

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY  
NOVEMBER 18, 1998

+ + + + +

The Board met in Hearing Room 220 South at 441  
4th Street, N.W., Washington, D.C., at 9:30 a.m.,  
Sheila Cross Reid, Chairperson, presiding.

PRESENT

- SHEILA CROSS REID, Chairperson
- BETTY KING, Vice Chair
- HERBERT FRANKLIN, Zoning Commission Member
- GERRY GILREATH, Board Member

STAFF PRESENT

- SHERI PRUITT WILLIAMS, Interim Director, Office of  
Zoning
- TRACEY WITTEN ROSE, Office of Zoning
- PAUL HART, Office of Zoning
- ALBERTO BASTIDA, Office of Planning

APPEARANCES:

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## C O N T E N T S

	<u>PAGE</u>
<u>Case Number 16315</u>	
LaVern A. Lacy	
Stan Wilson	31
Closing Remarks      Stan Wilson	55
<u>Case Number 16390</u>	
A & M Investments	
Jerald Clark	68
Karen Rosenthal	84
Margaret Young	96
Donald Balm	99
Concluding Remarks Jerald Clark	101
<u>Case Number 16391</u>	
Herbert James Sanborn	
Susan Reatig	106
Herbert James Sanborn	108
Concluding Remarks Herbert Sanborn	126
<u>Case Numbers 16389 and 16409</u>	
The George Washington University	
Jerry Moore III	136
Madeleine Dobbins	143
John Williams	150
Phillip Schaengold	162
Ronald L. Skaggs	183
Philip Tobey	186
Alan Ingle	202
Arthur Bean	220
Louis Slade	231
<u>Case Number 16393</u>	
Sander H. Mendelson	
Norman Glasgow	258
Concluding Remarks Norman Glasgow	267

P R O C E E D I N G S

9:32 A.M.

1  
2  
3 CHAIRPERSON REID: Good morning. The  
4 hearing will please come to order. Good morning,  
5 ladies and gentlemen. My name is Sheila Cross Reid,  
6 Chairperson of the Board of Zoning Adjustment. This  
7 is the November 18th public hearing of the Board of  
8 Zoning Adjustment of the District of Columbia.  
9 Joining me today are Betty King and Gerry Gilreath,  
10 representing the National Capital Planning  
11 Commission.

12 The topics of today's hearing agenda are  
13 available to you. They're located to my left near  
14 the door. All persons planning to testify either in  
15 favor or in opposition are to fill out two witness  
16 cards. These cards are located at each end of the  
17 table in front of us. When coming forward to speak  
18 to the Board, please give both cards to the reporter  
19 who is sitting to my right.

20 The order of procedure for special  
21 exception and variance cases will proceed as  
22 follows: statement and witnesses of the applicant,  
23 government reports including Office of Planning,  
24 Department of Public Works, ANC, etcetera, persons  
25 and parties in support, persons and parties in  
26 opposition, closing remarks by the applicant. Cross

1 examination of witnesses is submitted for persons or  
2 parties with direct interest in the case. The  
3 record will be closed at the conclusion of each  
4 case, except for any materials specifically  
5 requested. The Board and the staff will specify at  
6 the end of the hearing exactly what is expected.

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

12 At this time the Board will consider any  
13 preliminary matters. Preliminary matters are those  
14 which relate to whether a case will or should be  
15 heard today such as requests for postponement,  
16 continue to withdraw or whether proper and adequate  
17 notice of the hearing has been given. If you are  
18 not prepared to go forward today with the case or if  
19 you believe that the Board should not proceed, now  
20 is the time to raise such a matter.

21 Any preliminary matters, please come  
22 forward. Yes, have a seat.

23 Are you all together? Then one at a  
24 time, please.

25 MR. KEARLEY: My name is Greg Kearley.  
26 My address is 2726 Ordway Street, N.W., No. 6.

27 CHAIRPERSON REID: Speak directly into

1 the mike.

2 MR. KEARLEY: This is in regards to -- I  
3 don't know whether this is on. This is in regards  
4 to Case 16386. It was for a special exemption for  
5 2607 Klingle Road.

6 CHAIRPERSON REID: Yes.

7 MR. KEARLEY: And what we're asking for  
8 is a deferment. In speaking with Gladys Hicks at  
9 Zoning and the attorney for the neighborhood and  
10 myself it was determined that we also need two  
11 variances for this case. And so what we want to do  
12 is defer the case to the next open date, if  
13 possible, so we can include the variances with the  
14 special exception.

15 CHAIRPERSON REID: I read that, your  
16 letter. I have no problem with deferring that in  
17 this instance to allow you to include the additional  
18 relief that they are in need of.

19 MS. KING: I have no problem with it  
20 either.

21 CHAIRPERSON REID: Okay.

22 MS. KING: What's the first date?

23 CHAIRPERSON REID: First available date  
24 according --

25 MS. PRUITT-WILLIAMS: The first  
26 available date would be January 6. We have to send  
27 out notice again and that goes out this Friday. We

1 need the information by Friday though.

2 MR. KEARLEY: I have included that in a  
3 letter. I met with Gladys Hicks for about an hour  
4 and we came up with the variances that were  
5 applicable to this case and I included that in the  
6 information that I gave next door.

7 CHAIRPERSON REID: All right. Is that  
8 date amenable to you? Again, you should speak into  
9 the mike and give your name and address.

10 MR. BOASBERT: Let me be heard in this.  
11 My name is Tersh Boasbert, I'm the attorney for the  
12 neighbors in this case and as such are opponents to  
13 the application as it is written.

14 We don't have a problem with the  
15 postponement because as we suggest in our letter to  
16 you, clearly it needs to meet the variance test as  
17 well. But we're concerned about a couple of things.  
18 One is this is an extremely difficult piece of  
19 property. It has a lot of environmental problems.  
20 It has a tremendous height. It has -- it really  
21 needs to have an Office of Planning report. The  
22 statute, the regulations do call and make it  
23 mandatory in this kind of case to have an OP report  
24 and I think it would be extremely helpful to  
25 everyone concerned because they do ask OP to look at  
26 the relationship of the property, the neighbors, the  
27 whole environmental considerations, the size, the

1 height, the massing, the setback, all of which needs  
2 a variation -- variances, as well as permission  
3 under 2516. We have been in the process of  
4 negotiation and we are negotiating. But it is an  
5 extremely difficult case.

6 CHAIRPERSON REID: You need some  
7 guidance from the Office of Planning.

8 MR. BOASBERT: I think it would be  
9 extremely helpful and what I would really like to do  
10 is get a report from OP and then have a hearing a  
11 couple weeks after that report is in and after we  
12 have a chance to examine it and look at it.

13 There are also no measurements in the  
14 file in terms of the distances that the variances  
15 are going to be required, the lot size, the coverage  
16 and the regulations also call for final landscaping  
17 and grading plans to be submitted and if they're not  
18 submitted at the time of the original application,  
19 then they call for a further hearing. So I think  
20 there's a lot of work that needs to be done on this  
21 and I would -- while I don't mind the postponement  
22 to January, I think it would be better if we could  
23 postpone it until February and have, give OP a  
24 chance to get that report done and get it in for all  
25 of us to react to. I think it would be a lot easier  
26 for us.

27 CHAIRPERSON REID: Thank you. Ms.

1 Pruitt-Williams, in requesting that Office of  
2 Planning submit a report, what kind of a time frame  
3 are we talking about?

4 MS. PRUITT-WILLIAMS: We still have 40  
5 days, 47 days from Friday because it goes to the  
6 Registrar seven days prior. I can't answer for OP  
7 what their work schedule is like. We can certainly  
8 put a request in and ask them to get us a report in  
9 three weeks which would then allow the applicant and  
10 anyone in opposition time to review it.

11 CHAIRPERSON REID: Is February a more  
12 reasonable or more --

13 MS. KING: Can I make a suggestion?

14 CHAIRPERSON REID: Sure.

15 MS. KING: It seems to me that we don't  
16 know what OP's schedule is and could we not postpone  
17 it until the first available date after -- I mean  
18 let's talk to OP, talk to Alberto or to Jill or  
19 whomever. Find out when they can give us a report.

20 CHAIRPERSON REID: In other words, don't  
21 --

22 MS. KING: Don't set a specific date.

23 CHAIRPERSON REID: A date certain.

24 MS. KING: Because it's going to have to  
25 be re-advertised.

26 MS. PRUITT-WILLIAMS: Correct.

27 CHAIRPERSON REID: Would that be

1           amenable to you to defer it predicated upon setting  
2           up the OP report and the additional information?

3                       MR. BOASBERT: I would like to get  
4           everything -- I don't want to have to come back  
5           again after this to do that.

6                       CHAIRPERSON REID: We'll do that.

7                       MS. PRUITT-WILLIAMS: What staff can do  
8           is call OP and get in touch with them and then call  
9           the two of you and --

10                      CHAIRPERSON REID: Work out whatever  
11           schedule --

12                      MS. PRUITT-WILLIAMS: And let you know  
13           what is worked out.

14                      MR. BOASBERT: We are aware that there  
15           are certain holidays that might fall between now and  
16           January 6th.

17                      CHAIRPERSON REID: Right, right,  
18           absolutely and then we would notify you as to what  
19           date --

20                      MS. PRUITT-WILLIAMS: We'll call you and  
21           let you know and then we'll put it back in the  
22           Register.

23                      MR. KEARLEY: What information would I  
24           need to get to OP or --

25                      CHAIRPERSON REID: Just talk to Zoning  
26           Office staff and they will assist you with that.

27                      MR. KEARLEY: Okay. That's fine. I

1 mean I'd like to get it as soon as possible, but I'd  
2 like to do it once instead of --

3 CHAIRPERSON REID: Sure, sure,  
4 understandably so.

5 MR. KEARLEY: Thank you.

6 MR. BOASBERT: Thank you.

7 CHAIRPERSON REID: Thank you. Next  
8 preliminary matter? Come forward, please.

9 MR. ADAMS: Madam Chairperson, we're  
10 here in reference --

11 CHAIRPERSON REID: Three things. Speak  
12 into the mike and give us your name and address.

13 MR. ADAMS: I'm name is Robert Adams.  
14 My address is 2500 Wisconsin Avenue, N.W., Apartment  
15 707. I'm the Vice President of the Carillon House  
16 Tenants Association.

17 MS. RYAN: I am Frances Ryan, President  
18 of the Carillon House Tenants Association.

19 My address is apartment 915, 2500.

20 CHAIRPERSON REID: I'm having difficulty  
21 hearing you, ma'am. Is your mike on?

22 MS. RYAN: I think I have it now. I am  
23 Frances Ryan. I am the President of the Carillon  
24 House Tenants Association. My address is Apartment  
25 915, 2500 Wisconsin Avenue, N.W.

26 MR. ADAMS: We're here in reference to  
27 Application 16392 on behalf of the Landlords. We

1 represent the Carillon House Tenants Association,  
2 but this is a matter in which our landlords have  
3 asked for a special exception and also for a  
4 variance to the zoning laws to put a convenience  
5 store in the building. We're here to simply ask for  
6 a postponement of the hearing and the decision on  
7 it. I believe the ANC from Neighborhood 3B has  
8 weighed in on that matter also.

9 Basically, we are not here to oppose it  
10 or to support it. We simply feel that the tenants  
11 haven't been informed enough about it to be able to  
12 make an informed decision. As we said in our letter  
13 to you, it's our understanding that DCMR Title XI,  
14 Section 3317.3, subsection C, requires that all  
15 leased tenants in the building be given 40 days'  
16 notice before a hearing. None of us got such a  
17 notice. There was a copy of that attached to what  
18 we filed.

19 In addition to that, as a matter of  
20 simple human decency, management, you would think,  
21 would have contacted the tenants and asked them what  
22 they think about this since it's supposed to be  
23 benefit them. Management did not do that.

24 MS. KING: Excuse me, sir, are you --  
25 did you receive no notice of this hearing?

26 MR. ADAMS: No, we did not, ma'am. And  
27 as far as I know, none of the tenants in the

1 building received any notice of it. The only notice  
2 we received was a -- the only way we knew about it  
3 was when 15 days ago there was a note, a notice  
4 posted on the front of our building, but no one in  
5 the building to my knowledge and certainly not us  
6 got a mailed copy or any other notification and I  
7 believe that's required by law.

8 MS. KING: I think it is too. Is it not  
9 -- does the Applicant not supply the --

10 MS. PRUITT-WILLIAMS: The Applicant  
11 supplied information for owners and not lessees and  
12 when they came back staff told them that they didn't  
13 need it for lessees which was incorrect.

14 MS. KING: Oh, so it's essentially our  
15 fault.

16 MS. PRUITT-WILLIAMS: Yes.

17 CHAIRPERSON REID: I think also the  
18 confusion stemmed from the fact that there was some  
19 discussion about changing the regulations to require  
20 only that management of condominiums receive notice  
21 and not individual property owners and not lessees.

22 MS. PRUITT-WILLIAMS: And that's where  
23 the discrepancy came in.

24 CHAIRPERSON REID: Yes, so therefore  
25 there was some confusion. Under those circumstances  
26 then I would have no problem with granting a  
27 deferment so to give you the time necessary to be

1       able to collect or to receive the information that  
2       you need to make a decision in regards to this case.

3               MS. KING: I agree.

4               MR. GILREATH: I agree too, but I  
5       understand you to say that there is some kind of  
6       regulation that no longer, if it goes through the  
7       process and approved, that it would not require the  
8       tenants to be notified?

9               CHAIRPERSON REID: Right, that  
10       management would have the full responsibility to see  
11       to it that the tenants in the condominium  
12       association, the owners in the condominium  
13       association and also the tenants, I guess, if that  
14       be the case, would be notified through management  
15       rather than in sending each individual a notice.

16              MS. KING: Is yours a condo or --

17              MR. ADAMS: No, it's a rental.

18              MR. GILREATH: Has this regulation or  
19       whatever it is, has this been exposed to the public  
20       and the public has discussed it and so forth,  
21       everyone knows about this?

22              CHAIRPERSON REID: No. It's only been  
23       discussed in various task force meetings.

24              MR. GILREATH: Will it be discussed, we  
25       go to the public and they'll have a chance to have  
26       some input on this?

27              MS. PRUITT-WILLIAMS: Yes. Excuse me,

1 Mr. Gilreath. The Zoning Commission is holding rule  
2 making, has held a rule making hearing on this  
3 proposed change as one of the many changes that were  
4 associated with the Control Board orders this  
5 summer. So they're reevaluating that now and should  
6 be coming -- actually they should be coming through  
7 with a decision probably in December.

8 MR. GILREATH: Have the ANCs and these  
9 tenant associations, have they had a chance to --

10 MS. PRUITT-WILLIAMS: They've had the  
11 opportunity to comment on it.

12 MS. KING: I think before that rule  
13 making is final, Sheila, that you should point out  
14 the situation that has arisen. It was wrong now  
15 because the new rule hasn't been promulgated, but  
16 had the new rule been in force, this lady and  
17 gentleman would not have had the recourse of asking  
18 for a postponement because of the -- you know, I  
19 think there have got to be some stringent  
20 requirements on the tenants association in a coop or  
21 a condominium or the renter, the building owner in a  
22 rental unit to make sure that they fulfill their  
23 responsibility and that their failure to do so would  
24 carry with it some penalty.

25 CHAIRPERSON REID: I agree with that.

26 MR. GILREATH: I agree fully.

27 CHAIRPERSON REID: What it does is it

1 leaves at risk the issue of the persons who are  
2 living in the building, not being notified.  
3 Although, remember, we still have -- these are  
4 registered and you also -- if I may -- if the  
5 building has been posted, also here there is  
6 notification on the agendas and within the Zoning  
7 Office and I guess what I'm hearing is that that  
8 does not appear to be adequate, so we would have to  
9 make, as Ms. King pointed out, some type of  
10 adjustment in that ruling so that we could insure  
11 that people would receive those notices.

12 MS. KING: I also note that there was no  
13 affidavit of posting filed in this case?

14 MS. ROSE: Exactly.

15 CHAIRPERSON REID: But there was an  
16 orange poster on your building.

17 MR. ADAMS: Yes, there was.

18 MS. KING: The applicant asked for a  
19 postponement -- excuse me.

20 MS. RYAN: They apparently didn't file  
21 an affidavit.

22 MS. KING: Is the applicant represented  
23 here today?

24 MS. RYAN: No.

25 CHAIRPERSON REID: Why don't we --  
26 obviously there has been a comedy of errors here, so  
27 why don't we try to remedy it by bringing the

1 deferment to the next available date.

2 MS. PRUITT-WILLIAMS: That would be  
3 January 20th.

4 MR. ADAMS: January 20th would be fine.

5 CHAIRPERSON REID: That would be okay  
6 with you? All right.

7 MR. GILREATH: Are the tenants notified  
8 now?

9 CHAIRPERSON REID: They will be.

10 MR. GILREATH: Is the owner obligated to  
11 notify the tenants now?

12 MS. PRUITT-WILLIAMS: No, the owner will  
13 provide Office of Zoning with a list of tenants and  
14 our Office will send out notice.

15 MS. KING: And we will re-advertise it  
16 and it will be re-posted?

17 MS. PRUITT-WILLIAMS: We might as well,  
18 yes.

19 MS. KING: Because if there's no  
20 affidavit of posting and if they haven't even shown  
21 up for this hearing --

22 MS. PRUITT-WILLIAMS: The affidavit of  
23 posting is something the Board could waive --

24 MS. KING: I understand that, but the  
25 Applicant isn't even here.

26 MS. PRUITT-WILLIAMS: No, the applicant  
27 isn't here. I don't know what happened there.

1 MS. KING: If we plan to go forward with  
2 the hearing they would be unavailable.

3 MS. PRUITT-WILLIAMS: We'd have to call  
4 them and let them know it's been moved. I'm  
5 surprised they aren't here. I did talk to somebody  
6 associated with this case on Monday, so --

7 MS. KING: It would have to be deferred  
8 anyway. Maybe they were notified about the request  
9 for deferment from the Tenants Association?

10 MS. PRUITT-WILLIAMS: They knew about  
11 the problem of not having --

12 MS. KING: Maybe they just assumed it  
13 would be deferred because of the fact that it had  
14 not been properly noticed.

15 MR. ADAMS: I should note that we've --  
16 we went to the ANC meeting last Thursday and  
17 discussed this and we also sent a letter to our  
18 management. We've gotten a letter from them and we  
19 were talking to their attorneys as late as yesterday  
20 afternoon. I had thought they were going to be  
21 here, but we did let them know that it was our  
22 position and they knew it was the ANC's position  
23 that tenants simply hadn't been given enough notice  
24 to make an informed decision.

25 CHAIRPERSON REID: We received a letter  
26 from ANC as well. It's in the record.

27 MR. ADAMS: May I just say as a passing

1 matter, we didn't find out about this until the week  
2 before last, so we had to scramble like crazy to  
3 make up for it, but the staff was very, very helpful  
4 to us. Mrs. Rose and the gentleman to her right and  
5 the others we talked to were extremely helpful in  
6 pointing us to the case file and pointing us to the  
7 various regulations and so forth, so I want to  
8 express for the record my appreciation of that.

9 We're amateurs at this. I'm not a  
10 lawyer and we're just tenants trying to find out  
11 what's going on in our own building. So they were  
12 very helpful and I appreciate it.

13 CHAIRPERSON REID: Thank you. We're  
14 very proud of the fact that our staff has a  
15 tremendous job.

16 MS. KING: And you plan to meet with  
17 your landlords, is that correct and try to get a  
18 briefing? We always encourage parties if there's a  
19 conflict in any of these matters to try and  
20 negotiate out of settlement that is acceptable to  
21 both sides with some give and take. It helps us  
22 enormously because we don't have to sit and listen  
23 to a wrangle and then have to make a decision  
24 between, you know, or try and you know have  
25 Solomon's judgment and cut the baby in half so  
26 everybody -- nobody is happy. So we would encourage  
27 you, and of course, the landlord and his

1 representatives to be diligent about --

2 MR. ADAMS: I certainly agree with that.

3 CHAIRPERSON REID: January 20th, is that  
4 the date? Okay. Thank you very much.

5 MR. ADAMS: Thank you, Madam  
6 Chairperson.

7 MS. PRUITT-WILLIAMS: We have another  
8 preliminary matter, Madam Chair, request for a  
9 refund. 16388. Good Shepherd.

10 CHAIRPERSON REID: Okay.

11 MS. KING: Can I ask, Madam Chair, has -  
12 - I mean here we are, we would ordinarily be hearing  
13 the case today.

14 CHAIRPERSON REID: Are you talking to me  
15 or are you talking to --

16 MS. KING: I'm talking to the staff  
17 through you. I'm talking to anybody who wants to  
18 listen.

19 (Laughter.)

20 You know, have we not in essence  
21 expended the kind of energy that we would have to go  
22 forward, the kind of expense and staff time and so  
23 forth that we would have if this case had not been  
24 withdrawn?

25 MS. PRUITT-WILLIAMS: Yes ma'am.

26 MS. KING: Everything short of actually  
27 writing the decision.

1 MS. PRUITT-WILLIAMS: Yes.

2 MS. KING: I mean we're now discussing  
3 it. We've published it. We've gone through all --  
4 so in effect, we have done everything that we would  
5 have done if they hadn't withdrawn the case. It's  
6 not that they filed the case and the next day came  
7 in and said whoops, let's withdraw it and all we've  
8 done is done some simple single document rather than  
9 having gone through the whole routine. It seems to  
10 me we have performed our part of the contract  
11 already.

12 CHAIRPERSON REID: Are the  
13 representatives for this particular case here?

14 MS. KING: From Good Shepherd.

15 CHAIRPERSON REID: Good Shepherd. From  
16 case 16388, is there anyone here come forward,  
17 please.

18 MR. GILREATH: I agree with Ms. King, it  
19 seems to me the staff has done the necessary work  
20 and so forth and also maybe through no fault of the  
21 applicant, but I'm not sure this was thoroughly  
22 researched and so forth to try to think in terms of  
23 putting 50 children in a two or three or four  
24 bedroom house. They just received poor counseling  
25 or poor advice. Anyway I think the staff's effort  
26 was justified and they should be granted a refund.

27 CHAIRPERSON REID: What was the amount?

1 MR. GILREATH: Fifty children --

2 CHAIRPERSON REID: No, no, what was the  
3 amount of the fee?

4 MS. KING: Are you here with regard --

5 CHAIRPERSON REID: They are here in  
6 opposition.

7 MS. KING: You're here in opposition to  
8 the case. You weren't aware that it was being  
9 withdrawn.

10 CHAIRPERSON REID: Did you not know that  
11 there was a request to withdraw the case? The case  
12 has been withdrawn. Because of the opposition,  
13 apparently from what we can glean from the attorney  
14 for Good Shepherd and I quote --

15 MS. KING: Be withdrawn from your docket  
16 in light of neighborhood opposition.

17 I'm writing as the attorney for the  
18 Sisters of the Good Shepherd to request the  
19 application for special exception docket 16388 to be  
20 withdrawn from your docket in light of neighborhood  
21 opposition.

22 And then they ask that the funds be  
23 returned. It seems to me that we have performed our  
24 part of the contract and that therefore we should  
25 reject the request for refund of the fee.

26 MS. PRUITT-WILLIAMS: Staff has found  
27 the fee paid by them was \$1250. That's predicated

1 on the number of children, on how we devised the  
2 fee, yes.

3 CHAIRPERSON REID: I don't know, has a  
4 precedent been established in this regard?

5 MS. PRUITT-WILLIAMS: As staff, I would  
6 certainly like to caution you. If the Board refunds  
7 money, it should be for certain reasons, certain  
8 people can get refunds due to nonprofit status and  
9 if their association with like Department of  
10 Housing, Community Development. This is an  
11 applicant who changed their mind.

12 CHAIRPERSON REID: What I'm saying is --

13 MS. PRUITT-WILLIAMS: And no, we have  
14 never refunded money --

15 CHAIRPERSON REID: -- been established  
16 wherein there was an application filed and then  
17 withdrawn?

18 MS. PRUITT-WILLIAMS: We had one that  
19 was filed and withdrawn, but it was withdrawn prior  
20 to any notice being sent out, prior to any work  
21 really being done.

22 CHAIRPERSON REID: I see. It would just  
23 depend on the circumstances.

24 MS. PRUITT-WILLIAMS: But they have also  
25 prorated the amount that has been returned at times.

26 CHAIRPERSON REID: We just recently have  
27 -- who shall remain namely, a case, a big case that

1 was withdrawn and in that instance there was no  
2 request for -- but there was no request for and they  
3 submitted their fees. They did not even request  
4 fees to be returned to them.

5 MS. ROSE: The Papa John's are you  
6 referring to?

7 MS. PRUITT-WILLIAMS: When the applicant  
8 withdraws, it's their responsibility on their own.  
9 They have made a decision. As Ms. King says, we  
10 have created -- we've met our end of the contract.

11 MS. ROSE: Sometimes if they withdrawn  
12 based on errors made by a government official --

13 MS. PRUITT-WILLIAMS: That's different.  
14 This is not an error on our part. This is a change  
15 of heart of the applicant.

16 CHAIRPERSON REID: Please come to the  
17 mike and give your name and address.

18 MS. GOODMAN: I am Barbara Goodman, 7119  
19 16th Street, N.W. and very involved in this. I  
20 write a newsletter for a neighborhood and a  
21 neighborhood watch group of 60 families and almost  
22 every one of them signed against that, against this  
23 proposition and it's a moot point, but I just wanted  
24 to have a detail, what was the amount of money that  
25 they --

26 CHAIRPERSON REID: \$1200.

27 MS. PRUITT-WILLIAMS: \$1250.

1 MS. GOODMAN: Thank you.

2 MS. PRUITT-WILLIAMS: If you look at our  
3 fee schedule under BZA, there's a certain amount  
4 allotted per child and that's how the fee is  
5 determined.

6 MR. GILREATH: I would like to go on  
7 record saying that we certainly are not opposed to  
8 providing day care facilities and so forth. I guess  
9 it was -- perhaps they received poor advice and so  
10 forth and there's no fault on the part of the staff.  
11 So to my mind no refund in this particular instance  
12 is warranted.

13 MS. KING: I concur.

14 CHAIRPERSON REID: My pause is in  
15 reference to the outlay of funds for this particular  
16 organization which is certainly a nonprofit and the  
17 fact that they have submitted the \$1200 and I'm  
18 really -- I regret that there's no one here to speak  
19 on their behalf because I'm just wondering if when  
20 they even initiated this application, if they had  
21 had counseling as to the likelihood of it getting  
22 through the opposition from the community and just  
23 basically submitted it without regard to the outcome  
24 and the result of that, in essence, to pay a  
25 penalty.

26 MS. KING: Yes, but I mean if they had  
27 looked into all of the government rules and

1 regulations, we're not just talking about zoning  
2 matters and certificate of occupancy matters, but  
3 also the Department of Human Services regulations  
4 governing day care centers and so forth. I think  
5 that -- I doubt very seriously, I mean they have an  
6 attorney who has written on their behalf,  
7 presumably. They've paid that attorney in order to  
8 give them advice and they went forward with an  
9 application which they have now decided to withdraw.  
10 If they had not done so we would have certainly  
11 heard their case. We would have decided on it.

12 CHAIRPERSON REID: I'm not sure that  
13 they decided to withdraw it -- what I'm gleaning  
14 from this whole situation is that after they had  
15 applied, I don't think that they anticipated the  
16 overwhelming opposition and from what we heard from  
17 the opposition that virtually everyone in the  
18 community was against it and I can't fathom them  
19 submitting an application with this happening if  
20 they felt that that was what was going to happen.

21 My position is I would think that I'd  
22 like to defer this request to have someone from Good  
23 Shepherd talk to us or give some kind of appearance  
24 here.

25 MS. KING: I don't agree, Madam Chair.  
26 I think that anybody who is bringing a facility into  
27 a residential neighborhood should have the good

1 sense or their lawyer should have the good sense to  
2 advise them to make some contact with the neighbors  
3 --

4 CHAIRPERSON REID: Before submitting an  
5 application even?

6 MS. KING: Before they even contract for  
7 the property.

8 MS. PRUITT-WILLIAMS: Excuse me, Madam  
9 Chair, I would suggest that you are setting up a  
10 very dangerous precedence if we start refunding  
11 money because people have not done their homework.  
12 It's not our responsibility to be sure that the  
13 applicant has thoroughly investigated whether or not  
14 this can go forward or not without opposition.  
15 That's the chance and their choice to take.

16 MS. KING: That's right.

17 MS. PRUITT-WILLIAMS: And they have done  
18 so here and they've decided that it is not feasible  
19 for them to go any further. That's fine. But we  
20 don't -- I think it would be very dangerous for us  
21 to return their money on that sense, on that  
22 particular case. There was no error done by this  
23 agency. There was no error done by any other  
24 federal government. This was a change of heart --  
25 excuse me, District government or federal. This was  
26 a change of heart by an applicant and because they  
27 changed their mind, they then lose their right to

1 get their money back.

2 MS. KING: I agree.

3 MS. PRUITT-WILLIAMS: For those reasons.  
4 I think we'd be setting up a very dangerous  
5 precedence. And because it's a nonprofit, it's  
6 certainly a very laudable -- they may be doing good  
7 jobs, but there's a lot of nonprofits in the  
8 District and if we use that as a criteria, I think  
9 we're really going down a slippery slope.

10 MS. KING: I agree.

11 MR. GILREATH: I think this corporation  
12 could potentially seek relief from their lawyer, you  
13 see, assuming he advised them and told them  
14 information. He should go that route. He did not  
15 advise them properly of the facts. To me, if they  
16 need relief, they should go that route. I'm opposed  
17 to a refund.

18 CHAIRPERSON REID: All right, why don't  
19 we then just take a vote.

20 MR. GILREATH: I move that we reject the  
21 refund.

22 MS. KING: I second.

23 CHAIRPERSON REID: All in favor?

24 (AYES.)

25 CHAIRPERSON REID: Opposed? All right.

26 MS. PRUITT-WILLIAMS: Staff would record  
27 the vote as 3-0 to oppose the refund of the

1 application fee from Good Shepherd. Motion made by  
2 Mr. Gilreath, seconded by Ms. King.

3 MR. GILREATH: Is there any way we can  
4 convey to this corporation that this Board is  
5 certainly inherently sympathetic to providing day  
6 care facilities to needy families and so forth.  
7 However, we are bound by regulations and laws and so  
8 forth that we cannot do this arbitrarily and --

9 MS. KING: This is a case we're not  
10 hearing.

11 MR. GILREATH: You're right.

12 MS. KING: They have wiped it out.

13 MR. GILREATH: Okay.

14 MS. KING: So we don't have to speak on  
15 the merits of the case in any way, shape or form.

16 MR. GILREATH: I accept that.

17 MS. KING: I think it would be very  
18 ill-advised for us to talk about cases that we  
19 haven't heard.

20 CHAIRPERSON REID: Are there any more  
21 preliminary matters?

22 MS. PRUITT-WILLIAMS: Staff has none.

23 CHAIRPERSON REID: Leaving us one case  
24 for the morning, the one and only case for the  
25 morning.

26 MR. HART: Application 16315.

27 Application of LaVern A. Lacy, pursuant to 11 DCMR

1 3107.2 for a variance under Paragraph 2001.3(c) to  
2 allow an addition to an existing nonconforming  
3 structure; a variance from the maximum allowable lot  
4 occupancy requirements (Subsection 403.2); a  
5 variance from the minimum rear yard setback  
6 requirements (Subsection 404.1); and a variance from  
7 the minimum width of an open court requirement  
8 (Subsection 406.1) for a deck addition to a single-  
9 family dwelling in an R-3 District at premises 5025  
10 4th Street, N.W. (Square 3302, Lot 33.)

11 Will all persons planning to testify in  
12 this application, please stand and raise your right  
13 hand.

14 (Witness sworn.)

15 MR. WILSON: Hi, my name is Stan Wilson.  
16 I'm the President of a company called Rapid Permit  
17 Service.

18 CHAIRPERSON REID: Your address, Mr.  
19 Wilson?

20 MR. WILSON: Is 5020 Oglethorpe Street,  
21 Riverdale, Maryland 20737. Are you ready?

22 CHAIRPERSON REID: Yes.

23 MR. WILSON: This variance is for a deck  
24 that was already built without a permit. I have  
25 more pictures than what was even submitted to you to  
26 show you.

27 It's built on a lot that is

1 nonconforming as it stands. The zone requires a  
2 2,000 square foot lot and this lot is only 1530  
3 square feet. The zone requires a 20 foot wide lot  
4 and this lot is too narrow. It's only 18 feet wide.  
5 If it was 20 foot wide, to get 2,000 square feet it  
6 would have to be 100 feet long. The lot is only 85  
7 feet in depth, so it's too shallow as well.

8 There are several variances that are  
9 required, obviously, because the property is so  
10 small. I think according to the zoning figures here  
11 it's like 23 percent less than required by law. So  
12 it's a small house that these people live in.

13 What I'd like to do is maybe just take  
14 one point, one variance in a row.

15 CHAIRPERSON REID: Excuse me, what is  
16 your relationship to the case?

17 MR. WILSON: I have a permit company and  
18 we get building permits for the contractor. We  
19 don't -- we very seldom do variances. Many years  
20 ago when I did all of Hechinger's permits I did all  
21 of their variances. The only reason we're doing  
22 this one is because it's going to impact harshly on  
23 the homeowner if they would lose this appeal.

24 MS. KING: Do we have a letter of  
25 authorization for you to represent the homeowners?

26 MR. WILSON: You do from my company, a  
27 person in my company from Rapid Permit Service.

1 MS. PRUITT-WILLIAMS: Madam Chair, you  
2 do. It's a letter dated November 25th. "To Whom It  
3 May Concern: This letter authorizes Tom Ramada of  
4 Rapid Services."

5 CHAIRPERSON REID: Okay.

6 MS. KING: What is the date?

7 MS. PRUITT-WILLIAMS: November 25, 1997.

8 MS. KING: I guess I don't have a copy.  
9 Yes, here it is. November 25, 1997. And you are Mr.  
10 Ramada. I'm the President of the company.

11 CHAIRPERSON REID: You are Mr. Wilson,  
12 right?

13 MR. WILSON: I'm Stan Wilson.

14 CHAIRPERSON REID: Now wait a minute.

15 MS. KING: And then we have a 2/98  
16 letter saying that Barry Flach is representing.

17 CHAIRPERSON REID: Do we have a letter  
18 that authorizes you, sir?

19 MR. WILSON: You do not have one  
20 specifically for me. But you do have one for Rapid  
21 Permit Service.

22 CHAIRPERSON REID: So the company then -  
23 - the company is basically representing the  
24 applicants.

25 MS. KING: We can request at the end if  
26 we feel we need it, a letter from the applicant --

27 CHAIRPERSON REID: For the record.

1 MS. KING: For the record, authorizing  
2 this specific gentleman.

3 CHAIRPERSON REID: That's a good idea.  
4 Now that we know who you are --

5 MS. KING: Who built this deck?

6 MR. WILSON: Creative Energy is the  
7 contractor that built it and that would be Barry  
8 Flach. His company, one of his subcontractors was  
9 assigned the job and did not contact my company to  
10 get a permit. Subsequently, we were asked to get a  
11 permit, I guess, the District found out about the  
12 deck and when we went to get a permit for them the  
13 zoning issues came up as far as the nonconforming  
14 use so we agreed in this one case to follow it  
15 through.

16 I have done a lot of variances many  
17 years ago, but my business has grown and I don't --  
18 I just don't really have time to do variances now,  
19 except for this one case, I agreed to do it.

20 CHAIRPERSON REID: Okay.

21 MR. WILSON: Since the property is so  
22 small, the homeowner is not afforded the normal  
23 amount of house that would be allowed if it was a  
24 2,000 square foot lot. So we have, we need a  
25 variance for 135 square feet of lot coverage because  
26 we are over -- we're over 60 percent of 1530 square  
27 feet.

1                   If, in fact, we had a 2,000 square foot  
2 lot, we would be allowed 1200 -- if we had just a  
3 regular size lot, we would be allowed 1200 square  
4 feet of house.

5                   CHAIRPERSON REID: So you have a  
6 substandard lot?

7                   MR. WILSON: In size, yes. We're not  
8 allowed 1200 square feet because we're substandard.

9                   The total of the house which is 864 and  
10 our addition is 1,053 square feet which is  
11 considerably under 1200, the minimum that the code  
12 would allow if they had a standard lot. So our  
13 argument there is the size of the lot does not allow  
14 the homeowner to have as much usable space as  
15 typically somebody would get in that zone.

16                   We're too close to the rear property  
17 line. We need a four foot variance on the back and  
18 again because the lot is only 85 feet in depth, and  
19 not 100 feet which would be a minimum requirement  
20 for a 20 foot lot, we need that 4 foot variance, if  
21 the house  
22 -- if the lot was 100 square feet, we'd have no  
23 problem, we'd be like 11 feet over. We wouldn't  
24 have a problem there. It's just that the lot is  
25 shrunk down.

26                   CHAIRPERSON REID: Let me ask a  
27 question. Are there instances where we have lots

1 that are substandard, then do we use as a guide what  
2 would be the case if, in fact, it was conforming to  
3 the regulations, as a guide --

4 MS. PRUITT-WILLIAMS: For granting a  
5 variance?

6 CHAIRPERSON REID: Uh-huh.

7 MS. PRUITT-WILLIAMS: If a lot is  
8 substandard and it is the only lot within that  
9 block, you can do so. However, if it's a  
10 substandard lot and there are other lots on there  
11 the same size, then you no longer have uniqueness.

12 In your city block, the zones are many  
13 blocks combined. Uniqueness has to go to that  
14 individual lot and not to the neighborhood. If that  
15 lot is the same size as those on both sides, or  
16 others in that block, then the uniqueness test has  
17 not been met.

18 MS. KING: It appears to be identical.

19 MS. PRUITT-WILLIAMS: I believe that's  
20 the result of the Myrick case that came out of  
21 Georgetown.

22 MS. KING: Every house appears to have  
23 the same -- and in the next block between Farragut  
24 and Emerson, appears to have the identical size  
25 plot.

26 It's my experience that DCRA doesn't go  
27 around cruising neighborhoods looking for illegal

1 decks. Did somebody blow the whistle?

2 MR. WILSON: I don't know myself how  
3 that was discovered. What I do know is that all the  
4 neighbors were informed of the hearing, it obviously  
5 was posted and they were talked to about it and none  
6 of them had any objection to the deck. In fact, the  
7 deck not only enhances this individual property, it  
8 enhances the whole neighborhood.

9 CHAIRPERSON REID: Let's go back to  
10 regulations. I am still -- are you saying that in  
11 instances where even if the entire neighborhood is  
12 irregular, the whole neighborhood is irregular, the  
13 whole neighborhood has substandard lots which would  
14 make it impossible for them to comply with existing  
15 zoning regulations, there is no way that they could,  
16 is it?

17 MS. PRUITT-WILLIAMS: I am just telling  
18 you based on court cases the court found, I believe,  
19 and I may be quoting the wrong court, but it's a  
20 case that happened in Georgetown. I believe it's  
21 the Myrick case that a person proposed that they had  
22 a uniqueness because they had a substandard lot.  
23 It's very small. The court held that it was not  
24 because it wasn't unique because both of the lots on  
25 either side had the same problem. And most or quite  
26 a few of the lots in various zones do not -- are  
27 substandard or are not the size that the zone calls.

1 If that's the case, then we would almost have no --  
2 I mean almost every lot would be able to claim this.

3 MR. GILREATH: What about the hardship  
4 aspect? If this deck is removed, has there been  
5 some damage, if you will, to install this, you had  
6 to knock holes in the wall and anchor it, this, that  
7 and the other. Would the owner be left with some  
8 repair to his house, if it's removed, so it will be  
9 a hardship factor involved?

10 MR. WILSON: There would be some  
11 hardship with that. It is also a means of egress  
12 out of the first floor of the house to the rear and  
13 something would have to be done from a fire safety  
14 standpoint, to have a way off the first floor in the  
15 rear, not only counting on the front exit out.

16 MR. GILREATH: If it's removed then,  
17 you're saying it would create some sort of fire  
18 hazard in terms of being able to egress from the  
19 house?

20 MS. PRUITT-WILLIAMS: But I would  
21 caution you, you have to look at this as if the deck  
22 wasn't there because you're granting a variance.  
23 The fact is it is there and they had a stop order,  
24 but you can't look at it that way. You have to  
25 think of it as this person is coming in for a  
26 variance, the deck is not there. Have they met the  
27 burden of proof?

1 MS. KING: And presumably before they  
2 built the deck, there was some method of egress from  
3 the first floor?

4 MS. PRUITT-WILLIAMS: I'm sorry, I was  
5 coughing.

6 MS. KING: Presumably before they built  
7 the deck, there were stairs or something that was a  
8 means of egress from the ground floor?

9 MR. WILSON: I would think so, yes.

10 MS. KING: Which was replaced by this  
11 deck. Is it possible that the deck could be smaller  
12 and could be conforming?

13 MR. WILSON: I don't know if you've  
14 looked at the pictures. The deck is not --

15 MS. KING: I'm sorry, but I will just  
16 point out to staff the quality of the picture that I  
17 received.

18 MR. WILSON: Could I give you some to  
19 look at?

20 MS. KING: Don't bother sending me  
21 photographs like this because it doesn't do any  
22 good. If the machine isn't working better than  
23 that, I'd rather not have photographs.

24 CHAIRPERSON REID: Your company does  
25 permitting, correct?

26 MR. WILSON: Yes.

27 CHAIRPERSON REID: How did the deck get



1 now we've been focusing on the size of the lot and  
2 the fact that that may not be a unique circumstance,  
3 but there may be something else about the lot that  
4 could be unique, so you might want to explore that.

5 CHAIRPERSON REID: Right, we're moving  
6 in that direction.

7 MS. ROSE: Okay.

8 CHAIRPERSON REID: Gee --

9 MR. WILSON: There are a couple pictures  
10 of the deck that's about six houses down from this  
11 house --

12 MS. KING: Oh really? Which is that?

13 MR. WILSON: The one that looks  
14 different. I put a note on the back of them, the  
15 address. There's one that's even closer.

16 CHAIRPERSON REID: We've had these kind  
17 of cases before and I'm just wondering what can be  
18 done at the consumer protection mechanism to alert  
19 the consumer that prior to paying these contractors  
20 to do work on their houses that they have show some  
21 type of evidence that they have -- they're licensed  
22 and that they comply with the existing laws,  
23 regulations and permits.

24 MS. KING: Excuse me, this is the  
25 neighbor's deck, a teeny deck is the neighbor's  
26 deck. This is the deck. Now is the neighbor's deck  
27 conforming?

1                   MR. WILSON: It is not. I think you can  
2 see it's about 10 feet from the rear property line  
3 instead of the 16 that we are.

4                   MS. KING: This is the deck we're  
5 talking about. This is another person's deck.

6                   CHAIRPERSON REID: Someone else did the  
7 same thing. Is there something that can be done?

8                   MS. PRUITT-WILLIAMS: It is not through  
9 our jurisdiction.

10                  MS. KING: We used to have an Office of  
11 Consumer Protection.

12                  CHAIRPERSON REID: Public notification  
13 or something? A caveat emptor, a type of warning?  
14 This is happening too much and for people to have to  
15 pay money to the contractor and to have these things  
16 erected and to find that they are illegal, there  
17 must be a recourse against the contractor.

18                  MS. ROSE: Yes, through the courts.

19                  CHAIRPERSON REID: The advocate would  
20 have to -- this is after the fact.

21                  MS. ROSE: Yes.

22                  CHAIRPERSON REID: There's no penalty  
23 for a contractor doing this.

24                  Look at what the consumer has to go  
25 through --

26                  MS. PRUITT-WILLIAMS: It's unfortunate,  
27 but that's --

1                   CHAIRPERSON REID: I'm just wondering if  
2                   there are any kind of penalty that can be imposed  
3                   that would prevent or dissuade a contractor from  
4                   doing this because it happens all the time.

5                   MR. GILREATH: If the deck were to be  
6                   removed, could this property be cited for violating  
7                   some kind of a fire code? In other words, the owner  
8                   would have to do something --

9                   MS. KING: Yes, but a contractor would  
10                  have to do that. I mean if the contractor took  
11                  their money, and the subcontractor didn't get a  
12                  permit, the thing has to be removed, they would have  
13                  to repair the damage and reinstall the steps. There  
14                  would probably be a hefty lawsuit about it and so  
15                  forth and it would be a hell of a mess.

16                  But --

17                  MR. GILREATH: Is the contractor still  
18                  in business?

19                  MR. WILSON: Yes, he is.

20                  MS. KING: You're representing that  
21                  contractor, aren't you?

22                  MR. WILSON: Yes.

23                  MR. GILREATH: The one who installed  
24                  this is still in business?

25                  MR. WILSON: Absolutely. And if he has  
26                  to take it down, obviously he will take it down and  
27                  obviously they will provide some egress of the first

1 floor. You can't not have life safety codes met  
2 without question. The person who will suffer will  
3 be the homeowner because if you notice, it's a  
4 beautiful deck. It gives them access to their rear  
5 property and it's well landscaped. They've got a  
6 lot of flower pots and different things from the  
7 back. They've got it screened in with a stockade  
8 fence. There's a little place outside their house,  
9 their pretty small house that they can kind of go  
10 out and enjoy the view and enjoy themselves.

11 It would be unfortunate if they are  
12 confined to stay inside their house.

13 MS. KING: Suggest to us some provisions  
14 of the law under which we can soften our hearts.  
15 Make us weep.

16 MR. WILSON: My sense was until this  
17 interpretation that if you had a substantially  
18 undersized lot that was too narrow or too shallow  
19 that was grounds for a variance. They clearly have  
20 a lot that does not meet the requirements of the  
21 zone.

22 MS. KING: But it's identical to all the  
23 lots on their block and the block before this.

24 MR. WILSON: I did not realize that the  
25 code implied that you had to -- if other substandard  
26 lots were around you that you lost your right to a  
27 variance.

1                   CHAIRPERSON REID: One of the tests for  
2 the variance is that it has to be unique and in  
3 that, as Ms. Pruitt-Williams pointed out, that  
4 nullifies the issue of uniqueness when the whole  
5 block or the whole neighborhood, if you will, is the  
6 same.

7                   MR. WILSON: I understand what you're  
8 saying. I did not realize that that was the  
9 interpretation.

10                  CHAIRPERSON REID: We will try to look  
11 and see if there's something else about this  
12 particular property that is unique.

13                  MS. PRUITT-WILLIAMS: Madam Chair?

14                  CHAIRPERSON REID: Yes.

15                  MS. PRUITT-WILLIAMS: Staff has done a  
16 little research and there is a new provision in the  
17 zoning code, section 223 that is a special exception  
18 where the burden of proof, of course, in a special  
19 exception is a little less or different than a  
20 variance. And I don't have it directly in front of  
21 me, but we believe that the applicant could submit a  
22 revised application under that section and may have  
23 a better opportunity --

24                  CHAIRPERSON REID: It would be a lesser  
25 burden.

26                  MS. PRUITT-WILLIAMS: A lesser burden,  
27 yes.

1                   CHAIRPERSON REID: Let me also ask, if,  
2                   in fact, we ascertain that the relief that they need  
3                   is lesser than what has been proffered to us by the  
4                   ZA's office, then do we have the authority to make  
5                   that decision here? Or does it have to be done  
6                   through the ZA's office?

7                   MS. PRUITT-WILLIAMS: I'm not sure, to  
8                   be honest. I know that when this ZA letter was done  
9                   it was done in August of 1997. And that section  
10                  wasn't promulgated until later.

11                  CHAIRPERSON REID: Oh.

12                  MS. PRUITT-WILLIAMS: They came in under  
13                  the correct section that was on the books at that  
14                  time.

15                  CHAIRPERSON REID: At that time.

16                  MS. PRUITT-WILLIAMS: Right.

17                  CHAIRPERSON REID: Do you understand,  
18                  Mr. Wilson, what we're referring to now? What staff  
19                  has done is determined the possibility of your  
20                  relief being a special exception rather than a  
21                  variance. A variance is a more difficult type of  
22                  relief and the burden for the proof of the test is  
23                  more difficult, but we seemingly feel that perhaps a  
24                  special exception and based upon other regulations  
25                  that were promulgated after, subsequent to the --

26                  MS. KING: Filing.

27                  CHAIRPERSON REID: Filing, it is

1 possible that you may be able to come under that,  
2 under special exception, rather than variance. To  
3 make a long story short. It might be a lot easier  
4 than for you to try to make a case for a variance in  
5 this instance. And I just ask the staff if it is  
6 possible for us to make a determination of the  
7 lesser relief here at the BZA. It is? Or is it  
8 not?

9 With the new -- under the auspices of  
10 the new regulation that was promulgated subsequent  
11 to --

12 MS. PRUITT-WILLIAMS: It is staff's  
13 belief that you have the authority to waive the  
14 notice for a change in application, so that it could  
15 be heard today under this new statute. We've done  
16 some research. It is not in the D.C. Code which is  
17 the one thing you cannot waive. It is for the  
18 Zoning Commission, but not for the BZA.

19 CHAIRPERSON REID: And also there is no  
20 opposition to this case, we've been able to  
21 ascertain?

22 MS. KING: Is there anybody here in  
23 opposition to --

24 CHAIRPERSON REID: He's the only person  
25 here.

26 MS. KING: No, but this lady has come in  
27 subsequently and I wasn't sure whether she was here

1 on this issue.

2 CHAIRPERSON REID: Let me reiterate that  
3 Ms. King for Case No. 16315, is there anyone who has  
4 come in or anyone present or anyone who is  
5 affiliated with this case? Seeing none, then we can  
6 then look at it as a special exception and what  
7 special exception  
8 -- what would be the regulation?

9 MS. PRUITT-WILLIAMS: It's Section 223.  
10 Let us copy this for you and we also -- it should be  
11 in your regs, but we will copy and give the  
12 applicant -- if we could take like a five minute  
13 break. That way we can also speak to the applicant.

14 CHAIRPERSON REID: Let us do that.  
15 Let's recess for about five minutes. We'll look at  
16 the regulation and try to hear the case under  
17 special exception and then have to comply with that  
18 regulation, that section of the regulation. It may  
19 be a less burdensome task.

20 (Off the record.)

21 CHAIRPERSON REID: We will now come back  
22 to order.

23 Mr. Wilson, are you with us?

24 MR. WILSON: Yes.

25 CHAIRPERSON REID: Okay, so what you  
26 need to do now is basically -- let's go through  
27 Section 223 and see how your application complies.

1 MR. WILSON: I just was given this and -  
2 -

3 CHAIRPERSON REID: Start with No. 2 and  
4 just read it aloud and let's do it step by step. We  
5 only have about 4.

6 MR. WILSON: Start with No. 2 in regards  
7 a, b, c, d?

8 CHAIRPERSON REID: 233.1 just simply  
9 talks about the requirements.

10 MR. WILSON: This deck will clearly not  
11 impede the light and ventilation to the neighbors.  
12 It's an open deck. It's open underneath and open on  
13 top. There is a -- underneath there is a stockade  
14 fence around this property as it is, so that is an  
15 existing, but it's not an addition. It's not  
16 enclosed. So I think point a, it clearly will not  
17 impede any light or ventilation.

