

THE GOVERNMENT

OF

THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC MEETING

+ + + + +

TUESDAY

JULY 3, 2001

+ + + + +

The Public Meeting came to order at 9:30 a.m. in Room 220, 441 4th Street, N.W., Washington, D.C., Anne M. Renshaw, Vice Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

ANNE M. RENSHAW	Vice Chairperson
GEOFFREY GRIFFIS	Member
SUSAN M. HINTON	Member

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Commissioner
-----------------	--------------

COMMISSION STAFF PRESENT:

Beverley Bailey, Office of Zoning
Paul Hart, Office of Zoning
John Nyarku, Office of Zoning
Marie Sansone, Esq., Office of Corporation
Counsel

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

<u>AGENDA ITEM</u>	<u>PAGE</u>
OPENING REMARKS.....	4
MINUTES	5
<u>APPLICATION OF CHARLES A. SISSON</u>	
<u>16521</u>	12
<u>APPLICATION OF CAPITAL HILL GROUP</u>	
<u>16407</u>	18
<u>APPLICATION OF MR. AND MRS. WILLIAM BRANNON</u>	
<u>16709</u>	23
<u>APPLICATION OF THE MORRIS AND GWENDOLYN CAFRITZ/ THE FIELD SCHOOL</u>	
<u>16559</u>	36
<u>APPLICATION OF JUANITA M. BERRY</u>	
<u>16689</u>	40
<u>APPLICATION OF SQUARE 456 ASSOCIATES</u>	
<u>16387</u>	47

9:42 a.m.

1
2 VICE CHAIRPERSON RENSHAW: Good morning. This
3 hearing will please come to order. This is the July 3rd, 2001
4 Public Hearing of the Board of Zoning Adjustment of the
5 District of Columbia.

6 My name is Anne Renshaw, the Vice Chair, subbing
7 today for our Chair Sheila Reid and joining me today are from
8 my right we have Carol Mitten, a Board Member of the Zoning
9 Commission and Geoffrey Griffis and on my left from the
10 National Capital Planning Commission is Susan Morgan Hinton.

11 Our Staff today, we have Marie Sansone from the
12 Corporation Counsel's Office and we have Beverley Bailey and
13 Paul Hart from the Office of Zoning.

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

16 All persons planning to testify, well, since this
17 is a public meeting, we are not going to have anyone testifying
18 this morning. So, we'll skip that in the opening remarks and
19 moving on -- yes.

20 I have just been informed we can skip all of this
21 altogether and we will move on to our agenda which is first
22 order the minutes of the June meeting.

23 So, Mr. Hart, Ms. Bailey, will you call those
24 minutes please.

25 MS. BAILEY: Madam Chair, good morning. Mr. Hart

1 will be conducting the meeting this morning. So, I'll just sit
2 and listen to him.

3 VICE CHAIRPERSON RENSHAW: Mr. Hart.

4 MR. HART: Thank you, Ms. Bailey. Thank you,
5 Madam Chair.

6 We will start with the minutes for this public
7 meeting of June 3rd. Madam Chair, the first minutes, I am going
8 to request that the Board allow us to defer the June 5th, 2001
9 Public Hearing minutes to our next meeting date.

10 VICE CHAIRPERSON RENSHAW: All right.

11 MR. HART: The next set of minutes, the first of
12 the minutes we're going to deal with this morning are the
13 minutes for June 12th. The Board members sitting on that
14 meeting were Ms. Sheila Cross Reid, Ms. Anne Renshaw, Vice
15 Chair, Ms. Susan Morgan Hinton, Mr. Geoffrey Griffis, and Ms.
16 Carol Mitten.

17 VICE CHAIRPERSON RENSHAW: All right. Could I
18 have a motion please?

19 COMMISSIONER MITTEN: Madam Chair, I move
20 approval of the June 12th, 2001 minutes.

21 VICE CHAIRPERSON RENSHAW: Do we have a second.

22 MEMBER GRIFFIS: Second.

23 VICE CHAIRPERSON RENSHAW: All right. Any
24 discussion? Any corrections? Additions?

25 Hearing none, all those in favor?

1 (Ayes.)

2 MR. HART: The Staff will record the vote as 5-0
3 to accept the minutes for June 12th. Ms. Mitten making the
4 motion. Mr. Griffis seconding.

5 The next set of minutes are --

6 VICE CHAIRPERSON RENSHAW: And do you have a
7 proxy from Ms. Reid?

8 MR. HART: No, Madam Chair. Not for the minutes.

9 VICE CHAIRPERSON RENSHAW: Okay. So, you're
10 recording the vote as 4-0?

11 MR. HART: That's correct. Thank you.

12 VICE CHAIRPERSON RENSHAW: Okay. Next.

13 MR. HART: The second set of minutes are for June
14 19th. The Board members present were Ms. Sheila Cross Reid, Ms.
15 Anne Renshaw, Mr. Geoffrey Griffis, and Mr. Anthony J. Hood.

16 VICE CHAIRPERSON RENSHAW: All right. Do we have
17 a proxy from Ms. Reid?

18 MR. HART: No, we don't have a proxy from Ms.
19 Reid, but we do have a proxy from Mr. Hood.

20 VICE CHAIRPERSON RENSHAW: All right. So, Mr.
21 Griffis, would you like to make a motion?

22 MEMBER GRIFFIS: I move for approval of
23 minutes June 19th, 2001.

24 VICE CHAIRPERSON RENSHAW: And I second and do
25 you have any comments, Mr. Griffis?

1 MEMBER GRIFFIS: No, I do not.

2 VICE CHAIRPERSON RENSHAW: All right. Then those
3 who are able to vote all those in favor?

4 (Ayes.)

5 VICE CHAIRPERSON RENSHAW: And Mr. Hood is in
6 approval?

7 MR. HART: Yes, in approval, Madam Chair.

8 VICE CHAIRPERSON RENSHAW: All right.

9 MR. HART: Okay.

10 VICE CHAIRPERSON RENSHAW: Would you read the
11 vote please?

12 MR. HART: Staff will record the vote as 3-2-0.
13 Mr. Griffis making the motion. Ms. Renshaw seconding.

14 VICE CHAIRPERSON RENSHAW: It would be 3-0-2.

15 MR. HART: Yes, ma'am.

16 VICE CHAIRPERSON RENSHAW: Or 3-0-1.

17 COMMISSIONER MITTEN: I think it's 3-0-2, but
18 there's two different reasons why that two are at the end.

19 VICE CHAIRPERSON RENSHAW: All right. Yes.

20 Next minutes.

21 MR. HART: Next set of minutes are for June 26th.

22 This was a special meeting. The Board members involved were
23 Ms. Sheila Cross Reid, Ms. Renshaw, Mr. Griffis, Ms. Susan
24 Morgan Hinton, and Mr. Hood.

