

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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SPECIAL PUBLIC MEETING

+ + + + +

TUESDAY

JANUARY 14, 2003

+ + + + +

The Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:00 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS, Chairperson
ANNE MOHNKERN RENSHAW, Vice Chairperson
CURTIS ETHERLY, JR., Board Member

ZONING COMMISSION MEMBER PRESENT:

JOHN PARSONS, Commissioner

BZA STAFF PRESENT:

BEVERLEY BAILEY, Office of Zoning
CLIFFORD MOY, Office of Zoning
JOHN NYARKU, Office of Zoning

OTHER AGENCY STAFF PRESENT:

ARTHUR JACKSON, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

COREY BUFFO, Esq.

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

9:28 a.m.

CHAIRPERSON GRIFFIS: On the record. Good morning, ladies and gentlemen. I would like to call to order the Special Public Meeting of 14 January 2003. I think I will save introductions and good mornings to Staff and the Board until our Public Hearing is open so that we can move right ahead into our Public Meeting. Ms. Bailey, when you are ready, we can assess the schedule.

MS. BAILEY: Mr. Chairman, Members of the Board, good morning.

CHAIRPERSON GRIFFIS: Good morning.

MS. BAILEY: Mr. Moy is going to be handling the meeting, Mr. Chairman, and I will be doing the hearing.

CHAIRPERSON GRIFFIS: Very well.

MR. MOY: Good morning, Mr. Chairman, Members of the Board. The first case this morning for this Public Meeting is Application Number 16927 of The Public Welfare Foundation and Manna Incorporated, pursuant to 11 DCMR --

CHAIRPERSON GRIFFIS: I'm sorry. Perhaps you don't need to read that entire piece if we'd have some indication of what we are doing.

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1 MR. MOY: Terrific. Yes, Mr. Chair, we
2 received notice from the Applicant of their request to
3 continue this meeting in order to allow them more time
4 to submit information requested by the Board from its
5 last meeting on December 10.

6 CHAIRPERSON GRIFFIS: So they are
7 requesting a reschedule of the decision making on
8 that. How did that request come to the Board?

9 MR. MOY: That came to the Board from the
10 Applicant by telephone, sir. In that telephone
11 conversation, they said that they would send a fax in
12 writing to that effect.

13 CHAIRPERSON GRIFFIS: Okay. We'll look
14 for that then. As soon as it comes in it will be put
15 into the record. Just for the remembrance of the
16 Board, we had said that we would be flexible in terms
17 of when we decided. We were trying to expedite it for
18 their benefit, but I have no problem with putting it
19 off unless others have any objection. Not noticing
20 any, I think we can do that. What dates do we have
21 available?

22 MR. MOY: We're looking at the morning of
23 February 4, sir, to reschedule this case.

24 CHAIRPERSON GRIFFIS: Sounds good to me.
25 Are you guys doing anything on the fourth? All right.

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1 We'll all meet here at 9:00. We will give indication
2 to the Applicant then that it's rescheduled for
3 February 4 and reiterate also what the Board was
4 looking for in terms of submissions. Correct?

5 MR. MOY: Yes, sir. Staff will take care
6 of that.

7 CHAIRPERSON GRIFFIS: Very well. Thank
8 you.

9 MR. MOY: The next case then is
10 Application Number 16920 of William Bass, pursuant to
11 11 DCMR 3104.1, for a special exception to establish
12 an art gallery, first floor and a portion of the
13 second floor, within an existing apartment house under
14 section 361, in the DC/D/R-5-B District at premises
15 1629 21st Street, N.W. That's in Square 93, Lot 122.

16 We have two preliminary matters here, Mr.
17 Chairman. The first one is Mr. Sussman has submitted
18 a petition of opponents to the case application. That
19 is Exhibit 73 that was received by the Board on
20 December 13, 2002. In Mr. Sussman's cover letter, he
21 explains that this petition was supposed to be
22 delivered to the Board at its hearing on November 26,
23 2002, but was not delivered. So basically he's asking
24 for a waiver of the Board to allow the petition to be
25 entered into the record.

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1 CHAIRPERSON GRIFFIS: What does that mean
2 "it wasn't delivered?" Did they not get it here or
3 did we not receive it?

4 MR. MOY: I'm not clear. I just think
5 that it just wasn't submitted.

6 CHAIRPERSON GRIFFIS: Okay.

7 MR. MOY: Unless there's a further
8 explanation in Exhibit 23 that I've missed. While you
9 are deliberating on that --

10 CHAIRPERSON GRIFFIS: It's 73.

11 MR. MOY: Yes, 73. Correct. While you
12 are reading that, the second matter is a January 8,
13 2003 letter that you have in your case folder from the
14 Applicant under Stephen Gell, the attorney
15 representing which basically is his addition to
16 proposed draft, findings of fact, and conclusions of
17 law. Basically in his letter it states, although
18 Staff views it as an addendum to his proposed findings
19 of fact and where he stays, and I'll read for the
20 record his letter.

21 "The Office of Planning dated January 3,
22 2003 provided the Board with a set of five conditions
23 which we had submitted to the office during our
24 discussions. I note that we had neglected to include
25 the conditions regarding operations of the gallery and

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1 residential portions, security lighting, and tenant
2 rules in our draft, findings of fact, and conclusions
3 of law.

4 The purpose of this letter is simply to
5 acknowledge that if the special exception is granted
6 we would be bound by those conditions since we had
7 incorporated them in our neighborhood cooperation
8 agreement." That's it. I only mention that because
9 it came to the office in January 8 which would have
10 been late.

11 CHAIRPERSON GRIFFIS: Okay. So we need to
12 waive in Exhibit Number 73 and Exhibit Number 77. Is
13 that correct?

14 MR. MOY: Yes, sir.

15 CHAIRPERSON GRIFFIS: Board Members, any
16 discussion on that? Is the party in this case
17 present? You are the Applicant. Are you not?

18 PARTICIPANT: (Inaudible.)

19 CHAIRPERSON GRIFFIS: The party in
20 opposition. Indeed. You do not need to be on the
21 record. I will repeat what you gesture to me. Did
22 you receive all of this information? Were you served
23 this?

24 PARTICIPANT: (Inaudible.)

25 CHAIRPERSON GRIFFIS: Yes. So you were in

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1 receipt of that. Mr. Gell, you are in receipt of all
2 the other information in the record at this point.