18 It's not my sense that privacy or use  
19 and enjoyment of the neighboring property shall be  
20 unduly compromised. This is a deck that has a  
21 lattice work screening around it and I don't know  
22 how it would compromise.

23 CHAIRPERSON REID: Let's just ask you.  
24 Have you had any complaints from any of the  
25 neighbors?

26 MR. WILSON: Not that I've heard of and  
27 not that are registered with the Board.

1 CHAIRPERSON REID: Okay.

2 MR. GILREATH: Is there lattice on both  
3 sides?

4 MR. WILSON: There is lattice around the  
5 deck. There's not lattice across the rear.

6 MR. GILREATH: Just the neighbors on  
7 either side --

8 MR. WILSON: Yes, I didn't give you this  
9 picture. I just held one back, but this one clearly  
10 shows the lattice.

11 MR. GILREATH: On both sides.

12 MR. WILSON: On both sides. If you want  
13 me to present it --

14 MR. GILREATH: No, I accept that.

15 MR. WILSON: I don't feel myself that  
16 this addition deck, as viewed from the alley or from  
17 the street intrudes upon the character of the  
18 neighborhood. There is another deck in the  
19 neighborhood and the next block down there are some  
20 enclosed additions on the rear in the next block, so  
21 I don't feel it impedes that.

22 It's less than 70 percent of lot  
23 coverage. It's 68.92 percent lot coverage. I think  
24 it enhances the value of this particular house and  
25 in turn, would enhance the value of the whole  
26 neighborhood, by dressing it up, making it look  
27 better. It allows the homeowner to utilize their

1 property better to their desires, because it is a  
2 small lot and they don't have anywhere else to go.

3 CHAIRPERSON REID: Okay. Mr. Wilson,  
4 where are you?

5 MR. WILSON: Pardon me?

6 CHAIRPERSON REID: Where are you? Are  
7 you finished with your presentation?

8 MR. WILSON: Well, I think I addressed  
9 all the points.

10 CHAIRPERSON REID: I thought you were --  
11 number c and d, did you address those?

12 MR. WILSON: Yes, I thought I did.

13 CHAIRPERSON REID: Basically, you just  
14 kind of put it all together?

15 MR. WILSON: Yes.

16 CHAIRPERSON REID: I wasn't following  
17 you in that regard.

18 MR. WILSON: I'm trying to stay away  
19 from the variance arguments.

20 CHAIRPERSON REID: 223, well, we have  
21 those pictures. And the lot occupancy -- did you  
22 address that?

23 MR. WILSON: Yes, I did.

24 CHAIRPERSON REID: I'm sorry, forgive  
25 me. I was probably reading something when you said  
26 that. I didn't hear you. Okay.

27 No. 223.4, also he did?

1                   MR. GILREATH: He talked about the  
2 lattice.

3                   MS. KING: We may require -- that's what  
4 we can do in our conditions, if we want to put  
5 conditions on it.

6                   MR. WILSON: It seems to be pretty well  
7 screened.

8                   CHAIRPERSON REID: Let's move to the  
9 adverse impact aspect. Is there any adverse impact  
10 to your knowledge with regards to traffic, noise,  
11 lighting, parking?

12                  MR. WILSON: I personally don't think  
13 there's any adverse impact at all. It dresses up  
14 the neighborhood. It's obviously most beneficial to  
15 the homeowner that owns it.

16                  MR. WILSON: An adverse impact pertains  
17 to the abutting neighbors.

18                  MR. WILSON: I understand. I don't see  
19 how it could do that.

20                  CHAIRPERSON REID: All right.

21                  MR. WILSON: They have flowers. They  
22 have hanging plants on it. It's very decorative.  
23 If anything, it might remind you of the balconies  
24 and porches in New Orleans where they hang all the  
25 plants and flowers. If you notice from the  
26 pictures, it's obvious, these people take pride in  
27 their yard and their deck. It's not a standard

1 deck, it's extremely well designed and very  
2 attractive.

3 MR. GILREATH: Are any of these property  
4 owners -- adjacent to this particular property use  
5 their backyard for parking?

6 MR. WILSON: I think there is. These  
7 people don't and the ones next door on both sides  
8 don't. I think there is a couple down the way that  
9 do use their backyard for parking.

10 MR. GILREATH: In this instance, of  
11 course, if every property owner on that block would  
12 probably end up with more cars parked in the front,  
13 but in this particular case, I don't see that as a  
14 problem.

15 CHAIRPERSON REID: All right, and not  
16 substantially to your knowledge, will not  
17 substantially impair the purpose or intent of the  
18 planning zone or map?

19 MR. WILSON: I would think not. I don't  
20 think you'd want to prohibit people from having  
21 decks on their back.

22 CHAIRPERSON REID: Do you have anything  
23 else to add to your --

24 MR. WILSON: I wish I could think of  
25 something else.

26 (Laughter.)

27 CHAIRPERSON REID: We'll help you work

1 through this.

2 MR. WILSON: You've been very helpful  
3 and staff has been very helpful.

4 CHAIRPERSON REID: So stay right there.  
5 The government reports including Office of Planning  
6 or ANC reports, did we get a report from the ANC? I  
7 didn't see one.

8 MS. PRUITT-WILLIAMS: No.

9 CHAIRPERSON REID: So we just assume  
10 that the ANC had no opposition to this particular  
11 application. So other government reports -- parties  
12 in support of the application, parties in opposition  
13 to the application, closing remarks by the  
14 applicant.

15 MS. KING: Just say please.

16 (Laughter.)

17 MR. WILSON: Please grant this special  
18 exception.

19 CHAIRPERSON REID: Would you like to  
20 have a bench decision --

21 MS. PRUITT-WILLIAMS: Madam Chair, I  
22 don't mean to interrupt, but we -- staff was  
23 discussing, since we have -- since you have amended  
24 the application from a variance to special  
25 exception, it probably would be prudent if the  
26 applicant either get a new letter from the ZA or  
27 self certify so that when this goes back to DCRA and



1 concern. I think just procedurally it may be longer  
2 and as Mrs. King says, we're not prohibiting --  
3 we're not saying you can't use your deck until we  
4 get the permit. The deck is there. I think it  
5 would just be -- simpler and clearer.

6 MR. GILREATH: We really couldn't, in  
7 practical terms, say we render a decision today. We  
8 say our decision provided that --

9 MS. PRUITT-WILLIAMS: The BZA has never  
10 done that that I can --

11 CHAIRPERSON REID: Let's just do it  
12 today and clean and prudent and we will make the  
13 decision at our next meeting which will be December  
14 6th, excuse me, December 2nd, and that will give you  
15 and staff an opportunity to kind of determine what  
16 and how this can best be done.

17 MR. WILSON: Right. I appreciate your  
18 help very much.

19 CHAIRPERSON REID: Thank you.

20 MR. WILSON: Thank you.

21 CHAIRPERSON REID: And that concludes --  
22 is there anything else that staff has? That  
23 concludes the morning session.

24 MS. KING: Back at 1 o'clock, right?

25 (Whereupon, at 10:47 a.m., the hearing  
26 was recessed, to reconvene at 1:00 p.m., Wednesday,  
27 November 18, 1998.)

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A F T E R N O O N      S E S S I O N

1:04 P.M.

CHAIRPERSON REID: Good afternoon. The hearing will please come to order. My name is Sheila Cross Reid. This is the public hearing of November 18, 1998. Joining me today is Betty King, Gerry Gilreath, representing the National Capital Planning Commission and representing the Zoning Commission is Mr. Herbert Franklin. The topic of today's hearing agenda are available to you. They're located to my left near the door.

All persons planning to testify either in favor or in opposition are to fill out two witness cards. These cards are located on each end of the table in front of us. Before coming forward to speak to the Board, please give both cards to the reporter who is sitting to my right or in front of

1 us. The order of procedure for special exception  
2 variance cases will proceed as follows: (1)  
3 statement and witnesses of the applicant, (2)  
4 government reports including Office of Planning,  
5 Department of Public Works, ANC, etcetera; first,  
6 the persons and parties in support, persons and  
7 parties in opposition, closing remarks by the  
8 applicant. Cross examination of witnesses is  
9 submitted for persons or parties with direct  
10 interest in the case. The record will be closed at  
11 the conclusion of each case, except for any  
12 materials specifically requested. The Board and the  
13 staff will specify at the end of the hearing exactly  
14 what is expected.

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

20 The Board will make every effort to  
21 conclude the public hearing as soon as possible to 6  
22 o'clock p.m. If the afternoon cases are not  
23 completed by 6 o'clock p.m., the Board will assess  
24 whether it can complete the pending case or cases  
25 remaining on the agenda.

26 At this time the Board will consider any  
27 preliminary matters. Preliminary matters are those

1 that relate to whether a case will or should be  
2 heard today, such as requests for postponement,  
3 continuance or withdrawal, whether a proper and  
4 adequate notice of the hearing has been given.

5 If you are not prepared to go forward  
6 with the case today or if you believe that the Board  
7 should not proceed, now is the time to raise such a  
8 matter.

9 Are there any preliminary matters?  
10 Please come forward.

11 MR. GLASGOW: Good afternoon, Madam  
12 Chair, and members of the Board. For the record, my  
13 name is Norman M. Glasgow, Jr., of the law firm of  
14 Wilkes, Artis, Hedrick & Lane. I represent the  
15 applicant in a parking lot variance case which was  
16 published in the records of the Board. It's  
17 application 16393. It was in the Board's notice on  
18 both November 18th and December 2nd. I wanted to  
19 give copies of those notices to the Board. It was  
20 not published in the D.C. Register and I'm going to  
21 be requesting a waiver from Section 3301.1 to permit  
22 this case to proceed at this point, during the  
23 course of today's hearing.

24 I'd like to give a copy to the Board  
25 members. Of the two Board of Zoning adjustment  
26 public hearing notices that have this case on the  
27 agenda, although it is not presently on the agenda

1       today, and we are prepared and the applicant has  
2       fulfilled all of its requirements for proceeding  
3       forward and we have also been to the Advisory  
4       Neighborhood Commission. They have approved the  
5       case. They have recommended and sent a letter to  
6       the Board that the application should be approved.  
7       They had notice posted in the community and we have  
8       filed a pre-hearing statement, done our notice  
9       posting and there is good cause for proceeding with  
10      the application today and I want to go into that,  
11      but I want to give the Board Members copies of this  
12      -- of these two notices for the application.

13                               (Pause.)

14                               Under the provisions of Section 3317.3,  
15      and I'm going to be asking for the waiver under  
16      3301.1 which has a good cause standard in that  
17      there's no prejudice to any party by proceeding,  
18      that notice was not published in the D.C. Register  
19      of the application. However, the owner and lessee  
20      are available to testify at today's hearing, along  
21      with our expert witnesses.               The ANC had  
22      notice and has a written letter in support of the  
23      application and I've submitted a copy of the ANC  
24      letter to the staff in support. And that there was  
25      posting of this case on the calendar of the Board.  
26      In fact, it's getting handed out, this case was  
27      posted on two BZA agendas, but neither of those were

1 published in the D.C. Register.

2 We believe that the Board has  
3 jurisdiction to grant the waiver under the good  
4 cause standard and also there's lack of any  
5 prejudice to any party by the granting of the  
6 waiver. And it's not otherwise prohibited by cause.

7 The applicant has met all notice and  
8 posting requirements and has relied on the BZA  
9 hearing notice for being prepared to proceed forward  
10 today. The applicants and its representatives have  
11 attended two ANC meetings, one, the Community  
12 Development Committee meeting and a second was the  
13 full ANC meeting where this application was  
14 unanimously supported by the ANC and the letter that  
15 you have.

16 From review of the ANC letter, the ANC  
17 wants the parking lot to be improved in certain  
18 circumstances like with respect to repaving and all  
19 of those type of issues and we've agreed with the  
20 ANC to do that.

21 This lot has been in existence over 30  
22 years, so we're not asking for a waiver to hear a  
23 case, whether it's a new use that's going on to the  
24 property. The Board originally approved this case  
25 in the early 1960s and for some reason there was a  
26 lapse in BZA approvals and then there was  
27 notification given to the property owner that they

1 needed to come back to the Board. So while the  
2 notices that you see in front of you talk about the  
3 establishment of a parking lot, that's a very  
4 technical term, the lot is there and is in operation  
5 today. And in fact, the applicant has a business  
6 license for the operation of the parking lot and  
7 which is valid through December 31st of 1998. In  
8 addition, the applicant has gotten real estate tax  
9 assessment bills and we did file a pre-hearing  
10 statement. The width of this statement does not  
11 indicate any particular complexity with the case,  
12 but we have a lot of documentation that just goes to  
13 why it is that we should continue to be permitted to  
14 have the lot. One, we pay commercial real estate  
15 taxes for 30 years. The government has assessed it  
16 that way. Those taxes have been paid. The parking  
17 lot tax is collected and also as attachment N, we  
18 have a business license which is issued by DCRA, the  
19 same agency within the District that indicated to my  
20 clients that we have a zoning violation that needed  
21 to come to the Board to establish a lot, has issued  
22 a business license which is valid through December  
23 31, 1998. So we think that there's ample basis to  
24 be proceeding forward and that the Board has the  
25 authority under the good cause standard to, in  
26 effect, have a situation where there's a technical  
27 issue with respect to the publication in the D.C.

1 Register. There needs to be an administrative  
2 safety valve for dealing with this type of situation  
3 and then that the onus doesn't come back on the  
4 applicant for the failure, for the publication. So  
5 we have in good faith followed all the standards.  
6 We've been to the community. We've been to the ANC  
7 and principles of administrative law and  
8 interpretation to give the provisions full force and  
9 effect in Chapter 33 would indicate that the Board  
10 does have the authority to grant the waivers  
11 necessary for us to be able to proceed forward at  
12 this point in time.

13 Since the Board has the equitable  
14 authority to proceed under the good cause standard,  
15 we think that that is certainly something that is  
16 decided on a case by case basis and we have  
17 essentially five factors or circumstances that  
18 affect this case. One, the Board notice had its  
19 case on its agenda that it publishes and gives to  
20 the community when you come into the Board room to  
21 see what cases are on the agenda. Secondly, the  
22 applicant fully complied with all filing  
23 requirements. Third, it is an existing lot. It's  
24 not new construction that we're talking about here.  
25 We want to validate an existing use which is  
26 licensed and permitted by the District government.  
27 Fourth, we have the ANC -- has met on, there's been

1 community input and they have written a letter in  
2 support of the application. And lastly, because I'm  
3 sure you're wondering well, if we're already in  
4 operation, what's the issue here? Because we plan  
5 on continuing in operation. Is that with respect to  
6 doing the improvements that the ANC wants on the  
7 property, we need to -- we're going to be repaving  
8 most of the lot as it said on the -- I think it's  
9 the very first condition in the ANC letter. The  
10 asphalt patching plants are going to be closing  
11 within the next couple of weeks. They generally  
12 close around the first of December and they open  
13 mid-March, depending on what the weather is. And  
14 our commitment with the ANC was to get the repaved  
15 as soon as possible. We've told them that we were  
16 going to be on the November 18th agenda and we would  
17 like to move forward on that basis.

18 So those are the reasons and the  
19 rationale as to whether we are requesting a waiver  
20 from the Board under the Board's equitable authority  
21 under Section 3301.1 to grant us the waiver from the  
22 publication in D.C. Register under 3317.3.

23 MS. KING: Are your clients, the  
24 applicants, prepared to testify that they've had no  
25 complaints over the years, recent years of their  
26 operation?

27 MR. GLASGOW: That is correct.

1 MS. KING: In other words, the fact that  
2 notice was not given to everybody within 200 feet,  
3 you would argue was immaterial since they've never  
4 complained about the operation of the parking lot?

5 MR. GLASGOW: One, we've had no  
6 complaints about the operation of the parking lot.  
7 Two, we did post the notice of the sign on the  
8 property and that sign has been maintained, so we  
9 have done all of that. Plus, there was community  
10 notice given through the ANC. At the ANC meeting --

11 MS. KING: My question related to  
12 whether or not the applicants had received any  
13 complaints from the neighbors about the operation of  
14 the parking lot?

15 MR. GLASGOW: No.

16 MS. KING: Where is it located?

17 MR. GLASGOW: It's located at 1117 11th  
18 Street, N.W.

19 MS. KING: 11 --

20 MR. GLASGOW: 1117 11th Street, N.W.

21 MS. KING: What's the cross street?

22 MR. GLASGOW: I can give you a copy of  
23 our statement which has a plat.

24 MS. KING: No, just tell me what the  
25 cross streets are?

26 MR. GLASGOW: It's 11th, 10th, L and M.

27 MS. KING: Okay.

1 MR. GLASGOW: And the lot is mid-block.  
2 There are some commercial uses to the north.  
3 There's an apartment building, a high rise apartment  
4 building to the south.

5 MS. KING: So this is downtown, the  
6 center of the business district?

7 MR. GLASGOW: Yes.

8 MS. KING: Okay.

9 MR. GLASGOW: That's correct.

10 MR. FRANKLIN: Madam Chair, I'd like to  
11 move that we grant the waiver as requested.

12 MS. KING: I'll second that.

13 CHAIRPERSON REID: All in favor, aye?

14 (AYES.)

15 CHAIRPERSON REID: Opposed?

16 MS. KING: This goes on the agenda at  
17 the end of our agenda for today?

18 MS. PRUITT-WILLIAMS: Staff would record  
19 a vote as 4-0 to approve the motion made by Mr.  
20 Franklin, seconded by Ms. King.

21 CHAIRPERSON REID: Are there any other  
22 preliminary matters? Staff have none? Okay.

23 First case of the afternoon, please?

24 MR. HART: Case 16390, application of A  
25 & M Investments, pursuant to 11 DCMR 3107.2, for a  
26 variance to allow proposed alteration and conversion  
27 of Mixed-Use commercial buildings to all commercial

1 buildings, and a variance from Section 771.2 to  
2 allow construction that exceeds the maximum  
3 allowable floor area ratio for each structure for  
4 property located in a DCOD/C-2-B District at  
5 premises 1425, 1427 and 1429 21st Street, N.W. and  
6 2032 P Street, N.W. (Square 96, Lots 77, 78, 79 and  
7 100).

8 Will all persons planning to testify in  
9 this case come forward to take an oath?

10 (Witnesses sworn.)

11 MR. CLARK: I am Jerald Clark. I'm an  
12 architect representing A & M Investments which is  
13 really a D.C. family. We're going to be very brief  
14 today about what we want to do because it's a fairly  
15 simple request.

16 CHAIRPERSON REID: Give your address.

17 MR. CLARK: Let me address that too.  
18 Since this process started, we've now combined all  
19 the lots into one subdivision.

20 CHAIRPERSON REID: No, your address,  
21 where you live.

22 MR. CLARK: My address, I'm sorry. 3530  
23 T Street, N.W., Washington, D.C. 23007.

24 CHAIRPERSON REID: Continue.

25 MR. CLARK: As I've said, we've  
26 subdivided the property into one lot now and it has  
27 a new lot number and square. I don't know how that

1 affects this hearing because now we're talking about  
2 four different properties in this hearing for the  
3 way it's written up, but we've changed to one  
4 property. As far as we're concerned it doesn't  
5 change anything and actually it doesn't change the  
6 zoning or the way --

7 CHAIRPERSON REID: From three properties  
8 subdivided into one?

9 MR. CLARK: Four subdivided into one.

10 CHAIRPERSON REID: Four subdivided into  
11 one property now, it's the lot and square has  
12 changed?

13 MR. CLARK: That's correct.

14 CHAIRPERSON REID: The lot number has  
15 changed?

16 MR. CLARK: The lot number has changed,  
17 not the square.

18 CHAIRPERSON REID: And the address --

19 MS. PRUITT-WILLIAMS: Could you give us  
20 the new lot number? You had four combined into one.

21 MR. CLARK: Right.

22 CHAIRPERSON REID: Did you submit a new  
23 survey plat?

24 MR. CLARK: I have not, because this  
25 just happened recently, a few days ago.

26 CHAIRPERSON REID: Do you have it?

27 MR. CLARK: I have it with me, yes.

1                   CHAIRPERSON REID: All right, give it to  
2 staff.

3                   MS. PRUITT-WILLIAMS: Thank you.

4                   MR. CLARK: As I said, it doesn't affect  
5 what we're here for and that is to get a variance  
6 from 11 DCMR 3107.2 to allow a more flexible use of  
7 the building. Right now, we're supposed to have  
8 some residential and commercial and the Puglisi  
9 family would like to be able to rent it in a more  
10 flexible manner, whatever the traffic bears at the  
11 time and sometimes they get a request for  
12 residential and most of the time commercial. They  
13 could always use it for residential, but they seem  
14 to be getting more commercial requests. They have  
15 residential in it now. As a matter of fact, one of  
16 the Puglisi young ladies lives there on the top  
17 floor.

18                   The other thing they want to get a  
19 variance from is to be able to use the total  
20 building. At this time they're allowed 2.5 FAR and  
21 they would like to have the ability to use all the  
22 floors. Now they can use a part of a floor and the  
23 other floors. So we're just here to respectfully  
24 request these two variances from the zoning --

25                   CHAIRPERSON REID: You're requesting two  
26 variances?

27                   MR. CLARK: Yes.



1 -- I mean you've consolidated them into -- can you  
2 walk from one building to the other on the second  
3 floor?

4 MR. CLARK: If they want to they can.  
5 They line up and by a subdivision they're allowed to  
6 put a hole through the wall and rent floor to floor.

7 MS. KING: I see. And that is, in  
8 effect, your intention, is that correct?

9 MR. CLARK: We got that approved.

10 MS. KING: You want to have that option  
11 to be able to, instead of them being four separate  
12 buildings, that they are consolidated now into one  
13 building where you can break down the walls and --

14 MR. CLARK: No, we have that approval.  
15 When you subdivide, you're allowed to go laterally  
16 through a group of buildings and use them as one  
17 floor.

18 Really as I say, what we want is to be  
19 able to have all commercial instead of a mixed use  
20 of residential and commercial.

21 MS. KING: Okay.

22 MR. GILREATH: You said you wanted  
23 greater flexibility. If you go all commercial and  
24 then later on the market is favorable and you want  
25 to make it for residential use is that possible or  
26 do you have to do some retrofitting or is that  
27 possible?

1                   MR. CLARK:  Actually, the way these  
2                   houses are constructed, they were old townhouses.  
3                   There's very little that they can do inside.  
4                   They're rented just the way they are as houses.  
5                   People just occupy them as an office and they keep  
6                   the tubs and showers and everything that's there and  
7                   some people like that because they run at lunch time  
8                   and they can shower.  But they'll stay the same.  
9                   Unless the whole thing is torn down or gutted or  
10                  something, there's not much you can do.

11                  MS. KING:  Are you in an historic  
12                  district?

13                  MR. CLARK:  Yes.

14                  MR. GILREATH:  The term flexible it  
15                  sounds like you can do this, that or the other.  But  
16                  it seems to me you're only asking us to say you  
17                  would like permission to go all commercial for use  
18                  of the building, is that correct?

19                  MR. CLARK:  That's correct.

20                  CHAIRPERSON REID:  Okay, now just for  
21                  the record, according to the survey of the plats you  
22                  have provided us with, the lots that were  
23                  advertised, 77, 78, 79 and 100 have now been  
24                  subdivided into lot 104?

25                  MR. CLARK:  That's correct.

26                  CHAIRPERSON REID:  Square 96 remaining  
27                  the same?

1 MR. CLARK: That's correct.

2 CHAIRPERSON REID: And 1425, 27, 29 and  
3 32 P Streets, N.W.

4 MR. CLARK: That's correct.

5 CHAIRPERSON REID: Ms. Pruitt-Williams,  
6 that is all that is required for the change in the  
7 lot?

8 MS. PRUITT-WILLIAMS: Pending the  
9 application.

10 CHAIRPERSON REID: All right. You can  
11 go ahead and proceed with your application, Mr.  
12 Clark.

13 MR. CLARK: If anyone would like, I can  
14 show individually --

15 CHAIRPERSON REID: You can just give it  
16 to staff and they'll pass it down to us.

17 MS. PRUITT-WILLIAMS: We must keep the  
18 photos. They'll be part of the record.

19 I just wanted to make sure you know  
20 that.

21 MR. CLARK: Yes. That's really all we  
22 have to offer. We have a floor plan. I think you  
23 have it, the submitted floor plans, but we don't  
24 have anything else.

25 CHAIRPERSON REID: Are you familiar with  
26 the three prong test for the relief that you're  
27 requesting for variance?

1                   MR. CLARK: I'm sorry, I couldn't hear  
2                   you.

3                   CHAIRPERSON REID: To receive a  
4                   variance, you must meet a three prong test. You  
5                   have to show that (1) that your property is  
6                   something unique or unusual about the property  
7                   inherent and the land of the property and that --  
8                   did you want to say something?

9                   MR. CLARK: Well, the property is very  
10                  small. There's no way to expand and they would like  
11                  to get maximum use, but also the rental ratio of the  
12                  cost to their taxes, rental ratio. That's the --  
13                  what we need relief from also.

14                  CHAIRPERSON REID: Again, your first  
15                  test is what is it that is unusual or unique about  
16                  your property that would deem it qualified for a --  
17                  in other words, what is the practical difficulty  
18                  that would come about as a result of your not  
19                  complying with the existing zoning regulations?  
20                  That's what you have to address.

21                  MR. CLARK: Like I said, the difficulty  
22                  is the size of the rental area to the total cost of  
23                  operating. They need relief from that. They need  
24                  to be able to make more of a profit from the taxes,  
25                  the expenses that are going into the building. And  
26                  they need this extra square footage and they need  
27                  the flexibility so that they can stay up with the

1 market.

2 MR. GILREATH: Are there portions of the  
3 floor that you can't really lease now? You say you  
4 want maximum FAR.

5 MR. CLARK: Right.

6 MR. GILREATH: In other words, when you  
7 lease a floor of the building there's X amount of  
8 space you cannot lease?

9 MR. CLARK: That's correct.

10 MS. KING: Why?

11 MR. CLARK: Because it's 2.5 FAR and the  
12 lot size is such that the four stories, you can't  
13 rent the whole four stories, not legally. Now when  
14 the Puglisis picked this up 25 years ago, it's been  
15 rented mostly maximum and they would like to have  
16 things in order and have it where it's legal. Now  
17 they're having to hold back areas and they'd rather  
18 not do that.

19 MS. KING: This strikes me, ladies and  
20 gentlemen, as very weird. I mean this is clearly an  
21 old building. It looks like it was early 20th  
22 century. Isn't there any sort of grandfathering out  
23 of the -- you know, the old days when zoning was  
24 first imposed in the District of Columbia? It's an  
25 old building. When was the building built?

26 MR. CLARK: Late 1800s.

27 MS. KING: Turn of the century. It's

1       been around for a hundred years.  If it's in an  
2       historic district, it must be a contributing  
3       element, if not actually designated itself.  I don't  
4       see what the problem -- why do they have to be here?

5               MR. CLARK:  We were told it's illegal.

6               MS. KING:  No, but can the staff explain  
7       to me why the government has told them it's not  
8       legal?

9               Is this new news to you that you've been  
10      breaking the law by renting the whole building?

11              MR. CLARK:  Actually, when I came aboard  
12      to get certificates of occupancies I discovered what  
13      was happening at the site and we tried to --

14              MS. KING:  That was when?

15              MR. CLARK:  I think two years ago and we  
16      found out that we couldn't rent the whole building  
17      because the FAR was such that part of the building  
18      had to be blocked off.  So we decided to try to make  
19      it legal so we started this process.

20              MS. KING:  No, I understand that, but I  
21      mean what I don't understand why it's illegal.

22              MR. CLARK:  That's the zoning code.  
23      It's just in the zoning code.

24              MS. KING:  And it's a nonconforming  
25      structure.  It was a nonconforming when zoning came  
26      into existence.

27              MR. CLARK:  So we were advised by zoning

1 to come here.

2 MS. KING: I understand that.

3 MR. GILREATH: If you have X amount of  
4 space devoted to residential use and the rest  
5 commercial, that would meet the requirements and you  
6 could do the maximum use of the building?

7 MR. CLARK: No, you cannot. You still  
8 have only so much that you can occupy and that's the  
9 problem.

10 MR. FRANKLIN: Is it only so much you  
11 can occupy for commercial purposes?

12 Or only so much you can occupy for --

13 MR. CLARK: For commercial, yes.

14 MR. FRANKLIN: So what you want to be  
15 able to do is maximize the rental income for the  
16 building and convert what is now residential use to  
17 commercial?

18 MR. CLARK: No, not convert it  
19 particularly, use the rest of the space.

20 MR. FRANKLIN: Change the occupancy --

21 MR. CLARK: Either commercial or  
22 residential.

23 MR. FRANKLIN: He's saying he cannot use  
24 it for commercial purposes. He can use it for  
25 residential purposes.

26 MS. KING: Or is he saying -- if you  
27 continued to have part of it be residential, would

1           you be within the FAR?

2                         MR. CLARK: No. You still can't use the  
3 whole building no matter commercial or residential.

4                         MR. FRANKLIN: That doesn't make sense  
5 to me.

6                         MS. KING: It doesn't to me either.

7                         MR. CLARK: According to Mr. Nunley,  
8 that's what we have to live under.

9                         CHAIRPERSON REID: Let's proceed.  
10 Obviously, we're not going to resolve that part of  
11 it, but I think we definitely have established the  
12 difficulty.

13                         MS. KING: A unique and unusual  
14 situation by any --

15                         CHAIRPERSON REID: Let's go into -- was  
16 there any adverse impact meaning in regard to your  
17 neighbors that abut the property and the community  
18 or the community, was there any nuisance in regard  
19 to noise, light, traffic, parking?

20                         MR. CLARK: There was recently, I  
21 understand. One of the tenants who is on the ground  
22 level had a party that was quite loud music and the  
23 Puglisis are addressing that and they're going to  
24 fix it where nothing opens on 21st Street so that  
25 only offices will open on to that street.

26                         CHAIRPERSON REID: So there was a  
27 problem, this was a residential or commercial

1 tenant?

2 MR. CLARK: It was a commercial tenant.

3 CHAIRPERSON REID: Is this an on-going  
4 consistent problem?

5 MR. CLARK: No, it is not. It only  
6 happened one time to my knowledge and it's only been  
7 one time in his tenancy and any tenants there.

8 CHAIRPERSON REID: Did you talk to the  
9 ANC?

10 MR. CLARK: Pardon me?

11 CHAIRPERSON REID: Have you talked to  
12 your ANC?

13 MR. CLARK: I think we have, yes.

14 CHAIRPERSON REID: And?

15 MS. KING: Excuse me, Madam Chair. I  
16 believe that there's somebody here who is going to  
17 be testifying on behalf --

18 CHAIRPERSON REID: I saw that person and  
19 during the segment they would have an opportunity to  
20 voice their concern.

21 Did you say you had or had not talked to  
22 or contacted the ANC?

23 MR. CLARK: Not directly, no. I've had  
24 a phone call from ANC and I talked to -- I can't  
25 remember the -- to a Karen Rosenthal. I can't  
26 remember right this moment what -- I guess she's the  
27 ANC.

1                   CHAIRPERSON REID: The ANC has been  
2 notified by this office, but I don't think we  
3 received any letter or any correspondence from --  
4 ma'am, you will have an opportunity to speak. So we  
5 have not heard from the ANC yet. All right.

6                   And would granting the relief impair the  
7 general purpose of the intent of the zoning map or  
8 zoning plan?

9                   MR. CLARK: I don't think so.

10                  CHAIRPERSON REID: To your knowledge?

11                  MR. CLARK: No, no.

12                  CHAIRPERSON REID: Did you have anything  
13 else to add?

14                  MR. CLARK: I would just add if this was  
15 going to be approved we can guarantee and have the  
16 Board have it part of the approval to not have any  
17 commercial on 21st Street, nothing that would open  
18 to the street and everything would --

19                  CHAIRPERSON REID: As a condition to the  
20 order?

21                  MR. CLARK: As a condition to the order  
22 of approval.

23                  CHAIRPERSON REID: Okay.

24                  MR. CLARK: We would be willing to do  
25 that, offered very readily.

26                  MS. KING: Now will you say that again?

27                  MR. CLARK: We would guarantee that

1           there could be, would be no commercial  
2           establishments on 21st Street which is close to the  
3           residential neighborhood.

4                       MS. KING: But you're differentiating  
5           between commercial and business, aren't you?

6                       MR. CLARK: Well, commercial meaning --

7                       MS. KING: Retail?

8                       MR. CLARK: Retail. Businesses would be  
9           offices, but that's seemingly okay because that  
10          operates between 8 and 5 and it doesn't generate  
11          noise or any kind of a problem for people because  
12          that's been going on at this address for 30 years.

13                      CHAIRPERSON REID: You mean the retail?

14                      MS. KING: No retail business --

15                      MR. CLARK: We don't have any problem at  
16          all putting a stipend in or you all putting it in as  
17          part of the approval.

18                      CHAIRPERSON REID: Okay.

19                      MS. KING: Okay.

20                      MR. CLARK: We offer it, as a matter of  
21          fact.

22                      CHAIRPERSON REID: All right, that  
23          concludes your --

24                      MR. CLARK: That concludes our --

25                      CHAIRPERSON REID: Thank you very much.  
26          Government reports, Office of Planning.

27                      MS. KING: None.

1                   CHAIRPERSON REID: No ANC report or is  
2 there an ANC representative? Okay, please come  
3 forward.

4                   MS. PRUITT-WILLIAMS: Ma'am, were you  
5 sworn?

6                   MS. ROSENTHAL: No.

7                   (Witness sworn.)

8                   MS. ROSENTHAL: Good afternoon, members  
9 of the Board. My name is Karen Rosenthal. I  
10 represent ANC 2B02. The properties in question fall  
11 within my jurisdiction.

12                   CHAIRPERSON REID: Your address, home  
13 address, please?

14                   MS. ROSENTHAL: My home address is 2141  
15 P Street, N.W., Apartment No. 808, Washington, D.C.  
16 20037.

17                   I'd like to start off today by  
18 submitting a report. I'd like to request a waiver  
19 of the rules and regulations section 3307.1 to allow  
20 the Commission to submit this report at the time of  
21 this hearing. The reason is because we were not  
22 notified in time to place this on the October 14th  
23 agenda.

24                   CHAIRPERSON REID: Okay, when you say  
25 you were not notified, what do you mean? We show in  
26 our records that you were notified on the 30th of  
27 September.

1 MS. ROSENTHAL: I have a letter here  
2 from Mrs. Sheri Pruitt-Williams dated October 8th.  
3 It was not received by our ANC until after our  
4 October 14th meeting. And this was discussed on our  
5 November 11th public meeting that did fall within,  
6 shorter than 7 days of this hearing.

7 CHAIRPERSON REID: I have no problem  
8 with waiving --

9 MS. KING: Nor do I.

10 CHAIRPERSON REID: Your submission.

11 MS. ROSENTHAL: Thank you. I didn't  
12 make enough copies, but I brought enough copies to  
13 share.

14 CHAIRPERSON REID: Please.

15 MS. ROSENTHAL: Who should I give the  
16 original to?

17 CHAIRPERSON REID: The staff.

18 MS. ROSENTHAL: If I may proceed with  
19 some of the findings in our report.

20 The proposal to convert a mixed  
21 commercial use to an all commercial use threatens  
22 the residential homes along 21st and 22nd Streets,  
23 Newport Street, N.W., as well as O and N Streets.  
24 There has been no change in character of the  
25 neighborhood that would justify this type of change.  
26 In addition, commercial use in a residential  
27 neighborhood will decrease residential property

1 values. It will also have a vehicular impact as  
2 employees and customers park in areas zoned as  
3 residential spaces.

4 Please refer to the attached petition  
5 containing 48 residents signatures protesting this  
6 variance.

7 One of the things that we wanted to  
8 bring to the Board's attention is the way that these  
9 properties have been leased to their tenants. Mr.  
10 Clark and Ms. Puglisi have stated correctly that the  
11 businesses along 21st Street have remained business  
12 in nature, not retail. However, it is one of their  
13 tenants which occupies 2032 P Street which threatens  
14 the neighborhood. As you can see in Item 3, one of  
15 their tenants that we'd like to show an example of  
16 is Cafe Japone. Currently, they have violated  
17 District of Columbia building codes by constructing  
18 and opening a nightclub in its basement called Aki  
19 with a separate entrance. There is no record of an  
20 issued construction permit filed with the Records  
21 Management Service of D.C. There is also no record  
22 of the Fire Department or Fire Marshall Report  
23 reporting on the proper egress for the property. I  
24 have been in this establishment. There's only one  
25 emergency exit.

26 Passage of this variance will allow this  
27 tenant to build out their space into the neighboring

1 townhouses further encroaching on a residential area  
2 which is already subject to Aki's loud music.

3 In addition to this particular retail  
4 shop on P Street, they have violated their Alcohol  
5 Beverage Control license. The ANC and the ABC have  
6 worked diligently to control the number of  
7 restaurants, bars and clubs along P Street.  
8 Approving this variance will set back the long hours  
9 put in by community leaders and organizations to  
10 keep a fine balance between residents and  
11 businesses.

12 Please refer to the attached  
13 documentation that led to the current moratorium.

14 Allowing commercial zoning for expanded  
15 restaurants threatens the West Dupont Circle  
16 moratorium zone as well as the neighborhood's  
17 residential character. As I explained before, Cafe  
18 Japone has violated the current liquor license and  
19 complaints have been filed with the ABC and they are  
20 currently under investigation.

21 As long time property owners in the  
22 neighborhood, A & M Investments had ample  
23 opportunity to discuss this matter with concerned  
24 community organizations. A & M Investments has not  
25 approached the ANC to discuss their plans with the  
26 community at one of our scheduled monthly meetings.  
27 This currently shows their disregard for the

1 concerns of the neighborhood residents and at this  
2 time on behalf of seven commissioners of the Dupont  
3 Circle ANC2B, we protest the referenced application  
4 for this variance.

5 I'd be more than happy to answer any  
6 questions.

7 CHAIRPERSON REID: You have had no  
8 contact with the applicant?

9 MS. ROSENTHAL: I have had contact on my  
10 own accord.

11 CHAIRPERSON REID: And what was the  
12 outcome of that contact?

13 MS. ROSENTHAL: I spoke with Mr. Jerald  
14 Clark who explained a little bit about what the  
15 properties were going to be used for, as he stated,  
16 in this hearing today. I also spoke briefly with  
17 Caroline Puglisi who was kind enough to provide me a  
18 list of their tenants and their leases, to kind of  
19 give me an idea of what they would want to use as  
20 far as business and retail space.

21 CHAIRPERSON REID: Did you voice a  
22 concern to the community in regard to the  
23 opposition?

24 MS. ROSENTHAL: Yes, I did. And again,  
25 I'd like that to be stated that I had to approach  
26 them.

27 CHAIRPERSON REID: Ms. King?

1 MS. KING: We need to note that the  
2 resolution was passed by the ANC2B at a duly noticed  
3 meeting with a quorum present and that there was a  
4 unanimous vote.

5 MS. ROSENTHAL: That is correct.

6 MS. KING: Of the seven commissioners  
7 and therefore we need to give great weight to their  
8 opinion.

9 MR. GILREATH: If we don't approve this  
10 variance, can this club or whatever it is, can it  
11 continue? If we don't give the variance, can that  
12 continue?

13 MS. ROSENTHAL: I'm not sure. That's  
14 going to fall within the District of Columbia, the  
15 ABC and the building codes. Obviously, we need to  
16 take further action against those two  
17 establishments. The Puglisis aren't responsible for  
18 that. But we're trying to maintain a character of  
19 the neighborhood and their tenants are certainly not  
20 contributing to that by breaking various laws.

21 MR. GILREATH: The application also  
22 indicates on 21st Street, they will stipulate that  
23 only business will locate there. I don't know what  
24 would happen to the night club. Would the night  
25 club continue? That's not clear to me either.

26 CHAIRPERSON REID: When we bring the  
27 applicant back up, those are questions we would ask

1 him.

2 Mr. Franklin?

3 MR. FRANKLIN: I have no questions.

4 CHAIRPERSON REID: Does the applicant  
5 have any cross examination of the ANC?

6 MR. CLARK: I don't have any questions  
7 as such, but --

8 CHAIRPERSON REID: During this segment  
9 the cross examination is a right for you to be able  
10 to question the ANC representatives based on her  
11 testimony here today and only that.

12 MR. CLARK: Okay. You mentioned that  
13 the tenants were unacceptable. I think there's only  
14 one. All the buildings are occupied at this time  
15 facing 21st by businesses, office type use and  
16 residential. The only one is the Japone which has  
17 expanded sort of laterally from P Street backwards  
18 which is really allowable and he has a CFO for his  
19 business for Aki.

20 CHAIRPERSON REID: And your question  
21 would be to the ANC representative? You cannot  
22 testify. You will have an opportunity to come back  
23 for your closing statement, but at this time the  
24 only thing you can do is to -- if you have any  
25 questions for it, this is your opportunity. If you  
26 don't, then --

27 MR. CLARK: Do you have a problem with

1 Aki still if everything is closed on 21st to where  
2 his business doesn't open? It doesn't open on 21st  
3 for entrance; its only emergency exit which is  
4 supposed to be closed and has a devise on it to keep  
5 people in unless emergency.

6 MS. ROSENTHAL: Let me answer his  
7 question which really wasn't a question. The ANC  
8 strives to have a fine balance between businesses  
9 and residents in that neighborhood. They do not  
10 have a problem with the property as it is currently  
11 operating. We have not had any problems with  
12 businesses along 21st Street that operate in the  
13 townhomes. They've been good neighbors. We don't  
14 want to change that.

15 Our fear is by changing a mixed  
16 commercial use to a sole commercial use encroaches  
17 on that section of P Street, excuse me, 21st Street  
18 between P and O. There are several million dollar  
19 homes, town homes that line that particular street.  
20 If you change your variance from mixed commercial  
21 use to commercial use, maybe the next person buys  
22 the next townhouse, well, I want a commercial use  
23 and so on and so on and so on. And it's a very  
24 delicate pocket of residences between the Farragut  
25 Northwest end area and all the way up through  
26 Woodley Park and Cleveland Park and one of the  
27 things that we want to do is keep that nice balance.

1 So we're not saying that we don't welcome their  
2 business because we've been good neighbors for 30  
3 years. We just don't see the importance of changing  
4 this particular variance. And as far as the  
5 business along P Street, which is Cafe Japone and  
6 their new business Aki, according to the West Dupont  
7 moratorium we do not welcome new clubs, new night  
8 clubs, new restaurants that aren't in accordance  
9 with the ABC law.

10 CHAIRPERSON REID: They're not in  
11 accordance with?

12 MS. ROSENTHAL: Correct.

13 MR. CLARK: I'd just like to comment.

14 CHAIRPERSON REID: No, you have to ask  
15 the questions.

16 MR. CLARK: Did you know that Aki is  
17 part of Japone and that it's really not a different  
18 restaurant, it's just the same format and like I  
19 say, he's just expanded from P Street toward what  
20 would be the rear of his restaurant.

21 MS. ROSENTHAL: I am aware of that.  
22 However, I have actually seen their liquor license  
23 that's on file with the ABC and over the last three  
24 years there has been no addendum, no notification to  
25 the ABC or the ANC that they wanted to do this.

26 MS. KING: Excuse me, has the ANC  
27 pursued this with the Alcohol Beverage Control

1 Board?

2 MS. ROSENTHAL: Yes.

3 MS. KING: And the Department of  
4 Consumer and Regulatory Affairs?

5 MS. ROSENTHAL: Yes.

6 MS. KING: And the noise, nuisance  
7 element of the Department of Consumer and Regulatory  
8 Affairs?

9 MS. ROSENTHAL: Yes.

10 MS. KING: So you are, in fact,  
11 attacking -- attacking is a -- you are approaching  
12 this question through the other government channels  
13 that deal with liquor and noise and certificates of  
14 occupancy?

15 MS. ROSENTHAL: Exactly. And if I can  
16 just explain to the Board. I use Cafe Japone as an  
17 example of what we're trying to strive in the  
18 neighborhood. These issues that are here are being  
19 pursued in their respective D.C. governments.

20 MS. KING: Thank you.

21 MR. CLARK: I have no further comment.

22 CHAIRPERSON REID: Let me just recap  
23 what you're saying. Basically, your opposition  
24 stems from one, the Cafe Aki, the nightclub. That's  
25 because this is where the noise nuisance comes from  
26 and the fact that they are not in compliance with  
27 the ABC rules and regulations.

1 MS. ROSENTHAL: Correct.

2 MS. KING: And the disinclination to  
3 have the -- any of the residential quality of the  
4 neighborhood diminished.

5 MS. ROSENTHAL: Correct, and we feel  
6 that by going again for mixed commercial use to only  
7 commercial use just changes that whole sculpt of the  
8 neighborhood.

9 They may be talking only about four,  
10 maybe five apartments that they want to convert from  
11 residential to business, but again that expands  
12 business in a residential community.

13 MR. BASTIDA: Madam Chairperson, I think  
14 that the ANC is saying the proposed use variance  
15 will have deleterious impact on the neighborhood and  
16 accordingly doesn't meet the test for use variance.

17 CHAIRPERSON REID: Certainly and that's  
18 very well put. Thank you.

19 MS. PRUITT-WILLIAMS: I would caution --  
20 they're not asking for a use variance.

21 MR. BASTIDA: Area variance. Yes, they  
22 have two area variances.

23 MS. PRUITT-WILLIAMS: Yes.

24 CHAIRPERSON REID: We knew what he --

25 MR. BASTIDA: I stand corrected.

26 MS. PRUITT-WILLIAMS: And also that the  
27 area is currently zoned DC0DCB2, it's a commercial

1 zone.

2 CHAIRPERSON REID: It's a commercial  
3 zone? I thought it was mixed use, commercial.

4 MS. PRUITT-WILLIAMS: What we have from  
5 the Zoning Administrator is that it's a DC0D/C2B  
6 zone.

7 CHAIRPERSON REID: Then that goes back  
8 to Ms. King's earlier question, if that is the case,  
9 then what is the point of --

10 MS. KING: Why are we here?

11 MS. ROSENTHAL: So the letter that I'm  
12 responding to is incorrect?

13 CHAIRPERSON REID: Excuse me, another  
14 issue.

15 MS. KING: Why are we here?

16 MR. BASTIDA: I would have to look at  
17 the Dupont Circle overall district because the  
18 Dupont Circle overall district might be more  
19 restrictive than the zoning, so I would have to take  
20 a look at it. So bear with me, I'd be glad to do  
21 that.

22 CHAIRPERSON REID: Okay, thank you.

23 MS. ROSENTHAL: Thank you.

24 CHAIRPERSON REID: So those parties who  
25 are in support of the application, please come  
26 forward. Persons and parties in opposition to the  
27 application, please come forward.

1 (Witnesses sworn.)

2 CHAIRPERSON REID: Go ahead.

3 MS. YOUNG: My name is Margaret Young.  
4 I'm here representing the Dupont Circle Citizens  
5 Association. When we were apprised of this  
6 situation --

7 CHAIRPERSON REID: Home address, please,  
8 ma'am?

9 MS. YOUNG: 1311 22nd Street, N.W.,  
10 20037. Our Executive Committee last week in a  
11 meeting after we discovered this posted situation  
12 voted unanimously and we ask that you deny the  
13 proposed variances requested for the properties at  
14 1425, 27, 29 21st Street and for the property at  
15 2032 P Street. The variance has asked to allow  
16 alteration and conversion from mixed use commercial  
17 to all commercial. Moreover, another variance is  
18 requested to allow construction to exceed maximum  
19 allowable FAR for each property.

20 This appears to be more of a request for  
21 a change in zoning classification and if that is  
22 true, shouldn't it be examined as a zoning  
23 classification change and not merely a request for a  
24 variance?

25 The properties at 1425, 27, 29 21st  
26 Street front on a residential street. As it stands  
27 now the buildings are mixed use which are already

1 intrusive to the well-being of close by residents.  
2 To increase the commercial area and to intrude  
3 further into a residential neighborhood would be  
4 undue hardship on the residents in the area. The  
5 mixed use category was intended to act as a buffer  
6 between commercial and residential areas and to  
7 designate these properties as all commercial and  
8 with an increase in the FAR would negate the buffer.

9 Moreover, the records do not indicate  
10 any building permits for the addition of Club Aki  
11 located in the 2032 P Street. Neither are there any  
12 approvals for the Fire Marshall for egress from the  
13 club. The ABC records do not indicate that Cafe  
14 Japone applied for a substantial change in seating  
15 to accommodate the addition of the club.

16 In addition, over the years, the garbage  
17 from 2032 P Street has caused serious rodent  
18 problems for the buildings surrounding that  
19 property. Although some improvements have been made  
20 to the situation, a severe rodent problem still  
21 exists. Given the history of disregard for the  
22 well-being of residents in the area, we ask that you  
23 do not grant these variances and help us maintain  
24 the residential character of 21st Street.

25 Thank you.

26 CHAIRPERSON REID: Mr. Bastida?

27 MR. BASTIDA: Yes, the Zoning

1 Administrator's memoranda addresses Section 771.1  
2 which is the floor area ratio. The floor area ratio  
3 in that commercial district permits 3.5 of which  
4 only 1.5 FAR could be commercial. The rest has to  
5 be residential. So since I don't have the  
6 computation in front of me, my deduction is that in  
7 fact the applicant has the use of the 1.5 FAR of  
8 commercial already used as commercial and he or the  
9 identity wants to go into the what is only permitted  
10 residential to make it commercial and that's why  
11 it's an area variance rather than a use variance  
12 because the commercial use is a permitted use on  
13 that zone district.

14 MS. KING: Mr. Bastida, I mean the --  
15 one of the criteria for an area variance is that  
16 it's a unique and unusual situation. From your  
17 knowledge is this a unique and unusual situation in  
18 that area west of Dupont Circle?

19 MR. BASTIDA: If I want to clarify that,  
20 you're using the criteria for a use variance. For  
21 an area that it's a practical difficulty that indeed  
22 the applicant to use the property as his own.

23 CHAIRPERSON REID: Thank you, Mr.  
24 Bastida.

25 MS. KING: I'm sorry, I transposed the  
26 two.

27 CHAIRPERSON REID: Did you want to

1 testify?

2 MR. BALM: My name is Donald Balm and  
3 I'm the President of the Dupont Square Condominium  
4 Association which is directly next door to the  
5 property in question and I have a picture of how  
6 close they are.

7 We're just concerned that more  
8 commercial use there will cause more trash, more  
9 noise, more late night noise and I also have  
10 pictures of what has been a trash problem since the  
11 six years I've lived there and we're just concerned  
12 it will cause more trash and be less of a  
13 residential area which is why I moved there. And I  
14 have pictures.

