

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC MEETING AND HEARING

+ + + + +

TUESDAY

MARCH 26, 2013

+ + + + +

The Regular Public Hearing
convened in the Jerrily R. Kress Memorial
Hearing Room, Room 220 South, 441 4th Street,
N.W., Washington, D.C., 20001, pursuant to
notice at 9:30 a.m., Lloyd Jordan,
Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson
NICOLE SORG, Vice-Chairperson
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

MICHAEL TURNBULL, Commissioner
PETER G. MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

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MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

KAREN THOMAS
MAXINE BROWN-ROBERTS

The transcript constitutes the minutes from the Public Hearing held on March 26, 2013.

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TABLE OF CONTENTS	PAGE
Call to Order, Chairperson Jordan5
 EXPEDITED REVIEW CALENDAR	
Application No. 18520 of Robert and Susan Okun.7
Vote to Approve (4-0)8
Application No. 18517 of Valerie Baldwin.8
Will be Rescheduled for Decision.9
 PUBLIC DECISION MEETING	
Application No. 18494 of Lauriol Properties, LLC Cactus Cantina.	10
Vote to Approve (4-0)	20
Applicant's Request for a two-year time extension of Application No. 18174 of EDCO, LLC (formerly Gary Cohen)	21
Rescheduled for April 9, 2013	25
Applicant's Motion for Reconsideration of Condition Number One to Order Number 18472 of Excel Academy, D.C. Public Charter School	26
Vote to Approve (4-0)	31

PUBLIC HEARING

Application No. 18518 of YMCA Capital View,
ANC-8D. 31

 Rescheduled for May 7, 2013 47

Application No. 18519 of Gregory Igbozuruike,
ANC-1A. 49

 Office of Planning, Karen Thomas. 58
 Persons in Opposition 63

 Rescheduled for decision on April 9,
2013. 76

Application No. 18472 of Excel Academy, D.C.
Public Charter School - Reopened for
Clarification 79

Application Nos. 18503 and 18505 of Keystar
Spring Place, LLC, ANC-4B 80

 Vote to approve (4-0) 122

Motion to hold closed meetings per the Open
Meetings Act. 124

 Vote to approve (4-0) 125

Adjourn, Chairperson Jordan 126

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

2 9:41 a.m.

3 CHAIRPERSON JORDAN: Good morning.

4 Would the meeting please come to order. We're
5 located at the Jerrily R. Kress Memorial
6 Hearing Room at 441 4th Street, N.W. Today's
7 date is March 26, 2013. We're here for a
8 meeting and hearing of the Board of Zoning
9 Adjustment, the District of Columbia.

10 My name is Lloyd Jordan,
11 Chairperson. To my right is Jeffrey Hinkle,
12 Board Member. To my left is Nicole Sorg, Vice
13 Chairperson. To her left is Michael Turnbull,
14 Member of the Zoning Commission.

15 Please be advised that these
16 proceedings are being recorded by a court
17 reporter and also being webcast live.
18 Therefore, I'm going to ask you refrain from
19 any disruptive noises here in the room today.

20 Because we are going to continue
21 to roll straight through, we also have some
22 decision cases for this morning and hearing

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1 cases for this morning. I'm going to ask
2 anyone who is here to testify in a case that
3 is set for a hearing for today, please stand
4 and take the oath or affirmation being given
5 by the Board secretary.

6 Thereafter, please complete two
7 witness cards per person and give them to the
8 court reporter prior to testifying. So if
9 anyone is going to testify in any of the
10 matters that are up for hearing today, please
11 stand and take the oath.

12 (Whereupon, the witnesses were
13 sworn.)

14 CHAIRPERSON JORDAN: Again, just
15 to remind you, please complete two witness
16 cards per person and hand them to the court
17 reporter prior to testifying.

18 Mr. Moy, you want to call our
19 first decision case, please?

20 MR. MOY: Yes. Good morning, Mr.
21 Chairman, members of the Board. The first
22 agenda item for the Board in its public

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1 decision meeting session is the Expedited
2 Review Calendar.

3 Mr. Chairman, there are two cases
4 on the calendar. The first case is
5 Application No. 18520 of Robert and Susan
6 Okun. The second case is Application No.
7 18517 of Valerie Baldwin.

8 Both these cases are special
9 exception 223 cases, as I said, on the
10 Expedited Review Calendar, pursuant to Section
11 3118 of the Zoning Regulations.

12 As you are aware, Mr. Chairman,
13 the Expedited Review Calendar items are Zoning
14 applications where the Applicant waives the
15 right to a public hearing and applications are
16 subject to either Board approval or removal
17 from the calendar for rescheduling to a future
18 hearing date pursuant to appropriate sections
19 under Section 3118.

20 CHAIRPERSON JORDAN: Okay. Thank
21 you, Mr. Moy.

22 Let's do 18520. The Board has had

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1 a chance to review that application on the
2 expedited docket. Does anyone have any
3 problem with 18520? Then I would move that
4 the relief requested by the Applicant in 18520
5 be granted.

6 VICE CHAIR SORG: Second.

7 CHAIRPERSON JORDAN: Motion made
8 and seconded. Any unreadiness? Seeing none,
9 all those in favor signify by saying aye.

10 BOARD MEMBERS: Aye.

11 CHAIRPERSON JORDAN: Those opposed
12 nay. The motion carries.

13 Now, regarding 18517, is the
14 Applicant here? 18517, Valerie Baldwin.

15 There's a couple issues I have and
16 I think other Board Members very well may have
17 the same issues regarding there are no letters
18 in the file from any of the neighbors. This
19 is a two-story addition, second-story
20 addition. I would believe that we should see
21 some letters from the neighbors.

22 Does anybody else have any

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1 concerns or questions about that?

2 Ms. Sorg.

3 VICE CHAIR SORG: Mr. Chairman, I
4 agree with that. The standard of completeness
5 for expedited review cases is very case and I
6 think it's essential, especially because this
7 case is involving a two-story addition. It's
8 a fairly substantial project so I really
9 believe that we should have information
10 regarding the adjacent neighbors especially.
11 Thank you.

12 CHAIRPERSON JORDAN: So let's do
13 this. Mr. Moy, can we pull this one from this
14 and can we contact the applicant and tell them
15 what the Board's needs are?

16 MR. MOY: Yes, sir. Staff will
17 take care of that.

18 CHAIRPERSON JORDAN: Then we can
19 put it back on the decision docket provided we
20 have supporting letters.

21 MR. MOY: Okay. Very well.

22 CHAIRPERSON JORDAN: Let's move to

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1 -- Mr. Turnbull has two decisions. Let's move
2 to the ones that Mr. Turnbull has.

3 MR. MOY: Yes, sir. The first
4 application then would be Application No.
5 18494. This is of Lauriol Properties, LLC
6 Cactus Cantina, pursuant to 11 DCMR 3104.1.

7 This is for a special exception to
8 allow the continued use of an accessory
9 parking lot under Section 214, in the R-5-B
10 District. This is at premises 1780 through
11 1782 T Street, N.W. Property located in
12 Square 152, portion of Lot 862.

13 On January 29, 2013, the Board
14 completed public testimony and closed the
15 record and scheduled this decision for March
16 21st. The Board requested additional
17 information to supplement the record from the
18 Applicant, as well as providing a long time
19 for responses from ANC-2B and the party in
20 opposition, Mr. Joseph Brinker.

21 In your case folders, Mr.
22 Chairman, the Applicant's filing is identified

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1 under Exhibit 38. The Applicant also provided
2 a supplemental with further clarification of
3 the proposed valet parking plan and that's
4 under Exhibits 39 and 42. Also in your case
5 folder is a filing from the party in
6 opposition dated March 19, 2013, and that is
7 under Exhibit 41.

8 With that, Mr. Chairman, the Board
9 is to act on the merits of the Applicant's
10 request for special exception relief.

11 CHAIRPERSON JORDAN: Thank you.

12 Is the Board ready to deliberate
13 in regards to 18494? Is there any other
14 information that the Board believes that it
15 needs to go forward?

16 This is one where I believe that
17 the Board should grant the relief as
18 requested. It meets the requirements, I
19 believe, of 214 in that the accessory parking
20 spaces have been used as a parking lot for
21 over 15 years through a special exception.

22 The spaces are in an open area and

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1 it has easy access to the parking area. It's
2 not located -- the accessory parking spaces
3 are located within 200 feet of the restaurant.

4 Based upon the testimony that's
5 been given during the hearing, it would not be
6 economically feasible to reconstruct the site
7 to gain additional parking space, nor
8 conducive to construct underground parking for
9 this particular facility so it would be
10 impractical to do that.

11 The parking spaces are enclosed by
12 masonry walls and a wooden fence and so the
13 area is secure and meets the requirements of
14 214. It creates a barrier between the
15 adjacent properties with the fencing that's
16 there.

17 We have a landscape plan. I think
18 that has been supplemented to the record and
19 I would be in favor of accepting. And the
20 accessory parking spaces are integrated with
21 the parking lot, as well as the additional
22 parking that's contained in their supplemental

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1 lot.

2 We have what I believe is a very
3 valid valet parking plan of how the cars
4 coming into the front of the building will be
5 handled in regards to their weekend and
6 weekday handling of the situation for parking.

7 Additionally, they did receive the
8 relief, I believe, from DDOT in regards to
9 public space to use the additional front area
10 for the valet parking and drop-off area.

11 It would be my inclination that we
12 go forward and approve this application. Does
13 anyone have anything to weigh in?

14 VICE CHAIR SORG: Thank you, Mr.
15 Chairman. I'll just note that I agree. I
16 think the supplemental information that came
17 from the Applicant regarding the outcome of
18 the Public Space Committee, the landscape
19 plan, and the updated proposed conditions were
20 exactly what I was looking for.

21 I think also when you look at the
22 valet plan that has been submitted versus

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1 what's happening now and some of the issues
2 that have come up with parking at peak times
3 based on changes in the roadway over the last
4 several years it actually makes sense to me.
5 I think given the information that's in the
6 record and the supplemental information, I
7 think that it looks likely to help ameliorate
8 some of the situations that are happening
9 there now. I am also inclined to support the
10 application.

11 CHAIRPERSON JORDAN: Additionally,
12 I want to add there was some opposition to
13 this and I didn't find credible the testimony.
14 There wasn't really any real evidence put
15 forth. The argument was that this restaurant
16 -- this area is so congested and that this
17 restaurant was causing all that.

18 Through the evidence and as this
19 building is situated, it is in a very popular
20 entertainment restaurant area and you cannot
21 say that the crowds gathering in that area is
22 all due to the -- are due to this particular

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1 Applicant.

2 There was a concern about safety
3 hazards. I think with the relief being given
4 by DDOT for the public space and additional
5 valet parking, the corner of 18th and T
6 shouldn't be a problem in light of the valet
7 plan.

8 Anyone else?

9 MEMBER TURNBULL: Mr. Chair, I
10 would agree with you and the Vice Chair. I
11 would be in favor of supporting this.

12 I guess there is only one -- a
13 couple of questions that I'm not sure about.
14 Since this was written 15 years ago the regs
15 have changed and some of these are
16 automatically covered by the regulations.

17 CHAIRPERSON JORDAN: You mean the
18 conditions?

19 MEMBER TURNBULL: The conditions.
20 Some of them have also changed a bit such that
21 -- I'm looking at No. 8. We talk about all
22 driveways shall be maintained with an all-

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1 weather impervious which is similar to 2117.10
2 and 2303.1(a) which also allow a certain
3 porous or pervious material. I'm not sure
4 whether we update this or allow this. And
5 some of the others.

6 CHAIRPERSON JORDAN: I'll follow
7 your lead. Why don't we do that. If it's not
8 relevant today in light of the other
9 regulations, then let's do that. We don't
10 need to be putting additional requirements on
11 them.

12 MEMBER TURNBULL: Right. I mean,
13 I'm looking at 7 which is the lighting. It's
14 under 2117.13 and 2303.1(e). There are the
15 other ones, the bumper stops. That's similar
16 to 2117.7. A lot of these are now covered and
17 I'm not sure to how far we want to make them
18 conditions since they are already part of the
19 regulations. You want me to go through them
20 or do you want me --

21 CHAIRPERSON JORDAN: I think we
22 should take them out because the regs already

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1 cover them.

2 VICE CHAIR SORG: I agree. We
3 started a process for the re-ups of these
4 types of uses and cleaning up some of the
5 regulations. It looks like from what Mr.
6 Turnbull is indicating that we could get rid
7 of 7, 8, 9, 10, and 11.

8 I believe that although Condition
9 No. 5, "Landscaping shall be maintained in a
10 healthy growing condition," and so forth,
11 while it's similar in this note to 2303.1(f),
12 I think in this case it should be kept because
13 that was one of the other comments that the
14 individual in opposition did mention.

15 While it is there in the regs,
16 because it should be a condition in the order
17 is something that is sort of a method or a
18 moniker of, you know, enforcing the area. I
19 think that's important. I would be in favor
20 if we're cleaning it up, I think maybe you get
21 rid of 7, 8, 9, 10, 11 and keep 5 of those
22 that are redundant to some of the regulations.