3 MR. GELL: I believe so.

4 MS. BAILEY: Mr. Gell, please come to a
5 microphone.

6 CHAIRPERSON GRIFFIS: You've seen Exhibit
7 73, the petition.

8 MR. GELL: I'm not sure. I don't know
9 anything about a petition. I know that there was a
10 letter that Mr. Sussman had submitted with some
11 additional information that the Board had asked for.
12 But I don't know anything about a petition.

13 CHAIRPERSON GRIFFIS: Did you receive
14 Exhibit Number 76 which is the responsive argument by
15 opponents?

16 MR. GELL: I did get that, yes. By the
17 way, until the very last thing, the opponents had
18 never sent me anything.

19 CHAIRPERSON GRIFFIS: Okay.

20 MR. GELL: I've had to find everything in
21 the record myself.

22 CHAIRPERSON GRIFFIS: That's okay.

23 MR. GELL: So I'm a little hazy on things.

24 CHAIRPERSON GRIFFIS: That's all right.

25 Let me get down to specifically what we need to figure

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1 out. That is in that Exhibit Number 76 was attached,
2 and this is the heading on it, "a request to the Board
3 of Zoning Adjustment to deny a special exception to
4 establish an art gallery at 1629 21st Street, N.W."
5 Do you recognize that?

6 MR. GELL: No. I have never seen that.

7 PARTICIPANT: (Inaudible.)

8 CHAIRPERSON GRIFFIS: The party in
9 opposition is asking what the date of it is. It's not
10 dated. I have a stamped "received" in the Office of
11 Zoning of December 13.

12 MR. GELL: I had seen I think a couple of
13 submissions of petitions earlier that had been in the
14 file and I believe for some time. I think they added
15 up to about 32 or 33, something like that.

16 CHAIRPERSON GRIFFIS: "Added up to 32 or
17 33" what?

18 MR. GELL: Different names. Some of them
19 were repeated, but in terms of different names, there
20 were about 33 names.

21 CHAIRPERSON GRIFFIS: This has 14
22 signatures on it.

23 MR. GELL: If that was one of the ones
24 that was part of the 33, then perhaps I had seen it.
25 But nothing beyond that.

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1 CHAIRPERSON GRIFFIS: Okay. Well, there
2 it is. Do you, Mr. Gell, find that this if waived in
3 would prejudice your case in any way?

4 MR. GELL: Well, I think we've made a very
5 strong point that the vast majority in the
6 neighborhood have supported us.

7 CHAIRPERSON GRIFFIS: Don't argue. What
8 I'm asking is if we accept --

9 MR. GELL: Yes it would.

10 CHAIRPERSON GRIFFIS: This would in fact
11 prejudice your case, and you need more time. We
12 should not decide this today, and I'll distribute
13 copies of the petition to you.

14 MR. GELL: I think we would like to have a
15 decision today. Are you asking whether we're going to
16 oppose the submission?

17 CHAIRPERSON GRIFFIS: Right. Yes.

18 MR. GELL: I don't think it's going to
19 make a whole lot of difference frankly.

20 CHAIRPERSON GRIFFIS: Okay. I think that
21 answers my question. Board Members, any discussion?
22 I would move that we waive and receive Exhibit Number
23 77 and Exhibit Number 73 unless others have
24 difficulty. Let me just get a quick second on that
25 and we'll expedite this whole thing.

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1 COMMISSIONER PARSONS: Second.

2 CHAIRPERSON GRIFFIS: Thank you. All in
3 favor.

4 (Chorus of ayes.)

5 CHAIRPERSON GRIFFIS: And opposed.

6 (No response.)

7 CHAIRPERSON GRIFFIS: Very well. Thank
8 you, Mr. Gell. Mr. Moy, anything else we need to
9 figure out before we jump right into this?

10 MR. MOY: No. I think you are ready to
11 jump into this.

12 CHAIRPERSON GRIFFIS: Fabulous. The gates
13 are open, folks. This is an interesting case
14 obviously. It brought up a lot of large issues,
15 general topics, and very specific topics. I would
16 like to have some discussion then, a quick motion that
17 we would speak to so we can move this on.

18 Let me just reiterate what I think are
19 some of the important points that would need to be
20 discussed. Clearly an opposition to this was -- Mr.
21 Gell?

22 MR. GELL: Excuse me, Mr. Chairman. We
23 have rethought our concern about the additional
24 petitions if they are late. I think we would oppose
25 them, but I think we would like to have some time to

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1 submit something to put it on the record.

2 CHAIRPERSON GRIFFIS: What do you mean
3 "submit something?"

4 MR. SALTZBURG: I'm Stephen Saltzburg
5 representing the opponents. We will withdraw that
6 exhibit. I believe it's 73.

7 CHAIRPERSON GRIFFIS: Correct.

8 MR. SALTZBURG: Therefore, you have no
9 reason to put this over again.

10 CHAIRPERSON GRIFFIS: Okay. That being
11 said, Board Members will disregard the petition. We
12 can remove that from the file. Thank goodness none of
13 us read it yet. Then I think we can resume in terms
14 of our deliberation on this and the decision making.
15 Again, I would just like to highlight some of the
16 headings that I think are important in order for us to
17 have substantive discussion on this.

18 First of all, in opposition to this
19 application were the specific issues of increased
20 pedestrian traffic as a negative impact or adversely
21 affecting the use of neighboring properties.
22 Similarly was vehicular traffic which attendant to
23 that of course is parking, both very important on
24 their own but clearly joined.

25 Events were another issue in opposition to

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1 this application. Events in terms of population of
2 people, time, the noise, the trash, the public
3 drinking and disorderliness. I think we can address
4 that. Then with the events also go the noise and the
5 impact that the noise has on that.

6 The larger more general I think issues
7 that were discussed in opposition to this application
8 was that of residential character and how this would
9 in fact erode the residential character along R Street
10 if not the implication and the direct statements were
11 made the entire neighborhood. Office of Planning
12 talked about a tipping point by which increased non-
13 residential uses would actually tip the neighborhood
14 over and become entirely commercial.

15 I think it also is clear that there are
16 folks that could be lined up in support, and there are
17 folks that could be lined up in opposition. We do
18 have ANC. We do have the DuPont Circle Association
19 and the Office of Planning rendering their opinion not
20 supportive.

21 We have two Council Members. Mr.
22 Mendelson maintained his nonsupport of it. We had a
23 second letter from Mr. Evans that directly indicated
24 that we should take under our advisement and
25 deliberation those in support of this application as

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1 well as those in opposition. Yes, Ms. Renshaw.