25 VICE CHAIRPERSON RENSHAW: All right. Do I have

1 a motion?

2 MEMBER GRIFFIS: I move approval of the June 22nd,
3 2001 minutes.

4 VICE CHAIRPERSON RENSHAW: Do I have a second?

5 MEMBER HINTON: I second.

6 VICE CHAIRPERSON RENSHAW: All right.
7 Discussion.

8 MEMBER GRIFFIS: No discussion.

9 VICE CHAIRPERSON RENSHAW: All right. Ready to
10 vote. All those in favor?

11 (Ayes.)

12 MR. HART: And Mr. Hood's proxy was to approve.

13 So, I'm going to call the vote as 4 or just a
14 minute. Yes, 4-0-1.

15 VICE CHAIRPERSON RENSHAW: All right.

16 MR. HART: Mr. Griffis' making the motion and Ms.
17 Hinton seconded it.

18 VICE CHAIRPERSON RENSHAW: All right. Thank you.

19 And now the last -- no, next to the last.

20 MR. HART: No, ma'am. Two more.

21 VICE CHAIRPERSON RENSHAW: Yes.

22 MR. HART: These minutes are for again June 26th.

23 This was the regular scheduled meeting. The Board members are
24 Ms. Reid, Ms. Renshaw, Mr. Griffis, Ms. Hinton, Mr. Parsons,
25 and Ms. Mitten. That's it.

1 VICE CHAIRPERSON RENSHAW: All right. Do I have
2 a motion please.

3 I so move.

4 Do we have a second?

5 MEMBER HINTON: I'll second.

6 VICE CHAIRPERSON RENSHAW: All right.
7 Discussion.

8 COMMISSIONER MITTEN: Madam Chair, under
9 -- this was to be on page six, case number 16618. The
10 application was modified from the original request if you
11 recall --

12 VICE CHAIRPERSON RENSHAW: Yes.

13 COMMISSIONER MITTEN: -- that at the meeting and
14 the minutes don't reflect the modification and the application.

15 VICE CHAIRPERSON RENSHAW: All right. And other
16 comments?

17 All right. All those in favor of the minutes as
18 amended for case number 16618 on page number six, all those in
19 favor?

20 (Ayes.)

21 VICE CHAIRPERSON RENSHAW: Mr. Hart.

22 MR. HART: Staff will record the vote as 4-0-2.

23 Ms. Renshaw making the motion. Ms. Hinton second
24 it.

25 VICE CHAIRPERSON RENSHAW: Okay.

1 MR. HART: Final set of minutes again with a
2 special meeting June 26th. The members involved were Ms. Reid,
3 Ms. Renshaw, Mr. Griffis, Ms. Hinton, and Ms. Mitten.

4 VICE CHAIRPERSON RENSHAW: All right. Do I have
5 a motion?

6 COMMISSIONER MITTEN: Madam Chair, I would move
7 approval of the June 26th, 2001 special public meeting related
8 to case number 16716.

9 VICE CHAIRPERSON RENSHAW: All right. Do I have
10 a second?

11 MEMBER HINTON: I second.

12 VICE CHAIRPERSON RENSHAW: Any discussion?

13 COMMISSIONER MITTEN: I would just like to --
14 there's an editorial change that needs to be made that the name
15 of the individuals on the fourth line their last name is Reyes
16 R-E-Y-E-S.

17 VICE CHAIRPERSON RENSHAW: All right. Thank you.

18 MR. HART: Staff will record the vote
19 as --

20 VICE CHAIRPERSON RENSHAW: We haven't voted.

21 All those in favor?

22 (Ayes.)

23 VICE CHAIRPERSON RENSHAW: Any opposed?

24 Mr. Hart.

25 MR. HART: Staff will record the vote as 4-0-1 as

1 corrected. Ms. Mitten making the motion. Ms. Hinton second
2 it.

3 VICE CHAIRPERSON RENSHAW: Okay. Thank you, Mr.
4 Hart.

5 MR. HART: That takes care of the minutes.

6 Okay. Madam Chair, may I call the first case?

7 VICE CHAIRPERSON RENSHAW: Yes, please.

8 MR. HART: The first case to be decided is
9 Application Number 16521 of Charles Sisson, pursuant to 11 DCMR
10 3103.2, for a variance from the front yard setback requirements
11 under Subsections 1543.4 and 1543.2 from the allowable
12 percentage of lot occupancy of a dwelling for the construction
13 of a front porch, rear addition, and accessory garage in the
14 WHOD/R-1-A District at premises 3020 43rd Street, N.W. That's
15 in Square 1621, Lot 70.

16 The hearing dates which are several. The first
17 hearing date was December 8th, 1999. The last was January 2nd,
18 2001.

19 This case is before the Board of decision today.

20 VICE CHAIRPERSON RENSHAW: Thank you, Mr. Hart.
21 I would like to open this up to the Board for a round of
22 comments and then I will go to a motion and then we'll discuss
23 the motion.

24 So, Ms. Hinton, do you have any comments?

25 MEMBER HINTON: I don't have any comments?

1 VICE CHAIRPERSON RENSHAW: All right.

2 Mr. Griffis.

3 MEMBER GRIFFIS: No. No comment.

4 VICE CHAIRPERSON RENSHAW: All right.

5 Ms. Mitten.

6 COMMISSIONER MITTEN: Madam Chair, I was given
7 quite a bit of the record, but not the transcripts from all of
8 the previous hearings and given that I think an important part
9 of the variance test in this case is related to whether or not
10 the hardship that's been created is a self-created hardship or
11 not. So, in order to understand that better, I need to have
12 the full record.

13 In addition, the memo from the Zoning
14 Administrator that I think is the reason why this case has
15 lingered on as long as it has has three variances listed only
16 two of which were advertized. There's information at the end
17 of the memo from Michael Johnson and this is Exhibit Number 75.

18 It's a letter dated April 23rd, 2001. Makes reference to the
19 Zoning Administrator's opinion that the front porch was
20 constructed outside the scope of the permits and that the Staff
21 relied on misinformation provided by the applicant.

22 I think both of those things -- I would like to
23 have more clarity from Mr. Johnson about what precisely -- in
24 what manner did they construct the front porch outside the
25 scope of the permits and what misinformation is he making

1 reference to.

2 And also, this letter was not served on the
3 parties. So, I think we've had one response, but I don't know
4 that the opportunity has really been provided to everyone
5 involved.

6 So, I guess what I would recommend is that Mr.
7 Johnson clarify the statements that he's made at the end of his
8 April 23rd letter, that the April 23rd letter and whatever
9 clarifying letter might follow it be served on the parties and
10 they be given an opportunity to respond, that the third
11 variance be advertised, and then just to make certain that the
12 recommended variances really do cover the full scope of what
13 the Zoning Administrator feels is necessary is that the
14 drawings that have been submitted as Exhibit Number 77 for the
15 remedial permit which is Permit Number B430091 that he review
16 those drawings, you know, one more time so we're sure we have
17 the full package when we finally move forward on this.