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1 CHAIRPERSON JORDAN: Any other
2 thoughts?

3 MEMBER HINKLE: Thank you, Mr.
4 Chair. Just to build off of what Ms. Sorg
5 said in terms of the landscaping. One of the
6 reasons why we requested the revised landscape
7 plan was because of the landscaping issue. I
8 would hope that -- although we have the plans
9 now, I would hope that within these conditions
10 that we might say landscaping shall be
11 maintained in accordance with the site plan
12 provided.

13 CHAIRPERSON JORDAN: Mr. Turnbull,
14 anything additional?

15 MEMBER TURNBULL: No. I think
16 that is it, Mr. Chair.

17 CHAIRPERSON JORDAN: Then I would
18 move that we grant the relief requested by the
19 Applicant with the following conditions:

20 That the approval be for a 15-year
21 period. That 20 parking spaces shall be
22 provided on the lot as submitted in the plan.

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1 There should be a valet operation as submitted
2 in the supplemental valet plan.

3 That the lot shall be attended and
4 controlled during the hours of operation and
5 that the landscaping shall be maintained as to
6 provide a healthy screening between the
7 parking lot and adjacent neighbors.

8 VICE CHAIR SORG: There is another
9 one.

10 CHAIRPERSON JORDAN: The lot shall
11 be cleaned daily and the trash picked up. Is
12 there another that you see?

13 MEMBER TURNBULL: Did you mention
14 the lot shall be secured during all the hours
15 that it's not in operation?

16 CHAIRPERSON JORDAN: Which number
17 was that? Okay. We'll add that one.

18 The that would be my motion.

19 MEMBER TURNBULL: I will second
20 that.

21 CHAIRPERSON JORDAN: Motion made
22 and seconded. Any additional discussion? All

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1 those in favor of the motion signify by saying
2 aye.

3 BOARD MEMBERS: Aye.

4 CHAIRPERSON JORDAN: Those opposed
5 nay. The motion carries.

6 Mr. Moy.

7 MR. MOY: Yes, sir. Staff would
8 record the vote as four to zero on Chairman
9 Jordan's motion to approve the application
10 with conditions as cited and modified.
11 Seconding the motion, Mr. Turnbull. Also in
12 support Vice Chairperson Sorg and Mr. Hinkle.
13 We have a Board Member not participating.
14 Again, the motion carries four to zero, Mr.
15 Chairman.

16 CHAIRPERSON JORDAN: Thank you.
17 Let's do a full order.

18 Is counsel for this Applicant
19 here? I would like for you to submit to the
20 Board in the next 10 days a draft order in
21 light of what our conversation has been and
22 the evidence presented.

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1 MR. MOY: The next Board action
2 pertains to an Applicant's request for a two-
3 year time extension of Application No. 18174
4 of EDCO, LLC, formerly titled Gary Cohen.
5 This is pursuant to Section 3130 of the Zoning
6 Regulations.

7 For the record, the original
8 application was approved on March 15, 2011 and
9 issued on March 23, 2011. The caption read as
10 follows:

11 11 DCMR 3103.2 for a variance from
12 the lot occupancy requirements under Section
13 772.1, a variance from the off-street parking
14 requirements under 2101.1 and variance from
15 the requirements for an addition to a non-
16 conforming structure under 2001.3, to allow
17 the conversion of an existing one story
18 commercial building (Laundromat) to a three-
19 story apartment building in the C-2-A District
20 at premises 732 15th Street, S.E. Property
21 located in Square 1077, Lot 808.

22 On February 22, 2013, the

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1 Applicant, Goulston & Storrs on behalf of
2 EDCO, LLC, filed their request and that is
3 identified in your case folders under Exhibit
4 34. Subsequent to the refiling there was a
5 supplemental attachment that provides a more
6 descriptive recommendation and that is
7 identified under Exhibit 36, Mr. Chairman.

8 There are two final filings in
9 your case folders; a letter and reply from the
10 ANC-6B under Exhibit 35, and from the Office
11 of Planning under Exhibit 37.

12 With that, Mr. Chairman, the Board
13 is to act on the merits of the request to
14 extend for another two years the validity of
15 Order 18174. That completes the staff's
16 briefing, Mr. Chairman.

17 CHAIRPERSON JORDAN: Thank you.
18 On this matter the Board -- well, I think
19 there is some additional information that
20 should be submitted with this application. We
21 have the affidavit but to me that's not
22 enough.

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1 I have nothing in regards from the
2 financial institutions that rejected the
3 application. I have nothing from contractors'
4 bids or any other governmental pools that are
5 pending. That is just my thought.

6 Anybody else have any thoughts
7 about this?

8 MEMBER HINKLE: Mr. Chair, I tend
9 to agree with you. We've been asking for more
10 information on these extensions and I agree we
11 would like to see more information in terms of
12 the effort that the Applicant has made to
13 secure financing and some of the other issues.

14 CHAIRPERSON JORDAN: If it's okay
15 with the Board, unless you would feel strongly
16 to go forward, I would like to move this to
17 another date and ask that the office get in
18 touch with the Applicant to submit the other
19 documentation.

20 Ms. Sorg.

21 VICE CHAIRMAN SORG: Thank you. I
22 just want to make one note. I mean, I did

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1 notice the absence of a letter from a lending
2 institution, particularly in this file. We
3 did, however, just to note, have this
4 affidavit from the principal of the company.

5 I do want to note that I think
6 there is a difference here because this is a
7 rather small project so a lot of the time
8 extension applications that we've seen come
9 from very large projects downtown, mixed-use
10 projects.

11 This is, you know, a rather small
12 project with a relatively small couple of
13 areas of relief. I would personally be
14 comfortable moving forward today but, you
15 know, I'm sure also that the Applicant, as
16 they mentioned in their affidavit, that they
17 did speak to some banks. The banks are used
18 to writing these letters as of now. I just
19 wanted to give my opinion on the record.

20 CHAIRPERSON JORDAN: Yes, and I
21 appreciate that. One thing that we've been
22 trying to do is build consistency and

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1 predictability in our system. I think that
2 would be why we need to be consistent with
3 what we request for support.

4 With that, Mr. Moy, if we could
5 move this to another decision date.

6 MR. MOY: Yes, sir.

7 CHAIRPERSON JORDAN: It can be
8 relatively soon because they should have this
9 information.

10 MR. MOY: Absolutely. Staff is
11 setting this for April 9th, in two weeks.

12 CHAIRPERSON JORDAN: As long as we
13 can get them the information.

14 We appreciate it. Thank you.

15 MR. MOY: Mr. May will be joining
16 the Board momentarily. In the meantime, I'll
17 read the caption for the next and last case
18 for decision.

19 CHAIRPERSON JORDAN: May's not on
20 this one.

21 MR. MOY: He's on this one, Mr.
22 Chairman.

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1 CHAIRPERSON JORDAN: Okay. Do we
2 have another decision case? Okay.

3 MR. MOY: That would be the
4 Applicant's Motion for Reconsideration of
5 Condition Number One to Order Number 18472 of
6 Excel Academy, D.C. Public Charter School,
7 pursuant to Section 3126 of the Zoning
8 Regulations.

9 For the record, the original
10 application was pursuant to 11 DCMR 3103.2 for
11 a variance to reduce the off-street parking
12 requirements under Section 2101.1, for a
13 school in the R-5-A District at premises 2501
14 through 2553, Martin Luther King, Jr., Avenue,
15 S.E. Property located in Square 5862, Lot
16 960.

17 On February 12, 2013 the Board
18 granted the Applicant's request for
19 reconsideration. The Board requested
20 additional information with documentation
21 scheduled for a hearing March 12, 2013. Of
22 course, on the March 12th date the Board

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1 deliberated and we scheduled action for
2 decision for today, March 26.

3 This would allow time for the
4 Applicant to file further information and that
5 filing, Mr. Chairman, is in your case folders
6 under Exhibit 41. The Board also requested a
7 review, or response review, from the Office of
8 Planning and that document is under Exhibit 43
9 where they requested additional time. That
10 filing was submitted to the office Friday,
11 March 19th. That is under Exhibit 42.

12 With that, the Board is to act on
13 the merits of the Applicant's request to
14 withdraw Condition No. 1 or, in the
15 alternative, as requested by the Applicant, to
16 consider a 10-year term. That completes the
17 staff's briefing, Mr. Chairman.

18 CHAIRPERSON JORDAN: Good. Thank
19 you, Mr. Moy.

20 I think we've had a chance --
21 well, there is a preliminary matter. I don't
22 know if you mentioned that. It's my

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1 understanding the Office of Planning has filed
2 a request to waive the filing time. Is that
3 correct? We would grant that unless the Board
4 has any opposition.

5 Does anyone have a feel one way or
6 the other about this matter that they would
7 like to lead off and talk about?

8 COMMISSIONER MAY: Mr. Chairman, I
9 would just state for the record that I wasn't
10 here for the hearing on the 12th of March but
11 I have read the transcript and the
12 corresponding materials in the file so I am
13 prepared to deliberate.

14 CHAIRPERSON JORDAN: Thank you.

15 For the record, Peter May, Member
16 of the Zoning Commission, has joined the Board
17 this morning.

18 Ms. Sorg.

19 VICE CHAIR SORG: So, if you like,
20 my feeling on this request is that I think we
21 have a lot better understanding about what the
22 requirements related to the relief that was

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1 requested and approved are going to be in
2 terms of when the school is going to be
3 meeting -- getting to their capacity, what
4 that means in terms of growth of the faculty.

5 It seems to me that it will be
6 eight school years from now that will happen
7 being the 21/22 school year if my math is not
8 incorrect. I think that's eight. I think it
9 appropriate to do an eight-year limit before
10 they need to come and revisit us.

11 CHAIRPERSON JORDAN: I certainly
12 can support that. Additionally there were the
13 conditions that were offered in the supplement
14 and some changes to the other conditions that
15 had been proposed.

16 One is that they would have a
17 maximum number of school teachers and staff to
18 162. That the Applicant would complete trip
19 generation and mode split analysis of existing
20 conditions under both the school's co-
21 locations and site for 2012/2013 school year
22 and maintain the same trip generation existing

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1 today for the site when Excel reaches their
2 maximum staff capacity.

3 And that they are to provide every
4 two years to DDOT a trip generation and mode
5 rate for a period of time in the two years
6 after they reach the maximum. That is what
7 has been proposed.

8 I would actually add another
9 condition that if at anytime the trip
10 generation mode split became different than
11 that which has been offered to the body and
12 DDOT is approving, that they shall report the
13 information to DDOT and comply with reasonable
14 remedial measures that would be imposed by
15 DDOT.

16 Anybody else have any thought
17 about this? Then I would move that we change
18 Condition No. 1 from three years to eight
19 years and the other conditions as I just read
20 them.

21 VICE CHAIR SORG: Second.

22 CHAIRPERSON JORDAN: Motion made

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1 and seconded. Any unreadiness? All those in
2 favor of the motion signify by saying aye.

3 BOARD MEMBERS: Aye.

4 CHAIRPERSON JORDAN: Those opposed
5 nay. The motion carries.

6 Mr. Moy.

7 MR. MOY: Staff would record the
8 vote as four to zero. This is on the motion
9 of Chairman Jordan's motion to approve the
10 application with conditions as amended by the
11 Board on its motion.

12 Seconding the motion, Vice
13 Chairperson Sorg. Also in support Mr. Peter
14 May and Mr. Hinkle. We have a Board Member
15 not participating. Again, the motion carries
16 four to zero, Mr. Chairman.

17 CHAIRPERSON JORDAN: Thank you. A
18 summary order. I'll pull back on the summary
19 order. A full order then. Let's just err on
20 the side of being safe. Let's make it a full
21 order, please.

22 MR. MOY: Mr. Chairman, the first

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1 case of the public hearing, I believe, is
2 Application No. 18518. This is the
3 application of YMCA Capital View, pursuant to
4 11 DCMR 3104.1, for a special exception for a
5 Child Development Center - Before and After
6 School Program (150 children and 8 staff)
7 under Section 205, in the R-5-A District at
8 premises 4275 4th Street, S.E. Property
9 located in Square 6242, Lot 834.

10 CHAIRPERSON JORDAN: Will the
11 persons for this case please come to the
12 witness table.

13 Let me ask, did the three of you
14 get sworn in and prepare witness cards? I
15 think you were here when I asked you to stand
16 up. Okay. Stand and take the oath and then
17 complete two witness cards and give them to
18 the court reporter. Let's go ahead and get
19 you sworn in.

20 (Whereupon, the witnesses were
21 sworn.)

22 CHAIRPERSON JORDAN: All right.

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1 We're got a couple of preliminary matters.
2 First, let me have you identify yourself.
3 Make sure that your microphone is turned on.
4 You should have a bright glowing green light.

