

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

JUNE 4, 2013

+ + + + +

The Regular Public Hearing  
convened in the Jerrily R. Kress Memorial  
Hearing Room, Room 220 South, 441 4th Street,  
N.W., Washington, D.C., 20001, pursuant to  
notice at 9:47 a.m., Lloyd Jordan,  
Chairperson, presiding.

Reported by Divya Moolchandani

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson  
S. KATHRYN ALLEN, Board Member  
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

PETER MAY, Board Member

NATIONAL CAPITAL PLANNING COMMISSION MEMBER  
PRESENT:

MARCEL ACOSTA, Executive Director

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
JOHN NYARKU, Zoning Specialist  
STEPHEN RICE, Zoning Specialist  
STEPHEN VARGA, Zoning Specialist  
PAUL YOUNG, Zoning Data Specialist  
D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:  
SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

HARRIET TREGONING, DIRECTOR  
JENNIFER STEINGASSER  
STEPHEN GYOR  
JOEL LAWSON  
TRAVIS PARKER

STEPHEN MORDFIN  
KAREN THOMAS  
MAXINE BROWN-ROBERTS  
DOUGLAS WOODS  
STEVEN COCHRAN  
ARTHUR ROGERS  
MATT JESICK

ARTHUR JACKSON  
STEPHEN RICE  
ELISE VITALE

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

9:45 a.m.

CHAIRPERSON JORDAN: Good morning.

Would the meeting please come to order.

Good morning, ladies and gentlemen. We're located at Jerrily R. Kress Memorial Hearing Room at 441 4th Street Northwest. Today's date is June 4, 2013.

We're here for the meeting of the Board of Zoning Adjustment of the District of Columbia.

My name is Lloyd Jordan, Chairperson. To my left is Peter May, Member of the Zoning Commission. To my right is S. Kathryn Allen, Member of the Board, and to her right is Marcel Acosta, Executive Director of the National Capital Planning Commission.

Please be advised that this proceeding is being recorded by a Court Reporter, and also being web-cast live.

Accordingly, we must ask that you refrain from any disruptive noises in the room

1 today.

2 The Board's hearing procedure is -  
3 - and processes are kept in a pamphlet to the  
4 door, to my left. So, please feel free to get  
5 that, to understand how we process hearings  
6 and meetings.

7 All individuals who are here to  
8 testify in the case today, I need you to do  
9 two things.

10 I need you to complete two witness  
11 cards per person, and additionally, I need you  
12 to -- and then give them to the Court  
13 Reporter, prior to you testifying.

14 But right now, I need anyone who  
15 is going to testify in a matter that's on our  
16 docket for today, to stand and take the oath  
17 or affirmation by the Board Secretary.

18 {WITNESSES SWORN}

19 CHAIRPERSON JORDAN: Mr. Moy,  
20 whenever you're ready, please.

21 MR. MOY: Yes, good morning, Mr.  
22 Chairman, Members of the Board.

1                   Before I call the first case, I  
2                   just want to announce for the public record  
3                   that Application No. 18556 of Derek S.  
4                   Mattioli has been rescheduled to September 10,  
5                   2013.

6                   So, with that, the first  
7                   application, which is a chancery case before  
8                   the Board, is Application No. 18564. This is  
9                   the application of the Democratic Socialist  
10                  Republic of Sri Lanka, pursuant to 11 DCMR-  
11                  1002, to permit the location of an embassy and  
12                  chancery in the D/R-1-2 District.

13                  That premise is 3025 Whitehaven  
14                  Street, Northwest, property located in Square  
15                  2174, Lot 46.

16                  CHAIRPERSON JORDAN: Thank you.  
17                  Would persons and parties associated with this  
18                  case, please come to the witness table?

19                  Would you please identify  
20                  yourselves? Hello. Would you please identify  
21                  yourselves, so we can proceed?

22                  MR. WEISS: Good morning. My name

1 is Randy Weiss. I'm an attorney.

2 CHAIRPERSON JORDAN: Yes, make  
3 sure your -- say something again, please.

4 (Off mic comments.)

5 CHAIRPERSON JORDAN: Thank you.

6 MR. WEISS: My name is Randy Alan  
7 Weiss, local attorney for the Government of  
8 Sri Lanka, and we're pleased here today, to  
9 present the case that is pending before the  
10 Board at 3025 Whitehaven Street, Northwest,  
11 Washington, D.C.

12 CHAIRPERSON JORDAN: I just need  
13 you to identify yourself. That's good. Next  
14 person, identify yourself for me, please.

15 MR. WEERAKOON: Good morning, sir.  
16 My name is Esala Weerakoon. I'm the Deputy  
17 Chief of Mission of the Embassy of Sri Lanka.

18 CHAIRPERSON JORDAN: Okay.

19 MR. SEAGROVES: Clifton Seagroves,  
20 I'm the Director of Diplomatic Property with  
21 the Department of State's Office of Foreign  
22 Missions.

1 CHAIRPERSON JORDAN: Yes?

2 MR. GEORGE: Good morning, Mr.  
3 Chairman. For the record, Osbourne George,  
4 O.R. George Associates.

5 CHAIRPERSON JORDAN: And the  
6 gentleman to the -- yes?

7 MR. KODISH: Lance Kodish, I work  
8 for Randy.

9 CHAIRPERSON JORDAN: Randy?

10 MR. KODISH: Randy Weiss.

11 CHAIRPERSON JORDAN: Okay, all  
12 right.

13 MR. WEISS: He's my law clerk.

14 CHAIRPERSON JORDAN: Okay, this  
15 matter is before us on the application of the  
16 Democratic Socialist Republic, or Sri Lanka,  
17 which takes the form of a rule-making, and  
18 therefore, we take testimonies from witnesses  
19 in regards to the application filed.

20 There is no party statuses --  
21 party status being granted in this matter,  
22 because it's not required under the law, or

1 not allowed under the law.

2 Mr. Weiss, the Board has reviewed  
3 the application, so, we don't need a full  
4 drawn out presentation.

5 But let me first assess the Board,  
6 as if there is any questions that we  
7 specifically need addressed by you.

8 Does any Board Members have  
9 anything specifically they need to hear or  
10 address, that may not have been covered, or  
11 they're not satisfied with in the application?

12 The initial question I have, we  
13 received a letter, I believe -- or is it --  
14 that was -- is it filed yesterday? Is that  
15 correct?

16 MR. WEISS: Yes.

17 CHAIRPERSON JORDAN: It's an  
18 amendment. So, I'm taking that you're  
19 requesting leave to file it out of time.

20 If the Board doesn't have any  
21 concerns, I'll accept this out of time.

22 Is this just simply an amendment

1 to your site plan? Is that what this is, or  
2 tell us --

3 MR. WEISS: No, thank you, sir.  
4 We don't have a site plan.

5 It was suggested to us, just the  
6 other day, by Mr. Seagroves at the State  
7 Department, that it would help this Board, if  
8 we would include that as an amendment to the  
9 application, since the proposed location is in  
10 the public space.

11 CHAIRPERSON JORDAN: This is in  
12 public space?

13 MR. WEISS: Yes.

14 CHAIRPERSON JORDAN: All right,  
15 excuse me, just a second.

16 (Off mic comments.)

17 CHAIRPERSON JORDAN: I just had an  
18 inquiry to the Office of Attorney General, to  
19 understand whether or not you needed to do any  
20 additional notice requirements with this late  
21 filing, and I'm going to ask.

22 MS. GLAZER: Mr. Chair, the Office

1 of the Attorney General does not believe that  
2 additional notice is required.

3 The standard for notice in a rule-  
4 making is fairly broad, and the public has  
5 received notice of this application, and it  
6 would be anticipated that a flag is generally  
7 part of a chancery application.

8 CHAIRPERSON JORDAN: Thank you.  
9 Okay, then we will accept the amendment, and  
10 we will proceed as, this is to simply amend  
11 the application for approval to move forward.

12 If you could take a minute to  
13 explain, or let us know exactly the number of  
14 people that work in the Embassy, that actually  
15 do travel by car to the Embassy.

16 We understand there has been some  
17 representations, but -- and you're aware of  
18 the opposition, of people writing letters and  
19 concerns, about parking and traffic in the  
20 area.

21 If you will address that to the  
22 Board, I think that will be significant.

1 MR. WEISS: Surely, thank you.  
2 That obviously was a deep concern of ours,  
3 going into this.

4 The Embassy of Sri Lanka is  
5 currently located on Wyoming Street in  
6 Kalorama.

7 That street is chalked full of  
8 embassies and chanceries and annexes. There  
9 is no public parking. Parking is really very,  
10 very difficult.

11 Because of that, for the last many  
12 years at that location, the embassy has had a  
13 strict policy that all employees, except for  
14 the Ambassador, must take public  
15 transportation, taxi cabs or car-pool drop-off  
16 services.

17 We made a copy of the memorandum  
18 from the DCM, who is sitting to my left, who  
19 can further explain.

20 That policy is carried forward to  
21 the new Whitehaven location --

22 CHAIRPERSON JORDAN: Excuse me,

1 DCM?

2 MR. WEISS: Deputy Chief of  
3 Mission.

4 CHAIRPERSON JORDAN: If we can,  
5 let's stay away from nicknames and --

6 MR. WEISS: Understand.

7 CHAIRPERSON JORDAN: -- and  
8 etcetera.

9 MR. WEISS: Okay, it's habit.

10 CHAIRPERSON JORDAN: Yes.

11 MR. WEISS: I'm sorry, and  
12 fortunately, the Whitehaven property has a  
13 very deep parking area. It can accommodate --  
14 it has two parking garages, plus a parking  
15 space in the backyard, that you can access  
16 through the parking garage.

17 Two parking spaces in front of  
18 those two garages, and two other parking  
19 spaces saddled behind those, which are  
20 partially in the public space, but well ahead  
21 of the sidewalk.

22 If you'd like me to, I can show

1 you on the survey, where those are.

2 CHAIRPERSON JORDAN: Does the  
3 Board have a need for --

4 MR. WEISS: I suppose what I'm  
5 saying is, for parking, we have one, two,  
6 three, four, five, six, seven parking spaces,  
7 plus one will be dedicated by DDOT for the  
8 Ambassador, that is eight.

9 Now, switching gears to the number  
10 of people that work at the Embassy, we only  
11 have four to six that will work at the  
12 Embassy. All will take public transportation,  
13 and the annex at Wyoming Avenue, for visa  
14 purposes, will remain open for the public  
15 there.

16 The Deputy Chief of Mission can  
17 further explain, if you would like him to.

18 CHAIRPERSON JORDAN: Let me see.  
19 Show us the parking spaces, please. Designate  
20 where the parking spaces were.

21 MR. WEISS: At Whitehaven?

22 CHAIRPERSON JORDAN: Yes.

1 MR. WEISS: Would you like me to  
2 show you?

3 CHAIRPERSON JORDAN: Yes, please.

4 (Off mic comments.)

5 MR. WEISS: Now, you can hear me?

6 CHAIRPERSON JORDAN: There you go.

7 MR. WEISS: Thank you very much.

8 CHAIRPERSON JORDAN: Yes.

9 MR. WEISS: Sorry, left-handed  
10 people, this is difficult.

11 This is the alter-survey, provided  
12 by our surveyor.

13 This little red triangle, by the  
14 way, is where we would like the flagpole.

15 The parking spaces -- and by the  
16 way, this is an exhibit to the application, in  
17 the back.

18 The two-car garage is here. There  
19 is a parking -- there is a garage door on the  
20 opposite side of the parking garage, with a  
21 parking space on the other side. We are  
22 thinking that that is where the Ambassador's

1 car will reside, since it generally doesn't  
2 get moved.

3 Two-car parking garage, two  
4 spaces, P1 and P2 in front of those two-car  
5 garages. Then room for two spaces, albeit  
6 part of it is in the public space behind those  
7 two.

8 We are proposing DDOT to give us  
9 three spaces in front. They've guaranteed us  
10 one. They always give you one. We have asked  
11 for three because due to the lineal footage on  
12 Whitehaven Street, we believe that that would  
13 be appropriate.

14 Given the fact that we have just a  
15 handful of visitors, two to four per day, at  
16 the embassy/chancery now on Wyoming Avenue, we  
17 feel that this is more than sufficient  
18 parking.

19 Those two to four day include  
20 Federal Express and the letter carrier. Most  
21 of the business of the chancery, concerning  
22 visa and the public access, is really through

1 the internet, FedEx and hand-delivery.