18 VICE CHAIRPERSON RENSHAW: All right. So, you
19 are recommending a continuance on this in order for Mr. Johnson
20 to clarify his April 23rd letter?

21 COMMISSIONER MITTEN: Well, I think technically
22 it's to defer our decision.

23 VICE CHAIRPERSON RENSHAW: To defer. Okay.

24 Do you want to make that in the form of a motion?

25 COMMISSIONER MITTEN: Yes, I move that we defer

1 the decision in the Sisson case to a date certain that the
 2 Staff can provide and that the Zoning Administrator be asked to
 3 better define the comments made in his April 23rd letter, that
 4 the Zoning Administrator's response be served on the parties,
 5 that the record be reopened to receive those responses, that
 6 the third variance which is a variance from Section 2001.3(b)
 7 be advertised, and that the Zoning Administrator review the
 8 drawings dated September 29th, 2000 one final time so we're
 9 certain that we have all the variances that would be necessary
 10 before us.

11 VICE CHAIRPERSON RENSHAW: All right.

12 Do I have a second?

13 MEMBER GRIFFIS: Second.

14 VICE CHAIRPERSON RENSHAW: All right.

15 Discussion.

16 All right. We will try for July 31st. Mr. Hart?

17 MR. HART: Yes, ma'am.

18 VICE CHAIRPERSON RENSHAW: All right. Do I have
 19 a second on this by the way?

20 COMMISSIONER MITTEN: Yes, you do.

21 VICE CHAIRPERSON RENSHAW: All right.

22 Discussion.

23 Ready to vote?

24 All those in favor?

25 (Ayes.)

1 VICE CHAIRPERSON RENSHAW: No one is opposed.

2 Mr. Hart.

3 MR. HART: Staff will record the vote as 4-0-1 to
4 defer the decision on this case to July 31st with responses to
5 the questions and concerns as articulated by Ms. Mitten. The
6 motion was made by Ms. Mitten and seconded by Mr. Griffis.

7 VICE CHAIRPERSON RENSHAW: All right. Thank you.

8 COMMISSIONER MITTEN: If I may, I think we need
9 to give a date to the parties that they have to their responses
10 to us so that we could take this up. VICE

11 CHAIRPERSON RENSHAW: Yes.

12 COMMISSIONER MITTEN: July 31st.

13 VICE CHAIRPERSON RENSHAW: Mr. Hart?

14 MR. HART: Madam Chair, the decision date will be
15 the 31st and responses to the questions and concerns will be due
16 back by the 21st of July to this office.

17 VICE CHAIRPERSON RENSHAW: All right. I'm just
18 questioning whether that is going to give enough time to the
19 ANC to respond.

20 MR. HART: We are anticipating getting the
21 questions and the information out today -- today or tomorrow
22 and in response to your concern, it is real in that we don't
23 know the scheduling of the ANC, but as of now pending
24 questioning -- you know, finding out what their schedule is, we
25 would request the response by the 21st or the 31st.

1 VICE CHAIRPERSON RENSHAW: All right. Fine. And
2 the ANC will notify us or hopefully will notify us if it cannot
3 respond in a timely manner.

4 Thank you.

5 All right. Ms. Bailey, second case please.

6 COMMISSIONER MITTEN: I think Mr. Hart is going
7 to be --

8 VICE CHAIRPERSON RENSHAW: Mr. Hart.

9 MS. BAILEY: Thank you though, Ms. Renshaw.
10 Appreciate it.

11 VICE CHAIRPERSON RENSHAW: I thought you two
12 would be sharing the load here.

13 MS. BAILEY: I give him the hard stuff.

14 MR. HART: Again, thank you, Ms. Bailey, Madam
15 Chair.

16 The second case Application Number 16407 of the
17 Capital Hill Group, pursuant to 11 DCMR 3108.1, which is a new
18 section 3104.1, for a special exception under Section 359 to
19 establish a health care facility with 162 beds, basement
20 through sixth floor, in a R-5-C District at premises 708
21 Massachusetts Avenue, N.E. (Square 895, Lot 76).

22 In BZA Order Number 16407 dated October 21, 1999,
23 the Board granted a special exception to allow an increase in
24 the number of beds for the nursing center from 130 to 162. The
25 Board also required that the applicant provide 276 off-street

1 parking spaces.

2 The hearing date was January 6th, 1999 and
3 decision date was February 3rd, 1999.

4 The Board members who sat on that particular case
5 were Betty King, Sheila Cross Reid, and Jerry Gilreath.

6 In a letter dated May 2nd, 2001, the applicant
7 requested a modification to the Order (after vacating a similar
8 modification order March 7th, 2001) to reduce the Board's
9 parking requirement and to reflect that the Square for which
10 the relief was sought was Square 895 and not Square 865.

11 Subsequently, several letters were received from
12 the community requesting a Public Hearing to consider the
13 matter.

14 In a letter dated June 27th, 2001, the Applicant
15 requested that the Board vacate the 16407 order in its entirety
16 but neglected to request withdrawal of the requested
17 modification. However, as of October 21st, 2001 the order
18 automatically expires.

19 Before the Board is a Motion for the Modification
20 of this Application; Requests for a Public Hearing on the
21 subject Modification request; and a Motion to Vacate the 16407
22 Order in its entirety.

23 The participating members are -- were Ms. Sheila
24 Cross Reid who's absent, Ms. Anne Renshaw, Ms. Susan Morgan
25 Hinton, and Ms. Carol J. Mitten.

1 VICE CHAIRPERSON RENSHAW: All right. Thank you,
2 Mr. Hart.

3 This is a rather complex case that has been back
4 and forth over a number of years. As it stands now, it is our
5 understanding that the new Order has not taken effect and that
6 the Capital Hill Group is actually operating under 15542.

7 Discussion from members of the Board. Ms.
8 Mitten.

9 COMMISSIONER MITTEN: Madam Chair, I think that
10 the request to vacate the Order is not properly before the
11 Board because there is a trigger mechanism for orders to go
12 into effect which is either a building permit is sought or a
13 certificate of occupancy is sought and neither of those things
14 has happened and even if it had, it's really an enforcement
15 issue.

16 So, if 16407 has not gone into effect, then it
17 will expire in due course on October 31st, 2001 and if it has
18 gone into effect, then it's in effect and it's really up to the
19 Zoning Administrator to determine which order he's to enforce
20 under. So, I don't think there's any reason for us to take
21 action on the motion to vacate.

