

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

WEDNESDAY

JANUARY 2, 2002

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The Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:30 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
ANNE MOHNKERN RENSHAW	Vice Chairperson
DAVID LEVY	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Commissioner
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COMMISSION STAFF PRESENT:

Sheri M. Pruitt, Secretary, BZA  
Paul O. Hart, Office of Zoning  
John K. A. Nyarku, Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

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

(9:35 a.m.)

CHAIRPERSON GRIFFIS: Good morning, ladies and gentlemen. I will call to order the Public Meeting of January 2<sup>nd</sup>, 2002. I wish everyone a Happy New Year, of course. We have our standard delay this morning so we're getting underway, and we are -- we have quite an aggressive schedule, so I want to do is just lay it out here what we're doing first, because we're going to have to take a quick break in the morning session, so we will make it through. We have a few things. We have elections this morning. We also have Minutes to go through, so we'll ask for your patience in letting us handle that.

We will take up all the cases in the morning through to the Appeal 16679 which is the Spring Valley-Wesley Heights Citizen's Association, and also Appeal 16716 of Nebraska Avenue Neighborhood Association. Those two we were just -- we're going to take a very short break, and I promise you it will be short. Fifteen, twenty minutes maximum.

There are a few details that need to be dealt with, I guess. But, anyway, we need to focus on that, and then we will come back and deal with those two cases. So to let everyone know, it is, of course, 10:00 now, so we will proceed with the first item on the Agenda which is election

COMMISSIONER MITTEN: Mr. Chairman, I would vote that we continue the status quo as it's been established a few

1 months ago, and have Geoffrey Griffis as Chair and Anne Renshaw  
2 as Vice Chair of BZA.

3 MR. LEVY: I'll second that.

4 CHAIRPERSON GRIFFIS: Thank you very much. Is  
5 there any discussion needed? Very good. Then I'd ask all those  
6 in favor say aye. Any opposed?

7 (Vote)

8 CHAIRPERSON GRIFFIS: And we can mark that down  
9 for the record, unless Anne would like to take a moment to say  
10 anything, I think we'll move on and not take people's time with  
11 this. But absolutely, I thank you for the support, and I think  
12 our Board is working very productively, and will continue to do  
13 so.

14 Anne, please take an opportunity if you need.

15 VICE CHAIRPERSON RENSHAW: Yes. I just wanted to  
16 ask, Mr. Chairman, whether we could defer the Minutes until the  
17 end of the Public Hearing, or Public Meeting rather.

18 CHAIRPERSON GRIFFIS: You know, I would -- and I  
19 think that's an excellent suggestion, in that we have people  
20 here for the cases. However, we have Minutes that are now  
21 stacked that were deferred. I think we can get through these  
22 very quickly. If it becomes cumbersome, November's we won't --  
23 we can move on December, but I say let's jump into it and just  
24 move it on, if that's not objectionable, or outrageously  
25 objectionable. Okay. So let's take -- Mr. Hart, do you want to

1 direct us on this? I will --

2 MR. HART: Yes. Good morning, Mr. Chair and  
3 Members of the Board. My understanding is you want to deal with  
4 December's Minutes and then we'll come back around to November.

5 Is that correct?

6 CHAIRPERSON GRIFFIS: Let's take November's, and  
7 get through November's first.

8 MR. HART: Okay. The first set of Minutes for  
9 November are November the 6<sup>th</sup>, which was a Public Hearing. The  
10 Members at that meeting -- that hearing rather were Mr. Griffis,  
11 Ms. Renshaw, Mr. Levy, and Mr. Anthony Hood.

12 CHAIRPERSON GRIFFIS: Okay. Can I do this just  
13 for time, Mr. Hart, if it's not objectionable to you. We have  
14 before us November 6, 13, November 13 Public Hearing, November  
15 20 Public Hearing, November 27 Public Hearing. Can I ask the  
16 Board Members if they have any comments in chronology on those,  
17 and just take them all together? Is that acceptable to you?

18 MR. HART: Well, yes.

19 CHAIRPERSON GRIFFIS: Okay.

20 MR. HART: A precedent has been set for that.

21 CHAIRPERSON GRIFFIS: Okay.

22 MR. HART: So that is acceptable, yes.

23 CHAIRPERSON GRIFFIS: Any Board Members -- I'll  
24 just call it for you, November 6<sup>th</sup> Public Hearing. November 13.

25 MR. LEVY: Mr. Chair.

1 CHAIRPERSON GRIFFIS: Yeah.

2 MR. LEVY: Question on page 5, November 13.

3 CHAIRPERSON GRIFFIS: Uh-huh.

4 MR. LEVY: Condition Number Two, I just don't  
5 recall that. Maybe shed some quick light on that for me.

6 CHAIRPERSON GRIFFIS: Page 5, and that's the  
7 Application of Alliance Francaise?

8 MR. LEVY: Yes. Condition Number Two.

9 CHAIRPERSON GRIFFIS: Yeah, that was -- if you  
10 recall in that case, they had -- on their BZA case, they had --  
11 I don't know if they had a C of O, or whatever it was, they had  
12 a ruling that allowed them to have an apartment on the top  
13 floor. But they had subsequently used it as administrative or  
14 classroom spaces, so the point being in allow in our order the  
15 residential unit on top of the garage, the accessory building,  
16 we did not want to have it duplicated --

17 MR. LEVY: I see.

18 CHAIRPERSON GRIFFIS: -- in terms of having an  
19 apartment allowable on the main structure --

20 MR. LEVY: I see.

21 CHAIRPERSON GRIFFIS: -- and the accessory.

22 MR. LEVY: Okay. Thank you.

23 CHAIRPERSON GRIFFIS: Anything else on 13? How  
24 about 20? Okay. And November 27.

25 MR. LEVY: Mr. Chair, I'm sorry.

1 CHAIRPERSON GRIFFIS: Yeah.

2 MR. LEVY: On the 20<sup>th</sup>, page 3, which is  
3 Application 16789.

4 CHAIRPERSON GRIFFIS: Uh-huh.

5 MR. LEVY: The last paragraph in that case, is  
6 that -- where we reference a "Child Development Center to be  
7 used exclusively as an After-School Care Facility." I think we  
8 had quite a bit of debate on that. I don't recall that's how we  
9 came out.

10 CHAIRPERSON GRIFFIS: Well, if I'm not mistaken,  
11 we -- I guess we need to re-pull that for --

12 MR. LEVY: I mean, maybe someone else can help me  
13 with that, but --

14 VICE CHAIRPERSON RENSHAW: Mr. Hart.

15 CHAIRPERSON GRIFFIS: Mr. Hood?

16 VICE CHAIRPERSON RENSHAW: Mr. Hart.

17 CHAIRPERSON GRIFFIS: Oh, Mr. Hart. Mr. Hart,  
18 are you -- do you have a recollection of dealing --

19 MR. HART: I don't have the -- that set of  
20 Minutes before me, sir. At this point, I couldn't recollect for  
21 that particular --

22 CHAIRPERSON GRIFFIS: Okay. Let's hold on the  
23 20<sup>th</sup> then, and we'll get clarification on that. It seems to me  
24 that their application actually was for an After-Care, but there  
25 was -- as Mr. Levy said, there was a lot of discussion about how

1 they defined it, and how it might be actually defined.

2 Okay. So November 27, I have a comment on 16794,  
3 the Addisons. I believe the time line listed is -- should be  
4 switched.

5 MR. HART: Yes, that -- you are correct.

6 CHAIRPERSON GRIFFIS: Okay. Anything else on  
7 that one? Any other comments? Then I would move the adoption  
8 of the November 6 Public Hearing, November 13 Public Meeting,  
9 November 13 Public Hearing, and November 27 Public Hearing  
10 Minutes.

11 MR. LEVY: Second.

12 CHAIRPERSON GRIFFIS: All those in favor, aye.

13 (Vote.)

14 CHAIRPERSON GRIFFIS: Opposed. That will keep  
15 out November 20, which we're getting clarification on.

16 COMMISSIONER MITTEN: I just want it to be noted  
17 that I abstained just because I didn't sit on those -- on each  
18 of those Minutes.

19 CHAIRPERSON GRIFFIS: Okay.

20 MR. HART: And another comment to the -- there  
21 are two sets of Minutes, November 6<sup>th</sup> and November 13<sup>th</sup> that Mr.  
22 Hood sat on, and he had submitted a proxy at the last meeting  
23 for those two Minutes, but does he know it was deferred? They  
24 were deferred. Both votes were in the affirmative.

25 CHAIRPERSON GRIFFIS: Good. Thank you. So we'll

1 accept his proxy today.

2 MR. HART: Yes.

3 CHAIRPERSON GRIFFIS: Okay. Now we're looking at  
4 Public Hearing Minutes December 4, 2001, December 11 and  
5 December 18. December 4, myself, Ms. Renshaw, Mr. Levy and Mr.  
6 Hannaham. Any comments on that?

7 MS. SANSONE: Mr. Chairman, on December 4<sup>th</sup>, on  
8 page 3, there are a couple of motions that had been made by  
9 Southeast Citizens for Smart Development in the Appeal Number  
10 16797, and I believe the Board's actions on those motions was to  
11 deny the motions, not to dismiss them.