15 CHAIRPERSON REID: Please. Give them to  
16 staff.

17 Thank you very much for your testimony.

18 MS. KING: What tenants association?

19 MR. BALM: It's Dupont Square  
20 Condominium Association.

21 MS. KING: And where are you located?

22 MR. BALM: The building is right next to  
23 it on 21st Street.

24 CHAIRPERSON REID: They're an abutter.  
25 Closing remarks by the applicant.

26 MR. CLARK: In our closing, all we can  
27 add is that we, from what we've heard now in the

1 hearing we would be willing and able to accept just  
2 business for the variance and not have commercial,  
3 take away the ability to have any kind of commercial  
4 on the street.

5 CHAIRPERSON REID: It was not clear to  
6 me, you stated that you were not allowed to use the  
7 other part of your building for residential. You  
8 couldn't lease that for residential use and Mr.  
9 Bastida just informed us that you under the existing  
10 zoning regulations it allows 1.5 FAR for commercial  
11 and the remainder could be used for residential, so  
12 what is the conflict?

13 MR. CLARK: I didn't understand that it  
14 was the remainder that could be used. I understood  
15 that there could be a total lot usage of FAR of 3.5  
16 and the building at this time is larger than 3.5  
17 times the lot.

18 MS. KING: What is it? What is the  
19 present FAR?

20 MR. CLARK: I think it's 3.5. It's 1.5  
21 commercial and 2 residential, I guess it is.

22 MS. KING: And 3.5 is permitted as total  
23 FAR?

24 MR. BASTIDA: Yes, it is permitted.

25 MS. KING: But only 1.5 of it can be  
26 commercial under the present --

27 MR. CLARK: Right, but the building size



1 leaves part of the building unrentable to any  
2 status.

3 MS. KING: How much?

4 MR. CLARK: As I say it varies from  
5 building to building because they all vary --

6 MS. KING: Then let's go through it  
7 building by building. Building 1, what is the  
8 present FAR and what part are you not able to use  
9 under any circumstances, either for residential or  
10 commercial?

11 MR. BASTIDA: Madam Chairperson, if I  
12 might intrude? The building was built prior to  
13 1958.

14 CHAIRPERSON REID: Right.

15 MS. KING: Way prior.

16 MR. BASTIDA: Accordingly, it was  
17 grandfathered and the building can legally be  
18 totally used for commercial and residential. The  
19 building cannot exceed the 1.5 for commercial. The  
20 rest has to be residential. But they are  
21 grandfathered and they can use it in total for  
22 residential.

23 CHAIRPERSON REID: Or for commercial?

24 MR. BASTIDA: For residential, not for  
25 commercial.

26 MS. KING: In total for residential,  
27 then up to 1.5 FAR for --

1 MR. BASTIDA: For commercial.

2 MS. KING: That's businesses, retail,  
3 restaurants, whatever.

4 CHAIRPERSON REID: But the issue is  
5 there is a percentage --

6 MS. KING: No.

7 MR. BASTIDA: No. That's what I'm  
8 addressing.

9 CHAIRPERSON REID: You're saying they  
10 can use the entire building for residential.

11 MS. KING: Because it's grandfathered.

12 MR. BASTIDA: Because it's  
13 grandfathered.

14 MR. CLARK: That's not what we were told  
15 in the Zoning Department.

16 MS. KING: You can only use 1.5 FAR of  
17 the total FAR for commercial, office, restaurant,  
18 whatever. Nonresidential use.

19 CHAIRPERSON REID: Every other part of  
20 that building, as I understand Mr. Bastida from the  
21 Office of Planning has said can be used for  
22 residential, so there is no portion of it that is  
23 unusable. Is that correct?

24 MR. BASTIDA: That has generally been  
25 the interpretation of the Zoning Administrator. I  
26 am not the Zoning Administrator. I don't know if a  
27 different interpretation is used presently, but that

1 is the usual interpretation that has taken place  
2 through the years.

3 MR. FRANKLIN: Madam Chair, I don't  
4 believe that this is properly before us. I don't  
5 believe that we should be acting as the Zoning  
6 Administrator to clarify what seems to be a  
7 grandfathering situation. I don't think the  
8 grandfather confusion should be the basis for  
9 granting a variance. I've heard noting today that  
10 says that there's any hardship resulting from the  
11 1.5 commercial FAR limitation and I would like to  
12 move that we deny this application.

13 MS. KING: I'll second that.

14 CHAIRPERSON REID: All in favor?

15 (AYES.)

16 All opposed? I abstain.

17 MS. PRUITT-WILLIAMS: Staff would record  
18 the vote as 3-0 and one abstention to oppose the  
19 motion made by Mr. Franklin and seconded by Ms.  
20 King. Mrs. Reid abstaining.

21 CHAIRPERSON REID: Thank you. Next  
22 case, please?

23 MR. CLARK: Thank you very much.

24 MS. ROSE: The next case is 16391. The  
25 application of Herbert James Sanborn, pursuant to 11  
26 DCMR 3107.2, for a variance from Subsections 2300.3  
27 and 2001.2 for the replacement of an existing

1        accessory garage with an artist studio for property  
2        located in an R-3 District at premises 1679 35th  
3        Street, N.W. (Square 1294, Lot 805). Would all  
4        persons planning to testify in this application  
5        please rise to take the oath.

6                                (Witnesses sworn.)

7                                You may be seated.

8                                MS. REATIG: My name is Susan Reatig.  
9        R-E-A-T-I-G. My address is 4222 North Avenue,  
10       Kensington, Maryland 20895. I'm the architect for  
11       the art studio.

12                                We are requesting to demolish an  
13       accessory garage building at the address of 1679  
14       35th Street and to replace it with an artist's  
15       studio that will have the same footprints as the  
16       original garage, the height, the highest point it  
17       would be 13 feet and 4 inches. This is below of  
18       what's allowed. It's allowed 15 feet. And also we  
19       are requesting to reduce the parking requirements  
20       from 2 to 1.

21                                MS. KING: Is this a two-car garage?

22                                MS. REATIG: The garage?

23                                MS. KING: Is it a two-car garage?

24                                MS. REATIG: It's a much larger, it's an  
25       18 by 60 feet.

26                                MS. KING: How many cars would that  
27       garage hold.

1 MR. SANBORN: Six.

2 MS. KING: Six? From the photograph or  
3 from the plan that I saw of what exists at present,  
4 I probably can't lay my hands on it, it looks as if  
5 there were a series of garages. You're intending to  
6 take down the whole lot?

7 MS. REATIG: The whole garage. Yes.  
8 And to build an art studio instead of the garage.

9 MS. KING: And that garage belongs  
10 solely to the -- do you have to give any -- and that  
11 garage or six garages or whatever it is belongs  
12 solely to the property in question?

13 MS. REATIG: Correct.

14 MS. KING: And this artist's studio is  
15 for the sole use of the owner of the main house?

16 MS. REATIG: Correct.

17 MS. KING: Nobody will be able to sleep  
18 in it, there will be no sleeping accommodations?

19 MS. REATIG: No.

20 CHAIRPERSON REID: It looks like several  
21 buildings, but it's actually just one building.

22 MS. REATIG: It is one structure, yes.

23 CHAIRPERSON REID: Sir, were you going  
24 to testify?

25 MR. SANBORN: Yes. My name is Jim  
26 Sanborn. I'm the owner of 1679 35th Street. I am a  
27 sculptor and it would be my studio, a studio used

1 primarily for drawing and working on photograph  
2 projects for myself.

3 MS. KING: I'm sorry, you're going to  
4 use it for drawing and photography?

5 MR. SANBORN: Drawing, photography, some  
6 sculpture. I have another warehouse building on  
7 Gerard Street, N.E., a warehouse building where I do  
8 my larger sculpture, so this wouldn't be used for  
9 that. This is a smaller studio to be used for  
10 quieter, simpler things.

11 MS. KING: A six car garage for  
12 photography and drawing?

13 MR. SANBORN: I do very large  
14 photographs.

15 (Laughter.)

16 CHAIRPERSON REID: How do you pronounce  
17 your last name?

18 MS. REATIG: Reatig, R-E-A-T-I-G.

19 CHAIRPERSON REID: Ms. Reatig, you are  
20 self-certified for this particular application?

21 MS. REATIG: Yes.

22 CHAIRPERSON REID: And as such you  
23 applied for a variance and are you familiar with the  
24 procedures that are involved in getting relief under  
25 a variance?

26 MS. REATIG: Yes, I did that before.

27 CHAIRPERSON REID: Then would you like

1 to make your case?

2 MS. REATIG: I did present it.

3 CHAIRPERSON REID: You presented what?  
4 You presented what, ma'am?

5 MS. REATIG: I presented the case.  
6 That's it's an accessory garage building that is  
7 nonconforming and under 2300.3 we can convert an  
8 accessory building to an artist's studio. But since  
9 it's a nonconforming building, we can repair it, but  
10 we cannot demolish it and reconstruction it. And  
11 that's why I'm here.

12 CHAIRPERSON REID: The proceedings  
13 require that you are able to meet your burden of  
14 proof. There's a three prong test.

15 MS. REATIG: Yes?

16 CHAIRPERSON REID: You have to be able  
17 to demonstrate there is something unique or unusual  
18 about the property inherent in the land.

19 MS. REATIG: The building is intrusive.  
20 I showed the photographs.

21 CHAIRPERSON REID: It's what?

22 MS. REATIG: Intrusive.

23 MS. KING: Intrusive, but you're going  
24 to replace it with another intrusive structure.

25 MS. REATIG: Oh --

26 MS. KING: What is unique or unusual  
27 that differentiates your land, your property from

1 all other surrounding properties?

2 MS. REATIG: Uh --

3 MR. SANBORN: Well, certainly for me as  
4 a person who bought the house --

5 MS. KING: That's not it. Is it  
6 different from all the surrounding properties?

7 MR. SANBORN: It is different in that  
8 it's a six car garage surrounded by other properties  
9 which have generally two car garages. It was the  
10 reason that I purchased the property because it was  
11 a unique structure in that it was large enough to  
12 use as an art studio.

13 MS. REATIG: And the materials are  
14 completely different. The materials of the garage,  
15 right now it's corrugated metal --

16 CHAIRPERSON REID: It has to be  
17 something inherent in the land, the land --

18 MR. FRANKLIN: Could I ask this question  
19 to get some clarity? If you did not have a  
20 variance, what is the size of the garage or the  
21 studio you would be permitted to construct as an  
22 accessory building?

23 MS. REATIG: It's about 200 square feet  
24 less.

25 MR. FRANKLIN: So basically what you are  
26 asking for is permission to construct an accessory  
27 building that is 200 square feet larger than you

1 would normally be able to do?

2 MS. REATIG: Correct.

3 MR. SANBORN: If we demolish.

4 MR. FRANKLIN: Yes, if you demolish.

5 MR. SANBORN: If we restore the building  
6 that's there, we rebuild it the same way that it is,  
7 but the biggest problem is that the foundation is no  
8 good, the structure is very unsound and unsafe, so  
9 it's much more difficult for us to do it this way,  
10 financially and otherwise, for me to try to do it  
11 the other way, to make something that's reasonable  
12 and more attractive.

13 MS. KING: Are you located in an  
14 historic district, is that correct?

15 MR. SANBORN: Yes.

16 MS. KING: Have you gone through the  
17 process, any of the process of the Historic  
18 Preservation Review Board, the Georgetown Review and  
19 all of that?

20 MS. REATIG: Yes, I did got to the ANC  
21 and they unanimously approved it. They all were for  
22 replacing the building with a new structure that  
23 will have the same materials and the house.

24 MS. KING: What about the Historic  
25 Preservation Review Board?

26 MS. REATIG: We did bring someone from  
27 the D.C. Historic Preservation and they said this

1 building doesn't have any historical significance  
2 and they don't have any interest in it.

3 MS. KING: They don't care what you put  
4 up in Georgetown?

5 MS. REATIG: No, no -- after the zoning.  
6 The zoning is one issue and then I will have to go -  
7 - I have to resolve the zoning issue first to make  
8 sure that I can build a studio that will be this  
9 size and once we do that, we have to go through Fine  
10 Arts with the shape and materials of the building.

11 MR. FRANKLIN: How many square feet are  
12 presently in the garage?

13 MS. REATIG: It's 18 feet by 60 feet,  
14 the garage.

15 MR. FRANKLIN: Which would multiply out  
16 to?

17 MR. SANBORN: It's about a thousand  
18 square feet.

19 MR. FRANKLIN: It's about a thousand  
20 square feet. And without the variance, you'd end up  
21 with 800 square feet, is that what you're saying?

22 MS. REATIG: Correct.

23 MR. FRANKLIN: And is that a hardship?

24 MS. REATIG: Yes, because --

25 MR. SANBORN: Certainly for me it is.

26 MR. FRANKLIN: Why?

27 MR. SANBORN: I work very large and as I

1       said before I want to use the building as a drawing  
2       studio and a photography processing studio and to  
3       build machetes, small models of my large projects  
4       which I do outdoors, and so the three ways that I'd  
5       use the building, really the building as it is now  
6       is kind of small and skinny for the kind of work  
7       that I do as it is. With 800 square feet it would  
8       be almost -- it would not be worth it to me to use  
9       the building for that purpose.

10               CHAIRPERSON REID: Than you'd have to  
11       scale it back, too, wouldn't you?

12               MR. SANBORN: Excuse me?

13               CHAIRPERSON REID: You would have to  
14       scale the size back to 800 square feet?

15               MR. SANBORN: I think it's 200 square  
16       feet less, but it's actually 1800 square feet. It's  
17       200 square feet less, if we rebuilt it. That means  
18       1800 square feet, not 800 square feet.

19               MS. REATIG: No, it would be --

20               MR. FRANKLIN: The present size is how  
21       much?

22               MR. SANBORN: You're right, sorry.

23               MR. BASTIDA: Madam Chairperson, could I  
24       ask a -- let me ask a couple of questions that might  
25       help you.

26                       Do you meet the lot occupancy? Does the  
27       present structure meet the lot occupancy?

1 MS. REATIG: Yes.

2 MR. BASTIDA: You meet the lot  
3 occupancy?

4 MS. REATIG: Yes.

5 MR. BASTIDA: And you meet the -- and so  
6 the deviation you're asking is because on section  
7 2300.3 is that it's restricted to 450 square feet  
8 for an artist's studio?

9 MS. REATIG: No, the 450 square feet, as  
10 I understand, is for every three people that will  
11 work in the studio.

12 MR. BASTIDA: Right, but you only have  
13 one person working in this studio which is the  
14 gentleman. MS. REATIG: Correct.

15 MR. BASTIDA: Accordingly, he is limited  
16 to 450 square feet, so you are asking for a  
17 deviation of that?

18 MS. REATIG: No, I didn't understand the  
19 zoning this way and maybe --

20 MR. FRANKLIN: I don't interpret the  
21 language that way, Mr. Bastida, no.

22 MR. BASTIDA: It's an occupancy  
23 limitation, it's not a size limitation.

24 MS. REATIG: And it has to do with the  
25 parking, I understand.

26 MR. FRANKLIN: Right, correct.

27 MR. BASTIDA: But my concern is why is

1 she asking for a variance from Section 2001.2?

2 MS. PRUITT-WILLIAMS: Madam Chair, maybe  
3 I can help a little. I spoke with Ms. Reatig when  
4 this came in because it was a self-certification and  
5 was a little confusing.

6 My understanding is you got this advice  
7 from the Zoning Administrator even though you did  
8 self-certify, but you spoke with the Zoning  
9 Administrator and this is the direction she  
10 suggested that you go in?

11 MS. REATIG: Correct. And I have also a  
12 fax from Gladys Hicks that she's --

13 MS. PRUITT-WILLIAMS: I'll copy this for  
14 you, but it says -- this is a fax from Mrs. Hicks.  
15 It says "the existing detached garage can be  
16 renovated into an artist's studio as long as all of  
17 it is -- all of the provisions of Section 23.3(a),  
18 (b), (c), (d) and (e) are complied with and provided  
19 that the only interior alteration and repair work be  
20 done. There can be no additions outside of the  
21 existing footprint of the garage. One off street  
22 parking space is required for single family dwelling  
23 and one parking space is required for each of the  
24 three occupants." We'll copy this and get you this,  
25 but this was faxed to her from Mrs. Hicks and I  
26 remember I had the same concern when I first --

27 MS. REATIG: Yes, and I also with Gladys

1 Hicks and she advised me to come --

2 MR. GILREATH: Can we say this is a  
3 renovation or they seeking to level this and put a  
4 whole new structure there?

5 MS. PRUITT-WILLIAMS: It's, in essence,  
6 in renovation from a zoning end, but they're  
7 actually going to be replacing it.

8 MS. REATIG: I came here because it will  
9 be a hardship to the owner to renovate it. If he  
10 has no choice, since he wants to keep the size of  
11 the studio, he will renovate it, but it will be a  
12 serious hardship for him to go ahead and build  
13 footings underneath --

14 MR. SANBORN: To leave the building  
15 where it is and putting up beneath it would be very  
16 --

17 MS. REATIG: And have a new roof and new  
18 structure, so that's why I'm here so we'll be able  
19 to demolish the building and build a building with  
20 exactly the same footprints with direct materials.

21 CHAIRPERSON REID: Did we establish the  
22 aspect of uniqueness? I think the practical  
23 difficulty is what we're stressing, but did we  
24 establish that, that that property, the property  
25 itself has some unique characteristics or unusual  
26 characteristics?

27 MS. KING: It seems to be identical to

1 the two properties --

2 MR. BASTIDA: Madam Chairperson, as an  
3 area of variance, it's a practical difficulty that  
4 does not allow to use the property as zoned.

5 CHAIRPERSON REID: As what?

6 MR. BASTIDA: As it is presently zoned.  
7 The applicant from what I gathered meets all the  
8 requirements of the zoning regulation regarding lot  
9 occupancy, FAR, height.

10 The deviations that they are requesting  
11 is due to one, parking, and secondly, they were able  
12 to do piecemeal renovation of the existing garages,  
13 which will be tremendously costly because they can  
14 go and underpin, replace the wall, replace the roof  
15 and in that way, it's a repair job. So that will be  
16 permitted. So the practical difficulty is here in  
17 my opinion that the applicant will have to incur a  
18 tremendous cost to rebuild the structure that would  
19 have the same impact that it presently has in the  
20 neighborhood. It is a permitted use and if you look  
21 -- the studios you determine will not have an  
22 adverse impact because of noise or any other  
23 potential negative characteristics. It will not be  
24 disconforming with the zone plan for the city, nor  
25 would it have adverse area impacts. So you would  
26 have there three tests that would be met and then  
27 you could grant the application if you confer with

1 that.

2 CHAIRPERSON REID: Mr. Bastida, I  
3 certainly appreciate your input, however, I see and  
4 I understand the issue as to adverse impact or the  
5 nonimpairment of the zoning plan and map, but still  
6 my question was I am not clear on the first prong of  
7 the test as to the uniqueness or unusual  
8 characteristics of this property.

9 MR. BASTIDA: The practical difficulty  
10 ,Madam Chairperson. It's an area variance, so  
11 accordingly, it's a practical difficulty that can be  
12 included and the practical difficulty is that --

13 CHAIRPERSON REID: Mr. Bastida, I  
14 understand the practical difficulty. Help me to  
15 understand --

16 MR. BASTIDA: That's the first prong.

17 CHAIRPERSON REID: The first prong is --

18 MR. BASTIDA: Is practical difficulty,  
19 because it's an area variance.

20 CHAIRPERSON REID: Practical difficulty  
21 comes as a result of the first prong is the  
22 uniqueness of the property --

23 MR. BASTIDA: No, Madam Chair -- no  
24 Madam Chairperson, it is a practical difficulty. If  
25 it's a use variance, it's uniqueness. If it is area  
26 variance, it's practical difficulty. The first  
27 prong is the only one that changes from a use

1 variance to an area variance. In an area variance,  
2 it's a practical difficulty that impairs the use of  
3 the property in accordance to the existing zoning.

4 CHAIRPERSON REID: All right, I'm not  
5 sure I agree with that, but let's move on.

6 MS. REATIG: Can we address that? Go  
7 ahead.

8 MR. SANBORN: The structure itself is  
9 listed on tax maps as a five stall horse barn.  
10 There -- it is nothing really left of the original  
11 barn structure itself, but it is listed that way and  
12 that is what it originally was. This is the  
13 footprint of that.

14 Our new structure would echo that  
15 architecturally with features that would be  
16 reminiscent of the original horse structure as  
17 opposed to a corrugated metal garage which is what  
18 it is as it stands now. So it would be an  
19 improvement and actually more historically benign  
20 than the corrugated garage as it currently stands.  
21 I don't know if that qualifies or answers your  
22 question at all, but that was one of the things I  
23 wanted to maintain in the structure itself.

24 MR. FRANKLIN: Madam Chair, I would like  
25 -- I notice that the neighbor is not objecting and  
26 is, in fact, endorsing this.

27 MR. SANBORN: We have more letters too.

1                   MR. FRANKLIN: And under the  
2 circumstances I would like to move the granting of  
3 this --

4                   MS. KING: Before you do that, could I  
5 ask a question because we haven't really discussed  
6 the parking. They're asking for a variance from  
7 parking, off-street parking, is that correct?

8                   MS. REATIG: Correct.

9                   MR. FRANKLIN: What would be normally  
10 required?

11                   MS. REATIG: One for the residence and  
12 one for the art studio for every three people that  
13 would work in the art studio and since Jim is the  
14 only artist there and sometimes he has an assistant,  
15 we are requesting that he will have only one  
16 parking.

17                   MR. SANBORN: Can I say one more thing?  
18 In the architect's drawings, you'll see that we are  
19 asking for one parking space right next to the  
20 building, the new building. There is actually a  
21 curb cut in front of his property which could be  
22 used and Gladys gave us permission to use that curb  
23 cut to park in the front yard.

24                   There is though a significant holly tree  
25 in the front yard which everyone around us would  
26 love to see stay there and so I would like to be  
27 able to use the one party space in back instead of

1       wiping out the holly tree and that's the reason  
2       we're going for one instead of two. I can do that.  
3       I can go -- I can cut the tree down, but I'd rather  
4       not, for the neighborhood.

5                   CHAIRPERSON REID: Okay, Mr. Franklin,  
6       we have to --

7                   MR. FRANKLIN: Ms. King had a question.  
8       Ms. King, did you get the answers you wanted?

9                   CHAIRPERSON REID: Mr. Franklin?

10                  MR. FRANKLIN: Yes.

11                  CHAIRPERSON REID: I was saying we have  
12       to go to the other segment before you can make your  
13       motion.

14                  MR. FRANKLIN: Okay, fine.

15                  CHAIRPERSON REID: We will have a few  
16       more segments to go through.

17                  MR. FRANKLIN: I thought Ms. King was  
18       asking questions.

19                  MS. KING: Are you telling me that  
20       Gladys Hicks told you that you could cut down a  
21       holly tree and park in front of your house on 35th  
22       Street in an historic district of Georgetown?

23                  MR. SANBORN: There is no mention of the  
24       holly tree. The curb cut is already there. So we  
25       are legally --

26                  MS. KING: You can park your car --

27                  MR. SANBORN: Between the two houses.

1 Yes, the distance between the two houses is enough.  
2 Previous to the holly tree, that's what it was. But  
3 that was about 100 years ago.

4 MS. PRUITT-WILLIAMS: Excuse me --

5 MR. BASTIDA: With all due respect, if  
6 you park between the two houses, that's not a front  
7 yard, that's the side yard.

8 MR. SANBORN: Right, exactly, but the  
9 driveway has to go through the holly tree to get  
10 between the two houses.

11 MR. BASTIDA: The side yard is a  
12 permitted parking area in any district.

13 CHAIRPERSON REID: In Georgetown.

14 MS. PRUITT-WILLIAMS: Madam Chair, I  
15 think we can clear this up. I'm looking at the  
16 self-certification and they're not even asking for a  
17 variance from parking so it's really not before the  
18 Board's jurisdiction. The only thing they ask for  
19 is a nonconforming structure to be forwarded to  
20 conforming uses which is the artist's studio.

21 MS. KING: I see. So parking will come  
22 back later if they want to have less than two  
23 parking spaces?

24 MS. PRUITT-WILLIAMS: Yes, once this has  
25 gone through Zoning and the Administrator has  
26 determined that.

27 MS. KING: Too bad.

1                   MR. BASTIDA: Madam Chairperson, the  
2 magnitude of the relief is not increased from the  
3 one advertised, so I think that the Board, if they  
4 choose to do the other variance can do it. But I  
5 mean it's up to the Board.

6                   CHAIRPERSON REID: In the submission,  
7 it's not in their certification, but in your  
8 submission, I thought I did see somewhere where you  
9 did request the owner wants one parking space in the  
10 rear yard so additional parking space is required,  
11 additional curb cut. That was in the submission,  
12 but it was not on the certification for the relief  
13 you are requesting.

14                   Okay, so let's move forward. You can  
15 stay right there.

16                   MS. KING: Were there other letters in  
17 support?

18                   CHAIRPERSON REID: They are submitting  
19 those to the staff now.

20                   MS. KING: Could I see them? Don't  
21 xerox them.

22                   CHAIRPERSON REID: Government reports?  
23 I don't think there are any. ANC, a representative  
24 from the ANC here? Did we receive a letter from the  
25 ANC? I don't have one in my package.

26                   MS. KING: No, the only letter was  
27 signed Janet Rubin.

1                   CHAIRPERSON REID: Then we'll assume  
2 there was no opposition. Persons and parties in  
3 support. We have letters --

4                   MS. KING: From Mr. and Mrs. Rubin, from  
5 Mr. and Mrs. Singleton. We would like you to know  
6 we support the replacement of the existing garage  
7 with a studio provided the studio does not exceed  
8 two stories in height, which it's one story.

9                   MS. REATIG: One story.

10                  MS. KING: The current garage is an  
11 eyesore. We're very lucky to have Mr. Sanborn as  
12 our neighbor.

13                  From Domenica LaMonte at 1685 35th  
14 Street in favor of the work proposed to replace the  
15 existing garage with an artist's studio. And that's  
16 it.

17                  CHAIRPERSON REID: Persons and parties  
18 in opposition to the application? Seeing none,  
19 closing remarks by the applicant.

20                  MR. SANBORN: I look forward to being  
21 able to work in Georgetown and I think the  
22 atmosphere is very conducive to the creative spirit  
23 and I appreciate whatever decision the Board comes  
24 to. Thank you.

25                  CHAIRPERSON REID: All right.

26                  MS. KING: Just one last question of the  
27 applicant. You will not be selling from this site?

1                   MR. SANBORN: No, I have dealers for my  
2 art work. I also work on commission, so most of the  
3 work is carried out in other cities. So there  
4 really isn't any foot traffic to my studio.

5                   MS. KING: Thank you.

6                   CHAIRPERSON REID: I'm sorry, we did  
7 have a letter of opposition that had come in. And  
8 this was from a Mr. MacGerry.

9                   MR. GILREATH: As I understand the  
10 letter, he says this is tantamount to a dwelling and  
11 therefore it's inappropriate.

12                   MS. KING: This application is for the  
13 construction of an alley dwelling regardless of what  
14 you call it, he says. Calling it an artist's  
15 studio, coach house or an elephant, it is in reality  
16 a dwelling with plumbing, sewer and electricity in  
17 an alley, in the middle of a residential area,  
18 underlined.

19                   CHAIRPERSON REID: For the record, we  
20 note that. Would you like to have a bench decision  
21 summary order today?

22                   MR. SANBORN: Yes, please.

23                   CHAIRPERSON REID: Mr. Franklin, you can  
24 make your motion.

25                   MR. FRANKLIN: Yes, I move the granting  
26 of the variance that has been applied for, Madam  
27 Chair.

1 CHAIRPERSON REID: I second it. All in  
2 favor?

3 (AYES.)

4 Opposed? You'll have the order in  
5 possibly two weeks.

6 MS. PRUITT-WILLIAMS: Staff will record  
7 the vote as 4-0 with Mr. Franklin, Ms. Reid, Ms.  
8 King and Mr. Gilreath to grant the application and  
9 issuance of a summary order.

10 MR. SANBORN: Thank you.

11 MS. REATIG: Thank you very much.

12 CHAIRPERSON REID: Next case, please,  
13 Ms. Rose?

14 MS. ROSE: The next two cases have been  
15 consolidated, 16389, the application of The George  
16 Washington University, pursuant to 11 DCMR 3101.1  
17 for a special exception under Section 210 for  
18 further processing of an approved campus plan to  
19 allow there construction of a new hospital and to  
20 allow an interim parking lot for College/University  
21 use located in an R-5-D/R-5-E District at premises  
22 900 23rd Street, N.W. (Square 40, Lot 36.)

23 Case 16409, the application of George  
24 Washington University, pursuant to 11 DCMR 3108.1  
25 for a special exception under Section 210 for  
26 further processing of an approved campus plan and  
27 Subsection 3107.2 for a variance from Subsection

1 403.2 to exceed the maximum allowable lot occupancy  
2 to allow the construction of a parking garage for  
3 College/University use located in an R-5-D District  
4 at premises 817 23rd Street, N.W. (Square 55, Lots  
5 27, 851, and 853).

6 Would all persons planning to testify in  
7 these applications please rise to take the oath.

8 Please raise your right hand.

9 (Witnesses sworn.)

10 Will the applicant please come forward.

11 CHAIRPERSON REID: What I'm going to do  
12 is call for a five minute recess and it will give  
13 you an opportunity to set up everything.

14 (Off the record.)

15 CHAIRPERSON REID: We will proceed.

16 MS. TYLER: Can you hear me, Madam  
17 Chair?

18 CHAIRPERSON REID: Yes.

19 MS. TYLER: My name is Maria Tyler and  
20 on November 8th I hand carried a letter to the  
21 Office of Zoning, addressed to the members of the  
22 Board of Zoning Adjustment requesting party status  
23 in those two cases that are before us and I  
24 mentioned that I am the ANC Commissioner for Single  
25 Member District 2A03 which is a party in the present  
26 proposal project and also that I'm within -- also  
27 some properties are within the 200 feet limit that

1 normally are -- the people are normally informed by  
2 the Office of Zoning about a proposed project and I  
3 also mentioned that I have property within the 200  
4 feet limit and I have been informed by the Office of  
5 Zoning, personally, of the proposed project and of  
6 the hearing.

7 If you do not have a copy of my letter,  
8 I have a copy available here.

9 CHAIRPERSON REID: Ms. Tyler, we are in  
10 receipt of your letter and I was just about to do  
11 the waivers anyway. So since you're here we can  
12 address yours first.

13 I have no problem with granting Ms.  
14 Tyler party status.

15 MR. MOORE: For the record, Madam Chair,  
16 counsel to the applicant did not receive a copy of  
17 that request, but we will not object.

18 MS. TYLER: Thank you, Madam Chair.

19 CHAIRPERSON REID: All right, Mr. Moore,  
20 there was also a waiver for a submission by ANC 2A  
21 that came in.

22 MS. KING: I move that we waive the time  
23 limit, whatever.

24 CHAIRPERSON REID: However, just for the  
25 record and I want to make this very clear --

26 MS. TYLER: Is that concerning me, Madam  
27 Chair?

1                   CHAIRPERSON REID: No. We try to  
2 accommodate as much as possible and if it's  
3 something that comes in late and it's one page,  
4 that's well and good. However, with the  
5 submissions, if we don't receive it until the day of  
6 or just before a case, then it's very difficult for  
7 us to be able to read several pages of a report, so  
8 that being the case, please we will do it today, but  
9 please try to have your submissions in in a timely  
10 manner so that we can give you the great weight  
11 which you should be afforded and have the  
12 opportunity to read the material that you submitted  
13 to us. Other than that, it's just very difficult to  
14 be able to do that adequately.

15                   Thank you.

16                   MR. BASTIDA: Madam Chairperson, since  
17 you are requesting waivers, the Office of Planning  
18 was not able to submit its report for the hospital  
19 in a timely fashion and we submitted it in time for  
20 it to be in your package, but I would like you to  
21 waive the time requirements for the submission of  
22 the Office of Planning report on the hospital case.

23                   CHAIRPERSON REID: Yes, Mr. Bastida, we  
24 did have a request -- have your report come in and  
25 we will so waive the records to accept it late.

26                   MR. BASTIDA: Thank you.

27                   MS. KING: Do we need to waive in the

1 DPW?

2 CHAIRPERSON REID: What date is it?

3 MS. KING: November 16th?

4 CHAIRPERSON REID: Yes.

5 MS. KING: I move that we waive that in  
6 as well.

7 CHAIRPERSON REID: All right. We'll  
8 just do it by consensus. So I think that takes care  
9 of the waiving part.

10 Ma'am?

11 MS. BECKER: Madam Chair, I am Ellie  
12 Becker. I'm President of the Foggy Bottom  
13 Association and I have a brief letter asking for  
14 party status as well for the civic association which  
15 represents the area and which the hospital to be  
16 built.

17 CHAIRPERSON REID: Are your concerns  
18 different from your ANC?

19 MS. BECKER: I am president of the civic  
20 association and also a resident.

21 CHAIRPERSON REID: What I'm saying is  
22 could your concerns be represented by your ANC or is  
23 your ANC --

24 MS. BECKER: Not exactly. We have a  
25 somewhat divergent view.

26 CHAIRPERSON REID: Your concerns are  
27 different from the ANC's concerns?

1 MS. BECKER: Somewhat, yes.

2 CHAIRPERSON REID: Are they different  
3 from Ms. Tyler's, from the civic association?

4 MS. BECKER: Ms. Tyler is ANC.

5 CHAIRPERSON REID: I thought Ms. Tyler  
6 was from the -- I'm sorry. Okay, all right, I see.  
7 She's a single member.

8 MS. BECKER: Yes, but as I said I'm with  
9 the citizens association.

10 CHAIRPERSON REID: Board members? We'll  
11 waive you in as a party and give you party status as  
12 well.

13 MS. BECKER: Thank you.

14 CHAIRPERSON REID: We have three parties  
15 in this case.

16 MS. PRUITT-WILLIAMS: The Board is  
17 combining party status on Ellie Becker, Foggy Bottom  
18 Association.

19 CHAIRPERSON REID: Okay, for the record.  
20 Mr. Moore?

21 Now --

22 MS. PRUITT-WILLIAMS: Madam Chair, for  
23 clarification, are you conveying party status on the  
24 association or the individual?

25 CHAIRPERSON REID: My understanding was  
26 that she was representing the organization and does  
27 that letter give her authority to do such?

1 MS. PRUITT-WILLIAMS: Yes.

2 CHAIRPERSON REID: All right.

3 MS. PRUITT-WILLIAMS: It says "I plan to  
4 testify on behalf of the association" or another  
5 Board Member, so it goes to the association.

6 CHAIRPERSON REID: All right now, let's  
7 establish some ground rules here. First of all, the  
8 Acting Director has to leave at 5 o'clock, 5:30 and  
9 then I'll lose Mr. Franklin at 6 so what we'd like  
10 to do is try as much as possible to not have  
11 unnecessary testimony or unnecessary cross  
12 examination. Let's try to get all the merits of the  
13 case as efficiently as possible and it's my  
14 understanding, Mr. Moore, is that we're  
15 consolidating both of the applications?

16 MR. MOORE: Correct.

17 CHAIRPERSON REID: Okay. That makes it  
18 a little easier so that when we have the cross  
19 examination it will be pertaining to both.

20 MR. MOORE: Correct.

21 CHAIRPERSON REID: Everyone here  
22 understands that? No confusion as far as that's  
23 concerned?

24 How long do you think it will take you  
25 to put your case on?

26 MR. MOORE: Ninety minutes.

27 CHAIRPERSON REID: How many?

1 MR. MOORE: Ninety minutes.

2 CHAIRPERSON REID: An hour and a half.

3 MR. MOORE: These are two cases.

4 CHAIRPERSON REID: Okay, all right. And  
5 Ms. Miller, could you give me an idea as to how long  
6 it's going to take you?

7 MR. WATSON: My name is Matthew Watson  
8 and I represent Advisory Neighborhood Commission 2A.  
9 I assume the 90 minutes that was referred to is his  
10 case in chief and not including the cross  
11 examination. We will try to keep cross examination  
12 as expeditious as possible, but I doubt that that's  
13 going to be able to be completed in less than 45  
14 minutes. I assume they have a number of witnesses  
15 to speak.

16 CHAIRPERSON REID: Well, what we'll do  
17 is we'll try to have the witnesses not -- to give  
18 the witnesses each a certain time limit and also not  
19 have any repetitiveness of the same issues over and  
20 over and over. I think we can get through it, as  
21 the witnesses take their time to address issues that  
22 have not been addressed before, we can keep it  
23 rolling like that.

24 MR. WATSON: I certainly hope so, but  
25 you have to recognize this is a quite major project.

26 CHAIRPERSON REID: We understand that.

27 MR. WATSON: And I expect our case in

1 chief should be completed in roughly 45 minutes.

2 CHAIRPERSON REID: Okay.

3 MR. WATSON: The principal witness will  
4 be our --

5 CHAIRPERSON REID: Thank you very much.  
6 All right.

7 MR. MOORE: Good afternoon, Madam  
8 Chairperson and Members of the Board. I'm Jerry  
9 Moore III. With me is --

10 CHAIRPERSON REID: I'm so sorry. Repeat  
11 that, please.

12 MR. MOORE: Good afternoon, Madam  
13 Chairperson and Members of the Board. I'm Jerry A.  
14 Moore III. With me is Madeleine H. Dobbins. We are  
15 both from the law firm of Arter & Hadden LLP  
16 appearing this afternoon as counsel to the George  
17 Washington University and to Universal Health  
18 Services, Inc., the University's partner in the  
19 management of the George Washington University  
20 Hospital.

21 There are two applications before you  
22 today. For purposes of this hearing we have asked  
23 and the Board has consented that these applications  
24 be heard simultaneously, but each decided on its own  
25 merits one not tied to the other. It is important  
26 so the applicant hereby requests that both projects  
27 be approved to proceed at the earliest practicable

1 date.

2 Application 16389 requests special  
3 exception and relief pursuant to Sections 210 and  
4 3108.1 of the Zoning Regulations for further  
5 processing pursuant to an approved campus plan to  
6 authorize the construction and use of a new hospital  
7 building on the campus of the George Washington  
8 University to replace the existing hospital  
9 facility.

10 Application 16409 requests special  
11 exception relief pursuant to exception 210 and  
12 3108.1 of the Zoning Regulations for further  
13 processing pursuant to an approved campus plan and  
14 relief under Section 3107.2 for an area variance  
15 from the lot occupancy requirements of Section 403.2  
16 to authorize the construction and use of an addition  
17 to an existing parking structure on the University's  
18 campus in Square 55.

19 The present George Washington University  
20 Hospital building located on Square 54 is in urgent  
21 need of renovation and repair. You will hear  
22 abundant and expert testimony this afternoon  
23 detailing why the new facility must be built, the  
24 partnership arrangement under which the current and  
25 new facility will be managed, an operational  
26 overview of the improvements that have become  
27 necessary and not reasonably possible in the

1 existing facility, the ways in which the new  
2 facility will satisfy those needs and documentation  
3 of the consistency of this project with the  
4 University's approved campus plan.

5 The proposed hospital structure and use  
6 is also consistent with the District of Columbia  
7 comprehensive plans generalized land use maps which  
8 designate and promote the site for institutional  
9 uses. The proposed building is also consistent with  
10 the underlying R5D zoned districts which are mapped  
11 over the entire square and much of the neighborhood.  
12 As you know, a University use is permitted in the R-  
13 5 District with a special exception approval of this  
14 Board.

15 The proposed new hospital building fits  
16 within the permitted zoning authority as to user,  
17 bulk and height. The hospital case consists of five  
18 themes which in sum we offer sufficient bases to  
19 merit the approval of the special exception zoning  
20 relief that is requested.

21 First, the use proposed is absolutely  
22 consistent with the designated use for the site in  
23 the University's approved campus plan. And Board of  
24 Zoning adjustment application No. 14455, the Board  
25 approved the University's campus plan for the Year  
26 1985 through the Year 2000 and designated the  
27 subject site as being in the medical category.

1           The Board has ruled that this plan is in  
2 effect through December 31, 2000. The medical  
3 category is defined to include hospitals, clinics,  
4 medical schools, medical libraries, parking and  
5 related functions. The plan specifically identifies  
6 all of Square 40 as an appropriate location for the  
7 University to build. The plan further designates  
8 Lot 40 as a preferred building site for medical  
9 uses.

10           Thus, the Board has specifically found  
11 that Square 40 is the preferred site for medical and  
12 medical-related facilities such as the one that is  
13 proposed here today.

14           A map depicting the land uses approved  
15 by the Board within the University's campus area is  
16 attached to the written statement and a map  
17 depicting the preferred sites of medical uses within  
18 the University's campus is also in the record.

19           Second, the proposed use is consistent  
20 with the University's mission. Given the  
21 University's role as an academic health center, the  
22 new hospital will continue to be the primary venue  
23 through which the University's medical facility will  
24 perform its educational, research and clinical  
25 functions. As a nationally recognized medical  
26 educator, the University is able to provide high  
27 quality state of the art resources in order to

1 continue to attract those medical professionals with  
2 the greatest potential for achieving clinical  
3 excellence.

4 The new structure will represent an  
5 investment by the University and its partners in  
6 improving the health care of the residents of the  
7 District of Columbia and improving the educational  
8 opportunities for the best and brightest of students  
9 by offering a new state of the art training  
10 facility.

11 Additionally, it's important to note  
12 that all of the services and educational  
13 opportunities provided by the old facility will be  
14 provided by the new facility. Actual operation will  
15 be different only in that it will be better and more  
16 efficient.

17 Third, the ownership and the for profit  
18 status of the hospital are not relevant issues for  
19 zoning purposes. The use of the hospital and not  
20 its corporate structure or partnership is the  
21 central issue. Zoning traditionally runs with the  
22 land and not with the land owner. Any suggestion  
23 that the proposed use is anything other than the  
24 same College and University use that now exists on  
25 Square 40 is both factually and legally wrong.

26 The structure of the management  
27 partnership cannot be a factor in determining the

1 Board's disposition of this application. In fact,  
2 but for the University's affiliation this same  
3 building height, mass and use could be built and  
4 operated as a matter of right. It is only because  
5 this is a University use that is we are before you  
6 today.

7 Fourth, the University has obtained a  
8 traffic analysis which considers the traffic and  
9 parking issues associated with the campus plan, the  
10 actual traffic parking related experience of  
11 buildings approved since the campus plan, the  
12 existing traffic and parking conditions without the  
13 proposed new hospital building, the traffic and  
14 parking conditions with new development that has  
15 been approved in the area, the traffic and parking  
16 conditions associated with a worse case University  
17 use of the existing hospital building after the new  
18 hospital building is open and the traffic and  
19 parking conditions that will attain with the  
20 approval of this new building.

21 Fifth, the approval of this plan will  
22 not adversely affect the use of neighboring  
23 properties because of noise or traffic. We have an  
24 expert traffic study which is written into the  
25 record. The number of students, faculty or  
26 patients, there is evidence in the record and  
27 testimony that they will be given -- that will be

1 given today, substantiating the fact that the new  
2 hospital building will not initially cause any more  
3 occupancy and pedestrian traffic than exists at the  
4 current levels of the campus plan. And that there  
5 is sufficient off-street parking to meet the  
6 requirements of the campus plan even during  
7 construction periods.

8 We will present evidence in addition to  
9 that which is already in the record that this  
10 applicant has endeavored over the past year to  
11 gather the evidence and community support to put a  
12 substantial case into the record.

13 The substantial case has already been  
14 made to the D.C. State Health Planning and  
15 Development Agency on the partnerships' application  
16 for certificate of need. Although that application  
17 did attract some opposition, we are pleased to  
18 report that the case earned strong support from  
19 medical professionals and residents throughout the  
20 community. You will hear evidence today of the  
21 decision and recommendation of the staff of that  
22 agency. A copy of that report is being distributed.

23 We are hopeful that your decision today  
24 will also be made easier by the detailed land use  
25 and planning discussions that have already been  
26 submitted. The written case will be supplemented  
27 and highlighted by the testimony and the exhibits

1 that you will hear and see this afternoon. Much of  
2 the technical evidence will be offered by persons  
3 whom the Board has recognized as experts in their  
4 fields in previous BZA cases.

5 MS. DOBBINS: Good afternoon. As the  
6 Board is aware, the proposed site is currently used  
7 as an interim surface parking lot. The Board should  
8 note --

9 CHAIRPERSON REID: Excuse me, excuse me.  
10 You have to give your name.

11 MS. DOBBINS: I'm sorry. Good  
12 afternoon, I'm Madeleine Dobbins. I'm sorry?

13 MS. KING: And your home address,  
14 please.

15 MS. DOBBINS: I am Madeleine Dobbins  
16 with the law firm of Arter & Hadden. My address is  
17 2105B Suitland Terrace, S.E., Washington, D.C.

18 I will start again. As the Board is  
19 aware, the site for the proposed hospital is  
20 currently an interim surface parking lot. The Board  
21 should note that the Zoning Commission in developing  
22 regulations for surface parking lots began with the  
23 premise the surface lots are not most often the most  
24 appropriate use of urban land. In allowing them in  
25 SP districts the Commission set a 20-year time frame  
26 for existing lots and in residential districts it  
27 set strict standards for landscaping, design,

1 buffering and operation. In each case, the  
2 Commission has required BZA approval and review.

3 The Commission in its deliberations  
4 noted the surface lots are temporary uses until such  
5 time as appropriate development is proposed.  
6 Additionally, the comprehensive plan for the  
7 District of Columbia encourages appropriate  
8 development over Metro rail stations as do the  
9 policies of the Metropolitan Washington Area Transit  
10 Authority.

11 Moving to the proposed addition to the  
12 University parking garage. The Board is also  
13 authorized to grant a further processing special  
14 exception with respect to the proposed addition.  
15 The proposed use of the site for a parking addition  
16 is consistent with the approved campus plan  
17 designations for the site. That is, support,  
18 athletic facilities, administrative offices,  
19 physical plant facilities, auxiliary services,  
20 parking and related George Washington University  
21 functions.

22 The portion of the square where the  
23 addition will be located is designated on the land  
24 use map of the approved campus plan as support and  
25 residential with educational mixed use. A category  
26 which includes parking, in addition, the plan  
27 unequivocally states the University's intent to

1 provide enough parking within its own facilities to  
2 preclude an on-street parking overload that may  
3 adversely affect the neighborhood.

4 This project is the University's  
5 realization of the intent it expressed in the plan  
6 approved by you, the Board of Zoning Adjustment.  
7 The Board is also authorized to grant an area  
8 variance if the applicant can show that by reason of  
9 an extraordinary or exceptional situation or  
10 condition of a specific piece of property strict  
11 application of the zoning regulations would result  
12 in peculiar and exceptional practical difficulties.

13 We have detailed in the record the legal  
14 and factual considerations that support the grant of  
15 an area variance.

16 In sum, our case for an area variance is  
17 well made upon our showing that the site has been  
18 approved for the proposed use by this Board and that  
19 the site will not support on a lot occupancy basis  
20 the placement of an architecturally and functionally  
21 sound parking facility that alternatives do not  
22 exist for providing a parking garage other than one  
23 of the size, type and manner proposed here; that the  
24 small size of an applicant's lot has often been  
25 found as a basis for practical difficulty by this  
26 Board in previous cases, that the size of the area  
27 variance, 4 percent, is de minimis, and that this is

1 a public service with inadequate facilities that  
2 seeks to expand into an adjacent area in common  
3 ownership which has long been regarded as part of  
4 the same site.

5 As we have documented in the record  
6 individually and collectively, these factors all  
7 have in the past and do currently legally support  
8 the issuance or granting of an area variance.

9 The approval of the proposed parking  
10 addition is not inconsistent with the comprehensive  
11 plan which clearly designates the area for  
12 institutional use such as that proposed here. In  
13 the record already is a parking and transportation  
14 analysis which concludes that the zoning relief  
15 requested here can be granted without adversely  
16 affecting the use or enjoyment of neighboring  
17 properties or the area transportation system.

18 The proposed use, height and bulk of the  
19 building are consistent with all other zoning  
20 limitations.

21 MR. MOORE: We have endeavored to  
22 organize our presenters in a logical and efficient  
23 manner. First, Dr. John F. Williams, Vice President  
24 for Health Affairs of the George Washington  
25 University, will speak to the partnership that  
26 manages and will manage the George Washington  
27 University Hospital. He will summarize the

1 University related hospital operations and describe  
2 the improvements that are now necessary and will be  
3 satisfied in the new building.

4 Next, Mr. Phillip Shaengold, Chief  
5 Executive Officer and Managing Director of the  
6 George Washington University Hospital will discuss  
7 the reasons why the new hospital building is  
8 important and necessary and the service improvements  
9 the new building will allow. He will summarize the  
10 building design and functions and its occupancy  
11 levels. He will also speak to health care and  
12 service delivery related issues and address the  
13 hospital's plans with respect to uncompensated care.

14 Third, architects Ronald Skaggs of HKS  
15 and Phillip Tobey of Tobey & Davis will jointly  
16 present the new hospital building's elevations,  
17 floor plan, shadow study, landscaping plan, public  
18 space usage plan, a description of the hospital's  
19 architecture and design, a commentary on the  
20 contextual relationship of the hospital's building  
21 design with other University buildings and with  
22 neighborhood architecture and a description of the  
23 vehicular and pedestrian access, particularly  
24 loading and emergency service.

25 Fourth, Dr. Al Ingle, the Associate Vice  
26 President for Business Affairs at the University  
27 will present testimony on behalf of the Board of

1 Trustees, the President and the Vice President and  
2 Treasurer of the University. He will provide  
3 studied and knowledgeable evidence concerning the  
4 University's parking plans in the context of the  
5 approved campus plan.

6 Fifth, Mr. Arthur Bean of Gilbain  
7 Construction Company will present the University's  
8 architectural and design plans with respect to the  
9 proposed addition to the existing parking garage.

10 I think the Board is familiar with Louis  
11 Slade of Grove Slade & Associates which has  
12 undertaken the traffic and transportation analysis  
13 of the area in the context of the proposed hospital  
14 building and the addition to the parking garage.  
15 Mr. Slade has been accepted as an expert witness by  
16 this Board on numerous occasions. He is ably  
17 assisted by Ms. Nicole White of his firm. Grove  
18 Slade's report is in the record, but for your  
19 convenience Mr. Slade and Ms. White will highlight  
20 their findings and conclusions in testimony this  
21 afternoon.

22 We trust that you will find our evidence  
23 to be substantial, efficiently presented and  
24 persuasive. First, I will call on Dr. Williams to  
25 testify.

26 Dr. Williams?

27 MR. WATSON: If I may, in order to save

1 time, I suggest that we both stipulate to the  
2 expertise of the witnesses so you don't have to do  
3 the introduction of witnesses, if that is agreeable.  
4 I would object to the introduction -- I don't know  
5 if it's submitted as evidence, but what is purported  
6 to be the Health State Planning and Development  
7 Agency, this is one, unsigned, but it is a staff  
8 recommendation which has never been adopted by  
9 anyone and we object to the inclusion within the  
10 record of a staff recommendation unless a member of  
11 that staff is going to testify.

12 MR. MOORE: Madam Chair, we have  
13 identified the document as a staff recommendation.  
14 The staff recommendation was made yesterday. The  
15 recommendation was made to the Director. The  
16 Director is expected to have a decision on this in  
17 the next two weeks. We offer it as evidence for  
18 what it is worth.

