5 to address and resolve community concerns. Evidence is now in the record of the
6 numerous meetings at which Howard has presented its plans and heard responses
7 from neighboring citizens. These efforts have resulted in an agreement having been
8 reached between the University and the ANC, which the University believes settles
9 the outstanding concerns. Of course, the ANC has a representative here, Mr.
10 Strauss, who has already spoken to these issues.

11 Our purpose today is to further supplement the record with
12 additional testimony from the University and from its expert traffic consultant. First,
13 Harry G. Robinson III, the University Vice President for Administration and former
14 Dean of Howard School of Architecture will briefly discuss the pertinent design and
15 use issues associated with the plan. Mr. Robinson is accompanied in the audience
16 by Dr. Hazel Edwards and Mr. Michael Newsome, Dean Michael Newsome of the
17 Howard University School of Law, who are both here to assist Mr. Robinson as
18 necessary with operational questions with respect to the law school.

19 Also here is O.R. George, whom the Board has already accepted
20 as an expert in the field of transportation and parking. Mr. George, if necessary, will
21 offer further observations and conclusions on his traffic and parking study conducted
22 for the University. We trust that you will find our case to be substantial, efficiently
23 presented, and persuasive. First, I will call on Mr. Robinson. Sir, would you give
24 your name for the record, please?

25 MR. ROBINSON: My name is Harry G. Robinson, III. I live at
26 7412 14th Street, N.W., Washington, D.C.

27 MR. MOORE: And are you familiar with this application, sir?

28 MR. ROBINSON: Yes, Mr. Moore, I am.

1 MR. MOORE: And have you prepared comments in support of
2 this application?

3 MR. ROBINSON: Yes, sir, I have.

4 MR. MOORE: Would you give those comments to the Board?

5 MR. ROBINSON: Madam Chairperson, Ms. King, Ms. Richards,
6 and Ms. Reid, in keeping with Ms. King's behest, I would like to keep this as briefly
7 as I possibly can. I would just say to you that Howard University has used every
8 possible strategy that they can think of to intervene in this process with the
9 community to meet their concerns, which are our concerns. In my most recent
10 meeting with them last week, my opening statement was that we want to be good
11 neighbors. I have used all of my numerous years of planning and design education
12 and experience to insure that what Howard University does on this piece of property
13 is what should happen there. We have hired one of the best architects in the world,
14 I believe, to design this law school. It is Michael McKinnel of Collin, McKinnel and
15 Woods out of Boston. He has done work for Yale, Harvard, and Brown. He is a
16 famous architect. He is going to do a great job for us there.

17 I would simply ask you to proceed with the approval of this
18 application, and I am open to any questions that you may possibly have.

19 CHAIRPERSON HINTON: Thank you. Are there any questions
20 from the Board members? There are none. Thank you.

21 MR. MOORE: Madam Chair, we also have Mr. George here,
22 who has already placed into the record a transportation and parking report. You
23 have already qualified him as an expert witness. His testimony and report in the
24 record are uncontroverted and unchallenged. He is here to answer any questions
25 that you may have.

26 CHAIRPERSON HINTON: Do the Board members have any
27 questions of Mr. George?

28 MS. KING: It seems quite clear.

1 CHAIRPERSON HINTON: None, thank you.

2 MR. MOORE: Then, Madam Chairperson, we will reserve a
3 couple of minutes at the conclusion of this proceeding in the event that we deem it
4 necessary to further supplement the record.

5 CHAIRPERSON HINTON: Great. And that would be in your
6 closing remarks?

7 MR. MOORE: That is correct.

8 CHAIRPERSON HINTON: Great. Thank you. We will move on
9 to reports of the Government. The Office of Planning and Department of Public
10 Works.

11 MR. BASTIDA: Good afternoon, Madam Chairperson and
12 members of the Board. For the record, my name is Alberto Bastida with the D.C.
13 Office of Planning. The Office of Planning reviewed the additional information
14 provided by the University and the record and determined that no further analysis
15 was required from the Office of Planning and the Office of Planning stands by its
16 previous recommendation recommending approval of this application. That
17 concludes my presentation. If you have any questions, I will try to answer them.
18 Thank you.

19 CHAIRPERSON HINTON: Are there any questions from the
20 Board members?

21 VICE CHAIRPERSON RICHARDS: None.

22 CHAIRPERSON HINTON: There are none. Persons or parties
23 in support?

24 MR. NEWMAN: Good afternoon, members of the Zoning Board.
25 My name is Neal Newman. I am a third year law student at Howard University. I am
26 a member of the Student Bar Association, currently holding the position as treasurer.
27 I will be brief. Last Friday, Dean Newsome spoke to me and told us about this
28 hearing and the gravity and the weight that these proceedings carried. So we rallied

1 the troops, because this is really important to us.