12 CHAIRPERSON GRIFFIS: Right. Very good. Anyone  
13 else have clarifications, comments on December 4?

14 Okay. December 11, myself, Ms. Renshaw, Mr. Levy  
15 and Mr. Hood. Comments on that, clarifications, corrections?

16 MR. LEVY: Mr. Chair, I would just question on  
17 page number 2, Case 16803.

18 CHAIRPERSON GRIFFIS: Uh-huh.

19 MR. LEVY: Is that a misspelling of the resident  
20 who expressed an interest in the case, a misspelling her of her  
21 name?

22 CHAIRPERSON GRIFFIS: Resident, Dorothy Brazill.

23 MR. LEVY: Brazill. Is that correct?

24 SECRETARY PRUITT: Yes.

25 MR. LEVY: That's correct?

1 SECRETARY PRUITT: It is.

2 MR. LEVY: Okay. I'm sorry.

3 CHAIRPERSON GRIFFIS: We'll take the word of  
4 other Board Members that that is correctly spelled. Thank you  
5 for that. Anything else?

6 Okay. Moving on, December 18, 2001, myself, Ms.  
7 Renshaw, Mr. Levy, Mr. May and Ms. Mitten are part of this  
8 Public Hearing Minutes. And do we have comments?

9 MR. LEVY: Case Number 16809. Those conditions,  
10 do they reflect the order that we just reviewed?

11 CHAIRPERSON GRIFFIS: 16809 which is actually the  
12 Avalon Bay Communities, Inc. The motion was to approve. The  
13 condition was incorporate and articulate design penthouse  
14 structure and mitigate. Well, I think this may -- from the  
15 Minutes, and maybe I need clarification because the Minutes may  
16 not reflect exactly the wordage that goes into the order --

17 MR. LEVY: Okay.

18 CHAIRPERSON GRIFFIS: -- when it would not be  
19 appropriate, so yeah. I think there's a difference between the  
20 order that was issued, but I think the -- clearly, the intent is  
21 the same.

22 MR. LEVY: Okay.

23 CHAIRPERSON GRIFFIS: The conditions haven't  
24 changed. Okay. Anything else? I have one note, and see if  
25 other Board Members will recall. And Ms. Mitten, you were on

1 this case for BP Amoco. We did continue that. There was no  
2 objection, and there was a request for that. It will be re-  
3 advertised. We had also indicated that -- and I don't know if  
4 it's important to get into these notes, but one of the reasons  
5 for the continuation was the fact that BP was looking at a city-  
6 wide strategy for their stations, and we had requested that some  
7 information be pulled together in terms of other topologies of  
8 urban fuel pumping stations, and so I think just a note of that  
9 ought to go into the Minutes of some record. Any objection to  
10 that?

11 COMMISSIONER MITTEN: I agree with that.

12 CHAIRPERSON GRIFFIS: Okay. Then I would ask to  
13 approve the Public Hearing Minutes of December 4, December 11,  
14 and December 18 to reflect all changes as noted today. Ask for  
15 second.

16 VICE CHAIRPERSON RENSHAW: Second.

17 CHAIRPERSON GRIFFIS: Any questions, comments?  
18 Then I would ask all those in favor.

19 (Vote.)

20 CHAIRPERSON GRIFFIS: And opposed. And Ms.  
21 Mitten voting on just the Minutes of which she was involved.  
22 Thank you very much. And wow, that doesn't complete our entire  
23 schedule?

24 Okay. Let's move on to the first case to be  
25 decided this morning.

1 MR. HART: Just a minute, please.

2 The first case this morning to be decided is  
3 Application Number 15826 of Alvin Mitchell, pursuant to 11 DCMR  
4 3104.1, for a special exception under Section 357, to establish  
5 a youth rehabilitation home for ten youths, ages 13-19 years,  
6 and 12 staff, basement through third floor, in an R-4 District,  
7 at 2 T Street, N.E., Square 3509 South, Lot 12. The hearing  
8 date on this case was November 22<sup>nd</sup>, 1995.

9 Before the proposed order may be sent out, the  
10 record must be circulated to all the Board Members, and a vote  
11 taken to send the proposed order for exception. The proposed  
12 order now states that the record will be left open for 15 days;  
13 that's up to 4:45 p.m., Tuesday, December, 2001, from the date  
14 of the service of the proposed order.

15 When reviewing the record before the Board, the  
16 Board -- it was noticed that the Certificate of Occupancy was to  
17 expire two years after the Board's November 18<sup>th</sup>, 1993 order.  
18 The Office of Zoning has no record of an application for a  
19 renewal of the Certificate of Occupancy, as required, in order  
20 to continue operations.

21 The Board at its December 4<sup>th</sup>, 2001 Public Meeting  
22 instructed Staff to request that the Applicant submit proof of  
23 such renewal. In accordance with the Board's request, Staff  
24 made several telephone calls, and by letter dated December 19<sup>th</sup>,  
25 attempted to contact Applicant. A copy of the letter that was

1 sent to Applicant was also sent to the Acting Zoning  
2 Administrator and the General Counsel at the Department of  
3 Consumer and Regulatory Affairs. To date, there has been no  
4 response from the Applicant.

5 The participating Board Members were or are Mr.  
6 Griffis, Ms. Renshaw, Mr. Levy and Ms. Mitten.

7 CHAIRPERSON GRIFFIS: Thank you, Mr. Hart. I  
8 absolutely appreciate it. And let me just take a quick moment  
9 because we're rushed into this, but of course, to introduce  
10 everybody. Of course, we have name plates in front but Geoff  
11 Griffis, the Chair, and Ms. Renshaw is Vice Chair. Mr. Levy  
12 with NCPC, and also Carol Mitten with the Zoning Commission, and  
13 Mr. Hart ably directing us today. And Mr. Nyarku also helping  
14 us out, and of course, Corporation Counsel is in attendance.

15 So if Board Members recall this Mitchell case, we  
16 were looking for information to move ahead on this order. We  
17 have not heard response back on that. And without getting into,  
18 and belaboring all the times and pertinence of this, but  
19 basically we'd be approving an order that should have expired by  
20 now. We're not sure what the current situation or state of this  
21 Applicant is, and so I would take comments or questions at this  
22 point, and I would urge a motion.

23 COMMISSIONER MITTEN: Mr. Chairman, what's been  
24 troubling as this case has unfolded for us in attempting to  
25 finalize this order, is it appears -- and I think this is

1 confirmed by the letter, the December 21<sup>st</sup>, 2001 letter from the  
2 Chairperson of ANC 5-C is that apparently this Applicant has  
3 been operating the business for which they had sought approval  
4 for six years, even though a final order was never written, in  
5 which case, they wouldn't be able to qualify for a Certificate  
6 of Occupancy. And the ANC notes that they have been unable to  
7 hold them accountable to the conditions of the order because the  
8 order hadn't been written.

9 I think under the circumstances, if we were to  
10 approve this order, the two years that was originally intended  
11 to commence in 1993, would commence when we finalize this order,  
12 which would really continue what is -- what may be an untenable  
13 situation. And I think it would be appropriate for the BZA to  
14 re-hear this case.

15 CHAIRPERSON GRIFFIS: I would take that as a  
16 motion.

17 COMMISSIONER MITTEN: Yes, sir.

18 CHAIRPERSON GRIFFIS: Very good then. There is a  
19 motion on the table to re-hear this case.

20 VICE CHAIRPERSON RENSHAW: Second.

21 CHAIRPERSON GRIFFIS: Second by Ms. Renshaw. Any  
22 questions, further discussions on that? I'd ask all those in  
23 favor of the motion to signify by saying aye.

24 (Vote.)

25 CHAIRPERSON GRIFFIS: And any opposed? Very

1 good. Then we will set this for a re-hearing.

2 VICE CHAIRPERSON RENSHAW: I also think, Mr.  
3 Chairman, that it would be appropriate to send some  
4 notification. We've already, apparently, been in contact with  
5 the Zoning Administrator's Office. I think we want some  
6 clarification from them as to the status of the Certificate of  
7 Occupancy, and if it would be necessary for them to go out and  
8 inspect, and see what, in fact, is being -- what business is  
9 being conducted at the property.

10 CHAIRPERSON GRIFFIS: I think that's an excellent  
11 idea. I think it goes to the crux of the fact that we want to  
12 know what the situation is, in fact, and the existing condition  
13 right now. So if we can, I think that's excellent. We'd send a  
14 letter asking the ZA to establish that and give us, frankly, any  
15 background and history to this.

16 Okay. That's an interesting point. Mr. Hart, do  
17 we want to set a date on that or --

18 MR. HART: No.

19 CHAIRPERSON GRIFFIS: Yeah, I think we won't.

20 MR. HART: No. I don't think we -- it would be  
21 wise to set a date on this.

22 CHAIRPERSON GRIFFIS: Good.

23 MR. HART: There are some things that, as you  
24 say, need to be done before we, you know, set the --

25 CHAIRPERSON GRIFFIS: Let's see how it fits the

1 schedule. Okay.

2 MR. HART: Okay. If I may, I would like to call  
3 the cases. A motion was made by Ms. Mitten, seconded by Ms.  
4 Renshaw that this case be reheard. Thank you. Next case?