5 MS. JOHNSON: Yoshimi Quinones
6 Johnson, Program Director for YMCA Capital
7 View.

8 MR. FLETCHER: Corey Fletcher,
9 Site Director of YMCA Capital View.

10 MS. TALLEY: Stacy Talley, Site
11 Director, YMCA Capital View.

12 CHAIRPERSON JORDAN: Your last
13 name again?

14 MS. TALLEY: Talley.

15 CHAIRPERSON JORDAN: Talley.

16 Okay. Who is the spokesperson for
17 this application?

18 MS. JOHNSON: I can be.

19 CHAIRPERSON JORDAN: Okay, Ms.
20 Johnson.

21 MS. JOHNSON: Yes.

22 CHAIRPERSON JORDAN: We've got a

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1 couple of preliminary things we need to step
2 through first because we're just so confused.

3 MS. JOHNSON: Okay.

4 CHAIRPERSON JORDAN: Who owns the
5 property?

6 MS. JOHNSON: Mary Virginia
7 Merrick Center.

8 CHAIRPERSON JORDAN: Okay. They
9 own the property, not the archdiocese?

10 MS. JOHNSON: They are combined
11 together, archdiocese and Mary Virginia
12 Merrick Center.

13 CHAIRPERSON JORDAN: Do you know
14 who owns the property or are you just -- who
15 owns the building?

16 MS. JOHNSON: The building would
17 be the archdiocese of Washington which the
18 building is named Mary Virginia Merrick
19 Center.

20 CHAIRPERSON JORDAN: Do we have a
21 letter in the file, authorization from the
22 archdiocese, Mr. Moy?

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1 MS. JOHNSON: Yes. We have 12
2 copies.

3 CHAIRPERSON JORDAN: No. You have
4 the letter from the archdiocese agreeing,
5 passing on, giving you authority to seek this
6 relief.

7 MS. JOHNSON: Okay.

8 CHAIRPERSON JORDAN: Do we have
9 that?

10 MR. MOY: I'm looking now, Mr.
11 Chairman, because I don't recall seeing it in
12 the folder.

13 CHAIRPERSON JORDAN: I think we
14 might have it.

15 MR. FLETCHER: It's here

16 CHAIRPERSON JORDAN: Could you
17 give it to the Board secretary, please?

18 MS. JOHNSON: Yes.

19 MR. MOY: It's not in the record,
20 Mr. Chairman.

21 CHAIRPERSON JORDAN: Okay. Could
22 you give it to the Board secretary?

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1 You said you have a couple copies
2 of that?

3 MS. JOHNSON: I have 12.

4 CHAIRPERSON JORDAN: Let's go
5 ahead and -- I don't need all 12 letters.
6 Right now let's peel off the archdiocese
7 letter.

8 MS. JOHNSON: Okay.

9 CHAIRPERSON JORDAN: Mr. Moy, just
10 note for the record I'm going to go ahead --
11 although the Applicant did not make a request
12 for waiver of time submitting their burden of
13 proof document, it was out of time, I'm going
14 to accept it unless the Board has a problem
15 with it.

16 We will accept this letter as an
17 authorization. It's not really what we want
18 but it's close enough so we are going to give
19 a tie going to the runner if you play
20 baseball. It's not exactly and we understand
21 that you're not versed in the requirements
22 here. We get the gist of the archdiocese.

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1 Let me do this. We have reviewed
2 your application and proposal and the letters
3 that are there. Instead of having you do a
4 presentation to the Board, I think it's going
5 to probably be easier for us if we have any
6 questions to ask you questions regarding this
7 application if that's okay with you.

8 MS. JOHNSON: Okay.

9 CHAIRPERSON JORDAN: Does any
10 Board member have anything they would like the
11 Applicant to explain or discuss?

12 Ms. Sorg.

13 VICE CHAIR SORG: Thank you, Mr.
14 Chairman.

15 There are parts of your
16 application that I think are very full in
17 terms of the programming and understanding
18 what the need and the usefulness of the center
19 will be.

20 One of the things that we look for
21 in an application is community outreach in
22 terms of the project. One of the things that

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1 was missing, I feel, in your application was
2 documentation of that kind of outreach.

3 What we usually find is that an
4 applicant needs to have done a presentation to
5 the ANC. In this case it's ANC-8D. The ANC
6 usually writes a letter in support or in
7 opposition to the application.

8 Also, obtaining letters from the
9 surrounding community neighbors who are in the
10 vicinity of the center who know what you're
11 going to be doing who are supporting it,
12 hopefully, are something that we also see.
13 Can you describe given what I've indicated
14 what those efforts have been?

15 MS. JOHNSON: Okay. So we do have
16 letters from Saint Thomas More which is the --

17 CHAIRPERSON JORDAN: Let me stop
18 you one second. What about the ANC because
19 that is going to be your little sticking point
20 for me.

21 MS. JOHNSON: Okay.

22 CHAIRPERSON JORDAN: Did you

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1 notify the ANC and did you have the
2 opportunity to present to the ANC this
3 project?

4 MS. JOHNSON: Okay. So we did try
5 to get in contact with the ANC. It has been
6 phone tag for my executive director. We've
7 met with the exec from the Merrick Center and
8 they have notified the ANC Commissioner that
9 we did want to present to her. At this point
10 we haven't got a chance to make that
11 connection.

12 CHAIRPERSON JORDAN: When did you
13 start trying to make contact with them?

14 MS. JOHNSON: I'm going to say
15 about two weeks ago.

16 CHAIRPERSON JORDAN: Two weeks
17 ago.

18 MS. JOHNSON: Yes.

19 CHAIRPERSON JORDAN: Okay. Now
20 talk about the other support letters from the
21 surrounding property owners.

22 MS. JOHNSON: Okay. So we have

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1 one from Saint Thomas More which is the school
2 located next to the Merrick Center from the
3 pastor. We have one from Child Christ Society
4 which is a service that's inside of the
5 Merrick Center.

6 We did some collaborations with
7 them through summer camp providing them PHD
8 which is Physical Healthy and Driven which is
9 basically a gym. We also helped them out with
10 arts and crafts through our Thingamajig
11 Project. You'll see that noted in the letter.

12 Also, we have a letter from one of
13 the participants and the parent who was
14 involved in our summer camp program. At the
15 Merrick Center we've been using the Merrick
16 Center, I think, as just like a YMCA gym kind
17 of to offset our gym area by YMCA Capital
18 View. That's how we became partners with the
19 Merrick Center and got involved with the
20 Merrick Center.

21 CHAIRPERSON JORDAN: Okay. Any
22 other support letters? Could you give us

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1 those support letters?

2 MS. JOHNSON: Copies?

3 CHAIRPERSON JORDAN: Um-hum.

4 MS. JOHNSON: Sure.

5 CHAIRPERSON JORDAN: What about --
6 how close -- what about apartment residents or
7 homeowners around the area?

8 MS. JOHNSON: We have not -- I
9 think it's like a couple of apartments away
10 but in the facility it looks like the Merrick
11 Center takes up a majority -- sits back and
12 takes up a majority of that block. Next to it
13 the resident will be Saint Thomas More which
14 is a school.

15 CHAIRPERSON JORDAN: So how close
16 would be the closest residential?

17 MS. JOHNSON: On the backside
18 because the Merrick Center sits like up on a
19 hill so on the backside I think it may be two
20 streets. Then on the back of the gym area
21 it's probably some complexes.

22 CHAIRPERSON JORDAN: Would you

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1 give us the letters, please?

2 MS. JOHNSON: Okay. Sure.

3 CHAIRPERSON JORDAN: Before we go
4 further, how is the Board feeling in regards
5 to the ANC? Do you think there's been
6 adequate notice to the ANC?

7 Mr. May, I saw you shake your
8 head.

9 COMMISSIONER MAY: I appreciate
10 this being pointed out. I frankly was not
11 paying attention to that question when I
12 review the case but it makes me very
13 uncomfortable to try to move ahead without
14 having any feedback at all from the ANC. I
15 would be inclined to give the Applicant some
16 time to reach out and for us to hear something
17 from the ANC indicating whether they have any
18 issues with this proposal.

19 CHAIRPERSON JORDAN: Anybody else?

20 I'm inclined to do that and to
21 keep your application alive because I don't
22 think you want us to go forward when you've

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1 got something that's a major issue for us. We
2 can't guarantee that the ANC is going to meet
3 with you but we really want you to be a lot
4 more diligent in trying to get a meeting with
5 them.

6 I would offer to you to let us go
7 ahead and -- I mean, we could do it but
8 hopefully with your agreement to move this off
9 from today and we'll give you another hearing
10 date, a short period.

11 Two things. You should meet with
12 the ANC if you can.

13 MS. JOHNSON: Okay.

14 CHAIRPERSON JORDAN: And you want
15 to send some formal letters to them so you
16 have something in your file showing you've
17 made the contact. Or emails, whatever it is.

18 Additionally, try to get some
19 letters of support from some residents. I
20 don't know how close. If they are like 200
21 feet or something to the place, then I
22 definitely want to see those. As many as you

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1 can get because some may not give them to you.

2 Ms. Sorg.

3 VICE CHAIR SORG: I'm just feeling
4 like there needs to be a little bit of a kind
5 of 30,000-foot overview here just so that you
6 understand. I mean, I have seen applications
7 for child development centers asking for 12
8 children that have been far more complete than
9 this.

10 What you're asking for asking for
11 is 150 children which is a big deal when it
12 comes to child development centers in the
13 city. I don't think there really are any
14 bigger than that that I've seen in the last
15 three years here.

16 If you understand that, if you've
17 only been working on speaking to the ANC for
18 two weeks, that means that I don't believe
19 that you know how complete this application
20 needs to be to be considered by the Board.

21 MS. JOHNSON: Okay. This is our
22 first time.

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1 VICE CHAIR SORG: That's
2 understandable. But you do know -- I know
3 that whoever it is that applied for this
4 application did it several months ago. Right?

5 MS. JOHNSON: Right.

6 CHAIRPERSON JORDAN: Anything
7 additional you want to say?

8 Mr. Moy, can you give us another
9 date we can put this on? I think we are
10 probably going to have to give it a cushion.

11 MR. MOY: I'm trying to catch up
12 on that conversation, Mr. Chairman. Do they
13 need to meet with the ANC?

14 CHAIRPERSON JORDAN: At least
15 attempt to. We can't guarantee the ANC is
16 going to give them a meeting, and they are not
17 required to, but we at least want to try the
18 outreach. If the ANC does want to meet with
19 them, then it's going to have to get on their
20 agenda.

21 MR. MOY: According to my records,
22 I believe ANC-8D meets the 4th Thursday of the

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1 month, I believe, unless that's changed. With
2 that knowledge, we can get on the record for
3 their meeting scheduled for this month.
4 Rather April. Then we can meet in May. I'm
5 thinking May --

6 CHAIRPERSON JORDAN: Let's make
7 sure we've got time to work this out. What
8 date are you looking? The earliest is May?

9 MR. MOY: Yes, or maybe the last
10 week of April. We do have a hearing on April
11 30 which is a Tuesday.

12 MS. JOHNSON: We've contacted her
13 and she did reach out to us. When my exec
14 answered the phone, they got disconnected and
15 she never called back. Currently we hold the
16 YMCA and we do have 150 kids in Ward 8 at YMCA
17 Capital View.

18 We also service off-sites in our
19 Kipp locations. This would just be an off-
20 site to what we already have. We are working
21 with Commissioner Gaskin in Ward 8 to just get
22 us connected with the commissioner of 8D.

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1 CHAIRPERSON JORDAN: Some time in
2 May, Mr. Moy.

3 MR. MOY: Okay. Just a second,
4 Mr. Chairman. We're looking at either May 7th
5 or May 21st.

6 COMMISSIONER MAY: I was pushing
7 for April 30th because I'm already scheduled
8 to be here.

9 CHAIRPERSON JORDAN: Oh. Well, we
10 could try.

11 What is your next date after April
12 30th?

13 MR. MOY: It would be May 7th,
14 sir.

15 CHAIRPERSON JORDAN: For Mr. May?

16 COMMISSIONER MAY: I have to be
17 here on June 4th FMDZA case. That's my next
18 time I'm here. I could conceivably do it on
19 the 7th.

20 CHAIRPERSON JORDAN: Okay. Let's
21 do that. Let's do that, May 7th.

22 MR. MOY: May 7th it is. Any

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1 materials the Board would care to have the
2 Applicant submit prior to May 7th?

3 CHAIRPERSON JORDAN: I'm going to
4 defer to Ms. Sorg but, as she said, she would
5 program the information.

6 VICE CHAIR SORG: I would just say
7 that one of the things that people are new to
8 applying for variance relief or special
9 exception relief often do is because these
10 cases are on the public record they look at
11 successful cases to see how complete they are.
12 In lieu of telling you exactly what I think is
13 missing from this application, I think you get
14 the idea.

15 CHAIRPERSON JORDAN: Come on down.
16 Come to the Office of Zoning and tell them
17 what you're trying to do.

18 VICE CHAIR SORG: They really are
19 very helpful

20 CHAIRPERSON JORDAN: These guys
21 are sticklers so when you come in here it has
22 to be tight. We don't want to reject your

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1 application if there is something you can do
2 to tighten it up.