2 So, we receive very, very few  
3 outside retail visitors.

4 We feel that the parking issue is  
5 more than adequately taking -- handled.

6 I should also mention that we  
7 carefully explained this to the ANC in April,  
8 when they carefully went through the  
9 application. The Single Member District  
10 Commissioner, Dr. Catherine May, who has been  
11 Single Member District Commissioner for  
12 several years, is intimately familiar with  
13 Whitehaven and the Embassy District.

14 This is her District, and she  
15 presented resolution, which was unanimously  
16 approved, not to oppose the -- our  
17 application, which is made a part of the  
18 record.

19 So, the ANC was very, very  
20 concerned about that, and they seemed very  
21 happy with our explanations.

22 CHAIRPERSON JORDAN: Very good,

1       thank you. Show me the flagpole again. Where  
2       is it? Where is the flagpole? That is the  
3       red dot there?

4                   MR. WEISS: Yes.

5                   CHAIRPERSON JORDAN: Okay, thank  
6       you. Questions?

7                   MEMBER ALLEN: Thank you, Mr.  
8       Chairman. Mr. Weiss, I think --

9                   MR. WEISS: Sorry.

10                  MEMBER ALLEN: That's okay. I  
11       think that one of the concerns of the  
12       neighbors, as I read their complaint, was that  
13       it wasn't so much the staff even. I think  
14       you've done a marvelous job. The chancery has  
15       done a marvelous job --

16                  MR. WEISS: Thank you.

17                  MEMBER ALLEN: -- about dealing  
18       with that, but events that occur, and that if  
19       there are, you know, social events in the  
20       evenings, that there is a lot of traffic,  
21       which I would assume you'd have events, that  
22       would be more than eight people --

1 MR. WEISS: Excellent question and  
2 they --

3 MEMBER ALLEN: -- and so, if you  
4 could just address that.

5 MR. WEISS: Beautiful segue to my  
6 next comment.

7 The Ambassador's residence is a  
8 five-minute walk from the proposed location.

9 The blue dot on this Google map  
10 shows the proposed location. It's about 200  
11 feet from the intersection of Mass Avenue and  
12 Whitehaven.

13 If you cross to the other side of  
14 Mass Avenue, you're going toward the park.  
15 About another block and a half in is the  
16 Ambassador's residence, noted by the 'R'.  
17 It's on 30th Street.

18 That residence is a larger  
19 facility, larger footprint, believe it or not.  
20 It's a larger residence and it's a larger  
21 backyard.

22 It has more than sufficient

1 parking now, and all of the social events have  
2 been taking place at the residence, at the  
3 Ambassador's residence.

4           There is no intention to change  
5 that, what so ever. As a matter of fact, in  
6 our application, we made clear that the only  
7 social event that we anticipate having will be  
8 an open house, probably in August, and that  
9 will be at staged times on Sunday, so that all  
10 the Diplomats and officials can have time to  
11 stop in, without crowds, and that is customary  
12 in the community, to have an open house. It  
13 would be rather odd, not to have one.

14           But social events will all take  
15 place either at the Ambassador's residence,  
16 where they have for many years been taking  
17 place, or at outside facilities.

18           I just want to make a couple more  
19 notes.

20           This is a very interesting area.  
21 If you haven't been to the area where the  
22 Ambassador's residence is, it's surrounded on

1 almost every side by either Normanstone Park  
2 or an adjunct of Rock Creek Park. Very, very  
3 few people live back here, and very few people  
4 park here.

5 So, these streets have been more  
6 than sufficient to handle these social events,  
7 as they've been handled in the past.

8 Two more things, just some things  
9 that I've discovered.

10 One of the Protestants, Mr.  
11 Berman, I believe his Counsel is here today,  
12 had an issue with parking.

13 Seems to me that his concern is  
14 with the chancery, the Italian chancery, which  
15 is across the street, a much, much larger  
16 facility where they rent out their space.

17 We have no intention of renting  
18 out our space at Whitehaven. It's much too  
19 small and it's just not what the -- it's not  
20 what the embassy does. They don't -- they've  
21 never rented out their space for social  
22 events.

1                   In addition, it's rather odd that  
2                   in the marketing materials that Mr. Berman,  
3                   the protestant, had distributed throughout the  
4                   community, he discusses what wonderful  
5                   neighbors the Diplomats are, and it seems to  
6                   be rather odd that he said two things in his  
7                   mouth, both sides.

8                   Another neighbor --

9                   CHAIRPERSON JORDAN: Let's just  
10                  keep it positive, as we do here.

11                  MR. WEISS: Very positive.

12                  CHAIRPERSON JORDAN: At BZA.

13                  MR. WEISS: Thank you.

14                  CHAIRPERSON JORDAN: Because --

15                  MR. WEISS: One more thing, there  
16                  is another protestant, Mr. Daly, Leo Daly, who  
17                  lives next door to Mr. Berman, similar  
18                  concerns.

19                  Mr. Daly actually was the  
20                  architectural firm that designed the Italian  
21                  Embassy across the street, and I think that  
22                  the concerns have to be with the Government of

1 Italy.

2 We've done nothing wrong. We have  
3 nothing planned, like they do. Sri Lanka is a  
4 tiny country, compared to Italy and these  
5 others.

6 We don't have social events. We  
7 don't have anything planned for that area. We  
8 have very few employees. They have much more  
9 employees.

10 One more thing, and I know that's  
11 the fourth I've said 'one more thing'.

12 There is something interesting  
13 that we discovered on Whitehaven Street. This  
14 entire side of -- this is Italy. The 'I' is  
15 Italy, and the parking spaces from  
16 Massachusetts Avenue, which border on the  
17 Italian chancery, are reserved, DDOT  
18 designation for Italy.

19 However, all of the rest of  
20 Whitehaven Street, going all the way up to the  
21 end is free for all parking. There are no  
22 residential limitations on that parking. I

1 think that is another issue that perhaps, the  
2 Berman's, perhaps us, perhaps other neighbors  
3 should focus on, to get this area on the south  
4 side of Whitehaven Street, restricted for  
5 residences, two-hour residences, and to have  
6 strict enforcement.

7 So, there are other things that  
8 can be done, and I think that the Protestants,  
9 perhaps, have not had time to carefully review  
10 our application. They would have seen the  
11 fact that we are not having social events,  
12 that we have a much smaller footprint, that  
13 the social events will be handled at the  
14 Ambassador's residence, as we've said, and the  
15 very small number of employees who will  
16 actually be staffed, just a handful, at the  
17 embassy, together with everybody taking car-  
18 pools or public transportation that serves the  
19 area in Massachusetts Avenue.

20 MEMBER ALLEN: Thank you.

21 CHAIRPERSON JORDAN: Yes, Mr. May?

22 MEMBER MAY: So, you called the

1 rest of the parking on Whitehaven street a  
2 free-for-all, not a technical DDOT term.

3 Is it subject to RPP, residential  
4 parking permit restrictions?

5 MR. WEISS: It could be. It is  
6 not.

7 MEMBER MAY: It is not, okay.

8 MR. WEISS: I think that is  
9 perhaps, just an omission, but --

10 MEMBER MAY: No, I mean, it's --  
11 in order to be in the system --

12 MR. WEISS: Yes.

13 MEMBER MAY: -- in the RPP system,  
14 you have to --

15 MR. WEISS: Yes.

16 MEMBER MAY: -- the residents have  
17 to request it, and presumably, they didn't  
18 have a majority who requested it.

19 MR. WEISS: Our transportation  
20 consultant, Mr. Osbourne George can further  
21 address that, perhaps.

22 He had individuals parked, and

1 watched where these folks go, when they park,  
2 and they all go to the embassies across the  
3 street from us.

4 MEMBER MAY: Yes.

5 MR. WEISS: It's legal now, where  
6 they park, but that, obviously could change.

7 MEMBER MAY: Do the rest of the  
8 homes on the block actually have parking?

9 MR. WEISS: Pardon me?

10 MEMBER MAY: The rest of the homes  
11 on the block, do they actually have parking on  
12 their lots?

13 MR. WEISS: It depends. President  
14 Clinton lives at the end of Whitehaven.

15 MEMBER MAY: And it doesn't matter  
16 --

17 MR. WEISS: They are the same side  
18 of the street.

19 MEMBER MAY: Yes.

20 MR. WEISS: They have parking  
21 designated by the Secret Service for their own  
22 little --

1                   MEMBER MAY: All right, I'm just  
2                   curious about onsite parking at the rest of  
3                   the homes. If you don't know the answer, then  
4                   don't --

5                   MR. WEISS: I would --

6                   MEMBER MAY: Don't speculate.

7                   MR. WEISS: I do know that Mr.  
8                   Berman --

9                   MEMBER MAY: We'll let Mr. George  
10                  --

11                  MR. WEISS: -- has a circular  
12                  driveway, I believe, but I don't --

13                  MEMBER MAY: Okay.

14                  MR. WEISS: -- if it's in the  
15                  public space or not.

16                  MEMBER MAY: All right.

17                  MR. WEISS: I do know that the  
18                  Embassy of Italy has an indoor garage.

19                  MEMBER MAY: Right, okay, thanks.

20                  CHAIRPERSON JORDAN: Are there any  
21                  additional questions for the applicant?

22                  MEMBER ACOSTA: I have a quick

1 question.

2 CHAIRPERSON JORDAN: Yes, please.

3 MEMBER ACOSTA: You mentioned that  
4 the Italian Embassy had on-street parking  
5 spaces. Was there -- as far as how many  
6 spaces do they currently have reserved on  
7 street?

8 MR. WEISS: The number of reserved  
9 spaces --

10 MEMBER ACOSTA: Yes.

11 MR. WEISS: -- on the street,  
12 total?

13 MEMBER ACOSTA: Yes.

14 MR. WEISS: For all embassies?

15 MEMBER ACOSTA: No, for the -- you  
16 had mentioned the Italian Embassy had --

17 MR. WEISS: Oh, they -- I believe  
18 Mr. George, perhaps, can address that. My  
19 guess is, there are about 24 spaces. It's  
20 very large. Most embassies only have a  
21 handful, and the chancery is rather, I guess  
22 populated. My guess is about 24.

1 MEMBER ACOSTA: Can you answer?

2 MR. WEISS: Can you?

3 MR. GEORGE: Mr. Chairman,  
4 Osbourne George again, for the record.

5 I'd just like to use my exhibit to  
6 supplement Mr. Weiss's.

7 The Italian Embassy has 16 spaces  
8 reserved as Diplomatic spaces, specifically  
9 for them, along the south side.

10 CHAIRPERSON JORDAN: Any other  
11 questions for them?

12 MEMBER ACOSTA: Just one other  
13 question.

14 CHAIRPERSON JORDAN: All right.

15 MEMBER ACOSTA: I think part of  
16 this case, we should try to put this in some  
17 context, and so, do you have employee numbers  
18 for the surrounding embassies, like the  
19 Italian Embassy or the Polish Embassies around  
20 there, because we're talking about a fairly  
21 small embassy here, but just for the -- so,  
22 some context for us, do you happen to have

1 those numbers?

2 MR. WEISS: I'm going to defer to  
3 Mr. George.

4 MEMBER ACOSTA: All right.

5 MR. GEORGE: No, we were not able  
6 to determine those numbers, and it was not a  
7 requirement, according to our scoping  
8 discussions with DDOT.

9 CHAIRPERSON JORDAN: How many  
10 employees again, at this -- at your embassy?  
11 How many employees?

12 MR. WEISS: I'm sorry?

13 CHAIRPERSON JORDAN: How many  
14 employees?

15 MR. WEISS: How many?

16 CHAIRPERSON JORDAN: Yes.

17 MR. WEISS: Yes, total embassy  
18 employees?

19 CHAIRPERSON JORDAN: That will be  
20 working at this site.

21 MR. WEISS: We have -- how many  
22 total?

1 (Off mic comments.)

2 MR. WEISS: Maximum of eight at  
3 Whitehaven. That would include the  
4 Ambassador.

5 CHAIRPERSON JORDAN: And we have  
6 five spaces? Five spaces?

7 MR. WEISS: Yes.

8 CHAIRPERSON JORDAN: Including  
9 those that are stacked?

10 (Off mic comments.)

11 MR. WEISS: We have -- well, we  
12 have -- the total spaces that we have would be  
13 two, four, six, seven spaces, plus the  
14 Ambassador space would be eight.