5 CHAIRPERSON GRIFFIS: Do you want to just signify  
6 what the vote was? It was unanimous.

7 MR. HART: Yes, I said --

8 CHAIRPERSON GRIFFIS: Oh.

9 MR. HART: -- 4-0.

10 CHAIRPERSON GRIFFIS: Oh, good.

11 MR. HART: Which was made by Ms. Mitten, and  
12 seconded by Ms. Renshaw.

13 CHAIRPERSON GRIFFIS: Thank you very much, Mr.  
14 Hart.

15 MR. HART: Okay. Moving on. Go ahead?

16 CHAIRPERSON GRIFFIS: Yes, please.

17 MR. HART: The next case is Application Number  
18 16633 of Eva Brandler, pursuant to 11 DCMR 3103.2, for a  
19 variance under Subsections 2001.3, Subsections (a)(b) and (c),  
20 to allow an addition to a non-conforming existing structure and  
21 use that exceeds the allowable percentage of lot occupancy, and  
22 a variance from Subsection 2101.1, from the required number of  
23 parking spaces in an R-1-B District, at premises 1715 Woodley  
24 Road, N.W., Square 1920, Lot 20. The case was heard on November  
25 28<sup>th</sup>, 2000, and December 19<sup>th</sup>, 2000.

1           The Board heard this application on November 28<sup>th</sup>,  
2           2000, and December 19<sup>th</sup>, 2000, and voted at the conclusion of  
3           the last hearing to deny the final decision, and to hold the  
4           matter in abeyance until June 2001, to allow the Applicant time  
5           to improve the appearance of the property. Once the appearance  
6           issues were addressed, the case was to be re-advertised for  
7           Public Hearing.

8           The Office of Zoning called Mr. Brandler, as  
9           Applicant, and Mr. Finn, his architect/agent, on August 1<sup>st</sup>,  
10          2001, and August 15<sup>th</sup>, 2001, to find out if they were ready to  
11          proceed with the application. On both occasions, the Applicant  
12          stated that he was considering withdrawing the case.  
13          Approximately one year has passed since the last hearing on this  
14          application, and over that period the Office of Zoning has not  
15          received any formal correspondence indicating Applicant's  
16          intentions.

17          In a letter dated December 20th, 2001, Staff  
18          informed the Applicant that if there was no written response by  
19          December 24th, 2001, the application would be submitted to the  
20          Board with the recommendation that it be dismissed.

21          Mr. Chair, as of the date when these packages  
22          were sent over to the Board, we had no response from the  
23          Applicant.

24          CHAIRPERSON GRIFFIS: Thank you, Mr. Hart. And  
25          as of this morning we have no responses. Correct?

1 MR. HART: No.

2 CHAIRPERSON GRIFFIS: Okay. Quick clarification.

3 Just if I don't -- well, if my records are correct, October  
4 16th, 2001 was the correct date for the phone calls that were  
5 made. Also, the letter that you indicated, Mr. Hart, very well  
6 is Exhibit Number 36 in this case. And I would move that we  
7 dismiss Application Number 16633.

8 VICE CHAIRPERSON RENSHAW: Second.

9 CHAIRPERSON GRIFFIS: Any discussion? All those  
10 in favor. Aye.

11 (Vote.)

12 CHAIRPERSON GRIFFIS: Any opposed? Thank you.

13 MR. HART: Staff will record the vote as 4-0 to  
14 dismiss, Mr. Griffis making the motion, and seconded by Ms.  
15 Renshaw.

16 The next case is Case Number 16790 of Manna,  
17 Incorporated. Pursuant to 11 DCMR 3103.2 for a variance from  
18 the minimum lot width requirement under Section 401, and a  
19 variance from the side yard requirements under Section 405 to  
20 build a single family semi-attached dwelling in an R-3 District  
21 at premises 311 Channing Street, N.E., Square 3555, Lot 12.

22 The Board, by consensus, granted party status to  
23 James Aldridge, the abutting property owner. The Board waives  
24 the 15-day requirement to receive the request. At the  
25 conclusion of the hearing, Mr. Aldridge withdrew his opposition

1 to the case.

2 The Chairperson of Advisory Neighborhood  
3 Commission ANC-5C, requested that the hearing be rescheduled to  
4 allow the ANC time to discuss the application in its upcoming  
5 meeting. The Board approved the request and established the  
6 following timeline. December 13th, the ANC is to file its  
7 report -- was to file a report, and if there was a new response  
8 to the ANC's report, that was due in by December 20th. That was  
9 for today's meeting.

10 The participating Members are Mr. Griffis, Mr.  
11 Levy, Ms. Renshaw and Mr. Parsons. The case is now before the  
12 Board.

13 CHAIRPERSON GRIFFIS: Thank you very much. We  
14 have received the letter from ANC. Correct?

15 MR. HART: We have received.

16 CHAIRPERSON GRIFFIS: To just give us a quick  
17 overview on that if you would not mind, Ms. Renshaw.

18 VICE CHAIRPERSON RENSHAW: Yes. Mr. Chairman,  
19 the letter is dated December 7th, 2001, and the letter has been  
20 signed by James D. Barry, Chairperson of ANC-5C. And the ANC  
21 met on November the 20th, 2001, to consider the application and  
22 the quorum was present. They voted unanimous support of Manna,  
23 Inc. in this case, and encourages the BZA to grant the  
24 organization this special relief that it is requesting.

25 CHAIRPERSON GRIFFIS: Great. Thank you very

1 much. And I think if we all recall, that we did extend the time  
2 so that we could receive that, and it is now in. I think the  
3 case is complete.

4 I would move the approval of Application 16790 of  
5 Manna, Inc. and ask for a second, for quick comments.

6 VICE CHAIRPERSON RENSHAW: Second.

7 CHAIRPERSON GRIFFIS: Thank you. If we recall,  
8 this was -- I think there was a lot of confusion on the party  
9 that came in, the abutting neighbor, not understanding what, in  
10 fact, the detached house actually was, or whether it was  
11 attaching to his house, et cetera. It was, obviously, a  
12 complicated -- fairly complicated case, and I think  
13 communication was well put in the Public Hearing. I think the  
14 case is made and would stand on record. Any other comments?  
15 Questions on that? Then I'd ask all those in favor.

16 (Vote.)

17 CHAIRPERSON GRIFFIS: And any opposed? Mr. Hart,  
18 do we have a proxy on this?

19 MR. HART: No, sir, we don't.

20 CHAIRPERSON GRIFFIS: Okay. Staff would record  
21 the vote as 3-0-1. Mr. Griffis making the motion, Ms. Renshaw  
22 seconded, Mr. Parsons not present, not voting.

23 CHAIRPERSON GRIFFIS: Thank you.

24 MR. HART: The next case is Number 16794 of  
25 Sylvia and Christopher Addison, pursuant to 11 DCMR 3104.1 for a

1 special exception to allow an addition to a one-family dwelling  
2 under Section 223, not meeting the side yard requirements, which  
3 is Section 405, and pursuant to 11 DCMR 3103.2 for a variance  
4 from the side yard provisions under Subsection 2500.6, to allow  
5 the construction of an accessory building in an R-1-B District  
6 at premises 3207 Cathedral Avenue, N.W., Square 2101, Lot 3.

7 The Board requested that Applicant provide  
8 additional information to augment the file. The Applicant met  
9 the burden of proof to grant this special exception. However,  
10 supplemental information is needed to demonstrate that practical  
11 difficulty exists at the site.

12 The Board asked Applicant to identify the  
13 compelling reason for enlarging the necessary building. Also,  
14 in an effort to demonstrate the unique or exceptional  
15 conditions, a practical difficulty of the case, the Board  
16 suggested the Applicant review the site in the context of the  
17 large old Oak tree that exists on the property, the history of  
18 the building, how the landscape and pool have an effect on the  
19 site, and alignment of the existing elements on the property.

20 The Board indicating that George Chopivsky, Jr.,  
21 the abutting property owner, should be informed that a decision  
22 will be made at the Board's January 2nd public meeting, and that  
23 he may submit an additional statement to the file.

24 The timeline for this case was materials to be  
25 filed December 18th, and the decision was to be made -- is to be

1 made today.

2 The participating Board Members are Mr. Griffis,  
3 Mr. Levy, Ms. Renshaw and Ms. Mitten. The case is now before  
4 the Board.

5 CHAIRPERSON GRIFFIS: Thank you, Mr. Hart. And  
6 quite frankly, well said. I think we did lay out fairly clearly  
7 what we needed and were, in fact, fairly patient in giving time  
8 on this to put it together. As you indicated, a special  
9 exception was not a problem. In our minds the case was  
10 adequately made for that.

11 We have received a letter from the abutting  
12 neighbor which I think addresses one of the issues that we were  
13 going to with this case, but in that this is involving a  
14 variance which has a three prong case -- test which we, I think,  
15 adequately -- but perhaps we did not adequately outline and ask  
16 for a response to. We were looking for -- and I think some of  
17 the specifics that we talked about here in terms of the Oak  
18 tree, the history of the building and then the siting of certain  
19 elements, be it the pool or the existing structure went to  
20 demonstrate the uniqueness, would go to addressing and making a  
21 case for an exceptional condition, and the practical difficulty,  
22 which is, of course, fairly difficult to at times meet for the  
23 variance test. And then if this obviously holds within the  
24 intent, the zoning regulations could also be addressed, but  
25 certainly that didn't seem to be the most cumbersome issue with

1 this case.

2 This is, frankly, problematic for me in terms of  
3 the fact that I think this is a very -- from a design  
4 standpoint, and frankly, from a -- let's talk about single-  
5 family use standpoint, this is an excellent project, and one --  
6 if I can speak outside of the Board in the grand scheme of  
7 things, should probably happen. And to that, however, we need  
8 to have certain things addressed for us to adequately  
9 deliberate.