22 VICE CHAIRPERSON RENSHAW: All right. Ms.
23 Hinton.

24 MEMBER HINTON: I agree with Ms. Mitten and I
25 would also note that we have talked to the Staff about looking

1 into whether the square is listed as 895 or 865 and that Staff
2 can make that correction if a correction is needed without
3 going forward.

4 VICE CHAIRPERSON RENSHAW: All right. Thank you.

5
6 COMMISSIONER MITTEN: If I could just maybe just
7 finish what I think is --

8 VICE CHAIRPERSON RENSHAW: Put a P.S. on.

9 COMMISSIONER MITTEN: Yes, a P.S. exactly on what
10 Ms. Hinton just said which is I think that's a justification
11 for the withdrawal of the request for modification if 16407 is
12 not in effect and really one of the main purposes was to just
13 correct this technical matter related to the square number. I
14 think that can be accomplished without the modification and it
15 would be an assistance to this Board if the modification is not
16 intended to go forward that that request be withdrawn.

17 VICE CHAIRPERSON RENSHAW: All right. Thank you
18 very much.

19 So, as far as the motion to vacate the Order,
20 that's not properly before the Board and we have as Ms. Mitten
21 said no reason to take action on that vacating Order. As far
22 as the modification, as Ms. Mitten has stated, there is
23 justification for withdrawal or the other option is to just let
24 it die as the order is going to expire on October the 31st of
25 2001 and so, it is the action of the BZA this morning to take

1 no action on the Order to vacate and on the matter of
2 withdrawal of the motion, do we formally have to request of the
3 applicant that that be withdrawn?

4 COMMISSIONER MITTEN: Madam Chair, what I would
5 suggest perhaps is that we defer action on the motion for
6 modification and we could say we defer it until July 31st.

7 VICE CHAIRPERSON RENSHAW: 31st.

8 COMMISSIONER MITTEN: Given time if the applicant
9 so chooses to withdraw the motion and if not, we can take
10 action on July 31st.

11 VICE CHAIRPERSON RENSHAW: Very good. Would you
12 make that in the form of a motion please?

13 COMMISSIONER MITTEN: I move that we defer action
14 on the motion for modification of Order Number 16407 until July
15 31st, 2001.

16 MEMBER HINTON: I second.

17 VICE CHAIRPERSON RENSHAW: All right. Any
18 discussion?

19 All those in favor?

20 (Ayes.)

21 VICE CHAIRPERSON RENSHAW: All right. Mr. Hart.

22 MR. HART: Staff will record the vote as 4-0-1.
23 The motion made by Ms. Mitten and seconded by Ms. Hinton to
24 defer action on the motion for modification to July 31st.

25 VICE CHAIRPERSON RENSHAW: All right.

1 MR. HART: Next case, Madam Chair?

2 VICE CHAIRPERSON RENSHAW: Next case.

3 MR. HART: The next case is Application Number
4 16709 of Mr. and Mrs. William Brannon, pursuant to 11 DCMR
5 3103.2 for variances from the side yard requirements under
6 section 405, rear yard requirements under section 404, lot
7 occupancy requirements under section 403, and subsection 2001.3
8 to allow an addition to a nonconforming structure in the CAP/R-
9 4 district at premises 301 3rd Street, S.E. That's Square 763,
10 Lot 834.

11 The Board heard the arguments of the case and
12 indicated that the decision would be made at the July 3rd, 2001
13 public meeting. No additional submissions were requested by
14 the Board for this meeting.

15 VICE CHAIRPERSON RENSHAW: Thank you, Mr. Hart.

16 I am going to turn to Ms. Hinton for a quick
17 review of the case. Ms. Hinton.

18 MEMBER HINTON: The case is a request for a
19 variance, possibly a number of variances, for the owners of a
20 property to take a property that originally was a store and a
21 residential unit and has been converted into two residential
22 units. The owners of the property desire to make it into one
23 single family unit.

24 In order for them to do that, they are asking for
25 an addition, a two-story addition, that would enlarge of the

1 footprint of the building, but would also provide for a more
2 usual circulation pattern within the home.

3 I believe the ANC was in support and the Capital
4 Hill Restoration Society was in support and the adjacent
5 neighbor who requested party status was in opposition.

6 VICE CHAIRPERSON RENSHAW: All right. Thank you.

7 This application has additional support. A
8 petition was submitted to the Board with 52 names and there
9 were several individual letters of support and again,
10 significant opposition from the adjacent property owner Mr.
11 Dacy who did testify at the hearing.

12 Ms. Mitten, do you have comments?

13 COMMISSIONER MITTEN: Yes, I think what the
14 applicants were proposing in terms of upgrading this property
15 and wanting to settle on Capital Hill and contribute to the
16 neighborhood was all very admirable and I don't take lightly
17 the support that they received from their neighbors and the
18 Capital Hill Restoration Society, the ANC, and so forth.

19 But, the crux of the matter as I see it is
20 whether or not they've met the burden of proof for the variance
21 and while the property I think we could establish that it has
22 unusual characteristics because it's a combination of two
23 smaller structures into one. So, they have an unusual
24 circumstance there.

25 But, when we get to the issue of practical

1 difficulty, I don't think they meet the test because several
2 times during the hearing they stated that the property in its
3 current configuration which is as a two-unit rental property
4 was making them a lot of money. It was a perfectly viable use
5 of the property and that the practical difficulties that they
6 outlined for us really related to their personal preferences to
7 convert the property to a single-family dwelling.

8 I think the issue would be different if the two-
9 unit configuration were a nonconforming use, but it's not.
10 Because then I think we might have a motivation there to
11 eliminate a nonconforming use. In this case, both their
12 preference which would be a single-family dwelling and the two-
13 unit configuration are both conforming uses and given that they
14 are enjoying full economic use of that property in its existing
15 configuration, I don't think they meet the test of practical
16 difficulty.

17 VICE CHAIRPERSON RENSHAW: All right. Thank you.

18
19 I was structuring the hearing that while there is
20 significant support from the neighborhood and again it is as
21 Ms. Mitten said upgrading the property and that's always a
22 great plus for the neighborhood, there was significant, as I
23 have stated, opposition from Mr. Douglas Dacy the property
24 owner next door and he explained that he had not been notified
25 by the ANC about the meeting and he talked in great detail

1 about the significant injury to his house. Albeit he is not
2 living in that house, he is still the owner of that property.
3 But, it seems to me that he did not have the opportunity to
4 present his case being that he is out of town and that is a
5 shame that he did not have an opportunity it seems to state his
6 objections in various forums and also have an opportunity time
7 wise to talk to the neighbors about his difficulties in
8 supporting this request of the Brannons.

9 But, I would agree that I was not taken with the
10 matter of practical difficulty, in other words, that they had
11 proven practical difficulty. We asked at one point during the
12 hearing whether or not the applicants lived in one of the two
13 units and the case was that they didn't live in one of the two.