19 MS. KING: Madam Chair, the fact of the  
20 matter is that unless SHPDA gives them a certificate  
21 of need, no matter what we do they can't build their  
22 hospital. So I think with all due respect, Mr.  
23 Watson, I don't think it matters in this context. I  
24 don't think it's persuasive that this is going to be  
25 their final opinion, because it's not signed. It's  
26 not a final opinion, but no matter what the Board of  
27 Zoning Adjustment does, if the SHPDA doesn't give

1           them a CON they're not going to build a hospital.  
2           So let's argue about the real issues -- you know,  
3           the critical issues and let things like that slide  
4           by.

5                           MR. MOORE:   Sir, what is your name?

6                           DR. WILLIAMS:   My name is John Williams.  
7           My address is 5881 Nebraska Avenue, N.W.,  
8           Washington, D.C.  I'm the Vice President for Health  
9           Affairs and Executive Dean of the George Washington  
10          University Medical Center.  In this capacity, I am  
11          responsible for overseeing all clinical, academic  
12          and research activities of the Medical Center.  I  
13          was appointed to this position in November of 1997  
14          upon the retirement of my distinguished predecessor  
15          Dr. Alan Weingold.

16                           In 1997, the George Washington  
17          University Hospital and Universal Health Services  
18          formed the partnership to operate the University  
19          Hospital.  The transaction transferred only the  
20          operations and management of the hospital.  The  
21          building and the academic programs it houses are  
22          still owned and conducted respectively by the  
23          University.

24                           Under the terms of the agreement, the  
25          University will lease the real property and hospital  
26          building to the partnership on a long-term basis.  
27          The partnership will continue the current name of

1 the hospital and will hire its employees. The  
2 hospital is the primary teaching facility of the  
3 George Washington University School of Medicine and  
4 Health Sciences. The University's medical education  
5 and health science programs are conducted at the  
6 hospital.

7 The partnership will employ and pay for  
8 the services of University medical faculty to manage  
9 the hospital's clinical support services.

10 The partnership will employ and pay for  
11 the services of the University's interns and  
12 residents as house staff at the hospital.

13 The University will continue to conduct  
14 research at the hospital.

15 The purpose of forming the partnership  
16 was to implement a plan to reinvigorate our hospital  
17 in order to assure that the University's two over-  
18 arching missions could be preserved and protected.  
19 The dual missions include the offering of high  
20 quality community responsive clinical services to  
21 the District of Columbia residents and a provision  
22 of outstanding medical education and clinical  
23 research opportunities to our University students  
24 and faculty.

25 For several years prior to 1997, the  
26 University had harbored growing concerns over our  
27 continued ability to meet these dual goals. We

1 recognize that new approaches to organizing and  
2 managing the hospital were needed and we recognized  
3 at the time that our existing hospital facility was  
4 no longer sufficient for our task, that a  
5 significant infusion of capital would be necessary  
6 to improve our hospital's physical capabilities  
7 either through renovation or new construction. The  
8 agreement we struck with Universal gave the  
9 University access to Universal's capital, managerial  
10 expertise and enhanced purchasing power while  
11 permitting G.W. to maintain and improve a facility  
12 devoted to medical education, research and clinical  
13 service.

14 I want to describe for you the sorts of  
15 changes that have been made to the hospital during  
16 the past year since the partnership has been in  
17 place, changes that have resulted in increases in  
18 our hospital's utilization and why we believe these  
19 positive trends will continue over the next several  
20 years and thus increase our need for a new facility.

21 Most importantly, I would like to convey  
22 to you the excitement and the enthusiasm with which  
23 the Medical Center, our faculty physicians, private  
24 voluntary physicians and our other clinical  
25 personnel anticipate the impact with which the  
26 opening of a new hospital will have on our six  
27 centers of emphasis, these areas of health care in

1       which we have developed an enhanced reputation for  
2       excellence.

3                       It is no secret for some years prior to  
4       1997 our hospital's future was in some doubt. It is  
5       no exaggeration to state that the shortcomings of  
6       our existing facility structure built over 50 years  
7       ago affect virtually all clinical components of our  
8       hospital and indeed our entire Medical Center.

9                       Of particular concern to me as a  
10       physician are the space shortages and inefficiencies  
11       which exist in our emergency department and in our  
12       surgical suites. In recent years, these  
13       shortcomings clearly have had a chain reaction  
14       effect on the hospital's operations. Absent drastic  
15       facility improvement it had been difficult for us to  
16       attract and retain new managed care and physician  
17       users of our resources. Some patients who would  
18       otherwise be treated in our emergency department and  
19       if necessary admitted to our hospital sought care  
20       elsewhere.

21                      Staff morale, while admirable, could not  
22       help but be affected by the environment in which our  
23       clinicians were required to serve. Dramatic and  
24       immediate steps were necessary to insure the  
25       hospital's future. I am here to tell you today that  
26       the partnership formed last year between G.W. and  
27       Universal, District Hospital Partners LP, has

1 already begun to make such drastic changes. To be  
2 precise, the presence of Universal's management was,  
3 in fact, felt at the hospital even prior to the  
4 ownership transfer. At that time, Universal wisely  
5 assigned a highly experienced and extremely capable  
6 administrator in Phillip Schaengold to serve as the  
7 hospital's Chief Executive Officer and Managing  
8 Director. Mr. Schaengold has already received high  
9 accolades in a relatively short time he has been  
10 present at the hospital and will continue to provide  
11 us with the highest degree of professional  
12 management and leadership through this project and  
13 we believe well into the future.

14 The presence of Mr. Schaengold and the  
15 management team he has assembled, coupled with  
16 Universal's institutional experience in operating  
17 and managing health care facilities assures that  
18 there will continue to be strong management  
19 capabilities at the hospital under this new  
20 partnership. The general improvements that have  
21 been made in hospital operations over the past year  
22 will be described by Mr. Schaengold with specific  
23 reference to our centers of emphasis. Significant  
24 enhancements have occurred in these areas as well  
25 which enhancements have led directly to the  
26 hospital's turning the corner from the difficult  
27 days of 1996 and 1997.

1                   Let me describe some of these  
2           improvements to you. In emergency room services, as  
3           Mr. Schaengold will mention, we've implemented a  
4           more effective patient triage and treatment system.  
5           We've solidified our "hospital of choice  
6           relationship with the United States Department of  
7           State." Recently, a visit by Secretary of Health  
8           and Human Services, Donna Shalala, Surgeon General  
9           David Satcher were there to look at our biohazard  
10          capability. They witnessed our ability to take care  
11          of persons suffering from chemical, biological  
12          injuries. We've responded to and provided treatment  
13          during the recent U.S. Capitol shootings. We have  
14          dramatically improved the quality of our staff and  
15          services in cancer treatment, neurosciences, stroke,  
16          invasive surgery, women's health issues,  
17          cardiovascular diseases and lipid research.

18                   With the opening of a new replacement  
19          hospital the centers of emphasis will be afforded  
20          new opportunities for growth and success. In the  
21          interest of time, let me briefly touch upon the ways  
22          in which the six centers will be affected by the new  
23          facility.

24                   In women's health, the philosophy of the  
25          new women's health services program at the George  
26          Washington University Hospital will be to  
27          consolidate the necessary resources for care and

1 treatment of women in one designated area of the  
2 replacement hospital. This area will be located on  
3 the third floor of the hospital and will include  
4 maternity services and selected nonmaternity  
5 services for women. The third floor will combine 37  
6 obstetrics beds, including labor and delivery, and  
7 post-partum beds; 20 nursery bassinets, 12 neonatal  
8 intensive care nursery bassinets as well as 52  
9 medical surgical beds. Traditionally, most  
10 hospitals including the George Washington University  
11 Hospital have combined resources for obstetrics and  
12 newborn patients into one designated area. In the  
13 new facility, the commitment of resources to the  
14 care of female patients will be expanded to include  
15 maternity services for women, as well as other  
16 services such as breast care, medical conditions  
17 that relate to osteoporosis, menopause and other  
18 gynecological services. The design of the  
19 replacement hospital will contribute to the expanded  
20 research opportunities in these areas. In addition,  
21 as the medical curriculum of the George Washington  
22 University School of Medicine changes, it will  
23 change to reflect the increased knowledge that has  
24 been gained in the care and treatment of women. The  
25 clinical experiences of medical students and other  
26 clinicians in training will be enhanced as a result  
27 of the focus women's health services programs being

1 proposed for the new facility.

2 In cardiac care, the state of the art  
3 setting we envision for the care of advanced heart  
4 disease in our new modern hospital will include  
5 cardiac catheterization labs adjacent to the  
6 operating suite. This capability does not exist at  
7 the hospital today. Such rooms, large enough to  
8 accommodate both imaging technology for  
9 interventional cardiologic procedures such as  
10 balloon angioplasty and reprofusion technology  
11 needed for traditional cardiac surgery will be built  
12 in the new replacement hospital. While on the topic  
13 of room size, I wish to mention another important  
14 improvement the facility will offer with regard to  
15 our ability to perform surgery in general. In  
16 informal surveys of the medical leadership of the  
17 hospital and the medical center, the most frequently  
18 noted deficiency at the current G.W. facility and a  
19 major impediment to accommodating additional  
20 patients is the significantly undersized operating  
21 rooms in the current hospital. Unlike most  
22 technological advances that have taken place in  
23 consumer goods, the advances in medical technology,  
24 particularly in surgery and other interventional  
25 specialties have been accomplished by demands for  
26 actually more space in the operating room. This new  
27 medical equipment, whether used for stereotactic

1 imaging and biopsy of the brain or for permitting  
2 faster and safer neurosurgery and cardiac surgery  
3 requires a substantial amount of space. The new  
4 hospital will provide the room necessary in its  
5 surgical suites to accommodate all existing  
6 technology and the next generation of advanced  
7 equipment as well. In fact, the smallest operating  
8 room in the new hospital will be larger than the  
9 largest operating room in the old hospital.

10 An emergency department, we have found  
11 it increasingly difficult in recent years to  
12 properly serve the approximately 40,000 to 45,000  
13 patients we see annually in our downtown based  
14 facility. The demands for this service have simply  
15 outpaced our 50 year old building. In the new  
16 facility, however, our ER space will more than  
17 double in size. The ER will involve a well-designed  
18 highly functional, 13,660 square foot area. With  
19 these new capabilities, the new hospital's design  
20 will permit us to properly triage and refer patients  
21 to appropriate treatments rooms and to provide care  
22 to these patients with appropriate privacy and  
23 dignity. The University will occupy on the sixth  
24 floor of the new building until such time as it is  
25 necessary for the additional acute medical-surgical  
26 beds to become operational on that floor. The  
27 University will use this space for medical

1 education, research and related functions.

2           Beyond its impact, on the centers of  
3 emphasis, the new facility design will affect  
4 numerous other components of our clinical  
5 environment as well such as critical care. The  
6 critical care unit of our current hospital is a  
7 bottleneck because it is not right sized to  
8 accommodate patient's needs. The increase in  
9 critical care beds at the new facility from 24 to 48  
10 will allow G.W. to maximize the utilization of its  
11 state of the art capabilities in monitoring invasive  
12 and non-invasive procedures while not encumbering  
13 medical-surgical beds for critical care patients as  
14 we currently do.

15           It is fair to say that in my dual role  
16 as the Vice President for Health Affairs and  
17 Executive Dean of the School of Medicine and the  
18 School of Public Health, in a sense I am doubly  
19 excited about the partnership commitment to  
20 constructing this new facility. Not only will the  
21 clinical care we will be able to provide be second  
22 to no other provided in this region, but the  
23 resources we will have available will strengthen and  
24 enhance our already nationally recognized medical  
25 education and research programs.

26           From a more basic level, of course, our  
27 proposal to construct a \$96 million replacement

1 hospital is premised precisely on our historic  
2 mission to continue to provide the highest quality  
3 medical care in the Foggy Bottom area to the  
4 citizens of the District of Columbia.

5 Without this proposal our future ability  
6 to do so, in fact, our very presence, would remain  
7 in serious doubt. The first phase of the renewal of  
8 the George Washington University Hospital was  
9 completed last year when the District of Columbia  
10 State Health Planning and Development Agency issued  
11 a certificate of need, approving the transfer of  
12 hospital operations to the G.W. Universal  
13 Partnership. At the time the CON was issued the  
14 Director of SHPDA, recognizing that the parties had  
15 agreed that the Universal's \$80 million commitment  
16 would all go into bricks and mortar, directed the  
17 parties to provide a capital plan for improving the  
18 hospital's facilities. After much study, the plan  
19 was presented to SHPDA in June. Just yesterday, the  
20 staff of the agency recommended approval of our  
21 application for a certificate of need to build a new  
22 hospital. That recommendation was based on the  
23 finding that "the construction of a new state of the  
24 art facility, coupled with the management experience  
25 of UHS and the reputation of the University is  
26 likely to enable the hospital to attract more  
27 patients, more managed care contracts and more

1 admitting physicians."

2 Your approval of this application is the  
3 last critical step in the administrative process  
4 that we trust will lead to opening of this  
5 wonderful, essential new facility in 2001.

6 The University is now planning possibly  
7 uses of the existing hospital building after the new  
8 building is operational. Among the uses being  
9 considered are medical, academic and office uses.  
10 In any event, whatever use the University decides  
11 for the current building it will be subject to  
12 further zoning approvals. The University's new  
13 campus plan will be submitted to the Board by  
14 January 4, 2000.

15 Mr. Schaengold will now speak to the  
16 operation of the new facility and I thank you for  
17 your attention.

18 CHAIRPERSON REID: Thank you for your  
19 testimony.

20 MS. KING: Madam Chair, may I ask the  
21 doctor a question?

22 CHAIRPERSON REID: Yes.

23 MS. KING: The hospital that you're  
24 replacing is now 50 years old and will be 50 plus  
25 years old when it's replaced, if you get approval  
26 all along the line, from us, from SHPDA, etcetera.  
27 What is the life expectancy of this new hospital

1           you're planning to build?

2                       DR. WILLIAMS: I don't know the answer  
3           to that.

4                       MS. KING: Okay.

5                       MR. MOORE: Ms. King, we will have  
6           witnesses that can address that question.

7                       MS. KING: Thank you.

8                       CHAIRPERSON REID: Thank you. After the  
9           applicant has presented its case, then we'll have  
10          cross examination, Mr. Watson, as usual procedure.  
11          We're not deviating from what is customary.

12                      MR. SCHAEINGOLD: Good afternoon,  
13          Chairperson Reid, distinguished members of the Board  
14          and members of the public. My name is Phillip  
15          Schaengold. I live at 4515 North 35th Road,  
16          Arlington, Virginia and I am the Chief Executive  
17          Officer and Managing Director of the George  
18          Washington University Hospital.

19                      This is indeed truly an historic  
20          occasion. It has taken months of very difficult,  
21          careful thought and hard work of many individuals  
22          for me to have the honor this afternoon to present  
23          to you and to the District of Columbia community our  
24          plans for the construction of a replacement  
25          hospital. This will be the first new hospital  
26          facility to be established in the District in over  
27          20 years.

1                   We are indeed proud to state and report  
2                   to you today and to the District residents that the  
3                   new hospital structure which will be described to  
4                   you in greater detail in our presentation and which  
5                   we intend to construct to open in mid-2001 will be  
6                   the most modern, attractive, cost-effective health  
7                   care facility in the entire region and it will be  
8                   located right here in downtown Washington, D.C.

9                   I would like to begin my presentation  
10                  this afternoon by providing you some brief,  
11                  historical context. In June 1997, the State Health  
12                  Planning and Development Agency recognized that the  
13                  alliance forged at the time between the George  
14                  Washington University and Universal Health Services  
15                  would afford the District of Columbia with the best  
16                  of both worlds, a health care partnership which  
17                  included the historic commitment to clinical care,  
18                  outstanding medical education and service to the  
19                  community which formed the historic character of the  
20                  George Washington University, coupled with the  
21                  nationally recognized management skills operational  
22                  expertise and capital strength of Universal Health  
23                  Services, the country's third largest hospital  
24                  management company.

25                  It is, in fact, this rare combination of  
26                  partnership strength which provides us the ability  
27                  to propose the exciting and ambitious project we are

1 here to discuss this afternoon.

2 In electing to undertake this difficult,  
3 complex and frankly costly task of replacing our  
4 over 50 year old hospital structure with a new,  
5 bright, modern new facility, the George Washington  
6 University Hospital partnership has demonstrated a  
7 continuation of its commitment to the revitalization  
8 of the hospital's role in the community's health  
9 care delivery system. This financial commitment is  
10 substantial. We are proud to observe, however, that  
11 at a time when the District's concerns about losing  
12 business, employees and services to its neighboring  
13 suburbs is at an all time, this partnership has  
14 committed instead almost \$100 million to invest in a  
15 brand new modern state of the art health care  
16 facility.

17 As those who have visited our facility  
18 recently, either for care or to visit a loved one or  
19 a friend recognizes that the existing building is  
20 indeed in need of substantial renovation and  
21 modernization. Our company, Universal Health  
22 Services, has spent an enormous amount of its time  
23 and resources assessing the needs of a 21st century  
24 hospital building and a technological equipment  
25 needed to provide first class medical care in a  
26 competitive market. We have concluded that beyond a  
27 doubt, it is simply not viable to renovate and refit

1 the existing building to meet these needs. The  
2 costs are prohibitive. The time it would take to  
3 renovate an occupied building is outrageous and the  
4 interruption and inconvenience to patient care would  
5 be unbearable to the patients and to the health care  
6 providers who are providing care to them.

7 Any one of these obstacles occurring  
8 would be counterproductive to our goal of reversing  
9 the utilization rates of the hospital which are key  
10 to the hospital's continued survival. The  
11 occurrence of all three would be devastating to our  
12 ability to provide first class medical services from  
13 the campus of the George Washington University. It  
14 is thus critically important that this new building  
15 be approved. Interestingly, our strong view is  
16 corroborated by the staff of the D.C. State Health  
17 Planning and Development Agency. In a report to the  
18 Director issued just today, the staff agrees and I  
19 quote, "the renovating of the existing operating  
20 facility will be costly, disruptive and time  
21 consuming." That report and recommendation went on  
22 "to support the building of a new hospital structure  
23 as an opportunity to incorporate accepted and  
24 anticipated standards of modern technology and  
25 patient care and to avoid the disruption of services  
26 and inconvenience to patients, visitors and staff  
27 that would occur if the Partnership were to renovate

1 the existing hospital."

2 For those reasons, the SHPDA staff  
3 stated, and I quote, "They support the construction  
4 of a new facility, instead of renovating the  
5 existing building." A copy of the staff report, as  
6 was mentioned earlier, is before you this afternoon.

7 The sixth story hospital structure we  
8 envision, artist's drawings of which will be before  
9 you today, will be built on University owned  
10 property directly across the street from our  
11 existing hospital structure. It has been designed  
12 by the nationally renown health care architectural  
13 firm of HKS with the assistance of the local  
14 architectural firm of Tobey Davis in conjunction  
15 with Universal Health Services' own internal  
16 facility experts.

17 The facility we propose will have the  
18 capacity to operate 458 licensed beds, 371 of which  
19 will be opened immediately. All of our hospital's  
20 existing services will continue to be provided. Our  
21 six centers of emphasis which Dr. Williams so  
22 excellently described, will be achieved and provided  
23 for in this new facility.

24 Indeed, as Dr. Williams described, our  
25 ability to provide these services in a modern, cost  
26 effective environment will greatly enhance our  
27 service efficiencies and will provide a far more

1 attractive setting from a patient's perspective.

2 We are especially excited about several  
3 particular features of the new facility. First, the  
4 new 400,000 square foot facility we propose which by  
5 the way is smaller by almost 100,000 square feet  
6 from the existing hospital will permit us to expand  
7 and modernize our extremely busy emergency and  
8 operating room services. As you may already know,  
9 our hospital is one of the busiest emergency care  
10 providers in the District, caring for almost 45,000  
11 patients each year, including at times prominent  
12 figures in the federal government.

13 Our location downtown business area and  
14 the fact that we are the sole hospital provider in a  
15 portion of the District which houses the White  
16 House, numerous federal offices and many tourist  
17 attractions make it imperative that our emergency  
18 services department functions smoothly and  
19 efficiently.

20 Our new facility will permit us to do  
21 just that. For example, just recently,  
22 unfortunately, the hospital was once again involved  
23 in a national tragedy, this time caring for the U.S.  
24 Capitol shooting victims and once again it was  
25 demonstrated under most unfortunate conditions how  
26 critically important the G.W. Hospital emergency  
27 capabilities are to the D.C. community and indeed to

1 the nation as a whole.

2 It is even more important to note that  
3 while we were caring for the shooting victims, at  
4 the same time two other patients came in suffering  
5 from heart attacks, straining the already strained  
6 physical facility of our emergency room.

7 In addition to the improvements to our  
8 emergency department, the replacement hospital will  
9 permit us to dedicate the third floor to women's  
10 health services, bringing together in one place a  
11 full-range of prenatal, labor, delivery, recovery  
12 and post-partum resources. This women's health  
13 floor will be unique among general medical surgical  
14 hospitals in the region.

15 I would also like to briefly note that  
16 the replacement facility will permit us to provide  
17 the University with a state of the art environment  
18 in which the University can provide its most  
19 important function, that is, continue to serve as a  
20 nationally renown academic health center.

21 As you will note from the rendering at  
22 the right hand side of the room, the rendering  
23 represents a dramatic view of the hospital's main  
24 entrance from the I Street Plaza. The exterior is  
25 designed to blend the existing and historic  
26 architecture of the University with a contemporary  
27 expression. The main entrance is oriented to

1 provide convenient access to the facility for  
2 patients arriving by Metro rail, Metro bus or  
3 private service. Parking, as you will hear later  
4 on, will be conveniently available less than a block  
5 away.

6 The main entrance is located on the  
7 ground level with access from the Foggy Bottom Metro  
8 rail station and a multiple car drop off at the main  
9 lobby. Public administration functions, as well as  
10 a cafeteria, will also be included on this ground  
11 level.

12 The majority of patient rooms in the new  
13 replacement hospital will provide private  
14 accommodations with appropriate space for the care  
15 giver, patient and family. The building is designed  
16 to provide a pleasant, inviting appearance from all  
17 sides.

18 As we take a look at our building, let  
19 me just take a few moments and describe some of the  
20 key elements within this facility and I would also  
21 like to note that we are continuing to work on the  
22 design of the internal facilities and that some of  
23 these services may change over time, but from a  
24 general perspective, let me describe how the  
25 hospital will operate.

26 Certain services will be available in  
27 the lower level, services such as the pharmacy,

1 laboratories, sterile services, business office and  
2 auditorium and classrooms intended for hospital and  
3 the University's educational program. Emergency  
4 services with ambulance access will be located on  
5 Level 1. Our emergency room, as many of you already  
6 know, is designated a Level 1 Trauma Center and  
7 along with the trauma services provided there, we  
8 will have additional diagnostic imaging, admitting  
9 and registration function.

10 A surgery facility with major and minor  
11 operating rooms will be located on the second level.  
12 As Dr. Williams already described, the smallest room  
13 on this level will be larger than our largest  
14 operating room today. This level will also  
15 accommodate cardiac catheterization labs and  
16 geography suites, endoscopy and a critical care  
17 unit.

18 The third level, as I had mentioned  
19 earlier, will house a comprehensive women's health  
20 center with labor, delivery, recovery and post  
21 partum units, along with nursery and neonatal  
22 nursery intensive care units.

23 The fourth level will accommodate 75  
24 medical surgical beds, a 16-bed rehabilitation unit  
25 and 16 bed critical care unit.

26 The fifth level will accommodate 91  
27 additional medical surgical beds and 16 critical

1 care units as well as respiratory therapy, nursing  
2 administration space and social services.

3 On the sixth level a 20 bed psychiatric  
4 unit will be built and the space will also be  
5 available for 87 additional beds for expansion.

6 This visual representation and my  
7 description, while helpful, do not completely do  
8 justice to how this hospital will look, feel and  
9 function once it opens in the Year 2001.

10 Ladies and gentlemen, this building has  
11 been designed to offer high quality clinical  
12 services in an efficient, noninstitutional  
13 environment, emphasizing patient comfort and  
14 dignity. The majority of our rooms will be private  
15 rooms, thus affording further patient comfort. The  
16 facility will be equipped with the latest technology  
17 including not only the most modern of medical  
18 equipment, but in communication and data collection  
19 and information systems as well.

20 In short, this new hospital structure  
21 will provide the District with the finest and most  
22 modern health service environment available.

23 Our decision to establish a capital plan  
24 involving the construction of a new hospital  
25 facility took some time to accomplish and was not  
26 arrived at lightly. The Partnership's decision to  
27 invest \$96 million of its own funds in this

1       undertaking was arrived at only after a great deal  
2       of study and analysis.

3                       What was clear from the outset of our  
4       planning process was that the existing hospital  
5       structure, built in the middle 1940s would soon  
6       become obsolete. Why we continue to this day to  
7       offer quality care to our patients in our existing  
8       setting, our ability to do so is more a testament to  
9       our fine physicians and our other medical and  
10      support personnel than to our physical setting.

11                      In fact, even before our partnership was  
12      formed, the University had recognized the need to  
13      undertake a significant capital investment to  
14      resolve the current and anticipated shortcomings of  
15      our 50 year old facility. After exploring various  
16      renovation options carefully, it was concluded by  
17      architectural and engineering consultants and agreed  
18      to by management that the construction of a new  
19      facility was clearly the best and in fact, only  
20      option available if the presence of a high quality  
21      academic medical center were to remain in the Foggy  
22      Bottom area.

23                      The project before you, therefore, is  
24      the product of a long and careful deliberative  
25      process. As such, we are confident it represents  
26      the least costly alternative available to us, given  
27      our missions and goals.

1                   These missions and goals also afford the  
2 District and our patients the best value for the  
3 investment we intend to make. We also believe that  
4 the size of the hospital we propose is both prudent  
5 and reasonable. We propose to initially open and  
6 operate 370 of our licensed beds, delaying the  
7 operation of an additional 87 beds on the sixth  
8 floor of our facility to when demand so warrants.  
9 Thus, the number of beds we initially intend to open  
10 and operate will represent a reduction from our  
11 current licensed bed capacity of 173 beds or 32  
12 percent.

13                   How did we determine that the facility  
14 we intend to build ought to be smaller in both bed  
15 capacity and square footage than our existing  
16 licensed facility? How did we determine the  
17 specific number of beds we propose to operate? The  
18 answer to these inquiries is based on our  
19 assumptions and expectations as the role we expect  
20 G.W. to play in serving the District of Columbia  
21 residents in the future, a role that is consistent  
22 with our historical place in the market.

23                   First, to reiterate an earlier point,  
24 let me be clear as to what we are proposing. We are  
25 proposing to build a smaller hospital than we have  
26 now. By reducing our licensed bed capacity by some  
27 16 percent, we intend to achieve greater

1 efficiencies while clearly providing higher quality  
2 care. Beyond proposing a replacement hospital which  
3 will be significantly downsized from our existing  
4 facility, we intend to further acknowledge the  
5 excess bed capacity that exists in the District by  
6 initially only opening 370 beds or 32 percent fewer  
7 beds than currently we have the authority to  
8 operate.

9 This unprecedented proposal demonstrates  
10 our willingness to measure our appropriate  
11 participation in the District's health care market  
12 in the next century in a reasonable and appropriate  
13 manner.

14 In fact, the bed complement we are  
15 proposing to establish represents a conservative  
16 approach to health care delivery in comparison to  
17 where we see our hospital head. Specifically, we  
18 believe that our partnerships experienced to date  
19 demonstrates that the George Washington University  
20 Hospital is well on its way to occupying the role  
21 G.W. had historically played in the District's  
22 health care delivery market. In effect, we are  
23 recapturing the market share position we lost in  
24 1995 through 1997.

25 Our admissions for 1997 totalled 11,523.  
26 And in 1998, we are projecting over 12,600  
27 admissions, almost a 10 percent increase. Thus, in

1 just a little over a year, we have begun to reverse  
2 previous trends and have increased the hospital's  
3 market share. We have extricated the hospital from  
4 the difficult days of 1996 and 1997 and have headed  
5 it back into a direction in which its utilization is  
6 growing and its traditional market share is  
7 returning.

8 In summary, our performance demonstrates  
9 that under our management, the George Washington  
10 University Hospital over the next few years will  
11 recapture the market share it temporarily lost in  
12 1996, 1997 time frame. If the past is prologue and  
13 if we remain focused on the future of this hospital,  
14 we have every confidence that our replacement  
15 hospital will be efficiently utilized and our  
16 operations will be financially sound.

17 In fact, we anticipate that the  
18 replacement hospital will be successful from its  
19 opening and will remain financially viable.

20 We are forecasting that the average  
21 daily census will increase from 210 to 248 by the  
22 Year 2004. We expect, in fact, that by the Year  
23 2005, our 371 operating beds will be successfully  
24 operating at or above 70 percent occupancy. To us,  
25 the approach we are proposing makes sound health  
26 planning and operational sense.

27 In sum then, we think it is clear that a

1 new hospital structure is needed if there George  
2 Washington University Hospital is to remain an open  
3 and viable institution. We think the facility we  
4 have proposed through our voluntary bed reduction is  
5 right sized and that we have submitted a very  
6 conservative and appropriate two-step approach to  
7 opening and utilizing our approved beds.

8 From a geographic access perspective, it  
9 is a basic fact that approving our proposal to  
10 construct the replacement hospital will permit us to  
11 stay where we are, in Foggy Bottom, available and  
12 accessible to our existing patient population and  
13 close to downtown businesses, government agencies  
14 and the District's many tourist attractions.

15 We will remain easily accessible by car,  
16 bus, especially Metro rail, whose Foggy Bottom Metro  
17 rail stop will be literally steps from our front  
18 entrance.

19 From a physical access perspective, our  
20 building itself will provide easy physical access as  
21 well. The design we have develop will meet all ADA  
22 requirements. Our emergency room will be at street  
23 level, easily accessed from Washington Circle with  
24 ample space for ambulance delivery. Finally, the  
25 internal design of our replacement hospital will  
26 permit and encourage easy access between patients  
27 and staff. Nurses' stations will be located in

1 direct proximity to patient rooms and all patient  
2 care areas will be isolated from public access  
3 areas.

4           These important design functions offer  
5 tremendous improvement over our current facility  
6 where virtually no consideration can be given for  
7 such important accessibility features. Financial  
8 accessibility is an important consideration for us.  
9 The policy of the George Washington University  
10 Hospital has always and will continue to be treating  
11 everyone who seeks care at our door regardless of  
12 ability to pay. We have historically met or  
13 exceeded all federal and District requirements  
14 concerning our provision of uncompensated care and  
15 will continue to do so in our new hospital.

16           It is our view, as we believe will be  
17 evidenced in the public testimony you will hear  
18 today, that strong public support exists for this  
19 project. Certainly, the proposal is supported by  
20 all constituencies with whom we do business  
21 including the medical center, private attending  
22 physicians and the many community agencies who we  
23 serve.

24           We believe strong support for our  
25 proposal exists from within the District from a  
26 business development perspective as well and we have  
27 undertaken every effort we could to communicate with

1 the ANC and to provide it with our application and  
2 all related filings as well as to attend meetings of  
3 the ANC and we continue to look forward to a  
4 continuing dialogue with its members.

5 When this new replacement hospital opens  
6 to patients in the Year 2001, our partnership will  
7 have completed the two-phase, four year plan we  
8 instituted last year. We committed to revitalize,  
9 reinvigorate and reestablish our hospital to its  
10 historical status as a leader in the delivery of  
11 quality health care services to District residents  
12 and I believe that we are well on our way to  
13 complying with that commitment.

14 Our new facility will truly serve to  
15 enhance the overall quality life for District  
16 residents. We recognize the Board's important role  
17 in considering this application. And the importance  
18 of presenting our proposal to the public and in  
19 listening to the public's view. We are therefore  
20 pleased to be here today.

21 We again pledge our willingness to work  
22 with you and the community in our review of this  
23 historic and unprecedented project.

24 Thank you.

25 CHAIRPERSON REID: Thank you for your  
26 testimony.

27 Ms. King?

1 MS. KING: Since I quashed Mr. Watson's  
2 objection to your quoting from the SHPDA report and  
3 since -- saying it was immaterial, but since you  
4 quoted from it so extensively I want to clarify that  
5 the SHPDA staff has not recommended, says that it  
6 would not be prudent to approve your additional 87  
7 beds, so you're opting not to open all your beds is  
8 something that the city government does not appear  
9 to be willing to approve, so there's no guarantee  
10 that in the future, even if the SHPDA acts  
11 affirmatively on the staff report from which Mr.  
12 Watson didn't want anything to be quoted, you may  
13 not have permission to open up your 87 additional  
14 beds. Is that not correct?

15 MR. SCHAENGOLD: The staff report is  
16 recommending that approval for only 371 beds.  
17 Tomorrow night we will be presenting our case to the  
18 review committee of the SHIC and we will again try  
19 to impress upon them the importance of approving the  
20 458 licensed beds.

21 MS. KING: That puts into perspective  
22 the SHPDA report, staff report that you were quoting  
23 from. It is a work in progress. It has no  
24 relationship to whether the city government through  
25 the SHIC and the SHPDA are going to give you a  
26 certificate of need for this hospital, is that not  
27 correct?

1 MR. SCHAENGOLD: That is correct.

2 MS. KING: Thank you.

3 MR. MOORE: Ms. King, on a legal basis,  
4 it is a positive staff report and we offer it as  
5 such --

6 MS. KING: It is a positive staff report  
7 and that's all it is.

8 MR. MOORE: That's all we are  
9 suggesting.

10 MS. KING: All right, fine, but I just  
11 want to put it in perspective since I'm the person  
12 who quashed Mr. Watson's objection I wanted to do my  
13 duty by him by pointing out that you all had quoted  
14 from it as it pleased you and not in terms of the  
15 whole picture.

16 CHAIRPERSON REID: Thank you.

17 MR. MOORE: Madam Chair, since Mr.  
18 Watson has stipulated as to the expert status of our  
19 -- and his -- presenters, I'd like to introduce  
20 Ronald Skaggs and Phillip Tobey, our architects.  
21 They have a brief presentation for you, but for your  
22 purposes I would be remiss if I didn't point out  
23 that Mr. Skaggs is the Chairman and CEO of HKS, Inc.  
24 which is a 460-person architectural and engineering  
25 firm, the ninth largest in the United States and a  
26 lot of other things, but among those he is he  
27 President-Elect of the Academy of Architecture.

1                   Let me get this right, Ron --

2                   MR. SKAGGS: The American Institute of  
3                   Architects.

4                   MR. MOORE: The American Institute of  
5                   Architects. So if both Ron Skaggs and Phil Tobey  
6                   will tell you who they are, they can proceed with  
7                   their presentation.

8                   CHAIRPERSON REID: You are seeking  
9                   expert witness status for them?

10                  MR. MOORE: Yes, Madam Chair. If the  
11                  Chair pleases I have résumés for both that I will  
12                  hand out.

13                  CHAIRPERSON REID: Have they appeared  
14                  before the Board before as expert witnesses?

15                  MR. MOORE: Mr. Skaggs has not been  
16                  before the Board. Neither has Mr. Tobey, but for  
17                  the record I will submit their résumés, they are  
18                  quite distinguished in their areas.

19                  CHAIRPERSON REID: Just briefly, you  
20                  gave us the background on one. Could you just  
21                  capsule the other one for us.

22                  MR. SKAGGS: I will provide the  
23                  background on the other later, unless you want --

24                  MR. MOORE: Let me do it now.

25                  CHAIRPERSON REID: I'd like to go ahead

26                  --

27                  MR. MOORE: Phillip Tobey is a

1 registered --

2 CHAIRPERSON REID: I would like to do  
3 the expert witness -- allow you that designation and  
4 then we can proceed. There was a question about  
5 that.

6 MR. SKAGGS: That's fine.

7 MR. MOORE: Madam Chair, to be  
8 efficient, may we keep going and postpone this  
9 question for just a moment?

10 CHAIRPERSON REID: Yes.

11 MR. SKAGGS: My name is Ronald L.  
12 Skaggs. I reside at 5229 Windjammer, Plano, Texas.

13 Ladies and gentlemen, it is a pleasure  
14 to meet with you today to discuss the new George  
15 Washington University Hospital. It is truly a  
16 privilege to be involved in this special project.  
17 Although my firm has designed major academic medical  
18 centers in all areas of the nation, there are none  
19 so prominent as this facility.

20 The new hospital is designed to provide  
21 state of the art medicine and will consist of the  
22 latest medical technology. It will be a facility  
23 that is patient-centered, family supportive and  
24 community oriented. This new hospital, the hospital  
25 of our seat of government, the hospital for our  
26 Presidents, will provide a model for health care  
27 delivery. Not only a model for Foggy Bottom and the

1 District of Columbia, but also a model for our  
2 nation.

3 This will be a special place of special  
4 architectural presence for those requiring health  
5 services. The hospital will be constructed on a  
6 triangular site shown on this site plan, to my  
7 right. At the confluence of New Hampshire and 23rd,  
8 intersecting at Washington Circle, it is sited to  
9 maximize accessibility to the whole community.  
10 Public access is accommodated by automobiles on 23rd  
11 Street, pedestrians from I Street Plaza and public  
12 transportation from the existing Foggy Bottom Metro  
13 Station at I Street Plaza. Emergency access is off  
14 New Hampshire providing for immediacy of treatment  
15 needs and service access is off 24th Street,  
16 consisting of the least traffic and offering  
17 excellent buffer opportunities.

18 The proposed building, a six story  
19 structure just under 400,000 square feet in size  
20 with the footprint of approximately 61,000 square  
21 feet including the Metro Station is on a site that's  
22 95,717 square feet or 2.2 acres in size. The site  
23 FAR is 4.17. When adding this and the three other  
24 proposed projects to GWU's current FAR, the result  
25 is a total of 2.81. The lot occupancy is 63.78  
26 percent, well within the 75 percent allowable. The  
27 building will be approximately 87 feet in height,

1 measured from Washington Circle and no instance  
2 higher than the 90 feet allowable.

3 The penthouse structure is 18 foot 6  
4 inches in height, meeting the 1 to 1 setback  
5 requirement.

6 The rear yard is 90 feet which greatly  
7 exceeds the 34 foot required minimum. My firm is  
8 responsible for the overall design and functional  
9 development of the hospital. We have associated  
10 with the Washington, D.C. based firm of Tobey &  
11 Davis to design a facility that relates  
12 architecturally to the community surrounding it.

13 At this time I would like to introduce  
14 Phil Tobey with whom I have been associated for 30  
15 years. He will discuss the contextual aspects of  
16 the building design. Phil is a registered architect  
17 in the District of Columbia and has practiced in  
18 Washington for more than 30 years. He is past  
19 President of the Washington Chapter of the AIA and  
20 has been responsible for many notable projects.  
21 Phil is a Fellow of the American Institute of  
22 Architects and a graduate of the Harvard Graduate  
23 School of Design.

24 Phil?

25 MR. TOBEY: Thank you. While the lights  
26 are being lowered --

27 CHAIRPERSON REID: Mr. Moore, we will

1 grant both Mr. Skaggs and Mr. Tobey the expert  
2 witness status.

3 MR. MOORE: Thank you, Madam Chair.

4 MR. TOBEY: Good afternoon. My name is  
5 Philip E. Tobey. I live at 11592 Newport Cove Lane,  
6 Reston, Virginia. My presentation today begins with  
7 a discussion of the neighborhood context and  
8 concludes with a review of the proposed facility.  
9 Much of my presentation today will be handled  
10 through the use of slides and other visual  
11 materials.

12 We begin with this aerial photo that  
13 gives a clear indication of the site and its  
14 established urban character. The site is in the  
15 center of the slide, directly above the midpoint and  
16 it's clearly indicated as a light triangle which is  
17 a surface parking lot. Although part of historic  
18 Foggy Bottom, the proposed site precinct is clearly  
19 dominated by seven to 12 story midrise buildings.  
20 Many of the surrounding buildings are both larger  
21 and taller than the proposed hospital.

22 I'd like to take the next few moments to  
23 walk around the site and to look at some of the  
24 buildings that surround the proposed location.

25 We're going to move down 23rd Street  
26 which is the east side of the proposed site, cross  
27 on the southern boundary of the site, come back up

1 24th Street on the north or on the west, excuse me,  
2 and end at Washington Circle to the north. The  
3 building directly to the east of the site, of  
4 course, is the existing George Washington University  
5 Hospital, a building that extends the full length of  
6 the block from Washington Circle to I Street. As  
7 stated earlier, it's a 1950s building. It's  
8 limestone. And sits, as I said before, directly  
9 east of the proposed site.

10 At the intersection of I Street and 23rd  
11 Street, are two dormitory facilities that are part  
12 of George Washington University housing inventory,  
13 also midrise structures. As we move south across  
14 the base, if you will, of the proposed site, you'll  
15 note here Ross Hall which is a 1960s poured in place  
16 concrete building and then as we approach the  
17 intersection of 24th Street, I Street and New  
18 Hampshire Avenue, we have both low rise and mid and  
19 highrise buildings in the background. This  
20 particular intersection is interspersed with some  
21 two and three-story buildings and a great number of  
22 midrise facilities.

23 As we turn the corner then of 24th and  
24 New Hampshire, you can see the large nine and ten  
25 story condominium facilities to the right  
26 interspersed with the two and three story facilities  
27 on the corner.

1                   The 24th Street facade to the west of  
2                   the proposed site, while containing a few two and  
3                   three story buildings, essentially feels like a  
4                   midrise street with both 7, 8 and 11 story buildings  
5                   lining that elevation, the tallest of which is the  
6                   St. James Hotel located on the corner of 24th and K  
7                   which is a 12 story building.

8                   As we move then into Washington Circle  
9                   where the various streets converge on the circle  
10                  itself, you get a sense of the character, if you  
11                  will, of the neighborhood around the circle. Much  
12                  of the building inventory around the circle is in  
13                  the midrange, midsize, midrange, midrise category of  
14                  construction.

15                  The most recent addition to the circle  
16                  is the World Bank building at the confluence of K  
17                  Street and Pennsylvania Avenue, an 11 story building  
18                  clad in precast and other kinds of materials with a  
19                  rounded end also which will be reflected as you will  
20                  notice, in a few moments, in the rendering that we  
21                  will be showing you of our proposed building.

22                  The last two slides as we walk around  
23                  the site are of, of course, the Foggy Bottom Metro  
24                  entrance and the I Street pedestrian plaza, two very  
25                  important amenities directly to the south of our  
26                  particular site which have a great deal of value as  
27                  an urban place.

1                   Our project has undergone careful  
2                   analysis regarding sun and shadow studies and  
3                   potential impacts on the neighborhood. Although the  
4                   precinct is comprised of buildings of similar height  
5                   and massing this project causes no detrimental  
6                   shadow impact on the neighborhood.

7                   I should back up. During the month --  
8                   during March 21st and September 21st time frames,  
9                   the building projects a shadow for a few hours only  
10                  on the New Hampshire Avenue area. The only time of  
11                  day and year when the 24th Street buildings  
12                  experience shadow are the days around December 21st  
13                  for approximately three hours from 7 to 10 a.m. in  
14                  the morning as demonstrated in this particular  
15                  slide. Incidentally, the chances of this happening  
16                  are further mitigated, most likely, by the high  
17                  possibility of cloudy weather this time of year.

18                  And now to the proposed building itself.  
19                  The proposed building is on the site that can be  
20                  developed at any time as noted earlier to the  
21                  maximum permitted as a matter of right, with little  
22                  regard to context. In contrast, the proposed  
23                  hospital is carefully and thoughtfully designed to  
24                  be a good neighbor, blending with the context in  
25                  terms of overall scale, massing, materials, color  
26                  and detailing. Deliberately arranged to adhere to  
27                  traditional organizational concepts with the defined

1 base, center and top, the new hospital presents a  
2 pleasing blend of traditional forms and materials  
3 with contemporary detailing. The primary building  
4 material is warm brick, accenting the standard brick  
5 with lightly darker brick creates an articulated  
6 base which is designed to reduce the mass and  
7 reinforce the human scale.

8                   You will note on the rendering that  
9 stone banding is also used at the third level  
10 demarking, if you will, the base from the rest of  
11 the building.

12                   The base concept is further reinforced  
13 through the use of a colonnade and fenestration at  
14 street level and lantern style lights are attached  
15 to the second level of the building which will also  
16 enhance human scale and illuminate the adjacent  
17 area.

18                   Throughout extensive street scaping and  
19 landscaping including trees and flowering plants are  
20 utilized. Above the third level, large multi-story  
21 windows express vertical base and planes of brick  
22 relieve the volume.

23                   While clearly representing a cohesive  
24 building concept, each side also responds to and  
25 respects its immediate setting and context. Now as  
26 noted in this rendering, as viewed from Washington  
27 Circle, a half drum of glass serves as a transition

1       between New Hampshire Avenue to the right and 23rd  
2       Street to the left of the building which responds to  
3       the similar forms at the confluence of other  
4       intersecting streets at the circle, most notable the  
5       World Bank building that I cited a moment ago.

6                 The New Hampshire Avenue facade again to  
7       the right on the rendering is carefully scaled to  
8       reflect the variety of scales and massing along the  
9       avenue. The base of the building will be  
10      articulated with recessed bays with windows and  
11      planting which will establish a rhythm and a human  
12      scale at the street level and landscaping along 24th  
13      and New Hampshire Avenue will further enhance this  
14      elevation.

15                As noted before, upper levels of the  
16      building will be articulated with alternating  
17      vertical bands of brick, recesses and glass.

18                At the southwest corner of the site, at  
19      the far end of the rendering on the right will be a  
20      screened enclosed by rollup doors service area. We  
21      chose this location because this area will face the  
22      street which contains the areas least used traffic  
23      and it will be buffered and screened from the  
24      neighborhood by the landscape island between New  
25      Hampshire Avenue and 24th Street.

26                MS. KING: Excuse me for interrupting,  
27      but what street are we on now? New Hampshire?

1                   MR. TOBEY: Yes. If you look to the  
2 right of the rendering, New Hampshire Avenue  
3 proceeds from the center of the slide to the right  
4 and at the far right end of the building, looking  
5 out onto the intersection of 24th and New Hampshire  
6 is where we have located the service area. It is  
7 the only reasonable location given the site, the  
8 surrounding neighborhood and the requirements of the  
9 hospital for this particular function.

10                   Now moving to the 23rd Street elevation,  
11 this particular rendering is viewing the proposed  
12 hospital from the intersection of I Street and 23rd.  
13 To the left of the rendering is the entrance to the  
14 Foggy Bottom Metro Station. The east elevation is a  
15 combination of brick and glass as noted on the other  
16 elevation, but also we have introduced a sweeping,  
17 curving glass wall with arcade and canopies at the  
18 southeast end of the building. This change of  
19 materials is very important because it signals key  
20 building entrances and building identity. Equally  
21 important, this design takes full advantage of the  
22 opportunity to enhance the area surrounding the  
23 Foggy Bottom Metro entrance and the I Street  
24 pedestrian plaza, a real urban place. Amenities  
25 within the proposed building, such as open lobby  
26 areas, and indoor and outdoor dining space focus on  
27 and visually connect to this important pedestrian

1 zone.

2 In summary, this building is compatible  
3 with the scale, materials, massing and design of the  
4 existing neighborhood. It recognizes and enhances  
5 the human experience at street level, while  
6 respecting the larger context.

7 Designed as a good neighbor, the overall  
8 image is one of a building comfortably integrated  
9 into the neighborhood that is appropriate for both  
10 its use and its context.

11 This concludes this portion of our  
12 presentation. Thank you.

13 MR. MOORE: Earlier -- Mr. Esposito, if  
14 you could turn the lights on? Thank you, sir.

15 Ms. King asked earlier what the useful  
16 life of the building was and -- of the new building  
17 would be and I told her we would have a witness to  
18 speak to that.

19 Mr. Tobey, can you? All right, Mr.  
20 Skaggs?

21 MR. SKAGGS: In the design of health  
22 care facilities, the useful life of a building is at  
23 least 50 years on the structure and exterior,  
24 recognizing the fact that medical facilities,  
25 technology changes, it's important that we design  
26 facilities on the interior that are flexible, that  
27 can change. Existing building, for example, has 10

1 to 12 foot floor to floor heights where we have  
2 provided 15-foot floor to floor heights to provide  
3 greater flexibility. So it will have over 50 year  
4 life, recognizing those flexibility requirements.

5 CHAIRPERSON REID: Thank you. Other  
6 questions?

7 MR. FRANKLIN: Mr. Tobey, you make a  
8 very persuasive case in writing about contextualism,  
9 but my reaction to the 23rd and I Street elevation,  
10 of that sweeping glass treatment isn't really very  
11 contextual. In fact, it's quite at variance with  
12 the character of the neighborhood. And in addition,  
13 since it's facing southeasterly, it's going to get  
14 the brunt of sun when it does appear in Washington  
15 which it does in the summer, certainly, and  
16 presumably then there will have to be window  
17 coverings across that broad sweep of glass for  
18 energy conservation purposes as well as to avoid  
19 glare.

20 What led you to treatment of this sort?  
21 I know that you want to make a statement that this  
22 is the entrance to the building and to create a  
23 certain identity, but why sweeping glass in this  
24 expanse which really is not in keeping with the  
25 character of the neighborhood?

26 MR. TOBEY: I think there are a number  
27 of issues here. Hospitals traditionally have been

1 very much introverted facilities and the  
2 architecture over the years during the development  
3 of hospitals has traditionally been somewhat of a  
4 closed box.

5 We felt that there were two  
6 opportunities at that particular intersection. One  
7 was the opportunity to really open up the building,  
8 if you will, in a sense, and create a welcoming and  
9 user-friendly sort of facade, if you will, on that  
10 side of the building. It was also, as you noted  
11 earlier, the entrance to the facility, and so in a  
12 sense, we wanted to make it an inviting and  
13 welcoming place unlike many hospitals that have been  
14 built in the past.

15 Also, through various times of day,  
16 particularly in the evening, we envision this will  
17 become very much a lantern, if you will, of light  
18 and again a welcoming feature to that particular  
19 intersection.

20 Secondly, that intersection is unique in  
21 that, as I said earlier, it is very much an urban  
22 place where there will be a wonderful mixture, if  
23 you will, of pedestrian traffic arriving at the  
24 Foggy Bottom Metro station, using the I Street Plaza  
25 and that we felt that all of that combined and  
26 opening up and sharing, if you will, the inside of  
27 the building with the urban space would be a real

1 enhancement, both to the area and to the hospital  
2 itself.

3 The issue of energy is a concern, but we  
4 will be using low E glass and other features within  
5 the glass structure itself to make it unnecessary to  
6 necessarily have blinds and so forth and much of it  
7 is spandrel glass.

8 MR. FRANKLIN: Excuse me?

9 MR. TOBEY: Much of that particular  
10 elevation is spandrel glass. Not all of it is  
11 entirely open to the inside.