10 I do not believe that we received the information  
11 that directly spoke to the variance test, and I would,  
12 therefore, ask this Board to have a bit of patience with this  
13 case, and ask to continue this to our next decision-making, and  
14 be able to give some direct or re-emphasize some direction on  
15 what we need to be submitted in this case. And I'd open it up  
16 for comments.

17 COMMISSIONER MITTEN: Mr. Chairman, I think that  
18 I agree with what you articulated. I think we do need to advise  
19 the Applicant's representative a little bit more. He clearly  
20 still does not understand the three prong test, in as much as  
21 his letter of December 18th really addresses the first prong of  
22 the test in three parts, so what's missing here is the showing  
23 of peculiar and exceptional practical difficulties, and that  
24 would -- and those practical difficulties would result from the  
25 variance not being approved.

1 CHAIRPERSON GRIFFIS: Correct.

2 COMMISSIONER MITTEN: And then we also -- we have  
3 a statement at the end of the letter that says that the variance  
4 can be granted without detriment to the public good, and without  
5 substantially impairing the intent, purpose and integrity of the  
6 zone plan. Making the statement is not the -- meeting the  
7 burden of proof, that we need to have some showing there, so I  
8 would be amendable to giving them one more shot at meeting their  
9 burden, and putting this off for another month.

10 CHAIRPERSON GRIFFIS: Okay. Two things I want to  
11 underline, and one is that our patience doesn't signify in any  
12 fact or fashion which way this Board will go. I mean,  
13 obviously, we're -- we don't know that until we have the  
14 information, and so we hope that it comes in successfully, but  
15 there's certain questions, obviously, in many of our minds.

16 You bring up the point in terms of how impairing  
17 the purpose and integrity of the zoning. I mean, I think,  
18 specifically what we're looking at is the -- to speak to the  
19 site context and to obviously look at the overall zone in which  
20 this property exists and how it would not impair, so to speak  
21 specifically on the contextual area of where this house is  
22 located.

23 I will indicate for the record that if I'm not  
24 mistaken, the Applicant's representative is here today, so I  
25 think we will, obviously, be saying this and delivering this in

1 writing, but he is here to hear what we are, in fact, saying,  
2 which often makes it clear, but maybe not in my case.

3 COMMISSIONER MITTEN: Well, also, to encourage  
4 him to deal with Staff --

5 CHAIRPERSON GRIFFIS: Yes.

6 COMMISSIONER MITTEN: -- if there's any lack of  
7 clarity about what we've said.

8 CHAIRPERSON GRIFFIS: Yeah, I --

9 COMMISSIONER MITTEN: I think we've tried to be  
10 clear in previous sessions and we remain unsuccessful.

11 CHAIRPERSON GRIFFIS: And I think that's  
12 excellent, and certainly the representative is perfectly  
13 capable. But I would also recommend that perhaps while he's  
14 here, takes a moment with staff to get additional direction.  
15 And we will hear this then on February -- I'm sorry, decide it  
16 on our February -- the first meeting in the month of February.  
17 So that is the motion, to continue this to February. It has  
18 been seconded. Any other discussions or comments? Then I would  
19 ask all those in favor.

20 (Vote.)

21 CHAIRPERSON GRIFFIS: Any opposed? Thank you  
22 very much.

23 COMMISSIONER MITTEN: Can we just have the date  
24 of our February decision meeting?

25 CHAIRPERSON GRIFFIS: Oh, I'm sorry.

1 MR. HART: The date is February the 5th, at the  
2 Public meeting, the first Tuesday in February.

3 COMMISSIONER MITTEN: Okay.

4 VICE CHAIRPERSON RENSHAW: And Mr. Chairman,  
5 we'll have another submission from the Applicant's agent?

6 CHAIRPERSON GRIFFIS: Yeah. Well, obviously,  
7 we're certainly hoping for that, and so we -- why don't we give  
8 a quick indication of the date and when we need that in by.

9 MR. HART: Okay. Approximately -- give me the  
10 date which is a week before. All right. The week before --  
11 approximately a week before -- exactly a week before which is  
12 the 29th of January.

13 CHAIRPERSON GRIFFIS: The 29th of January.

14 MR. HART: Is that good? All right.

15 CHAIRPERSON GRIFFIS: Thank you.

16 MR. HART: Okay. The --

17 CHAIRPERSON GRIFFIS: Mr. Hart, if I could  
18 interrupt you.

19 MR. HART: Yes.

20 CHAIRPERSON GRIFFIS: I would like to just  
21 shuffle the schedule a little bit. Can you call 16799 next?  
22 For Board Members, that will be the Hopkins case.

23 MR. HART: The next case is that of 16799 of  
24 Willie C. Hopkins, pursuant to 11 DCMR 33104.1, for a special  
25 exception to allow an addition to a single-family dwelling under

1 Section 223, not meeting the lot occupancy under Section 403,  
2 and open court, Section 406, requirements in the R-3 District at  
3 premises 4007 16th Street, N.W., Square 2695, Lot 51. The  
4 hearing date was December 4th, 2001.

5 The Applicant was to post the property and file  
6 an Affidavit of Posting. The record was to be left open until  
7 December 21st, 2001 for the requested information and comments  
8 from the community.

9 Members who participated on this case were Mr.  
10 Griffis, Ms. Renshaw, Mr. Levy, and Mr. James Hannaham. The  
11 application is before the Board.

12 CHAIRPERSON GRIFFIS: Thank you, Mr. Hart. If  
13 you recall, we did hear the entire case on this. This is a  
14 small addition on the back of 16th Street. I think it was  
15 fairly straightforward and the burden of the special exception  
16 was met. And I would move approval of Application 16799 of  
17 Willie C. Hopkins. There it is.

18 MR. LEVY: I'll second.

19 CHAIRPERSON GRIFFIS: Thank you. Quick  
20 discussion. This was the addition on the back of a masonry  
21 brick building. We did start with -- we did have discussions on  
22 materials and such. I would take comment and direction of any  
23 conditions that we want to have on this motion.

24 I would suggest, frankly, to start the ball  
25 rolling that we -- although it won't have huge teeth in this,

1 but I would suggest that we make a condition of the order to  
2 have compatible materials that -- let me think a moment on that.

3

4 Well, anyway, I actually would just remove the  
5 condition at this point, unless others have words on that.

6 MR. LEVY: Mr. Chair.

7 CHAIRPERSON GRIFFIS: Yeah.

8 MR. LEVY: I would just comment that the  
9 discussions we had in the -- during the hearing we talked a bit  
10 about vinyl siding was the intended material. However, given  
11 the structural nature of the -- given the nature of the  
12 structure, compatible materials might be an appropriate -- if  
13 compatible materials are brick or some sort of masonry.

14 CHAIRPERSON GRIFFIS: Yeah. And the issue -- my  
15 hesitation was that it was brought up and that the adjacent  
16 neighbors that have done the similar are all aluminum siding,  
17 and so if we have language that just says compatible, well,  
18 there's a case on point two doors up that it's compatible, and  
19 then how do we establish the fact that it, frankly, isn't?  
20 That's my -- that was my hesitation and difficulty, but --

21 MR. LEVY: Perhaps as much as we'd like to make  
22 that a condition, that's not appropriate in this case.

23 CHAIRPERSON GRIFFIS: I would agree. Ms.  
24 Renshaw.

25 VICE CHAIRPERSON RENSHAW: Well, I was just going

1 to say, Mr. Chairman, we had a case in this row house  
2 development two doors away I believe it was, and I would just  
3 like to match any condition that we had with the previous case.

4 In other words, we need to examine whether or not, or I would  
5 recommend that we examine whether or not we had some conditions  
6 in that case that could be also attached to this case, because  
7 it is a row house development two doors away.

8 CHAIRPERSON GRIFFIS: Yeah. I think that's an  
9 interesting point. Was that case -- was the order actually  
10 brought up in the hearing?

11 VICE CHAIRPERSON RENSHAW: I don't know. We'd  
12 have to review it. We would have to take a look at it.

13 CHAIRPERSON GRIFFIS: Yeah. I don't think that -  
14 - let's get some direction on it.

15 VICE CHAIRPERSON RENSHAW: We mentioned that  
16 previous case --

17 CHAIRPERSON GRIFFIS: Right.

18 VICE CHAIRPERSON RENSHAW: -- during the hearing.  
19 That I do remember.

20 CHAIRPERSON GRIFFIS: Yeah.

21 VICE CHAIRPERSON RENSHAW: But we did not -- we  
22 were not specific as to conditions related to that first case.

23 CHAIRPERSON GRIFFIS: Right. I guess my point of  
24 advice would be that we carve and create conditions based on the  
25 case that we heard. I mean, we can certainly look to the

1 adjacent, but just to say that it didn't come in at the Public  
2 Hearing, I would have a hard time saying that we would need to  
3 pull it out now to look at the conditions, because they should  
4 have been evidence within the application itself. And I note  
5 that we did discuss it, and we discussed the fact that it was  
6 the indicator that we'd probably be hearing more and more of  
7 these as it went down, and this was it, but I don't recall any  
8 of the other details in terms of the conditions that were  
9 pertinent to this case.

10 I mean, I think we have enough information. If  
11 there is issues that you think need to be addressed, we should  
12 address them cleanly and clearly, just within this application,  
13 and carve the condition as we will.

14 VICE CHAIRPERSON RENSHAW: Well, it's just to  
15 make sure that the materials used are, again, compatible with  
16 the look, the new look of the rear of these properties, because  
17 again, we're going to get more cases from the block phase.