2 VICE CHAIRPERSON RENSHAW: But he did not
3 pull his letter.

4 CHAIRPERSON GRIFFIS: No. Indeed not. He
5 stands on the record not supporting and wanting us to
6 look at those who support. I think in context
7 somewhat in terms of the regulations in the zoning and
8 the essential harmony we have this located to an
9 adjacent commercial corridor, a very successful one, a
10 very busy one, that's Connecticut Avenue.

11 There's an awful lot in the record talking
12 about the expansion. Starbuck's was brought up and
13 Tea-ism and some of the other retail on Connecticut
14 Avenue which is clearly in a commercial zone and is a
15 matter of right and is not under this application.
16 There was an awful lot of discussion about the
17 Phillips and its expansion and its reduction of
18 residential units. But we also should take under note
19 that museums are a matter of right in this.

20 Also we look at specifically this gallery
21 on its own. Clearly there's been offered conditions.

22 There are three parking spaces that have been
23 testified to that could be used for gallery patrons.
24 It is adjacent to the DuPont Circle Metro. There was
25 testimony of the adjacent parking garages. I don't

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1 think any of us are fooled that DuPont Circle is a
2 busy area with a lot of traffic, and parking is a
3 problem as it is in many neighborhoods.

4 I think what is important for us to look
5 at is how this specific application for the addition
6 of a gallery would impact that and whether it would in
7 fact tend to affect adversely the use of the
8 neighboring properties. There is and I think it's
9 important to look specifically at the fact that this
10 is a residential unit building that is also being
11 maintained as such.

12 The square footage is changing. It is
13 cited in the last submission the exact square footage
14 that we're looking at. I think that's also important
15 to deliberate upon. We have an over 5,600 square foot
16 structure. It's indicated in the submission that
17 1,200 square feet of which would be used for the
18 Applicant's gallery. There is an existing gallery in
19 that area.

20 So those are highlights. I think when we
21 look at character of the neighborhood it's also
22 important, as the record shows, to look at what is the
23 character of the neighborhood and to look at the
24 importance or non-importance of the character of
25 galleries in the neighborhood and how that fits into

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1 the fabric. I may digress into my opinion on this.
2 So with that, I'd open it up and have people start and
3 pick a topic. Otherwise, I will continue.

4 COMMISSIONER PARSONS: Is there anything
5 left to say?

6 CHAIRPERSON GRIFFIS: There's a whole lot
7 left to say. But nonetheless there it is. Anyone
8 else? Mr. Parsons.

9 COMMISSIONER PARSONS: Well, I'm not sure
10 I'm going to address all of your points. There are
11 many.

12 CHAIRPERSON GRIFFIS: No.

13 COMMISSIONER PARSONS: Let me first say
14 I'm not persuaded by any of the arguments that this
15 small 1,200 square foot addition to the neighborhood
16 would tip any balance which was of course the thrust
17 of the opposition's case. It just seems to me and
18 evidence was brought into the record that galleries
19 are in flux at all times. They are closing and
20 opening. I'm not sure what that says about the
21 business, but that's not our business either.

22 It was brought to our attention that five
23 galleries have apparently closed here in the last ten
24 years and have been converted to residential. At the
25 same time, this is a mixed use community. It has

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1 embassies and museums and residents. After all, it is
2 R-5-B and that's why we're here.

3 On the specifics, I think that for this
4 particular gallery, the performance of the operation
5 of the gallery is probably what everyone would wish
6 all galleries would be in their neighborhood. It's
7 not the kind of gallery that generates a lot of
8 traffic, pedestrian or vehicular, because of its type
9 of operation.

10 I'm a little confused by Mr. Gell's memo.
11 We'll get on with that later. He's placed eight
12 conditions into his draft but apparently wants to add
13 more. I'm not sure what that means.

14 It's obvious that we have a split
15 community. We have 65 residents that have signed an
16 agreement saying it's okay and petitions coming in
17 continuously that says it's not okay. So I think most
18 of the arguments that at least I've heard persuaded me
19 that we should approve this application.

20 CHAIRPERSON GRIFFIS: Thank you, Mr.
21 Parsons. For clarity, and I know you understand that
22 the special exception if granted would not be tied
23 specific to this gallery. Although it was important
24 to hear the function.

25 COMMISSIONER PARSONS: Sure. But the

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1 conditions that we place on it -- It is not every
2 gallery.

3 CHAIRPERSON GRIFFIS: Indeed. Exactly.
4 The conditions would mitigate the impact of any
5 gallery that would go in there.

6 COMMISSIONER PARSONS: Correct.

7 CHAIRPERSON GRIFFIS: Good. Others?

8 MEMBER ETHERLY: Mr. Chairman, good
9 morning. Good morning to my colleagues. My apologies
10 for running a little late today. At the risk of going
11 over prior commentary, I'll associate myself with the
12 remarks of my colleague Mr. Parsons.

13 You will also recall that there was
14 testimony about the concern of traffic, both
15 pedestrian and otherwise. There was some detailed
16 reference to open houses and those types of practices
17 that oftentimes galleries engage in. There was
18 concern about service, alcoholic beverages or other
19 items that might be served at those instances.

20 I didn't find that testimony of those
21 concerns to be overwhelmingly supported by the record
22 given the fairly directed nature oftentimes in which
23 the advertising or notices about those types of events
24 are handled. So I wasn't too concerned that we'd see
25 a large ground swell of pedestrian traffic or

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1 otherwise at these types of events or for that matter
2 the operation of the gallery in general. I just
3 wanted to be sure to note that particular concern.

4 As Mr. Parsons referenced, there was
5 concern about impact on the residential character of
6 the community. I believe it was noted in the draft,
7 conclusions, and findings submitted by the Applicant
8 that was referenced in the ANC presentation. I too
9 was not swayed by that argument as well.

10 We are already I believe are in a zone
11 that permits office use. So we're looking at a mixed
12 use neighborhood at this particular juncture already.

13 I just don't see this particular operation tipping
14 the balance as was alleged by the ANC towards changing
15 substantially that character. Thank you very much,
16 Mr. Chair.

17 CHAIRPERSON GRIFFIS: Thank you. Office
18 use may be a little extreme in terms of the R-5-B.
19 But I think what you meant is the higher intensity use
20 such as museums.

21 MEMBER ETHERLY: That's correct, Mr.
22 Chairman. Thank you. I misspoke.

23 CHAIRPERSON GRIFFIS: Good.

24 VICE CHAIRPERSON RENSHAW: Mr. Chairman
25 and colleagues, I am on the opposite side of the fence

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1 because I was persuaded by the opposition or opponents
2 to the Applicant in a very well developed, well
3 written commentary that it has provided the Board. I
4 see that the neighbors, the opponents are trying hard
5 to hold on to the residential side of their
6 neighborhood.