2 I am just going to speak from the heart and I will be brief. The
3 students of Howard University -- the students there -- generally the age is between
4 23 and 28 years of age. I am 28. I have been out for a little while. We expend a lot
5 of financial sacrifice as well as academic effort to get to where we are now. This
6 library that we are trying to build is an integral part of our education and achieving
7 what we want to do as professionals. Yesterday, Mr. Moore talked about some of
8 the issues and concerns of why this may be opposed. I don't profess to be an
9 expert on all of that. All I can say is the general atmosphere at Howard is one of
10 seriousness. The students come there, they do their work, and there is not a lot of
11 time for a lot of externalities. As you all know, the law profession is very demanding
12 and we go there and to us it is like a work day, just like any other job. We go there
13 to take care of business about the profession of learning how to be lawyers.

14 As I said, I will be brief, and I just want to emphasize that this
15 library is very important to us and whatever concerns that may be in opposition, I
16 can assure you from personal knowledge that the students at Howard University are
17 very serious about their profession, about their education, and this library is an
18 integral part of that. So I hope you all consider that in your decision making process.

19 CHAIRPERSON HINTON: Thank you, Mr. Newman. Are there
20 any questions from Board members? No. Okay, thank you.

21 MR. GHEE: Good afternoon, Madam Chairperson and Zoning
22 Board. My name is Anthony Ghee, and like Neal Newman, I too am a third year law
23 student at Howard University School of Law. Like Neal, I will attempt to be very,
24 very brief, understanding the significance of why we are here today.

25 I want to start out with a quote from Barbara Jordan. Once she
26 said, "If you are unhappy with the way things are, then you have got to resolve to
27 change them." I assure each of you that the majority of us at Howard University
28 School of Law are in in law school for one reason. We are there to make a change.

1 We are there to make a change because a lot of us are unhappy with the way things
2 are in society in general. For that reason, in order to achieve our task, we have to
3 be very, very serious-minded about what we are doing. Through these walls have
4 already come Thurgood Marshall, Sharon Pratt Kelly, former Virginia Governor
5 Douglas L. Wilder, and the like. Surely, out of the students that are there today and
6 that have graduated in previous years, I will assure you that there will soon be other
7 leaders that will come forth from those walls.

8 It is very important to understand that a lot of the students at the
9 law school are already from professional backgrounds as well. I, myself, worked in
10 commercial lending in Chicago for a couple of years before coming back to school.
11 Also in my class there is a gentleman who was a military officer. We have people
12 from all facets and all different backgrounds, a lot of individuals have come as first
13 generation college graduates who have gone on to already have worked in the
14 professional world and who decided to come back to law school. Neal noted that he
15 was 28. I, myself, am 27. And I have no intention of being at the law school and
16 throwing parties on the law school campus and things of that nature. That is just not
17 what Howard University students are all about. We are there to make a real change.

18 And if I could just add one last point. I actually resided at the
19 Consulate, which is right next door to the law school. I resided there for one year --
20 my first year of law school actually. And not once did I notice any problems as a
21 tenant -- not just as a student, but as a tenant at the Consulate. I never noticed any
22 problems. Any of the problems that I actually saw generally came from individuals
23 who were visiting the apartment complexes. Those people oftentimes double-
24 parked on the street or things of that nature. But generally from the students, the
25 students go there and they go to class, they go to the library, they study, and they go
26 home. That is generally what the feel is at the University. And like Neal, I would
27 also urge that it is not just important to us, but it is vital, critical, and crucial that this
28 permit be approved in order that the law school may continue its pursuit of training

1 leaders of tomorrow. Thank you.

2 CHAIRPERSON HINTON: Thank you. Are there any
3 questions?

4 VICE CHAIRPERSON RICHARDS: I have none.

5 MS. KING: I have none.

6 CHAIRPERSON HINTON: Thank you.

7 MR. GHEE: Thank you.

8 MR. SMALLS: Madam Chairperson, on behalf of the students of
9 Howard University School of Law, we thank you for giving us the opportunity to
10 address this body. I am Gerald Smalls, President of the Student Bar Association,
11 the governing body of all the student organizations at Howard University School of
12 Law.

13 Before I talk about my great institution, I would like for you to
14 know a little bit about me. I was born in a family that was based on picking cotton in
15 South Carolina. I was born in a small room -- not in the hospital, but a two-bedroom
16 room. Although my raisings were somewhat meager, we always stressed
17 education. There was always the belief of my grandmother that someone would go
18 to Howard University School of Law.