14 Because I thought had they been in half of the house and
15 needed to expand into the other half of the house, that might
16 have been more of an argument.

17 But, at this case, they are getting a great deal
18 of benefit from renting out these two units and I too do not
19 see the practical difficulty as brought to the Board. It, to
20 me, also did not meet the test.

21 Ms. Mitten, would you like to frame a motion?

22 COMMISSIONER MITTEN: I move that we deny
23 application 16709.

24 VICE CHAIRPERSON RENSHAW: I second.

25 Discussion on the motion.

1 Mr. Griffis.

2 MEMBER GRIFFIS: I would just make a quick
3 comment actually and I mean I agree with a lot of the points
4 that you've made. I found the case very strong except for the
5 practical difficulty. Adverse impact I think was minimal if
6 any. I found it actually quite in compliance with the zoning
7 and its intention. I thought it would be an excellent
8 addition. I am disappointed that we didn't have a stronger
9 case for a practical difficulty to move on this. Because I
10 find it limiting when we have families that may, in fact, have
11 to leave the community of which they're familiar or, in fact,
12 leave the city altogether because they cannot do something of
13 this magnitude and that would be all I'd need to say.

14 VICE CHAIRPERSON RENSHAW: All right. Thank you,
15 Mr. Griffis.

16 Are we ready to vote?

17 MEMBER HINTON: I would like an opportunity to
18 speak if that's no problem.

19 VICE CHAIRPERSON RENSHAW: Yes, of course, Ms.
20 Hinton.

21 MEMBER HINTON: Thanks.

22 VICE CHAIRPERSON RENSHAW: Sorry.

23 MEMBER HINTON: I'm going to be voting opposed to
24 the motion and that is because I think, in fact, the applicants
25 have met their burden of proof and I see this case as very

1 similar to other variances that this Board has approved.

2 When we have property owners living in a home and
3 they come to us and ask for a variance because their kitchen is
4 too small or they want another bathroom and what they say to us
5 is, you know, even though this is a home and we've been living
6 here, we consider it to be substandard based on what is
7 available in other places or more generally available and we
8 have granted those variances and I don't see that this request
9 is very different from that.

10 We have an owner of a property that because of
11 the configuration of the property, it is not a useful place for
12 them to live. They do not want to live in either of these
13 small apartment units. They want to live in a home that is
14 more like a single-family home and even at that, it would be
15 small if they had the addition.

16 When I look at the property to have two
17 properties put together like this on one lot, that one was
18 originally a store, the other residential and if you look at
19 just what would be matter of right for them to take out that
20 partition wall and make this one unit, you have the problem
21 with the two levels of the floors not meeting up and so, you
22 have to somehow reconfigure that. But, then what you have is a
23 very long and narrow shape that really isn't conducive to a
24 reasonable layout or arrangement of rooms. It's the shape of
25 the building is not wide enough to have two rooms. So, what

1 you end up having is a good portion of the floor devoted to
2 hallway which further limits what is already a very small
3 interior space and because of that, I think that is the
4 practical difficulty in using this property as one residential
5 unit which is their right to do.

6 They own this property and saying yes, it can be
7 used as residential, as two units as it's currently configured,
8 but they desire to have one unit and I think that that's well
9 within their right and well within the purpose of the zone and
10 so, I think that establishes the unique condition of the
11 property and also the practical difficulty to the owners
12 because they have a right to be able to live in this property.

13 They do own it.

14 And then when you look at the third test,
15 granting the variance to have the addition would not impair the
16 intent of the zone plan and I think actually this whole
17 development would be a better condition on this lot than as
18 there existing today. One, that they will bring a street
19 frontage up closer to, I forget which street this is, not the C
20 Street, but the other street where they plan to have the fence
21 line, I think that that's going to look better on the street
22 and the addition, the little portion that's going to be along C
23 Street that's going to fill the two and a half or three-foot
24 alley, I think that's going to be a better condition.

25 And I think that this case is so similar to other

1 variances that the Board has approved that I'm really not quite
2 able to understand what the difference is and why weren't not
3 going to vote to approve this one.

4 So, I will be voting in opposition to the motion.

5 VICE CHAIRPERSON RENSHAW: All right.

6 COMMISSIONER MITTEN: Madam Chair, could I --

7 VICE CHAIRPERSON RENSHAW: Yes.

8 COMMISSIONER MITTEN: -- respond to --

9 VICE CHAIRPERSON RENSHAW: Yes.

10 COMMISSIONER MITTEN: -- the points that Ms.
11 Hinton raised which is I think the distinction between this
12 case and some of the other cases that you were alluding to is
13 when someone has an existing single-family dwelling that has a
14 problematic configuration, I think at least from my perspective
15 one of the things I try and apply in deciding a variance in a
16 case where someone's kitchen is too small or they need another
17 bathroom is really what's the standard that prevails in the
18 market because there are expectations about numbers of
19 bathrooms, sizes of kitchens in terms of making a dwelling
20 functional.

21 In this case, these are folks that they own a
22 property, but it's their prerogative to -- they are choosing to
23 convert this or they're at least to propose to convert this to
24 a single-family dwelling. They're not compelled to do that.
25 They're not compelled to do that by the law and they're not

1 compelled to do that by the economics of the situation.

2 If they had come to us and said you know, the
3 configuration of this is so screwed up, we've really never been
4 able to get tenants in here because the units are too small
5 and, you know, it is a poor layout for rental unit, then all of
6 a sudden we have a different situation. But, that's not what
7 they said. What they said is, you know, we're making good
8 money off of this as a rental. So, there's no problem with the
9 configuration as it is.

10 It's their choice to attempt to convert this and
11 in that sense, they're creating the practical difficulty for
12 themselves because they're choosing to make this conversion and
13 I just want to say that because I see that as a distinction
14 between this case and the other cases that we've decided that,
15 you know, you were making reference to.

16 I don't think I'm going to convince you, but I
17 just wanted to point that out.

18 MEMBER HINTON: I --

19 VICE CHAIRPERSON RENSHAW: Ms. Hinton.

20 MEMBER HINTON: Yes, I just think that since
21 they're the owners, they have the right to choose to want to
22 live here and the way it is configured is not suitable for the
23 way that they want to live. It's not large enough and so,
24 because of that, I mean if you believe that which I would think
25 that you believe that they don't want to live in either one of

1 the units, they want to live in the whole property and if you
2 believe that, then we're exactly where we are in these other
3 units where people are living in homes and they say my
4 kitchen's too small. I want another bathroom. The truth of
5 that is we could say to them well, you know, if your house
6 isn't big enough, then you should move out and rent it because
7 economically you can do that.