12 MR. FRANKLIN: I see. Is it going to be  
13 colored glass?

14 MR. TOBEY: Our intention right now is  
15 it will have a light green tint to it.

16 MR. FRANKLIN: With all due respect,  
17 sir, I think that -- I can't disagree at all with  
18 what you have said about the nature of that  
19 particular location, but the treatment that is  
20 resulting seems to me to be suburban and not urban,  
21 at least in the context of Washington, D.C. and I  
22 would hope that some revisiting can be accomplished  
23 of that particular treatment, because it seems to me  
24 that the building reads as something you might see  
25 in Tysons Corner and not in Washington, D.C.

26 That's my --

27 MR. SKAGGS: Your considered point is

1       duly noted. Obviously, there are different points  
2       of view on aesthetics.

3               MR. FRANKLIN: Yes, i was about to  
4       disqualify myself as a designer because I'm trained  
5       as a lawyer and I've recovered from that training.

6               (Laughter.)

7               MR. TOBEY: If you understand our goal,  
8       we will work toward achieving both the things --

9               MR. FRANKLIN: I think it's very  
10      important, the lantern at night and that this is a  
11      prominent spot I think is really true, but to treat  
12      it in this form I think to achieve that goal is  
13      something that I, in my humble opinion, would --

14              MR. TOBEY: I appreciate your point of  
15      view and again it's an early work in progress.  
16      We're fairly at schematic design. We'll certainly  
17      take into account some of your viewpoints. Thank  
18      you.

19              MS. KING: Bearing in mind that the  
20      impact on neighboring properties is one of the major  
21      criteria that we have to consider in both the  
22      variance and the exception.

23              Why did you determine to put the service  
24      bay opposite the residential properties rather than  
25      the properties that are owned by the University?

26              MR. SKAGGS: The whole planning and  
27      layout of the hospital is based on functional

1 relationships and considerations of movement of  
2 public goods and traffic and in all our analyses the  
3 area that was the best location for bringing those  
4 goods that are so necessary to the continuing  
5 operation of the hospital were best located off of  
6 24th Street, taking into consideration all of the  
7 other adjacencies.

8 MS. KING: There's no alternative --  
9 because we do -- it is part of our responsibility to  
10 take into account adverse impact on surrounding  
11 properties. You feel that there is no alternative?

12 MR. SKAGGS: There's no other good  
13 alternative. That's extremely the best alternative.  
14 We need our public to come in from the Metro area,  
15 the emergency really needs to come in from New  
16 Hampshire and the Circle area and that is the ideal  
17 location for bringing in service to the --

18 MS. KING: You couldn't move it over in  
19 front of the existing hospital?

20 MR. SKAGGS: If we did it would totally  
21 decimate the functional activities of the rest of  
22 the hospital which is what it's there for, is to  
23 take care of patients.

24 MS. KING: Okay, so there's no  
25 alternative to something that we may consider to be  
26 have an adverse impact on the surrounding  
27 neighborhood?

1                   MR. SKAGGS: From my professional  
2 opinion, there's no reliable alternative. There's  
3 always unreliable alternatives.

4                   MR. GILREATH: I'm an urban planner by  
5 training, not an architect. I found that somewhat  
6 refreshing. Maybe it could use some fine tuning and  
7 I would comfortable with something like a  
8 Commissioner look at it, make sure that it's  
9 compatible --

10                  CHAIRPERSON REID: You mean refer it to  
11 the --

12                  MS. PRUITT-WILLIAMS: This is not Foggy  
13 Bottom. I do not believe it comes under SHPDA so it  
14 will not go through Fine Arts.

15                  MR. TOBEY: That's correct, it does not.

16                  MS. PRUITT-WILLIAMS: And is it in an  
17 historic district?

18                  CHAIRPERSON REID: No.

19                  MS. PRUITT-WILLIAMS: So therefore it  
20 wouldn't go through the HPRB. So design review,  
21 whatever it is would be through this --

22                  MR. GILREATH: Well, perhaps you could -  
23 - I don't know whether you will have additional  
24 sketches to address Mr. Franklin's concern. I would  
25 certainly entertain, we say well, you could do it  
26 this way. Let's look at it. Perhaps we should have  
27 an opportunity to see -- well, you could possibly do

1 certain adjustments and that would be --

2 MR. FRANKLIN: Let me add, just to  
3 elaborate a little bit. I don't find very  
4 objectionable the treatment of the glass at the  
5 point, so to speak and I have a little bit of a  
6 problem and here again, this is a nondesigner  
7 talking, but I have a little bit of a problem with  
8 the schizophrenic nature of having the stone  
9 rustication on the base co-existing with what you  
10 call a contemporary treatment and -- but when it  
11 gets to the 23rd Street elevation it seems to me  
12 it's going a little too excessively in that  
13 direction. I'm not one who says there ought not to  
14 be a lot of glass in the building, but it just seems  
15 there is a point of limitation.

16 MR. TOBEY: You are making some very  
17 good points and we'll be very happy to examine those  
18 -- that particular facade, if you will, in that  
19 corner and do some studies and bring them back to  
20 you.

21 CHAIRPERSON REID: Mr. Moore?

22 MR. MOORE: Yes.

23 CHAIRPERSON REID: How many more  
24 witnesses do you have?

25 MR. MOORE: Two. Both -- one is very  
26 critical and that's Grove-Slade report. The second  
27 is Dr. Ingle on the parking garage.

1 CHAIRPERSON REID: Okay, we're running  
2 behind.

3 MR. MOORE: Dr. Ingle, I believe will  
4 summarize most of his testimony. The testimony of  
5 the architect on the parking garage is relatively  
6 brief. Grove-Slade is more involved.

7 CHAIRPERSON REID: Okay, but I just  
8 wanted to make you mindful of the time.

9 MR. MOORE: I'm trying my best to be  
10 efficient here, realizing we've got two cases and a  
11 lot of issues to cover and it's my burden.

12 CHAIRPERSON REID: I understand.

13 MR. MOORE: Dr. Ingle?

14 MR. INGLE: Good afternoon. I am Al  
15 Ingle, Associate Vice President for Business Affairs  
16 at the George Washington University. I reside at  
17 933 25th Street, N.W., Washington, D.C. 20037.

18 As an officer of the George Washington  
19 University, I am directly responsible for the  
20 University facilities and services including  
21 architecture, engineering and construction, as well  
22 as auxiliary and institutional services which  
23 includes parking operations.

24 We thank you for the opportunity this  
25 afternoon to present our proposal today for a  
26 University parking garage addition on Square 55 at  
27 the southwest corner of 22nd and I Street. The

1 process of planning and analysis related to this  
2 project has been extensive. Our internal planning  
3 and external discussions with the Advisory  
4 Neighborhood Commission, the West End Citizens  
5 Association and the Foggy Bottom Association allows  
6 us to offer our University community and the broader  
7 Foggy Bottom community an outstanding addition to  
8 our parking program.

9 Of particular note is our effort to  
10 conduct an outreach program with the Foggy Bottom  
11 community at large. Our efforts have been toward  
12 insuring compatibility with adjoining buildings and  
13 surrounding facilities.

14 During the past year our proposal has  
15 undergone review by all major community  
16 constituencies. The University has participated in  
17 numerous community meetings where the proposed  
18 parking facility has been discussed. Our student,  
19 faculty and staff parking needs analysis, the  
20 related traffic study, the site evaluation and  
21 community review have all been completed now and we  
22 have met with the proper D.C. regulatory agencies to  
23 insure the appropriateness of our request to the  
24 Board today to develop this facility.

25 Now a word about the parking program and  
26 the changing needs of the University. The George  
27 Washington University is a dynamic, urban

1 institution of higher learning. As teaching and  
2 research technologies change and the mix of various  
3 types and levels of education develop the needs for  
4 facilities and services also change. So it is with  
5 our parking. Our proposed parking garage addition  
6 is a part of a detailed three-year parking plan that  
7 we offer here today as part of this request.

8           Currently, the University is required by  
9 its approved campus plan to maintain not less than  
10 2700 and not more than 3000 parking spaces. We  
11 confirm here today that at no time in the future  
12 will our inventory drop below 2700 spaces during our  
13 current campus plan.

14           As a result of our changing needs, as  
15 I've described, and to understand this planning, the  
16 University has developed a three-year parking  
17 program matrix which identifies planned parking  
18 space additions and deletions by corridor over the  
19 next three years. This three-year plan is described  
20 by illustration which we have provided to this Board  
21 in hard copy.

22           What I would like to do now is to -- at  
23 the Board's discretion explain some of how this  
24 three-year plan was developed, utilizing the  
25 illustrations provided to my right.

26           To the right we are showing the George  
27 Washington University campus plan. The black line

1 is the boundaries of the campus plan and within the  
2 campus plan the blue blocks are the various parking  
3 spaces surface lots and below ground garages that  
4 are part of the University's planning related to  
5 parking.

6 MS. KING: And does that have the number  
7 of spaces in each facility?

8 MR. INGLE: Yes, it does. I have  
9 another illustration which has been supplied in hard  
10 copy. Maybe we should start with that over here.

11 Each one of the surface parking lots  
12 which has been approved by this Board and each one  
13 of the below grade lots are illustrated in the left  
14 hand column by lot number, lot name and  
15 identification and the total number of spaces. I  
16 call your attention to the point of the laser  
17 pointer. This is the location of the proposed  
18 hospital and 17 is the location of the proposed  
19 parking garage addition.

20 You see on the table of assignment and  
21 utilization that we totally are at 2778 spaces  
22 utilizing all of the lots that have been approved by  
23 this Board and we also are showing here the space  
24 allocation for visitors, faculty staff and students.

25 MS. KING: Which is the parking lot  
26 that's going to be destroyed in order to put up the  
27 Wellness Center?

1                   MR. INGLE: That would be on the square  
2 where the pointer is on the northwest -- I'm sorry,  
3 the southwest corner D, Lot D.

4                   MS. KING: And how many spaces do you  
5 lose with that?

6                   MR. INGLE: There's 109 spaces that are  
7 currently in the inventory that will go away and  
8 when it comes back they'll be 140.

9                   MS. KING: Yes, but there will be a  
10 period during which there will be 109 spaces gone  
11 which is approximately the same period during which  
12 there will be 65 fewer spaces because the hospital  
13 will supply a 265 space parking lot with 200 spaces  
14 in the expanded facility two blocks away?

15                   MR. INGLE: That's correct. I would  
16 like to just real briefly talk about this matrix  
17 because that tries to answer your question, Ms.  
18 King. The matrix shows additions and deletions down  
19 the left hand column. It shows the time across the  
20 top and the number of spaces by quarter. At no time  
21 does the ending inventory drop below the 2700 spaces  
22 across the bottom.

23                   I call your attention to the particular  
24 case that you've mentioned in blue where the Health  
25 and Wellness Center will be reduced by 109,  
26 anticipated in the second quarter of 1999. At that  
27 time, we will be adding spaces in the addition

1 column by stacked parking as well as where we will  
2 go to valet parking. We will have already added 75  
3 spaces this year and 50 more in the Marvin Center,  
4 as well as 75 now and 75 next year at the Kennedy  
5 Center. So those add up to a number of spaces that  
6 were offset by the 265, which you've mentioned, that  
7 you showed in yellow with the pointer, will be  
8 offset and we will continue to have 2,725 spaces.

9 MS. KING: Are you suggesting that some  
10 of your staff at the new hospital which functions on  
11 a 24 hour basis are going to be parking at the  
12 Kennedy Center?

13 MR. INGLE: No, I'm not suggesting that.  
14 What the plan indicates that we put in writing to  
15 the Board is that the -- those who are displaced at  
16 the hospital lots will move to the garage.

17 MS. KING: But there are 65 spaces --  
18 there are 265 spaces being destroyed and 200 spaces  
19 being added to the garage. Where do the 65 cars go?

20 MR. INGLE: That is after the new garage  
21 addition is built.

22 MS. KING: That's right and when you  
23 destroy the parking lot that -- where the new  
24 hospital is going to be there's still 65 cars.  
25 Where do they go?

26 MR. INGLE: There has been a demand by  
27 many of the attending physicians and the residents

1 for valet parking as is there has been a demand for  
2 visitors.

3 MS. KING: But where are you going to  
4 put the cars?

5 MR. INGLE: At the Kennedy Onassis lot  
6 which is in this location, where the KOH is  
7 indicated. We will put a valet parking lot. We  
8 have, at this time, 22 spaces on that lot. We will  
9 be 18 additional spaces because it will be valet.  
10 There will be 40 spaces there that will turn over on  
11 an average of every two hours because attending  
12 physicians do not stay all day. We believe we can  
13 park up to 240 cars a day and that will more than  
14 make up for the 65 cars that would normally be  
15 placed on this lot.

16 MS. KING: That's very fancy arithmetic.  
17 It's too obtuse for me. I don't get that. You're  
18 going to have doctors coming in who are going to be  
19 doing surgery and will be in and out in two hours?

20 MR. INGLE: No. Attending physicians  
21 are coming in to see patients.

22 MS. KING: And my niece has a baby and I  
23 go see her in this wonderful Women's Center, where  
24 am I going to park?

25 MR. INGLE: There will be no visitor  
26 parking --

27 MS. KING: No visitor parking for the

1 hospital at all?

2 MR. INGLE: No, there will be no visitor  
3 parking displaced from the University garage as it  
4 is today.

5 MS. KING: And how many spaces are there  
6 there?

7 MR. INGLE: The University parking  
8 garage --

9 MS. KING: No, how many visitor spaces?

10 MR. INGLE: We're looking at that.  
11 Visitor spaces in the University parking garage we  
12 have 250 spaces assigned.

13 MS. KING: Where is that located?

14 MR. INGLE: At this location.

15 MS. KING: This is what you're adding?

16 MR. INGLE: Yes, this is south of where  
17 we're asking for the addition.

18 The existing garage is on this square  
19 north. Directly across the street is the garage on  
20 the southeast corner and we want to add the addition  
21 on the northeast corner which will be closer to the  
22 existing garage and about less than a block away  
23 from the new hospital.

24 MS. KING: Now your Kennedy Center  
25 parking spaces are available only during daytime and  
26 on nonmatinee days, is that correct?

27 MR. INGLE: During the week.

1 MS. KING: Monday through Friday --

2 MR. INGLE: 7 a.m. to 7 p.m.

3 MS. KING: So that doesn't really have  
4 much of an impact, but you're not counting that as  
5 parking for the hospital?

6 MR. INGLE: We're -- not for the  
7 hospital. There may be some who work in the  
8 hospital who would prefer the lower rate and  
9 therefore we'd be glad to have them go to the  
10 Kennedy Center and use the shuttle, but we're not  
11 counting on that for the hospital parking.

12 As I indicated earlier, just as a way of  
13 explanation, it's a dynamic changing environment and  
14 the utilization of the various lots is very  
15 important. There are large numbers of people who  
16 come and go and they come in and out and so the  
17 utilization changes from lot to lot. Now some are  
18 very stable. You have 36 people who are assigned to  
19 2116 G Street where you have 34 faculty and staff  
20 spaces allocated. So it's very stable. You have  
21 other places --

22 MS. KING: I'm sorry, you have 34 spaces  
23 and 36 people own them?

24 MR. INGLE: 36 people are assigned to  
25 that lot, but they don't -- they're not always  
26 there. For example, you have a lot at 20th and H  
27 Street that is an occasional lot where you have

1       decal parking of 390 cars using a lot where there's  
2       59 in conjunction with lot 9 we have 53. So you  
3       have just over 100 spaces for that 390 vehicles who  
4       come and go. That's how parking lots work. You  
5       don't have a space sitting there waiting for people  
6       --

7                   MS. KING: But then you've got 14 spaces  
8       in that other, so actually it's not 390, it's 404?

9                   MR. INGLE: That's correct. It's a  
10       dynamic changing situation where parkers come and go  
11       and you don't, you can't sell a space and have it  
12       there permanently for an individual to use. You  
13       have to -- our parking management who manage this  
14       have got to manage the program so that we get  
15       maximum utilization with the 2700 to 3000 spaces  
16       that are mandated.

17                   MS. KING: And all of the alterations to  
18       the Marvin Center, the building of the Wellness  
19       Center, the media and whatever it is thing we did  
20       the other day and the hospital, all of this going to  
21       have no impact on your bottom line which is between  
22       2700 and 3000 parking spaces on any given day of the  
23       year?

24                   MR. INGLE: We have shown that the  
25       stacked spaces and the valet parking at the Marvin  
26       Center will more than make up for the temporary loss  
27       of spaces as we construct the Health and Wellness

1 Center and the other construction projects.

2 MS. KING: And for 24 hours a day this  
3 number of spaces is available, never less than 2700?

4 MR. INGLE: At present, we have no  
5 waiting list for parking and we very seldom fill up  
6 the parking. The exception would be, for example,  
7 on Veterans Day when everyone poured out of the  
8 Metro to go down to the memorials and monuments, we  
9 had to shift certain parkers from one lot to  
10 another, but that's an exception that happens two or  
11 three times a year. We don't have a waiting list on  
12 our --

13 MS. KING: But --

14 CHAIRPERSON REID: Ms. King, we need to  
15 move on.

16 Continue Mr. Ingle.

17 MR. INGLE: Thank you. We don't have a  
18 waiting list and we don't fill, we generally don't  
19 fill up our facilities. We manage the space so that  
20 visitors are accommodated and our faculty and staff  
21 and students when they request a decal are given  
22 space and we don't have a problem with the 2700 to  
23 3000 and with the program that we've described here  
24 with the additions and deletions, we can manage the  
25 program and I repeat, never falling below the 2700  
26 spaces and coming out at the end with about 3000  
27 spaces which will be, as you can see, somewhere

1           around 200 more than what we have today, if we  
2           continue the stacked parking.

3                       MS. KING:   And the 2700, how many decals  
4           which are presumably somebody puts down a certain  
5           amount of money, gets a decal and they are therefore  
6           entitled to park somewhere in those 2700 spaces, is  
7           that correct?

8                       MR. INGLE:   No, a decal does not  
9           necessarily cost an individual money.  There are  
10          decals for occasional parkers who buy tickets and  
11          only upon presenting a ticket do they park -- you  
12          must have a decal and a ticket.  Now we have other  
13          contract parkers that are very similar to what  
14          you're saying, Ms. King, that they do pay a monthly  
15          fee and they park based on that kind of a decal.

16                      MS. KING:   How many of those are there?

17                      MR. INGLE:   The purpose of the space  
18          utilization table is to describe the fact that we  
19          have 4,982 faculty and staff who park at one time or  
20          another, authorized parking.  We have 2,105 students  
21          who park at one time or another.

22                      MS. KING:   So that's 7,000 people give  
23          or take a few.

24                      MR. INGLE:   Right.

25                      MS. KING:   Parking in 2778 spaces.

26                      MR. INGLE:   That's correct.  And what we  
27          anticipate doing is adding below the line because

1       it's an as-needed capacity, the Kennedy Center and  
2       you can see the distribution that we anticipate, 75  
3       for faculty and staff, 75 for students with the  
4       utilization as shown today and the valet parking at  
5       the Marvin Center which will also be distributed.

6               MS. KING: So inevitably there are days  
7       when of the 7,000 odd people who are entitled to  
8       park or have some kind of decal or something or  
9       other, and I mean several thousand people could be  
10      dumped on the streets of Foggy Bottom because  
11      they're not able to park in the available parking  
12      spaces. Is that correct?

13             MR. INGLE: If all 7,000 people came to  
14      campus that is correct.

15             MS. KING: Well, even if half of them  
16      came, there are going to be a couple of thousand  
17      people on the streets.

18             MR. INGLE: Since 1990 that has not  
19      happened. Even in the case of, an extreme case of -  
20      - such as Veterans Day when we filled up the garage,  
21      we diverted people to another, to the valet parking  
22      at the Marvin Center or some other garage.

23             MS. KING: Now, were these members of  
24      your -- were these faculty and staff that you're  
25      talking about?

26             MR. INGLE: No, these were visitors who  
27      came and used our facilities because we have parking

1       there for visitors, just as they would go to the  
2       Colonial Parking Garage or some other garage and  
3       then they walked to the memorials.

4                     MS. KING:   Okay.

5                     MR. FRANKLIN:  Could I ask one question  
6       about the construction personnel.  I take it that  
7       the construction personnel during this project, if  
8       it goes forward would have to be accommodated in  
9       other than your parking lots, is that correct?

10                    MR. INGLE:  That is correct.  First of  
11       all, we want to make it very clear, we cannot  
12       control the people who work for the contractors, but  
13       what we have indicated in a letter to the Chair, Ms.  
14       Reid, on 13 November that we will include in our  
15       request for bids, proposals and quotations a  
16       statement -- and if I may, I'll read it to the  
17       record.  This statement will be in all of our  
18       specifications and our requests.  "Parking is not  
19       available on campus and will not be provided at or  
20       near the construction site.  The contractor shall be  
21       responsible for locating and providing parking as  
22       required for its forces, including subcontractors.  
23       The contractor shall also be responsible for  
24       providing his own shuttle or other form of  
25       transportation from the remote parking site to the  
26       construction site."

27                    We believe that this is standard

1 practice in many places. This is not a small  
2 commitment, but we believe that it is the right  
3 thing to do, first for our students and not only for  
4 our students, but to be certain that we can continue  
5 this program that we offer here today in an  
6 appropriate manner.

7 MS. KING: How do you enforce that?

8 MR. INGLE: We insist that the general  
9 contractors include it in their subcontracts as they  
10 are placed and then we will be certain to monitor  
11 who is coming to the site.

12 Now as I said in my opening remarks here  
13 on this subject, we cannot be responsible for going  
14 around the neighborhood checking to see whose cars  
15 are parked in and around the site, but we certainly  
16 will be working with the -- not only the general  
17 contractors, but with parking operations in the  
18 downtown area as well as in other remote areas to  
19 make sure it happens.

20 MR. FRANKLIN: Is there going to be a  
21 staging or lay down area for materials during the  
22 course of construction? Will that require closing  
23 of --

24 MR. INGLE: I will have to ask our  
25 construction manager to address that.

26 MR. MOORE: We will go and get someone  
27 else to answer that question, Mr. Franklin. Thank

1       you.

2                       Madam Chair, other questions of the  
3       Board?

4                       CHAIRPERSON REID:   No.

5                       MR. INGLE:   I wanted to just to note  
6       that in closing off that discussion that I reiterate  
7       that at no time will we go below the 2700 parking  
8       spaces that's in the campus plan.  We have worked  
9       this out and we will be very certain that we adhere  
10      to that.  I also want to make it clear because I'm  
11      not sure if I have that at all times all of the  
12      faculty, staff and students who work for the  
13      University are given a parking space and we  
14      generally provide visitors to the University parking  
15      spaces, as well as outside visitors.  But I think  
16      it's most important to know that we take care of all  
17      the parking needs of the faculty, staff and students  
18      within the parking program that you see here today.

19                      There are a couple of other points that  
20      I want to make regarding the -- related to the  
21      parking program.  I think it is important to call to  
22      the Board's attention that in order to further  
23      alleviate traffic and parking congestion on campus,  
24      the University has developed and has vigorously  
25      begun promoting a campus-wide carpooling initiative  
26      that provides for a good economic incentive of  
27      approximately 33 percent for students, faculty and

1 staff to carpool from their homes to the campus with  
2 two or more riders sharing the ride. The program  
3 guidelines and economic incentives are included in  
4 the carpooling literature that we will provide to  
5 the Board today. The completion of the primary  
6 phase of our parking automation system which is  
7 underway will promote this service which is targeted  
8 for completion in early 1999.

9           Additionally, the University is  
10 committed to promoting any and all reasonable Metro  
11 programs that encourage students, faculty and staff  
12 to use Metro rail or Metro bus including, but not  
13 limited to the sale of Metro passes, Metro check and  
14 the most recent pre-tax Metro payment plan as an  
15 incentive for Metro use.

16           The University has worked with our  
17 college bookstore to establish an arrangement  
18 whereby Metro fare cards are offered for sale at the  
19 University bookstore customer service counter.

20           The G.W. Bookstore actively advertises  
21 and promotes the sale of our fare cards and provides  
22 a convenient accessible location to obtain them.  
23 The fare cards, I'm pleased to tell you, are sold  
24 including a customer bonus of 5 percent savings as  
25 an incentive for their use.

26           The University is also actively working  
27 to initiate the recently approved pre-tax transit

1 benefit for our employees. The University has held  
2 internal planning meetings and has been working with  
3 senior representatives of the Metro on the pre-tax  
4 Metro check program recently regulated. A tentative  
5 start date for the Metro check program is spring  
6 1999.

7 Finally, the testimony by the George  
8 Washington University representatives here today  
9 related to the parking garage addition, Mr. Art Bean  
10 representing the Gilbain Company for construction  
11 management and Mr. Lou Slade of Grove Slade  
12 Associations for our traffic analysis will  
13 demonstrate to the Board that the parking garage  
14 addition should be approved. We thank you for your  
15 consideration and hope for an affirmative decision.

16 CHAIRPERSON REID: Thank you very much  
17 for your testimony.

18 MR. MOORE: Questions from the Board for  
19 Dr. Ingle?

20 CHAIRPERSON REID: They have asked the  
21 questions that they had.

22 MR. MOORE: Thank you. I will briefly  
23 call on Arthur Bean who will offer testimony on the  
24 University parking garage from a design aspect.

25 MR. BEAN: Hello. My name is Arthur  
26 Bean. I reside at 6349 South Undertrail in  
27 Columbia, Maryland. I'm a licensed architect

1 representing the George Washington University as the  
2 project manager for the addition to the University  
3 parking garage.

4 I'm representing -- I am presenting the  
5 University's proposal to construct an addition to  
6 the existing parking garage currently located at  
7 22nd and H Streets in an effort to provide  
8 additional parking for the George Washington  
9 University.

10 The proposed use of the site for the  
11 parking addition is consistent with the approved  
12 campus plan designations for the site. In BZA  
13 application No. 14455, the BZA approved the  
14 University's campus plan for the Year 1985 through  
15 the Year 2000 and designated square 55 for mixed use  
16 purposes which includes support such as athletic  
17 facilities, administrative offices, physical plant  
18 facilities, auxiliary services, parking and related  
19 George Washington University functions and also  
20 includes residential with educational mixed use and  
21 both categories include parking.

22 The proposed addition at the northeast  
23 corner of the existing parking garage located at  
24 22nd and I Streets, the current -- the site  
25 currently contains a surface parking lot, vacant  
26 space and a small University building. The proposed  
27 addition will have three levels below grade and nine

1 elevated levels to provide 200 additional parking  
2 spaces. The lot coverage for the addition will be  
3 79 percent. However, zoning regulations currently  
4 allow 75 percent. The aggregate structure including  
5 the approval of the University Hospital will not  
6 exceed the 3.5 FAR allowed by the campus plan.

7 The maximum height to the roof of the  
8 structure will be just over 85 feet, although 90  
9 feet is permitted.

10 The parking garage addition was designed  
11 by our nationally renown parking consultant Desmond  
12 Associates. Our designers studied alternatives to  
13 maximize the number of new spaces while minimizing  
14 the size of the structure. We asked our designers  
15 to focus on creating the most efficient parking  
16 structure given the constraints of the site. The  
17 efficiency of the floor plan was achieved by  
18 utilizing ramps in the existing structure. All  
19 vertical vehicular circulation is accomplished  
20 through the existing structure.

21 The width of the structure was  
22 determined by the width of two rows of parked cars  
23 and the minimum width drive aisle to service the  
24 spaces. This is the smallest possible structure to  
25 accommodate an additional 200 self-park spaces and  
26 represents the most efficient use of the available  
27 site.

1                   Vehicle access to the existing parking  
2 garage and addition will be the same as it currently  
3 exists. Vehicle egress from the existing parking  
4 garage and addition will be the same as it currently  
5 exists.

6                   Egress from the addition will use the  
7 existing driveways on H Street and 22nd Street. A  
8 curb cut and driveway will be eliminated on 22nd  
9 Street. The curb cut will no longer be necessary to  
10 access the existing surface parking lot.

11                   On the northwest corner of the garage  
12 addition we will provide a stair tower to allow  
13 pedestrians to access the I Street. For security  
14 reasons, we will clad the stair tower with glazed  
15 windows to allow pedestrians to see out while  
16 pedestrians at I Street can look into the stair  
17 tower. The glass wall system represents the  
18 architectural glass wall system at Rome Hall  
19 opposite the garage on 22nd Street. This is the  
20 tower.

21                   The horizontal bands of the existing  
22 garage facade will continue through to the new  
23 addition. The exterior of the parking garage will  
24 be consistent, will consist of precast concrete  
25 panels of a color consistent with the existing  
26 building. The garage addition will have a narrow  
27 vertical element at the corner of I and 22nd

1 Streets. This narrow vertical element enhances the  
2 corner while emulating the existing garage towers.

3 As is customary for University  
4 buildings, the addition will be carefully landscaped  
5 and set back an additional seven feet from the  
6 existing garage along the 22nd Street side. This  
7 will allow the University to provide a wider band of  
8 landscape space adjacent to the parking structure  
9 than currently exists. Overall, the street side  
10 landscape space is similar in size to the landscape  
11 space which currently exists.

12 In summary, we have demonstrated this  
13 addition as an effective solution to a challenging  
14 problem. The addition has been designed to match  
15 the existing structure. It has been designed to  
16 maximize the number of spaces and minimize the  
17 impact of the structure on the site.

18 The architecture is consistent with the  
19 urban context. The addition provides an effective  
20 solution consistent with the campus plan objectives  
21 to create the most offsite parking possible.

22 Let me emphasize once again this is the  
23 smallest possible structure to accommodate an  
24 additional 200 self park spaces and represents the  
25 most efficient use of the available site.

26 Thank you.

27 MR. MOORE: Madam Chair, without

1 objection, I would ask that the Board would qualify  
2 Mr. Bean's testimony as expert. I am passing up a  
3 résumés. He has over 16 years of experience as an  
4 architect. I'll pass that up to the staff.

5 CHAIRPERSON REID: Okay.

6 MR. MOORE: I offer Mr. Bean for any  
7 questions that the Board may have.

8 CHAIRPERSON REID: Questions?

9 MR. GILREATH: The 200 spaces that will  
10 go in there, they are the ones that are presently on  
11 the site where the hospital will go?

12 MS. KING: No, there are 265 on the  
13 site.

14 MR. GILREATH: So we lose 65. First of  
15 all, I'm not an architect, but I've worked in the  
16 urban planning field for 30 some odd years and the  
17 linearity, these horizontal bands there, this takes  
18 up the whole lot and to my mind it looks  
19 extraordinarily massive. Now maybe if you were to  
20 do some kind of vertical treatment of this addition  
21 -- it might be worse, but I must admit, this looks  
22 like a huge structure with this -- simply because of  
23 the linearity, the horizontal bands.

24 MR. BEAN: The bands actually help to  
25 bring the size down. If we added vertical bands, it  
26 would appear to be larger than it currently is.

27 CHAIRPERSON REID: Repeat that again?

1                   MR. BEAN: The horizontal bands help to  
2 make the structure appear to be lower. If we added  
3 vertical bands it would appear to be a taller  
4 structure.

5                   MR. GILREATH: Is there any other kind  
6 of treatment to make this dissimilar, rather than  
7 identical to the existing structure? I don't know  
8 what can be done.

9                   MR. BEAN: We are currently  
10 investigating alternatives. We are in the very  
11 early stages and currently are just trying to match  
12 the existing structure.

13                   MR. GILREATH: To me, I would suggest is  
14 there anything to treat this addition a little bit  
15 differently so it doesn't create one mass for the  
16 whole block? Maybe this is the best solution.

17                   MS. PRUITT-WILLIAMS: Mr. Gilreath, I  
18 think if the architect has a copy -- a facade  
19 treatment like this one, I think the perspective is  
20 throwing people off. That drawing there, the photo  
21 --

22                   MR. GILREATH: Because of the angle?

23                   MS. PRUITT-WILLIAMS: Yes, I believe  
24 it's a little bit deceiving. It appears taller.

25                   MR. GILREATH: Anyway, you might give it  
26 a little consideration to see if there's any way of  
27 differentiating between the two to break the mass

1 up.

2 MS. PRUITT-WILLIAMS: Do you have an  
3 elevation of the longer side of your building?

4 CHAIRPERSON REID: Or another view?

5 MS. PRUITT-WILLIAMS: That's the longest  
6 side that's shown there and elevation?

7 Okay, so it's a different perception  
8 when you look --

9 MR. INGLE: This section here is the  
10 existing ramp and it slants. It really is a ramp.  
11 What we've chosen to do on 22nd Street is to level  
12 this out because to access through the existing  
13 garage at every level, come through, break through  
14 the wall so that we can come in and not have space  
15 taken up for aisle ways. So this is the long view.

16 The short view on I Street is shown here  
17 with this same corner column being this column and  
18 in this case to the east and then the glass as Mr.  
19 Bean indicated to the west. So this is the short  
20 view.

21 MS. PRUITT-WILLIAMS: For the record,  
22 the elevation to the right, bottom right is actually  
23 the new construction. Everything else is existing.

24 MR. INGLE: That's correct, and I think  
25 I want to point out one other thing.

26 CHAIRPERSON REID: You cannot speak from  
27 the floor, Mr. Watson.

1                   MR. INGLE: I wanted to clarify an issue  
2                   that as we review with the architect and Mr. Bean  
3                   the concepts, we did have varying views as to  
4                   whether it would be more appropriate to use the same  
5                   kinds of texture and the same kinds of design as the  
6                   existing garage structure or whether to change it  
7                   and what we think we ended up with was we hope the  
8                   best of both worlds where we didn't use this massive  
9                   column on the corner, but something less intrusive,  
10                  but we did stick with the horizontal banding as Mr.  
11                  Bean indicated. It gives you a longer look, and  
12                  less tall.

13                  The only other comment I'd like to make  
14                  is as we set this up in the computer, this is a  
15                  conceptual computerized photo. It jumps out at you.  
16                  These details were photographs taken of the existing  
17                  structure and it jumps out at you and this is not a  
18                  ground eye view. It is a bird's eye view from about  
19                  three or four floors up. So it does appear from  
20                  this angle in the conceptual computerized view to be  
21                  very large because of the way it was laid out in the  
22                  computer.

23                  MR. GILREATH: The existing parking  
24                  facility, did you say that's a little bit slanted.  
25                  It's not actually level, whereas the addition will  
26                  be level?

27                  MR. INGLE: It is a ramp. As they call

1       them, Mr. Bastida and I talk about how in the  
2       Midwest they call these parking ramps because they  
3       really run up hill as they go around and get higher  
4       and what we've chosen to do is level this out so  
5       that from each level we break through the wall,  
6       through a level with the only slope being for  
7       drainage, water drainage in the addition as we move  
8       from the existing -- whoops -- the existing garage  
9       into the spaces, we will be able to turn in either  
10      to the left or to the right and then back out, go  
11      back out the same way.

12                    These are the upper levels. This is the  
13      level off of I Street.

14                    MR. GILREATH: Well this still would  
15      suggest to me the addition because it is level and  
16      the other is slanted or sloped. The architects  
17      might think this is the very best possible solution,  
18      but I think I'd be advisable to say is there  
19      anything you can do so there is not this continuous  
20      expanse?

21                    MR. BEAN: We will continue looking at  
22      that and I think there are some other ideas. As I  
23      said, we had different varying views and we're going  
24      to look at it.

25                    MR. FRANKLIN: I want to associate  
26      myself with Mr. Gilreath's concern because I think  
27      that the modern treatment of urban parking garages

1 has actually been intended to disguise them so they  
2 don't look quite like parking garages and look like  
3 something a little bit more urbane and at least  
4 along the lower levels. How is this going to be  
5 illuminated at night? Are there going to be a lot  
6 of fluorescent lights on this thing?

7 MR. BEAN: We'll have high pressure  
8 sodium lights inside the garage. It will not  
9 project out onto the street.

10 MR. FRANKLIN: It will not? These  
11 yellowish in cast?

12 MR. BEAN: They should be closer to  
13 white.

14 MR. FRANKLIN: White. I would urge you  
15 to look at some way of differentiating this decree  
16 to avoid -- well, he's concerned about the massing  
17 which I think is a legitimate concern, but the  
18 monotony itself is an independent concern.

19 MR. INGLE: One of the things that  
20 Desmond has told us in their preliminary designing  
21 is that as you close in the sides above these, each  
22 parking level, as you close that in, you run into  
23 additional design problems related to closed in  
24 environment and all of the issues with HVAC and  
25 issues with air and drainage and they advised us to  
26 continue with some more traditional design rather  
27 than to try to turn it into a building.

1                   MR. MOORE: Other questions for these  
2 witnesses, Madam Chair, from the Board?

3                   CHAIRPERSON REID: We have no further  
4 questions.

5                   MR. MOORE: Then I would thank these  
6 witnesses and call on our traffic and parking  
7 consultant Grove Slade and Associates. May I have a  
8 ruling on Mr. Bean's --

9                   CHAIRPERSON REID: Mr. Moore, yes, he  
10 certainly will be admitted as an expert witness.

11                  MR. MOORE: Thank you and while you're  
12 at it. I believe Louis Slade has been admitted as  
13 an expert witness numerous times before the Board in  
14 traffic and parking issues and I'd ask you to admit  
15 him as well.

16                  CHAIRPERSON REID: We will, particularly  
17 since he's already been admitted many times.

18                  MR. SLADE: Good evening, Madam  
19 Chairperson and members of the Board. I'm Louis  
20 Slade with Grove Slade Associates. I reside at 3500  
21 Quesada Street in Washington, D.C. I'm a registered  
22 professional engineer. Our role on this team has  
23 been as traffic consultant and working with the  
24 architects on the site planning. I will be  
25 addressing the question of a loading dock for all of  
26 you, especially Ms. King and ambulance entrance.  
27 I'm going to try to cover everything and I'm going

1 to try to do this very efficiently.

2 I do want to note that while I have been  
3 qualified many times here, we have worked on a  
4 number of health care and hospital facilities  
5 include Sibley, Washington Hospital Center,  
6 Georgetown University Medical Center here in  
7 Washington, University of Maryland Medical System in  
8 downtown Baltimore, Suburban Hospital, NIH, Clinical  
9 Research Center in Bethesda and many others  
10 including the Hospital of University of Pennsylvania  
11 in the campus area in downtown Philadelphia. So  
12 we're not new to dealing with large hospitals in  
13 urban settings like this. Of course, we've been  
14 working on the campus for the last couple of years.

15 I want to point out two very important  
16 aspects of these two proposals that are before you  
17 today from a transportation planning standpoint  
18 because I think there's some very big picture issues  
19 that we need to talk about and realize.

20 First of all, the combination of the two  
21 projects, the closing or the destruction of the 265  
22 car parking lot and placing the hospital on that  
23 site as a replacement for the existing hospital and  
24 creating 200 new spaces at the garage I think are  
25 very logical steps to be taken at this campus and in  
26 this city at this time. I think it's almost an  
27 embarrassment to all of us that we have a surface

1 commuter parking lot sitting on a Metro station in  
2 downtown Washington. And the hospital is a very big  
3 generator of Metro rail patronage. The hospital did  
4 a survey with WMATA recently and the respondents  
5 which were in the several hundreds indicated that  
6 over 60 percent of them used Metro to commute to  
7 work. This is a big user of Metro rail services and  
8 it's already, of course, has great proximity to the  
9 station, but by putting it right on the station, I  
10 think it's the right thing to do from a  
11 transportation planning standpoint.

12 We move the parking places over to the  
13 University parking garage as you just heard, a site  
14 that's already dedicated to parking and we move all  
15 that traffic that that surface parking lot generates  
16 right onto New Hampshire Avenue, into the interior  
17 of the campus where it has much less effect on the  
18 community. I think that this -- I want to -- I'll  
19 come back to this logic as I go through this because  
20 I think these two points are very important in a  
21 broad brush way. They're so important they almost  
22 overwhelm many of the details.

23 Now it's important to note that the two  
24 proposals are independent of one another. When we  
25 began looking at the hospital with the University,  
26 we had -- we looked at opportunities to increase  
27 parking among all the University parking sites in a

1 way that we could save 2700 spaces without building  
2 the garage. So if the garage weren't built, we  
3 could actually still develop 2700 or more parking  
4 places. Likewise, we could build the garage and not  
5 change the hospital at all and stay under the 3,000  
6 limit, so the two projects, while dovetailed and  
7 interrelated in practicality, do stand alone from a  
8 standpoint of what they do and how they fit in the  
9 campus plan. At a very basic level, I think the  
10 traffic effects and the parking effects of these two  
11 proposals are quite straight forward. There's a lot  
12 happening on this campus and we took that into  
13 account and I'm going to go into that, but let me  
14 just talk about the straight forward implications of  
15 the two proposals.

16 First of all, we're just moving the  
17 hospital across the street. The hospital doesn't  
18 have parking to itself. The hospital relies on  
19 parking currently across the street and later when  
20 we expand that garage. The hospital of itself  
21 generates vehicular traffic at three locations. It  
22 has a loading dock today. The existing hospital has  
23 a loading dock today and the trucks come and go all  
24 day. And we're moving that from I Street, just east  
25 of 23rd over to that corner of the site that was  
26 referred to in the earlier testimony. So that's a  
27 change, but it's really just a relocation of an

1 existing facility.

2 We did surveys at the loading dock and  
3 it generates less than 30 truck trips a day. And 30  
4 arrivals and 30 departures is 60 trips and I'm going  
5 to enumerate these changes for you.

6 Then we're moving --

7 MS. KING: Which occur between what  
8 hours?

9 MR. SLADE: Our surveys were from 6 a.m.  
10 until after 6 p.m., but not 24 hours. Mostly  
11 because of course the traffic activity in the  
12 neighborhood is low ebb. I don't know if we have  
13 anybody here to tell you what happens at night, but  
14 there is not a lot of loading activity at night.

15 Then we're moving the front door or the  
16 port couchere which has a U shaped driveway today on  
17 the east side, we're moving it over to the west  
18 side. It's not a mirror image, but in function,  
19 it's just a mirage image. We're flopping that front  
20 door over to the other side.

21 If you've used the hospital or visit  
22 there, you probably have observed that those -- that  
23 the entrance and exit of that U-shaped driveway  
24 generates very little traffic. During the peak  
25 hours, we always had less than 15 or 20 vehicle  
26 trips. It's a very, very low generator. We're  
27 moving it onto the other side of the street.

1                   Finally, the emergency room driveways  
2                   and access for ambulances currently are on  
3                   Washington Circle and come out on the north side of  
4                   the existing hospital site. We're moving that, of  
5                   course, to enter on New Hampshire Avenue and to exit  
6                   onto 23rd Street, again near the circle.

7                   So these are the three changes that the  
8                   hospital replacement effects. And I mentioned about  
9                   60 truck trips a day. During the peak hour only  
10                  about 15 or less trips in and out of the U-shaped  
11                  driveway and based on hospital records, there's an  
12                  average of about 10 ambulance trips a day and maybe  
13                  60 total emergencies a day, some of which walk in,  
14                  many of which of course come in by private car or  
15                  taxi cab.

16                  So we're taking 500 -- I'm sorry, 265  
17                  car parking lot, destroying it, I hope, because it's  
18                  at the wrong place, moving it into the interior of  
19                  the campus. That parking lot, as Dr. Ingle  
20                  testified, has turnover because it's used by  
21                  physicians and they are attending physicians and  
22                  they come and go every couple of hours. There's not  
23                  a lot of peak hour activity generated by that  
24                  parking lot, but it goes on all day and into the  
25                  evening because of its use.

26                  Even if it only turned over once a day  
27                  that would be 265 or let's say 250 arrivals and 250

1 departures. That's 500 trips on New Hampshire  
2 Avenue today generated by that parking lot, being  
3 replaced by the loading dock, 60 trips and the  
4 entrance to the emergency room, maybe another 60  
5 trips. So we're taking away at least 500. I think  
6 it's closer to a 1,000 trips a day off of New  
7 Hampshire Avenue and replacing it with about 120. A  
8 radical change in the effect, in the amount of  
9 traffic on New Hampshire Avenue. 23rd Street  
10 carries 29,000 cars a day. New Hampshire Avenue  
11 probably carries about 20,000 or less. Maybe it's  
12 in the teens. So we're taking away a 1,000 from  
13 maybe 15,000. That's -- that is a benefit by  
14 destroying that parking facility.

15 MS. KING: It's hell anyways, you know.  
16 Now it's hell. It's probably going to be hell for  
17 the rest of our natural lives.

18 MR. SLADE: We call that latent demand,  
19 other people waiting out there for a little bit of  
20 capacity to fill up.

21 Two other points I want to mention, the  
22 relocation of the 265 spaces to the 200 car  
23 expansion and to another site nearby provides  
24 parking that is reasonable and convenient to the  
25 hospital. It's a little bit further away, but it's  
26 still only within a block, so that parking  
27 replacement plan will work well.

1                   The expansion of the garage will require  
2                   the taking and demolition of a small University  
3                   building that has about 30 employees. They'll be  
4                   absorbed elsewhere into the campus without any  
5                   additional building and so that will really have no  
6                   significant effect on traffic or parking. They'll  
7                   still come to work the same way they do and probably  
8                   park in the same place.

9                   Now let me go through the studies that  
10                  we did and try to summarize them quickly for you.  
11                  We addressed traffic impacts. That's the level of  
12                  service at intersections that we always do and I'll  
13                  go through them quickly for you. We addressed the  
14                  campus-wide parking supply changes that are going to  
15                  occur over the next three years that Dr. Ingle did  
16                  by simply reviewing them with him and looking at  
17                  data that his parking people keep on occupancy  
18                  levels to insure that that was going to continue to  
19                  work okay. There would be adequate parking.

20                  Finally, we reviewed this loading dock  
21                  issue in some detail. In addition, since we did our  
22                  reports we've been to several community meetings and  
23                  they have raised a number of issues and I'm going to  
24                  comment on a few of them. Pedestrian traffic on the  
25                  west side of 23rd Street. This is a highly utilized  
26                  sidewalk. Safety at the proposed hospital driveway  
27                  is along that sidewalk and ambulance access

1 especially from New Hampshire Avenue.

2 Our traffic impact analysis covered that  
3 campus area and I'll just quickly tell you what's on  
4 the map to the left. This is -- shows four  
5 categories of projects we took into account. First  
6 of all, of course, the proposed hospital site and  
7 the proposed expansion of the UPG garage. Those are  
8 the proposals here today. We talked about some  
9 other projects that the hospital has approved, the  
10 Marvin Center expansion, the Law Center expansion  
11 and the Health and Wellness Center. The Media and  
12 Public Affairs building was before you in the last  
13 couple of month as not as of yet approved, but we  
14 took it into account as though it were approved and  
15 would affect changes on the campus.

16 Finally, we looked at some off-campus  
17 projects which are in various stages of  
18 implementation. 2200 M Street north of Washington  
19 Circle, the Red Cross redevelopment, the Associated  
20 General Contractors redevelopment and the new IMF  
21 building. These are all projects that we took into  
22 account.

23 Finally, because there was a lot of  
24 question about this, what might happen on the  
25 existing, to the existing hospital building in terms  
26 of backfilling that building, we made an assumption  
27 which the University thought carefully about that

1 the worse case that could happen would be that it  
2 would backfill with University office uses, that  
3 there would be additional administrative offices and  
4 so forth, so that it would generate traffic like the  
5 University office building does. And we assume that  
6 that would happen.

7 We looked at, I believe it's eight  
8 intersections. You can see them in the light blue  
9 circles, two of them here at Washington Circle,  
10 going around the hospital site and then the  
11 intersection around the University parking garage  
12 site. That was the study area to look at traffic  
13 intersection impacts.

14 One of these intersections, 23rd Street  
15 at Washington Circle, currently operates at level of  
16 service F. It will continue to operate at level of  
17 service F, regardless of these proposals, all of  
18 these proposals. It needs to be fixed. It would  
19 require massive changes --

20 MS. KING: Fiendish? What is level F?

21 MR. SLADE: I like fiendish if I may use  
22 that. It means that --

23 MS. KING: Foul?

24 MR. SLADE: The delays are excessive and  
25 the average delay in the intersection is 60 seconds  
26 or more. In this case, it's probably considerably  
27 more than that during the peak hour.

1                   We think that there are potential ways  
2                   to modify how that circle is operated, using some of  
3                   the tricks at some of the other circles in the city.  
4                   Of course, none of them operate very, very well, but  
5                   we love them, don't we?

6                   MS. KING: Sometimes we do.

7                   MR. SLADE: With that exception, 23rd  
8                   and the circle, all the other intersections  
9                   currently operate at adequate levels of service,  
10                  that is D or better and will continue to operate at  
11                  D or better because basically what we're doing with  
12                  all these University projects is shuffling uses  
13                  around on the campus and not really adding any major  
14                  new generator of traffic.

15                  I don't think I need to say much more  
16                  about Dr. Ingle's testimony about the University  
17                  parking plan. I hope it's clear that what the  
18                  University has done very carefully is looked at the  
19                  future three years in quarterly segments to  
20                  determine that it can maintain its parking above  
21                  2700 spaces. I think the worse it falls to is 2725  
22                  which is about 50 below what we currently have, a  
23                  small percentage of the current capacity which is  
24                  easily absorbed by the ebb and flow of demand of  
25                  parking at a campus like this.

26                  By the time that third year comes,  
27                  you'll -- I think you'll have the new campus plan

1 before you when you're revisiting the whole parking  
2 issue.

3 Now with regard to truck loading. I  
4 mentioned that the current loading dock is simply  
5 going to be relocated. We do anticipate some growth  
6 and I should have mentioned this about general  
7 traffic, visitor traffic and so forth at the  
8 hospital, employee traffic. The forecast for the  
9 hospital are that there will be more active levels  
10 of bed utilization, outpatient visits and so forth,  
11 so we use the hospital's forecast to -- and applied  
12 them to the traffic numbers. It's about -- I think  
13 it's between 10 and 15 percent increase, about a 14  
14 percent increase in activity at the hospital. The  
15 loading dock, however, will not have any more trucks  
16 than it currently has. The trucks will simply have  
17 more goods on them if the hospital needs more  
18 bandages, the bandage truck will have an extra  
19 couple of boxes. So we're currently generating  
20 about 30 truck trips a day. Now that includes small  
21 vans. It includes automobiles. It includes what we  
22 call single unit trucks, not the big articulated  
23 trucks, and it only includes one tractor trailer,  
24 articulated truck a day, although sometimes there's  
25 two, just depending on scheduling and that's because  
26 one of the biggest suppliers comes to the  
27 metropolitan area from out of the metropolitan area

1 and hits many hospitals and they have loads for many  
2 hospitals. It's as though your apartment is on one  
3 part of a moving truck and someone else's apartment  
4 is in another part of a moving truck and that truck  
5 has to go to many locations.

6 The loading dock works very well for 29  
7 of the 30 vehicles. The smaller trucks, the vans,  
8 the cars, they'll pull up in front of the loading  
9 dock and back right in without any problem  
10 whatsoever. Tractor trailer truck will be more  
11 difficult. And that will require some management.  
12 I think that someone will have to come out from the  
13 loading dock and hold traffic in the intersection  
14 area while that truck backs in. This is commonplace  
15 in the city. I drive down Connecticut Avenue every  
16 morning and Giant has a tractor trailer across all  
17 six lanes about once a week and probably more. I  
18 happen to see it once a week. That will happen  
19 here, but there is adequate space for that truck to  
20 maneuver within the curb space and if it becomes a  
21 problem that supplier can alter the way he delivers  
22 to this particular location and may have to, but  
23 that's something we think won't have to be done at  
24 all.