7 Yes, it is mixed use, but it is changing.

8 Here is an Applicant making what I feel is a business
9 decision to locate in that particular building. It
10 changes the mix of the building and increases the
11 percentage of space allotted to commercial aspects.
12 It's a double decker business establishment now in
13 that building where you have an existing gallery in
14 the basement.

15 Now you have a perhaps benign but yet a
16 gallery open to the public on the first and part of
17 the second floor. One is going to feed off the other.

18 So hence a business decision that it was a good
19 location and again close to the Phillips gallery.
20 That's where the traffic is going to come from I
21 believe more than any other place.

22 I think that the neighbors are on point
23 when they talk about some adverse effects. That is
24 the pedestrian traffic, the traffic in general. We're
25 talking about limiting perhaps the number of people

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1 into this gallery at 40 and yet there are only two
2 spaces out of three spaces that can be assigned to
3 gallery use.

4 Therefore, they are going to have to rely
5 on folks using the Metro. I don't think that sending
6 out a little notice with invitations of "parking is
7 limited, please use the Metro" is going to do much to
8 people. If they want to drive, they are going to
9 drive. They are going to first start with looking for
10 a place to park in the neighborhood and then perhaps
11 be forced to a parking garage. That's my own cut on
12 it.

13 The opponents have talked about noise, the
14 First Friday events which are bothersome to these
15 folks. Here's one more gallery in the neighborhood
16 who will be inviting in First Friday people. While it
17 sounds like a fun type of event it has, and there is
18 evidence in the case that these events get out of hand
19 with folks carrying cups from place to place, and
20 bottles on lawns, et cetera.

21 So I don't think it is, shall we say, as
22 neat for a part residential neighborhood to have yet
23 another gallery. There are 16 in the neighborhood.
24 That's a lot. They come and go. That's the business.
25 But here is just one more, the change of that

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1 building with two galleries, not one. I find that
2 this is tending toward tipping the balance.

3 CHAIRPERSON GRIFFIS: Good. Thank you
4 very much, Ms. Renshaw. I want to address quickly the
5 First Friday and the testimony that came in about the
6 drinking. I would not and I don't think any Board
7 Member would like to have our front lawns littered
8 with beer bottles and cups, et cetera, although it
9 happens in my neighborhood.

10 But clearly it's not something we would
11 advocate for. The point I think that should be
12 addressed with that is open containers of alcohol in
13 public ways are not legal. So there is a remedy for
14 that situation. I don't think that this Board no
15 matter what our action is advocates for that type of
16 activity. I think it's very important.

17 My understanding of First Fridays, and
18 frankly I've never been, seems to be more of a
19 sophisticated type of event. I think that if it isn't
20 happening ought to be brought back to that again.
21 It's a bit out of our jurisdiction. Although the
22 event itself clearly we need to take into account in
23 terms of our deliberation.

24 One of the pieces that I had in terms of
25 talking to the Office of Planning report is I think a

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1 little background, in the record, and there's a lot of
2 testimony about Phillips, what happened with Phillips,
3 and how the neighborhood organized, and who was a
4 part, and who was opposed. I found that important but
5 not definitive in terms of the information given.
6 Meaning, it didn't sway me one way or the other, but
7 it was interesting background.

8 Looking at the Office of Planning, there
9 seemed to be a lot of contradiction in past
10 recommendations but more importantly in terms of how
11 they viewed this case. It seemed to me that they
12 could have taken an idea of looking at this as frankly
13 a very urban type model of some of the older villages
14 or smaller city aspects we have on Connecticut Avenue
15 which of course is the commercial zoned area, retail
16 on the first floor and another use above that, making
17 it a mixed use.

18 So we talk about having density on top of
19 Metro and surrounding Metro with mixed use. Is this
20 not something of that model where we have a mixed use
21 in terms of a gallery which is actually a lower impact
22 than a retail or a restaurant might be and residential
23 units on top of it?

24 In terms of the tipping point, I think it
25 was very clear in the evidence on the record that in

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1 fact there's been an increase in residential units and
2 a decrease in galleries. I believe that was a
3 timeframe from '99 and 2000. I don't see how you make
4 that case even with the Phillips taking over the
5 apartment building, it was stated 13 or 15 units, when
6 we talk about the specific art galleries and the
7 number of units and the number of buildings that have
8 been converted.

9 The other piece to it is in terms of 361.5
10 where we talk about not adversely affect the present
11 character or future development of the surrounding
12 area. First of all, I don't see if this is approved
13 that it would affect the development of the
14 surrounding area. What I would take from that, and
15 perhaps it's my own interpretation, is the specific
16 building and how it would impact the future use of
17 that building.

18 The testimony on the record is that there
19 would be no modifications that would render this
20 building unable to return to full residential use. So
21 I think that in fact it does satisfy 316.5 in that
22 respect. Ms. Renshaw?

23 VICE CHAIRPERSON RENSHAW: Do you mean
24 361.5?

25 CHAIRPERSON GRIFFIS: Am I flipping

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1 numbers again?

2 VICE CHAIRPERSON RENSHAW: Yes you are.

3 CHAIRPERSON GRIFFIS: Thank you very much.

4 It's 361.5.

5 VICE CHAIRPERSON RENSHAW: In any case --

6 CHAIRPERSON GRIFFIS: We'll blame it on
7 the recorder when the transcripts come out.

8 VICE CHAIRPERSON RENSHAW: Well, we can't
9 do that. We correct the record. It's 361.5.

10 CHAIRPERSON GRIFFIS: Good.

11 VICE CHAIRPERSON RENSHAW: You cite the
12 regulation that it shall not adversely affect the
13 present character or future development of the
14 surrounding area. But what I see is that here is a
15 gallery placing itself in a building where there is
16 already a gallery. It is accelerating. It seems to
17 be that the change in that building has been
18 accelerated. It is now more commercial. It is not
19 over the 50 percent line in commercial, but it's
20 almost there. It's about 43 percent.

21 CHAIRPERSON GRIFFIS: So your opinion is
22 that in fact just adding a gallery on the level above
23 changes the character of the neighborhood.

24 VICE CHAIRPERSON RENSHAW: It does in a
25 building where there is already a gallery.

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1 CHAIRPERSON GRIFFIS: But how does that
2 change the character if there already is one?