19 The University means a lot to the African American community
20 and to the world at large. From there, I went to South Carolina State University and
21 majored in engineering. I was hired by GE, General Electric. I stopped that and
22 went and received my MBA in finance from Atlanta University. I was hired by IBM. I
23 stopped that and I started to work for Hertz Sellings at home. I wanted to come
24 home. All of a sudden in 1991, I was brought into the military for four and a half
25 years. I worked special operations as a captain in the United States Army. I served
26 my country in four conflicts -- Haiti, Somalia, Panama, and the Balkans. I tell you all
27 this to let you know that the greatest opportunity I have received was to be here at
28 Howard University School of Law.

1 This school has the most motivated sense of purpose than any
2 other institution I have been affiliated with. The faculty, the students, all the way
3 down to the janitor knows the mission of Howard University School of Law. Our
4 mission, our goal, is to improve the community. I lived for two years off of
5 Connecticut Avenue. I loved my neighborhood for those two years, so I understand
6 the neighborhood. I used to walk to school every day. So I understand the
7 neighborhood. Howard University is an asset to that neighborhood. It is an asset to
8 the world.

9 The history of Howard is tremendous and the law school is our
10 foundation in that history of Howard University. The library is essential to education.
11 You cannot educate without a library -- adequate library. Around 4:00, there will
12 probably be around 100 students arriving at this building concerned about the
13 outcome of this hearing. They are very much concerned about the outcome of this
14 hearing. I would like to thank you for the time and if there are any questions.

15 CHAIRPERSON HINTON: Are you now in your third year at the
16 law school?

17 MR. SMALLS: Yes, ma'am.

18 CHAIRPERSON HINTON: Thank you. Are there any questions
19 from the Board members?

20 VICE CHAIRPERSON RICHARDS: I would like to comment that
21 I see the caliber of students at Howard's Law School today is higher even than when
22 I finished in 1983. I must comment that about half of my class, composed of
23 women, and I do regret that that ratio apparently has declined.

24 MS. ROSE: I don't regret that. I love to see the males coming
25 up in the school.

26 MS. KING: Did you go to Howard too?

27 MS. ROSE: Yes, I did and so did my brother.

28 CHAIRPERSON HINTON: Well, there we go. More of your

1 distinguished alumni are among us. Are there any other questions? No. Thank you
2 very much. Any other persons in support?

3 MR. FOX: Hello. I am Howard Fox. I am actually a next-door
4 neighbor of the law school and I actually date back to -- I moved into the
5 neighborhood in 1963, when it was a Catholic Women's College called Dunbarton
6 College. I was actually there when they built the building that is now the library. I
7 am also an attorney, and graciously the law school has made its facilities available
8 to people from the outside, and I can attest from personal experience that though I
9 have often gotten things done that I needed to get done at the library, I can definitely
10 attest that they need a new library from having been there.

11 I just wanted to put a couple of other pieces of information
12 maybe from a slightly different perspective on the record, and not by way of
13 opposing this application, but just so the record reflects a couple of other things.
14 One is that sitting here in this room and just reading plans, it is difficult -- or looking
15 at that map, it is difficult to get the perspective as to exactly what that piece of
16 property looks like. It is one of the most outstanding scenic jewels in Washington. It
17 is on a high piece of ground. The back looks towards Soapstone Valley Park and
18 Rock Creek Park. It is essentially an uninterrupted forest view. There are deer that
19 come out of the forest there. There is all kinds of wildlife that live there. The other
20 side is -- you can look down towards -- you can actually see the Capitol Building. It
21 is over three miles away, I think, but you can see it from there to the Washington
22 Monument.

23 On the whole, I think the University has done a good job of
24 managing that land and the aesthetics of it, and from what I can see of this plan -- I
25 haven't been involved with this issue. Apparently there has been a lot going on over
26 the last few months with this. But just from what I can see, it looks like that has
27 been largely respected in this new plan. So that is good.

28 And I think probably a lot of the people that live in the

1 neighborhood -- one of the reasons why they may be interested in going along with
2 this is because I think, again, the University has graciously in general made its
3 grounds available to people in the neighborhood for their use, which is essentially
4 equivalent in many ways to having a park in the neighborhood. That is, I think, an
5 actual amenity of the neighborhood, and I think any issues with traffic and those
6 types of things have to be balanced against having that type of an amenity available.

7 The one thing -- maybe in closing, the one thing that I would like
8 to raise is I don't know how this new plan affects it, but I have noticed I think within
9 the last year or so that there is a fairly large HVAC unit that was installed near the --
10 I actually live in Van Ness East. I probably should have specified that at the
11 beginning. There is a fairly large HVAC unit, which from the visual standpoint is not
12 an issue. It is surrounded by a fence, but it is fairly noisy. And I don't know how this
13 new plan is going to affect that noise issue, but literally it is right next to the Van
14 Ness East building. There is a little bit of -- kind of like a little tongue of trees that is
15 between them, but not much. It is very audible. I know when I walk around the
16 grounds of my building, it cuts on and off. So I don't know whether they are going to
17 be constructing a new unit or whatever. It seems to me that the technology ought to
18 be available to have something quieter than that. But that is really the only thing that
19 I would raise and wanted to put on the record about it.