18 CHAIRPERSON GRIFFIS: Okay. Well, I would --  
19 then I would accept what I am hearing as a condition to the  
20 motion, that the addition be built with materials that are  
21 compatible to the design of the 4007 16th Street, N.W., and  
22 other adjacent properties.

23 VICE CHAIRPERSON RENSHAW: Uh-huh.

24 CHAIRPERSON GRIFFIS: Mr. Levy.

25 MR. LEVY: Mr. Chair, I would have a problem with

1 that condition specifically because we don't have any idea what  
2 the built condition is of the adjacent properties. And we may  
3 be conditioning an order to construct something that --

4 CHAIRPERSON GRIFFIS: Well, two things. One,  
5 compatibility gives you a heck of a lot of leeway. Secondly, it  
6 is in the case record that the -- if I'm not mistaken, at least  
7 four to six of the townhouses were all built the same time, same  
8 developer. They are fairly identical, so in the photographs  
9 that we have of the site of the posting, you can see that these  
10 townhouses are all very similar, so if you match one, you match  
11 the others.

12 MR. LEVY: And so if the initial construction was  
13 -- sets a bad precedent, then we would be tying every subsequent  
14 addition to that precedent. I just -- I think it's --

15 CHAIRPERSON GRIFFIS: Yes.

16 MR. LEVY: It's safe just not to condition it. I  
17 mean, it's likely that it's going to be vinyl. I mean, I think  
18 the Applicant testified it was going to be vinyl. It's in the  
19 record that it's going to be vinyl.

20 CHAIRPERSON GRIFFIS: Uh-huh.

21 MR. LEVY: I don't -- I'd just rather not  
22 condition it.

23 CHAIRPERSON GRIFFIS: Last word, Ms. Renshaw.  
24 Condition in, or condition out?

25 VICE CHAIRPERSON RENSHAW: I would prefer to say

1 that it is going to be compatible with others, but if that is a  
2 reason to stall this decision, I would --

3 CHAIRPERSON GRIFFIS: I don't think so. I think  
4 I'm going to call the question of my own motion with the  
5 condition that the materials be compatible with the existing  
6 structure of 4007 16th Street, N.W., and I would ask for all  
7 those in favor.

8 (Vote.)

9 CHAIRPERSON GRIFFIS: And opposed?

10 MR. LEVY: I'm going to vote opposed.

11 CHAIRPERSON GRIFFIS: Yeah, well that is a  
12 difficult situation. Do we have a proxy for Mr. Hannaham?

13 MR. HART: No, we don't.

14 CHAIRPERSON GRIFFIS: Okay. Then that motion  
15 would fail. I would open the floor to other motions.

16 VICE CHAIRPERSON RENSHAW: Perhaps Mr. Levy would  
17 give us a substitute motion here.

18 MR. LEVY: I would move that we approve  
19 Application Number 16799 without condition.

20 VICE CHAIRPERSON RENSHAW: Second.

21 CHAIRPERSON GRIFFIS: The motion has been  
22 seconded, and I thank you, Mr. Levy. Then I would ask for all  
23 those in favor.

24 (Vote.)

25 CHAIRPERSON GRIFFIS: And opposed? Very well.

1 If I'm not mistaken, then that would pass the approval of  
2 Application 16799.

3 MR. HART: The Staff record the vote as 3-0-1.  
4 Motion by Mr. Levy, seconded by Ms. Renshaw. Mr. Griffis, Mr.  
5 Hannaham not present, not voting.

6 CHAIRPERSON GRIFFIS: And if you wouldn't mind,  
7 Mr. Hart, just to call 16806, which is Kerr.

8 MR. HART: Okay. The next case is 16806, Mr. and  
9 Mrs. James R. Kerr, pursuant to 11 DCMR 3104.1, for a special  
10 exception to allow a deck addition to a single-family dwelling  
11 under Section 223, not meeting the side yard under Section 405,  
12 closed court, Section 406, and lot area, Section 401, Subsection  
13 2001.3 requirements in an R-1-B District at premises 3831 Macomb  
14 Street, N.W., Square 1818, Lot 820. The hearing date on this  
15 case was December 18th, 2001.

16 The Board heard the case in its entirety and  
17 determined that prior to giving a decision, it needed a letter  
18 from the adjacent neighbor stating that they had no objection to  
19 the construction of the proposed deck.

20 The participating Members are Mr. Griffis, Ms.  
21 Renshaw, Mr. Levy and Mr. May. The application is now before  
22 the Board.

23 CHAIRPERSON GRIFFIS: Thank you, Mr. Hart. There  
24 it is. As Mr. Hart has stated, we did receive the information  
25 we needed from the abutting neighbor. Just to reiterate, it is

1 dated December 19, 2001, and they are the contract purchasers.  
2 You remember all the discussion with that.

3 I think this case was clearly set forth. We did  
4 take them through the entire designs and all the issues, but the  
5 case for the special exception was strong, and the record is  
6 there before us. And I would move that we approve Application  
7 16806 of Mr. James R. Kerr, Mr. and Mrs., I must say.

8 VICE CHAIRPERSON RENSHAW: Second.

9 CHAIRPERSON GRIFFIS: Thank you. Any other  
10 comments, questions? Very well then. All those in favor.

11 (Vote.)

12 CHAIRPERSON GRIFFIS: And opposed? Thank you.

13 MR. HART: Staff would record the vote as 3-0-1,  
14 the motion made by Mr. Griffis, Ms. Renshaw seconded, and Mr.  
15 Levy. Mr. Peter May not present, not voting.

16 CHAIRPERSON GRIFFIS: I'm sorry. You may have  
17 said -- Mr. May didn't send in a proxy on that.

18 MR. HART: No.

19 CHAIRPERSON GRIFFIS: Okay. Thank you. Oh, I'm  
20 sorry. Since I flipped around in the schedule, we'll call 16756  
21 now, which would be Teddy Houston.

22 MR. HART: The next case is 16756 of Teddy L.  
23 Houston, pursuant to 11 DCMR 3013.2 for a variance from the lot  
24 occupancy provisions under Section 403, and a variance from the  
25 provisions that prohibits enlargements of an existing structure

1 that is not conforming as to lot occupancy under Subsection  
2 2001.3, to allow the construction of an accessory garage in the  
3 R-4 District at premises 524 9th Street, S.E., Square 949, Lot  
4 830. The hearing date for this case was October 2nd, 2001.

5 The Board informed the Applicant that additional  
6 information was needed in the application to meet the required  
7 burden of proof. The Board instructed the Applicant to work  
8 with Staff, or other zoning professionals on the case. The  
9 Board did not specify a date by which the Applicant should  
10 submit the requested information to the Office of Zoning. A  
11 decision on the application was scheduled for November 6, 2001,  
12 at the Board's Public Meeting.

13 On Friday, October 26, 2001, the Applicant called  
14 the Office of Zoning to request a one-month deferment of the  
15 Board's decision. He explained that he worked for the  
16 Department of Defense, and had been unable to find sufficient  
17 personal time to put together the additional information  
18 requested by the Board. He informed Staff that he would submit  
19 the -- his request in writing, explaining his situation,  
20 requesting that the decision be deferred to the Board's December  
21 4th, 2001 Public Meeting.

22 The Board, by consensus, agreed to the  
23 Applicant's request, and postponed its decision to December 4th,  
24 2001 Public Meeting. At the December 4th, 2001 Public Meeting,  
25 the Applicant requested another deferment of the Board's

1 decision to its January 2nd Public Meeting. The Applicant  
2 explains that his work situation continues to leave him with  
3 inadequate time to complete the assemblage of all information  
4 requested by the Board. The Board, by consensus, agreed to the  
5 request.

6 The participating Members are Mr. Griffis, Ms.  
7 Renshaw, Mr. Levy, and Ms. Mitten. The case is now before the  
8 Board.

9 CHAIRPERSON GRIFFIS: Indeed it is, Mr. Hart.  
10 Thank you. Well, Members, we have received -- obviously, we all  
11 have seen this, the new submission setting forth the arguments.

12  
13 Again, this is a single-family house that is  
14 looking just to build a small enclosed garage to park a car.  
15 But, of course, they have hit up against a variance test which  
16 is fairly rigorous, as we have said numerous times, and in fact,  
17 once this morning.

18 Let me just review a quick couple of things. ON  
19 September 27, 2001, 6-B voted unanimously to approve and support  
20 this application, and there was a quorum, and all is in order  
21 there. We also have several letters from adjacent property  
22 owners and residents having no objection, and in support of it.

23 Now what was submitted, of course, was our new  
24 argument. Let me just flash back to the hearing. If I'm  
25 correct, Mr. Houston had indicated that there were some issues

1 or reasons why, in fact, he needed this. One was, obviously, to  
2 park a car under cover for the care of his investment of his  
3 automobile, but also for and importantly, security off the  
4 alley. And, of course, we were perhaps hoping that those would  
5 be continued in length and discussion with his submission of  
6 arguments, but he has, in fact, come up and evidenced the  
7 differing argument that has taken us down the track the fact  
8 that this is designated a semi-detached building, although it  
9 fits within the frame work of the adjacent properties of a row  
10 house, and especially the lot size, which lends itself to some  
11 of its uniqueness. It also has two old structures on this site.