8 We don't say that. I mean we give great
9 deference to owners. This is your property and, you know, you
10 have rights and to the extent that your desires can be
11 accommodated within what the zoning allows, we try to do that
12 because they're owners and I think that we're not doing that in
13 this case.

14 With what Ms. Renshaw's saying, if they lived in
15 one of the units, we might have decided differently. That
16 seems ridiculous to me. They could live in one of the units.

17 VICE CHAIRPERSON RENSHAW: Yes.

18 MEMBER HINTON: They own both of the units. I
19 mean the fact that they're not currently living in one of the
20 units doesn't make a difference to me as far as how we decide
21 this case.

22 COMMISSIONER MITTEN: It doesn't make a
23 difference to me either. I think --

24 MEMBER HINTON: They want to live in both the
25 units. They want to make it one unit and when they try to do

1 that, it is too long and narrow to have any sort of reasonable
2 interior configuration.

3 So, you know, I don't think it's very different
4 from other cases that we've looked at. So, that's where -- I
5 mean and I can see that I'm not going to convince you either.

6 VICE CHAIRPERSON RENSHAW: All right. We have
7 given sufficient time to this discussion and we have a motion
8 on the table to deny the application of Mr. And Mrs. William
9 Brannon.

10 And are you ready to vote? All those in favor of
11 denying this application please say aye.

12 COMMISSIONER MITTEN: Aye.

13 VICE CHAIRPERSON RENSHAW: Aye.

14 VICE CHAIRPERSON RENSHAW: And all those opposed?

15 MEMBER HINTON: No.

16 MEMBER GRIFFIS: No.

17 VICE CHAIRPERSON RENSHAW: All right. And Mr.
18 Hart, we have a proxy.

19 MR. HART: Yes, we have a proxy from Ms. Reid to
20 deny.

21 So, the motion carries 3-2-0 to deny.

22 VICE CHAIRPERSON RENSHAW: All right. Thank you.

23 MR. HART: Next case is Application Number 16559
24 of The Morris and Gwendolyn Cafritz/The Field School, pursuant
25 to 11 DCMR 3104.1, for a special exception to establish a

1 private school under section 206 for a maximum of 320 students
2 and a maximum of 74 faculty and staff in the R-1-A District at
3 premises 2301 Foxhall Road, N.W. (Square 1341, Lots 856, 861,
4 878, and 879).

5 Before the Board is a Motion for a Modification
6 of the Order and a Decision on whether a Public Hearing is
7 necessary.

8 The participating Board members are -- were
9 rather, sorry, Ms. Sheila Cross Reid and Ms. Renshaw and Mr.
10 Parsons.

11 VICE CHAIRPERSON RENSHAW: All right. Thank you,
12 Mr. Hart.

13 Again, this request is for two minor
14 modifications so that the applicant can during this period
15 house or have nine staff on the premises and they that they be
16 allowed to have their monthly board meetings of approximately
17 12 people on the premises also.

18 However, in the material that we have been
19 provided, there is an unspecified interim period talked about
20 and I am just curious as to what this interim period is. We
21 don't have any information on that.

22 We do have in our file a letter from Attorney
23 Richard Aguglia on behalf of the neighbors against Foxhall
24 Gridlock, better known as NAFG, which has no objections to the
25 proposed interim use of the property, but stated in the letter

1 of May 25th, 2001 that this lack of an objection should in no
2 way be construed as consent to the permanent placement of the
3 school at this site which is matter now on appeal by NAFG
4 before the D.C. Court of Appeals. All right.

5 There is no other information in our packets from
6 ANC3D, the Foxhall Crescent South Gate Homeowners Association
7 or Ms. Sylvia Shugrue who had party status also during these
8 hearings.

9 Do the Board members have any comments? Just
10 open comments. All right. Those who are here had not been on
11 this case.

12 I would like to move at this time that we grant
13 the two minor modifications as specified except that we want to
14 make it very clear that there is going to be no construction
15 activity, no internal road on the property during this interim
16 period, and that there is going to be no student activity on
17 the premises during this interim period.

18 MEMBER HINTON: Second that.

19 VICE CHAIRPERSON RENSHAW: Ms. Hinton seconds it
20 for the record. Thank you.

21 MEMBER HINTON: Madam Chair, I'm a little bit
22 concerned about the aspect of no construction activity. The
23 Board's Order took effect after we issued the written order and
24 there is no stay in effect. So, the applicant is free to
25 pursue their building permit and construction.

1 I believe Mr. Parsons in his proxy was concerned
2 about the location of the road as shown on the plan that was
3 submitted to us and I think it's appropriate for the Board to
4 make it clear that you're not approving any construction as
5 shown on the plan, but the applicant would certainly have the
6 right to pursue their construction activities during this
7 phase.

8 VICE CHAIRPERSON RENSHAW: But, only nine school
9 staff would be using the building on the property --

10 MEMBER HINTON: Yes, that is correct.

11 VICE CHAIRPERSON RENSHAW: -- during this period.

12 MEMBER HINTON: Their request for modification
13 went to the usage of the existing building by the staff and
14 then for board meetings.

15 VICE CHAIRPERSON RENSHAW: All right. I stand
16 corrected on that and we have the motion and we have a second
17 on it and do you we have a proxy from Mr. Parsons and Ms. Reid?

18 MR. HART: Yes, we have two proxies. Yes. A
19 proxy from Ms. Reid in support and Ms. Sansone articulated Mr.
20 Parsons proxy that there be no other aspect of construction
21 management and drawing other the parking spaces.

22 VICE CHAIRPERSON RENSHAW: All right. All right.
23 I will agree to that and so, would you read the results?

24 MR. HART: Okay. Staff will record the vote as
25 3-0-2. Ms. Renshaw making the motion. Ms. Hinton seconding.

1 MEMBER HINTON: Madam Chair, I don't think that
2 you called the vote. Did you call the vote?

3 VICE CHAIRPERSON RENSHAW: Yes, I did call the
4 vote.

5 MR. HART: Yes.

6 VICE CHAIRPERSON RENSHAW: Yes.

7 MEMBER HINTON: Okay.

8 VICE CHAIRPERSON RENSHAW: And we have the two
9 proxies read into the record and I voted also.

10 MEMBER HINTON: Okay. Okay. Sorry. I missed
11 it.

12 VICE CHAIRPERSON RENSHAW: Yes.

13 MR. HART: Okay. The next case is Application
14 16689 of Juanita M. Berry, pursuant to 11 DCMR 3103.2, for a
15 use variance under subsection 330.5 to establish the use of a
16 beauty salon and reestablish the use of a discontinued retail
17 grocery convenience store in an R-4 District at premises 963
18 14th Street, S.E. on the first floor at Square 1046, Lot 19.