3 MS. JOHNSON: Thank you.

4 CHAIRPERSON JORDAN: We will.

5 MS. JOHNSON: Thank you.

6 CHAIRPERSON JORDAN: Thank you.

7 MR. MOY: The next application is
8 Application 18519. This is the application of
9 Gregory Igbozuruike, pursuant to 11 DCMR
10 3103.2, for a variance from the lot width
11 requirements under Subsection 401.3, to allow
12 the construction of three new flats in the R-4
13 District at premises 429 Newton Street, N.W.
14 Property located in Square 3035, Lots 82 and
15 83.

16 CHAIRPERSON JORDAN: All right.
17 Where are we? I think we kind of cleaned up
18 this file. I've got an affidavit and an
19 authorization. Ah, didn't have a request to
20 waive prehearing statement out of time.

21 Mr. Bello.

22 MR. BELLO: Yes, sir.

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1 CHAIRPERSON JORDAN: You know
2 better.

3 MR. BELLO: I do.

4 CHAIRPERSON JORDAN: Are you
5 making that request?

6 MR. BELLO: I am, sir.

7 CHAIRPERSON JORDAN: Is the Board
8 okay with that? I guess since we already read
9 it, I guess we will have to be. We accept
10 your filing.

11 MR. BELLO: I appreciate it.

12 CHAIRPERSON JORDAN: I know
13 there's been some other people on this file
14 going back and forth.

15 Please identify yourselves.

16 MR. BELLO: My name is Toya Bello.
17 I'm the authorized agent for the Applicant in
18 this case.

19 MR. DiRUGGIERO: I'm Gerard
20 DiRuggiero, the principal broker at Urban Land
21 Company.

22 CHAIRPERSON JORDAN: Make sure

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1 your mic is turned on. I'm going to ask you
2 to introduce yourself again. Push the button.
3 There you go.

4 MS. IGBOZURUIKE: Got it. My name
5 is Ina Igbozuruike. My husband Gregory and I
6 own the property.

7 MR. IGLESIAS: My name is Carlos
8 Iglesias. I work in conjunction with Mr.
9 Bello as a consultant on the project.

10 CHAIRPERSON JORDAN: Your name
11 again?

12 MR. IGLESIAS: Carlos Iglesias.

13 CHAIRPERSON JORDAN: Okay. Let me
14 ask you. This file has been deficient with
15 any support letters. I have no support
16 letters in this file.

17 MR. BELLO: As in from the
18 neighbors?

19 CHAIRPERSON JORDAN: From the
20 neighbors.

21 MR. BELLO: Well, we do have an
22 ANC letter.

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1 CHAIRPERSON JORDAN: We have ANC
2 support but what about the neighbors? This is
3 close. There will be close contact with those
4 people who live in the adjacent rowhouses.

5 MR. BELLO: Not an unusual
6 development for the R-4 zone where a side yard
7 is not required.

8 CHAIRPERSON JORDAN: I hear what
9 you're saying but I'm asking the question did
10 you attempt to get support letters from the
11 neighbors. Whether or not it's sufficient
12 enough, that's going to be the Board's
13 determination and has the outreach been made?

14 MR. BELLO: To the two adjacent
15 neighbors, no, sir.

16 CHAIRPERSON JORDAN: I'm inclined
17 not to move forward until we have some
18 outreach to the neighbors but let me find out
19 where the Board is on this. I'll defer to
20 where the Board is.

21 COMMISSIONER MAY: Mr. Chairman,
22 I'm all for having broad support from

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1 neighbors but I'm not sure we need to make
2 that a precondition of consideration of this
3 case.

4 CHAIRPERSON JORDAN: Okay.

5 COMMISSIONER MAY: You know, there
6 really is only one question in my mind about
7 this case.

8 CHAIRPERSON JORDAN: It's almost a
9 matter of right.

10 COMMISSIONER MAY: Exactly. It's
11 a relatively small variance and the question
12 I have is about the context. We do have one
13 letter in the record from a private citizen
14 indicating some opposition to it.

15 CHAIRPERSON JORDAN: There's
16 people here in opposition.

17 COMMISSIONER MAY: Okay. We'll
18 hear from them.

19 CHAIRPERSON JORDAN: Ms. Sorg,
20 what is your view?

21 VICE CHAIR SORG: I agree with Mr.
22 May. I think the consideration that he voices

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1 is really the main question that I have about
2 the immediate context. Specifically, if we
3 want to go there --

4 CHAIRPERSON JORDAN: Yes, go
5 ahead.

6 VICE CHAIR SORG: Specifically, I
7 believe it's in the burden of proof statement
8 the Applicant states that -- this is from my
9 notes so I'm trying to go back and find it.
10 The Applicant states that most of the houses
11 on the block or on the square are 16-foot
12 width.

13 That wasn't something that I can
14 kind of get my head around from the images
15 that I have so I would look for either some
16 corroborating testimony or maybe pointing out
17 that I'm not correct in what I'm saying?

18 CHAIRPERSON JORDAN: Mr. Hinkle,
19 are you okay if we go forward? Okay. As I
20 said, we'll go forward with it. For the
21 record, we want Applicant's to get letters
22 from especially the adjacent neighbors that

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1 they are going to live with. It helps you a
2 lot, especially if it gets close to the
3 borderline and we don't know what we're going
4 to do and we're not there yet.

5 Let's move forward. I mean, I
6 think I understand completely where we are in
7 the record. The record is very clear. I
8 think Ms. Sorg just raised one issue. Anybody
9 else have any other issues they want drilled
10 down by this Applicant?

11 Okay. Why don't you respond.

12 MR. BELLO: Just respond to Ms.
13 Sorg's question. I just distributed some
14 graphic illustrations this morning. On the
15 fourth page is a copy of a base map.

16 CHAIRPERSON JORDAN: You did what
17 this morning? Okay. Again, for the record,
18 these things should be given to us earlier and
19 it will help you either -- it gives us an
20 opportunity to absorb it, to look at it. The
21 Board puts in a lot of time before these
22 hearings. I don't know if everybody knows it.

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1 At least eight hours before we
2 start a hearing just going through all the
3 files and being prepared. Sometimes getting
4 things last minute doesn't give the Board the
5 opportunity really to digest it. It also
6 doesn't help the hearing go smoothly but we
7 appreciate you doing this. Go ahead.

8 MR. BELLO: Thank you, Mr.
9 Chairman. I appreciate your statement.

10 If you look at that page, you will
11 see that almost all of the lots on Newton
12 Place are actually about 16.66.

13 CHAIRPERSON JORDAN: Point to
14 which page. The third page?

15 MR. BELLO: It will be the fourth
16 page.

17 CHAIRPERSON JORDAN: The fourth
18 page? At the bottom it says -- okay, fourth
19 page it says --

20 MR. BELLO: Site plan.

21 CHAIRPERSON JORDAN: Oh, the site
22 plan. Okay. All right. This is -- what lot

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1 number is this?

2 MR. BELLO: This is lot 812.

3 CHAIRPERSON JORDAN: Okay, 812.

4 MR. BELLO: And the adjacent lots
5 will be 19, 20, 21. All of those series of
6 lots are about 16.66 feet wide.

7 COMMISSIONER MAY: You say all are
8 about 16.66. This doesn't give us any of the
9 dimensions. Do we know for certain? I mean,
10 are any of them 18 feet?

11 MR. BELLO: None of them.
12 Actually, the dimensions are there, sir.

13 COMMISSIONER MAY: Okay. Oh, I
14 see, 16.66. Got it.

15 CHAIRPERSON JORDAN: I see 16.6
16 and I see some -- so none of these are 18?

17 MR. BELLO: None of them are. In
18 fact, if you look at the larger lots, which
19 would be lots 59, 58, and 57, clearly those
20 lots were of similar size to 812 but they have
21 the benefit of pre-subdivision prior to May
22 12, 1958. This actually is the last lot on

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1 this street that didn't have that benefit.

2 CHAIRPERSON JORDAN: Do we have
3 any other questions for this Applicant from
4 the Board?

5 I think from the things we've
6 covered we understand what you're doing. We
7 know the reasons why you need to do it.
8 Initially the question was how come it
9 couldn't be divided up in another way that was
10 more compliant. I think there are some
11 difficulties from what you submitted and
12 looking at your site plan, too.

13 Does anyone else have any
14 questions for the Applicant or something else
15 they need to hear from him?

16 Let's turn to the Office of
17 Planning.

18 MS. THOMAS: Good morning, Mr.
19 Chairman, members of the Board. The Office of
20 Planning will stand on its record and I'll be
21 happy to take any questions.

22 CHAIRPERSON JORDAN: Does the

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1 Board have questions for the Office of
2 Planning?

3 In your estimation these lots as
4 subdivided will be similar to the other lots
5 on the block?

6 MS. THOMAS: Yes, that's correct.

7 CHAIRPERSON JORDAN: What about
8 the design of the building that's being
9 proposed? How will that -- in your estimation
10 how does that flow? In your opinion how does
11 that flow with the design of the rest of the
12 block?

13 MS. THOMAS: As flats we have no
14 objection to the design as proposed.

15 CHAIRPERSON JORDAN: Any other
16 questions for the Office of Planning from any
17 one?

18 Does the Applicant have any
19 questions from the Office of Planning?

20 MR. BELLO: No, sir.

21 CHAIRPERSON JORDAN: Anyone here
22 from the Department of Transportation?

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1 We do have a letter from the
2 Department of Transportation which says they
3 have no objection to the relief.

4 Is there anyone here from ANC-1A?
5 We do have a letter from ANC-1A supporting the
6 application which we will give great weight
7 to. They support this project.

8 Is there anyone here wishing to
9 speak in support of the application? Speak in
10 support of the application?

11 Is there anyone here wishing to
12 speak in opposition to the application?

13 Please come forward.

14 COMMISSIONER MAY: Mr. Chairman,
15 while they are coming forward, can I ask one
16 more question of the Applicant?

17 CHAIRPERSON JORDAN: Absolutely.

18 COMMISSIONER MAY: I'm looking at
19 the image that you submitted, this view,
20 proposed Newton Place N.W. front view. I'm
21 looking at that and I'm comparing that to what
22 I see in the section on A3.1. Section A3.1

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1 seems to imply that the third floor will be
2 taller than the neighboring properties.

3 I know what that roof -- what that
4 style of porch front townhouse is and how that
5 works and how they have that sort of faux
6 third story with a little attic window into an
7 unoccupied space. That's what exist in the
8 neighboring houses.

9 Typically if you were to draw a
10 line straight back from there, you don't get
11 sufficient ceiling height for occupiable
12 space. Usually it gives you something like
13 six or seven feet at most on the interior.

14 Yet, you're drawing it here as if
15 you are respecting the line of the other
16 houses at that top point. Your section seems
17 to imply that it would be taller. Can you
18 confirm for me that it will look like this in
19 terms of the ridge line of that attic level or
20 that third floor level?

21 MR. BELLO: Well, it is actually
22 intended to be about the same height as every

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1 other building.

2 COMMISSIONER MAY: And "be about"
3 and "intended" are not the same as "it will be
4 like this."

5 MR. BELLO: Well, it will be.

6 COMMISSIONER MAY: It will be
7 this? It will look exactly like this?

8 MR. BELLO: Right.

9 COMMISSIONER MAY: Okay. Knowing
10 a little bit about how these houses are, I
11 don't believe that what you submitted really
12 supports that. I might ask you to submit
13 something additional to demonstrate that, in
14 fact, it will honor that ridge line and it
15 will be the same ridge line.

16 MR. BELLO: I would be glad to do
17 that.

18 COMMISSIONER MAY: Okay. Thanks.

19 CHAIRPERSON JORDAN: Let's turn to
20 the persons in opposition. Make sure your
21 microphones are turned on. You should have a
22 bright glowing -- bright glowing green light.

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1 I'm going to ask did both of you take the oath
2 and affirmation provided by the court
3 reporter?

4 Okay. Would you please identify
5 yourself. Are you sure the mic is on? Try it
6 again. It's off now. There you go.

7 MS. COSTNER: My name is Glenda
8 Costner. I'm a resident on Newton Place N.W.

9 CHAIRPERSON JORDAN: And?

10 MS. GOODALL: My name is Shirley
11 Goodall and I'm a resident of Newton Place.

12 CHAIRPERSON JORDAN: Good. Ms.
13 Costner, you can go forward. You have three
14 minutes to tell us what you think about this.

15 MS. COSTNER: Okay. Well, our
16 initial concern was the ridge line which Mr.
17 May spoke of. But in the ANC meeting that we
18 had earlier this month, we were concerned
19 about them making flats and this is going to
20 be like six units all total or three
21 buildings.

22 Now, it appears that it may not be

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1 consistent with how the neighborhood looks
2 which also I'll just call him Mr. Gregory
3 because I can't pronounce his last name, has
4 said that they will provide additional parking
5 in the back lots to accommodate, as opposed to
6 one car, I guess, two cars which would be a
7 tally of six.