15 CHAIRPERSON JORDAN: So, that's  
16 eight spaces total?

17 MR. WEISS: Yes.

18 CHAIRPERSON JORDAN: Okay, all  
19 right.

20 MEMBER MAY: That number seven  
21 spaces includes two spaces that are partially  
22 in public space, right?

1 MR. WEISS: There are two spaces  
2 that are partially in public space.

3 MEMBER MAY: And have you  
4 requested --

5 MR. WEISS: May I show you?

6 MEMBER MAY: No, I know what it  
7 looks like.

8 MR. WEISS: Okay.

9 MEMBER MAY: So, have you  
10 requested a public space permit to park  
11 vehicles there?

12 MR. WEISS: We have not, at this  
13 time. From the District, we certainly can.  
14 We don't believe that it's necessary because -  
15 -

16 MEMBER MAY: But technically, it  
17 is. Technically, you can't park in the public  
18 space in front of your house. Many people  
19 ignore it, but technically, you need -- you  
20 would need permission.

21 MR. WEISS: Well, we have not.  
22 The answer is no, we have not.

1 MEMBER MAY: Okay.

2 CHAIRPERSON JORDAN: Any  
3 additional questions that we have of the  
4 applicant?

5 Then let's proceed on. Let's go  
6 to the new representative of the Department of  
7 State, to provide his testimony, please.

8 MR. SEAGROVES: Thank you.  
9 Chairman, Members of the Board, my name is  
10 Clifton Seagroves. I am the Director of the  
11 Office of Diplomatic Property, Taxes, Services  
12 and Benefits within the Department of State's  
13 Office of Foreign Missions.

14 I am directly responsible for real  
15 estate matters of foreign diplomatic and  
16 council missions, here in Washington, and in  
17 the other parts of the country.

18 I'm here today on behalf of the  
19 Secretary, in support of the application that  
20 the Embassy of the Democratic Socialist  
21 Republic of Sri Lanka, to utilize 3025  
22 Whitehaven Street Northwest, as its chancery.

1                   As you're aware, the formations  
2                   that establish the six criteria under which  
3                   the Board of Zoning Adjustment must solely  
4                   consider in making any determination, with  
5                   respect to the location of a chancery, three  
6                   of which are determined by Department of  
7                   State.

8                   As for the first of these  
9                   criteria, it is the obligation of the United  
10                  States to facilitate the provision of adequate  
11                  and secure facilities for foreign missions in  
12                  the Nation's Capital.

13                  Second, after consultation with  
14                  relevant foreign agencies authorized to  
15                  perform protective services for foreign  
16                  missions, we have determined that there exists  
17                  no special security requirement relating to  
18                  parking in this case.

19                  After similar consultation, we  
20                  have also determined that the subject site and  
21                  the area are capable of being adequately  
22                  protected.

1                   Finally, with respect to the  
2                   Federal interest in this project, the  
3                   Government of Sri Lanka and the City of  
4                   Colombo have previously assisted with the  
5                   zoning and land use needs of the U.S. Embassy,  
6                   and we hope to continue to rely on such  
7                   cooperation in the future.

8                   Thus, it is the position of the  
9                   Department of State that the Embassy of Sri  
10                  Lanka has successfully met the requirement of  
11                  three of the six criteria under which this  
12                  application must be adjudicated. Thank you.

13                  CHAIRPERSON JORDAN: Thank you.  
14                  Any questions for this witness? Ms. Allen?

15                  MEMBER ALLEN: Thank you, Mr.  
16                  Chairman. Mr. Seagrove, can you just -- from  
17                  your knowledge base, flags of the various  
18                  embassies, are they generally in the open or  
19                  public space, or are they generally on the  
20                  site of -- you know, within sort of the gate?

21                  MR. SEAGROVES: I think that the  
22                  vast majority are in public space and we have

1 lots of discussions with countries about this,  
2 and the concept of public space in relation to  
3 foreign embassies.

4 Certainly, their premises may be -  
5 - they may have a gate that encloses public  
6 space, but we explained what that means. It  
7 still has the -- it's within their premises,  
8 so, it has certain protections of in viability  
9 and other provisions that exist, or  
10 permissions.

11 But we understand that, you know,  
12 there is -- they need permission of what can  
13 go in public space.

14 But flags, there has never been  
15 any scenario that we have dealt with, where  
16 they have not been allowed or been remitted to  
17 have a flag in public space, in the vast  
18 majority, I can't think of really any that  
19 aren't.

20 MEMBER ALLEN: Thank you.

21 CHAIRPERSON JORDAN: Any  
22 additional questions by the Board?

1                   Then let's turn to the Office of  
2                   Planning, please.

3                   MR. JACKSON:    Good morning, Mr.  
4                   Chairman, Members of the Board.  My name is  
5                   Arthur Jackson, D.C. Office of Planning.

6                   I have -- we have before you, a  
7                   report prepared by the Office of Planning, on  
8                   this application.

9                   I would highlight several of the  
10                  issues in there.

11                  I'll note that in terms of  
12                  parking, the -- because of the size of the  
13                  building, the applicant's tried to provide  
14                  around eight -- approximately eight spaces,  
15                  based on the square footage of the building.

16                  There are two spaces.  We  
17                  recognize two spaces in the parking garage,  
18                  but based on the plans that were submitted,  
19                  the applicant identified that there were two  
20                  spaces in front of the garage and one behind  
21                  that would also count.

22                  We were told -- the total we came

1 up with was five spaces onsite, because we  
2 were not counting the spaces that extended  
3 into public space.

4 Of course, now, on the second  
5 review of the plans, we were thinking that at  
6 the time that the spaces would interrupt the  
7 sidewalk, but looking at the plans, we see  
8 that the driveway itself extends to the  
9 driveway -- all the four spaces will be in the  
10 driveway, and it would not interrupt the  
11 sidewalk.

12 CHAIRPERSON JORDAN: Okay.

13 MR. JACKSON: So, that although we  
14 still defer to the public transportation on  
15 that issue, we would note that at previous BZA  
16 FM-BZA hearings, I believe it was determined  
17 that the BZA itself could also determine --  
18 could approve items in public space, the  
19 sites, the -- including the parking spaces and  
20 the flags.

21 I just wanted to note that for --  
22 it seems to have been the previous practice.

1 We also note that --

2 CHAIRPERSON JORDAN: So, are you  
3 concluding there are seven spaces or eight  
4 spaces?

5 MR. JACKSON: Well, we were  
6 counting all the spaces that were on private  
7 property. So, we counted the four plus one in  
8 the back, at five onsite.

9 But we also were assuming that the  
10 applicant would get at least one, and possibly  
11 two in public space, for the -- as Diplomatic  
12 parking.

13 We had thought at the time, that  
14 the applicant had to applied for Diplomatic  
15 parking, but my understanding is that that  
16 application is not going forward, but -- and  
17 that probably is something that we should talk  
18 to the Department of Transportation, regarding  
19 whether not based on the circumstances, three  
20 parking spaces would be approved.

21 But if they were approved, that  
22 give them three plus five, that would be

1 eight. That would meet the parking  
2 requirement, and still not have -- and this  
3 would not count -- the spaces that extend into  
4 public space.

5 That is just our usual practice  
6 when they have -- because we like to keep all  
7 the parking onsite, or at least authorized.

8 The next issue that I wanted to go  
9 through was the Opiate Office Analysis that  
10 you have before you.

11 As noted in analysis, all we were  
12 lacking was the comments from the Department  
13 of State. Department of State had addressed  
14 all the issues that were outstanding, and so,  
15 we think the applicant's application, their  
16 consultants report and the responses from the  
17 Department of State are -- more than satisfy  
18 the requirements under the given standards.

19 We would also note that there were  
20 no agency comments in opposition, although  
21 Department of Transportation did submit a  
22 report, with some comments, which I think

1 verified and supported a number of the issues  
2 that were raised, and addressed by the -- the  
3 consultant's report, in terms of  
4 transportation, and we also note that the --  
5 we also recognize the comments that were  
6 submitted by the neighbors and the ANC.

7 We appreciate the effort that the  
8 applicant has made to contact the District,  
9 and they have worked with ANC to come up with  
10 a resolution, or at least address the issues  
11 that were raised in the course of this case.

12 Based on the information that has  
13 been provided and the responses therein, we do  
14 -- we do not -- we recommend that the FM-BZA  
15 not disapprove this application for special  
16 accepting leave to locate the -- to relocate  
17 the chancery to this site.

18 That concludes the Office of  
19 Planning's report, and we're available to  
20 answer questions.

21 CHAIRPERSON JORDAN: Does the  
22 Board have questions for the Office of

1 Planning?

2 Then let's move to Department of  
3 Transportation.

4 MR. EL-AMIN: Good morning, Mr.  
5 Chairman. My name is Fleming El-Amin with  
6 DDOT, and I also wanted to confirm that to my  
7 knowledge, we have not received a formal  
8 request from the applicant, for the reserved  
9 spaces on Whitehaven.

10 Just backing up from that, just --  
11 we do stand behind our submitted report.

12 In terms of the actual trips to  
13 the site, they documented 32 daily trips  
14 anticipated. So, we don't anticipate a  
15 traffic issue with respect to the request for  
16 the relocation of the embassy at this site.

17 Also did want to mention that we  
18 do strongly recommend that for the spaces that  
19 are in public space between the building  
20 restriction line and the sidewalk, that that  
21 actually come before the Public Space  
22 Committee for review.

1                   Not so sure about the flag, but  
2                   certainly for the parking. We certainly would  
3                   recommend that that be submitted for public  
4                   space review.

5                   Other than that, we did not have  
6                   any particular issues with the site.

7                   The other issues. There were some  
8                   parking that was reserved on the street for  
9                   residential parking permits. I think 11  
10                  spaces were documented.

11                  But to our knowledge, we haven't  
12                  received applications from other entities  
13                  along that street for residential parking  
14                  permits at this time. That concludes my  
15                  report.

16                  CHAIRPERSON JORDAN: So, the  
17                  capacity for residential parking permits are  
18                  what, again?

19                  MR. EL-AMIN: In terms of  
20                  capacity? I'm sorry?

21                  CHAIRPERSON JORDAN: You said you  
22                  have issued 11?

1 MR. EL-AMIN: Yes, there are 11  
2 that are issued currently. There is space.  
3 There are unrestricted spaces on the street,  
4 and so, we could certainly review application  
5 for additional residential parking permits,  
6 but we have not received those.

7 MEMBER MAY: So, sorry, just to  
8 confirm. There is not actually RPP on that  
9 street?

10 MR. EL-AMIN: As far as the  
11 report, there are 11 spaces that are designed  
12 for RPP on that street.

13 MEMBER MAY: Eleven spaces are  
14 designated for RPP?

15 CHAIRPERSON JORDAN: Meaning that  
16 you have actually given out 11 permits?

17 MR. EL-AMIN: Correct.

18 CHAIRPERSON JORDAN: Okay.

19 MR. EL-AMIN: Yes.

20 MEMBER MAY: And but do you know  
21 the extent of the restriction? Does it cover  
22 both sides of the street for the full length

1 or is it some subset?

2 MR. EL-AMIN: It is a subset. I'm  
3 not sure of the exact extent. I think it's  
4 just from the properties, and I don't have  
5 that specific information.

6 MEMBER MAY: Okay.

7 MR. EL-AMIN: But I can point it  
8 out for you.

9 MEMBER MAY: All right, okay,  
10 thanks. I think eventually, we'll go back to  
11 Mr. George, who I think has probably studied  
12 it precisely.

13 CHAIRPERSON JORDAN: Any  
14 additional questions for the Department of  
15 Transportation? Anyone? Yes?

16 MEMBER MAY: Yes, so, it seems the  
17 real big problem on the street is the events  
18 that occur at the Italian Embassy. Have you -  
19 - has DDOT gotten involved in that issue and  
20 attempted to try to get that solved for the  
21 sake of the neighbors who are being impacted  
22 by these events?

1 MR. EL-AMIN: No, sir, not to my  
2 knowledge. I actually am not familiar with  
3 that particular issue, but that is certainly  
4 something I can take back and look into  
5 further.

6 But I am not knowledgeable of any  
7 action.

8 MEMBER MAY: Is there action that  
9 you can actually take, that you are aware of,  
10 that DDOT can take, to you know, prevent that  
11 sort of use?

12 MR. EL-AMIN: Is the issue just  
13 parking on the street?

14 MEMBER MAY: Yes, I assume that  
15 that is what happens, that they hold events,  
16 that they're events that are not necessarily  
17 embassy related, that occur at the Italian  
18 Embassy, and that many people park on the  
19 street and it becomes difficult for residents  
20 to park on the street.