3 VICE CHAIRPERSON RENSHAW: Therefore, you
4 are going to have more intense use of that corner
5 building because with events they are going to spin on
6 off the other. You are going to visit one gallery.
7 Those folks are not going to fade away down the block,
8 around the corner, over to Connecticut Avenue. They
9 are going to visit the other gallery.

10 CHAIRPERSON GRIFFIS: Right.

11 VICE CHAIRPERSON RENSHAW: So they are
12 going to be spending more time in that one location.

13 CHAIRPERSON GRIFFIS: Okay.

14 VICE CHAIRPERSON RENSHAW: I think that's
15 damaging.

16 CHAIRPERSON GRIFFIS: I appreciate that.
17 I think I fully understand your opinion. I think the
18 opposite opinion goes to the fact that maybe the
19 character of this neighborhood is not solely based but
20 is a large part based on the existence of galleries.
21 So looking at that, we need to factor in, and clearly
22 the Zoning Commission in its action in making this a
23 special exception did not say that the use was
24 precluded from this zoning but needed to be addressed
25 individually. That's exactly what we're doing.

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1 Others? Any other topics that we need to
2 hit on that we have not addressed or perhaps to be
3 redundant on issues that we've already addressed?
4 Anything else? Then I would entertain action if Board
5 Members --

6 COMMISSIONER PARSONS: Mr. Chairman?

7 CHAIRPERSON GRIFFIS: Yes.

8 COMMISSIONER PARSONS: I was going to move
9 that we approve this application with the
10 understanding we would talk about these conditions
11 that have been outlined.

12 CHAIRPERSON GRIFFIS: Very well. So you
13 move approval with conditions.

14 MEMBER ETHERLY: Seconded, Mr. Chairman.

15 CHAIRPERSON GRIFFIS: Thank you very much.
16 Let's go directly to the conditions.

17 COMMISSIONER PARSONS: Well, the
18 conditions specified in the Applicant's findings of
19 fact, conclusions of law, and draft order are one
20 through eight. I'm at somewhat of a disadvantage, and
21 maybe you all are because he mentioned then in a
22 letter dated January 8 that there was some exchange
23 with the Office of Planning.

24 I only have the second page of that
25 memorandum. That's probably my fault. I have numbers

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1 three, four, and five. One deals with security. I
2 see. Thank you. I don't know what happened to my
3 first page. Anyway, it appears to me that five, and I
4 shouldn't take them in reverse but I will, is
5 redundant to number five that's already in the order.
6 That's why I was a little confused about Mr. Gell's
7 memo. I guess we're supposed to mix and match and add
8 and so forth.

9 CHAIRPERSON GRIFFIS: Your confusion is
10 coming from five conditions of OP and how they mesh
11 with the proposed conditions of the Applicant.

12 COMMISSIONER PARSONS: Correct. Are these
13 OP's conditions or what? Why don't you continue while
14 I read them?

15 CHAIRPERSON GRIFFIS: Okay. I think we
16 should in fact look at the five conditions submitted
17 by the Office of Planning. They had indicated in some
18 of their submission and testimony that they had let's
19 say insecurities of how conditions might in fact be
20 enforced. We have addressed that numerous times. To
21 be very clear and direct, we should not condition any
22 order of special exception if we have concerns that
23 they could not be measured or in fact regulated and
24 enforced.

25 With that, I think it's probably more

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1 helpful to look at the Applicant's proposed eight
2 conditions knowing that we can look back for reference
3 on the Office of Planning's. They seem to be fairly
4 closely aligned. Let's start with number one on the
5 Applicant's which is "All gallery events will end at
6 9:00 p.m. or earlier."

7 MEMBER ETHERLY: Mr. Chair, just as a
8 matter of clarification, if I'm reading the Office of
9 Planning's December 27 amendment to its October 21
10 supplemental report, I believe what the Office of
11 Planning is referring to is documentation pursuant to
12 the neighborhood cooperation agreement. That was at
13 one point discussed between the Applicant and members
14 of the community.

15 That agreement was not ratified or agreed
16 to by any of the parties but was just used as a
17 discussion point at one instance if I'm correct. I
18 believe the Office of Planning report in continuing
19 the recommended denial of the application referenced a
20 number of those conditions from the neighborhood
21 cooperation agreement. But I agree with you that we
22 should probably simply look at, in addition to any
23 other conditions that members might come up with, the
24 Applicant's submission of those eight conditions as a
25 starting point.

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1 CHAIRPERSON GRIFFIS: Right.

2 MEMBER ETHERLY: Just as a matter of
3 clarification.

4 CHAIRPERSON GRIFFIS: Yes. I agree. If I
5 stated that these were Office of Planning's
6 recommendations or conditions, that would be an error.

7 So we have events. They are ending at 9:00. They
8 will not be catered.

9 VICE CHAIRPERSON RENSHAW: But obviously
10 they can serve food.

11 CHAIRPERSON GRIFFIS: Yes. That's an
12 excellent point of clarification. Does that mean they
13 have a commercial kitchen in there and they are making
14 all the food themselves? Is there more specific
15 language that you want to determine that? What is the
16 adverse impact with food? Clearly I think when we are
17 looking at catering we are looking at vans and
18 increased traffic. That's what we're trying to
19 diminish.

20 VICE CHAIRPERSON RENSHAW: But even if you
21 have a party and you don't have a caterer there can be
22 deliveries to your place of business or residence
23 delivering supplies for a party or an event or an
24 opening such as tables and chairs and items of food,
25 et cetera.

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1 CHAIRPERSON GRIFFIS: Okay. So?

2 VICE CHAIRPERSON RENSHAW: So we have here
3 a statement that none will be catered and food service
4 will not be provided.

5 CHAIRPERSON GRIFFIS: Okay. Mr. Parsons,
6 I'm going to be turning to you as you accept these
7 conditions to your motion. Food service, Ms. Renshaw,
8 speaks to me of catering. Food service actually seems
9 to be a larger scale. It sounds more like a cafeteria
10 setting up. So I'm not sure that's the language you
11 are looking for.

12 VICE CHAIRPERSON RENSHAW: Or just food
13 will not be served.

14 CHAIRPERSON GRIFFIS: Okay. Mr. Parsons?

15 COMMISSIONER PARSONS: You mean if they
16 opened a can of nuts.

17 CHAIRPERSON GRIFFIS: Right. Exactly.

18 VICE CHAIRPERSON RENSHAW: Nuts would be
19 fine.

20 COMMISSIONER PARSONS: Let's get the menu.

21 CHAIRPERSON GRIFFIS: Right. I think the
22 point is that we're not looking for food preparation
23 on site.

24 MEMBER ETHERLY: My inclination, Mr.
25 Chairman, is I think you see the difficulty with

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1 delving so deeply into that particular condition. You
2 struggle with where do you draw the line. As Mr.
3 Parsons said is it a can of nuts that puts you over
4 the edge so to speak.