12 And I might also add that it had an enclosed garage.

13 If you recall in our case, it was of such  
14 structural disrepair that for safety reasons he had to remove  
15 it, and now is wanting to put it back which, of course, gives us  
16 all great pause of why he did that to begin with. But  
17 nonetheless, that's what's before us, and it is a bit of an  
18 expansion on that to cover the entire site so that he can, in  
19 fact, secure the walkway that actually begins to go to the  
20 definition of a semi-detached. And so, to that -- well, let me  
21 make a motion so we have it, and I would move approval of  
22 Application 16756 of Teddy Houston. And that would be a  
23 variance from the lot occupancy provision under Section 403, and  
24 a variance from the provision that prohibits enlargements to  
25 existing structures that is non-conforming as to lot occupancy

1 under Subsection 2001.3, to allow the construction of an  
2 accessory garage in the R-4 District at premises 524 9th Street,  
3 S.E.

4 VICE CHAIRPERSON RENSHAW: Second.

5 CHAIRPERSON GRIFFIS: Thank you, Ms. Renshaw.  
6 And I'd open it up to discussion, comments.

7 COMMISSIONER MITTEN: Mr. Chairman, I will  
8 reluctantly be voting in favor of this variance. This is a --  
9 as we've spoken of many times, there's a very high burden of  
10 proof for a variance, and not all prongs of the test are met  
11 with equal vigor. But I think the practical difficulty in this  
12 case is a compelling reason, and there is evidence in the record  
13 that the unique situation that is created by a very narrow side  
14 yard that causes this dwelling to be considered semi-detached,  
15 and therefore, the lot occupancy maximum is lower on that  
16 account. And I think that clearly there would be no detriment  
17 to the zone plan.

18 There's -- the neighbors and the ANC have weighed  
19 in in favor of this. I don't think this is a particularly  
20 strong case, but I think under the circumstances and given the  
21 nature of the practical difficulty that would result from  
22 denial, and that the burden of proof has been met, however  
23 tenuously, on the three counts, I would vote in favor.

24 CHAIRPERSON GRIFFIS: Thank you, Ms. Mitten.

25 VICE CHAIRPERSON RENSHAW: Mr. Chairman.

1 CHAIRPERSON GRIFFIS: We appreciate that. Yeah,  
2 Ms. Renshaw.

3 VICE CHAIRPERSON RENSRAW: I just wanted to bring  
4 to the Board's attention in the supplemental information of Mr.  
5 Houston, dated December 28th, 2001, he said that he has  
6 conferred with the Secretary of the Board of Zoning Adjustment,  
7 and during that review, it was suggested the special exception  
8 granting relief under Section 223 might be possible. And I'd  
9 just like to inquire whether that should be a consideration of  
10 our's this morning.

11 COMMISSIONER MITTEN: If I can respond to that.

12 VICE CHAIRPERSON RENSRAW: Yes, please.

13 COMMISSIONER MITTEN: This -- the garage would  
14 have to be attached to the house in such a way that it could be  
15 considered an addition, because the special exception relief  
16 under 223 applies to additions to single-family dwellings and  
17 flats, not to accessory structures.

18 VICE CHAIRPERSON RENSRAW: So they would have to  
19 be connected.

20 COMMISSIONER MITTEN: Correct.

21 VICE CHAIRPERSON RENSRAW: Thank you.

22 CHAIRPERSON GRIFFIS: Good. Appreciate that  
23 clarification. Ms. Mitten and I also appreciate your statements  
24 in terms of the strength of this case, and I would concur. And  
25 frankly, I would also state that it would be -- it seems that

1 here, in fact, almost defines the role of BZA in terms of being  
2 able to grant relief in that something so -- it seems so  
3 apparently common sensical to build a garage which is dealing  
4 with, in fact, what every neighborhood deals with, his parking  
5 problem, and secondarily, perhaps security problems, that the  
6 zoning regulations would, in fact, not allow it. And therefore,  
7 I think that it's appropriate, and I have great confidence in  
8 being able to rule on this application.

9 Any other comments? Then the motion has been set  
10 and seconded, and I would ask all those in favor.

11 (Vote.)

12 CHAIRPERSON GRIFFIS: And opposed?

13 MR. HART: The Staff would record the vote on  
14 Case 16756 as 4-0. Mr. Griffis making the motion, and Ms.  
15 Renshaw seconded. Mr. Levy and Ms. Mitten voting to approve.

16 CHAIRPERSON GRIFFIS: Good. Thank you very much,  
17 Mr. Hart. I absolutely appreciate it. It is 11:05 right now.  
18 We are going to go into an Executive Session for -- oh, well,  
19 let's be honest. We'll be back at 11:35. That will give us 25  
20 minutes. If that changes, I will be out to let you know, and if  
21 it's briefer than that, or if it extends. I do not anticipate  
22 that it should extend much beyond that though. Thank you very  
23 much, and we will return.

24 (Off the record at 11:10 a.m.)

25 (On the record at 12:08 p.m.)

1 CHAIRPERSON GRIFFIS: Okay. We are back, and we  
2 do appreciate the indulgence in taking the time, some technical  
3 things we had to get through, so we have three last cases for  
4 the decision making in the morning, and I suggest that we  
5 proceed with those. This will be the order in which I believe  
6 we'll call them. We'll do Application 16566 and 66A, which is  
7 the Georgetown Campus Plan. Get to Application 16679, which is  
8 the Spring Valley-Wesley Heights Citizen's Association, and  
9 Appeal 16716, just before our lunch break, which is the Nebraska  
10 Avenue Neighborhood Association.

11 And that being said, I think we should conclude  
12 our morning within 60 minutes or so, but we'll see how it rolls.

13 So Mr. Hart, at your convenience.

14 MR. HART: The case now before us is Application  
15 16566 of the Georgetown University, pursuant to 11 DCMR 3104.1,  
16 for a special exception for the review and approval of the  
17 University Campus Plan, under Section 210 in the R-3 and C-1  
18 Districts, at premises bounded by Glover Archbold Parkway to the  
19 west, National Park Service along the Chesapeake and Ohio Canal  
20 and Canal Road to the south, 35th Street, N Street to 36th  
21 Street, and 36th Street to P Street to the east, and Reservoir  
22 Road to the north. That's -- this includes Squares 1222, Lots  
23 62, 801 and 802, Square 1223, Lots 85, 86, 804, 805, 807-810,  
24 812, 815, 821, 824, 826, 827, 831, 843, 846, 847, 852, 853, 855,  
25 and 857, Square 1226, Lots 91, 94-110, 104, 105, 803, 804, 806,

1 and 811-815, Square 1248, Lots 122-125, Lots 150-157, Lots 800-  
2 802, Lot 804-806, Lot 829-831, Lot 834 and 835, Square 1321,  
3 Lots 815-817. The hearing dates were June 13th and June 18th,  
4 2000. The decision dates originally were September 4th, 5th,  
5 November 8th, and December 5th, 2000. The order date was March  
6 29th, 2001. Reconsideration Decision date was June 5, 2001.  
7 The order date was August 8th, 2001.

8 Included in the Board's packages are copies of  
9 the Applicant's proposed reviewed plan and parties' comments.  
10 The Board shall determine whether further proceedings are  
11 warranted, or shall certify the revised plans as the approved  
12 Campus Plan. The revised plan shall be deemed approved 60 days  
13 after submission, absent action by the Board before that date.  
14 Therefore, the Board has 60 days from Friday, December 14th,  
15 2001, to take action or the revised plan is deemed approved.

16 The original participating Board Members were  
17 Sheila Cross Reid, Anne Renshaw, and Herbert M. Franklin. It is  
18 now before you, Mr. Chair.

19 CHAIRPERSON GRIFFIS: Thank you, Mr. Hart. And  
20 you have stated clearly what we have before us in terms of the  
21 submission of the Revised Campus Plan. We also have submissions  
22 from Citizen's Association, and the Hillendale Homeowner  
23 Association.

24 The issue, I think, as I was looking at this, is  
25 the fact that as you've stated, Mr. Hart, several of the Board

1 Members originally hearing this case are no longer on the Board,  
2 I being one, so it was difficult, rather difficult to ascertain  
3 and deliberate on specific issues and points of what was  
4 included, what might not be included, that we have Condition 18  
5 that actually sets this clock rolling.

6 What I would like to entertain is somehow dealing  
7 -- somehow giving us a little bit more time in order to review  
8 the information and the record, and I believe -- let me open  
9 this up to other comments.

10 VICE CHAIRPERSON RENSHAW: Mr. Chairman.

11 CHAIRPERSON GRIFFIS: Yeah.

12 VICE CHAIRPERSON RENSHAW: As an original Member  
13 of this case, that sounds rather interesting, I think, to be an  
14 original member of this case, I would recommend that the Board  
15 consider postponing action on this in order to allow those Board  
16 Members who must review and deliberate, enough time to match  
17 what has been submitted against the original orders, so that we  
18 can make very sure that everything is consistent.

19 I know the Applicant has said that the Revised  
20 Campus Plan is consistent with the Board's approval of the  
21 Campus Plan Application, but that's for the Board to determine.

22 CHAIRPERSON GRIFFIS: I think that is wise  
23 comment and direction. Do you want to phrase that in some sort  
24 of a motion?

25 VICE CHAIRPERSON RENSHAW: Well, I move that we

1 revise Condition 18 to extend the time to hear this case, to  
2 review this case.