8 That's so there won't be an impact
9 on the residents that are already presently
10 residing on Newton Place N.W. so that's a
11 great concern of ours. And to be consistent
12 with the plans that they submit to you as the
13 Zoning and what they are actually going to do.

14 On or about or around, that's not
15 -- you know, that's not acceptable for the
16 residents that have lived in the neighborhood
17 for as many years as some of the homeowners
18 have on Newton Place N.W. Thank you.

19 CHAIRPERSON JORDAN: Have you had
20 the opportunity to see the plans, the
21 drawings?

22 MS. COSTNER: Yes.

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1 CHAIRPERSON JORDAN: Thank you.
2 We appreciate your statement.

3 Ms. Goodall.

4 MS. GOODALL: Hi. I have a cold
5 so my voice may come and go.

6 CHAIRPERSON JORDAN: You sound
7 fine. Thank you for coming even with the
8 cold.

9 MS. GOODALL: I am representing
10 some of the residents of Newton Place. I
11 didn't have time to really get the names of
12 the people on block because I've been sick for
13 almost seven days but I don't really have a
14 problem with them putting those homes there
15 but they do not look like our homes in the
16 front.

17 We are scared they are going to be
18 overtop of us. We know they are saying they
19 are not. It's going to take up a lot of
20 parking space from us. The letter that was
21 sent out said three parking spaces per lot and
22 there's going to be six units.

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1 I did ask the ANC people to walk
2 the block for us so they could see the homes
3 that's there and see they are not going to
4 look like the front of our houses.

5 I'm not knocking them putting
6 those houses there but I even asked why can't
7 they do two homes instead of those flats
8 because we have flats all around us that
9 doesn't detail our historic neighborhood that
10 we live in. We're not far from Soldier's
11 Home.

12 CHAIRPERSON JORDAN: I was just
13 checking regarding the parking. They would
14 meet the requirements necessary for parking
15 under the Zoning Regulations. They are not
16 seeking relief from parking, any parking
17 relief.

18 Parking is an issue everywhere and
19 I certainly appreciate your concern about
20 that. They would not be required to do any
21 additional parking under the law.

22 Again, I thank the two of you for

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1 coming. Were both of you at the ANC meeting?

2 MS. COSTNER: Yes.

3 MS. GOODALL: Yes.

4 CHAIRPERSON JORDAN: The ANC at
5 the meeting was 12 members of the ANC and the
6 vote was 11 to 1 in support of the
7 application. Did you have a chance to talk
8 there?

9 MS. GOODALL: We did and we didn't
10 like what was said. We know we're not going
11 to win but we still felt like why can't they
12 do two homes. Why can't they do two homes
13 that does not look like a flat in that little
14 spot.

15 CHAIRPERSON JORDAN: No. It's
16 best to voice your concern. You never know how
17 it's going to turn out.

18 Any questions for the two
19 witnesses?

20 Does the Board have any questions
21 of the two witnesses?

22 Does the Applicant have any

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1 questions for the two witnesses?

2 MR. BELLO: No, Mr. Chairman.

3 CHAIRPERSON JORDAN: Then we thank
4 you.

5 Let's turn back to the Applicant
6 for any rebuttal and closing. Let me ask you
7 is there any parking behind the unit?

8 MR. BELLO: Yes.

9 CHAIRPERSON JORDAN: So you have
10 one space for each building?

11 MR. BELLO: We are going to have
12 one space for each building. I think we can
13 provide additional parking on-site provided we
14 can meet all other relevant provisions of the
15 Zoning Regulations.

16 CHAIRPERSON JORDAN: Does the
17 Board have any additional questions for this
18 Applicant?

19 From what you submitted we realize
20 why two units won't work there. It's not a
21 lot of relief that you're asking for. There
22 is going to be some impact in the neighborhood

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1 and some things you can do very closely as a
2 matter of right, too. I mean, that's the only
3 thing that is kind of carrying you through
4 this.

5 You got any questions, Mr. May?

6 COMMISSIONER MAY: Yes. I mean, I
7 think it's pretty clear that a subdivision of
8 three would be absolutely consistent with the
9 lot widths that exist on the block. It makes
10 perfect sense why you would want to pursue
11 that.

12 Two homes with side yards would
13 not be completely inconsistent, particularly
14 if you were to do something that was a porch-
15 run with a side yard. That would be perfectly
16 fine, too. But it does significantly affect
17 the economics, I'm sure. This awful version
18 of two full-width things, this is just scary.
19 It's just put in there to scare us.

20 CHAIRPERSON JORDAN: That's
21 exactly what I thought.

22 COMMISSIONER MAY: I don't

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1 particularly care for that so I'm just going
2 to ignore that because that's just something
3 we would never want to see and I don't want to
4 think about what your strategy is here.

5 I am still concerned about the
6 inconsistency of the drawings. You can see
7 from the base map that the front facades of
8 the houses on one side are not aligned with
9 the front facades on the other side. There is
10 a difference in setback. That doesn't seem to
11 be accurately portrayed, although it's hard to
12 tell with this straight-on elevation exactly
13 what's going on.

14 It also seems that there is a
15 difference in height of those buildings. What
16 we're seeing in the elevation, you know, on
17 the one side -- as you look at the elevation
18 on the one side looks like it's higher. If
19 you look at this image here, this building
20 looks higher than that building.

21 Granted some of it is the setback
22 but it still looks like it's inconsistent.

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1 I'm just very concerned about how the new
2 buildings will fit in. I don't think there
3 has to be an absolute slavery to the existing
4 ridge line but it raises for me a concern
5 about how accurate this rendition is.

6 I mean, I have absolutely no
7 problem with this as it's drawn. The question
8 I have is this what is actually going to be
9 built. I don't have a lot of confidence given
10 the inconsistencies in what you've submitted.
11 That's the only anxiety I have.

12 Otherwise, I think this is a very
13 straightforward case. I appreciate the
14 concerns of the neighbors but, frankly, they
15 don't go to the essential zoning issues here
16 because flats are allowed as a matter of right
17 and you're meeting the parking requirements.

18 There's not a lot of basis just on
19 zoning to object and vote against what you are
20 asking for on the basis of the concerns that
21 they raise just from a zoning perspective.
22 The real issue here is are we going to wind up

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1 with what we see here or is it going to wind
2 up having to be something different.

3 MR. BELLO: Mr. May, there is a
4 remedy for that. We are glad to supplement
5 the record with architectural drawings that
6 would meet with your satisfaction. The
7 rendering is a graphic illustration of what is
8 to be in a dimensional drawing.

9 I might also remind you that
10 copies of the plans and drawings that were
11 submitted to record can be made a condition
12 or, in fact, an automatic condition of
13 approval of the BZA.

14 CHAIRPERSON JORDAN: Ms. Sorg.

15 VICE CHAIR SORG: I think Mr.
16 May's concerns is not so much with the plans
17 for -- I don't want to speak for you but, from
18 what you're saying, what I'm hearing is that
19 it's about the context, which is to say the
20 plans are here and they are complete. They
21 are fine with me and presumably everybody
22 else, but they only show the three structures.

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1 Certainly Mr. May and the rest of
2 us are aware that the rendering -- this rough
3 rendering that is here is only
4 representational but I agree that in terms of
5 getting to really the third prong of the
6 variance test is how are these structures,
7 which seem fine, how are they interacting with
8 their neighbors.

9 The question is about the roof
10 line which really was brought up by the two
11 neighbors who came to testify today. I think
12 I agree with Mr. May. It would be good to
13 find out.

14 Also, I think if your architect
15 hasn't mentioned this, it would be important
16 to know what's happening with these buildings
17 that you are building to sell or rent. If the
18 neighboring buildings aren't the same height,
19 what are they doing about that?

20 Also if the two houses on either
21 side of these two structures are not at the
22 same setback, what's happening to your

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1 buildings that are being built? I think it is
2 an important question.

3 CHAIRPERSON JORDAN: Anything
4 else?

5 Mr. Bello, do you have anything
6 else for us?

7 MR. BELLO: No, sir. I would just
8 say that we are glad to supplement the record.

9 CHAIRPERSON JORDAN: Let's do this
10 then. Let's close the hearing based upon what
11 we've deduced at this point. Let's then keep
12 the record open for the drawings as requested
13 and then move this to a decision calendar
14 date.

15 Is that good for the Board? Then
16 that's what we will do. We're closing the
17 hearing based upon the evidence deduced to
18 date. Keep the record open solely for
19 additional drawings and we'll put this on a
20 decision calendar.

21 MR. MOY: Mr. Chairman, for your
22 consideration, the staff is looking at --

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1 MS. COSTNER: In reference to what
2 was submitted this morning, I don't know
3 because I didn't get a copy of it in the
4 meeting earlier this month, but was that the
5 same thing that was submitted to the ANC that
6 they gave a 11 to 1 vote?

7 CHAIRPERSON JORDAN: Ms. Costner,
8 we appreciate your input but we have certain
9 policies and procedures that we have to follow
10 as a matter of law.

11 MS. COSTNER: Okay.

12 CHAIRPERSON JORDAN: You can't do
13 what you're doing right now.

14 MS. COSTNER: All right.

15 CHAIRPERSON JORDAN: We don't know
16 what was submitted to the ANC and that's
17 something --

18 Was this the same thing submitted
19 to the ANC?

20 MR. BELLO: All the plans in the
21 record, yes, except --

22 CHAIRPERSON JORDAN: The thing you

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1 just gave us. Got you. Thank you.

2 Mr. Moy.

3 MR. MOY: Yes, sir. The next
4 available date for decision for the Board is
5 April 9th.

6 CHAIRPERSON JORDAN: Do they have
7 enough time to get the submission in by April
8 2nd? April 2nd is next Tuesday.

9 MR. MOY: Next Tuesday. I can
10 make it as late as April 3rd on Wednesday.

11 CHAIRPERSON JORDAN: Do you have
12 enough time to do the supplemental drawings?

13 MR. BELLO: I would need specific
14 instructions on what drawings are needed to
15 supplement the record.

16 COMMISSIONER MAY: There are many
17 ways that you can demonstrate it but you need
18 to prove -- what you need to demonstrate is
19 that what you are showing here in this
20 elevation is an accurate version of what will
21 be built.

22 It seems to me one way to do that

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1 is to get a measurement of the adjacent
2 properties to know what height the ridge lines
3 are relative to some datum line; sidewalk or,
4 you know, if you want to measure from the
5 front of the building or something like that.

6 You need to know what is that
7 ridge line point there, what is that ridge
8 line point there, and how does that compare
9 with what you are proposing to build. Again,
10 it just doesn't seem like this attic level the
11 way it's shown is going to -- is tall enough
12 for you to have a full story on that third
13 floor.

14 You've given us a section but it
15 doesn't -- you know, nothing to compare that
16 section to the neighboring property. I know
17 you can't go into the neighboring property and
18 get all the dimensions inside but you can go
19 onto your property and you can measure to the
20 height of that ridge line of the adjacent
21 property.

22 There are ways to do it. I mean,

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1 that's really what I think I need to see.
2 Then I think this drawing is probably going to
3 change a little bit as a result so if it does,
4 then I would just like to see a new and
5 improved version of that. It may be what
6 you're doing is going to be perfectly fine.

7 I think what we want to avoid is
8 what we have seen across the city in a number
9 of circumstances where knowing that you can go
10 -- there is no limit on the number of stories
11 and the height limit is 40 feet to the ceiling
12 of the top floor that you wind up with these
13 42-foot buildings next to 25-foot buildings.

14 I know that's not what you're
15 proposing here but if you're proposing
16 something that is a foot taller, no big deal.
17 If you are proposing something that is going
18 to be five feet taller and have a completely
19 different roof pitch and so on, it might be a
20 bit of a concern. It might not. It just kind
21 of depends on what it is.

22 CHAIRPERSON JORDAN: I think we

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1 probably should -- are you sure you can get it
2 in by that time?

3 MR. BELLO: I should be able to,
4 sir.

5 CHAIRPERSON JORDAN: Then we will
6 close this hearing and put this on for
7 decision on that date. We are going to take a
8 five-minute -- six-minute break. A five-
9 minute break.

10 (Whereupon, at 11:02 a.m. off the
11 record until 11:10 a.m.)

12 CHAIRPERSON JORDAN: Mr. Moy, we
13 are going to call for sake of clarification
14 18472, Excel Academy, to clear the record on
15 the terms.

16 MR. MOY: Yes, sir.

17 CHAIRPERSON JORDAN: We are back
18 on the record regarding 18472 Excel Academy.
19 In looking at the Board's decision and
20 clarifying the different positions of all the
21 parties, everybody was in essence trying to
22 get to the end of school year 2021/2022

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1 regardless of how they counted it.

2 Some people were counting it from
3 2012/13 school year, some from the 2013/14 but
4 the bottom line is that we are looking for it
5 to end at the end of the 2021/22 school term.

6 Let's now go back to our last item
7 on today's agenda, the consolidated two cases
8 18503/18505, Keystar Spring Place LLC.