21 MR. EL-AMIN: Yes, and again, I  
22 think that parking restrictions would be a

1 first step towards regulating that activity,  
2 and I think one alternative is actually  
3 getting residential parking permits, or  
4 restricting parking.

5 I think one of the issues is that  
6 the number of unrestricted parking spaces on  
7 the street, and there is not -- in terms of  
8 that specific issue, a lot we can do without  
9 having restrictions in place.

10 And so, I think that might be one  
11 step towards resolving this.

12 MEMBER MAY: Okay, so, you think -  
13 - I mean, you might be able to do the -- I  
14 don't know what the technical term is. I've  
15 heard enhanced RPP, where it's residents only,  
16 and with permits, that can park on, say one  
17 side of the street.

18 MR. EL-AMIN: Yes.

19 MEMBER MAY: You could probably do  
20 something like that, and ensure that there is  
21 some public parking that's available to  
22 residents, and then the other side of the

1 street or whatever, might be unrestricted.

2 MR. EL-AMIN: Yes.

3 MEMBER MAY: Or RPP with time  
4 limits.

5 MR. EL-AMIN: Correct, and there  
6 are a few spaces that actually are, I think 15  
7 minute time limits, as well.

8 MEMBER MAY: Yes, okay. So, there  
9 is probably -- there probably is more that you  
10 can do to ensure a supply of parking for the  
11 neighbors.

12 MR. EL-AMIN: Yes.

13 MEMBER MAY: Okay.

14 CHAIRPERSON JORDAN: Ms. Allen, I  
15 think you had a question.

16 MEMBER ALLEN: Thank you, Mr.  
17 Chairman. You've made some comment about 32  
18 trips or something. You said, and I missed  
19 what the -- you said it doesn't seem like that  
20 would be impactful.

21 MR. EL-AMIN: Yes.

22 MEMBER ALLEN: But could you just

1 explain what that was?

2 MR. EL-AMIN: Sure, so, as I  
3 mentioned, eight employees, all of which would  
4 either take public transit or car-pool.

5 But in terms of the daily trips to  
6 the site, they anticipated in their trip  
7 generation report, that no -- a maximum of 32  
8 trips be made in a given day.

9 That is both entering and exiting  
10 the site, and that is just on a typical day,  
11 but from our perspective, that amount of trips  
12 is not going to impact the intersection of  
13 Massachusetts and Whitehaven.

14 It's not going to cause any  
15 problems from a traffic operations standpoint.

16 MEMBER ALLEN: And that is trips  
17 in an automobile or is that trips by anybody,  
18 walking or otherwise?

19 MR. EL-AMIN: That is total trips,  
20 and it's not necessarily automobile. That is  
21 -- even if it's car-pool, it's total trips.

22 MEMBER ALLEN: Okay, but it does

1 include walking, as well as vehicular?

2 MR. EL-AMIN: Yes, what they  
3 reported was total trips, all modes.

4 MEMBER ALLEN: Okay, thank you.

5 CHAIRPERSON JORDAN: Mr. Acosta?

6 MEMBER ACOSTA: Yes, getting back  
7 to the Italian Embassy question, which I think  
8 it kind of the crux of a lot of the traffic  
9 issues there.

10 I'd like to ask the Department of  
11 State rep if he's had any dealings with the  
12 Italian Embassy, regarding the parking  
13 situation, especially with the events?

14 MR. SEAGROVES: Certainly. One,  
15 we have been in discussions with DDOT, my  
16 office, very active discussions about just the  
17 concept of designated on-street parking, and  
18 so, that -- I don't want to get ahead of  
19 anything, but we are working towards looking  
20 at that issue.

21 With that said, the regulations  
22 concerning designated on-street diplomatic

1 parking are the District of Columbia's. They  
2 are not the Department of State, or there is  
3 no Federal requirement there.

4 But the process in which that is  
5 managed is, the embassies submit their initial  
6 request to my office, and then we pass the  
7 request over to DDOT for adjudication.

8 With respect to this specific  
9 case, the reason that they have not requested  
10 on-street diplomatic parking is because that -  
11 - the regulations require that it be for a  
12 chancery, and at the moment, that is not a  
13 chancery. This is not a chancery yet.

14 So, once we get passed that  
15 hurdle, and assuming we will, then they will  
16 put a request forward, for that issue, and it  
17 will be reviewed.

18 But that is why that nothing has  
19 been put forward on that yet.

20 With respect to the Italian's,  
21 they -- would like to clarify one point. At  
22 least, we have no knowledge that they actually

1 rent out their facilities. That is a -- that  
2 would be another issue for us.

3 They make their facility available  
4 for, you know, charitable events or other  
5 cultural events, but they do not rent it out  
6 for a profit-making venture, just to clarify  
7 that point.

8 But they do have many events  
9 there. We know that because they utilize the  
10 parking facilities that are at the former  
11 Iranian Embassy, that the Department of State  
12 is the care-taker of, and we make that  
13 available to all embassies in the neighborhood  
14 for that purpose. There is a significant  
15 amount of parking there.

16 I think that there is two issues.  
17 They do have a lot of events. I'm not sure  
18 how many of them are -- people coming to those  
19 events are taking up the public parking. I'm  
20 sure that some are, but there is not a lot  
21 spaces there.

22 I think the other issue is that

1 the Italian's do have a large number of  
2 designated on-street parking spots. The  
3 Brazilian's across the street, as well, have  
4 a strip.

5 So, you know, all of which have  
6 really nothing to do with the Sri Lankan's or  
7 the Polish Ambassador's residence that is next  
8 door to them.

9 So, you know, it's something that  
10 I think is being worked. I can't answer why  
11 the Italian's have such a large strip of  
12 designated land. That is something that we  
13 would have to discuss with DDOT.

14 CHAIRPERSON JORDAN: Do we have  
15 any other Government agency that is here to  
16 provide testimony?

17 Then is there a representative  
18 here from ANC 3C? Anyone from ANC 3C?

19 We do have a letter from ANC 3C,  
20 who has met the criteria necessary for grade-  
21 weight, who recommends approval of this  
22 application.

1                   Let's turn back now to the  
2                   applicant, and see if there is any other  
3                   issues that need to be addressed by the Board,  
4                   to the applicant, before we move on for others  
5                   to testify.

6                   I do want to make note, Mr. Weiss,  
7                   we need an updated site plan that includes the  
8                   flagpole, for our records, please.

9                   MR. WEISS: Yes, we'd be happy to  
10                  do so.

11                  CHAIRPERSON JORDAN: And I think  
12                  that was -- Mr. May, you had some questions  
13                  you wanted to ask.

14                  MEMBER MAY: Mr. George, were you  
15                  going to clarify on the -- what you know about  
16                  RPP?

17                  MR. GEORGE: Yes, sir. Using the  
18                  map before you, I would let the Board know  
19                  that the five residences along Whitehaven,  
20                  they are west of the access to the Brazilian  
21                  Embassy, and run between that point and the  
22                  residence of the former President on the west

1 side.

2 So, there are five residences,  
3 including the President's house, and as you  
4 can see here, there is two of the houses, the  
5 residential houses in the area have long  
6 circular driveways.

7 So, this entire area is taken up  
8 by security and Diplomatic related staff and  
9 activities.

10 There are 11 RPP spaces along,  
11 including three along the front area of the  
12 subject property. That is the situation, as  
13 far as the RPP parking.

14 MEMBER MAY: So, if there is -- if  
15 this -- if DDOT were to approve using those  
16 three, or assigning those three to the  
17 embassy, then there would be only eight?

18 MR. GEORGE: Yes, but that now  
19 excludes the subject site, which is one of the  
20 five residential properties.

21 MEMBER MAY: Okay.

22 MR. GEORGE: Yes.

1 MEMBER MAY: Right.

2 MR. GEORGE: So, you'd knock that  
3 out of there.

4 MEMBER MAY: Right, so, how many -  
5 - I mean, do you know how many permits are  
6 issued to the existing -- to the property as  
7 it exists now?

8 MR. GEORGE: Well, RPP permits  
9 aren't permitted to a specific property. They  
10 are simply designated spaces on the street,  
11 and there are 11 such spaces.

12 MEMBER MAY: There are 11 such  
13 spaces?

14 MR. GEORGE: Yes.

15 MEMBER MAY: I see.

16 MR. GEORGE: Yes.

17 MEMBER MAY: I mean, well, they  
18 are designated individually, but you don't --  
19 we don't necessarily have access to that, I  
20 guess.

21 MR. GEORGE: We don't.

22 MEMBER MAY: Yes, okay. So, is it

1 -- is there more space that could be allocated  
2 to RPP in that block?

3 MR. GEORGE: Certainly, and the --  
4 Commissioner May, any record is a report and  
5 it has a detailed break-down, on this.

6 Along the south side, which fronts  
7 along that open space here, there is a long  
8 stretch of 29 spaces that are --

9 MEMBER MAY: Right.

10 MR. GEORGE: -- unrestricted.

11 MEMBER MAY: Right.

12 MR. GEORGE: Anyone could park  
13 there. So, there is certainly, the  
14 opportunity for the city to evaluate further,  
15 and re-allocate parking spaces.

16 MEMBER MAY: All right, thank you.

17 MR. GEORGE: Okay.

18 CHAIRPERSON JORDAN: Additional  
19 questions for the applicant, by the Board?

20 Then let's move on to see if there  
21 is anyone in the audience that wishes to speak  
22 in support of this application.

1                   Anyone here wishing to speak in  
2                   support of the application? Is there anyone  
3                   here wishing to speak in opposition to the  
4                   application? Yes, Mr. Sullivan?

5                   MR. SULLIVAN: Thank you. Good  
6                   morning, Mr. Chairman and Board Members.

7                   My name is Marty Sullivan of the  
8                   law firm of Sullivan & Barros. I'm here today  
9                   on behalf of Wayne and Lea Berman and family,  
10                  residents of 3055 Whitehaven Street, two doors  
11                  west of the property that is the subject of  
12                  this application.

13                  The Berman's are currently out of  
14                  the country and regret that they could not  
15                  attend in person today. They have asked me to  
16                  speak on their behalf.

17                  Whitehaven Street is still a  
18                  residential street. The Berman's believe that  
19                  any chancery use will worsen an already  
20                  difficult situation regarding traffic and  
21                  parking.

22                  It's true that on two corners

1 where Whitehaven meets Mass Avenue, sits the  
2 Italian and Brazilian chanceries.

3 CHAIRPERSON JORDAN: Excuse me,  
4 Mr. Sullivan. I was remise. You have three  
5 minutes.

6 MR. SULLIVAN: Thank you. The  
7 existence of these uses here has been a  
8 hardship for the Berman's.

9 The Italian Embassy was originally  
10 approved under the premise, which is no longer  
11 true, of course, that there would be a 170-  
12 space parking garage that would handle up to  
13 230 parking spaces in tandem parking, and  
14 again, that garage is no longer in use. So,  
15 all that parking is on the street.

16 The reason I bring that up is not  
17 -- I know this isn't a hearing about the  
18 Italian chancery, but it is the situation that  
19 is currently present there.

20 So, Whitehaven Street, a  
21 residential street, already has its fair share  
22 of negative impacts from chancery use. The

1 existing uses are already beyond the street's  
2 ability to accommodate the impacts of those  
3 uses and another chancery can only bring more  
4 of the same.

5 Another point the Berman's would  
6 like me to stress, despite all of the  
7 optimistic promises by the applicant, the  
8 intended use is still a chancery, commercial  
9 use, that is not appropriate in this  
10 particular location at the middle of the block  
11 on Whitehaven Street.

12 I believe even the Polish  
13 Ambassador agreed with that point. Maybe that  
14 is what Mr. Weiss may be referring to as  
15 speaking out of two sides of his mouth. I  
16 think he is referring to an Ambassador's  
17 residence or an embassy, in contrast to a  
18 chancery use.

19 Regarding the parking situation,  
20 let's be realistic about this.

21 The space that they're calling the  
22 seventh space back there, so, you only have to

1 move six cars to get that car out.

2 So, there is really two legal  
3 parking spaces there.

4 Regarding the street parking to  
5 have more dedicated parking spaces for  
6 Diplomatic use, not really a benefit to the  
7 Berman's or any residents on that street.