5 As seconder of the motion, I think the
6 most critical component of that first proposed
7 condition is the ending time. I agree that we perhaps
8 want to be sensitive to the introduction of additional
9 vehicular traffic to the neighborhood and at the
10 particular address. So if we are moving towards some
11 effort to address that concern, I would almost be
12 inclined to perhaps include language that speaks to a
13 cut off point at which time deliveries cannot be made
14 as opposed to eliminating the catering and food
15 service all together.

16 I think that's a little bit cleaner. Keep
17 in mind, you still have vehicular traffic using that
18 street as well as other streets in efforts to avoid
19 all the traffic congestion on Connecticut Avenue.
20 Commercial traffic typically starts to wane at 6:00
21 p.m. or 6:30. I'd almost be inclined to say could my
22 colleague Ms. Renshaw entertain a motion that perhaps
23 seeks to cut off deliveries of food service items at
24 4:00 p.m. or at 3:00 p.m. as opposed to elimination of
25 catering all together.

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1 VICE CHAIRPERSON RENSHAW: Well, Mr.
2 Etherly, I certainly would not throw out the statement
3 that has been developed by the Applicant that none
4 will be catered. I would recommend strongly that it
5 remain in the conditions. What I am trying to
6 minimize is any additional commercial vehicular
7 traffic to this site.

8 Certainly we can carry a can of nuts
9 upstairs. But if you are developing a party for 40
10 people, then of course there would be additional
11 deliveries. So I'm trying to cut down commercial
12 deliveries.

13 CHAIRPERSON GRIFFIS: Right. And I think
14 Mr. Etherly is in the right direction. I think we
15 ought to be clear. This establishment is not selling
16 food but selling art. I would suggest that we look at
17 first of all part of the condition one as not allowing
18 or precluding any food preparation on site and that
19 any prepared food would be delivered within business
20 hours. We can establish that. Maybe we make it from
21 9:00 to 4:00. Does that make sense, Mr. Etherly?
22 Clearly we're going to get into the fact of is a
23 delivery of a can of peanuts catering.

24 VICE CHAIRPERSON RENSHAW: But are you
25 then removing the language "none will be catered?" I

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1 am stating that it should remain in as stated.

2 CHAIRPERSON GRIFFIS: Okay. I've offered
3 my condition.

4 COMMISSIONER PARSONS: I'm going to argue
5 the other way I guess. I think "none will be catered"
6 is literally unenforceable.

7 CHAIRPERSON GRIFFIS: Right.

8 COMMISSIONER PARSONS: Unless we're going
9 to have a new definition of the zoning regulations as
10 to whether somebody in a black tie serving wine is
11 actually a caterer or not. I think the determination
12 of hours is more important. It was originally 11:00.

13 CHAIRPERSON GRIFFIS: Right.

14 COMMISSIONER PARSONS: It's been pulled
15 back to 9:00.

16 CHAIRPERSON GRIFFIS: Okay.

17 COMMISSIONER PARSONS: The most offensive
18 aspect that was at least represented to us of these
19 galleries was the serving of alcohol parading through
20 the streets and not catered deliveries to a gallery of
21 1,200 square feet. I can't imagine a couple of trays
22 of vegetables from the Giant is going to trouble
23 people. So I'd err on the side of not entering
24 something else into this order that's unenforceable.

25 CHAIRPERSON GRIFFIS: Okay. So in your

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1 proposed conditions you're motion is "all gathering
2 events will end at 9:00 p.m or earlier."

3 COMMISSIONER PARSONS: Or earlier.

4 CHAIRPERSON GRIFFIS: Very well.

5 VICE CHAIRPERSON RENSHAW: But the "none
6 will be catered" was offered by the Applicant.

7 CHAIRPERSON GRIFFIS: Right.

8 VICE CHAIRPERSON RENSHAW: And I feel that
9 --

10 COMMISSIONER PARSONS: And I understand
11 that.

12 VICE CHAIRPERSON RENSHAW: Even though you
13 state that it is unenforceable it is still a promise
14 of the Applicant that none will be catered. I believe
15 that it should remain in as a promise.

16 CHAIRPERSON GRIFFIS: Okay. Mr. Parsons,
17 you are clear on Ms. Renshaw's opinion.

18 COMMISSIONER PARSONS: Yes.

19 CHAIRPERSON GRIFFIS: And you're
20 maintaining your condition on your motion.

21 COMMISSIONER PARSONS: Yes.

22 CHAIRPERSON GRIFFIS: It will go or not
23 go. Second, "The alcohol will not be served at events
24 open to the public. Only beer and wine will be served
25 at invitation only events." Mr. Parsons, is that

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1 agreeable?

2 COMMISSIONER PARSONS: Sure.

3 VICE CHAIRPERSON RENSHAW: Beer and wine
4 are alcohol.

5 CHAIRPERSON GRIFFIS: Pardon me?

6 VICE CHAIRPERSON RENSHAW: Beer and wine
7 are alcoholic beverages.

8 CHAIRPERSON GRIFFIS: That's very true but
9 I think the distinction here is that when they have
10 events open to the public they won't be serving
11 alcohol. Beer and wine will be served at invitation
12 only events which is clearly not open to the public.

13 COMMISSIONER PARSONS: I see her point.
14 Maybe this needs to be two conditions because they are
15 two separate thoughts.

16 MEMBER ETHERLY: Without parsing too
17 finely here, unless perhaps you insert the term
18 "general" in front of public just to further draw out
19 the distinction. I think the Chairman is heading in
20 the right direction in that the intent behind that
21 proposed condition is that events that are open during
22 the regular operational hours of the gallery if an
23 individual walks in off the street that individual
24 will not be able to access alcoholic beverages. But
25 at invitation only events, beer and wine would then be

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1 served. Does the addition of the term "general"
2 perhaps get at increased clarity there?

3 VICE CHAIRPERSON RENSHAW: It does define
4 it a bit better. However, we hope that the Applicant
5 will monitor the beer and the wine so that they don't
6 walk out the door with bottles and cups.