19 On a motion made by Ms. Hinton, seconded by Mr.
20 Parsons, the Board voted 3-0-2 to approve the application (Ms.
21 Susan Morgan Hinton, Mr. John Parsons, Ms. Renshaw to approve;
22 Ms. Sheila Cross Reid not present and a third mayoral appointee
23 not present, not voting) with the following conditions:

- 24 1. Approval shall be for five (5) years.
25 2. There shall be no alcoholic beverages

1 sold in the retail grocery store.

2 3. The retail grocery store shall not
3 sell perishable goods.

4 4. The retail grocery store shall not
5 occupy more than 25 percent of the
6 premises.

7 5. The houses and days of operation shall
8 not exceed 8:00 a.m. to 6:00 p.m.,
9 Monday through Saturday.

10 The Board authorized issuance of the Summary
11 Order which was issued on May the 15th.

12 The Applicant is requesting a modification of
13 Condition Number 5.

14 VICE CHAIRPERSON RENSHAW: All right.

15 MR. HART: This is before you, Madam Chair.

16 VICE CHAIRPERSON RENSHAW: Thank you very much,
17 Mr. Hart.

18 We had a letter from the Applicant Juanita Berry
19 dated May 24th, 2001 requesting that the hours of her operation
20 which again is number two in the Summary Order be changed and
21 she states that the present set hours would severely limit any
22 convenience it would be to work and shop between the hours of 8
23 a.m. and 6:00 p.m. and that the neighbors would like to
24 purchase such products as newspapers and juice, et cetera in
25 the early morning either to or from work, school or Sunday

1 going and coming from church service and beauty salon employees
2 have customers that want to get beauty services early in the
3 morning or after work in the evenings or Sunday afternoon the
4 day before the work week and so, that is the request of the
5 applicant.

6 I'll open this for comments from our Boards
7 members and then we'll take a motion and discuss the motion.

8 So, let's see. I will start with Ms. Hinton.

9 MEMBER HINTON: I guess I have to say that I'm a
10 little concerned about the extension of hours at this point and
11 what I see in the applicant's letter to be maybe a
12 misunderstanding of what the Board has approved.

13 In the conditions that we've set out, we
14 established this as a retail grocery store, a no perishable
15 goods and yet the request is so that people can stop in the
16 morning and buy juice and et cetera and I --

17 VICE CHAIRPERSON RENSHAW: That could be a canned
18 product.

19 MEMBER HINTON: But, unlikely. If someone's
20 stopping in in the morning to buy it, it's not the sort of
21 thing you're going to take home and put it in your
22 refrigerator. I mean this just seems to me to be pretty
23 inconsistent. So, I'm not sure that there's an understanding
24 on the applicant's part about what this retail grocery store is
25 and is not.

1 And the reason the hours concern me is when I
2 heard the case and deliberated about it, I thought that the
3 hours were relatively daytime hours 8:00 to 6:00 when you can
4 expect some activity, but extending them to 8:00 p.m. I think
5 may well be an inconvenience to the surrounding properties and
6 that it's going to encourage more activity after the usual time
7 that people are coming and going.

8 The one hour in the morning, I'm not as concerned
9 about, but going from 6:00 p.m. to 8:00 p.m. I think at this
10 point really isn't warranted and it's not entirely consistent
11 with my understanding of the original application.

12 VICE CHAIRPERSON RENSHAW: Thank you.

13 Ms. Mitten.

14 COMMISSIONER MITTEN: I didn't sit on this case.

15 VICE CHAIRPERSON RENSHAW: That's right. You
16 didn't.

17 Mr. Griffis. Did not either?

18 MEMBER GRIFFIS: I did not also.

19 VICE CHAIRPERSON RENSHAW: All right. Good.
20 Just giving you an opportunity to say something had you wanted
21 to.

22 I, too, had a note in my records as the testimony
23 was being received that the applicant was limiting the hours of
24 operation and we pressed her on the actual hours and she
25 understood at that time it was not to exceed 8:00 to 6:00

1 Monday through Saturday and it was to be closed on Sunday and
2 there was no difficulty by the applicant with accepting that
3 condition. She spoke about catering to children and to
4 seniors, being open for back to school, but to come back so
5 soon and want to extend her hours, it seems to me that she had
6 not gotten herself up and running as Ms. Hinton said. There is
7 perhaps some confusion. When I read this, I thought is
8 this a beauty shop or is this store? Which comes first? And
9 it was my understanding when we heard the case that it was a
10 beauty shop that would sell some convenience items to those who
11 would be frequenting the beauty shop not as a corner 7-Eleven
12 which it sounds like it's turning into with the request for
13 extended hours Monday through Sunday, 7:00 a.m to 8:00 p.m. and
14 while it's lovely to get a fresh hairdo on a Sunday afternoon
15 or a Sunday evening before the work week, it is not absolutely
16 essential to have that done.

17 And so, I would like to make a motion that we
18 deny this request to extend the hours and we order the
19 applicant to adhere to the conditions as stated in the summary
20 order dated May 15th, 2001.

21 MEMBER HINTON: I second.

22 VICE CHAIRPERSON RENSHAW: All right. Any
23 discussion?

24 All those in favor?

25 (Ayes.)

1 MR. HART: Madam Chair, there are two proxy votes
2 and both proxy votes support the applicant's request. So, at
3 this point, we'd have a tied vote of two for, two against.

4 VICE CHAIRPERSON RENSHAW: All right. Well, in
5 that case, we are going to have to ask one of our Board members
6 to read the record and we're going to have to bring this back.

7 MS. BAILEY: Madam Chair, it is possible to find
8 out who the proxy votes were from?

9 VICE CHAIRPERSON RENSHAW: That would be a good
10 idea. Thank you.

11 MR. HART: The proxy votes are from the two
12 proxies we've been having all morning Mr. Parsons and Ms. Reid.

13 VICE CHAIRPERSON RENSHAW: Reid. Yes.

14 All right. Well, we're going to have to ask one of our
15 Board members to read the record and we're going to have to
16 bring this back.

17 MR. HART: Okay.

18 VICE CHAIRPERSON RENSHAW: And we have a
19 volunteer.

20 COMMISSIONER MITTEN: It will have to be Mr.
21 Griffis because Mr. Parsons is representing the Zoning
22 Commission on that.

23 VICE CHAIRPERSON RENSHAW: Thank you. Mr.
24 Griffis it is.

25 MEMBER GRIFFIS: Sorry. I didn't know you were

1 looking for volunteers.