25 You may remember you had a similar issue  
26 in this particular intersection with the 7-11 case.  
27 I don't remember exactly when that was and it wasn't

1 one of our projects, but we took a look at the order  
2 and we did talk to 7-11 about how they're scheduling  
3 their trucks and so forth and these would be the two  
4 facilities, our loading dock and that 7-11 who would  
5 bring trucks into this area and we can easily work  
6 with them on their schedule.

7 I think that's all I have on the truck  
8 loading at this point.

9 Let me now talk about pedestrian safety  
10 on 23rd Street. The sidewalk on the west side of  
11 23rd Street is very active. This is an exciting  
12 area if you use the station because of the I Street  
13 Plaza and the Metro rail station. The station  
14 generates about 34,000 patron trips a day, 17,000 in  
15 and 17,000 out. The hospital, we have taken -- made  
16 a guesstimate, generates about 2600 out of 34,000, 7  
17 or 8 percent. So the hospital is a pretty important  
18 component of that station patronage.

19 Now when the hospital patrons come out  
20 of the station they have to cross 23rd Street and  
21 walk up to the hospital. In the future though,  
22 they'll come out of that station all you can see  
23 right here in the corner of the site, walk down the  
24 sidewalk and right in at this location. So we're  
25 taking a lot of traffic across the crossing of 23rd  
26 Street at the I Street intersection, the cross walk  
27 is right in here.

1                   This sidewalk segment is currently about  
2 five and a half or six feet wide. A lot of people  
3 who use the station are walking from the  
4 neighborhood to the north to Washington Circle and  
5 back to the south and use that side of the street  
6 because it takes them to where they want to go and  
7 the sidewalk is too narrow. It crimps down to three  
8 feet in some sections. There is a fence right along  
9 the west edge of the sidewalk right now. That fence  
10 will come down with this project. In fact, the  
11 property line is the right of way line. So there's  
12 an opportunity to widen the sidewalk with this  
13 project. And we think that the sidewalk is widened  
14 only to 8 feet it will be adequate for the level of  
15 traffic that currently uses the sidewalk and will be  
16 using it in the future.

17                   We're introducing three curb cuts to the  
18 sidewalk and those are of course the exit from the  
19 emergency room access and the entrance and the exit  
20 from the front door port couchere. We looked at the  
21 issues of these vehicles crossing that heavily used  
22 pedestrian path and I am embarrassed to say that  
23 there is not a standard in our industry, but we went  
24 out and I felt that we knew enough about the  
25 thousands of driveways in this city that cross busy  
26 sidewalks and I happen to have one in front of my  
27 building, so we did a traffic count of pedestrian

1 and vehicles at our building. We have valet parking  
2 with a capacity of about 300 spaces in our garage.  
3 We generate 70 to 100 vehicle trips during the peak  
4 hour coming out of our garage. They cross the  
5 sidewalk which has about the same amount of traffic  
6 that this sidewalk does. This is on Connecticut  
7 Avenue just below M Street. We go on to Connecticut  
8 Avenue, the traffic goes out on Connecticut Avenue  
9 which has 29,000 vehicles a day which is the same  
10 level of traffic on this section of 23rd Street.  
11 That surprised me, by the way. Connecticut Avenue  
12 and 23rd Street carry the same amount of traffic.

13 So our --

14 MS. KING: Connecticut is twice as wide.

15 MR. SLADE: Pardon?

16 MS. KING: Connecticut is twice as wide.

17 MR. SLADE: No, they're both six lanes.

18 MS. KING: Are they?

19 MR. SLADE: Yes.

20 MS. KING: Okay.

21 MR. SLADE: Connecticut has wider lanes  
22 and has a little bit of a median and a four foot or  
23 six foot wide, the striping in the middle is a bit  
24 wider, so it looks wider, but you can cross this  
25 more easily for that reason. But the number of  
26 travel lanes is the same.

27 So our driveway in our building, I

1 believe, is a comparable, except that it generates  
2 100 vehicle trips in the driveway in an hour,  
3 whereas these driveways generate 10 or 15. The  
4 emergency generates 2 or 3 or 4. So we're only  
5 putting a very small number of vehicles across the  
6 cross walk. It's my judgment that this will not  
7 create a hazardous situation, that this is not an  
8 extreme case any different than any other driveway  
9 in the city.

10 Now the emergency room access --

11 MS. KING: Excuse me, is the turnaround  
12 or the arc or whatever it is for the car entrance,  
13 is that the same width as the turnaround for the  
14 existing hospital?

15 MR. SLADE: I don't know that.

16 MS. KING: Because one of the features  
17 of the turnaround for the existing hospital is it's  
18 extraordinarily long because so many people are  
19 being dropped off and need to be put -- are slow  
20 moving and need to be put in wheelchairs and so  
21 forth and I was just wondering how congested it was  
22 apt to be under that turnaround.

23 MR. SLADE: We videotaped the existing  
24 front of the hospital and measured its utilization.  
25 A lot of that capacity is used for parking vehicles.  
26 There are vehicles parked there which don't need to  
27 be really, but it's so underutilized given its

1 capacity.

2 MR. MOORE: Ms. King, we have an answer  
3 for you.

4 CHAIRPERSON REID: Give your name for  
5 the record.

6 MR. TOBEY: Phil Tobey. The two loops  
7 that you've described are approximately the same. I  
8 think the one in the existing hospital may be just a  
9 little longer, but for all intents and purposes  
10 they're essentially the same.

11 So the stacking issue will be --

12 MS. KING: I'm sorry to interrupt, but I  
13 didn't understand.

14 MR. SLADE: The emergency access is at  
15 the north end and the flow and most times that this  
16 roadway is used will be inbound from New Hampshire  
17 and outbound onto 23rd Street. We think that's the  
18 best and safest way for this to operate and to  
19 function.

20 Now of course ambulances can do just  
21 about anything they want and if they're on 23rd  
22 Street they'll simply turn in here rather than go  
23 around the circle.

24 As I think I said earlier, the hospital  
25 records show 10 on average, 10 ambulance trips a  
26 day, 10 arrivals and emergency people by ambulance a  
27 day. That varies highly and it can be as a high as

1       20. It's spread out throughout the 24 hour period  
2       and of course it can happen 365 days a year. Most  
3       of the time, today, the ambulances come around the  
4       circle or approach from 23rd Street and of course  
5       they're coming day and night. Most of the time  
6       they're not impeded by traffic congestion. When  
7       they arrive during congested periods of time during  
8       the commuter peak periods, there is congestion, as  
9       there is with any urban hospital. The ambulances  
10      have to deal with it and negotiate it and they use  
11      the tools they have in hand. They flash their  
12      lights and so forth. So that is going to continue  
13      to be the case here.

14                    The ambulances will approach this  
15      driveway from the circle or from New Hampshire or  
16      they'll approach the hospital from 23rd. Those are  
17      the three ways to get here. If they're coming  
18      around the circle, they'll of course turn right and  
19      directly into the driveway. There's two or three  
20      things that can impede them. One is the circle  
21      itself can be jammed up with traffic. They will, if  
22      they're arriving during a time when it's like that,  
23      and by the way we did surveys in the circle and  
24      those jam ups lasted about 20 minutes per evening.  
25      It's cleared after about 20 minutes. So the  
26      probabilities of arriving in the middle of that are  
27      not that great, given there's only ten on average

1 per day, but it will happen I'm sure. If it can, it  
2 will.

3 They'll have to use the tools they have  
4 on hand, flashing their lights and so forth. The  
5 other option of bypassing that congestion and trying  
6 to come through this congestion, but at least we  
7 have two options for them now, to get to the  
8 emergency. If there are pedestrians in the  
9 crosswalk, the ambulance driver will, of course,  
10 slow and wait for them to clear.

11 MS. KING: It is a zebra crossing, isn't  
12 it?

13 MR. SLADE: Well, there's crosswalks  
14 from the either side of New Hampshire to that island  
15 and there's a zebra out to the circle.

16 MS. KING: But it's not a zebra to the  
17 island?

18 MR. SLADE: I believe it's just parallel  
19 stripes to the island.

20 The next potential impediment will be  
21 traffic waiting to get into the circle that's backed  
22 up along the northbound, northeast bound on New  
23 Hampshire Avenue. Two cars can probably fit right  
24 in here. As the ambulance gets to this point, he  
25 would, if there was someone blocking the driving,  
26 he'd flash his lights and these cars could move out  
27 of the way. We only need three cars to move out of

1 the way really for him to get in.

2 We did propose to put a sign here asking  
3 motorists when they cue up not to block the  
4 driveway. It does work in some locations and  
5 hopefully at a hospital emergency room it would be  
6 recognized and respected.

7 MS. KING: Is the emergency entrance the  
8 ambulance entrance for the existing hospital in the  
9 same position except across the street?

10 MR. SLADE: No, it's down here on the  
11 circle. Can you see my light? It's actually off  
12 the circle, a short distance from the 23rd Street  
13 intersection.

14 MS. KING: So you don't go in from one  
15 of the side -- one of the spokes off, but from  
16 Washington Circle itself?

17 MR. SLADE: Correct.

18 MS. KING: And I presume that you don't  
19 have enough land where the peak forms for the new  
20 hospital to do the same thing?

21 MR. SLADE: Right, the frontage here,  
22 the distance between these two streets radiating,  
23 New Hampshire and 23rd from the circle is much  
24 closer than 23rd and I guess it's Pennsylvania.

25 MS. KING: Pennsylvania, yes.

26 MR. SLADE: Pennsylvania, as you know,  
27 is on a completely different angle.

1 MS. KING: Yes, I know.

2 MR. SLADE: A much greater angle, so  
3 there's much greater frontage along the circle.

4 MS. KING: Okay.

5 MR. SLADE: Back to the loading dock for  
6 just 30 seconds. We did look at alternatives to  
7 this location. We looked at the entire perimeter of  
8 the site. There's so much pedestrian traffic and so  
9 much more vehicular traffic here we think this is --  
10 23rd Street is not an option. Obviously, the circle  
11 is not an option and we think that on this frontage,  
12 at least from the external standpoint, placing a  
13 loading dock in this location has a lot of merit.  
14 This is one of the least -- this is the least  
15 traffic of the three streets, the street which has  
16 the smallest amount of traffic. There is an island  
17 here which is close and we're tight here, but that  
18 island has planting on it which affords a buffer and  
19 then of course the doorways will further block the  
20 view into that loading dock.

21 MS. KING: Where's the trash storage?

22 MR. SLADE: The trash will be in a  
23 dumpster within the dock, sealed, as it is with  
24 hospitals.

25 MR. FRANKLIN: Mr. Slade, if I could ask  
26 this question since you're on the subject, the  
27 existing loading dock in the existing hospital, is

1 that capable of handling the 18 wheelers or tractor  
2 trailers?

3 MR. SLADE: Yes, it is. As I said,  
4 there's -- at the current time, there's only -- the  
5 two days we surveyed, we didn't see any, but on  
6 another occasion we did see a tractor trailer there,  
7 so this is something that does happen only  
8 occasionally. We think on the average it's once a  
9 day and never more than twice a day.

10 And yes, it is capable of handling the  
11 tractor trailer.

12 MR. FRANKLIN: Okay. Your comment  
13 earlier about the fact that all of the loading  
14 activity is simply being transferred from one point  
15 to another does overlook, doesn't it, the re-use of  
16 the existing hospital as an office building or  
17 whatever, is still going to generate trips to that  
18 loading dock?

19 MR. SLADE: It will. Those trips  
20 themselves, we took into account, in our traffic  
21 volumes through the intersections, but there will be  
22 truck maneuvering still at that location. If it  
23 were all office, it would have significantly less  
24 than the hospital, trucked to the where the hospital  
25 is.

26 I'll just summarize quickly and I was  
27 going to review all my points, but I think for the

1       sake of time I'll just make an observation here. I  
2       think you heard the stress in my voice about that I  
3       want to stress the point that we're relocating two  
4       existing uses and I think the relocation of these  
5       two uses is very logical. I honestly feel that if I  
6       were living in this community, I would find this  
7       change to have less impact on me from a traffic and  
8       parking standpoint. If I reverse the case, if there  
9       was a hospital here of this design or one that met  
10      Mr. Franklin's preference and we came to you to say  
11      let's tear this hospital down and build a surface  
12      parking lot on this Metro station, I think we would  
13      all be wondering if we were sane. So I think  
14      there's an enormous amount of logic to this from a  
15      transportation standpoint, that the impacts are not  
16      significant and that we have accommodated all of the  
17      issues in the best way possible, given the tough  
18      constraints of an urban site.

19                     Thank you.

20                     CHAIRPERSON REID: Thank you.

21                     MR. MOORE: Madam Chairperson, first Mr.  
22      Slade is available for questions from the Board and  
23      then each of our witnesses is available for first  
24      questions from the Board and then to cross  
25      examination.

26                     CHAIRPERSON REID: I think at this  
27      juncture, we'll do an assessment as to how we're

1 going to proceed for the rest of the evening or if  
2 we can beyond 6 o'clock. We're losing Mr. Franklin  
3 at 6. We'll still have a quorum and -- Ms. King?

4 MS. KING: I can stay as late as  
5 necessary.

6 CHAIRPERSON REID: All right, that being  
7 the case, then what we would do, Mr. Moore, is to  
8 recess for about 10 minutes and then we will hear  
9 the rest of the case, unless there are any concerns  
10 from anyone else here as far as having to leave.

11 MS. KING: All right.

12 CHAIRPERSON REID: We will continue and  
13 try to wrap it up this evening.

14 MR. MOORE: All right.

15 MS. KING: And then don't we have  
16 another case after this one?

17 CHAIRPERSON REID: No, that one -- I  
18 think that that one -- okay. What's the case  
19 number? Is there anyone here who is affiliated with  
20 that case?

21 I'm sorry, remember that was the one  
22 that we added. You want to get that done today,  
23 don't you? If you can indulge us until we can get  
24 this one finished, then we will hear that one. That  
25 won't take too long, I don't think. We'll make a  
26 decision about that, but we'll see if we can do  
27 something about it. We'll recess for about ten

1 minutes.

2 MR. MOORE: Thank you.

3 (Off the record.)

4 CHAIRPERSON REID: All right, come to  
5 order, please.

6 (MEMBER FRANKLIN NOT PRESENT)

7 CHAIRPERSON REID: All right, during the  
8 recess we had a few discussions and learned that we  
9 lose our recorder at 8:30. He has to leave.  
10 Therefore, what we have decided we were best to do  
11 is to get through the cross examination of the  
12 applicant this evening and then to continue the  
13 opposition case until next date certain which  
14 everyone can agree to, to give them the ample  
15 opportunity to put on -- present their case as well.

16 In addition, Mr. Glasgow, is he here?  
17 All right, both attorneys, Mr. Watson and Mr. Moore  
18 have agree to allow you to go ahead and put on your  
19 case quickly and then we'll continue with the cross  
20 examination. This is an anomaly, but under the  
21 circumstances it just seems the most expedient thing  
22 to do.

23 It's a very short cut and dry case, so  
24 if you can just indulge us.

25 (Laughter.)

26 CHAIRPERSON REID: So they said, anyway.  
27 Mr. Glasgow, you'll have to stand and be sworn.



1 filed which the text of it is about 12 pages in  
2 length. It goes through the lot, the operation of  
3 the lot, the burden of proof and how the applicant  
4 has met the burden of proof in this case.

5 I would like to incorporate into the  
6 record in this case in the motion that was granted  
7 earlier today, we went through some of the  
8 background with respect to the location of the lot  
9 and where it is and the zoning of that. So I would  
10 like to have that incorporated into the record in  
11 this proceeding.

12 The property has been operated as a  
13 parking lot with the approval of the Board of Zoning  
14 Adjustment in excess of 30 years. It was  
15 established in the early 1960s and we want to  
16 continue the operation of the lot. As we discussed  
17 earlier, we have a business license for the  
18 operation of the lot. We've been paying commercial  
19 real estate taxes on the operation of the lot.

20 We have the witnesses here for any  
21 questioning that the Board may have. We have the  
22 report of the Advisory Neighborhood Commission in  
23 support of the application. There is in the  
24 exhibits attached to our statement as outlined of  
25 the lot. We also have a plot plan showing how the  
26 lot will be improved. The proffer for the applicant  
27 that we agree to all the conditions set forth in the

1 ANC report. At Tab E of the applicant statement is  
2 an outline of the parking lot, how it would be laid  
3 out, where the green space will be and that was  
4 worked out with the ANC.

5 Photographs of the parking lot are  
6 Exhibit F. It shows the nature of the area, the  
7 commercial uses to the north of the site and that  
8 there are several apartment buildings near the  
9 property.

10 We also have a set that outlines the  
11 testimony of the applicants and what I'd like to  
12 have applicants' witnesses do is adopt as their  
13 statement the statement of the applicant. Will the  
14 witnesses all do that, the three witnesses, have all  
15 adopted the statement of the applicant.

16 ALL: We do.

17 MR. GLASGOW: If there are no  
18 preliminary questions and there are outlines of the  
19 testimonies of the applicants' witnesses in the  
20 record, we're available for any questions that you  
21 may have or if you would like to hear from any of  
22 the witnesses, we can have them present their  
23 testimony.

24 MR. GILREATH: The first 30 years this  
25 was operated under what provision? Was this under  
26 different zoning? In other words, why are we having  
27 to pick up now and do this?

1 CHAIRPERSON REID: For the extension.

2 MR. GILREATH: So we're extending the  
3 provision or what is it, a variance?

4 CHAIRPERSON REID: Variance.

5 MR. GILREATH: So this is an extension  
6 of variance?

7 MR. GLASGOW: What we had before, Mr.  
8 Gilreath, is we had a -- the lot used to be in the  
9 SP zone. And it was established by special  
10 exception and continued to operate with a special  
11 exception and at one point in time also got a  
12 variance for all day commuter parking within the  
13 special exception. Then the zoning was changed to  
14 DDR5E and with the change of the zoning, we  
15 questioned whether or not we needed to come to the  
16 Board at all because we thought that there may be a  
17 position that we could take that we had grandfather  
18 rights to remain, once we were zoned residential  
19 with having a parking lot on the site rather than to  
20 deal with that with the Zoning Administrator, we  
21 knew we had a long term lot and we determined we  
22 would just come to the Board of Zoning Adjustment to  
23 have it clear and clean, have the variance granted  
24 if the Board were so inclined and just move on. Of  
25 course, some of the exhibits indicate and the  
26 statements that I made earlier, the District has  
27 always recognized it as a parking lot and treated it

1 as such. So there's a technical issue here that  
2 we're coming to.

3 CHAIRPERSON REID: And your listed  
4 permit expires on December 31st?

5 MR. GLASGOW: Yes ma'am. The existing  
6 business license.

7 CHAIRPERSON REID: Okay.

8 MS. KING: What is the zoning, your  
9 zoning approval expires when?

10 MR. GLASGOW: The zoning approval that  
11 was last issued expired in -- it was in 1982 or  
12 1983. That was Mr. Mendelson's father and uncle  
13 owned the lot and they are both deceased at this  
14 point.

15 MS. KING: So it's been essentially  
16 operating without zoning permission for the last 15  
17 years?

18 MR. GLASGOW: That very well may be the  
19 fact, except to the extent that we may have  
20 grandfather rights at this point in time.

21 MS. KING: I see.

22 CHAIRPERSON REID: So you thought that  
23 you had grandfather rights, but then just recently  
24 you were notified that you didn't, that you needed  
25 to come back?

26 MR. GLASGOW: I think well, we got  
27 involved with the lot when Mr. Mendelson was

1 notified earlier this year that there was a zoning  
2 issue with respect to the lot. Before that his  
3 uncle and father had operated the lot and they both  
4 passed away this past year. And so suddenly Mr.  
5 Mendelson had this parking lot and said I don't know  
6 what all these issues are and we got involved and  
7 discussed the various ways in which we could resolve  
8 this matter and it seemed like the most straight  
9 forward was to come to the Board and get variance  
10 relief.

11 MR. GILREATH: Madam Chair, it seems to  
12 me this is almost like clean up kind of thing. All  
13 this messy zoning it's a matter of making legitimate  
14 --

15 CHAIRPERSON REID: Okay.

16 MR. GILREATH: Whenever you're ready for  
17 a motion, I'm ready to make one.

18 CHAIRPERSON REID: Well, we have to --  
19 was there any other testimony by any of the  
20 witnesses, the applicant, Mr. Glasgow?

21 MR. GLASGOW: Not unless there's any  
22 questions.

23 CHAIRPERSON REID: Okay, then you need,  
24 for the record, go over the -- your test, your  
25 burden of proof for your variance.

26 MR. GLASGOW: And that's what we did in  
27 our statement of applicant that they adopted or if

1           you want oral testimony on that, we can do that.

2                         CHAIRPERSON REID:  No, no, what I'm  
3           saying to you is that we do have it, but we also  
4           need to have it on record so if you can just briefly  
5           go through the three prongs of the test.

6                         MR. GLASGOW:  With respect to the  
7           criteria for the variance relief, we submit that the  
8           subject site is unique and affected by an exception  
9           situation or condition that's an existing  
10          improvements on the lot have been found by the  
11          courts and by the Board to create uniqueness.  This  
12          was a parking lot approved by the Board, so the  
13          improvements on the lot were established under Board  
14          approval initially.

15                        In addition, there was -- we have  
16          submitted for the record the testimony of a -- we  
17          had him here previously, this afternoon and he had  
18          to leave, a developer with expertise in the area who  
19          would testify that the property is not feasible to  
20          develop with a highrise apartment building under the  
21          DDR5E district at the present time.

22                        CHAIRPERSON REID:  That's undue  
23          hardship?

24                        MR. GLASGOW:  Yes, and with respect to -  
25          - and that can cause us an undue hardship with  
26          respect to the property because we're presently  
27          using it as a parking lot, we have no other use,

1 matter of right use for the property. We only have  
2 this use that presently exists. Otherwise, you'd  
3 have to go out and build a building on the site  
4 which we're unable to do.

5 So that results in the undue hardship with respect  
6 to the property.

7 Also that the site is very far removed  
8 with respect to a parking lot in the DID district.  
9 We're very far removed from any nearby shopping that  
10 could support a lot that we have and then lastly, we  
11 submit that the requested relief can be granted  
12 without any substantial detriment to the public good  
13 or without impairing the zone plan. With that we've  
14 been out, we have met with the community and we have  
15 the support of the Advisory Neighborhood Community.

16 CHAIRPERSON REID: And also adverse  
17 impact.

18 MR. GLASGOW: We submit that with  
19 respect to the operation of the lot and as found by  
20 the ANC that we do not have an adverse impact and  
21 that we submit that we will -- that the conditions  
22 which the ANC have are perfectly amenable to the  
23 applicant. We will implement those.

24 CHAIRPERSON REID: And no complaints, no  
25 opposition to the manner in which the lot has been  
26 run?

27 DR. MENDELSON: No, we know of no

1 opposition.

2 MS. KING: I note that the ANC had a  
3 properly called, properly registered, properly  
4 noticed meeting and quorum.

5 CHAIRPERSON REID: Then we now go to the  
6 Office of Planning for any government reports and  
7 the ANC report, Ms. King.

8 MS. KING: On November 4th, they had a  
9 regularly scheduled, properly noticed meeting of ANC  
10 2F. Five members present and voting constituting a  
11 quorum. They voted unanimously to support the  
12 application. Therefore, we give it great weight.

13 CHAIRPERSON REID: Persons and parties  
14 in support? Persons and parties in opposition?  
15 Closing remarks by the applicant.

16 MR. GLASGOW: I'd just like to request a  
17 bench decision, if the Board is so inclined.

18 CHAIRPERSON REID: Motion.

19 MR. GILREATH: Madam Chair, I believe  
20 the applicant has met the burden of proof and I  
21 recommend that we grant the variance.

22 MS. KING: I would second that, would  
23 suggest that we incorporate some conditions. Could  
24 I ask the applicant, are you asking, how many years  
25 are you requesting?

26 MR. GLASGOW: Since this is a use  
27 variance, it would be indefinite, such as some of

1 the other lots that we've had in the area like 13th  
2 and N Street lot.

3 MS. KING: Okay. Change in ownership,  
4 it doesn't affect that, okay. I suggest that we use  
5 the language for our conditions that we usually use.  
6 It will, I think, incorporate the sense of the ANC's  
7 -- in other words, the usual "all areas devoted to  
8 driveways, access lanes, parking areas shall be  
9 paved and maintained with bituminous concrete or  
10 brick materials or a combination of these materials  
11 which forms an all-weather impervious surface which  
12 is a minimum of four inches in thickness. It should  
13 be designed so no vehicle, any part of a vehicle  
14 projects over any lot line or building line. 3. No  
15 other use shall be conducted from or upon the  
16 premises and no structure under than well  
17 maintained" -- I will add to this -- in deference to  
18 the ANC, "attendant's shelter shall be erected or  
19 used upon the premises. No vehicular entrance or  
20 exit shall be within 40 feet" -- that's not germane.  
21 "Any lighting used to illuminate the accessory  
22 parking spaces will be arranged so that all direct  
23 rays are confined to the surface of the parking lot.  
24 The parking lot shall be kept free of refuse and  
25 debris at all times." And --

26 CHAIRPERSON REID: Lighting?

27 MS. KING: The lighting I did. Is

1           landscaping appropriate here?

2                       MR. GLASGOW:   Yes.

3                       MS. KING:   "The parking lot shall be  
4           landscaped with trees and shrubs covering a minimum  
5           of 5 percent of the total area of the parking lot."

6                       MR. GLASGOW:   That's fine.

7                       MS. KING:   "The landscaping shall be  
8           maintained in healthy and growing condition and in a  
9           neat and orderly appearance."

10                      Then there's the question of the sign.

11                      CHAIRPERSON REID:   What are you talking  
12           about?

13                      MS. KING:   The ANC asked that a new  
14           professionally made sign will replace the existing  
15           sign advertising the lot.

16                      CHAIRPERSON REID:   Are you amenable to  
17           that?

18                      MR. GLASGOW:   Yes.

19                      MS. KING:   But I mean this is in  
20           perpetuity, so I think what we need to say that an  
21           appropriate sign in a neat or something, terrific,  
22           nice, neat sign something like that, the staff can  
23           work out the language will be installed at the  
24           parking lot.

25                      Does that cover all of the ANC stuff?

26                      CHAIRPERSON REID:   Mr. Bastida, what is  
27           your opinion about the term of it, should we just

1 let it be open ended?

2 MR. BASTIDA: A use variance, you cannot  
3 set a time condition.

4 CHAIRPERSON REID: Okay.

5 MR. BASTIDA: I would suggest that you  
6 put all those conditions because of the land use of  
7 the property will be become negatively impacting the  
8 adjacent if those conditions are not fulfilled. In  
9 that way, you are putting conditions related to land  
10 use which in a use variance you can do so because  
11 otherwise it will -- if those conditions are not  
12 met, you will have deleterious impact in the area  
13 due to the parking lot.

14 MS. KING: Now we also have to add  
15 another condition recommended by ANC 2F. "The lot  
16 will be fully fenced, with chain link fence on the  
17 11th Street side and southeastern boundary of the  
18 lot and with wrought iron on the 10th Street  
19 frontage."

20 MR. GLASGOW: That's correct.

21 MS. KING: The lot will be fully secured  
22 at night or when not attended.

23 MR. GLASGOW: That's correct.

24 MS. KING: So in other words, it's not  
25 available to the public and cars will not be allowed  
26 to transverse the lot into the adjacent vacant  
27 properties southeast of the lot.

1 MR. BASTIDA: And again, all of those  
2 conditions are imposed because if they are not  
3 complied with the effects will be deleterious to the  
4 area and you do it on a planning and land use issue.

5 MS. KING: And they are as permanent as  
6 the variance.

7 MR. BASTIDA: I beg your pardon?

8 MS. KING: Those conditions become as  
9 permanent as the variance.

10 MR. BASTIDA: Indeed.

11 MS. KING: If they don't want to comply  
12 with them, they have to come back.

13 CHAIRPERSON REID: All in favor.

14 (AYES.)

15 CHAIRPERSON REID: Opposed.

16 MR. GILREATH: I want to ask a question.

17 CHAIRPERSON REID: I'm sorry, question.

18 MR. GILREATH: These provisions, do they  
19 pose any problem for you?

20 MR. GLASGOW: No, we agree to them with  
21 the ANC.

22 MR. GILREATH: I appreciate that, very  
23 good.

24 CHAIRPERSON REID: All opposed.

25 MR. HART: We will record the vote as 3-  
26 0. Mr. Gilreath, Ms. King, Ms. Reid, with  
27 conditions as recorded.

1                   CHAIRPERSON REID: Thank you. You  
2                   should have your order in about two weeks, Mr.  
3                   Glasgow.

4                   We can now have the resumption of the  
5                   original case and I would assume -- okay, now Mr.  
6                   Moore, thank you for your indulgence. Now we'll  
7                   continue with your case and what we'll do is have  
8                   cross examination and we will determine at the end  
9                   the date, the best date for the continuation to  
10                  allow the opposition to present their case.

11                  MS. KING: G.W. has completed its case?

12                  CHAIRPERSON REID: Yes.

13                  MR. WATSON: We are going to go through  
14                  the witnesses in the order that they testified,  
15                  basically discussing the issues of the entity which  
16                  owns it, the building.

17                  CHAIRPERSON REID: Mr. Watson, give your  
18                  name and address.

19                  MR. WATSON: I'm sorry, it's Matthew  
20                  Watson, 1701 Q Street, N.W., Washington, D.C. It's  
21                  my office address. 3391 Stevenson Place, N.W.,  
22                  Washington, D.C. is my home address.

23                  CHAIRPERSON REID: Thank you very much.

24                  MR. WATSON: I am representing Advisory  
25                  Neighborhood Commission 2A. I think you're familiar  
26                  with it.

27                  As I was indicating, we'll go through

1 the witnesses in the order which they testified and  
2 basically as to the entity, the nature of the  
3 building, the parking and the traffic. If we could  
4 start with regard to testimony which you gave as to  
5 the entity owning this.

6           Could you indicate to me so we get it  
7 clear that the person who owns and operates the  
8 hospital who applies for the certificate of need,  
9 that's who runs the hospital, who is it who is the  
10 applicant for the certificate of need?

11           DR. WILLIAMS: The applicant is District  
12 Hospital Partners LP which is made up of the George  
13 Washington University and Universal Health Services.

14           MR. WATSON: You say it's made up of  
15 George Washington University and Universal Health  
16 Services. Let's give them in the order of their  
17 ownership of this limited partnership. What is the  
18 ownership of the Universal Health Services?

19           DR. WILLIAMS: Universal owns 80 percent  
20 of the book of business. The University owns 20  
21 percent of the book of business. The University  
22 continues to own the land, bricks and mortar.

23           MR. WATSON: What do you mean by book of  
24 business? We have an entity here, a limited  
25 partnership. What is book of business means?

26           DR. WILLIAMS: It means that they run  
27 the business operations of the hospital.

1                   MR. WATSON: Now a limited partnership  
2 has two types of partners. There's a general  
3 partner and there are limited partners. Is that  
4 correct?

5                   DR. WILLIAMS: I don't know.

6                   MR. WATSON: Well, do you know who is  
7 your -- you proffered as a witness, do you know who  
8 is the general partner of the University?

9                   DR. WILLIAMS: We have a partnership  
10 where Universal has 80 percent of the book of  
11 business and George Washington University has 20  
12 percent.

13                   MR. WATSON: Have you read the staff  
14 report at the SHPDA.

15                   DR. WILLIAMS: I have not.

16                   MR. WATSON: Not read that. Now in  
17 terms of operating of this entity, is the general  
18 partner the organization who operates it on a day to  
19 day business?

20                   DR. WILLIAMS: I don't know if the  
21 general partner -- I stated earlier what the  
22 partnership arrangement was. If you will be kind  
23 enough to tell me what you mean by "general  
24 partner", I'll be happy to answer your question.

25                   MR. WATSON: A partnership has two types  
26 of entities, a limited partner -- if I may be  
27 indulged. There are general partners who are the

1 operators of the partnership, who make the day to  
2 day decisions for the partnership and there are  
3 limited partners who are effectively shareholders of  
4 the partnership, to use a corporate type of term.  
5 The shareholders may elect a Board which makes  
6 general policy, but the general partner not only  
7 operates it from day to day but has unlimited  
8 liability for the activity of the partnership.

9 Who is it who has the liability for the  
10 operation of the partnership?

11 DR. WILLIAMS: I don't know specifically  
12 the partnership has liability.

13 MR. WATSON: Now is there a governing  
14 board of the partnership?

15 DR. WILLIAMS: Yes, there is.

16 MR. WATSON: And how does the governing  
17 board vote?

18 DR. WILLIAMS: It's a 50-50 governing  
19 board with each member having one vote.

20 MR. WATSON: Do you have any reason to  
21 believe that the SHPDA people don't understand it?

22 DR. WILLIAMS: I can't speak for the  
23 SHPDA people.

24 MR. WATSON: Why would you say this is  
25 described as the "voting of members is weighted  
26 consistent with the partnership interest. Thus the  
27 voting block of members appointed by UHSDC is

1 weighted 80 percent and the voting block of the  
2 members appointed by each" --

3 CHAIRPERSON REID: Excuse me, Mr.  
4 Watson. Where is that information coming from?

5 MR. WATSON: It's what the applicants  
6 submitted which over my objection, actually. This  
7 is within the --

8 CHAIRPERSON REID: You're referring to  
9 the --

10 MR. WATSON: State health planning  
11 development described --

12 CHAIRPERSON REID: They submitted today.

13 MR. WATSON: They submitted today and I  
14 decided to use this because it's a convenient  
15 description for me.

16 CHAIRPERSON REID: My understanding was  
17 that you have not read it?

18 DR. WILLIAMS: I have not read the  
19 report.

20 CHAIRPERSON REID: So he doesn't know.

21 MS. KING: Although you quoted from it  
22 in your testimony, did you not?

23 DR. WILLIAMS: Yes, I did. I quoted one  
24 portion of it that was part of the conclusion and  
25 that's what I quoted. I did not read the entire  
26 report.

27 MR. BASTIDA: Madam Chairperson, can we

1 ask for Mr. Watson what he is driving to?

2 CHAIRPERSON REID: Yes.

3 MR. BASTIDA: If he's trying to drive to  
4 if these projects are properly in front of you, I  
5 think that is something that will have to be sent to  
6 Corporation Counsel to make that determination.

7 CHAIRPERSON REID: Yes --

8 MR. BASTIDA: And cross examination  
9 might be frivolous tonight because you cannot make  
10 that determination.

11 CHAIRPERSON REID: Obviously, but what I  
12 was about to say, Mr. Watson, is he hasn't read it,  
13 so --

14 MR. WATSON: I am not worried. I only  
15 used it because it described -- I assumed and  
16 correct me if I'm wrong, that he was presented as a  
17 witness as to the entity which operates the George  
18 Washington University Hospital. We have testimony  
19 from him that he doesn't know how the Board votes.  
20 He doesn't know what a general partner is of the  
21 entity that runs it, which the general partner, if I  
22 may proffer, is the entity that runs it.

23 CHAIRPERSON REID: You have established  
24 that. So can you get to the --

25 MR. WATSON: I will proceed. I will  
26 tell you --

27 CHAIRPERSON REID: Get to the point.

1                   MR. WATSON: I'll tell you what I think  
2                   is relevant. We had raised the issue as to whether  
3                   this is properly located on a University campus. We  
4                   have an institution which 80 percent of the voting  
5                   power is controlled by a private profit making  
6                   corporation which means they make the decisions.

7                   CHAIRPERSON REID: Okay.

8                   MR. WATSON: We've established that the  
9                   entity which applies to the specific need is not the  
10                  University.

11                  CHAIRPERSON REID: Well, no. Now Mr.  
12                  Watson, I think that your point has been made and so  
13                  will you continue with the questioning and cross  
14                  examination -- if I might -- that is germane to the  
15                  testimony here today so we can kind of keep this  
16                  moving along. But you have made that point --

17                  MR. WATSON: I would like a few other  
18                  questions. Is the entity which operates the  
19                  hospital tax exempt?

20                  DR. WILLIAMS: No.

21                  MR. WATSON: Is the hospital property  
22                  tax exempt?

23                  DR. WILLIAMS: No.

24                  MR. WATSON: Is University property tax  
25                  exempt?

26                  DR. WILLIAMS: Yes.

27                  CHAIRPERSON REID: Ms. King, did you

1 want to say something?

2 MS. KING: Yes, Madam Chair, I would  
3 like our staff to ask the Corporation Counsel to  
4 deal with this issue of the ownership of the  
5 hospital, the ownership of the land, whether or not  
6 -- the applicant's attorneys in their statement have  
7 been very strong in saying that who owns the  
8 hospital or who owns -- you know, the partnership  
9 and so forth is not germane to this issue.

10 I would appreciate it if we could have a  
11 Corporation Counsel opinion on that issue and would  
12 ask, request that you ask the staff to obtain that  
13 from Corporation Counsel before we have a vote on  
14 this issue.

15 CHAIRPERSON REID: Okay.

16 MS. KING: Thank you.

17 MR. WATSON: If I could proceed.

18 Another part of your testimony indicated that this  
19 hospital building could be built as a matter of  
20 right. Is that correct?

21 MR. MOORE: He testified to that.

22 CHAIRPERSON REID: Mr. Moore, you need  
23 to make sure you're on the record.

24 MR. WATSON: Then I think we can assume  
25 that it was not testimony --

26 CHAIRPERSON REID: Did you pick that up?

27 COURT REPORTER: No.

1                   CHAIRPERSON REID: Mr. Moore, you need  
2 to repeat into the microphone.

3                   MR. MOORE: I'm sorry. Mr. Watson, Dr.  
4 Williams did not say that. I said that.

5                   MR. WATSON: Dr. Williams, are you  
6 familiar with whether or not the hospital building  
7 that you are proffering here can be built as a  
8 matter of right?

9                   DR. WILLIAMS: I am not familiar.

10                  MR. WATSON: Now, I believe you also did  
11 testify with regard to the level of charity care  
12 provided by the hospital, is that correct?

13                  DR. WILLIAMS: That is not correct.

14                  MR. WATSON: You did not testify as to  
15 that?

16                  DR. WILLIAMS: I did not.

17                  MR. WATSON: Is part of the testimony  
18 that has been given in this case which you heard as  
19 to the level of charity care by the hospital?

20                  DR. WILLIAMS: Would you repeat that?

21                  MR. WATSON: Well, there was testimony  
22 given as to charity care --

23                  DR. WILLIAMS: All I did was ask you to  
24 repeat the question.

25                  CHAIRPERSON REID: I'll ask you to  
26 direct that question to whoever actually testified  
27 to that.

1                   MR. WATSON: Obviously, the architects,  
2 the University, unless Mr. Moore --

3                   MR. MOORE: Mr. Schaengold testified on  
4 uncompensated care.

5                   CHAIRPERSON REID: You can ask him  
6 directly because he wouldn't be able to answer that  
7 question, Mr. Watson.

8                   MR. WATSON: I think we probably should  
9 go on to Mr. Schaengold.

10                  CHAIRPERSON REID: Okay.

11                  MR. MCLEOD: I'm James McLeod, president  
12 of the Foggy Bottom Association and it's my  
13 understanding our Association was granted party  
14 status and I will be testifying, but I am just here  
15 to cross examine and I don't have any questions of  
16 this witness.

17                  MR. WATSON: Mr. Schaengold, I usually  
18 start with witnesses explaining that I am counsel  
19 for the ANC. I don't think I have to with each  
20 witness.

21                  If I could ask you in your testimony, by  
22 whom are you employed?

23                  MR. SCHAENGOLD: I'm employed by  
24 Universal Health Services.

25                  MR. WATSON: And what is your title?

26                  MR. SCHAENGOLD: I am Chief Executive  
27 Officer and Managing Director.

1 MR. WATSON: As Managing Director, what  
2 is your function?

3 MR. SCHAENGOLD: I am responsible for  
4 the operation of the hospital.

5 MR. WATSON: Does that indicate then you  
6 act then on behalf of Universal Health Services to  
7 manage the hospital?

8 MR. SCHAENGOLD: I have been appointed  
9 by Universal Health Services to this job on behalf  
10 of the partnership.

11 MR. WATSON: Well, are you on behalf of  
12 the partnership -- is the appointment by someone in  
13 their capacity as general partner?

14 MR. SCHAENGOLD: Correct.

15 MR. WATSON: And who is the general  
16 partner?

17 MR. SCHAENGOLD: Universal Health  
18 Services.

19 MR. WATSON: And the general partner  
20 appoints the Director of the hospital?

21 MR. SCHAENGOLD: The general partner  
22 offers the appointment for the partnership board to  
23 accept or reject.

24 MR. WATSON: The partnership board is  
25 composed of how many persons?

26 MR. SCHAENGOLD: I'm sorry?

27 MR. WATSON: How many persons is the

1 partnership board composed of?

2 MR. SCHAENGOLD: Six.

3 MR. WATSON: Are their voting strengths  
4 equal?

5 MR. SCHAENGOLD: The voting strengths on  
6 policy issues are equal.

7 MR. WATSON: What issues are they not  
8 equal on?

9 MR. SCHAENGOLD: They are not equal on  
10 operational issues and they're not equal on academic  
11 issues.

12 MR. WATSON: Is appointment of the  
13 Director of the hospital an operational issue?

14 MR. SCHAENGOLD: I don't recall how  
15 that's spelled out.

16 MR. WATSON: On operational issues, who  
17 has control through the Board of Directors?

18 MR. SCHAENGOLD: UHS.

19 MR. WATSON: So if UHS believes that one  
20 operating method should be used and the University  
21 does not, may UHS, if it chooses to exercise its  
22 right to make that determination?

23 MR. SCHAENGOLD: Yes.

24 MR. WATSON: Can you define for us what  
25 some of the operational issues are?

26 MR. SCHAENGOLD: Operating budget,  
27 capital budget, hiring, firing.

1                   MR. WATSON: This somewhat reminds me, I  
2 have to say, of the family that --

3                   CHAIRPERSON REID: You have to ask  
4 questions. You have to contain your cross  
5 examination to questions based on the testimony,  
6 please.

7                   MR. WATSON: You indicate hiring and  
8 firing. Is that all employees of the hospital?

9                   MR. SCHAENGOLD: Correct.

10                  MR. WATSON: In terms of operating  
11 budget, does that mean that the budget can be  
12 determined to be reduced for the obstetrics  
13 operation?

14                  MR. SCHAENGOLD: No. Any activity that  
15 relate to diminution or increase of clinical  
16 programs must have approval from the University as  
17 well.

18                  MR. WATSON: This is clinical programs  
19 which involve the educational program, I assume, is  
20 that correct?

21                  MR. SCHAENGOLD: Clinical and  
22 educational.

23                  MR. WATSON: Does clinical mean any  
24 private patient?

25                  MR. MOORE: Madam Chair, I've tried to  
26 be patient on this line of questioning, but Mr.  
27 Schaengold is not a lawyer and he is being asked to

1 make legal determinations as to the relationship,  
2 what the documents say, what the partnership  
3 document says and he's just not qualified to do  
4 that. He's the Director of the Operation personnel  
5 of the hospital. He's qualified to talk about the  
6 operations, day to day operations of the hospital,  
7 but not the document, the legal document that  
8 defines the relationship between G.W. and Universal  
9 Health Services.

10 CHAIRPERSON REID: Mr. Watson?

11 MR. WATSON: He's indicated that he is  
12 the Director of the Operations of the hospital. I  
13 want to ask some questions how you determine budgets  
14 for an operation. I don't know what else there  
15 could be.

16 CHAIRPERSON REID: I don't think we have  
17 any testimony that was germane to budget or  
18 operations, so what you want to do is to establish -  
19 - you've established --

20 MR. WATSON: We had testimony that the  
21 University operates the hospital. He has testified  
22 he is not employed by the University, that the  
23 entity which employs him has 80 percent of the  
24 voting authority --

25 CHAIRPERSON REID: Right, and you  
26 brought that out --

27 MR. WATSON: We need a record. We need

1 a record.

2 CHAIRPERSON REID: But you've  
3 established that. I just ask that you kind of move  
4 it along because you don't want to belabor it.

5 MR. WATSON: Did you discuss charity  
6 care?

7 MR. SCHAENGOLD: Yes.

8 MR. WATSON: And are you aware that the  
9 staff of the SHPDA seriously criticized George  
10 Washington University Hospital for the level of  
11 charity care?

12 MR. SCHAENGOLD: Would you define for me  
13 what you mean by "seriously criticized"?

14 MR. WATSON: Did they make any negative  
15 comment?

16 MR. SCHAENGOLD: I think they opined on  
17 the level of charity care.

18 MR. WATSON: And did they opine that  
19 they believed the level of charity care was  
20 exemplary, average or needed improvement?

21 MR. SCHAENGOLD: I don't recall that  
22 they made any of those conclusions.

23 MR. WATSON: Can you tell us what the  
24 level of charity care has been trending in the last  
25 five years? I'm talking about charity care, not  
26 what you described as free care, but charity care.

27 MS. KING: What's the difference between

1 free and charity?

2 MR. SCHAENGOLD: To respond  
3 appropriately to your question, I think we need to  
4 understand how the SHPDA and the District of  
5 Columbia defines uncompensated care. The  
6 certificate of need that was granted in June 1997  
7 mandated --

8 MR. WATSON: I didn't ask that question,  
9 but proceed.

10 MR. SCHAENGOLD: I think we will explain  
11 it. Defined uncompensated care, it is in the  
12 District law as charity in bad debt. They are  
13 combined into one category. Over the past five  
14 years, the level of uncompensated care for the  
15 George Washington University Hospital moved up and  
16 down depending on the activity at the institution.  
17 As volume went down, so did the amount of total  
18 uncompensated care. The breakdown between charity  
19 and bad debt is an arbitrary assignment upon  
20 admission and upon billing and that complement,  
21 charity to bad debt, keeps moving back and forth as  
22 hospitals redefined how they account for those two  
23 elements.

24 We were mandated by the certificate of  
25 need to provide for the five years post-CON, the  
26 same level of uncompensated care as we did the  
27 previous two years. That is part of the CON

1       granting mechanism and we are, in fact, complying  
2       with that mandate.

3                   MR. WATSON:  If I could ask you whether  
4       the definition which staff of the SHPDA uses.  Staff  
5       believes a provision of charity care is a proactive  
6       process by the provider, whereas the bad debt  
7       component of free care is more of a reactive  
8       response to refusal to pay after collection efforts.  
9       Does that describe a difference between charity and  
10      bad debt care?

11                   MR. SCHAENGOLD:  Yes, it describes that,  
12      but does not explain the difficulties that hospitals  
13      have in defining that component upon admission to  
14      the institution.

15                   MR. WATSON:  In that definition, is it  
16      not the case though that in 1992 there was \$7  
17      million of charity care provided, that's the  
18      proactive charity care, the truly needy, and that in  
19      1997 that had dropped to \$4 million.  Is that  
20      accurate or not?

21                   MR. SCHAENGOLD:  You are  
22      mischaracterizing the charity care and the  
23      definition that SHPDA staff has provided.

24                   It is true that charity care is defined  
25      as the amount on the front end that you know that  
26      you will not collect and bad debt is a reactive  
27      definition.  However, upon the introduction of a

1 patient to your institution, there are many  
2 instances where you assumed they had insurance and  
3 it turned out they didn't, therefore it becomes bad  
4 debt. If the information would have been accurate  
5 on the front end, you would have classified it as  
6 charity care. That's why those numbers keep  
7 shifting from year to year and they do not reflect  
8 whether the institution did or did not proactively  
9 approach free care.

10 CHAIRPERSON REID: Next question, Mr.  
11 Watson.

12 MR. WATSON: If you'll indulge me just a  
13 moment.

14 (Pause.)

15 MR. WATSON: Are you familiar with  
16 arrangements which have been made for parking for  
17 the hospital?

18 MR. SCHAENGOLD: Yes.

19 MR. WATSON: In the event that a --

20 MR. MOORE: Mr. Watson, Mr. Schaengold  
21 did not testify as to parking for the hospital.

22 MR. WATSON: I'm going into the  
23 financial aspect of paying for this which is I asked  
24 the question, if you'll bear to the next question.

25 If an individual parks at the Kennedy  
26 Center, how is this paid?

27 MR. SCHAENGOLD: I don't know.

1                   MR. WATSON: Does the hospital pay for  
2 parking at the Kennedy Center?

3                   MR. SCHAENGOLD: No.

4                   MR. WATSON: Does the - so you say the  
5 hospital makes no provision for parking at the  
6 Kennedy Center?

7                   MR. SCHAENGOLD: No.

8                   MR. WATSON: I have no further  
9 questions.

10                  CHAIRPERSON REID: Thank you.

11                  MR. McLEOD: Dr. Schaengold, you had  
12 stated that the SHPDA staff had approved the  
13 application, I guess what entity applied to SHPDA  
14 for approval of the certificate of need?

15                  MR. SCHAENGOLD: SHPDA has made a  
16 recommendation that the applicant's application, the  
17 applicant being District Hospital Partners Limited,  
18 was applying for a certificate of need.

19                  MR. McLEOD: And is it correct that they  
20 did in their report suggest that 371 beds, they were  
21 concluding that you've made your case for the 371  
22 beds, but not for the additional 87 beds?

23                  MR. SCHAENGOLD: That is their  
24 recommendation to SHPDA, correct.

25                  MR. McLEOD: And the 87 beds, that's  
26 equivalent to one floor of the building?

27                  MR. SCHAENGOLD: No, that is a portion

1 of a floor.

2 MR. McLEOD: And you had indicated that  
3 the report that they had made a recommendation  
4 today, was it yesterday or today, that they --

5 MR. SCHAEINGOLD: I don't know when they  
6 issued it. I believe I received it today. So it  
7 was the date -- I think it became public yesterday.

8 MR. McLEOD: And you had indicated that  
9 you're building a hospital in order to maintain  
10 state of the art resources to attract those medical  
11 professionals with greatest potential. How is that  
12 -- is it true that the state of the art equipment  
13 could be the same equipment could be put into the  
14 remodel of the current existing hospital?

15 MR. SCHAEINGOLD: No. There is some  
16 equipment that would not fit in our existing  
17 facility without major retrofitting and  
18 extraordinary costs and disruption to our system.

19 MR. McLEOD: But it could be done  
20 though, given those factors, it could be done. It's  
21 not it can't be done, it's just there are  
22 inconveniences --

23 CHAIRPERSON REID: I thought he answered  
24 the question, Mr. McLeod.

25 MR. McLEOD: I'm just trying to get it  
26 clear here. You're saying it can't be done without  
27 -- what were the words you used?

1                   MR. SCHAENGOLD: Extraordinary costs and  
2                   disruptions to the operations.

3                   MR. McLEOD: And in determining those  
4                   were extraordinary costs, how did you reach that  
5                   conclusion?