3 MS. SANSONE: Mr. Chair, if I might jump in here.

4 CHAIRPERSON GRIFFIS: Yes.

5 MS. SANSONE: I don't believe it's appropriate at  
6 this time to revise the condition to the order. I think the  
7 order contemplates that the Board -- that the Revised Campus  
8 Plan would become effective within 60 days if the Board did not  
9 take action. The Board's action here appears to be to -- that  
10 the Board will be reviewing the comments that have come in,  
11 comparing those comments in the plan, the revised plan back to  
12 the original orders, and to ensure their consistency. Not that  
13 the order itself is being modified, but that action will have  
14 been taken within the 60 days, and therefore, timely.

15 CHAIRPERSON GRIFFIS: Well, I think Ms. Renshaw's  
16 whole and bottom line point was that we would postpone this  
17 decision making to a different date, which in fact, speaks to  
18 Condition 18, which sets the time limit, so I think we're all on  
19 the same page there. So perhaps we would -- Ms. Renshaw, maybe  
20 we would move to continue the decision making to a date, and I  
21 would suggest that we need not that much time, but perhaps  
22 the --

23 VICE CHAIRPERSON RENSHAW: What would you  
24 suggest?

25 CHAIRPERSON GRIFFIS: In March.

1 VICE CHAIRPERSON RENSHAW: March. That should  
2 give us enough time to review the material.

3 CHAIRPERSON GRIFFIS: Good. Does that satisfy  
4 everybody in terms of the motion language? Great, then I'll  
5 second that, as Ms. Renshaw has the motion. And any other  
6 clarifications or comments? Mr. Levy, did you get any good  
7 advice whispered in your ear?

8 MR. LEVY: Yes, I'm sorry. I just wanted to make  
9 sure I was clear before we proceeded.

10 CHAIRPERSON GRIFFIS: Oh, okay.

11 MR. LEVY: I'm good.

12 CHAIRPERSON GRIFFIS: You're sure?

13 MR. LEVY: Yes.

14 CHAIRPERSON GRIFFIS: Great. Then we have the  
15 motion and the second, and I would ask all those in favor aye.

16 (Vote.)

17 CHAIRPERSON GRIFFIS: And opposed? Okay.  
18 Therefore, we will continue this decision making to the decision  
19 making meeting in March, which if I'm not mistaken with my math  
20 and calendar, which isn't great, frankly, but just continues the  
21 60 day time period from December 14th to several weeks. We were  
22 looking at mid-February that that would kick in, and we're just  
23 postponing it until March 1st, so there that is.

24 MR. HART: Staff records the vote as 4-0. Ms.  
25 Renshaw making the motion, Mr. Griffis seconded, to extend the

1 time on this case to its March 5th Public Meeting.

2 CHAIRPERSON GRIFFIS: March 5th. Thank you very  
3 much for giving us that.

4 COMMISSIONER MITTEN: Mr. Hart, could you just  
5 clarify. Was the fourth affirmative vote from Mr. Franklin by  
6 proxy?

7 MR. HART: Yes. It should be read in. The vote  
8 would be 4-0. Ms. Renshaw making the motion, Mr. Griffis, Mr.  
9 Levy and the fourth vote by proxy from Mr. Franklin.

10 COMMISSIONER MITTEN: Thank you.

11 MR. HART: Yes. The next case is Application  
12 Number 16679 of Spring Valley-Wesley Heights Citizen's  
13 Association, pursuant to 11 DCMR 3100 and 3101 from the  
14 administrative decision of the Zoning Administrator, Zoning  
15 Review Branch, department of Consumer and Regulatory Affairs in  
16 the issuance of Building Permit B430091 that was issued on  
17 October 11th, 2000 to Charles A. Sisson for construction of a  
18 partial front porch, rear addition, and accessory garage to an  
19 existing dwelling in a WHOD/R-1-A District at premises 3020 43rd  
20 Street, N.W., Square 1621, Lot 70.

21 On August 27, 2001, Charles Sisson, the owner of  
22 the property which is the subject of this appeal, submitted a  
23 motion to the Board to dismiss the appeal as moot. In a letter  
24 dated September 7, 2001, the Appellant, the Spring Valley-Wesley  
25 Heights Citizen's Association filed a motion to deny the motion

1 to dismiss the appeal as moot, which was submitted by the  
2 property owner, Charles Sisson.

3 At its October 2nd, 2001 Public Meeting  
4 additional submissions were requested from the Spring Valley-  
5 Wesley Heights Association, the Zoning Administrator and the  
6 Appellant. The scheduled to decide the motion to dismiss the  
7 appeal at its January 2nd, 2002 Public Meeting. The hearing on  
8 the appeal is scheduled for January 15th, 2002.

9 Participating Board Members are Geoffrey Griffis,  
10 Anne Renshaw, David Levy and Karen Mitten. The motion is now  
11 before the Board.

12 CHAIRPERSON GRIFFIS: Thank you, Mr. Hart. Okay.

13 Board Members, we have -- obviously, Mr. Hart has just  
14 indicated the motions before us, one to dismiss the appeal as  
15 moot, and then a motion to deny the motion of the appeal to  
16 dismiss as moot.

17 We have -- obviously, all Board Members have  
18 taken time to look at the submissions on this. I'm going to,  
19 perhaps, cut to the chase on this and open this up for  
20 discussion, but I think in light of some of the information that  
21 we have on this, I would think that we should entertain  
22 postponing action on the motion based on the fact that this is  
23 going through Court of Appeals process, and that would then lead  
24 us to discussion on the schedule of the actual appeal on this.

25 I would take note that, and I would ask -- others

1 can make comments on this, that I have gone through each of the  
2 issues that are the basis of the appeal, and think that we have,  
3 or that I have been able to deliberate on those. But I think it  
4 is not, in fact, worth the time at this point to go through and  
5 define an appeal that may be redefined based on actions of Court  
6 of Appeals.

7 So that being said, I would -- let me just put  
8 that into the motion, that we postpone, I guess, the legal --  
9 well, anyway, that we postpone action on the -- we'll hold it in  
10 abeyance. I guess we could do that.

11 COMMISSIONER MITTEN: I think we could. We have  
12 -- I guess we have two things we need to decide about. One is  
13 taking up the motion to dismiss, which we could defer.

14 CHAIRPERSON GRIFFIS: Right.

15 COMMISSIONER MITTEN: And then there's the issue  
16 of the hearing.

17 CHAIRPERSON GRIFFIS: Yeah. No, no, no. Exactly  
18 so. I was just looking for verbiage, but I would move that we  
19 defer action on the motion to dismiss the appeal.

20 COMMISSIONER MITTEN: Second.

21 CHAIRPERSON GRIFFIS: Any discussion on that?  
22 Okay. All those in favor, aye.

23 (Vote.)

24 CHAIRPERSON GRIFFIS: Opposed? Okay.

25 MR. HART: Staff would record the vote as 4-0 to

1 defer action on the motion. The motion was made by Mr. Griffis  
2 and seconded by Ms. Mitten.

3 CHAIRPERSON GRIFFIS: Good. Thank you, Mr. Hart.

4 I mean that does, as I say, tie them to the schedule of the  
5 appeal hearing. I don't think we need to take action on the  
6 motion of -- addressing the motion to dismiss, because we're  
7 actually deferring that, unless the Board Members want to  
8 actually take a -- defer motion on the second motion to deny the  
9 motion to dismiss the appeal of the moot. Okay. In which case,  
10 I would move that we postpone the hearing date on the appeal and  
11 not set a date at this point, and tie it to the Court of Appeals  
12 schedule that we might have some ruling or information from them  
13 prior to scheduling it.

14 COMMISSIONER MITTEN: I'll second that, if that's  
15 the motion.

16 CHAIRPERSON GRIFFIS: Thanks. Any other  
17 questions or comments on that? Clarifications? Very well, all  
18 those in favor.

19 (Vote.)

20 CHAIRPERSON GRIFFIS: Opposed?

21 MR. HART: The Staff would record the vote as 4-0  
22 to postpone the hearing on the appeal, and tie it to the Court  
23 of Appeal -- pending Court of Appeal action. Mr. Griffis made  
24 the motion, Ms. Mitten seconded.

25 CHAIRPERSON GRIFFIS: Thank you, Mr. Hart. I

1 think that's all we have to deal with on that at this point. Is  
2 that correct?

3 COMMISSIONER MITTEN: Just for clarification, we  
4 might want to say that its the action in the Court of Appeals  
5 related to Appeal Number 16405.

6 CHAIRPERSON GRIFFIS: Oh, yeah. Good.

7 COMMISSIONER MITTEN: Okay.

8 CHAIRPERSON GRIFFIS: Okay.

9 MR. HART: Okay.

10 CHAIRPERSON GRIFFIS: Whenever you're ready, Mr.  
11 Hart, we will entertain the last case of the morning session.

12 MR. HART: Just a second.

13 CHAIRPERSON GRIFFIS: Take your time.

14 MR. HART: Just a minute, please. The final case  
15 is Appeal Number 16716 of Nebraska Avenue Neighborhood  
16 Association, pursuant to DCMR Sections 3100 and 3101 from the  
17 Administrative Decision of the Zoning Administrator, Department  
18 of Consumer and Regulatory Affairs, and the issuance of a  
19 Building Permit B435464, issued on March 3rd, 2001 to Sunny and  
20 Louis Keyes, et al, to permit the construction of a 102 unit  
21 handicapped assisted living apartment residence in an R-2 and R-  
22 5-D District at premises 5111, 5113, 5117, 5119, 5121, and 5125  
23 Connecticut Avenue, N.W., and 5201, 5203, 5202 Chevy Chase  
24 Parkway, N.W. That's in Square 1989, Lots 49-57, and 161.