8 So, also, I don't believe -- the  
9 Berman's don't believe that tandem parking  
10 will be used by customers of the chancery. It  
11 just doesn't seem like a workable situation,  
12 and if they did use, then just means you would  
13 have cars continuously backing and out and re-  
14 arranging of cars in those spaces.

15 So, to say eight spaces is -- I  
16 don't think it's realistic.

17 The Berman's wish to retain what  
18 is left of their residential street, and for  
19 that reason, they urge the Board to disapprove  
20 the application.

21 In the alternative, if they do not  
22 disapprove the application, to please,

1 strictly condition it based on the  
2 conversations that we've had here today, in  
3 particular, the promise that there is no  
4 social events, the promise that employees  
5 don't use parking spaces, which wasn't really  
6 clear, because I think car-pooling would use  
7 spaces.

8 We would also ask that they  
9 restrict the reserved Diplomatic parking to  
10 one street space. That is all I have. Thank  
11 you.

12 CHAIRPERSON JORDAN: Does the  
13 Board have any questions of Mr. Sullivan?  
14 Yes?

15 MEMBER MAY: Yes, so, when is the  
16 problem? Is there a problem when there are  
17 events at the Italian Embassy or is there a  
18 problem during the day?

19 MR. SULLIVAN: The problem is  
20 obviously, much worse during the events.

21 But the problem can be on a daily  
22 basis, as well.

1                   MEMBER MAY: Okay, so, have you  
2 looked at the report that the applicant filed,  
3 that Mr. George prepared?

4                   MR. SULLIVAN: Yes, I have.

5                   MEMBER MAY: So, I mean, it seems  
6 to indicate that during most of the day times,  
7 there are actually spaces available on the  
8 street, and even at the worse time, there were  
9 still a couple of RPP spaces available.

10                   I think I understand that  
11 correctly, from what I've seen in the report.

12                   MR. SULLIVAN: I believe -- what  
13 my client would represent is that there  
14 usually are spaces available during the day  
15 time. There are times when there are not, and  
16 the traffic situation can get bad enough that  
17 sometimes, they can't get in and out of their  
18 own street. That is from the events.

19                   MEMBER MAY: And when does that  
20 occur? That is during events?

21                   MR. SULLIVAN: That is events.

22                   MEMBER MAY: Right, okay. Well, I

1 understand that.

2 I mean, it seems like there is  
3 really is a problem on the street, but it  
4 doesn't seem that it is caused, or would be  
5 caused by a chancery operation like this. The  
6 real problem is the operations of the Italian  
7 Embassy, and the issue is with whatever the  
8 city can do to help improve that situation,  
9 through enforcement or changes to parking  
10 restrictions and so on.

11 Doesn't seem like -- I mean, the  
12 impacts that we're talking about here are the  
13 possibility that there might be occasional  
14 business visitors to a chancery street, which  
15 has ample unrestricted parking, in the event  
16 that somebody has to be there, plus there --  
17 for the few visitors that they have testified  
18 would be there, that there is some parking on  
19 the site.

20 So, it's hard to evaluate this  
21 proposal, since it seems fairly modest, in  
22 comparison to what the problem is, which seems

1 to have to do with evening events at the  
2 Italian Embassy.

3 MR. SULLIVAN: That is true, and  
4 the Berman's don't have anything in particular  
5 against the Sri Lanka Embassy, and don't  
6 expect that their chancery use would be any  
7 worse than any -- well, certainly won't be  
8 worse than the Italian's and the Brazilian's,  
9 as far as volume.

10 However, they do have some  
11 experience, as you'll note in Mr. Daly's  
12 letter today, with the similar type of use  
13 that the Brazilian Embassy had at 3007  
14 Whitehaven Street, the first house, as you're  
15 going up Whitehaven. It's no longer being  
16 uses.

17 Apparently, that was a really  
18 troublesome --

19 MEMBER MAY: Right, well, but what  
20 he described was a fairly intensive business  
21 use --

22 MR. SULLIVAN: Right.

1                   MEMBER MAY:  -- that is not what  
2                   has been described here for the Sir Lanka --

3                   MR. SULLIVAN:  It's true, that is  
4                   not what is being represented.

5                   MEMBER MAY:  All right.

6                   MR. SULLIVAN:  But that is --  
7                   which I think the take-away from that is one,  
8                   maybe not make the mistake that was made in  
9                   the Brazilian order, which said, "We're  
10                  approving this, and it's because you've got  
11                  170, up to 230 parking spaces," but it wasn't  
12                  made a condition.

13                  MEMBER MAY:  Sir, I mean, the  
14                  mistake made on the --

15                  MR. SULLIVAN:  It wasn't --

16                  MEMBER MAY:  -- in which case?

17                  MR. SULLIVAN:  It wasn't made a  
18                  specific condition in the Brazilian order.

19                  MEMBER MAY:  Right.

20                  MR. SULLIVAN:  That the -- this  
21                  170 parking space garage could never be closed  
22                  or should remain open or should be in

1 operation.

2 MEMBER MAY: I thought it was the  
3 Italian Embassy --

4 MR. SULLIVAN: Correct.

5 MEMBER MAY: -- garage that was  
6 closed.

7 MR. SULLIVAN: Sorry.

8 MEMBER MAY: But it was the  
9 Brazilian Embassy that had the business  
10 problem with another house on the street?

11 MR. SULLIVAN: That is correct,  
12 yes.

13 MEMBER MAY: So, now, you're  
14 confusing me.

15 MR. SULLIVAN: I'm sorry. I'm  
16 sorry, the Brazilian Embassy had the small use  
17 --

18 MEMBER MAY: Right.

19 MR. SULLIVAN: -- on 3007.

20 MEMBER MAY: So, and did the BZA  
21 approve that?

22 MR. SULLIVAN: I don't know. I

1 would imagine if they did, they probably  
2 approved it as part of the main building --

3 MEMBER MAY: Yes.

4 MR. SULLIVAN: -- which, it may be  
5 on the same property.

6 MEMBER MAY: Okay.

7 MR. SULLIVAN: But I think the  
8 Board needs to look at the situation for what  
9 the reality is today, not what it might be, if  
10 the Italian Embassy --

11 MEMBER MAY: Right, well, and the  
12 reality that we have today is that the  
13 applicant has testified, as to the extent of  
14 use and the ability to meet the parking need  
15 for it, and it seems pretty straight forward  
16 in that regard.

17 The reality of what is happening  
18 with another embassy isn't necessarily what we  
19 need to be judging here.

20 The other embassy situation needs  
21 to be fixed, but I don't know that denying  
22 this application really does anything.

1 MR. SULLIVAN: Well, I would  
2 suggest that the Board condition any approval,  
3 in a way that reflects the concerns of the  
4 neighbors, in particular, the heavy  
5 representations that this is going to be just  
6 the most wonderful chancery use and nobody is  
7 going to come actually, use the chancery, no  
8 customers are going to come use it, because  
9 they'll all be online.

10 If there is a condition --

11 CHAIRPERSON JORDAN: That is not  
12 the representation, Mr. Sullivan. That wasn't  
13 their representation, but --

14 MR. SULLIVAN: It's pretty  
15 optimistic, in our opinion, and if it can be  
16 conditioned that -- I'll speak from my  
17 clients. I'm not sure if I can go this far,  
18 but they would be in favor -- what they would  
19 really like to see is appropriately  
20 conditioned order.

21 MEMBER MAY: Okay.

22 CHAIRPERSON JORDAN: Okay.

1 MEMBER MAY: Thanks.

2 CHAIRPERSON JORDAN: Is there  
3 anyone else wishing to speak in opposition to  
4 this application?

5 Then does the Board have any other  
6 questions they need to address to anyone,  
7 prior to us concluding this meeting?

8 Does the applicant have anything  
9 else you think you need to present to us?

10 It think we're pretty covered,  
11 unless you need to --

12 MR. WEISS: No, but we'd just --  
13 we just wanted to hand up our testimony of the  
14 DCM and our presentation to augment the file.

15 CHAIRPERSON JORDAN: Certainly,  
16 give that to the Board Secretary, but you can  
17 wait to do that, until we conclude this  
18 matter.

19 MR. WEISS: Thank you.

20 CHAIRPERSON JORDAN: All right,  
21 with that, then I'm going to conclude this  
22 rule-making hearing, and see if the Board is

1 ready to deliberate now.

2 Based upon the evidence that has  
3 been submitted in the record, what has been  
4 produced here at the -- at this hearing, I  
5 would be inclined to grant the applicant -- I  
6 would be inclined to support this application,  
7 in the form that the Board does not take any  
8 disapproval action to the Embassy of Sri  
9 Lanka.

10 I believe that has met the  
11 criteria that there is an international  
12 obligation of the United States, to provide an  
13 adequate and secure premises for this country.

14 There has not been any historic  
15 preservation's or issues raised by anyone in  
16 this matter, and particularly, the Office of  
17 Planning, who reviews our applications and  
18 processes for those being consistent with the  
19 comprehensive plan.

20 There is, in my opinion, adequate  
21 parking, in that there is only eight staff  
22 people. There is questionably at least five

1 parking spaces and maybe up to eight parking  
2 spaces for this location.

3           There is adequate foot-traffic and  
4 ability to get to public transportation. It  
5 meets the criterion that the Department of  
6 State, the Office of Foreign Missions has  
7 represented here that the -- this embassy can  
8 be in this location with adequate security and  
9 protection, and that the interest of the  
10 District of Columbia is well served by this  
11 application, in that the Office of Planning  
12 serves as an agent in that regard is  
13 represented, and recommends the approval of  
14 this application.

15           And so, that -- it would be my  
16 thought that this Board would pass a motion  
17 that we not disapprove this application.

18           Any other questions before we go  
19 into any other discussion?

20           MEMBER ALLEN: I would second.

21           CHAIRPERSON JORDAN: I didn't make  
22 a motion yet. I was just -- I just wanted to

1 get -- that was my -- Mr. May?

2 MEMBER MAY: Yes, I'm inclined to  
3 agree with the Chairman on this. You know, as  
4 difficult as the situation is on the block  
5 with traffic and parking, as a result of the  
6 operation of the Italian Embassy and  
7 particularly, the events of the Italian  
8 Embassy, that there is not really a basis, not  
9 to do this.

10 I don't think that this -- the way  
11 this has been described to us, where the  
12 applicant has presented it and testified to  
13 it, it seems fairly apparent to me that the --  
14 that this is not likely to be anymore  
15 impactful than continued use of the property,  
16 as a -- by the residents.

17 So, now, I would urge DDOT to work  
18 with the neighbors, to try to resolve their  
19 parking issue and their traffic issue, because  
20 it's sounds like it's pretty unbearable  
21 sometimes, and I don't know what DDOT can do  
22 in all circumstances, particularly with the

1 traffic.

2 But it seems to me, there are some  
3 steps that can be taken on the residential  
4 parking side, that are relatively -- well,  
5 what do I know? I don't know how easy they  
6 are to implement, but they seem easy to me.

7 So, at least take a look at it,  
8 yes.

9 CHAIRPERSON JORDAN: Any other  
10 discussion? Seeing none, I would move that  
11 the Board not disapprove the application of  
12 the Embassy of the Republic of Sri Lanka.  
13 That would be my motion.

14 MEMBER ALLEN: Second.

15 CHAIRPERSON JORDAN: Motion made  
16 and seconded. All those in favor of the  
17 motion, signify by saying 'aye'.

18 ALL: Aye.

19 CHAIRPERSON JORDAN: Those  
20 opposed? The motion carries. Mr. Moy?

21 MR. MOY: Yes, sir, staff would  
22 record the vote as four to zero. This on the

1 motion with Chairman Jordan to not disapprove  
2 the application. Second the motion, Ms.  
3 Allen, and also support Mr. Peter May and Mr.  
4 Marcel Acosta, and we have a Board vacancy.

5 So, again, the motion carries, Mr.  
6 Chairman.

7 CHAIRPERSON JORDAN: Do we --  
8 well, let's -- can we get a summary?

9 MR. MOY: It's for regular order,  
10 Mr. Chairman.

11 CHAIRPERSON JORDAN: All right,  
12 full order then, that is fine.

13 All right, thank you. This  
14 concludes our matter, and please be sure to do  
15 the appropriate filing in this, and we also  
16 would need you to file the updated plans.

17 MR. WEISS: Thank you.

18 CHAIRPERSON JORDAN: We will take  
19 a brief five-minute recess, so that we can  
20 change chairs here and do a few other little  
21 housekeeping matters.