2 VICE CHAIRPERSON RENSHAW: Well, thank you for
3 shall we say volunteering in spirit.

4 MEMBER GRIFFIS: Absolutely --

5 VICE CHAIRPERSON RENSHAW: All right.

6 MEMBER GRIFFIS: -- will.

7 VICE CHAIRPERSON RENSHAW: Mr. Hart.

8 MR. HART: Yes.

9 VICE CHAIRPERSON RENSHAW: What is the schedule
10 on this?

11 MR. HART: Okay. The schedule will be for the
12 next meeting which is July 31st.

13 VICE CHAIRPERSON RENSHAW: All right.

14 MR. HART: And no submissions, Mr. Griffis.

15 VICE CHAIRPERSON RENSHAW: Okay.

16 MR. HART: Okay. The final case.

17 VICE CHAIRPERSON RENSHAW: Please call the final
18 case.

19 MR. HART: Yes, ma'am. The final case is
20 Application Number 16387 Proposed Modification-Golden Rule
21 Plaza.

22 The hearing date was September 2nd, 1998.
23 Decision date September -- a bench decision. Decision date of
24 the Modification Order was November 3rd, 2000. A disposition of
25 the Modification Order was November 16th, 2000.

1 The Application Number 16387 of Square 456
2 Associates, pursuant to 11 DCMR 3108.1 and 3107.2 which are the
3 new subsections 3104.1 and 3103.2 for a special exception under
4 subsection 411.11 for a roof structure and a variance from
5 subsection 1706.22 subsection (g) to permit commercial
6 development to proceed prior to issuance of certificate of
7 occupancy for nonresidential development within the DD District
8 until a certificate of occupancy is issued for affordable
9 housing in a DD/C-4 District at premises 625-627 E Street, and
10 620 and 626 F Street, 501-507 and 511-517 7th Street, N.W.
11 That's -- that's in Square 456, Lots 37,39,868 and 869).

12 The request for modification was made on behalf
13 of the Applicant (Square 456 Associates) and at the request of
14 the Golden Rule Plaza, Inc on May 16th, 2001. The Applicant
15 requested a modification of one of the terms of Modification
16 Order Number 16387 issued by the Board of Zoning Adjustment on
17 November 16th, 2000. The requested modification related to an
18 extension of time for Golden Rule's use of the housing linkage
19 funds and a release from escrow of \$250,000 of the total amount
20 of \$500,000 in escrow.

21 The Board granted a Modification of the condition
22 which related to an extension of time for the Golden Rule's use
23 of the housing linkage funds on June 3rd, 2001, but postponed a
24 decision on the release from escrow of \$250,000 of the total
25 amount of \$500,000 in escrow.

1 A decision on the release of the \$250,000 was
2 postponed until the Board's July 3rd, 2001 Public Meeting. No
3 related additional information from the Applicant.

4 As of the writing of these minutes, there was no
5 additional application from the applicant. Since then, there
6 has been some additional supporting information from the
7 applicant.

8 The case is before you, Madam Chair.

9 VICE CHAIRPERSON RENSHAW: Thank you, Mr. Hart.

10 We have been given this morning three additional
11 pieces of information, one from the Office of Planning, one
12 from the Department of Housing and Community Development, and
13 the other from the Counsel to Golden Rule Plaza and I would
14 like to give the Board members sufficient time to review these.

15
16 So, why don't we take about five or ten minutes
17 and review these and come back on at ten to.

18 COMMISSIONER MITTEN: Madam Chair, I just want to
19 state even though it says on the agenda that I'm participating,
20 that I was not provided a copy of the record. So, I will not
21 be participating on this case.

22 VICE CHAIRPERSON RENSHAW: All right.

23 Do we have a quorum to take care of this matter
24 if Ms. Mitten is not going to participate?

25 MR. HART: Yes, we do have a quorum, Madam Chair.

1 VICE CHAIRPERSON RENSHAW: We have myself and Ms.
2 Hinton.

3 MR. HART: Ms. Hinton and Ms. Reid called in a
4 proxy.

5 VICE CHAIRPERSON RENSHAW: Okay. So, Ms. Reid
6 has a proxy.

7 COMMISSIONER MITTEN: Well, and I believe Mr.
8 Griffis read the record.

9 VICE CHAIRPERSON RENSHAW: And, Mr. Griffis, you
10 read the record?

11 MEMBER GRIFFIS: Right. For the last calling of
12 the case and then also for today, I read the file.

13 VICE CHAIRPERSON RENSHAW: All right. Fine.

14 Then we'll take ten minutes and review this
15 material and we'll be back on at ten to 11:00.

16 (Whereupon, at 11:45 a.m. off the record until
17 10:47 a.m.)

18 VICE CHAIRPERSON RENSHAW: We're back on the
19 record and it is let's see 10:48 thereabouts.

20 We have reviewed the three submissions that came
21 in this morning and I'd like to ask Ms. Hinton if she will
22 review for us the Office of Planning's response.

23 MEMBER HINTON: I'm sorry. I already -- I just
24 put it away. Let me pull it out again.

25 VICE CHAIRPERSON RENSHAW: Perhaps, Mr. Griffis

1 would like to review this.

2 MEMBER GRIFFIS: I will take a stab at it.

3 The Office of Planning Report indicates that in
4 light of the submitted letter from Mr. Bailey, the Director of
5 Department of Housing and Community Development, that is
6 standing behind the \$250,000 being released for preconstruction
7 costs that they would be in favor of approving the request for
8 modification and their bullet point states that if adequate
9 project funding is not secured by Golden Rule, Inc by December
10 3, 2001, then DACD will repay the \$250,000 into the escrow
11 account within a 120 days or by April 2, 2002.

12 VICE CHAIRPERSON RENSHAW: All right. Very good.

13
14 And again, we have a letter from Milton Bailey
15 the Director of the Department of Housing and Community
16 Development, not dated at all in fact, but it is attached to
17 the Office of Planning's report dated June 29, 2001 and it
18 states again that DHCD is willing to guarantee this amount of
19 money.

20 And so, with those assurances in hand, are we
21 ready to make a motion?

22 MEMBER GRIFFIS: I would move that we approve the
23 request for modification based on the stipulations outlined in
24 the Office of Planning and the fax date June 29th, '01 letter
25 from the Director Bailey.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

VICE CHAIRPERSON RENSHAW: All right. Thank you.

Second.

MEMBER HINTON: I second.

VICE CHAIRPERSON RENSHAW: Ms. Hinton seconds.

Any discussion?

Hearing none, all those in favor?

(Ayes.)

VICE CHAIRPERSON RENSHAW: Mr. Hart.

MR. HART: Madam Chair, there's a proxy vote from Ms. Reid in favor of it.

VICE CHAIRPERSON RENSHAW: Yes.

MR. HART: So, Staff will record the vote as 4-0-0. Motion made by Mr. Griffis. Seconded by Ms. Hinton.

Thank you, Madam Chair.

VICE CHAIRPERSON RENSHAW: All right. Thank you.

That ends our Public Meeting and we will resume our deliberations in a Public Hearing this afternoon at 1:00.

(Whereupon, the meeting was concluded at 10:51 a.m.)

1
2
3
4