9 MR. MOY: Yes, sir. I'll call the
10 two cases together. Yes?

11 CHAIRPERSON JORDAN: Yes.

12 MR. MOY: Okay. That would be --
13 let me read the caption for the record for the
14 transcript.

15 This is Application No. 18503 of
16 Keystar Spring Place LLC, pursuant to 11 DCMR
17 3103.2, for a variance from the off-street
18 parking requirements under Subsection 2101.1,
19 and a variance from the loading berth and
20 loading platform requirements under Subsection
21 2201.1, to construct a 64-unit apartment
22 building in the C-2-A District at premises

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1 7000 block of Spring Place, N.W. Property
2 located at Square 3186, Lots 1 and 804.

3 The other application is 18505 of
4 Keystar Spring Place LLC, pursuant to 11 DCMR
5 3103.2, for a variance from the off-street
6 parking requirements under Subsection 2101.1,
7 and a variance from the loading berth and
8 service and delivery space requirements under
9 Subsection 2201.1, to construct a new 864-unit
10 apartment building in the C-2-A District at
11 premises 1795 Bull Place, N.W. and 7051-7053
12 Spring Place, N.W. Property located at Square
13 3185, Lots 52 and 822.

14 CHAIRPERSON JORDAN: Okay. Let me
15 catch up here one second. All right.

16 Please identify yourselves.

17 MR. KEYS: Good morning, Mr.
18 Chairman. I'm George Keys for the Applicant.

19 MR. TUCKER: I'm Don Tucker,
20 principal of EDG Architects and also a co-
21 developer of the proposed project.

22 CHAIRPERSON JORDAN: I thought

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1 that we had taken testimony already in this
2 regard and that we just left the record open
3 for the supplement of the documents.

4 Is that correct, Mr. Moy?

5 MR. MOY: Yes, sir.

6 CHAIRPERSON JORDAN: So we've
7 already conducted a hearing but we probably
8 will want to ask some questions regarding the
9 supplement.

10 If I'm correct, Mr. Moy, did we
11 close the record?

12 MR. MOY: We closed the record
13 except for submissions from the Applicant
14 which are in the record under Exhibit 38 as
15 well as responses from parties under Exhibit
16 39 and Exhibit 40.

17 MR. KEYS: Mr. Chairman.

18 CHAIRPERSON JORDAN: Yes, please.

19 MR. KEYS: If I could offer, I was
20 a little perplexed as to where matters were
21 left so I went back and reviewed the video
22 recording of the hearing and it was my

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1 impression that the record was not closed. We
2 are still in hearing mode.

3 In fact, the Applicant did not
4 complete its presentation. I think if you
5 will recall, the Board I think in an effort to
6 get to critical issues, or important issues,
7 really encouraged the Applicant to dispense
8 with the presentation that it would have made
9 and go right to things that were of concern to
10 the Board.

11 CHAIRPERSON JORDAN: That's the
12 way we are going to proceed anyway. I mean,
13 I think --

14 MR. KEYS: I understand that
15 but --

16 CHAIRPERSON JORDAN: You thought
17 we left the record open. We didn't close the
18 record is what you're saying.

19 MR. KEYS: That is correct. And
20 that the Applicant did not complete, for
21 example, the rebuttal portion of the hearing.
22 We may determine that will not be necessary

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1 but we are still in hearing mode is the
2 message I hope to convey to the Board.

3 MR. MOY: Yes, Mr. Chairman. I
4 want to retract my statement. I was advised
5 by the staff we are still in hearing mode.

6 CHAIRPERSON JORDAN: Okay. All
7 right. So we've got the supplemental -- the
8 record has been supplemented with the final
9 proposed condition by consensus.

10 By consensus. What do you mean by
11 that? Who all weighed in and agreed to that?

12 MR. KEYS: I can say with some --
13 certainly the Office of Planning and the
14 Department of Transportation worked with the
15 Applicant and we came up with the list of
16 conditions that were attached as Exhibit 2 in
17 the filing on March 12th.

18 The Advisory Neighborhood
19 Commission 4B met last night and we have just
20 been provided with a letter from ANC-4B that
21 I haven't fully digested. I assume the Board
22 has this?

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1 CHAIRPERSON JORDAN: We have not
2 gotten that.

3 MR. KEYS: I think there are more
4 copies that are available if you wish to have
5 them, or have them made.

6 CHAIRPERSON JORDAN: Do you have
7 them?

8 MR. KEYS: Yes.

9 CHAIRPERSON JORDAN: Give them to
10 the Board secretary.

11 MR. KEYS: In looking at it, I
12 don't think this addresses the conditions.

13 CHAIRPERSON JORDAN: You mean it
14 didn't change the conditions?

15 MR. KEYS: No, it didn't approve
16 the conditions. It didn't accept the
17 conditions. It simply adds more conditions.

18 CHAIRPERSON JORDAN: Oh, okay. I
19 got you.

20 MR. KEYS: It makes no reference
21 to the conditions that were agreed upon by the
22 two city agencies and the Applicant.

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1 CHAIRPERSON JORDAN: But we had a
2 previous vote of the ANC regarding this
3 property.

4 MR. KEYS: Is there another copy
5 of it?

6 CHAIRPERSON JORDAN: Let's come
7 back to this then because we are going to have
8 to hear from the ANC.

9 COMMISSIONER MAY: Thanks.

10 MR. KEYS: Yes, Mr. Chairman.
11 There was a resolution of the ANC adopted on
12 February 5, 2013.

13 CHAIRPERSON JORDAN: By a vote of
14 six to zero to one.

15 MR. KEYS: That approved certain
16 conditions. I think it was the variance
17 between the ANC proposed conditions, the DDOT
18 conditions, and the OP conditions that
19 prompted the Chair to encourage us to get
20 together. We have substantially achieved
21 that, although I don't know where ANC-4B is on
22 the conditions that were --

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1 CHAIRPERSON JORDAN: Okay. We'll
2 come to the ANC.

3 So then we have supplemented the
4 record. Is the Board satisfied with the
5 rooftop drawing issue?

6 COMMISSIONER MAY: No. I
7 understand the rooftop structures comply with
8 setback requirements. I don't think that was
9 the issue but there are multiple structures of
10 different height in one of the two buildings
11 so that requires relief. Does it not?

12 MR. KEYS: In my view it does not,
13 Mr. Chair. I would like to --

14 COMMISSIONER MAY: Tell me why it
15 doesn't need relief.

16 MR. TUCKER: We didn't ask for
17 relief initially on this and I think the issue
18 was raised by Mr. May when we presented a
19 rendering that showed actually three bulkheads
20 on what we're calling Building No. 2.

21 What is included in your packet
22 now is an updated -- corrected version of that

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1 rendering which properly shows building 1
2 having a single bulkhead and building 2 having
3 two bulkheads. It doesn't require relief
4 because we have two elevators in building 2.

5 MR. KEYS: And, Mr. Tucker, what
6 is the height of the penthouse structures on
7 building 2?

8 COMMISSIONER MAY: Height is not
9 the issue.

10 MR. TUCKER: We're setback
11 properly.

12 COMMISSIONER MAY: The Zoning
13 Regulations allow multiple rooftop structures
14 when they are housing separate elevators.

15 MR. TUCKER: When there's two
16 elevators you can have two penthouses.

17 COMMISSIONER MAY: Of separate and
18 unequal height.

19 MR. TUCKER: Yes.

20 COMMISSIONER MAY: Okay. I don't
21 think I've ever run into that. At least if I
22 have, it's been so long I don't recall that so

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1 I'll have to look at that regulation again.

2 MR. TUCKER: So this is the
3 corrected elevation properly rendered,
4 building 1 having a single bulkhead and
5 building 2 with two elevators having two
6 bulkheads.

7 COMMISSIONER MAY: Okay. As we
8 move on with the case, I'll check on that.

9 CHAIRPERSON JORDAN: Regarding the
10 loading plan, there's been some changes to the
11 loading plan which we read in the record.
12 Also regarding the management of the loading
13 docks and a restriction as to the type of
14 vehicles and the qualification of people
15 bringing vehicles into the loading dock.

16 Does the Board have any questions
17 about that?

18 MR. TUCKER: Yes. There was also
19 a question about the turning radius at Spring
20 and Bull that one of the neighbors brought up
21 last time. This diagram illustrates that turn
22 with a 30-foot truck.

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1 Because we've widened the street
2 and removed a telephone pole that would have
3 blocked the turn, now we've actually improved
4 the condition at that intersection.

5 CHAIRPERSON JORDAN: I was kind of
6 confused because in your response and the
7 supplement said it was always part of the plan
8 to remove it, but then I didn't see when I
9 went back and looked at it, but I see it now.

10 MR. TUCKER: Well, the street is
11 wider. This tracking drawing shows a 30-foot
12 truck making that turn easily with the
13 additional width that's provided.

14 CHAIRPERSON JORDAN: Does the
15 Board have any questions on that issue?

16 MR. TUCKER: As far as the loading
17 plan itself, we made a change that we think
18 significantly improved our turning situation
19 for both 25 and 30-foot trucks.

20 CHAIRPERSON JORDAN: You submitted
21 that.

22 MR. TUCKER: Yes, sir.

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1 CHAIRPERSON JORDAN: The Board has
2 read this. That's why I was asking if there
3 are any questions other than what I thought
4 was clear in the record about the change of
5 plan.

6 I think right now we are still
7 struggling with the rooftop, whether or not
8 rooftop relief was necessary. I do have,
9 while we are taking a look at that, an issue.
10 Let's kind of slide to the conditions while
11 Mr. May is also taking a look at the rooftop.

12 COMMISSIONER MAY: I'm still
13 checking. Still looking at it.

14 CHAIRPERSON JORDAN: As regarding
15 the conditions and --

16 If the ANC representative would --
17 I think I'm clear from your letter. It took
18 a minute for me to read. You do have concerns
19 with the conditions. That's what this letter
20 is saying. I just kind of read this thing.

21 Could you give us your name for
22 the record?

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1 MS. GREEN: Surely. Sara Green.
2 The last name is just like the color.

3 CHAIRPERSON JORDAN: Ms. Green,
4 your position with the ANC?

5 MS. GREEN: I'm the Chair of ANC-
6 4B and also the project is in my single member
7 district 4B-01.

8 CHAIRPERSON JORDAN: I remember.
9 Very good. We appreciate you being here all
10 morning and waiting for this particular one.
11 This is the ANC's response to the proposed
12 conditions that have been -- I'm going to use
13 this lightly -- the consensus between the
14 Applicant, OP, and DDOT.

15 MS. GREEN: Correct. We thought
16 when we left here -- I mean, we thought we
17 were all going to sit down. That didn't
18 happen. I contacted DDOT and said, "Okay,
19 when are we..." They said, "No. These are
20 the conditions. This is what we support." I
21 got an email with these 12 points.

22 CHAIRPERSON JORDAN: Eleven.

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1 MS. GREEN: Eleven. I'm sorry.
2 With the 11 points. In terms of the loading
3 dock issue and things like this, we didn't
4 feel that we had the expertise, the technical
5 expertise to deal with that. We stand by the
6 February 5th resolution that said we rely on
7 DDOT's expertise.

8 The other issues are about
9 providing safe access to people who live in
10 this project and doing it in the way that is
11 fair and reasonable. What I've heard Mr.
12 Tucker say very often is that their site is
13 constrained and, therefore, they can't do the
14 parking. Therefore, they need the variance.

15 But they are also going to be
16 saving an extraordinary, I mean a huge amount
17 of money, by doing this and, in fact, are
18 going to the city for property tax evasion,
19 which is a separate issue. I understand that.

20 What we are looking for here is
21 something that is actually going to be a
22 transit oriented project which is the basis

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1 for the variance. This is a transit oriented
2 project and people are going to see the Metro
3 and people aren't going to use cars and they
4 are going to be walking everywhere.

5 That's why it's okay to issue this
6 variance. That's their argument that I
7 understand they are making. But they aren't
8 going to have safe access. That's the
9 problem. It's an odd site. It's an odd
10 situation, street setup. That's what the ANC
11 is asking for.

12 CHAIRPERSON JORDAN: As we said
13 before, we're bound by what Zoning can do,
14 Zoning Regulations. I clearly understand. I
15 think it's very clear to me what the ANC is
16 wanting in this letter, at least my
17 interpretation, is that there are some
18 additional benefits that the community should
19 receive by the granting of relief. I don't
20 disagree with that but the problem is that
21 this Board can't enforce that.

22 Something else in here I think is

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1 really important. One is that the Applicant
2 can only do those things which the Applicant
3 can do in regards to the property they own.

4 MS. GREEN: Correct. Correct.

5 CHAIRPERSON JORDAN: But there is
6 a request that they do more than that. Two,
7 it's also a rock and a hard place, as you've
8 already identified. Somebody even from the
9 city needs to step up in regards to some of
10 the requirements here that has kind of been
11 pushed on the Applicant which doesn't make
12 sense and I agree with you.