22 (Whereupon, the above-entitled

1 matter went off the record at approximately  
2 10:50 a.m. and resumed at approximately 10:55  
3 a.m.)

4 CHAIRPERSON JORDAN: We're back.  
5 Okay, we're winding down. We've got our last  
6 three words in. There you go, time has past.  
7 We're back in order. Mr. Moy, please.

8 MR. MOY: Yes, sir.

9 CHAIRPERSON JORDAN: Let me make  
10 an announcement. Joining us is our additional  
11 Board Member Jeffrey Hinkle.

12 MR. MOY: Okay, thank you, Mr.  
13 Chairman. With that, the next application  
14 before the Board for public hearing is  
15 Application No. 18557.

16 This is the application of 1527 9th  
17 LLC. This is for special exception, Mr.  
18 Chairman, to allow an existing non-confirming  
19 use to be replaced with another non-confirming  
20 use.

21 Under Sub-Section -- under Section  
22 2003 and the variance from the use, under Sub-

1 Section 2002.3.

2 There are two filings on the  
3 record, Mr. Chairman. As a preliminary  
4 matter, there is a request to waive time for  
5 the applicant's pre-hearing statement, and as  
6 well as, they're submitting their affidavit of  
7 posting, which was filed yesterday, June 3rd.  
8 That completes that, Mr. Chairman.

9 CHAIRPERSON JORDAN: Okay, will  
10 the parties for this application, please come  
11 to the witness table.

12 Okay, would you please identify  
13 yourselves?

14 MR. DATTA: Good morning. I am  
15 Guggan Datta, the owner of the building.

16 CHAIRPERSON JORDAN: Your last  
17 name again?

18 MR. DATTA: Datta, D-A-T-T-A.

19 MR. WEIXLER: Good morning. My  
20 name is Warren Weixler. I am co-founder of  
21 SWATCHROOM, the potential tenant for this  
22 building.

1 MS. O'NEILL: Good morning. My  
2 name is Maggie O'Neill and I am the other co-  
3 founder of SWATCHROOM, hopefully the tenant of  
4 this building, as well.

5 CHAIRPERSON JORDAN: Have you all  
6 prepared witness cards and given them to the  
7 Court Reporter?

8 MR. DATTA: Yes, sir.

9 CHAIRPERSON JORDAN: And you also  
10 were sworn in this morning?

11 MR. DATTA: Yes.

12 CHAIRPERSON JORDAN: Okay, were  
13 you? Okay, we need you to stand and get  
14 sworn, please.

15 {WITNESSES SWORN}

16 CHAIRPERSON JORDAN: Very good.  
17 On the request for the waiver, I will grant  
18 the request for the late filing of the  
19 affidavit of posting and the subsequent  
20 submission of additional information that was  
21 submitted by the applicant.

22 As I tell all applicants, the

1 Board, prior to these hearings, have at least  
2 put in eight hours worth of time in reviewing  
3 all these files.

4 So, we don't like to be redundant,  
5 in regards to information. But certainly,  
6 this gives us the opportunity as a Board, to  
7 ask questions, to kind of sure-up any issues  
8 that may arise for us, in examination of your  
9 files or records, or for additional  
10 information.

11 So, with this one, I think the  
12 Board may have some questions.

13 As you're aware, the Office of  
14 Planning is recommending that we deny the  
15 variance relief for the second floor, and so,  
16 it's our -- my understanding from your  
17 submission, that it's a financial hardship or  
18 economic issue, why you can't develop the  
19 second floor, or to fit within the zoning  
20 regulations. Is that what your testimony will  
21 be?

22 MR. DATTA: Yes, that's correct.

1                   CHAIRPERSON JORDAN: Okay, I don't  
2 know if I saw the complete -- I know you  
3 submitted some financial data. I'm trying to  
4 pull up my record here.

5                   If the Board has other questions,  
6 you can ask while I'm trying to find my notes  
7 here.

8                   Additionally, this -- your  
9 facility would be open to the public? It  
10 would be open to the public?

11                  MR. WEIXLER: In what sense? Can  
12 you clarify?

13                  The first floor is an art gallery,  
14 so, yes, that would be open to the public.

15                  CHAIRPERSON JORDAN: Got you, and  
16 then the second floor is the accessory office,  
17 to go with the -- with the art gallery on the  
18 first floor?

19                  MR. WEIXLER: Correct.

20                  CHAIRPERSON JORDAN: All right,  
21 does the Board have anything that they need  
22 from this applicant, that they need to address

1 or want to discuss with this applicant?

2 MEMBER MAY: Mr. Chairman, I'm  
3 just at the most basic level.

4 I mean, I think that the hurdle to  
5 clear here is the -- meeting the test for a  
6 variance, and you know, I know you've  
7 submitted some things that attempt to address  
8 it.

9 It would help me, if you were to  
10 recap that, and as -- in as clear and strong  
11 terms as you possibly can, because what I have  
12 in the record is not particularly persuasive  
13 at this moment.

14 MR. WEIXLER: Well, Mr. May, I'd  
15 like to address your question.

16 In the letter that we have  
17 submitted, dated May 30th, that was added to  
18 the package, there were two strong points that  
19 we thought would sway the second floor  
20 argument.

21 The data that was given was the  
22 per forma that we used to take a look at the

1 two different situations, if they were to  
2 remain as OP suggests, in the fact that there  
3 is residential second floor, commercial first  
4 floor, and then the second option, which we  
5 request the variance for, which would be  
6 commercial on both levels.

7 In regards to the property owner,  
8 for a residential use on the second floor,  
9 there would need to be a complete full built-  
10 out of a residential unit.

11 There are pictures of the current  
12 property, what's the word I'm looking for?  
13 There are pictures of how the property exists  
14 now.

15 It's in complete disarray, needs a  
16 new roof. There has been plenty of leaks.  
17 It's almost inhabitable.

18 MEMBER MAY: Right, and most of  
19 that work is needed anyway, no matter what you  
20 do, right?

21 MR. WEIXLER: Correct.

22 MEMBER MAY: So, we should focus

1 on the things that are -- that would be  
2 different, if it were put into the use that OP  
3 suggests.

4 CHAIRPERSON JORDAN: What is the  
5 difficulty in making this a residential unit,  
6 as opposed to making it for this office space?  
7 What is the difficulty?

8 MR. WEIXLER: The difficulty is  
9 that it would cost the owner a considerable  
10 amount of money and time to create residential  
11 units and then market the building as half  
12 commercial/half residential.

13 In turn, losing us as the  
14 potential tenant, because our lease is  
15 contingent upon the fact that we have the  
16 whole building as commercial.

17 CHAIRPERSON JORDAN: Okay.

18 MEMBER MAY: So, again, you were  
19 describing what the real hardship is,  
20 associated with it.

21 I mean, how much more expensive is  
22 it to make it into residential unit or units,

1 versus building it out for you?

2 MR. WEIXLER: The numbers are  
3 actually comparable. The difference is that  
4 the tenant would pay to make it commercial.  
5 The owner would pay to make it residential.

6 So, from an owner standpoint, the  
7 hardship is the cost of money to do the  
8 renovations.

9 MEMBER MAY: Okay.

10 CHAIRPERSON JORDAN: So, to recoup  
11 the money that is necessary to make it  
12 residential versus recouping the money that is  
13 necessary for commercial, would the rent for  
14 the residential portion be marketable? Do you  
15 understand what I mean?

16 Would it cost you too much to rent  
17 it to a person?

18 MR. WEIXLER: I understand. I  
19 think the big difference is that it's -- you  
20 know, there isn't much economic hardship if I  
21 left this commercial. Meaning, it would low  
22 overhead to continue the use as commercial,

1 and the rent would be comparable in both  
2 situations.

3 The difference is that there would  
4 be high overhead for me personally, with you  
5 know, not just the renovation, but the  
6 maintenance and ongoing, you know, management  
7 fees.

8 So, you know, it's sort of single-  
9 tenant/single-occupancy over, you know, dual-  
10 tenant/dual-occupancy, and having to manage  
11 the day-to-day of what a residential lease  
12 would entail.

13 Sort of coming along with that, is  
14 that there is a higher build-out cost for me,  
15 as an owner. I'm not sure if I answered your  
16 question.

17 CHAIRPERSON JORDAN: Yes, you  
18 answered it.

19 MEMBER MAY: Can I go on?

20 CHAIRPERSON JORDAN: Yes, please.

21 MEMBER MAY: So, the per forma  
22 that you submitted shows a total net income

1 for a single-tenant commercial use \$292,000  
2 over six years, right.

3 Then the option two, which is  
4 second floor of two residential units, and I'm  
5 not convinced that it has to be two  
6 residential units, but in any case, given  
7 that, you're showing a total net income of  
8 \$124,000.

9 So, you're telling us that you  
10 would make less money. You're not telling us  
11 that you can't make money. You're telling us  
12 you'd make less money.

13 MR. WEIXLER: Sure.

14 MEMBER MAY: Is that the undue  
15 financial hardship, because that is not really  
16 an undue financial hardship.

17 MR. WEIXLER: Well, I would --

18 MEMBER MAY: Or an undue hardship,  
19 let me put it that way.

20 MR. WEIXLER: Yes, I was just  
21 illustrating the economic hardship of going  
22 one direction or the other, and that there was

1 a stark contrast between the two situations.

2 MEMBER MAY: Right, and the only  
3 thing this demonstrates is that you'd make  
4 less money.

5 MR. WEIXLER: That is correct. I  
6 mean, there are other arguments related to,  
7 you know, the use of the property and how that  
8 would benefit the neighborhood.

9 But those are sort of separate  
10 from this.

11 MEMBER MAY: Okay, yes.

12 CHAIRPERSON JORDAN: How long has  
13 this been vacant, this second floor?

14 MR. WEIXLER: When we purchased  
15 the building, it was occupied by two tenants  
16 upstairs, but there was no legal certificate  
17 of occupancy on record with DCRA.

18 So, I'm not sure what the history  
19 was before that or how long it was, you know,  
20 just sort of used as an apartment.

21 MR. DATTA: But to go back on  
22 that, the property was purchased in September.

1 So, it's been vacant since.

2 CHAIRPERSON JORDAN: So, it hasn't  
3 -- okay, and then there was tenants in the --  
4 were they paying rent?

5 MR. WEIXLER: Not to me, no.

6 CHAIRPERSON JORDAN: No? Do you  
7 have any knowledge that they were paying rent  
8 before?

9 MR. DATTA: They were not paying  
10 rent to the previous owner, nor did they have  
11 a lease.

12 CHAIRPERSON JORDAN: So, what are  
13 they, squatters?

14 MR. DATTA: They were friends of  
15 the previous owner.

16 CHAIRPERSON JORDAN: Was it the  
17 building in the condition -- the same  
18 condition in which your pictures you submitted  
19 to us, is that what they were living in?

20 MR. WEIXLER: No, it was better  
21 than that. They were living -- there was some  
22 demolition that took place, so that we could

1 assess what the issues were structurally with  
2 the building.

3 But the leaks, the mold, the  
4 disarray, it did exist while they were living  
5 there.

6 CHAIRPERSON JORDAN: Okay. Yes,  
7 please.

8 MEMBER MAY: So, you submitted  
9 some pictures for the record, and it shows an  
10 image of the block, as you look north, I guess  
11 north toward P Street, is that right? Is that  
12 what this shows?

13 MR. WEIXLER: That is looking  
14 south. We're on the east side of the street.

15 MEMBER MAY: Oh, we're looking  
16 south?

17 MR. WEIXLER: Yes, sir.

18 MEMBER MAY: Okay.

19 CHAIRPERSON JORDAN: Let's talk  
20 about the -- okay, I understand you've also  
21 made the argument that if you have  
22 residential, you have to add an additional

1 stairwell or another means of egress from the  
2 property, is that correct?

3 Do you have the ability to do  
4 that?

5 MR. WEIXLER: The ability to do  
6 that off the rear of the property would be  
7 allowed. It would just create another cost for  
8 construction.

9 CHAIRPERSON JORDAN: Is that cost  
10 added in your financial numbers your presented  
11 to us and the alternatives?

12 MR. WEIXLER: No.

13 CHAIRPERSON JORDAN: And what is  
14 the cost of that?

15 MR. WEIXLER: I don't know,  
16 exactly. I'd be guessing.

17 CHAIRPERSON JORDAN: Anybody else  
18 have any additional questions you'd like to  
19 ask? Yes, go ahead.

20 MEMBER MAY: All right, so,  
21 following up on that line.

22 What you're showing is two units

1 on the second floor. Is there a particular  
2 reason why you're going with two units instead  
3 of a single unit?