25 The two motions before the Board were listed

1 -- were filed in October prior to the Zoning Commission's sua  
2 sponte review of the case. Included in your material is a  
3 description of the Commission's determination.

4 Participating Board Members are Mr. Griffis, Mr.  
5 Levy, and Ms. Mitten. The two motions are now before the Board.

6 CHAIRPERSON GRIFFIS: Thank you, Mr. Hart.

7 VICE CHAIRPERSON RENSHAW: Mr. Chairman.

8 CHAIRPERSON GRIFFIS: Yes.

9 VICE CHAIRPERSON RENSHAW: I will now leave the  
10 dias as I am recused from this case.

11 CHAIRPERSON GRIFFIS: Very good. Thank you very  
12 much, Ms. Renshaw. That doesn't mean you can start lunch early  
13 though.

14 Okay. As Mr. Hart has stated it, we do have two  
15 motions before us. One is for rehearing, and the other is for  
16 reconsideration, so I would open the floor to Board Members.

17 COMMISSIONER MITTEN: Mr. Chairman, I'd like to  
18 attempt to address the motions and the materials that have been  
19 submitted by the Appellant, and I just want to begin by saying  
20 that I'm going to address them in the order in which they were  
21 provided to us in the submissions, but I recognize the fact that  
22 there's two requests before us, and I'm not going to  
23 differentiate which issue relates to which one, but there are  
24 issues for rehearing that relate to new evidence that the  
25 Appellant would like to have considered. And in order for us to

1 grant a motion for a rehearing, that evidence would have to have  
2 -- there would have been no opportunity to reasonably have  
3 presented that at the hearing. And then the other issue, as it  
4 relates to reconsideration, is whether or not there was an error  
5 committed by the Board of Zoning Adjustment, so I'll begin on  
6 page --

7 CHAIRPERSON GRIFFIS: Wait. For clarity, we will  
8 break them out in terms of our motion, in terms of action on --

9 COMMISSIONER MITTEN: Yes. I'm just not going to  
10 differentiate the issues --

11 CHAIRPERSON GRIFFIS: Good.

12 COMMISSIONER MITTEN: -- as I go through this.

13 CHAIRPERSON GRIFFIS: I see.

14 COMMISSIONER MITTEN: So in the October 25th,  
15 2001 letter from the Nebraska Avenue Neighborhood Association,  
16 on page 2, there's an issue related to the calculation of that  
17 portion of the basement that contributes to the FAR calculation,  
18 and the fact that there is differing information between what  
19 the Office of the Zoning Administrator relied on and the  
20 Appellant's calculation. And when we have a difference in terms  
21 of the evidence that's been presented, we have to credit one  
22 party or another, or else attempt to glean additional  
23 information. And when -- based on the manner in which the  
24 Appellant's expert described their determination of what was  
25 basement and what was cellar, the manner in which they did that

1 was reliant on the contours of the site, which is not the point  
2 of measurement. And I think in that instance, we properly  
3 credited the representatives from the Zoning Administrator's  
4 Office as having employed the proper method of calculation. And  
5 that is -- and my opinion, that's why we concluded that their  
6 calculation was correct.

7 Point B, which is at the top of page 3, which  
8 relates to the roof structures and the new evidence that related  
9 to some information that was in the Zoning Administrator's  
10 response to the BZA, that issue is really moot at this point  
11 because the jurisdiction over the elevator penthouse has been  
12 taken, in effect, by the Zoning Commission. And I think we just  
13 need to make it clear, and we can perhaps do that at the end of  
14 this, Our views about the stairwell penthouse. But the  
15 precedents that the Zoning Administrator mentioned related  
16 exclusively to the architectural embellishment of the tower, and  
17 that's all been taken care of by the sua sponte review.

18 The issue about the referral from the Office of  
19 Planning has also been taken care of by the actions of the  
20 Zoning Commission on the sua sponte. The issue about where to  
21 measure from the front of a building for corner lots is -- while  
22 some would prefer greater clarity on that, that's clearly an  
23 area where the Zoning Administrator has been given discretion  
24 because individuals can choose where the front of the building  
25 is on a corner lot.

1           There's an issue that's been raised as it relates  
2 to the subdivision of the property, which Lot 162, which is the  
3 new lot, was not the lot configuration on appeal. But I did  
4 review the record, and there was no lack of clarity about the  
5 area that was being considered as the R-5-D area. It was  
6 approximately 23,107 square feet, and that is the area that is  
7 from Lots 49-57. At least as it relates to this appeal, there  
8 is no concern on my part that that calculation was made in  
9 error. And then there were some issues that were raised by the  
10 ANC, concerns over the amount of detail in the drawings as it  
11 relates to the elevator machinery.

12           To conduct a zoning review, it's not necessary to  
13 know exactly where the machinery is going to be. We assume that  
14 they can configure the machinery appropriately for the roof  
15 structure that's presented, and that's really all that we need  
16 to know, so that the completeness of the drawings in that  
17 respect were certainly adequate for zoning review. And then  
18 there was an issue raised by the ANC, as well, as that related  
19 to a comment in the decision that stated that there is no ANC  
20 report in this case. And I want to make two things clear. One  
21 is, we're certainly in receipt of the ANC's letter dated June  
22 25th, 2001, where they were basically joining with the Nebraska  
23 Avenue Neighborhood Association, and we considered them as the  
24 Appellant. It wasn't that -- we did not consider that a  
25 separate ANC report. We considered that -- all of the

1 Appellant's case as being representative of the ANC. And  
2 accordingly, afforded the entire submission by the Appellant,  
3 the great weight to which the ANC is entitled. So while  
4 semantically, there may be some lack of precision or some area  
5 for misunderstanding, I think it's clear, particularly from the  
6 way -- the detailed manner in which each of the points raised by  
7 the Appellant in this case was dealt with in the order, that we  
8 clearly considered each point, and which is what's required by  
9 the regulation as it relates to the ANC, and the great weight  
10 standard.

11 CHAIRPERSON GRIFFIS: That seems to summarize,  
12 actually, the motion for rehearing. Do you want to move things  
13 along, state a motion in regard to that, or do you want to  
14 continue on?

15 COMMISSIONER MITTEN: No. I think I've covered  
16 all the points that I wanted to cover.

17 CHAIRPERSON GRIFFIS: Okay.

18 COMMISSIONER MITTEN: I'd be happy to make a  
19 motion to deny the request for rehearing, in light of the fact  
20 that there is no evidence. There's not been a proffer of any  
21 new evidence that could not reasonably have been presented at  
22 the hearing.

23 CHAIRPERSON GRIFFIS: Very good. I would second  
24 that. Any discussion, questions? All those in favor of the  
25 motion.

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(Vote.)

CHAIRPERSON GRIFFIS: And opposed? Okay.

MR. HART: The Staff would record the vote as --  
to deny the request for rehearing as 4-0. The motion was by Ms.  
Mitten, seconded by Mr. Griffis. Correction. 3-0.

CHAIRPERSON GRIFFIS: Good. Thank you. And, Ms.  
Mitten, you would indicate that for the motion for  
reconsideration, it's actually redundant in the information that  
you've already covered as you stated when you started. We have  
the elevator penthouse, the FAR requirements for the basement  
and also the rear yard set back. Is that correct?

COMMISSIONER MITTEN: Yes.

CHAIRPERSON GRIFFIS: Okay. And that --  
actually, the rear yard was also indicated -- it touched upon  
the side yard setback, and I mean, I would concur with most of  
what you were saying in terms of one, the great weight that was  
given the ANC, given the opportunity, and obviously were heard  
in their testimony. FAR, I think you've adequately addressed,  
the penthouse issue.

One item outside of the sua sponte was the stair  
enclosure on the roof. And I think if we recall correctly, that  
we did, in fact, address that. We did look at it quite  
substantially. If I'm not mistaken, Mr. Levy, you actually had  
them walk through the roof plan several times on that. And  
although our order may not show great precision in its wording,

1 certainly in the hearing and our deliberation, it was addressed.

2 And that is the fact that the plans did, in fact, create the  
3 enclosure by which the stairwell was behind, and therefore, it  
4 was not a large issue. And if you need to add to that, it's  
5 fine, of course.

6 MR. LEVY: Well, no. I would concur that we did  
7 deliberate at length on that point.

8 CHAIRPERSON GRIFFIS: Okay. Well, then I would  
9 move that we deny the motion for reconsideration. Well -- and  
10 ask for a second.

11 MR. LEVY: I'll second.

12 CHAIRPERSON GRIFFIS: Thank you. Any further  
13 discussion or any other points that we need to jump into on  
14 that, Board Members? Okay. Then I would ask that all those in  
15 favor of the motion signify by saying aye.

16 (Vote.)

17 CHAIRPERSON GRIFFIS: And opposed?

18 MR. HART: The Staff will record the vote to deny  
19 the motion for reconsideration as 3-0-1. Mr. Griffis made the  
20 motion, Mr. Levy and Ms. Mitten. Ms. Renshaw recused.

21 CHAIRPERSON GRIFFIS: Indeed. Thank you very  
22 much, Mr. Hart, and that will then conclude our morning session.  
23 Thank you very much.

24 (Off the record at 12:41 p.m.)

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