13 MS. GREEN: Yes, yes. No, we
14 understand that. I mean, the Cedar Crossing
15 Board was really perplexed, as were we. I'm
16 sure that the developer is going to make a
17 good faith effort to negotiate an easement but
18 this is really difficult stuff.

19 I think anybody who has ever dealt
20 with WMATA as we have in our community knows
21 that WMATA can be a sticky wicket here. I
22 mean, they can be very difficult. To thrust

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1 that on a developer when we have a
2 professional Department of Transportation to
3 me is just odd. The developer is capable.

4 If he's capable of building a
5 project, then he's capable of building a
6 walking path. To me he proper role is to
7 build the path and to design it and for DDOT
8 to say, "Yes, we like it." And for DDOT to
9 say, "Okay. Now we're ready to build it."

10 CHAIRPERSON JORDAN: But that's in
11 regards to their property and not outside the
12 scope.

13 MS. GREEN: I understand.

14 CHAIRPERSON JORDAN: We're on the
15 same page then.

16 MS. GREEN: Yes, we are. I
17 understand.

18 CHAIRPERSON JORDAN: Because I
19 think one of the conditions here, No. 2, that
20 they would design the walkway or something.

21 MS. GREEN: Yes.

22 CHAIRPERSON JORDAN: But that they

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1 would then seek to facilitate, whatever that
2 means.

3 MS. GREEN: Right.

4 CHAIRPERSON JORDAN: Seek to
5 facilitate so it gets a little hairy there.

6 MR. KEYS: Mr. Jordan, could we
7 just perhaps cut through a bit of this?

8 CHAIRPERSON JORDAN: No, no. I
9 want to be sure to understand the ANC's
10 position regarding the document that we just
11 received. That's why I was having that
12 dialogue just to understand it. We'll give
13 you the opportunity to ask questions of Ms.
14 Green if need be, but I just wanted to get
15 that while we floated through some other
16 things.

17 CHAIRPERSON JORDAN: May I make
18 one other observation? That was during the
19 earlier hearing I heard the Board talk about
20 benefits and, gee, was a fare card enough and
21 could the developer do any more. That was
22 kind of the discussion that I heard.

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1 One of the other points made in
2 the ANC resolution is that the proffer, the
3 developer's proffer with DDOT and OP support,
4 I get it, but his proffer of giving people one
5 fare card, you know, that's one of the other
6 issues.

7 CHAIRPERSON JORDAN: I was going
8 to cover that with the Applicant myself.

9 MS. GREEN: Okay.

10 CHAIRPERSON JORDAN: Let me ask
11 does the Board have any other questions of Ms.
12 Green?

13 You previously had voted to
14 support the application and I don't see
15 anything in this letter when I read it any
16 withdrawal of that support.

17 MS. GREEN: No. Our support was
18 contingent upon a bunch of stuff that I think
19 the developer is not prepared to do.
20 Therefore, I'm not sure if there is support
21 because it was contingent.

22 CHAIRPERSON JORDAN: Does the

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1 Board have questions for Ms. Green?

2 I'm going to ask does the
3 Applicant have any questions for Ms. Green?

4 MR. KEYS: No, Mr. Chairman.

5 CHAIRPERSON JORDAN: You get a
6 rebuttal period.

7 MR. KEYS: That's great.

8 CHAIRPERSON JORDAN: When it's
9 time for the rebuttal I would be glad to let
10 you do that.

11 Do we need to go back to -- I
12 guess OP submitted their report and we already
13 have their testimony and they are not here
14 now. OP once, OP twice, OP a third time.

15 DDOT representative. No DDOT.

16 All right. Let's go back to the
17 Applicant.

18 Mr. May, do you think you are
19 ready to address --

20 COMMISSIONER MAY: Yes.

21 CHAIRPERSON JORDAN: Thank you.

22 COMMISSIONER MAY: I checked the

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1 regulations and there is a provision that
2 requires that rooftop structures be combined
3 into a single structure but there is an
4 exception when separate elevator cores are
5 required. That's fine. That's just so rarely
6 we see it.

7 CHAIRPERSON JORDAN: And I
8 appreciate you doing that digging and so
9 quickly because it was a concern.

10 COMMISSIONER MAY: Okay. Thank
11 you.

12 CHAIRPERSON JORDAN: Have we seen
13 DDOT and OP at this second hearing today?

14 MR. KEYS: Yes, Mr. Chairman.
15 Karen Thomas was here and I thought she was
16 going to stay for this but she's under a lot
17 of pressure apparently.

18 MR. MOY: I can have staff kind of
19 search.

20 CHAIRPERSON JORDAN: All right.
21 So then let's turn back to the Applicant for
22 rebuttal.

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1 Beforehand let me say this to you.
2 I think I talked about before about the
3 Transportation Plan, Transportation Management
4 Plan. I see there has been some change to it
5 but, again, what gives me a concern is that
6 there is going to be one \$60 Metro card.

7 MR. TUCKER: Annually. The word
8 annually needs to be added to that.

9 CHAIRPERSON JORDAN: I was going
10 to tell you I put it there.

11 MR. TUCKER: Good.

12 CHAIRPERSON JORDAN: That's why I
13 wanted to bounce it off you.

14 MR. TUCKER: We agree with that.
15 That was the intent.

16 CHAIRPERSON JORDAN: Which is
17 still -- you know. But the only thing you
18 also have going for you on this project is a
19 portable housing unit.

20 MR. TUCKER: We have 120 out of
21 150 affordable --

22 CHAIRPERSON JORDAN: And what was

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1 the mean again?

2 MR. TUCKER: Sixty percent.

3 CHAIRPERSON JORDAN: Oh, 60
4 percent.

5 MR. TUCKER: Yep.

6 CHAIRPERSON JORDAN: That's
7 commendable. That's commendable because your
8 development colleagues are standing around and
9 when they pretend like they're doing
10 affordable housing, they are around the 80
11 percent mean.

12 MR. TUCKER: We're not pretending.

13 CHAIRPERSON JORDAN: This is a
14 low-income tax credit project.

15 MR. TUCKER: Yes.

16 CHAIRPERSON JORDAN: Okay.

17 Any additional questions of the
18 Applicant before he goes into his rebuttal?

19 Is there something you feel like
20 you need to rebut? Particularly the concerns
21 of ANC-4B.

22 MR. KEYS: Yes, Mr. Chairman.

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1 With regard to WMATA, when the Applicant
2 acquired this land from WMATA, the land was
3 burdened by covenant that obligated WMATA to
4 continue the Metropolitan Branch Trail across
5 this site.

6 CHAIRPERSON JORDAN: You have a
7 covenant with WMATA to maintain --

8 MR. KEYS: The land -- at the time
9 of the acquisition the land was burdened with
10 a covenant. WMATA knew that it had an
11 agreement with the city to continue that trail
12 along the right-of-way of the rail line. The
13 covenant actually ran on the back of the
14 property adjacent to the retaining wall
15 supporting the rail line.

16 CHAIRPERSON JORDAN: On or off the
17 property?

18 MR. KEYS: It would have been on
19 the property. DDOT then wanted to alter that
20 route. The representation that I would make
21 to you is that the record would show WMATA is
22 obligated to continue this trail along its

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1 path. I think the issue of negotiating
2 easements with WMATA is not a terribly
3 difficult task and they have been legally
4 obligated to provide the access.

5 CHAIRPERSON JORDAN: The question
6 I guess from the ANC is whose responsibility
7 is it? Who is going to do it and whose
8 responsibility is it?

9 MR. TUCKER: Yes, we've agreed to
10 one of the 11. In fact, number one.

11 CHAIRPERSON JORDAN: You agreed to
12 facilitate making the phone call and saying,
13 "Let's sit down and talk about it."

14 MR. TUCKER: We are going to do
15 the design. We are drafting the easement
16 documents themselves. We are going to be at
17 the meetings. We are going to do everything
18 we can. We want this to be built.

19 CHAIRPERSON JORDAN: So by
20 facilitating, you're saying you're going to do
21 everything. You are going to take the horse
22 to water.

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1 MR. TUCKER: Yep.

2 CHAIRPERSON JORDAN: You just
3 can't make it drink. The only thing --

4 MR. TUCKER: We're not going to
5 build it.

6 CHAIRPERSON JORDAN: What I'm
7 hearing you -- oh, you're not building it?

8 MR. TUCKER: We're building the
9 portion across our site and we are actually
10 extending it all the way down to Chestnut now
11 which is one of the things that was asked for
12 by the ANC that we agreed to.

13 The portion of the trial that is
14 off-site behind Cedar Crossing going down to
15 Cedar Avenue, we're doing the design. We're
16 taking the lead on getting easements and
17 approvals, etc. DDOT has agreed to build
18 that.

19 CHAIRPERSON JORDAN: So you're
20 taking all the cost and expense to do the
21 design so it can flow with what you are
22 already going to do and then you have to turn

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1 to WMATA for permission to get it done and
2 then DDOT is going to put the money to get it
3 done.

4 MR. TUCKER: That's correct. They
5 are going to --

6 CHAIRPERSON JORDAN: So WMATA only
7 has to say, "Yes, let's move out of the way."
8 Is that what I'm hearing you say?

9 MR. TUCKER: Yes. DDOT has --
10 we've already had a number of meetings with
11 WMATA on this and we've had a bunch of
12 meetings with DDOT. I can't speak for DDOT
13 and OP, of course, but I think the reason they
14 are not here is that we have worked very hard
15 to align their request and we've agreed to
16 every one of their conditions.

17 CHAIRPERSON JORDAN: So it's a
18 little stronger than this. You actually had
19 all the players at the table up to this point
20 and kind of decided who is going to do what.
21 The only thing you don't have is an executed
22 agreement saying it's a go. Is that close

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1 enough or is that not true?

2 MR. TUCKER: We've got only a
3 preliminary design at this point so we've
4 agreed to have our engineers do final design,
5 draft the easements, request the easements.
6 We are going to take the lead on the design
7 and acquisition and easement process. The
8 only part of the off-site trail that we're not
9 doing is actually the construction.

10 We may end up having our
11 contractor do the construction. I assume it's
12 going to have to be an open bid. I think
13 there will probably be some advantages since
14 they are already mobilized on-site for them to
15 bid it.

16 CHAIRPERSON JORDAN: So there's a
17 lot in motion. Really, again, you have a lot
18 in motion. It's not just lip service in
19 regards to, "We're going to go talk to them
20 and see if they want to do it or not." You're
21 leading the horse to water and the only thing
22 you have to do is put their head down and say,

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1 "Yes." Then it happens automatically.

2 MR. TUCKER: There's work to be
3 done. We're going to do the work. We want it
4 to happen. In keeping with the ANC's request
5 for an accessible route to the site, this is
6 the primary accessible route to the site that
7 we want.

8 The secondary accessible option
9 would be the sidewalks down Chestnut to Blair.
10 We've also agreed, which isn't on the 11
11 conditions here, but per discussions with the
12 ANC that if the multi-purpose trail is not
13 complete or if DDOT hasn't completed the
14 sidewalk project to Blair by the time we're
15 finished construction, we'll build the
16 sidewalk to Blair. There's got to be an
17 accessible route to the site. We agree with
18 that.

19 CHAIRPERSON JORDAN: Is that in
20 this condition?

21 MR. TUCKER: It's not. It's
22 something that we've made clear to the ANC

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1 that we are agreeing to do, however.

2 CHAIRPERSON JORDAN: I need to
3 plug that in to one of these conditions.
4 Which one was it?

5 MR. TUCKER: Well, it would be No.
6 12.

7 CHAIRPERSON JORDAN: An added
8 condition. Okay. That if --

9 MR. TUCKER: If either the multi-
10 purpose trial or the sidewalk out to Blair
11 haven't been complete by the time we are
12 complete with construction, we'll complete the
13 sidewalk out to Blair.

14 In the meanwhile, as I've stated,
15 we're going to do everything in our power to
16 make the multi-purpose trial connection to
17 Cedar happen. That's our preferred route over
18 to the Metro. It's already used in an
19 informal way. There is an informal path back
20 there. We want to make it work as a multi-
21 purpose trial that is accessible.

22 MS. GREEN: Mr. Chair, may I add

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1 one point?

2 CHAIRPERSON JORDAN: Just a
3 minute, please.

4 So if the multi-purpose trial or
5 sidewalk is not completed. DDOT is supposed
6 to be doing it?

7 MR. TUCKER: They've agreed to do
8 both of those items with us doing the design
9 for the trial.

10 CHAIRPERSON JORDAN: The Applicant
11 shall complete the work. Okay.

12 MR. TUCKER: For the sidewalk.

13 CHAIRPERSON JORDAN: Sidewalk.

14 Does the Board have any other
15 questions? Anything of the Applicant?

16 Does the Applicant have anything
17 they need to provide us conditionally in
18 rebuttal that we have not covered yet?

19 MR. KEYS: Mr. Chair, I think you
20 requested -- Mr. May, I think, at the last
21 hearing requested kind of a comprehensive
22 statement of the physical constraints that

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1 impacted the property that supported the
2 variance.