4 MR. WEIXLER: Yes, that is what  
5 was existing in there.

6 MEMBER MAY: Okay, but the single  
7 unit might be less expensive, because then  
8 you're only doing one kitchen, for example.

9 MR. WEIXLER: It could be, but  
10 then the rent would probably -- you know, the  
11 future potential rent would probably be low,  
12 as well, lower.

13 MEMBER MAY: Lower? I mean, you  
14 could get a two-bedroom apartment out of it,  
15 it seems, given what I see in the plans, and  
16 might be easier to deal with your egress  
17 requirements.

18 In terms of the rent that you're  
19 looking at, you're talking about \$2,400 a  
20 month for the two units before, and \$2,400 a  
21 month for one two-bedroom unit, in that  
22 neighborhood, is that unreasonable?

1 MR. WEIXLER: Probably reasonable,  
2 depending on the finishes, which would impact  
3 the cost, correct.

4 MEMBER MAY: Okay, I guess the  
5 question I was asking about this is to  
6 understand how -- the extent of retail,  
7 existing non-conforming, but grand-fathered  
8 retail further down 9th Street, as you go  
9 south.

10 So, it looks like there is at  
11 least one store front, but then you're back to  
12 houses, and then there is another -- is that  
13 commercial building, further south?

14 MR. DATTA: Yes, that is a -- with  
15 the awning on the second floor and the wording  
16 above the windows is a day-care center for the  
17 Baptist Church across the street, and then the  
18 subsequent properties down towards the corner  
19 are restaurants, or two -- three.

20 MEMBER MAY: And those are all  
21 existing grand-fathered non-conforming uses?

22 MR. DATTA: I believe at the

1 corner is actually Zone C-2-A 9th and P. The  
2 parking lot --

3 MEMBER MAY: I thought you said  
4 this was O. You said this was looking south.  
5 Are you on the east side of the street? So,  
6 we are looking south?

7 MR. DATTA: The east side,  
8 correct.

9 MEMBER MAY: All right, I've got  
10 to get my orientation right. Bear with me,  
11 one second.

12 Okay, I see, we're between P and  
13 Q, that's what threw me off, okay.

14 So, down there, we're at C-2-A.  
15 So, what is happening further north, I guess,  
16 toward Q? That is my question. Are those all  
17 residential properties?

18 MR. DATTA: The alley adjacent to  
19 our property is owned by the church. The  
20 property next to that is owned by the church,  
21 as well.

22 MEMBER MAY: I'm not asking

1 ownership. I am just asking you.

2 So, are there commercial  
3 properties that are further north of your  
4 property on that side of the street?

5 MR. DATTA: No.

6 MEMBER MAY: No, okay, what about  
7 across the street?

8 MR. DATTA: Across the street,  
9 there are.

10 MEMBER MAY: Further north or just  
11 straight across?

12 MR. DATTA: Further north.

13 MEMBER MAY: Further north?

14 MR. DATTA: Yes.

15 MEMBER MAY: Okay, and what about  
16 the properties to the south of yours, from  
17 across the street?

18 MR. DATTA: That entire half-block  
19 is the actual Baptist Church, across the  
20 street from us.

21 MEMBER MAY: Okay, all right.

22 CHAIRPERSON JORDAN: Are the

1 properties next door, the second floor, are  
2 they operated as residences?

3 MR. DATTA: As commercial.

4 CHAIRPERSON JORDAN: They're  
5 commercial?

6 MR. DATTA: Yes, sir. There is an  
7 accounting firm adjacent to us and an  
8 insurance firm on the first floor.

9 CHAIRPERSON JORDAN: What about  
10 the second floor?

11 MR. DATTA: The second floor is  
12 the accounting firm, sorry.

13 MEMBER MAY: Btu the other three  
14 houses on that block, are they just houses?

15 MR. DATTA: Yes.

16 MEMBER MAY: All right, thank you.

17 CHAIRPERSON JORDAN: Ms. Allen,  
18 did you have something?

19 MEMBER ALLEN: It was really along  
20 those same lines.

21 I was just trying to understand,  
22 from my reading of this, it appeared that

1 almost all of the adjacent properties, as well  
2 as the church being across the street, but  
3 whatever commercial uses, where there is a  
4 second floor, the second floor or maybe even  
5 third floor, are all also either retail or  
6 commercial, just from -- is that --

7 MR. WEIXLER: In the buildings  
8 that have commercial, yes.

9 MEMBER ALLEN: The second and  
10 third floors are also commercial?

11 MR. WEIXLER: Correct.

12 MEMBER ALLEN: That is what I  
13 thought. Okay, thank you.

14 MR. DATTA: I'm not sure if it's  
15 worth mentioning, but the alley that is to the  
16 left of the building, which is owned by the  
17 church, they've shared plans with us to  
18 construct on that, on the alley and to put a -  
19 - I think they have plans for an office with  
20 non-profit tenants.

21 So, it looks like they're planning  
22 for non-commercial -- or non-residential

1 tenants there, as well.

2 They told us verbally and again,  
3 this is not something that we've, you know,  
4 looked into or we can testify to, but that  
5 they have the approvals to do that.

6 So, but again, this is just in --  
7 you know, in speaking with them.

8 MEMBER MAY: Okay, well, maybe the  
9 Office of Planning can speak to that. It  
10 would certainly be aware if something had  
11 improved, I would -- or maybe they would.

12 But they would need the same kind  
13 of relief that you do, because it's an R-4  
14 neighborhood and you would need to prove undue  
15 hardship, in order to get a variance for a  
16 commercial use.

17 CHAIRPERSON JORDAN: Okay, any  
18 other questions for the applicant?

19 Let's turn to the Office of  
20 Planning, and then we can maybe work our way  
21 back.

22 MR. COCHRAN: Okay, thanks, Mr.

1 Chair. Record, Steve Cochran in the Office of  
2 Planning.

3 I'd like to look at that special  
4 exception request first.

5 The applicant has requested a  
6 special exception to replacing non-conforming  
7 use on the first floor with another non-  
8 conforming use, and we do recommend that you  
9 approve that, provided that the applicant goes  
10 on record as ascending to the conditions that  
11 they told us over the phone, they would agree  
12 to, which you can see in our report.

13 The first one deals with  
14 restrictions on the numbers of people between  
15 the hours of 9:00 p.m. and 8:00 p.m. That's  
16 restrictions to five people on the first  
17 floor, and providing an adequate trash pick-up  
18 plan.

19 We haven't seen that information,  
20 and by the way the first we saw of the  
21 information on financial hardship was about 10  
22 minutes ago. So, it may make it a little bit

1       difficult to assess that.

2               The use that they're proposing for  
3       the first floor is compliant with the criteria  
4       under Section 2003.  It's a use that was --  
5       that is first permitted in the less intensive  
6       zone.  The current use is permitted in C-1.

7               The proposed use is permitted in  
8       SP-1.  So, that meets those criteria.

9               They state that it -- that they  
10       will be presenting at this hearing,  
11       information demonstrating that it is a public  
12       facility, which is a -- a neighborhood  
13       facility, rather, which is something that they  
14       have to demonstrate for 2003.

15               They haven't had the opportunity  
16       today, or they haven't taken the opportunity  
17       today to present that information.

18               But never the less, we assume that  
19       they could demonstrate that, if you asked them  
20       to, and therefore, we could recommend  
21       approval, subject to those two conditions.

22               CHAIRPERSON JORDAN:  You know, I

1 am finding there is some other inadequacies  
2 here. Let me do this.

3 I'm going to continue this  
4 hearing, and ask that you supplement your  
5 record with some additional information.

6 The things that Office of Planning  
7 has asked for you, we need to have submitted.  
8 Particularly, I want to see the evidence about  
9 the neighborhood facility, meeting that  
10 criteria.

11 We need to see the plan regarding  
12 the trash and etcetera, for this facility.

13 Full financials regarding the  
14 facility, the build-out with the staircase and  
15 etcetera in the back, and we recommend that  
16 you also make a stronger use -- need, undue  
17 hardship need, regarding the -- why you cannot  
18 make this building, the second floor, use for  
19 residential.

20 Is there anything else that the  
21 Board needs?

22 MEMBER MAY: Mr. Chairman?

1 CHAIRPERSON JORDAN: Yes.

2 MEMBER MAY: Yes, I'd be curious  
3 if the Office of Planning would look at the  
4 question of whether this area is actually  
5 appropriately zoned, because -- and I don't,  
6 you know, I don't want to get into a really  
7 complicated exploration.

8 But it seems like there is some  
9 commercial use along the strip that exists,  
10 and the question is, whether it's -- whether  
11 this is appropriately R-4 or whether it's an  
12 area where C-2-A should be extended further.

13 I mean, did you --

14 MR. COCHRAN: I can answer that,  
15 if I may.

16 MEMBER MAY: That would be great.

17 MR. COCHRAN: I can try to answer  
18 that, right away.

19 The area to the south is zoned C-  
20 2-A. So, it's appropriately used for  
21 commercial uses.

22 MEMBER MAY: Right.

1 MR. COCHRAN: This is R-4 from the  
2 -- from the alley to the north of the  
3 applicant's site. On up, it's residential  
4 use. It's still part of --

5 MR. WEIXLER: It's like five  
6 properties, right?

7 MR. COCHRAN: Right, and then the  
8 next block is residential.

9 MR. WEIXLER: Right.

10 MR. COCHRAN: We have close to  
11 1,000 units of residential going into this  
12 neighborhood between the O Street market and  
13 the Jefferson and other developments.

14 I mean, this is one of the hottest  
15 residential markets in the city.

16 MEMBER MAY: All right.

17 MR. COCHRAN: The application is  
18 from the owner, not the user, and the  
19 applicant seems to have gotten a potential  
20 user, one that would probably do good things,  
21 but then tried to tailor the use of the  
22 building to the user, rather than

1 acknowledging what the zoning is.

2 Even today, when you look at the  
3 second floor, we never suggested that it would  
4 be appropriate to be two units. It could  
5 easily be one unit. It's about 1,000 square  
6 feet, for the -- it already has a second  
7 entrance, if you use it for one -- it has an  
8 entrance off of 9th Street.

9 It has a perfectly serviceable  
10 fire stair that goes up to the second floor,  
11 that would allow it to be used for two-bedroom  
12 apartment.

13 We just generally think that the  
14 applicant has done a very inadequate job of  
15 demonstrating that the second floor couldn't  
16 be used for the use that it's intended. In  
17 essence, the applicant's argument is, "Okay,  
18 the Board may give us permission to convert  
19 one non-conforming use to another non-  
20 conforming use."

21 "If we get that non-conforming  
22 use, we are then using that as a justification

1 for saying it would be difficult to use that  
2 non-conforming use, without then getting a use  
3 variance on the second floor, for  
4 administrative space with a non-conforming  
5 use."

6 The applicant hasn't even looked  
7 at what the whole building is, since it's now  
8 vacant, could be used as a conforming use.

9 So, all in all, we think it's a  
10 very weak application.

11 MEMBER MAY: Well, and I would --  
12 I appreciate you giving us your judgment on  
13 the application itself.

14 But my question was a little bit  
15 more specific, which just goes to the issue of  
16 whether this is one of those spots, in light  
17 of, you know, what guidance we have from the  
18 comprehensive plan and what existing uses are  
19 and so on, where the C-2-A zone might be  
20 stretched a little bit further to the north  
21 along 9th Street.

22 I am not suggesting that that is

1 appropriate. I'm just wondering whether you  
2 looked at that, and if you did, what your  
3 opinion is.

4 MR. COCHRAN: No, we didn't look  
5 at it. It wasn't a re-zoning application.

6 MEMBER MAY: I understand that,  
7 all right.

8 MR. COCHRAN: We'd be happy to  
9 give you land uses, actual uses of buildings  
10 in the area.

11 MEMBER MAY: Okay, so, I think  
12 that is a question worth understanding, not  
13 that the BZA could re-zone the property, it  
14 would have to come back to the Zoning  
15 Commission.

16 But I think it's worth  
17 understanding whether it makes sense, that  
18 this continue to be zoned R-4, and you may  
19 conclude that it absolutely should be R-4 in  
20 perpetuity, and that is perfectly fine.