6                   MR. SCHAENGOLD: We utilized  
7                   consultants, architects, engineers who determined  
8                   that it would be more appropriate to build a  
9                   replacement hospital than to try to retrofit a 52-53  
10                  year old hospital which will be approximately 100  
11                  years old when the partnership concludes its first  
12                  term.

13                  MR. McLEOD: In making that  
14                  determination, did those persons calculate the cost  
15                  of replacing the parking that will be eliminated  
16                  because of the new building and also the cost of  
17                  renovating the existing hospital. There will have  
18                  to be some use of that hospital, won't there?

19                  MR. SCHAENGOLD: I don't know. The  
20                  hospital is the property of the University.

21                  MR. McLEOD: So you don't know what that  
22                  cost is, so you didn't factor that in?

23                  MR. SCHAENGOLD: No.

24                  MR. McLEOD: Is the new hospital -- will  
25                  it be impacted upon by the use which, unknown use of  
26                  the current hospital?

27                  MR. SCHAENGOLD: No. I guess I don't

1 understand the question.

2 MR. McLEOD: Okay, you're building a new  
3 hospital to provide the best care for the people in  
4 the city. Are you concerned about what use might be  
5 made of the existing hospital, how it might impact  
6 your new building that you're proposing to build?

7 MR. SCHAENGOLD: We've been assured that  
8 it won't be a hospital.

9 (Laughter.)

10 MR. McLEOD: So the cost of doing  
11 something with that hospital, you're not concerned  
12 with?

13 MR. SCHAENGOLD: That building reverts  
14 to the University. The University owns the building  
15 and the land, so once it reverts to the University,  
16 we really have no control over that.

17 MR. McLEOD: I have no further  
18 questions.

19 CHAIRPERSON REID: Mr. Watson, you also  
20 wanted to question the architect?

21 MR. WATSON: Yes, we wanted to go  
22 through all the witnesses. It might work more  
23 simply now if we had Mr. Ingle testifying next.

24 MR. MOORE: You want the architect?

25 MR. WATSON: I do want the architects.  
26 If you insist on having them in the same order,  
27 we'll do the same order. If you'd like the

1 architects, I was merely suggesting for the  
2 convenience of the Board that they might want to  
3 hear related testimony but no problem.

4 I believe you have testified to the size  
5 of the building that's proposed to be constructed  
6 and I believe you testified that at Washington  
7 Circle the building was 87 feet tall. Is that  
8 correct?

9 MR. SKAGGS: That's correct, as measured  
10 from the curb height at Washington Circle to the top  
11 of the building, that's right.

12 MR. WATSON: Now, on the 23rd Street  
13 side so we have it in our minds, going from  
14 Washington Circle down to the Metro Station, is that  
15 a slope up, down or is it level ground?

16 MR. SKAGGS: I believe it's a slope down  
17 of about 10 feet.

18 MR. WATSON: And the roof of the  
19 building, is the roof of the building horizontal or  
20 does the roof of the building slope down?

21 MR. SKAGGS: It's horizontal.

22 MR. WATSON: I believe you testified  
23 that no part of the building was more than 90 feet?

24 MR. SKAGGS: No, I said as measured from  
25 Washington Circle it is 87 feet.

26 MR. WATSON: What I'm asking is are any  
27 parts of the building in excess of 90 feet?

1 MR. SKAGGS: Yes.

2 MR. WATSON: And what is the height of  
3 the building at the I Street end, I guess it is.

4 MR. SKAGGS: Approximately 97 feet.

5 MR. WATSON: So to correct your  
6 testimony, I believe there was testimony that no  
7 part of the building was over 90 feet.

8 MR. SKAGGS: No, I did not say that, the  
9 record will show.

10 MR. WATSON: The record will speak for  
11 itself.

12 Now in terms of relationship to  
13 residential areas, which is more residential, the  
14 Washington Circle end of the building or the New  
15 Hampshire Avenue, I Street, 24th Street  
16 intersection?

17 MR. SKAGGS: I did not testify to that.

18 MR. MOORE: I don't know what you mean  
19 by which is more residential.

20 MR. WATSON: There was testimony by the  
21 architects as to the relationship of this building  
22 to its community and we saw wonderful photographs  
23 and I'm --

24 MR. SKAGGS: Would you like Mr. Tobey to  
25 answer that because I did not testify to that.

26 CHAIRPERSON REID: Absolutely.

27 MR. TOBEY: I believe I said -- I was

1 comparing the building to the neighborhood to the  
2 context. I don't recall ever mentioning  
3 residential.

4 MR. WATSON: Having talked about the  
5 neighborhood is a residential neighborhood in this  
6 area?

7 Well, let me back off. Are you familiar  
8 with the location of the historic district of Foggy  
9 Bottom?

10 MR. TOBEY: I'm not sure I could draw a  
11 line around the boundary.

12 MR. MOORE: Nor did he testify to that.

13 MR. TOBEY: Nor did I testify to that.

14 MR. WATSON: We had testimony as to the  
15 relationship to the neighborhood and I think there's  
16 no question it's relevant to know the basis on which  
17 he relayed it to the neighborhood, so let's talk  
18 about it.

19 As I recall, we had a photographic  
20 tour, did we not, walking down 23rd Street and over I  
21 Street and up New Hampshire Avenue, let's cast our  
22 mind back to your tour. You are now at the  
23 intersection of New Hampshire Avenue and loading  
24 dock and you are turning your head to the left and  
25 looking across New Hampshire Avenue. What is the  
26 predominant usage of the land?

27 MR. TOBEY: Would you repeat the

1 question?

2 MR. WATSON: You had given us a tour  
3 around the neighborhood, casting back to when you  
4 took that tour and you made your right turn at the  
5 loading dock and you were there at roughly where New  
6 Hampshire and I and 24th come together. You're  
7 facing north so you're looking left across the  
8 street. What is the nature of the neighborhood?

9 MR. TOBEY: As I described in my  
10 testimony, the nature of the neighborhood is  
11 predominantly midrise architecture, the majority of  
12 the buildings appear to be anywhere from 7 to 11  
13 stories in height, as much as 12 on the corner of K  
14 Street.

15 MR. WATSON: I was not talking about K  
16 Street. We were talking about New Hampshire and  
17 24th and I Street.

18 MR. TOBEY: Okay. On that intersection  
19 I believe there's a 9 story condominium building.

20 MR. WATSON: It's residential, is that  
21 correct?

22 MR. TOBEY: I would assume that a  
23 condominium would be a residential building.

24 There is a 7-11 in that general  
25 vicinity.

26 MR. WATSON: What is the height of the  
27 7-11?

1                   MR. TOBEY: I believe it is probably two  
2 stories, three stories at the most.

3                   MR. WATSON: Are there some individual  
4 residences there?

5                   MR. TOBEY: I'm not sure their  
6 residences, but there are --

7                   MR. WATSON: If you could answer without  
8 his counsel asking him if he knows.

9                   MR. TOBEY: I know that there are  
10 buildings that are of two and three stories in  
11 height. Whether they are residences, I do not know.

12                   MR. WATSON: They're two and three  
13 stories. Now is it not --

14                   MR. TOBEY: And they were shown in the  
15 presentation.

16                   MR. WATSON: In thinking of height of  
17 the building from the point where someone stands on  
18 the sidewalk to the top of the building, not  
19 thinking in zoning lawyer terms, but inlay terms,  
20 you're standing next to the building, is it not the  
21 case that at that location down by the I Street end  
22 is where the building is highest from the ground?

23                   MR. TOBEY: The building is highest from  
24 the ground along the I Street Plaza, that is  
25 correct.

26                   MR. WATSON: And the I Street Plaza is a  
27 pedestrian plaza?

1 MR. TOBEY: That's correct.

2 MR. WATSON: And New Hampshire Avenue is  
3 the less traveled of the 23rd and New Hampshire  
4 Streets?

5 MR. TOBEY: I don't believe I know the  
6 answer to that. I believe I said 24th Street --

7 MR. WATSON: That from your view it is  
8 more residential on the New Hampshire Avenue side  
9 than it is on the 23rd Street side?

10 MR. TOBEY: You're using the term  
11 residential, again, I'm not sure.

12 MR. WATSON: Are there any residences on  
13 23rd Street, across from this building? What's  
14 across on 23rd Street?

15 MR. TOBEY: The existing George  
16 Washington University Hospital.

17 MR. WATSON: Is that a residential  
18 building?

19 MR. TOBEY: No.

20 MR. WATSON: Is that what one would  
21 consider a neighborhood building in terms of the  
22 residents of the neighborhood?

23 MR. TOBEY: I was using the term  
24 neighborhood to represent the context in which the  
25 site in the proposed building is to be located, so  
26 my term, my definition of neighborhood was all of  
27 the surrounding structures, whether they were

1 residences, University structures, commercial  
2 structures, even Washington Circle is in my sense  
3 part of the neighborhood.

4 MR. WATSON: Did you inquire as to the  
5 nature of the properties across New Hampshire Avenue  
6 and across I Street?

7 MR. MOORE: Do you know?

8 MR. TOBEY: I don't know, in every  
9 respect.

10 MR. WATSON: What is your impression?

11 MR. TOBEY: I don't think I'll answer  
12 that.

13 (Laughter.)

14 MR. WATSON: He's testifying as an  
15 expert witness. We agreed he was an expert. He can  
16 give his opinion.

17 CHAIRPERSON REID: What do you mean by  
18 what is your impression, Mr. Watson?

19 MR. WATSON: The question is whether or  
20 not the relationship of this hospital building,  
21 proposed hospital building to the residential  
22 neighborhood is along New Hampshire Avenue and I  
23 Street or if it's along 23rd Street and Washington  
24 Circle.

25 CHAIRPERSON REID: Is that germane to  
26 the testimony that he gave?

27 MR. WATSON: He testified --

1                   MR. TOBEY: I'm not sure I ever used the  
2 term "residential." I showed pictures of various  
3 scale and massing of buildings surrounding the site.

4                   MR. WATSON: Does an architect, as a  
5 professional architect, look to the different uses  
6 of buildings?

7                   MR. TOBEY: Often.

8                   MR. WATSON: And you're telling me in  
9 examining the neighborhood you didn't concern  
10 yourself whether things were residential whether  
11 they were nonresidential and institutional?

12                   MR. TOBEY: I can walk around that site  
13 and speculate as to how the buildings are occupied.

14                   MR. WATSON: Now am I correct that the  
15 highest point on the building is on the pedestrian  
16 mall and New Hampshire Avenue?

17                   MR. MOORE: Asked and answered.

18                   MR. WATSON: Yes, I'd like to know if I  
19 am correct of that interpretation since I have had  
20 conflicting views on what this architect sees when  
21 he sees buildings.

22                   MR. TOBEY: Your question is where is  
23 the highest point on the building from the ground?

24                   MR. WATSON: From the ground, if you  
25 drop a plumb bob from the top of the building down  
26 to the ground, where do you need the longest chain?

27                   MR. TOBEY: I believe that it is at the

1 intersection of the I Street Plaza and 23rd Street.

2 MR. WATSON: I Street Plaza and 23rd  
3 Street. And what is the slope of the I Street Plaza  
4 between 23rd and 24th?

5 MR. TOBEY: I don't know specifically.

6 MR. WATSON: Well, did you design the  
7 building? The -- you testified to the nature of  
8 this building. Can you look at your plans and tell  
9 me, it appears to me to be level.

10 MR. TOBEY: I would say that it is  
11 approximately level, but I don't have the specific  
12 elevations.

13 MR. WATSON: Then why do you believe  
14 that the height is highest at that corner?

15 You testified it was highest. You must  
16 have had a basis for that.

17 MR. MOORE: He didn't testify to that.

18 MR. TOBEY: I didn't testify to that.

19 CHAIRPERSON REID: He answered a  
20 question that you asked, Mr. Watson.

21 MR. WATSON: The question was I asked  
22 what's the highest point and you said --

23 CHAIRPERSON REID: He said 97 feet.

24 MR. TOBEY: I think we said 97 feet.

25 MR. WATSON: He said the highest point  
26 was at the intersection of 22nd and I Street, is  
27 that correct?

1                   MR. TOBEY: No, I didn't say that. I  
2                   said 23rd and I Street.

3                   MR. WATSON: 23rd and I.

4                   MR. TOBEY: And I speculated that it was  
5                   23rd.

6                   MR. WATSON: Are you telling me that at  
7                   New Hampshire Avenue, the building is not  
8                   substantially the same height?

9                   MR. TOBEY: As was testified by Mr.  
10                  Skaggs, the building is a constant height. The roof  
11                  is flat. The issue here is whether or not the grade  
12                  is changing around the building. I told you that I  
13                  believe that the low point is at the intersection of  
14                  I and 23rd.

15                  MR. WATSON: And what makes you believe  
16                  that?

17                  MR. TOBEY: It's the low point of the  
18                  site.

19                  MR. WATSON: What makes you believe that  
20                  if you don't know what the slope is along the I  
21                  Street frontage?

22                  MR. TOBEY: I'm unable to tell you  
23                  specifically what the slope is. I don't have that  
24                  information in front of me.

25                  MR. WATSON: But you do know that it  
26                  goes up or down? Does it go as much as ten feet?

27                  MR. TOBEY: No.

1 MR. WATSON: Does it go one foot?

2 MR. TOBEY: I don't know.

3 MR. WATSON: But you are the designer of  
4 the building?

5 MR. TOBEY: It's a collaborative  
6 process.

7 CHAIRPERSON REID: Is your question  
8 answered, Mr. Watson?

9 MR. WATSON: Yes, and we'll go forward.

10 CHAIRPERSON REID: Please.

11 MR. WATSON: Did you consider the  
12 relationship of a building being higher next to  
13 pedestrian areas and lower next to a highly  
14 trafficked traffic circle?

15 MR. TOBEY: Well, yes, that was  
16 certainly part of the consideration when we looked  
17 at the massing of the building.

18 MR. WATSON: Is that the massing that  
19 you tried to have? You tried to have the biggest  
20 heights next to pedestrians and the smallest next to  
21 vehicles?

22 MR. TOBEY: I don't think there's a rule  
23 of thumb, quite frankly, on that issue. I think some  
24 of the most exciting pedestrian spaces are those  
25 that are in confined areas that are urban in nature.

26 MR. WATSON: So your intent was to make  
27 a more confined pedestrian space?

1 MR. TOBEY: It wasn't my intent.

2 MR. WATSON: And did you give any  
3 consideration to the possibility of residences on  
4 either side of the building?

5 MR. TOBEY: I'm not sure I understand  
6 that question. Did I give -- will you repeat it,  
7 please?

8 MR. WATSON: Did you give concern in  
9 massing the building to the possibility that there  
10 would be residential areas on one side and not on  
11 the other side of the building?

12 MR. TOBEY: Yes.

13 MR. WATSON: And what is your concern  
14 there? Do you want more mass next to residences or  
15 less mass next to residences?

16 MR. TOBEY: I think in the larger scheme  
17 of things one would probably attempt to have less  
18 mass next to residences.

19 MR. WATSON: When you were considering  
20 the location of the Metro Station, did you consider  
21 pedestrian traffic from the Metro Station?

22 MR. TOBEY: Yes.

23 MR. WATSON: And what accommodations did  
24 you make for that traffic?

25 MR. TOBEY: Well, as I mentioned in my  
26 testimony, the front door, if you will, of the  
27 facility is oriented toward the Foggy Bottom Metro

1 Station, the I Street Plaza and that intersection at  
2 23rd and I.

3 MR. WATSON: And isn't the main function  
4 of your "front door" to use Mr. Slade's language,  
5 the port couchere?

6 MR. TOBEY: Would you say that one more  
7 time?

8 MR. WATSON: I believe Mr. Slade  
9 referred to this as the port couchere entrance and  
10 define for us port couchere.

11 It's a very commonly used term. Would  
12 you define port couchere as an expert architect.

13 MR. MOORE: Do you know?

14 MR. TOBEY: Yes. It's a covered  
15 vehicular entrance.

16 MR. WATSON: So the main function of the  
17 entrance next to the Metro is to be a covered  
18 vehicular entrance?

19 MR. TOBEY: No, I think that's your  
20 speculation. I never said that.

21 MR. WATSON: I have no further  
22 questions.

23 MR. TOBEY: I'd like to answer that  
24 question.

25 MR. WATSON: I have no further  
26 questions.

27 MR. McLEOD: Mr. Tobey, I believe you

1 mentioned that you did a shadow study.

2 MR. TOBEY: That's me. The firm did,  
3 yes.

4 MR. McLEOD: And you indicated around  
5 December 21st between 7 and 10 in the morning that  
6 there would be a shadow cast on 24th Street, the  
7 residences facing west on 24th, right?

8 MR. TOBEY: I said on and about the days  
9 related to the 21st of December between 7 and 10,  
10 there would be a shadow cast on the buildings along  
11 24th Street, on sunny days.

12 MR. McLEOD: During that time of year,  
13 since you study shadow effects, what time is there  
14 sunlight in that time of year? What time of day  
15 does the sun come up.

16 MR. TOBEY: I really can't be specific.  
17 I imagine -- I don't know. I can't be specific. I  
18 don't know the exact times at that time.

19 CHAIRPERSON REID: He doesn't know.  
20 Next question, please.

21 MR. McLEOD: Does the sunset about 5  
22 p.m. that time of year?

23 MR. TOBEY: I don't know.

24 CHAIRPERSON REID: Doesn't know.

25 MR. WATSON: I ask that counsel not  
26 mouth answers to the witness.

27 CHAIRPERSON REID: Okay, all right.

1 MR. McLEOD: Do you know if that's the  
2 shortest day of the year?

3 MR. TOBEY: That's my understanding.

4 MR. McLEOD: So if someone went to work  
5 at 9 and came back at 5, isn't it likely that the  
6 only sunlight they would see that day would be in  
7 the morning between 7 and 9, right?

8 MR. TOBEY: I can't answer that  
9 question. I don't know which way they're going to  
10 work.

11 MR. McLEOD: And you're the one that did  
12 the shadow study?

13 MR. TOBEY: They're not related. Your  
14 question doesn't relate to the shadow study.

15 MR. McLEOD: Well, let me clarify that  
16 because you seem to misinterpret it. The person  
17 lives in the building. They face west. The sun  
18 shines on their apartment window.

19 MR. MOORE: What building are you  
20 talking about?

21 MR. WATSON: Would Mr. Moore not ask for  
22 information.

23 MR. McLEOD: Along 24th Street, you  
24 pointed to the buildings along 24th Street, the  
25 shadow was cast on those buildings. The residents  
26 living there facing west would have sunlight on  
27 their windows, so why is it relevant where they're

1 going to work that day. I don't understand that if  
2 they leave the building at 9, they may have a shadow  
3 cast on their sunlight, is that correct?

4 MR. TOBEY: If they live in the building  
5 on 24th Street, facing the proposed hospital, that's  
6 facing east incidentally, not west. Then it's  
7 possible from the hours of 7 to 10 in the morning if  
8 you happen to reside in that building, the nine  
9 story building on the lower levels of that building  
10 you may have shadow on your windows during those  
11 three hours.

12 MR. McLEOD: That's fine. I wanted to  
13 go to the questions about 23rd Street and provisions  
14 for pedestrian traffic.

15 Where in the application does it show  
16 where this lane for -- there's an entrance and exit  
17 for cars to go in the main entrance, right?

18 MR. TOBEY: Yes.

19 MR. McLEOD: Which diagram, I believe  
20 Exhibit G would probably be the one, where can you  
21 find where that lane goes, where it curves in and  
22 comes out? I haven't been able to find that.

23 MR. TOBEY: I have to see this. I  
24 haven't seen this document.

25 Show it to me because I haven't seen the  
26 application.

27 MR. McLEOD: I guess he needs a

1 particular floor --

2 MR. TOBEY: That's correct.

3 MR. McLEOD: If you could just point out  
4 for the Board which diagram it is they should look  
5 at to see where that goes in and where it comes out.

6 MR. TOBEY: Yes, the floor plan I think  
7 you're alluding to is the ground level floor plan  
8 and I'm trying to see whether these pages are  
9 number. I don't see that they are, but it's the  
10 ground level.

11 MR. WATSON: It's Exhibit G.

12 MR. TOBEY: That's correct.

13 MR. WATSON: It's about the fifth page  
14 in.

15 MR. TOBEY: That's correct. It's about  
16 the fourth page in, I believe, I count.

17 MR. McLEOD: Did you consider as opposed  
18 to have drive in and drive out like the current  
19 hospital has, just to have a cut in from the curb  
20 where you have 8 feet of sidewalk being taken away,  
21 in effect, parallel to the building, so cars can  
22 pull out of traffic and then unload the passenger  
23 without having to cross that lane of traffic?

24 MR. TOBEY: Pedestrian --

25 MR. McLEOD: For pedestrians. In other  
26 words, the pedestrians would be crossing on the  
27 sidewalk. The way you have it structured now, cars

1 will cross their paths twice and the ambulance a  
2 third time, but the cars going in and out would  
3 cross their path twice, right?

4 MR. TOBEY: That's correct.

5 MR. McLEOD: How wide is the sidewalk  
6 between the -- how wide is the sidewalk you've  
7 provided for the pedestrians?

8 MR. SKAGGS: Let me first respond that  
9 the building is set on --

10 CHAIRPERSON REID: Give your name,  
11 please, for the record so that --

12 MR. SKAGGS: This is Ron Skaggs,  
13 responding, Ronald Skaggs. The building is actually  
14 set on the property line. And the curb line sits  
15 out from the property line by some dimension. I  
16 don't remember exactly what the dimension is.

17 MR. McLEOD: You don't know how many  
18 feet?

19 MR. SKAGGS: I'm going to guess 20 feet,  
20 but I'd have to go check. So actually the drive in  
21 comes in to bring people into the lobby, into the  
22 property line area, but the sidewalk is off of the  
23 property line.

24 As was testified to by someone else,  
25 we're still developing the sidewalk width and can  
26 widen that even though it's not on the property  
27 line.

1                   MR. McLEOD:  If it were determined that  
2                   the drive in and drive out is not a good idea for  
3                   the safety of pedestrians, architecturally can you  
4                   use a cut in curb and let me just show you what I'll  
5                   just mark as Foggy Bottom 1.  It's just a photograph  
6                   of the Bristol Hotel which has a cut in about the  
7                   width, a little more than the width of a car.  It  
8                   doesn't block pedestrian traffic, it just diverts  
9                   the traffic.  That would be helpful for you to look  
10                  at it.

11                  MR. TOBEY:  I appreciate seeing that  
12                  photograph.  I think the issue that you need to be  
13                  aware of is that when you provide a vehicular drop  
14                  off at the front entrance to a hospital, number one,  
15                  you need to have a covered zone.

16                  MR. McLEOD:  Right.

17                  MR. TOBEY:  Ideally covering both the  
18                  passenger side and the driver side because often  
19                  times the driver has to step out of the car to  
20                  assist the passenger, so our goal often is or our  
21                  intent often is to provide a cover over both of  
22                  those sides of the vehicle.

23                  Secondly, because it takes time often  
24                  for the passenger who may be ill to exit the  
25                  vehicle, there is often a short waiting period when  
26                  that automobile is immobile as they unload and so we  
27                  need to provide enough width to the unloading lane,

1 if you will, or to the drive in, to allow one or two  
2 other vehicles to pass the unloading vehicle. If  
3 you were to provide a curb cut along, for example,  
4 23rd, and with a pull in, if you will, of  
5 approximately one car width, I believe the real  
6 issue would be that if you were arriving at the  
7 hospital behind a car unloading and you too wanted  
8 to offload a car, you would have to pull back out  
9 into the mainstream of 23rd Street and therefore  
10 create a pretty dangerous situation. We would try  
11 in every case to have a drop off that's two, if not  
12 three, car widths in width.

13 MR. McLEOD: But architecturally it  
14 could be done for this site?

15 MR. TOBEY: I'm not sure I know the  
16 answer, but I'm not sure we have actually tested  
17 that. Our goal was to pull that car in under the  
18 building and protect the passenger and the driver.

19 MR. McLEOD: Use of public space. In  
20 the application, there's a reference to public space  
21 on the site. Now the only use I saw of that was for  
22 some type of oxygen tanks. Where is the public  
23 space on this site?

24 MR. SKAGGS: We'd have to see the  
25 reference. I'm not sure what you're referring to.

26 MR. McLEOD: Did you help prepare the  
27 application?

1 MR. SKAGGS: We designed the building.

2 MR. MOORE: He's assisting the witness.

3 MR. TOBEY: We did not prepare the  
4 application. We prepared the plan to the building.

5 MR. McLEOD: In preparing the plan for  
6 the building, did you consider the traffic noise  
7 when you were building the building because the  
8 patients will be closer to the street? How far are  
9 they from the street, those on 23rd Street?

10 MR. SKAGGS: Are you talking about up in  
11 the air?

12 MR. McLEOD: I didn't design the  
13 building. You should know.

14 MR. TOBEY: You have to explain your  
15 question. How far are the patients, what patients,  
16 ambulatory patients, in-patients, patients in beds,  
17 patients undergoing diagnostic treatment?

18 MR. McLEOD: Patients in bed in the  
19 hospital.

20 MR. TOBEY: All right.

21 MR. McLEOD: How do those patients face  
22 the street, do they have a window, most of them?

23 MR. TOBEY: It's a code requirement that  
24 every patient bedroom have a window.

25 MR. McLEOD: Have you analyzed the  
26 impact of -- the existing hospital, you know the  
27 existing hospital, right?

1 MR. TOBEY: Yes.

2 MR. McLEOD: Isn't it true along 23rd  
3 there's a lot more distance between the street and  
4 the hospital than your proposed facility, there will  
5 be less distance between the core noise and the  
6 patients in your building than the old building. Is  
7 that accurate?

8 CHAIRPERSON REID: If there is a  
9 question that is being asked and the witnesses don't  
10 understand it or have a question, then counsel is  
11 there to clarify only.

12 (Pause.)

13 MR. SKAGGS: The question presupposes  
14 things without us having an opportunity to clarify  
15 it. There will be no core noise in those patient  
16 rooms. They are designed with fixed windows, with  
17 an operable sash in such a way that there's not a  
18 decibel problem unless you open the window which is  
19 only required for code in the event of smoke.

20 MR. McLEOD: So if a patient to open the  
21 window to get some fresh air they might hear noise?

22 MR. SKAGGS: They might hear noise.  
23 That's true.

24 MR. McLEOD: Another concern is with the  
25 emergency room, the emergency entrance for the  
26 ambulances. Why did -- the way it's designed now,  
27 does it matter which entrance the ambulance uses the

1 way you've designed it? Can it come in either way  
2 on 23rd or New Hampshire?

3 MR. SKAGGS: It's designed as a one way  
4 entrance.

5 MR. McLEOD: It's one way, so could it  
6 be designed for ambulances to come either way?

7 MR. SKAGGS: It's not advisable in the  
8 design of hospitals.

9 MR. McLEOD: Well --

10 MR. SKAGGS: Because of the conflict of  
11 vehicles.

12 MR. McLEOD: But as far as you're  
13 concerned it doesn't matter which end they come in,  
14 right, as long as it's just one way,  
15 architecturally?

16 MR. SKAGGS: It needs to relate to the  
17 access of the patients into the trauma center and  
18 the cuing of the patients.

19 MR. McLEOD: So the way you've designed  
20 it, they have to come in on New Hampshire?

21 MR. SKAGGS: That's correct.

22 MR. McLEOD: Could it be redesigned,  
23 just reverse it, so they could come in on 23rd  
24 Street?

25 MR. McLEOD: Anything could be  
26 considered --

27 MR. WATSON: The left hand turn is not a

1 --

2 CHAIRPERSON REID: Mr. Watson, you know  
3 that you're not supposed to be testifying.

4 MR. WATSON: I am not testifying.

5 CHAIRPERSON REID: You are not supposed  
6 to say anything.

7 MR. TOBEY: If the issue is a left hand  
8 turn --

9 MR. WATSON: I object. I want to make  
10 an objection. Counsel to the witnesses gave the  
11 information of left hand turn. That is the counsel  
12 providing information to the witnesses, not  
13 providing legal advice.

14 MR. MOORE: Madam Chair, I hate to say  
15 it, but I'm not a potted plant here. I have a  
16 responsibility to represent our clients and if there  
17 are questions asked that they know the answer to,  
18 they can answer those questions. If there are  
19 questions asked that they need clarification on,  
20 they have the right to consult counsel. I have the  
21 right to offer counsel as I see fit. Period.

22 CHAIRPERSON REID: Okay. Let the  
23 question be answered and then -- do you have many  
24 more questions?

25 MR. McLEOD: Not many, just one other  
26 area to be covered.

27 CHAIRPERSON REID: Okay.

1                   MR. TOBEY: I believe you're asking  
2 whether or not you could reverse the flow into the  
3 emergency room from the one that has been proposed  
4 in the plant and then there was some implication  
5 that there was an issue about left hand turns.

6                   I think the issue is there's -- no  
7 matter which way you enter that emergency covered  
8 area, there is always the potential of a left hand  
9 turn.

10                  MR. McLEOD: That's fine. Another key  
11 area is there is no parking on site. Now  
12 architecturally why was that determination made? Is  
13 there some reason why there can't be parking at that  
14 site?

15                  MR. TOBEY: It's not uncommon in urban  
16 academic medical centers to have parking offsite.  
17 It was actually seen that a greater advantage here  
18 was direct access from the Metro Station where many  
19 of the passengers will be -- many of the patients  
20 will be coming from and then providing the direct  
21 access for the drop off you were questioning earlier  
22 for patients and then ability to go elsewhere to  
23 park.

24                  MR. McLEOD: Can underground parking be  
25 created at that site?

26                  MR. TOBEY: With great difficulty. We  
27 made a decision that functionally it was more

1 important to utilize the below grade levels for  
2 functional areas like laboratory and materials  
3 supplied to central plant and central sterile.

4 MR. McLEOD: If there -- there's been  
5 some discussion, you didn't testify about, if there  
6 are fewer bed spaces is it possible if you can't go  
7 below ground could you create a level of parking in  
8 that building either at the first level or semi-  
9 submerged level? Are you saying you can go below  
10 ground?

11 MR. SKAGGS: We have gone below ground  
12 with one level of what we refer to as a basement,  
13 which is the building support services to support  
14 the hospital.

15 MR. McLEOD: Could that be converted to  
16 a parking lot?

17 MR. SKAGGS: If you wanted to push the  
18 building higher and go above the 90 foot limit, I  
19 guess it's possible.

20 MR. McLEOD: Let's suppose though that  
21 you don't need the additional 81 beds or whatever  
22 the number is, in other words, if you don't need an  
23 extra floor, couldn't you just move things up one  
24 level?

25 MR. SKAGGS: That would have to be an  
26 owner's decision. There are always physical  
27 possibilities.

1                   CHAIRPERSON REID: How many more  
2 questions --

3                   MS. KING: He's already testified that  
4 those beds are not a complete floor.

5                   CHAIRPERSON REID: Excuse me, how many  
6 more questions do you have?

7                   You said one more. That was four or  
8 five questions ago.

9                   MR. McLEOD: I'm not sure I said one,  
10 but that should cover it.

11                  CHAIRPERSON REID: Do you have any other  
12 questions?

13                  MR. McLEOD: Not of these particular  
14 witnesses.

15                  MR. WATSON: With all due respect, the  
16 original affectation of the proponents were that  
17 they would take 90 minutes and they took more like  
18 two and a half hours. I think we have the right to  
19 question to the extent --

20                  CHAIRPERSON REID: Listen, you will have  
21 your opportunity to present your case. Nonetheless,  
22 the hour is late. People are tired. It does not  
23 make sense to be redundant. It was basically state  
24 your question and get an answer and just move on,  
25 that's all I'm asking.

26                  MR. WATSON: There was no question  
27 raised to the proponents as to whether they were

1 going to continue.

2 MS. TYLER: Excuse me, Mr. Ingle, I have  
3 a question of the gentleman who --

4 CHAIRPERSON REID: Give your name.

5 MS. TYLER: The previous two gentlemen.  
6 My name is Maria Tyler. I am an ANC Commissioner  
7 and I have party status.

8 MR. MOORE: I believe Mr. Watson is  
9 asking questions on behalf of the ANC, Ms. Tyler.

10 MS. TYLER: No --

11 CHAIRPERSON REID: They have single  
12 member who have requested party status.

13 MS. TYLER: And I have party status as a  
14 property owner in both --

15 CHAIRPERSON REID: And none of your  
16 questions have been answered in the previous cross  
17 examination?

18 MS. TYLER: Excuse me?

19 CHAIRPERSON REID: None of your  
20 questions, your questions have not been answered so  
21 far?

22 MS. TYLER: I just want to ask a  
23 question of this gentleman from Texas and from  
24 Virginia that were just here.

25 CHAIRPERSON REID: Okay.

26 MS. TYLER: It's very brief. Now I  
27 believe the gentleman from Virginia, Mr. Tobey, yes,



1 high point of the site at Washington Circle.

2 MS. TYLER: So that if it exceeds 90  
3 point at any point that that would require a zoning  
4 variance?

5 MR. TOBEY: No.

6 CHAIRPERSON REID: Next question,  
7 please.

8 MR. TOBEY: That is not correct.

9 CHAIRPERSON REID: He said no. Next  
10 question.

11 MS. TYLER: Are you aware when you or  
12 your assistant did the survey that I come back to  
13 the corner of I Street and New Hampshire Avenue  
14 which is a crucial corner for our remaining  
15 neighborhood, are you aware that that zoning is R-3,  
16 very restricted zoning in the District of Columbia?

17 MR. MOORE: No, I'm not aware.

18 MS. TYLER: I did not ask Gerry Moore.  
19 I asked the gentleman from Virginia.

20 MR. TOBEY: I answered it.

21 MS. TYLER: You're not aware. Thank you  
22 very kindly.

23 CHAIRPERSON REID: Is that the end of  
24 your questioning? Okay.

25 Mr. Ingle is the last witness for cross?

26 MR. WATSON: Mr. Ingle, you testified I  
27 believe to parking arrangements, is that correct?

1 MR. INGLE: That's correct.

2 MR. WATSON: Let me ask some simple  
3 questions. What guarantee can you give to the Board  
4 that any parking spaces will be available at the  
5 Kennedy Center on January 1, 1999?

6 MR. INGLE: I don't know what day of the  
7 week January 1st is.

8 MR. WATSON: Let's assume the first  
9 Monday of January next year. What guarantee can you  
10 give to the Board that any parking spaces will be  
11 available to George Washington University?

12 MR. INGLE: We have a signed agreement  
13 with the Kennedy Center for 150 spaces Monday  
14 through Friday, 7 a.m. to 7 p.m.

15 MR. WATSON: Let's talk about this. The  
16 signed agreement you referred to is that the  
17 agreement dated April 25, 1997?

18 MR. INGLE: I don't have the date  
19 committed to memory.

20 MR. WATSON: Is it the agreement which  
21 you signed on 2/20/97 at 1 p.m.?

22 MR. INGLE: No.

23 MR. WATSON: It's not? What is the  
24 agreement with the Kennedy Center?

25 MR. INGLE: That was the general  
26 agreement that relates to the -- an as-available  
27 parking arrangement.

1                   MR. WATSON: What is the reason then  
2                   that the new agreement has not been provided to the  
3                   Board and to the parties? This is the agreement  
4                   that was provided to the parties within the last  
5                   several days.

6                   MR. INGLE: I don't know.

7                   MR. WATSON: I have a letter which went  
8                   to the Board of Zoning Adjustment dated November  
9                   13th, that is I figure what five days ago, which  
10                  says on behalf of George Washington University  
11                  attached please find two final submissions requested  
12                  by the Board at the October 21, 1998 public hearing  
13                  on the case. And it says a copy of the University's  
14                  agreement with the Kennedy Center, whereby the  
15                  Kennedy Center agrees to allow the use of its  
16                  parking garage on weekdays.

17                  CHAIRPERSON REID: Who is that to?

18                  MR. WATSON: It's to you.

19                  CHAIRPERSON REID: What case does it  
20                  pertain to, what's the number?

21                  MR. WATSON: It's in the public affairs  
22                  building case.

23                  CHAIRPERSON REID: What's the number?

24                  MR. WATSON: The case number is 16379.

25                  CHAIRPERSON REID: That's not germane to  
26                  this.

27                  MR. WATSON: Are we indicating that they

1 are submitting different agreements in the cases. I  
2 then must request that we have the agreement which  
3 provides -- we've been given - the Board has been  
4 given an agreement five days ago, be it in another  
5 case.

6 CHAIRPERSON REID: That's not germane to  
7 this case. You have to keep it --

8 MR. WATSON: Well, then I would like to  
9 know what the terms are --

10 MR. BASTIDA: Madam Chairperson, that is  
11 a submission that is related to another case. If  
12 Mr. Watson wants to pursue the line of questioning  
13 he should request that that becomes part of this  
14 record or maybe it might be more beneficial for him  
15 to make the case in his direct testimony and at this  
16 time that the Board incorporate it on a request from  
17 the applicant the final, the most recent agreement  
18 with the Kennedy Center.

19 CHAIRPERSON REID: We can do that.

20 MR. WATSON: If I may say and with all  
21 deference from the Planning Office, the information  
22 as to the contract with the Kennedy Center is  
23 peculiarly within the province of the proponent. We  
24 do not have access to present testimony as to the  
25 contract with the Kennedy Center.

26 Let me ask them the specific terms of  
27 that contract. He has said that space is available.

1 MR. BASTIDA: Mr. Watson, excuse me --

2 MR. WATSON: I am not responding to him.  
3 I am asking my questions.

4 MR. BASTIDA: You could ask --

5 MR. WATSON: I do not want to --

6 MR. BASTIDA: -- that it be put into the  
7 record and that way it becomes properly in front of  
8 --

9 MR. MOORE: The answer, Madam Chair, is  
10 we'd be happy to make the current --

11 CHAIRPERSON REID: We would need to have  
12 copies of it as well. We don't. We have to ask for  
13 copies of -- and in your testimony you could bring  
14 this issue up to discuss, but it not properly a part  
15 of this questioning.

16 MR. WATSON: I am perfectly entitled to  
17 ask the questions as to the terms of the agreement  
18 with the Kennedy Center. He testified that there  
19 was an agreement with the Kennedy Center. I would  
20 like to know, Mr. Ingle, what is the provision for  
21 termination?

22 MR. INGLE: There are two agreements  
23 with the Kennedy Center. One agreement which is the  
24 earlier agreement date unknown at this point, I  
25 don't have it in my head, says they will provide 350  
26 to 400 spaces on an as-available basis. And that --  
27 that's a signed agreement. There is a second

1 agreement signed by both parties that assigns 150  
2 spaces, Monday through Friday on a committed basis  
3 from 7 a.m. to 7 p.m.

4 MR. WATSON: Did the second agreement  
5 supersede the first?

6 MR. INGLE: It becomes a rider to the  
7 first as part of the 350 to 400 spaces.

8 MS. KING: May I ask, Madam Chair, if  
9 the applicant would be willing to file copies with  
10 the Board of --

11 CHAIRPERSON REID: He has said so.

12 MS. KING: All agreements with the  
13 Kennedy Center relating to parking?

14 CHAIRPERSON REID: He has already agreed  
15 to do that and we certainly --

16 MR. WATSON: Mr. Ingle, where does the  
17 350 to 400 spaces come from?

18 MR. INGLE: It's part of the Kennedy  
19 Center inventory. They manage that inventory.

20 MR. WATSON: Are you aware that it's not  
21 mentioned in the agreement whatsoever in what  
22 purports to be the first agreement?

23 MR. INGLE: I don't know what your  
24 question is.

25 MR. WATSON: If Mr. Moore is answering,  
26 it doesn't matter. I would request that we have  
27 permission to cross examine the witness after we

1           have the agreement. The notion that George  
2           Washington University is presenting different  
3           agreements and keeping secret an agreement it has,  
4           whether in one case or another case is not not  
5           germane. The fact is that George Washington  
6           University has attempted a shell game.

7                         CHAIRPERSON REID: Mr. Watson, listen,  
8           this is your opportunity to cross examine, not to  
9           give testimony which I told you that before. Now  
10          what I'd like for you to do is continue your  
11          questioning, keep the questions germane to the  
12          testimony of this evening -- wait a minute -- and  
13          we've already asked that they submit it for the  
14          record.

15                        And if you have questions that pertain  
16          to that particular document, then I have no problem  
17          with allowing you to ask questions about it. So now  
18          let's move on, please.

19                        MR. WATSON: I believe you testified to  
20          various incentives that the University is giving to  
21          encourage Metro use?

22                        MR. INGLE: That's correct.

23                        MR. WATSON: Was one of these incentives  
24          the customer bonus?

25                        MR. INGLE: On the Metro pass?

26                        MR. WATSON: Yes.

27                        MR. INGLE: That's correct.

1 MR. WATSON: Who pays for that?

2 MR. INGLE: The University.

3 MR. WATSON: Are you not aware that the  
4 customer bonuses given is given to anyone using a  
5 fare card machine on a \$20 fare card or larger?

6 MR. INGLE: I don't understand the  
7 question. I'm not an expert on Metro.

8 MR. WATSON: What is -- well, you  
9 testified to a customer bonus. What is that bonus?

10 MR. INGLE: It equates to 5 percent of  
11 the value.

12 MR. WATSON: Of a \$20 fare card?

13 MR. INGLE: I can't tell you that.

14 MR. WATSON: Are you telling me that you  
15 are not aware that the bonus is giving by the  
16 Washington Metropolitan Area Transit Authority?

17 MR. INGLE: I can't confirm that or deny  
18 it.

19 MR. WATSON: But you did testify that  
20 George Washington University granted it?

21 MR. INGLE: We have an agreement with  
22 the book store to sell that to our students, faculty  
23 and staff.

24 MR. WATSON: And who funds the bonus?

25 MR. INGLE: That is an arrangement  
26 between the bookstore and the Metro.

27 MR. WATSON: So it's not something

1 provided by George Washington University?

2 MR. INGLE: It is granted -- and the way  
3 I was expressing that is granted by the University  
4 as a bonus for our students, faculty and staff  
5 through the bookstore and the Metro. I don't know  
6 the arrangement between the bookstore and the Metro.

7 MR. WATSON: Could I request that he  
8 inquire as to what that fact is as to whether or not  
9 they contribute at all, that this is not a system-  
10 wide Metro program?

11 MS. KING: Yes, good idea. Let's get  
12 that information too.

13 MR. WATSON: You also indicate that you  
14 provide for the tax, the tax-free purchase of Metro  
15 cards. Does this involve any cost to George  
16 Washington University?

17 MR. INGLE: I didn't testify to that.

18 MR. WATSON: You did not testify to the  
19 fact that you allowed people to buy Metro with  
20 pre-tax?

21 MR. INGLE: No, I did not testify to  
22 that.

23 MR. WATSON: The record will speak for  
24 itself.

25 MR. INGLE: I testified that we had been  
26 talking to Metro representatives.

27 MR. WATSON: Well, with regard to what

1       you're talking about, would this have any cost to  
2       the University?

3                   MR. INGLE:  No, it wouldn't have any  
4       cost to the University.

5                   MR. WATSON:  It has no cost to the  
6       University, so this --

7                   MR. INGLE:  It's a wonderful program for  
8       the students, faculty and staff.

9                   MR. WATSON:  At no cost to the  
10      University.

11                   CHAIRPERSON REID:  We've already  
12      established that, Mr. Watson.  Let's move it to the  
13      next question, please.

14                   MR. WATSON:  Now, how are fees paid for  
15      parking by students?

16                   MR. INGLE:  Through a -- it can be a  
17      number of different ways.  It can be -- if they're  
18      occasional parkers on vouchers that they buy or it  
19      can be based on a payment at the parking office.

20                   MR. WATSON:  And what is the payment for  
21      a voucher?

22                   MR. INGLE:  It varies depending on what  
23      kind of parking they want.  I don't know the exact  
24      rate.

25                   MR. WATSON:  What is the payment for a  
26      voucher for the Kennedy Center?

27                   MR. INGLE:  It is something less.



1 know, Mr. Watson.

2 MR. WATSON: Do you know whether it is  
3 more or less?

4 MR. INGLE: There is a reciprocal  
5 agreement between the Kennedy Center and the  
6 University that provides that the University pays  
7 the same amount to the Kennedy Center that the  
8 Kennedy center pays to the University, daytime and  
9 nighttime parking.

10 MR. WATSON: That's not the question I  
11 asked.

12 CHAIRPERSON REID: The amount --

13 MR. INGLE: It's the same amount.

14 CHAIRPERSON REID: We don't know what  
15 the amount is.

16 MR. WATSON: I asked about the user of  
17 the space, was charged more or less than the Kennedy  
18 Center charges?

19 I would appreciate if people all around  
20 the room would not --

21 MR. INGLE: I think they're trying to  
22 help --

23 CHAIRPERSON REID: Do you know?

24 MR. INGLE: The fact is --

25 CHAIRPERSON REID: Do you know or not?

26 MR. INGLE: -- there's not an exact  
27 answer to that.

1 CHAIRPERSON REID: Okay, so you don't  
2 know or you don't know.

3 MR. INGLE: There's no exact answer to  
4 that.

5 MR. WATSON: I don't know how there can  
6 be no exact answer --

7 MS. KING: Presumably this will all  
8 become clear when we get all of the documents  
9 relating to the arrangements for the Kennedy Center.

10 MR. WATSON: No, because the documents  
11 with the Kennedy Center permits George Washington to  
12 set its own rate --

13 CHAIRPERSON REID: You're testing again,  
14 Mr Watson --

15 MR. WATSON: -- for parking --

16 CHAIRPERSON REID: Mr. Watson, Mr.  
17 Watson, keep it, the questions germane to the  
18 testimony.

19 Don't testify, please.

20 MR. WATSON: I am not testifying. It is  
21 germane. I asking a question. If he doesn't know,  
22 we'll have to get the answer otherwise.

23 We have been told he knows the rate is  
24 less.

25 CHAIRPERSON REID: Mr. Ingle, what is  
26 your answer, please?

27 MR. INGLE: I don't know the answer.

1 CHAIRPERSON REID: Okay, next question.

2 MR. WATSON: So that we can get the  
3 information, where can we find the information as to  
4 what persons pay for parking at the Kennedy Center?

5 MR. INGLE: There is a published set of  
6 rates that is at the entrance to every parking  
7 garage and in the parking office which is available  
8 to the students, faculty, staff and public. I don't  
9 happen to have committed to memory.

10 MR. WATSON: I'm talking about at the  
11 Kennedy Center, where you pay with a voucher and you  
12 do not pay the Kennedy Center.

13 MR. INGLE: The rates to the Kennedy  
14 Center are also part of that published list.

15 MR. WATSON: Now if a person who is at  
16 the hospital wants to use the Kennedy Center  
17 parking, how do they do it?

18 I am a patient or I am a friend of a  
19 patient coming to visit and I would like to use the  
20 Kennedy Center parking, how is it done?

21 MR. INGLE: I don't believe that  
22 occasion has come up. I believe that if they did  
23 want to do that they would go to the parking office.

24 MR. WATSON: Where is the parking  
25 office?

26 MR. INGLE: It's on H Street between  
27 22nd and 23rd on the back side of the University

1 parking garage.

2 MR. WATSON: Is it in the hospital?

3 MR. INGLE: No.

4 MR. WATSON: Now you were telling me  
5 then that if -- this parking which you have  
6 testified is being provided so there can be  
7 available spaces for the hospital, that someone  
8 would have to go outside to a separate office from  
9 the hospital to purchase the parking voucher?

10 MR. INGLE: No, I'm not telling you  
11 that. That's an entirely different -- you're asking  
12 me questions about visitors.

13 MR. WATSON: Yes.

14 MR. INGLE: And now you've changed your  
15 line of questioning about this parking over on 11  
16 and 13th?

17 MR. WATSON: No, I'm asking if a visitor  
18 in the future wants to park at the Kennedy Center,  
19 how do they do it? And you have said, I believe,  
20 that they have to go to an office outside the  
21 hospital and outside the parking lot to pay for it.  
22 Is that correct?

23 MR. INGLE: We do not expect visitors to  
24 the hospital to ask to go to the Kennedy Center. If  
25 they did happen to want to, they would go to the  
26 parking office, but we would not expect that to  
27 happen. They drive into the parking garage as a

1 visitor.

2 MR. WATSON: But didn't you agree that  
3 the parking garage was more expensive than the  
4 Kennedy Center?

5 MR. INGLE: That's correct.

6 MR. WATSON: So that an individual has  
7 to visit their sick child regularly, you believe  
8 they should pay a higher amount, is that correct?

9 MR. MOORE: That is not what he said,  
10 Mr. Watson. Please don't put words in his mouth.

11 MR. WATSON: I have no further  
12 questions.

13 MR. McLEOD: Mr. Ingle, I just have one  
14 basic question. You referred to in your effects on  
15 plan construction on campus parking, I guess,  
16 November 5th submission, page 5 of 7. There's a  
17 listing of -- and there's one column called visitors  
18 spaces and then on page 7 of 7 you have the various  
19 parking lots identified. Could you just both orally  
20 and if you could just do it in writing, just mark  
21 this as Foggy Bottom No. 2, just identify the  
22 parking lots that have visitors parking, visitors  
23 spaces.

24 MR. INGLE: It's already marked. And  
25 it's clear --

26 MR. McLEOD: If you could --

27 MR. INGLE: I'm not going to mark it. I

1 can tell you what I testified to and what the  
2 exhibit shows.

3 MR. McLEOD: Members of the Board, I'm  
4 doing this just to clarify where the visitors spaces  
5 are. I'm just asking you to circle the parking  
6 lots.

7 MR. INGLE: You can mark it as I tell  
8 you.

9 MR. McLEOD: I'm not testifying.

10 CHAIRPERSON REID: You want to know --  
11 you want him to indicate to you exactly where the  
12 parking space and that is what he will do. Beyond  
13 that, I don't think he's obligated at this time.

14 Your question is --

15 MR. McLEOD: I just wanted it clarified  
16 for the Board, facility.

17 CHAIRPERSON REID: I understand that,  
18 but you want him to show you where the parking space  
19 is.

20 MR. McLEOD: Just to circle them, that's  
21 all.

22 CHAIRPERSON REID: But to ask him to  
23 circle that's his prerogative to do so and not --  
24 you can't make him do that.

25 MR. McLEOD: You can't make him circle  
26 it? Okay. That's fine, okay. Will you identify  
27 orally the parking lots.

1 MR. INGLE: Now if you would repeat the  
2 question, I'll do that.

3 MR. McLEOD: The question is on your  
4 column you have for visitors spaces, there's 250  
5 under Universal Parking Gar. Where is --

6 MR. INGLE: Universal Parking Garage?

7 MR. McLEOD: Where is that located?

8 MR. INGLE: 250 spaces, that is on 22nd  
9 Street between H and I.

10 MR. McLEOD: Would that be the southwest  
11 corner of 23rd and I?

12 MR. INGLE: That is the southeast corner  
13 on H Street.

14 MR. McLEOD: The southeast corner --

15 MR. INGLE: It says UPG on your exhibit.  
16 Just as it says Lot No. UPG.

17 MR. McLEOD: And that's 250 spaces,  
18 right?

19 MR. INGLE: That's correct.

20 MR. McLEOD: Okay, there's 65 at the  
21 Marvin Center garage. Where is the entrance to the  
22 Marvin Center Garage?