3 We provided a graphic, Exhibit No.
4 5 in the last submission, that sort of put all
5 of the site constraints together and I would
6 like Mr. Tucker to quickly run through that so
7 that you understand the limitations of the
8 site.

9 MR. TUCKER: Okay. So we have
10 many constraints on these two sites.

11 CHAIRPERSON JORDAN: Before you do
12 that, I don't want to get too far away.

13 Ms. Green, if you want to have a
14 quick statement.

15 MS. GREEN: It's very quick. I
16 appreciate Mr. Tucker's work that he's put in
17 in terms of that path which is a very big
18 deal. I can't emphasize how much it is, how
19 big a deal it is. I appreciate all the work.
20 I appreciate all the work that he's going to
21 put into it very much. We all do.

22 The problem is in talking about

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1 how they have talked to all the parties, I
2 don't believe they have talked to Cedar
3 Crossing.

4 MR. TUCKER: We have.

5 MS. GREEN: Pardon me?

6 MR. TUCKER: We have.

7 MS. GREEN: You have? About the
8 easement?

9 MR. TUCKER: We've had several
10 meetings with Cedar Crossing.

11 MS. GREEN: Okay.

12 MR. TUCKER: They know that we're
13 going to require an easement. So far in our
14 discussions with them they've been very
15 supportive.

16 MS. GREEN: Okay. Thank you. I
17 was unaware of that.

18 CHAIRPERSON JORDAN: I thought
19 also that some additional information was
20 coming out, too, that you might not have been
21 aware of.

22 MS. GREEN: Okay.

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1 CHAIRPERSON JORDAN: So I hope
2 that is helpful.

3 MS. GREEN: That is helpful.
4 Thank you.

5 COMMISSIONER MAY: When you go
6 through this can you point out where Cedar
7 Crossing is?

8 MR. TUCKER: Cedar Crossing is the
9 kind of mini building. The end of it starts
10 here and goes all the way out to Cedar Road.
11 The multi-purpose trail, which we're
12 constructing, will start at Chestnut as a
13 four-foot wide trail and then through our site
14 it will be eight-foot wide including four feet
15 of our property which we're giving up, plus an
16 eight-foot-wide easement through this portion
17 of our site.

18 Then from here behind Cedar
19 Crossing along the CSX tracks is where the
20 off-site portion of the trail will need to go.
21 There is already, as I said, an informal foot
22 path that goes back there now and we're

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1 intending to make that into a multi-purpose
2 trail that connects directly to the Metro at
3 Cedar. That's our preferred -- that's how we
4 become Metro Village.

5 In terms of the site constraints,
6 the biggest site constraint is the fact that
7 we're right up against the CSX tracks. It's
8 almost up to our second story at the rear of
9 the site. There's a wall along this portion
10 of the site and a steep embankment along here.

11 What is shown here is an easement
12 for the wall but beyond that this area that we
13 call the zone of influence is the structural
14 zone of influence for the CSX track. It's a
15 very highly-regulated thing to build within
16 the structural zone of influence. Not
17 impossible but we've done everything that we
18 can to stay clear of it.

19 In addition, of course, we've got
20 a triangle and a trapezoid to start out with.
21 We've got the historic houses here and by
22 agreement with the neighborhood we've set back

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1 additional setback from 12 to 25 feet at the
2 northwest end of the site, preserved trees to
3 create more of a buffer with the adjoining
4 single-family houses.

5 I mentioned the fact that we've
6 given up four feet of our site here and eight
7 feet across here. There is also a storm water
8 easement that is 25-feet wide that really
9 segregates this part of the phase 1 site. The
10 eastern part is cut off so it really makes the
11 eastern part unbuildable.

12 MR. KEYS: Mr. Tucker, this
13 property is within the Historic District. Is
14 it not?

15 MR. TUCKER: Yes, it is. We've
16 been through HPRB approval and had many, many
17 meetings with Ms. Green and the community and
18 taking their input into account in the design
19 of the facade.

20 MR. KEYS: And how did the
21 building get shaped in that design process?
22 How did you change the building?

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1 MR. TUCKER: We turned -- it's a
2 U-shaped building, building 2, up against the
3 single-family homes with an open court in the
4 center. We put the parking under these two
5 wings of the building. It's almost a full
6 level below grade at this part of the site.

7 We've also set the building back
8 from the property line and stepped the height
9 of the building down as we join -- as we
10 become adjacent to the single-family lots.
11 That's reflected in the elevation that I
12 showed you earlier.

13 Another important constraint that
14 the site has is the sub-soil conditions. Our
15 sub-soil report recommends that we don't make
16 any deep excavations on this site both because
17 of water table and concerns about the historic
18 industrial use of this property.

19 The shape of this site, all of the
20 adjacent uses that constrain the site, and the
21 sub-soils, all of that plus the fact that this
22 is affordable housing would make it

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1 impractical to go to an underground parking
2 structure here and have a feasible project.

3 CHAIRPERSON JORDAN: Any other
4 questions of the Applicant?

5 Does the Applicant have anything
6 else they believe they need to present to the
7 Board?

8 MR. KEYS: No, Mr. Chair. In
9 closing -- in closing, I think the Applicant's
10 burden is well known to the Board. I mean, we
11 need to establish that the property is unique,
12 that there is some special circumstance that
13 bears on the property that creates practical
14 difficulties, and that we can overcome those
15 difficulties with the variance requested.

16 In this case we've asked for a
17 reduction in the parking count and that is
18 related directly to the constraints that
19 narrow the site that accommodate DDOT's
20 intended use of the multi-purpose trail that
21 are also affected by concessions the developer
22 made both to historic design, as well as the

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1 tree preservation. It narrows the amount of
2 surface space available for parking.

3 We have also requested variance
4 with respect to the loading berth. We want to
5 reduce the size of the loading berth from 55
6 feet to 30 feet.

7 We want to in effect consider this
8 building a single building and not have
9 duplicate loading facilities so we've asked
10 really for the elimination of the berth, the
11 delivery space, and the loading platform for
12 the second building let's call it.

13 What we're asking for is a 30-foot
14 loading berth provided behind building 2, a
15 loading platform behind building 2, and a
16 delivery space conforming to the regulations
17 behind building 1. Since it's common
18 management, these facilities can work
19 effectively together at the end of Bull Place
20 to service this property.

21 That, Mr. Chairman, would be the
22 Applicant's presentation.

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1 CHAIRPERSON JORDAN: Thank you.
2 We will close the record based upon that which
3 has been deduced through these two hearings
4 and what is in the record and the supplemental
5 record that's been received on this file.

6 Let me turn to the Board to see if
7 the Board is ready to deliberate or do you
8 want more time to do something, anyone?
9 Deliberation?

10 Then I believe we should grant the
11 relief requested due to the number of factors
12 that encumber this property and make an
13 exceptional situation that affects both the
14 parking spaces and the ability to dig below
15 grade and requires relief for the loading
16 berth requirement.

17 I think this property has clearly
18 shown that the property is restrained on all
19 three sides of the property, that the area
20 surrounding the property is influenced by
21 several different factors:

22 The uneven ground but also the CSX

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1 railway; factors that are involved such as the
2 influence that CSX has there and the right-of-
3 way; the existence of a 36-inch water main
4 that perverses the lot; the property is an
5 irregular shape; there's two large trees on
6 the property.

7 The property is also impacted and
8 influenced by the historic property and the
9 historic district in which this property is
10 located. There is a 25-foot, I believe, water
11 easement that affects this property. WMATA
12 has a retaining wall that also affects this
13 property. A lot of things affect this
14 property.

15 It's triangular in shape and it's
16 on a slope. Part of the project is on a
17 slope. Then there's been some setbacks trying
18 to protect trees that's been required in this
19 area. And the effect upon the bicycle trails
20 and other easements and covenants that affect
21 this property all move to create a practical
22 difficulty for this property regarding parking

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1 and a loading berth being below grade.

2 For those reasons I would move --
3 I would support this application. In
4 addition, I would recommend that the Board
5 accept the 12 conditions that is contained in
6 Exhibit 12 but with some minor modifications
7 which I'm going to talk about briefly.

8 Condition No. 2. Not only do the
9 full engineering design and plan but to
10 continue -- well, I'll just leave it at that
11 because there's no way to tighten it up other
12 than the fact that we're taking the word of
13 the Applicant that they've had a series of
14 very aggressive meetings with all the parties
15 and players in regards to the build-out of
16 this area and the trial as has been
17 represented by Mr. Tucker here at this
18 hearing.

19 Under No. 4 we add to the
20 conditions that we drop the word "one" under
21 Subsection 3 there and that there's going to
22 be a \$60 Metro card annually given to the

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1 residents regarding that. And that we add in
2 addition No. 12 that the multi-purpose trail
3 and sidewalk if not completed by DDOT then
4 will be completed by the Applicant to complete
5 the trail and sidewalk.

6 MR. TUCKER: Sidewalk.

7 CHAIRPERSON JORDAN: Just the
8 sidewalk, not the trial. Those would be the
9 conditions. That would be my motion to
10 approve with those conditions.

11 VICE CHAIR SORG: Second.

12 CHAIRPERSON JORDAN: Motion made
13 and seconded. Any additional discussion? All
14 those in favor signify by saying aye.

15 BOARD MEMBERS: Aye.

16 CHAIRPERSON JORDAN: Those opposed
17 nay. The motion carries.

18 Mr. Moy.

19 MR. MOY: Yes. Staff would record
20 the vote as four to zero. This is on the
21 motion by Chairman Jordan. Seconding the
22 motion Vice Chairperson Sorg. Also in support

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1 Mr. Peter May and Mr. Jeff Hinkle. No other
2 members participating so the motion carries
3 with the conditions as cited.

4 CHAIRPERSON JORDAN: Let me just
5 add to the record although we do have ANC
6 support initially but there were some
7 conditions and I think we might have talked
8 through the other concerns about the
9 conditions, although some of those concerns
10 raised by the ANC, as we all recognize, the
11 conditions are something that we all would
12 like to have happen but we realize that there
13 are things that are not in the control of the
14 Applicant here but the Applicant said they are
15 going to use their best effort.

16 They have represented to this
17 Board that they have met with all the
18 governmental agencies that affect the
19 conditions that are being submitted and have
20 made commitments based upon discussions with
21 this Board and with ANC, with OP, and with
22 WMATA that the things and the concerns of ANC

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1 will be addressed to the greatest extent
2 possible.

3 MS. GREEN: Mr. Chair, for the
4 record, because those conditions were not met,
5 then our ANC is not in support of this. I
6 think that has to be clear. When we say
7 contingent, we mean --

8 CHAIRPERSON JORDAN: All right.
9 Then we'll make sure the record is clear on
10 that point and let's have a full order on this
11 one. Thank you. Thank you so much, Ms. Green.

12 MS. GREEN: Thank you, sir.

13 CHAIRPERSON JORDAN: I understand
14 the frustration because it's how do you get
15 there, right?

16 We have one other item of
17 business. In accordance with Section 405(c)
18 of the Open Meetings Act of D.C. Office Code
19 Section 2575(c) I move that the Board of
20 Zoning Adjustment hold closed meetings on
21 Mondays of April 1st, 8th, 22nd, 29th.

22 This will begin at 4:00 p.m. for

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1 the purpose of obtaining legal advice from our
2 counsel and to deliberate on, but not voting
3 on, the cases scheduled to be publicly heard
4 or decided by the Board on the day after the
5 closed meeting. These cases are identified by
6 the Board's public agenda for April 2nd, 9th,
7 23rd, April 30th. Is there a second?

8 VICE CHAIR SORG: Second.

9 CHAIRPERSON JORDAN: Motion made
10 and seconded.

11 Mr. Moy, can we have a roll call
12 vote, please?

13 MR. MOY: Yes, sir.

14 Members, when I call out your
15 name, if you could vote by yes or no.

16 Mr. May.

17 COMMISSIONER MAY: Yes.

18 MR. MOY: Vice Chairperson Sorg.

19 VICE CHAIR SORG: Yes.

20 MR. MOY: Chairman Jordan.

21 CHAIRPERSON JORDAN: Yes.

22 MR. MOY: Mr. Hinkle.

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1 MEMBER HINKLE: Yes.

2 MR. MOY: And Ms. Allen is not
3 present today. The motion carries, Mr.
4 Chairman.

5 CHAIRPERSON JORDAN: Good. Thank
6 you.

7 Seeing that the motion is passed,
8 I request that the Office of Zoning provide
9 notice of the closed meetings in accordance
10 with the Act.

11 Is there any other business before
12 the Board today?

13 MR. MOY: No, sir.

14 CHAIRPERSON JORDAN: Did you say
15 yes?

16 MR. MOY: No, sir.

17 CHAIRPERSON JORDAN: Oh.

18 MR. MOY: No other business.

19 CHAIRPERSON JORDAN: Don't fake me
20 out. Then we stand adjourned. Thank you.

21 (Whereupon, at 11:57 a.m. the
22 hearing was adjourned.)

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