7 CHAIRPERSON GRIFFIS: Yes. Indeed. So
8 we'll insert "general" somewhere in there.

9 COMMISSIONER PARSONS: All right.

10 CHAIRPERSON GRIFFIS: "There will be no
11 more than ten gallery events per year which are open
12 to the general public. There will be no more than
13 eight gallery events per year which are by invitation
14 only." That's number three and number four. There is
15 some question about whether the ten gallery events
16 included the First Fridays.

17 VICE CHAIRPERSON RENSHAW: So we're up to
18 18 events per year plus the First Friday events. So
19 that's the first Friday of the month. That's 12 First
20 Fridays and 18 events. So we're up to 30 events.
21 That's a lot. When does the gallery open in the
22 morning?

23 COMMISSIONER PARSONS: Do you mean to
24 restrict that?

25 VICE CHAIRPERSON RENSHAW: I just wanted

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1 to ask.

2 COMMISSIONER PARSONS: No alcohol before
3 9:00 a.m.

4 CHAIRPERSON GRIFFIS: Mr. Parsons, three
5 and four. Do you want to address them?

6 COMMISSIONER PARSONS: I'm struggling.
7 The neighborhood cooperation agreement. I think I
8 have an apple and an orange here. The only reference
9 I see to number of events seems to apply to public
10 events of which they committed to 15 per year. If you
11 have that agreement, it's at the bottom of page one
12 under item number three. I just want to make sure
13 that we rely to some degree on this agreement with
14 those who supported the application. I see no
15 reference to invited events.

16 VICE CHAIRPERSON RENSHAW: So that stated
17 15 total.

18 COMMISSIONER PARSONS: Well, it says "when
19 the gallery participates in art walks or other joint
20 gallery showings or when it sponsors gallery openings
21 to which the general public invited, no alcohol will
22 be served." Then it goes on to say "these shall be
23 limited to 15 per year." I assume that's First
24 Fridays.

25 VICE CHAIRPERSON RENSHAW: Those are

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1 gallery walks.

2 COMMISSIONER PARSONS: Yes. So it doesn't
3 apply to this.

4 VICE CHAIRPERSON RENSHAW: And here we
5 have 30.

6 MR. GELL: Mr. Chairman, perhaps I could
7 clarify.

8 VICE CHAIRPERSON RENSHAW: No.

9 CHAIRPERSON GRIFFIS: I think we have what
10 we need. We have all the offerings from the issue.
11 Mr. Gell, although it may save us time, we do hold
12 fairly strictly that in deliberation we don't hear any
13 of the Applicant or parties in opposition. The facts
14 of the matter. We know they may participate. I don't
15 think they are required to participate in the First
16 Fridays or the gallery walks. They probably may want
17 to or not want to.

18 I think the point is to look at it in
19 whole and how many events do we think above which
20 would be inappropriate. That is that they would tend
21 to adversely affect the use of the neighboring
22 properties. So with that in mind, I think we can pick
23 a number. If there will be no more than ten gallery
24 events as offered by the Applicant and eight private,
25 we are at 18. The point is whether we look at

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1 including the First Fridays as events.

2 VICE CHAIRPERSON RENSHAW: Yes. And we
3 have again the 15.

4 CHAIRPERSON GRIFFIS: Mr. Parsons, Mr.
5 Etherly.

6 MEMBER ETHERLY: I believe Mr. Parsons is
7 heading in the right direction once again with the
8 caution that the neighborhood cooperation agreement
9 was not agreed to by anyone. So I want to be sure
10 that we are sensitive to that.

11 CHAIRPERSON GRIFFIS: Right. Indeed.

12 MEMBER ETHERLY: But if you look at the 15
13 per year, it appears that the provision was originally
14 drafted probably with consideration of the First
15 Friday event in mind. I'm thinking that clearly we're
16 trying to strike a balance here while being
17 extraordinarily sensitive to concerns of the community
18 and residents, we don't also want to so handicap the
19 operation of the gallery that for all intensive
20 purposes it just happens to be a residential property
21 that has a few paintings hanging in it that could be
22 purchased.

23 CHAIRPERSON GRIFFIS: How about this, Mr.
24 Etherly --

25 MEMBER ETHERLY: With that caution being

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1 said, I'll just finish my thought, Mr. Chairman, I
2 would be inclined to include the First Friday in those
3 numbers. So in terms of the condition as drafted, you
4 are essentially looking at ten gallery events per year
5 which are open to the general public.

6 If you are saying that there are 12 First
7 Fridays every year, it means that there are two First
8 Fridays that would have to go by the wayside for this
9 particular gallery. Then you have eight gallery
10 events per year which would be by invitation only. So
11 in answer to your question, I would include the First
12 Fridays in that interpretation.

13 CHAIRPERSON GRIFFIS: I see.

14 COMMISSIONER PARSONS: I agree.

15 CHAIRPERSON GRIFFIS: I would agree also
16 except for the fact that you can have general
17 openings. I would submit that there would be 15
18 gallery events per year which are open to the general
19 public. That would include anything open to the
20 general public. So it would include the First
21 Fridays. Then we would have the eight per year by
22 invitation only.

23 COMMISSIONER PARSONS: Now I'm going on
24 Ms. Renshaw's side of this. They proffered ten. Why
25 should we give them 15?

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1 CHAIRPERSON GRIFFIS: Well, okay. There
2 it is then. Do you have it? "Gallery events will be
3 restricted to 40 guests."

4 VICE CHAIRPERSON RENSHAW: At one time or
5 total? In other words, these events are going to have
6 the normal flow. Are we going to say that they can
7 only send out invitations to 40 guests or accept 40?
8 Are they going to accept 100 and no more than 40 at
9 any one time? I would suggest that they restrict it
10 to 40 who have sent their R.S.V.P. to the invitation
11 because then that way it's going to help reduce the
12 number of cars in the neighborhood which are already
13 going to --

14 CHAIRPERSON GRIFFIS: Because you've
15 included events with these gallery walks, how do we
16 enforce the fact if there are 50 people on a gallery
17 walk? Then this would be a non-compliance with that
18 condition.

19 MEMBER ETHERLY: Mr. Chairman, I would be
20 inclined to keep the language as is. I'll note for my
21 colleagues consideration of course that you still have
22 fire code provisions and other matters that would
23 govern appropriate occupancy levels of the property.

24 COMMISSIONER PARSONS: I would leave it as
25 is. It shows intent but it's very difficult to

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1 enforce.

2 CHAIRPERSON GRIFFIS: But if it's
3 difficult to enforce, I would advise that we do not
4 add it or we change the language in order to make it
5 enforceable.