23 MR. INGLE: It's on H Street, just  
24 before the corner of H and 21st.

25 MR. McLEOD: The one marked MC?

26 MR. INGLE: That's it. It says MC.  
27 That's the number.

1 MR. McLEOD: And there are 65 spaces  
2 there?

3 MR. INGLE: That's correct.

4 MR. McLEOD: And there's 96 at the ACC  
5 Garage. That's No. 7 on your chart here?

6 MR. INGLE: Yes. That's the northeast  
7 corner of 21st and I. It is also called the  
8 Ambulatory Care Center and to some it's the Burns  
9 Building which is on the other end of that building.

10 MR. McLEOD: So those spaces are for any  
11 visitor to the University or do you ask them if  
12 they're coming to the hospital to visit?

13 MR. INGLE: Visitors spaces.

14 MR. McLEOD: Undesignated visitors  
15 spaces. Okay. That's all I had.

16 CHAIRPERSON REID: Thank you. Now Mr.  
17 Slade and Mr. Slade is the last witness for the  
18 cross examination.

19 MR. BEAN: I'm Mr. Bean.

20 CHAIRPERSON REID: Mr. Bean, I'm sorry,  
21 and then Mr. Slade. Okay.

22 MR. WATSON: Mr. Bean, I believe that  
23 you testified that during the construction phase  
24 there will be requirements to have off-site parking.  
25 Is that correct?

26 MR. BEAN: I did not testify to that.

27 MR. WATSON: Okay, I am mistaken then in

1 the testimony. Your testimony involved the  
2 organization of parking?

3 MR. BEAN: No, it did not. That was Dr.  
4 Ingle.

5 CHAIRPERSON REID: Next question, Mr.  
6 Watson.

7 MR. WATSON: I will not ask further  
8 questions.

9 CHAIRPERSON REID: Okay.

10 MR. McLEOD: Mr. Bean, just to clarify,  
11 what was the area of your testimony?

12 MR. BEAN: I discussed the physical  
13 attributes of the parking garage.

14 MR. McLEOD: I have no further  
15 questions.

16 MR. WATSON: I took that as the  
17 organization of the parking and I apologize for not  
18 phrasing it then correctly.

19 Where is the -- where will the entrance  
20 to the parking garage be?

21 MR. BEAN: The entrance will be where  
22 they are currently on H Street, I Street and 22nd  
23 Street.

24 MR. WATSON: Now when you say they are  
25 currently -- where will the pedestrian entrances to  
26 the parking lot be?

27 MR. BEAN: On I Street.

1                   MR. WATSON: In terms of the path from  
2 the pedestrian entrance to the parking lot to the  
3 entrance to the hospital, the proposed hospital,  
4 what path will pedestrians take?

5                   MR. BEAN: I'm not sure.

6                   MR. WATSON: Well, you testified, I  
7 think, as to design and layout --

8                   CHAIRPERSON REID: Ask your question.

9                   MR. WATSON: Am I correct that this  
10 parking garage is intended to be used by persons  
11 coming to the hospital?

12                   Is that correct?

13                   MR. MOORE: Several of the witnesses  
14 have addressed that and we have addressed that in  
15 the papers. What we have said, what the applicant  
16 has said is that the University parking garage is  
17 for the use of the hospital and for other uses in  
18 the University community.

19                   MR. WATSON: I understand. I had  
20 understood that this is consolidated with the  
21 hospital because it had a relationship to the  
22 hospital. Is that not true?

23                   MR. MOORE: It does have a relationship  
24 to the hospital, but it also has a relationship to  
25 the campus. We said in our opening statement that  
26 the two cases we asked the Board to try the two  
27 cases at the same time because they were related.

1 Now does the University -- the addition to the  
2 University parking garage relate to the hospital?  
3 Yes. But does it relate to the other uses on the  
4 campus as a whole? The answer to that too is yes.

5 MR. WATSON: I asked nothing about the  
6 other use. I had a simple question. I have parked  
7 in the parking garage. I now wish to leave the  
8 parking garage on foot and walk to the hospital. I  
9 would like to know since I don't understand from the  
10 pictures where the entrance is. I would like to  
11 know how I walk from the pedestrian entrance to the  
12 parking garage to the hospital. And I don't know  
13 why Mr. Moore has to answer this.

14 MR. MOORE: Because the answers to that  
15 is, has been testified to by Mr. Slade and he will  
16 be happy to answer that question. This is the  
17 designer of the parking facility, not the --

18 CHAIRPERSON REID: Mr. Watson, Mr. Slade  
19 is the best person --

20 MR. WATSON: I beg to differ. I have  
21 the right to ask whoever testifies. This individual  
22 testified on the design of a parking garage. He  
23 testified on the glass that went by the stairs. I  
24 would like to know from the designer of the parking  
25 garage what the path is intended to go to the  
26 hospital. It's not a difficult question.

27 CHAIRPERSON REID: Can you answer the

1 question?

2 MR. BEAN: I do not know.

3 CHAIRPERSON REID: Next question.

4 MR. WATSON: Then I would like to know  
5 so I can place it on a map exactly where this  
6 entrance is.

7 MR. MOORE: Asked and answered.

8 MR. WATSON: I don't understand and he  
9 doesn't know how to get there around the corner to  
10 the hospital.

11 CHAIRPERSON REID: Next question.

12 MR. WATSON: It is on I Street?

13 CHAIRPERSON REID: Asked and answered,  
14 sir.

15 MR. BEAN: It is on I Street.

16 MR. WATSON: At what point on I Street?

17 MR. BEAN: May I refer to a map?

18 CHAIRPERSON REID: Sure. Here you are,  
19 right here. Point to it so we can all see it.

20 MR. BEAN: It is on the northwest corner  
21 of our site.

22 MR. WATSON: Now is the northwest corner  
23 on I Street the furthest point from the --

24 COURT REPORTER: Speak into the mike,  
25 please.

26 MR. WATSON: I'm sorry, it's difficult  
27 to both look at the map and face the mike.

1                   MR. BEAN: This is the northwest corner  
2 of the site.

3                   MR. WATSON: My problem in  
4 understanding, is that at the corner of 22nd and I  
5 Street?

6                   MR. BEAN: No.

7                   MR. WATSON: What is it at the corner  
8 of?

9 I guess I don't understand.

10                  MS. KING: It's in the middle of the  
11 block between 22 and 23.

12                  MR. WATSON: Okay, is the corner of the  
13 site -- what distance is that from the corner of  
14 23rd Street?

15                  MR. BEAN: I do not know.

16                  MS. KING: Half a block, give or take.

17                  MR. WATSON: What distance is that from  
18 the current entrance to the hospital, the existing  
19 hospital?

20                  MR. BEAN: I do not know.

21                  MR. WATSON: I have no further  
22 questions.

23                  MR. McLEOD: I have none.

24                  CHAIRPERSON REID: Then the next  
25 question is for Mr. Slade and he is the last one,  
26 Mr. Moore, is that correct? Okay.

27                  MR. WATSON: Mr. Slade, I believe you

1 testified with regard to a number of -- that you had  
2 been involved with a number of other hospitals as  
3 well as this hospital. Is that correct?

4 MR. SLADE: Yes.

5 MR. WATSON: The parking at Suburban  
6 Hospital which you testified that you had been  
7 involved with, is that on the same site as the  
8 Suburban Hospital?

9 MR. SLADE: Yes.

10 MR. WATSON: The parking at Sibley  
11 Hospital, you referred to, is that on the same site  
12 as the Sibley Hospital?

13 MR. SLADE: Yes.

14 MR. WATSON: Are there other sites that  
15 you know of in this northwest area where there is a  
16 major street to cross between the parking and the  
17 hospital?

18 MR. SLADE: Major street?

19 MR. WATSON: There's no street to cross  
20 with the exception of the side building at Suburban  
21 which I admit is just outside the northwest area.  
22 There's none at Sibley Hospital. I'm not aware of  
23 any.

24 MR. SLADE: I don't think that any that  
25 you've cited or any that I can think of has a street  
26 like 23rd.

27 MR. WATSON: Nor Washington Hospital

1 Center.

2 MR. SLADE: Right.

3 MR. WATSON: And which is the busier  
4 street, I Street or 23rd Street?

5 MR. SLADE: 23rd Street.

6 MR. WATSON: The location of the  
7 proposed hospital building is on which side of 23rd  
8 Street?

9 MR. SLADE: West side.

10 MR. WATSON: And the location of the  
11 Metro Station is on which side of 23rd Street?

12 MR. SLADE: West side.

13 MR. WATSON: On the sidewalks on the two  
14 sides of 23rd Street in your studies which is the  
15 busier sidewalk, the east side or the west side?

16 MR. SLADE: West side.

17 MR. WATSON: So the hospital is located  
18 on the busier side of the street, correct?

19 MR. SLADE: Correct.

20 MR. WATSON: What is the distance from  
21 the Metro entrance to the first curb cut of the port  
22 couchere?

23 MR. SLADE: I don't know the exact  
24 distance. We could scale it, but I think it's  
25 approximately 150 feet.

26 MS. TYLER: How many?

27 MR. SLADE: 150.

1 CHAIRPERSON REID: Who asked the  
2 question?

3 MS. KING: Maria Tyler.

4 CHAIRPERSON REID: Ms. Tyler, you're not  
5 cross examining right now.

6 MS. TYLER: I couldn't hear him.

7 CHAIRPERSON REID: Speak up a little  
8 louder, please.

9 He will speak a little louder. But you  
10 can't ask questions from the audience.

11 MR. WATSON: In terms of the sidewalk  
12 there we were talking about on the west side, you've  
13 indicated it's already the busier sidewalk, is that  
14 side of the street used for any other transportation  
15 purposes?

16 MR. SLADE: Yes, there's Metro bus stop  
17 and shuttle bus passenger loading.

18 MR. WATSON: Now you say shuttle bus  
19 passenger loading. What shuttle buses are those?

20 MR. SLADE: I don't recall all of them.  
21 It's a variety of private shuttle buses.

22 MR. WATSON: The ones that you do  
23 recall. Do you recall any of them?

24 MR. SLADE: I think the Washington  
25 Harbor shuttle bus is one of them and I believe  
26 there are two others.

27 MR. WATSON: Does the Kennedy Center

1 shuttle bus stop there?

2 MR. SLADE: I think it does.

3 MR. WATSON: And where does it stop?

4 MR. SLADE: In that same location just  
5 immediately north of the station portal on the west  
6 side of 23rd.

7 MR. WATSON: Now is it your  
8 understanding that they will be able to continue to  
9 stop there once the entrance to the hospital and the  
10 driveway from the hospital is entering 23rd Street  
11 at that point?

12 MR. SLADE: Is it my understanding that  
13 they will continue, is that your question?

14 MR. WATSON: Yes.

15 MR. SLADE: No.

16 MR. WATSON: Where do you expect they  
17 will stop?

18 MR. SLADE: I expect those stops will be  
19 adjusted, if this project goes ahead.

20 MR. WATSON: Where would the stops be  
21 adjusted to?

22 MR. SLADE: Probably move south along  
23 23rd Street to the south side of the intersection.

24 MR. WATSON: Now you say south side of  
25 the intersection, what do you mean by south side of  
26 the intersection?

27 MR. SLADE: 23rd and I.

1                   MR. WATSON: So it's south of 23rd and  
2 I. Correct?

3                   MR. SLADE: Correct.

4                   MR. WATSON: So are you telling me then  
5 that the shuttle buses which run from the Kennedy  
6 Center parking which now drop people off directly  
7 across the street from the existing hospital, will  
8 no longer at the proposed hospital if it was built  
9 drop people off at the hospital, but will drop them  
10 off a block away?

11                  MR. SLADE: No.

12                  MR. WATSON: Where will they drop them?

13                  MR. SLADE: A few feet further south.

14                  MR. WATSON: What do you mean a few feet  
15 further south? I believe you said it was 150 --  
16 well, let's talk about this. You said it was 150  
17 feet further south to the Metro entrance and then  
18 it's even further south than that. What do you mean  
19 --

20                  MR. SLADE: I'm sorry, I thought you  
21 were comparing the distance. Currently they have to  
22 cross the entire street to get to the existing  
23 hospital. It's about 200 feet. I thought that's  
24 what the comparison was. It will actually be much  
25 closer to the new hospital than they are currently  
26 than the existing hospital.

27                  MR. WATSON: How far will the stop be

1 moved?

2 MR. SLADE: From the current hospital?

3 MR. WATSON: No, from the current stop -

4 -

5 MR. SLADE: Location. I don't know

6 exactly.

7 MR. WATSON: Now --

8 MR. SLADE: Less than 150 feet.

9 MR. WATSON: What leads you to believe  
10 that the city or other authorities will permit the  
11 moving of a bus stop there?

12 MR. SLADE: My experience working with  
13 the city on projects like this.

14 MR. WATSON: But have you inquired of  
15 the city?

16 MR. SLADE: Yes, we have.

17 MR. WATSON: Do you know the number of  
18 shuttle buses that come to that location?

19 MR. SLADE: We did survey that, but I  
20 don't know the numbers off the top of my head.

21 MR. WATSON: Now you gave some numbers  
22 as to the numbers of pedestrians who come from the  
23 Metro Station, meaning that all people who go in or  
24 out of the Metro Station are at that point  
25 pedestrians. I think you said it was 34,000 per  
26 day?

27 MR. SLADE: Correct.

1                   MR. WATSON: At the peak hours how many  
2 are going to and from?

3                   MR. SLADE: I don't have a peak hour  
4 number, I don't believe, at least in my head.

5                   MR. WATSON: You gave some indications,  
6 I believe, as to the street traffic category of  
7 classes. You said that an intersection would rank  
8 an F which is a failing rank.

9                   Are there similar gradations for  
10 pedestrian traffic?

11                  MR. SLADE: Yes.

12                  MR. WATSON: Did you make any attempt to  
13 measure pedestrian traffic in terms of the level of  
14 service?

15                  MR. SLADE: On any location, the only  
16 estimate we did, we did this morning.

17                  MR. WATSON: In your traffic -- in the  
18 report you repaired, did you prepare anything as to  
19 the level of service of any pedestrian --

20                  MR. SLADE: No.

21                  MR. WATSON: If you did not determine  
22 the level of service of pedestrian traffic, how did  
23 you ascertain the danger from persons coming in and  
24 out of the entrance to the hospital?

25                  MR. SLADE: I explained. First of all,  
26 the level of service calculation would not be the  
27 basis for ascertaining the danger. I explained that

1 I used a very standard approach to evidence which is  
2 an analogy and I went through a similar driveway  
3 that I'm very familiar with and I've been familiar  
4 with for 20 years.

5 MR. WATSON: How many persons come to  
6 your driveway at your parking lot in your office  
7 building with pregnant wives in labor?

8 MR. MOORE: What's the relevancy of that  
9 question?

10 MR. WATSON: He's telling me it's an  
11 analogous situation and I'm asking --

12 CHAIRPERSON REID: Mr. Watson, I did not  
13 remember hearing any testimony to that regard this  
14 evening.

15 MR. WATSON: He most certainly did. He  
16 indicated the danger and he talked about the  
17 comparison of persons going in and out --

18 MS. KING: He answered -- the answer to  
19 your question is clear, none.

20 MR. WATSON: I would like it on the  
21 record.

22 MS. KING: Say "none", Mr. Slade, let's  
23 go home.

24 MR. SLADE: None.

25 MR. WATSON: How many are in other  
26 emergency situations?

27 MR. SLADE: None.

1                   MR. WATSON: Why do you believe it's  
2 analogous?

3                   MR. SLADE: I'm comparing vehicles  
4 crossing a path of pedestrians.

5                   MR. WATSON: But did you compare  
6 vehicles crossing the path of pedestrians with very  
7 emotionally involved drivers?

8                   MR. SLADE: That typically is not taken  
9 into account in traffic analysis.

10                  MR. WATSON: Is this a standard parking  
11 lot or is this a hospital?

12                  MR. SLADE: It's a hospital.

13                  MR. WATSON: With regard to the loading  
14 dock, in what direction will vehicles come into the  
15 loading dock, from New Hampshire forwards or  
16 backwards?

17                  MR. SLADE: Back into the loading dock.

18                  MR. WATSON: It will back into the  
19 loading dock. Is that backing in from the street?

20                  MR. SLADE: Yes.

21                  MR. WATSON: Now does that mean that  
22 they will be on New Hampshire Avenue, they will pull  
23 up past its stop and then back around into the  
24 loading dock?

25                  MR. SLADE: Well, the dock itself is  
26 actually on 24th. Of course, New Hampshire is on  
27 the center section as well. The vehicles will pull

1 slightly past the dock and then a short distance on  
2 the street and as they turn onto the dock.

3 MR. WATSON: What direction do they come  
4 into the current loading dock at the hospital,  
5 existing hospital?

6 MR. SLADE: Are you asking if they back  
7 in?

8 MR. WATSON: I'm asking what direction  
9 they come in, forward in or backward in?

10 MR. SLADE: Forward or backward?

11 MR. WATSON: Forward or backward?

12 MR. SLADE: The dock has some excessive  
13 spaces, as the new one will and the small vehicles  
14 can pull in, but most of them back in because it's  
15 easier to unload.

16 MR. WATSON: In the loading dock that  
17 you are providing in the entrance from 24th Street,  
18 will the trucks coming in have to back across the  
19 public sidewalk?

20 MR. SLADE: Yes.

21 MR. WATSON: And is it from your  
22 analysis of patterns of pedestrians leaving the  
23 Metro Station, are there pedestrians leaving the  
24 Metro Station and walking around on that 24th Street  
25 area there?

26 MR. SLADE: Yes.

27 MR. WATSON: Did you take into account





1 in your report?

2 MR. SLADE: Not in the report.

3 MR. WATSON: Do you know how many  
4 pedestrians will cross that loading dock area?

5 MR. SLADE: I do not know.

6 MR. WATSON: Did you do an analysis of  
7 background traffic that will occur north of the area  
8 immediately adjacent to the hospital?

9 MR. SLADE: I'm not clear where you  
10 mean.

11 MR. WATSON: On 23rd Street, for  
12 instance.

13 MR. SLADE: North of the area  
14 immediately adjacent to the hospital on 23rd?

15 MR. WATSON: Yes.

16 MR. SLADE: Well, we analyzed the  
17 intersection of 23rd with the circle.

18 MR. WATSON: Is there under construction  
19 at 2200 M Street, runs between 22nd and 23rd M, a  
20 very large project?

21 MR. SLADE: Yes.

22 MR. WATSON: Do you know how many people  
23 will be living in that project?

24 MR. SLADE: That was a project we worked  
25 on and if I recall the number of apartments is a  
26 range between 200 and 240 or 220 and 260, something  
27 like that.

1 MR. WATSON: Do you know how many  
2 offices will be in that project?

3 MR. SLADE: None.

4 MR. WATSON: Do you know how much hotel  
5 space will be in the project?

6 MR. SLADE: Several hundred rooms. It's  
7 a Ritz Carlton.

8 MR. WATSON: Do you know how much health  
9 club will be in the project?

10 MR. SLADE: About 85,000 square feet.

11 MR. WATSON: And retail space?

12 MR. SLADE: 60,000, I believe.

13 MR. WATSON: Now how many people walking  
14 to the Metro did you determine this would generate?

15 MR. SLADE: I don't recall what our  
16 forecasts were for when we did that study.

17 MR. WATSON: Did you make a forecast  
18 that's included in your report?

19 MR. SLADE: In the hospital report?

20 MR. WATSON: Yes.

21 MR. SLADE: No.

22 MR. WATSON: Is it relevant -- strike  
23 that. Would a person who was leaving the Metro  
24 Station be forced to walk directly by the hospital  
25 to go back to their home at 23rd and M?

26 MR. SLADE: Leaving the hospital?

27 MR. WATSON: No, no. Leaving the Metro

1 Station.

2 MR. MOORE: Forced?

3 MR. WATSON: That was my language.

4 MR. MOORE: Then the answer is.

5 MR. SLADE: No.

6 MR. WATSON: I appreciate the assistance  
7 of Mr. Moore.

8 What would be the direct route from the  
9 Metro Station -- well, let me strike that. On which  
10 side of 2200 M Street construction will the  
11 residential apartments be?

12 MR. SLADE: On the 23rd Street side.  
13 West side.

14 MR. WATSON: Now would an individual in  
15 your expectation as an expert traffic academic, know  
16 that the walking from a Metro Station at 23rd Street  
17 to their apartment would they be -- what street  
18 would they be likely to walk up?

19 MR. SLADE: 23rd Street.

20 MR. WATSON: And would that be on the --  
21 what side will they come out of the Metro?

22 MR. SLADE: They'll use the Foggy Bottom  
23 portal and be on the west side of the street.

24 MR. WATSON: And are they likely then to  
25 walk directly in front of the hospital?

26 MR. SLADE: Yes.

27 MR. WATSON: Can you tell me how many

1 pedestrian trips you estimated from the new  
2 development or where I can find it in that report or  
3 in a report on the parking which is consolidated  
4 with this case?

5 MR. SLADE: It was not within the scope  
6 of what we analyzed.

7 MR. WATSON: Then I don't understand  
8 your -- it was my understanding you were analyzing  
9 traffic, both pedestrian and vehicular going --  
10 being impacted by the hospital construction, is that  
11 correct?

12 MR. SLADE: No.

13 MR. WATSON: Then what was the impact?  
14 What was your scope of study?

15 MR. SLADE: As I explained in my direct  
16 testimony, we analyzed the impact of traffic,  
17 vehicular traffic volumes at intersections, level of  
18 service at intersections. We analyzed the truck  
19 loading facility. And we reviewed the University's  
20 three year parking forecast of supply. I then  
21 further said that as a result of attending community  
22 meetings, other issues were raised and we looked at  
23 these other issues. And then I explained how we  
24 looked at them.

25 MR. WATSON: Did you look at the issue  
26 as to the pedestrian traffic that would go past the  
27 hospital?

1 MR. SLADE: Yes.

2 MR. WATSON: Then can you tell me how  
3 many additional pedestrian trips you assume would  
4 come from the huge hole now at 2200 M?

5 MR. SLADE: No, we did not look at that  
6 aspect of -- in looking at the pedestrian issue.

7 MR. WATSON: Will the 2200 M building be  
8 completed before this hospital will be completed?

9 MR. SLADE: Yes.

10 MR. WATSON: Is it not then relevant to  
11 a study of pedestrian traffic?

12 MR. SLADE: Yes. We used the traffic  
13 estimates that were in your expert's report, the  
14 pedestrian traffic volumes that were in your  
15 expert's report to look at the sidewalk width issue  
16 on 23rd Street.

17 MR. WATSON: Our expert's report came  
18 after your report.

19 MR. SLADE: Right.

20 MR. WATSON: So how could you have used  
21 our expert's numbers?

22 MR. SLADE: Because I explained that our  
23 look at the pedestrian issue on the street was as a  
24 result of comments made at the community meetings,  
25 the last of which was last night.

26 MR. WATSON: So you say --

27 MR. SLADE: There may have been --

1                   MR. WATSON: Are you saying your  
2                   comments are in addition to what appears in your  
3                   report?

4                   MR. SLADE: Yes.

5                   MR. WATSON: And are you saying that you  
6                   are vouching for the accuracy of the information in  
7                   our expert's report?

8                   MR. MOORE: He did not say that, Mr.  
9                   Watson.

10                  MR. WATSON: You indicated that you  
11                  relied on our expert's information. I want to ask  
12                  you then are you telling the Board, as I think it is  
13                  that these are accurate valid traffic counts?

14                  MR. SLADE: I can't speak for their  
15                  validity. I simply used them to determine what the  
16                  width of the sidewalk would have to be to make sure  
17                  that the level of service was adequate.

18                  MR. WATSON: Is it your general practice  
19                  in preparing expert testimony to pick up hearsay  
20                  that you hear at community meetings?

21                  MR. MOORE: That's not what he said.

22                  MR. WATSON: I strike the question.

23                  MR. MOORE: Thank you.

24                  MR. WATSON: Did you also consider the  
25                  American General Contractors building?

26                  MR. SLADE: In our traffic analysis,  
27                  yes.

1                   MR. WATSON: Did you consider it in your  
2 pedestrian analysis?

3                   MR. SLADE: No.

4                   MR. WATSON: What do you expect will be  
5 the modal split of employees taking Metro and  
6 driving to American General Contractors?

7                   MR. SLADE: I don't have a number off  
8 the top of my head.

9                   MR. WATSON: Isn't that relevant to how  
10 many people will walk by the area?

11                   MR. SLADE: Yes.

12                   MR. WATSON: Did you consider the  
13 American Red Cross building?

14                   MR. SLADE: In the vehicle traffic, yes.

15                   MR. WATSON: Did you consider it in the  
16 pedestrian traffic analysis?

17                   MR. SLADE: No.

18                   MR. WATSON: Did you consider the IMF  
19 building?

20                   MR. SLADE: Not in the pedestrian  
21 analysis.

22                   MR. WATSON: Did you consider the Health  
23 and Wellness Center?

24                   MR. SLADE: Not in the pedestrian  
25 analysis.

26                   MR. WATSON: Did you consider the Marvin  
27 Center.

1                   MR. SLADE: Not in the pedestrian  
2 analysis.

3                   MR. WATSON: In the pedestrian analysis,  
4 did you consider any building under construction?

5                   MR. SLADE: I explained what we did.  
6 Shall I repeat it?

7                   MR. WATSON: I have no further  
8 questions.

9                   CHAIRPERSON REID: Okay, your questions,  
10 please?

11                   MR. McLEOD: Yes, Jim McLeod. Mr.  
12 Slade, did you indicate that you hadn't done a study  
13 of the pedestrian traffic on the side, west side of  
14 23rd Street, the sidewalk there between I and the  
15 circle until today?

16                   MR. SLADE: It was more, it was not  
17 today. It was within the last couple weeks. It was  
18 subsequent to submitting the formal traffic report  
19 that's in the application.

20                   MR. McLEOD: You testified that you did  
21 something today in terms of analyzing pedestrian  
22 traffic. What was that you testified to?

23                   MR. SLADE: We looked at the conclusions  
24 in the ANC's consultant's report regarding the width  
25 of the sidewalk on the west side of 23rd and we used  
26 the same calculation to determine how wide that  
27 sidewalk would have to be to insure that there was

1 an adequate level of service.

2 MR. McLEOD: I want to show you  
3 something I've just marked as Foggy Bottom 3. Do  
4 you recognize that?

5 MR. SLADE: Well, the base drawing is --

6 MR. McLEOD: I'm just asking, do you  
7 recognize it?

8 MR. SLADE: I recognize the base drawing  
9 as ours. I don't know who the handwritten work is.

10 MR. McLEOD: Does Ms. White work with  
11 you?

12 MR. SLADE: Yes.

13 MR. McLEOD: Okay, do you recognize that  
14 as your work product or from your firm?

15 MR. SLADE: I'm just not sure. I don't  
16 recognize the handwriting. I don't know if it's  
17 ours or someone else's writing. Mr. Carter's report  
18 it includes some of our graphics as well.

19 MR. McLEOD: Does the cover sheet  
20 indicate something to you?

21 MR. SLADE: Yes.

22 MR. McLEOD: Who is it from?

23 MR. SLADE: This is from my firm to you.

24 MR. McLEOD: And specifically the people  
25 listed under who it's from?

26 MR. SLADE: It's from Nicole White and  
27 Lou Slade.

1 MR. McLEOD: Are you Mr. Slade?

2 MR. SLADE: Yes.

3 MR. McLEOD: Well, let me just say --  
4 the chart here, has that been provided to the Board?

5 MR. SLADE: I don't know.

6 MR. McLEOD: You're not sure?

7 MR. SLADE: I don't recall why we did  
8 this. I mean I'm assuming you're right, this is --

9 MR. McLEOD: Could you read the remarks?  
10 Perhaps refer to the remarks? Would that refresh  
11 your recollection?

12 MR. MOORE: Just a minute --

13 MR. SLADE: Let me find out what the  
14 question is, go ahead.

15 MR. McLEOD: Would it refresh your  
16 recollection if you read the transmittal letter  
17 under the remarks --

18 MR. MOORE: Just a minute, just a  
19 minute. (Pause.)

20 MR. McLEOD: For the record, do you now  
21 recognize what that document is?

22 MR. SLADE: Yes.

23 MR. McLEOD: And what is that?

24 MR. SLADE: It's a base map of the area  
25 on which Ms. White indicated some vehicle -- I'm  
26 sorry, some pedestrian volumes that we counted  
27 during peak hours.

1                   MR. McLEOD: Okay, and that was sent to  
2                   who?

3                   MR. SLADE: It was sent to you.

4                   MR. McLEOD: And does this -- will this  
5                   mike work up here?

6                   CHAIRPERSON REID: Take it with you.  
7                   Just bring it over.

8                   MR. McLEOD: I'm not sure if the Board  
9                   will see. Okay, this is good.

10                  Mr. Slade, there's three areas I wanted  
11                  to ask you about. The first is on -- I've touched  
12                  on is just on 23rd Street and the pedestrian  
13                  traffic. As a traffic expert, would it make more  
14                  sense from your opinion to have a cut in as you're  
15                  welcome to look upon this Foggy Bottom No. 1 --

16                  CHAIRPERSON REID: You need to stay on  
17                  the other side so that we can see. Okay.

18                  The only thing you have to be concerned  
19                  about is us seeing it.

20                  MR. McLEOD: I'd like the people to see  
21                  it too.

22                  CHAIRPERSON REID: Well --

23                  MR. McLEOD: Proposed replacement  
24                  hospital. The sidewalks here. Wouldn't it be safer  
25                  for the pedestrians walking from either direction  
26                  here for there to be a cut in allowing them to  
27                  divert their flow so there's no course intersecting

1 their path?

2 MR. SLADE: Safer for the pedestrians,  
3 walking up and down the sidewalk, is that the  
4 question? Is that the pedestrians you're talking  
5 about?

6 MR. McLEOD: Yes.

7 MR. SLADE: Okay. Well, the other  
8 pedestrians are those getting out of the vehicles to  
9 enter the building. That's a major issue in this  
10 design. This port couchere design.

11 MR. McLEOD: Those using the sidewalk,  
12 would it be safer for them?

13 MR. SLADE: It probably would be safer  
14 for them if they didn't cross these two driveways,  
15 yes.

16 MR. McLEOD: The cars didn't cross the  
17 driveways?

18 MR. SLADE: Yes.

19 MR. McLEOD: Okay, if the cut in were  
20 wide enough so that the driver of the car could get  
21 out safely, would that address concerns you have  
22 about the safety of people getting off at that  
23 point?

24 MR. SLADE: Having worked on this on  
25 other occasions -- there are ADA issues related to  
26 the design of the driveway at a hospital. I'm not  
27 sure that those could be accommodated with this kind

1 of design.

2 But there are some basic requirements  
3 that if they could be accommodated I suppose this  
4 design would work, but I don't know that the ADA  
5 issues could be accommodated. We have a grade  
6 differential between the street and the floor of the  
7 lobby. Now I don't know how that grade differential  
8 would be accommodated if the people disembarking  
9 from cars, trying to get into the hospital were up  
10 at the street level.

11 MR. McLEOD: Okay, you're not an  
12 architect, so you don't know the answer to if the  
13 architect could raise the level at the sidewalk so  
14 it wouldn't be a problem?

15 MR. SLADE: Correct.

16 MR. McLEOD: Okay, the other question  
17 relates to -- there's the cut in there. You've  
18 stated in your report that because there's so few.  
19 There's not many cars that use during rush hour, not  
20 many cars use the entrance to the hospital, right?

21 MR. SLADE: Yes.

22 MR. McLEOD: Okay, but let's say we just  
23 have one car using -- going north on 23rd, turning  
24 left to get into the entrance to the hospital, not  
25 isn't it true they're going to have oncoming traffic  
26 coming south on 23rd right?

27 MR. SLADE: Yes.

1                   MR. McLEOD: So they're going to have to  
2 keep their eye on that. They're going to have to go  
3 across 23rd into the entrance, the driveway entrance  
4 and at the same time there's going to be pedestrians  
5 walking up and down there?

6                   MR. SLADE: Correct.

7                   MR. McLEOD: Now would you be surprised  
8 if an estimate of over 1,000 pedestrians per hour  
9 using that sidewalk during rush hour?

10                  MR. SLADE: Not at all.

11                  MR. McLEOD: And you're saying to us  
12 that you consider that an acceptable risk for the  
13 community to build such a driveway over such a  
14 heavily used sidewalk?

15                  MR. SLADE: It's very commonplace in the  
16 city to have driveways crossing sidewalks with that  
17 volume of pedestrians.

18                  MR. McLEOD: If this --

19                  MR. SLADE: Without any significant --  
20 this is not an issue in the city, that we have a lot  
21 of pedestrian accidents at driveways, unless you can  
22 tell me about it.

23                  MR. McLEOD: If -- as you testified, the  
24 east side of 23rd, there's fewer pedestrians using  
25 that, right?

26                  MR. SLADE: Yes.

27                  MR. McLEOD: Okay. Now if the Board

1 were to approve this proposal, I'm not sure this is  
2 an area you're familiar with, but would the city be  
3 liable if there's accidents there because they  
4 approved that as --

5 MR. MOORE: I advise you not to answer  
6 that question.

7 MR. McLEOD: I think it's relevant, but  
8 I'll leave it at that.

9 Next concern. You proposed the entrance  
10 to the ambulance being right here on 23rd, right?

11 MR. SLADE: Yes.

12 MR. MOORE: For clarification point --

13 MR. McLEOD: I'm sorry, New Hampshire.  
14 New Hampshire, thank you.

15 MR. MOORE: For clarification point, Mr.  
16 Slade did not propose that. He analyzed that.

17 MR. McLEOD: Okay, let's analyze it  
18 being on 23rd. The ambulances, most will come off  
19 of the circle, right?

20 MR. SLADE: Yes.

21 MR. McLEOD: You analyzed that. Okay,  
22 they come down here, they have to turn left across a  
23 lane of traffic, right?

24 MR. SLADE: Correct.

25 MR. McLEOD: Okay, now isn't there a  
26 problem here with -- there will be cars in front of  
27 the ambulance. There will be cars here on New

1 Hampshire going north. Now the cars going north  
2 will not be able to go into the circle until the  
3 cars in the circle will want to get out of the way  
4 of the ambulance so isn't there going to be -- and  
5 added to that, isn't it true there's pedestrians  
6 crossing here, here and here at that intersection.

7 MR. SLADE: Well, you're describing a  
8 situation that occurs for about 20 minutes each and  
9 if an ambulance happened to arrive at that time,  
10 yes, that all would occur simultaneously and it  
11 would be one of the more difficult times for the  
12 ambulance to enter this driveway.

13 MR. McLEOD: And it might be unsafe for  
14 pedestrians, cars trying to get out of the way of  
15 the ambulance, right?

16 MR. SLADE: It will be a situation that  
17 will occur rarely and it occurs today as the  
18 ambulances are coming around the circle and vehicles  
19 getting out of its way.

20 MR. McLEOD: But isn't it true when an  
21 ambulance comes around today, they'd made a right  
22 turn into -- they don't cross a lane of traffic.  
23 Once they've rounded the circle, they make a right  
24 turn into the entrance. They don't cross any  
25 traffic.

26 MR. SLADE: As they will when the turn  
27 off the circle at New Hampshire.

1                   MR. McLEOD: No, they have to cross a  
2 lane of traffic on New Hampshire.

3                   Could you repeat your answer, then.  
4 Maybe I didn't understand it.

5                   MR. SLADE: I'm comparing the right turn  
6 off of the circle into the current driveway with the  
7 right turn off of the circle onto New Hampshire and  
8 I'm saying they're similar. It's a right turn off  
9 of the circle.

10                  MR. McLEOD: Okay, you're saying they're  
11 similar. Okay, this is a right turn off the circle.  
12 Now the equivalent to what you're proposing at the  
13 hospital would be to put the entrance over here,  
14 although we can't do it because there's an island,  
15 would be to put the entrance over here on the other  
16 side of Pennsylvania Avenue which -- that's an  
17 analogous situation to exactly what you're -- you're  
18 turning right, you're going across a lane of  
19 traffic, right?

20                  MR. SLADE: You're turning right. Step  
21 1.

22                  MR. McLEOD: Step 1. What's Step 2?

23                  MR. SLADE: You stop, you look into the  
24 driveway and you make your turn into the driveway  
25 when it's clear.

26                  MR. McLEOD: Do you have to cross any  
27 traffic to do that?

1 MR. SLADE: When it's clear.

2 MR. McLEOD: You have to cross a lane of  
3 traffic, right?

4 MR. SLADE: Yes.

5 MR. McLEOD: Okay. You don't have to  
6 cross a lane of traffic after you turn right in the  
7 current hospital, do you?

8 MR. SLADE: That's correct.

9 MR. McLEOD: Okay, fine. Now ambulances  
10 coming up 23rd, they're going to have to go all the  
11 way around the circle, right, to get to the  
12 entrance?

13 MR. SLADE: I don't believe ambulances  
14 will do that.

15 MR. McLEOD: You don't think ambulances  
16 will come up 23rd Street. Did you do any studies --

17 MR. MOORE: Wait, wait, wait, wait. He  
18 didn't say he didn't believe ambulances will come up  
19 23rd Street. He said he didn't believe that  
20 ambulances will come up 23rd Street and turn left  
21 into the site. That's what he said.

22 MR. McLEOD: The record will speak for  
23 itself.

24 MS. KING: It's on the record. Can't we  
25 just leave it on the record.

26 CHAIRPERSON REID: Next question.

27 MR. McLEOD: If there's no entrance

1 here, the ambulance would have to go around the  
2 circle to get in, right?

3 MR. SLADE: No. I'll clarify my point.

4 MR. McLEOD: Please do.

5 MR. SLADE: I believe that an ambulance  
6 driver, when he reaches that point, if he's got a  
7 serious emergency and there's traffic in the circle,  
8 he will turn in directly at that point.

9 MR. McLEOD: Because it will save him  
10 time?

11 MR. SLADE: Yes.

12 MR. McLEOD: Yes. And maybe lives,  
13 right?

14 MR. SLADE: Yes.

15 MR. McLEOD: Now if the entrance were  
16 here, then isn't it true that ambulances coming off  
17 the circle indeed, they'll make a right turn, but  
18 they're not going to have to turn off a lane of  
19 traffic, they're not going to have to go against a  
20 lane of traffic to get there, right?

21 MR. SLADE: That's correct.

22 MR. McLEOD: And one final area is  
23 there's no on-site parking here, correct?

24 MR. SLADE: That's correct.

25 MR. McLEOD: What will cars -- you did  
26 an analysis of visitors to the proposed site, I  
27 guess you had to speculate as to where they'd come

1 from?

2 MR. SLADE: Well, visitor traffic will  
3 be unchanged, other than those cars that go to the  
4 front door.

5 MR. McLEOD: If visitors are coming from  
6 the west side of town and go down New Hampshire,  
7 seeing the hospital there, won't they -- if there's  
8 no on-site parking, won't they be inclined to go  
9 into the residential neighborhood to look for  
10 parking on the street?

11 MR. SLADE: I would expect that the  
12 hospital will use signage to direct them to visitor  
13 parking.

14 MR. McLEOD: And this other diagram we  
15 have here and I apologize to the audience, but the  
16 visitor parking is on 22nd and I, the northwest  
17 corner, the southwest corner of H and 22nd, and then  
18 over here on H Street. So a car coming on the west  
19 side of the hospital is going to be -- not even  
20 going to be aware of these visitor parking spaces,  
21 are they?

22 MR. SLADE: I'm sorry, why would he be  
23 on the west side again?

24 MR. McLEOD: Well, he might come up from  
25 New Hampshire. He might come from Pennsylvania  
26 Avenue in Georgetown. He might come from Dupont  
27 Circle, coming around here and see the hospital.

1 Those are three places he might come from.

2 MR. SLADE: Well, I think he would be  
3 prone to go to the entrance which is on the 23rd  
4 Street side, but regardless, tell me what your  
5 question is.

6 MR. McLEOD: My question is did you do  
7 an analysis of the impact on the neighborhood of  
8 cars driving around the residential neighborhood  
9 that, the historic residential neighborhood looking  
10 for a parking space?

11 MR. SLADE: We don't think that's going  
12 to happen.

13 MR. McLEOD: You don't think it's going  
14 to happen?

15 MR. SLADE: We're not changing visitor  
16 parking.

17 MR. McLEOD: Those were the questions I  
18 had.

19 CHAIRPERSON REID: Thank you. All  
20 right, Mr. Moore, that concludes it?

21 Now what we're going to do is to  
22 continue this case for a date certain which we will  
23 now determine at which time the Office of Planning  
24 will give their report, the ANC, the opposition will  
25 make their case and we will conclude it at that  
26 time.

27 Paul, Mr. Hart, what date --

1 MS. KING: I'm not available on December  
2 9th. I will not be in town.

3 MR. HART: January 13th.

4 CHAIRPERSON REID: 13th?

5 MR. HART: Yes.

6 CHAIRPERSON REID: 1-3.

7 MS. KING: Is that a regularly scheduled  
8 meeting?

9 MR. HART: We have no hearing dates  
10 scheduled, no hearings scheduled that date, yes.

11 MS. KING: Is that the third Wednesday  
12 in January, is that what you're saying? No, it  
13 couldn't be.

14 CHAIRPERSON REID: What's the first  
15 date?

16 MR. HART: The first available date Ms.  
17 King wont' be here.

18 CHAIRPERSON REID: No, no, in January.

19 MR. HART: We have January 16th which  
20 will be -- there's a meeting in the morning and a  
21 hearing in the afternoon.

22 CHAIRPERSON REID: That date is taken?

23 MR. HART: Yes.

24 CHAIRPERSON REID: And then the next  
25 available date is?

26 MR. HART: Would be a week later, a  
27 special --

1 CHAIRPERSON REID: A special meeting?

2 MR. HART: Special meeting, the 13th.

3 CHAIRPERSON REID: Ms. King, a special  
4 meeting on that date, would that be okay with you?

5 MS. KING: On a day which is not the  
6 first or the third Wednesday?

7 CHAIRPERSON REID: Right.

8 MS. KING: I can do it on the first or  
9 the third Tuesday, but I will not be here on the  
10 second and the fourth. I could do it on a Tuesday,  
11 the Tuesday before our regular meeting.

12 CHAIRPERSON REID: We don't usually have  
13 meetings on Tuesdays, do we?

14 (Pause.)

15 MR. GILREATH: Is there any good reason  
16 why we couldn't have them on Tuesday, with people's  
17 schedules as such in the past --

18 CHAIRPERSON REID: I don't have a  
19 problem with it. I just mentioned that. We usually  
20 don't, but I mean if that is the date, I have no  
21 problem with it.

22 Mr. Hart, is there a Tuesday available  
23 in December?

24 MR. GILREATH: Is there some basic  
25 reason why we couldn't schedule something on a  
26 Tuesday?

27 MR. HART: It's up to you.

1 MR. GILREATH: We have that prerogative  
2 then.

3 CHAIRPERSON REID: Ms. King?

4 MS. KING: I'm not available any Tuesday  
5 in December. I could be in January.

6 CHAIRPERSON REID: You have no  
7 availability in December other than a regularly  
8 scheduled days, okay.

9 MS. KING: My calendar is fulls.

10 CHAIRPERSON REID: Then January, is  
11 there a Tuesday?

12 MR. HART: We can do the Tuesday, the  
13 5th is rather close -- the 12th --

14 CHAIRPERSON REID: The 12th?

15 MR. HART: Yes. Or the 5th, if you want  
16 to go for that.

17 MS. KING: Which is -- what are the  
18 dates in January that we would meet, the BZA  
19 meetings on a regular basis? I'm saying that I can  
20 be available on the Tuesday before our regular  
21 meetings. But I cannot be available on any day in  
22 the week that we don't ordinarily meet.

23 MR. HART: The first meeting in January  
24 would be the 6th.

25 MS. KING: The 5th?

26 MR. HART: The 6th.

27 MS. KING: 6th.

1 MR. HART: So the Tuesday would be the  
2 5th.

3 CHAIRPERSON REID: How is that date?

4 MS. KING: I can do that.

5 CHAIRPERSON REID: Okay, is that -- now,  
6 Mr. Watson, is that a good date for you?

7 MR. WATSON: I can make myself  
8 available. We're checking with our expert witness,  
9 he's the most important one.

10 Mr. Moore, you and your clients, that's  
11 okay? All right --

12 MR. MOORE: We would ask that the record  
13 remain open during this period.

14 CHAIRPERSON REID: Yes. Ms. King had  
15 some things she particularly wanted --

16 MS. KING: There are some things that I  
17 would like to know.

18 MR. MOORE: The Kennedy Center report?

19 MS. KING: I mean we're going to ask the  
20 Corporation Counsel to give us an opinion on the  
21 question of the partnership and who does what and  
22 all of that jazz.

23 The Department of Public Works in their  
24 report complained that they were not given  
25 sufficient time to comment on Mr. Slade's report. I  
26 would like us to give them the time the next  
27 whatever it is, six weeks or whatever, in order to

1 make a comprehensive report to us on the traffic  
2 report; the contracts with the Kennedy Center, all  
3 of them relating to parking, the information about  
4 parking fees, Dr. Ingle said that the parking office  
5 had all the information about costs and all of that  
6 stuff. We want information about the sale of Metro  
7 cards at the bookstore and whether the University  
8 carries any financial burden for encouraging use of  
9 public transportation or whether they simply use the  
10 reductions that are given by Metro or WMATA.

11 On page 34 of your presentation, you say  
12 that there will be more jobs and additional tax  
13 dollars from construction and operation of this new  
14 hospital. I would like an explanation of that,  
15 particularly in light of the fact that elsewhere in  
16 your submission you said that there would be no  
17 increase in full-time employee equivalents.

18 And finally, I would like to know how  
19 you are in compliance with the cap on student  
20 population as expressed in the current campus plan  
21 and how that relates to this project. And I would  
22 like in that student census to -- for you to show  
23 not only the full student census but what proportion  
24 of it is related to the hospital or will be related  
25 to the hospital.

26 That's what I'd like to know. I don't  
27 know about other members of the Board, but that's

1           what I'd like to see.

2                       CHAIRPERSON REID: Mr. Hart, do you have  
3 all of that?

4                       MR. HART: Yes, I think so.

5                       CHAIRPERSON REID: Okay, all right then  
6 -- Tuesday, we prefer to have it in the afternoon?

7                       MS. KING: Yes, I think so.

8                       CHAIRPERSON REID: 2 o'clock, Mr. Hart?

9                       MR. MOORE: Can we have a time --

10                      CHAIRPERSON REID: Mr. Hart will give  
11 you a time line.

12                      MR. WATSON: And the report of the  
13 Corporation Counsel, could that be made available to  
14 parties when it's sent to the Corporation Counsel,  
15 what the request is? A lot of this --

16                      CHAIRPERSON REID: You mean the request  
17 or the response?

18                      MR. WATSON: The request and the  
19 response. The framing of a question and one should  
20 have the ability to respond to the framing of the  
21 question may determine an answer.

22                      CHAIRPERSON REID: I don't know, Mr.  
23 Watson. We don't usually do that. Basically, we'll  
24 proffer a question, submit a question to Corp.  
25 Counsel and then the response is made available.

26                      MR. WATSON: I'm suggesting is there any  
27 reason for not making available what the question

1 is.

2 MS. KING: The question is essentially  
3 what I said, that there has been a question arises  
4 in my mind and this will be -- one minute and I will  
5 say it. The applicant has been very strong in  
6 saying that we have no right to question who owns  
7 the hospital, who the partnership is and so forth.  
8 The land belongs to the University and that  
9 therefore there is no ambiguity about who is the  
10 applicant in this case, it is George Washington  
11 University and George Washington University solely.  
12 The questions that have been raised about the  
13 partnership, the ownership, the responsibility, the  
14 policy making and so forth is what we want the  
15 Corporation Counsel to examine the record, to  
16 examine the legal issues and if necessary, to  
17 discuss it with George Washington University and  
18 give us a comprehensive answer as to who has the  
19 responsibility for this new hospital. Is it, does  
20 it rightly fall within the campus plan that exists  
21 or is there some ambiguity about that.

22 MS. DOBBINS: Just to respond to whether  
23 the applicants or the other parties should respond  
24 to the memo that goes to Corporation Counsel. It  
25 has typically been the Board's opinion and the  
26 Corporation Counsel's opinion that if that is an  
27 attorney-client relationship that the Board needs to

1 frame its questions that it wants answered to the  
2 Corporation Counsel.

3 CHAIRPERSON REID: In other words, not  
4 in writing, Mr. Watson, but she is just giving you  
5 orally what the nature of that question is going to  
6 be.

7 MR. WATSON: All I asked for was to see  
8 --

9 CHAIRPERSON REID: Just a moment, the  
10 response will be publicly announced.

11 MR. BASTIDA: You might take that under  
12 advisement and decide, depending upon the response,  
13 what you decide to do at that time because it's a  
14 legal document and you will decide on the face of  
15 the document whether you will release it or not.

16 You might release this one, but I think  
17 that if Corporation Counsel were here, they would  
18 tell you to do that.

19 CHAIRPERSON REID: We'll do what  
20 Corporation Counsel advises us. I think that's the  
21 best way to handle that.

22 MR. WATSON: Madam Chair, I take to  
23 prolong this, but there's just one matter. Ms.  
24 King, our position has been that it is the use of  
25 the property, not the ownership that determines --

26 MS. KING: It's quite clear in your --  
27 but I think that the ownership -- I would like a

1 clarification from the Corporation Counsel as to the  
2 impact of the use, the ownership, any other damn  
3 thing that we have to consider because I would just  
4 as soon that we not have to go through this all over  
5 again because somebody goes to court and gets us  
6 reversed.

7 CHAIRPERSON REID: That's right.

8 MS. KING: I want to have -- I have  
9 great respect for the Corporation Counsel of the  
10 District of Columbia, having worked with them for a  
11 better part of 20 years now and when you've got your  
12 own tame lawyers in your back pocket and you know  
13 you might just -- it's stupid not to use them.

14 CHAIRPERSON REID: Okay, last comment or  
15 question and this hearing is over.

16 MR. TOBEY: Madam Chair, there were two  
17 items I referred to in my testimony. I just wanted  
18 to move them into the record. One is being Foggy  
19 Bottom --

20 MS. KING: I'm sorry, the record is  
21 closed because our reporter is leaving.

22 COURT REPORTER: I'm still recording.

23 MR. TOBEY: I just wanted to move them  
24 into the record. One is just an illustration which  
25 was referred to and the other is -- for the record,  
26 not the backsides, it's just the front sides.

27 CHAIRPERSON REID: Okay, let staff --

1           thank you. This hearing is over.

2                               (Whereupon, at 8:33 p.m., the hearing  
3           was recessed to reconvene Tuesday, January 5, 1999  
4           at 2:00 p.m.)

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