20 CHAIRPERSON HINTON: Okay. Thank you. Are there any
21 questions for Mr. Fox?

22 MS. REID: Your first name is Howard?

23 MR. FOX: Howard, yes. Just a coincidence.

24 VICE CHAIRPERSON RICHARDS: Is that noise issue one that
25 your building management has raised?

26 MR. FOX: You know, I have to say I am an attorney and my
27 schedule this year has been so furious that I haven't even been able to go to my
28 board meetings. I am a little bit at a loss to know why if they applied for party status

1 they didn't show up today. But unfortunately I can't account for that.

2 MS. KING: Thank you.

3 CHAIRPERSON HINTON: Okay. Thank you. Anyone else in
4 support? Is there anyone here in opposition? Closing remarks by the applicant?

5 MR. MOORE: Madam Chair and members of the Board, thank
6 you for being so attentive to our case. As this record closes, we would ask each of
7 the Board members for his or her vote to approve the Howard University 1997 west
8 campus plan. There are substantial reasons in the record to support this request.
9 One, the proposed plan is consistent with the land use history of this property and
10 with prevailing uses in the zoning districts of which it is a part. Second, there are no
11 significant changes to the land use, the operation, or the number of students, faculty,
12 or employees on the campus. Third, the proposed uses are within the original
13 campus boundaries. Fourth, the proposed plan is consistent with the generalized
14 land use maps, the comprehensive plan, and the Ward 3 plan. There is no
15 residential development. There is no controversy or substantial opposition
16 associated with this case. There is substantial and expert evidence that the
17 proposed master plan is in accordance with good planning, zoning, and
18 transportation policies for the city, and the special exception requested can and
19 should be granted. There is no evidence in the record that the campus plan
20 proposes a use that will be objectionable to neighboring property because of noise,
21 traffic, number of students, or other objectional conditions. In fact, the evidence is
22 substantial and to the contrary.

23 Thus, we trust that the record is sufficient, complete, and able to
24 merit your unconditional support and favorable and expeditious action on the
25 application that is before you. Madam Chair, I would note for the record here that all
26 of the submissions of the University, both in the record and by testimony sworn and
27 by expert testimony is unopposed. It is uncontroverted. And in that instance, the
28 Board is free to make a decision on the merits. There is no opposition to this case,

1 and we would ask the Board to do so.

2 CHAIRPERSON HINTON: Do you have any comment about the
3 HVAC?

4 MR. MOORE: I am sure the University would be willing to meet
5 with Mr. Fox to ameliorate that problem before the day is over.

6 CHAIRPERSON HINTON: That is something you will look into.

7 MR. MOORE: That is easy.

8 CHAIRPERSON HINTON: That is fine. Very good. Okay, that
9 concludes the hearing.

10 MS. KING: Could I ask a question?

11 CHAIRPERSON HINTON: I am sorry, yes.

12 MS. KING: Scott Strauss, the chair of the ANC, indicated that it
13 was his understanding that the University had agreed to the conditions that were in
14 their resolution, and I gather -- Mr. Robinson is nodding his head, and I gather that
15 that is the case. So that those provisions, if they become part of the BZA order as
16 conditions for the approval would be acceptable to the University?

17 MR. MOORE: That is correct. And the University has so-stated
18 in the record.

19 MS. KING: Great. And I want to compliment the University on
20 having expended so much effort and time in getting the community's agreement. I
21 think that other universities could perhaps follow your example in this instance and
22 save everybody a lot of heartache and tears.

23 MR. MOORE: Thank you.

24 MS. KING: Thank you.

25 CHAIRPERSON HINTON: Okay. That concludes the hearing.
26 We cannot make a decision today. Some of our members have not read the record
27 from the first hearing and we have a member who is not with us today. So, Ms.
28 Dobbins, when would you recommend that we schedule this for a decision?

1 MS. DOBBINS: I think the Board could probably schedule it for
2 October 1. That means the record in this case would be closed today except for the
3 proposed findings of fact that would be due September 15, 1997, for the Board to
4 decide the case on October 1.

5 MR. MOORE: Thank you.

6 CHAIRPERSON HINTON: Very good. Thank you. That
7 concludes our business for today. The hearing is adjourned.

8 (Whereupon, at 3:05 p.m. the proceedings in the above-
9 mentioned matters were concluded.)
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