6 VICE CHAIRPERSON RENSHAW: I think that
7 the private events by invitation only can be
8 controlled.

9 CHAIRPERSON GRIFFIS: Exactly. I think
10 that is where you might want to go to your language.
11 That is you are looking at a total population for the
12 private events of no more than 40.

13 VICE CHAIRPERSON RENSHAW: Yes.

14 MEMBER ETHERLY: So perhaps gallery events
15 which are by invitation only will be restricted to 40
16 guests.

17 CHAIRPERSON GRIFFIS: Right. I think that
18 makes a heck of a lot more sense and has a lot more
19 control over it. (6) "There will be no banner or
20 signs." That's fairly redundant if I'm not mistaken.
21 We have regulations that in fact deal with that.

22 VICE CHAIRPERSON RENSHAW: But it's good
23 to have.

24 CHAIRPERSON GRIFFIS: Mr. Parsons, do you
25 want to keep it in?

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1 COMMISSIONER PARSONS: Yes.

2 CHAIRPERSON GRIFFIS: "Invitation to the
3 gallery must contain information about Metro and
4 nearby parking garages." I think that's an excellent
5 condition. "Two of the three parking spaces on the
6 premises will be maintained for use of clients or
7 guests of the gallery." Any difficulty with that?

8 COMMISSIONER PARSONS: I don't know the
9 difference between a client or a guest. Who cares?

10 CHAIRPERSON GRIFFIS: It's an interesting
11 point. I would imagine a client is someone picking up
12 a purchased piece of art. A guest is one that is
13 being enticed to pick up a piece of purchased art.
14 Any other comments or questions on this? We have a
15 motion.

16 VICE CHAIRPERSON RENSHAW: Mr. Chairman
17 and Mr. Parsons, how about in this so-called
18 cooperation agreement that the Applicant provided,
19 number four about "The security lighting will be
20 sufficient to provide reasonable security but will be
21 directed away from the neighboring windows?"

22 CHAIRPERSON GRIFFIS: Also I think that is
23 regulated. The language of that is absolutely
24 undefined.

25 VICE CHAIRPERSON RENSHAW: And number

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1 five, "The gallery will seek no change in the parking
2 regulations adjacent to the property or nearby."

3 CHAIRPERSON GRIFFIS: And we've run across
4 that. We can't condition that.

5 VICE CHAIRPERSON RENSHAW: They put it in.

6 CHAIRPERSON GRIFFIS: I understand that.
7 Everyone makes mistakes. We have to be clear.

8 VICE CHAIRPERSON RENSHAW: Listen, I don't
9 think that is a mistake at all. They proffered that
10 to the community and those --

11 CHAIRPERSON GRIFFIS: Right. But there's
12 a difference between a community agreement. I think
13 that's appropriate in a community agreement. If this
14 Applicant and the property owner says we're not going
15 to go for anything else, that's a promise they can
16 make to the community. I think that's well said for
17 us to take under consideration, but we can't condition
18 that.

19 VICE CHAIRPERSON RENSHAW: We have put
20 security lighting in many an order.

21 CHAIRPERSON GRIFFIS: Indeed we have.

22 VICE CHAIRPERSON RENSHAW: So I think it
23 should be included.

24 CHAIRPERSON GRIFFIS: We have total
25 jurisdiction to do that. To indicate that we will

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1 have security lighting that will adequately secure the
2 property doesn't make any sense.

3 VICE CHAIRPERSON RENSHAW: You could say
4 just lighting will be --

5 CHAIRPERSON GRIFFIS: That's fine. Mr.
6 Parsons, addition of exterior lighting. Where was the
7 security lighting going to be?

8 VICE CHAIRPERSON RENSHAW: Well, it did
9 not state where it's going to be. But if you say
10 exterior lighting will be not directed, will use low
11 glare lights, et cetera.

12 CHAIRPERSON GRIFFIS: And that would have
13 to happen whether we condition it or not. I think
14 that's appropriate. My concern is that I don't want
15 to require them to put security lighting and they end
16 up putting 1000 lumen flood on the front of this
17 building. I don't think the record really showed a
18 lot of testimony about the concern of that.

19 I'm not aware of where we need it, what
20 type of lighting we're going to need. That would be
21 important for me to condition it. I think on common
22 sense the property owner and the residential tenants
23 are going to want safe conditions both in the front
24 and in the rear of that. I think just as the property
25 owner in order to accommodate the basic requirements

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1 of those living and working in his building he would
2 provide that. So unless Mr. Parsons and Mr. Etherly
3 feel differently and amend their motion to address a
4 condition on security lighting, I suggest that we move
5 on.

6 COMMISSIONER PARSONS: I agree.

7 CHAIRPERSON GRIFFIS: Okay. Very well.
8 Final discussion on the motion with conditions. I
9 would ask for all those in favor of the motion with
10 conditions one through eight signify by saying aye.

11 (Chorus of ayes.)

12 CHAIRPERSON GRIFFIS: Opposed.

13 VICE CHAIRPERSON RENSHAW: Opposed.

14 CHAIRPERSON GRIFFIS: Thank you, Ms.
15 Renshaw. Do we have a proxy or any absentee voting on
16 that, Mr. Moy?

17 MR. MOY: Yes, sir. We have a proxy vote
18 from Mr. Zaidain. His vote is to approve the
19 application with conditions as approved by the
20 majority of the Board Members present and voting.

21 CHAIRPERSON GRIFFIS: Good. Thank you
22 very much. I think this is an excellent deliberation,
23 Board Members. I think that it goes without saying
24 and it was a very important substantive issue that we
25 looked at how to maintain this neighborhood and what

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1 is the character of this neighborhood and had to
2 assess whether this specific application would change,
3 would dramatically change, or would maintain. So I
4 appreciate everyone's discussion on that. With that,
5 I can in fact adjourn.

6 MR. MOY: Excuse me, Mr. Chair.

7 CHAIRPERSON GRIFFIS: Yes.

8 MR. MOY: The Staff would like to record
9 the vote as 4-1-0. Four in the affirmative as the
10 Chair, Mr. Parsons, Mr. Etherly and Mr. Zaidain as a
11 proxy. Ms. Renshaw is opposed. Thank you.

12 CHAIRPERSON GRIFFIS: Very well. Thank
13 you all very much. This would then conclude the
14 Special Public Meeting of 14 January 2003.

15 (Whereupon, the above-entitled matter
16 concluded at 10:29 a.m.)

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