21 I was just interested in  
22 understanding that a little bit better.

1 MR. COCHRAN: Is there a specific  
2 area, either a linear extent up 9th Street or  
3 a radius around there, that you'd like us to  
4 look at?

5 MEMBER MAY: No, again, because I  
6 don't have any particular agenda, about how  
7 far it should go. It's just the question of  
8 whether the line between the C-2-R -- C-2-A  
9 and the R-4 is drawn in the right place, and  
10 usually, when those sorts of issues come  
11 before the Zoning Commission, the Office of  
12 Planning has a definite opinion about where  
13 that line should be drawn.

14 You know, my guess is that you're  
15 going to look at it and see that it's exactly  
16 where it is right now, but an application like  
17 this, where there are other existing non-  
18 conforming grand-fathered uses, kind of begs  
19 the question, is the line drawn in the right  
20 place?

21 So, if we wind up continuing the  
22 hearing, that probably would be something that

1 I'd be curious about.

2 CHAIRPERSON JORDAN: Okay?

3 MEMBER MAY: Okay.

4 CHAIRPERSON JORDAN: As I said,  
5 it's my thought that we continue this hearing.

6 Have you met with, Mr. Cochrane,  
7 the Office of Planning? Have you sat down and  
8 had some face-to-face time.

9 MR. DATTA: We spoke on the phone,  
10 actually.

11 CHAIRPERSON JORDAN: I'm going to  
12 recommend that you guys, if you don't mind,  
13 you can set up and actually do some face-to-  
14 face time, so that you understand what the  
15 standard is and what you need to do to this.

16 I mean, I could -- if you want, we  
17 can go forward and if it just get denied, it  
18 gets denied, but I'm trying to throw you a  
19 bone, and give you the opportunity to drill in  
20 what is necessary, so you can get the relief  
21 that you think you want, or provide us  
22 additional information.

1 MR. DATTA: Sure.

2 CHAIRPERSON JORDAN: Does any  
3 other Board Member have anything they want to  
4 -- Mr. May?

5 MEMBER MAY: Yes, I just want to  
6 give my initial opinion at that point, which  
7 is that, you know, the standard for granting  
8 a use variance like this, even in a  
9 circumstance like this, and even when it may  
10 be popular with immediate neighbors or with  
11 the ANC, it's still a very high bar to clear.

12 And you know, essentially, you've  
13 admitted today, that this is really not about  
14 undue hardship. This is about how much money  
15 you're going to make.

16 If that is really what it's going  
17 to boil down to, I do not believe that you're  
18 going to be able to pass that bar.

19 So, sit down with the Office of  
20 Planning, that's the most helpful thing that  
21 you can do, and after that discussion, if you  
22 feel like you can make a very strong case,

1 then we would very eager to hear it.

2 CHAIRPERSON JORDAN: There has to  
3 be some reason why you can't use this property  
4 for residential, or there is an undue hardship  
5 in doing it, or is there a defect rising out  
6 of this property, that you can't make it that  
7 way?

8 Is the dollar difference  
9 substantial or whatever, but it has to rise  
10 out of this property, and it's not just a --  
11 you can make a profit and loss argument, but  
12 that is kind of -- lot of other things have to  
13 come before that.

14 It's just not that, "We can make  
15 more money doing it this way," all right?

16 MR. DATTA: Understood.

17 CHAIRPERSON JORDAN: So, with  
18 that, I'm going to continue this hearing.

19 I'm sorry, you wanted to say  
20 something?

21 MS. O'NEILL: I'm just curious,  
22 because this is my first time going through

1 this.

2 I've been in my business for  
3 myself for the last 12 years. This is our  
4 first 4-A and is trying to move into this  
5 city.

6 I owned a business in Kensington,  
7 Maryland. I have about eight to 12 people  
8 that would come into the city, who would work  
9 at this space, and is the only issue that we  
10 have to display that there be financial  
11 hardship?

12 Is there any sort of stipulation  
13 that actually looks at the positive side of  
14 what this would be, rather than the financial  
15 implications to the owner?

16 Is there any other -- the  
17 community impact would be --

18 CHAIRPERSON JORDAN: No, see,  
19 you're misunderstanding --

20 MS. O'NEILL: -- the jobs that are  
21 brought there.

22 CHAIRPERSON JORDAN: I didn't say

1 we were looking at the financial impact to the  
2 owner. That is an argument that you may want  
3 to make.

4 We are saying that --

5 MS. O'NEILL: That's a tipping  
6 point for you.

7 CHAIRPERSON JORDAN: No, it's -- I  
8 can't advise you on how to argue your case,  
9 but we have laws that's been set in stone, at  
10 least since 1958. We've amended them, made  
11 some changes to those, and every other  
12 applicant operates on the same standard, okay,  
13 and we can't do anything special for you.

14 MS. O'NEILL: Sure.

15 CHAIRPERSON JORDAN: And I would  
16 recommend that you seek advice, either getting  
17 an architect or a lawyer to sit down with you.

18 Our standard is not a difficult  
19 standard. We, according to Planning, we just  
20 -- especially what Planning says about this  
21 Board, like we just grant variances like left  
22 and right, and I need to say that on the

1 record, that that's not true. Yes, I said it.

2 MS. O'NEILL: Well, then this one  
3 is a toss up.

4 CHAIRPERSON JORDAN: No, it's not  
5 a toss up, because you have to get us to where  
6 -- at least, close enough where you need to  
7 be, as what the law requires, and Mr. May has  
8 been trying to tell you, there is things that  
9 you need to do.

10 Sometimes people come in here and  
11 we was talking about that earlier, trying to  
12 do things on their own, without seeking the  
13 proper advice to understand what the process  
14 is.

15 The process is not insurmountable  
16 and it's not that difficult, and I think you  
17 have some way you can make these arguments,  
18 but you have to make those arguments.

19 So, that is why we recommend that  
20 -- and Mr. Cochrane is one of the best people  
21 to sit down with, and he'll help to try to get  
22 your where you need to be, and let you know

1 right up front, where you're not.

2 He understands the standards quite  
3 well, and the Office of Zoning, there is  
4 folks. But there is people who do this every  
5 day, and it's not just that you're bringing  
6 jobs to the neighborhood. That is not what  
7 this body does. You can take to the City  
8 Council and make that argument and maybe have  
9 them do special legislation for you.

10 MEMBER MAY: But you can't  
11 legislate zoning. They can make exceptions  
12 for zoning, but anyway.

13 CHAIRPERSON JORDAN: Yes, but I'm  
14 just saying, that is just not what we --

15 MEMBER MAY: Yes, now, I think  
16 that is the essential point, is that they're -  
17 - certainly putting a business in the  
18 community, it's important and should be  
19 evaluated, and it's part of the process, but  
20 it's not part of our process.

21 Our process is really just about,  
22 how does what you are doing fit within the

1 zoning regulations? Mr. Cochrane can really  
2 help you with that.

3 The other aspects of it, the  
4 benefit to the community and so on, very  
5 important for some of the other people who  
6 weigh-in on the process, like the ANC, and  
7 they clearly supported this.

8 It is -- you know, that is one of  
9 the reasons why we want to give you the extra  
10 chance --

11 CHAIRPERSON JORDAN: Yes.

12 MEMBER MAY: -- because really,  
13 what you've given right now, is enough to  
14 dismiss the case, and not enough to approve  
15 it.

16 CHAIRPERSON JORDAN: And you  
17 talked about the tipping point. There is two  
18 standards right up front, that you have to get  
19 to, before that becomes a tipping, where we  
20 could just take the fact that you put us over  
21 the top on the jobs, and what have you.

22 That is the benefit or substantial

1 impact and benefit to the community. But  
2 there is two right up front, that you guys --  
3 you know, we've been trying to get you there.  
4 We've been asking -- actually, we've been  
5 sitting here, asking you questions, to try to  
6 get you there, and your responses haven't even  
7 been helping.

8 We've been lobbying something up  
9 for you, to hit it back over the court, and  
10 you've been swinging and missing it.

11 So, it's going to be continued.  
12 You have some time. We're not denying it.  
13 Giving you the opportunity to supplement this  
14 record and give you another shot at trying to  
15 get what you need.

16 Mr. Moy, I need some dates,  
17 please.

18 MR. MOY: Yes, sir, given the  
19 materials the applicant is going to have to  
20 file --

21 CHAIRPERSON JORDAN: What are  
22 looking at? July 23rd?

1 MR. MOY: No, I was going to  
2 suggest at the earliest, possibly Tuesday.  
3 Well, actually, a decision for June 25th. If  
4 they can't make their filing by June 18th, and  
5 our next available time would be July 9th.

6 CHAIRPERSON JORDAN: Okay, so,  
7 June 25th, they're going to have to get the  
8 information by when?

9 MR. MOY: By I'd say seven weeks  
10 prior, I think would be fine.

11 CHAIRPERSON JORDAN: Seven days,  
12 not seven weeks.

13 MR. MOY: Is that what I said?

14 CHAIRPERSON JORDAN: Yes, that's  
15 okay, I got you.

16 MR. MOY: Okay, maybe that is what  
17 I was thinking.

18 All right, June 18th to file their  
19 submission.

20 CHAIRPERSON JORDAN: Okay, so,  
21 that means you've just got -- you know, you've  
22 got to work the next two weeks, just to get

1 the information and supplement it, and do it,  
2 okay.

3 I recommend not just to you, I  
4 recommend to a lot of other people, all our  
5 videos, all the actions that this Board takes,  
6 you can pull down the video on-demand. You  
7 can see what is necessary. You can find out  
8 what happens.

9 We have pamphlets. You can go  
10 online, we have a tutorial of some sort  
11 online, that discusses --

12 MR. MOY: Yes, sir.

13 CHAIRPERSON JORDAN: -- what it  
14 is, to build a case and how to get it done,  
15 and I recommend that not just to you, but to  
16 anyone else who is listening, to do it.

17 It will save a lot of issues with  
18 both having happy neighbors and other folks,  
19 on what is necessary to come to the BZA.

20 But with that then, we will move  
21 this to that date. So, you have two weeks to  
22 kind of get things in and certainly, this is

1 a busy man, so, try to get on his schedule,  
2 but he'll do it for us, because he's like  
3 that, okay, and not a telephone call. Just  
4 try to get over to see him, all right.

5 With that then, we will continue  
6 this matter and move to our next case.

7 MR. MOY: Mr. Chairman?

8 CHAIRPERSON JORDAN: Just one  
9 second.

10 (Off mic comments.)

11 CHAIRPERSON JORDAN: I'm sorry.

12 MR. MOY: No problem, Mr. Chair.  
13 I just want to, for my own edification, I was  
14 thinking in terms of a decision on the 25th,  
15 but I think earlier on, you were mentioning a  
16 continued hearing.

17 So, I just want to be sure, where  
18 we are.

19 CHAIRPERSON JORDAN: Okay, where  
20 are we?

21 MR. MOY: Continued hearing.

22 CHAIRPERSON JORDAN: Continued

1 hearing, perfect. Okay, let's rock and roll.  
2 Some kind of way, we've been dragging this.

3 MR. MOY: Okay, the next  
4 application before the Board for public  
5 hearing is Application No. 18558.

6 This is the application of Jemal's  
7 Uline, LLC. This is for approval of interior  
8 and exterior modifications to plans that are  
9 approved by the BZA, pursuant to the Order No.  
10 17809.

11 So, I'll leave it with that, Mr.  
12 Chairman.

13 CHAIRPERSON JORDAN: All right,  
14 the man who needs no introduction, but he  
15 needs to introduce himself for the record.

16 MR. FREEMAN: Good morning,  
17 Chairman, Members of the Board.

18 For the record, my name is Kyrus  
19 Freeman. I'm an attorney with the law firm of  
20 Holland & Knight, here on behalf of the  
21 applicant.

22 CHAIRPERSON JORDAN: This is the

1 modification of plan, yes. Some of these  
2 things sound pretty minuscule.

3 For the record, I wanted to just  
4 indicate that I was not on the earlier case,  
5 when you first got granted relief, and that I  
6 reviewed the record, the complete record in  
7 this matter, so that I can sit -- so, the  
8 Board Members going to --

9 MEMBER MAY: I didn't participate  
10 in the original case, but I reviewed the  
11 materials for this case.

12 I mean, this is a completely new  
13 case, right? This is not a --

14 CHAIRPERSON JORDAN: It's a  
15 modification. This is a modification of a  
16 previous --

17 MEMBER MAY: Right, but the  
18 previous case was decided?

19 CHAIRPERSON JORDAN: Yes.

20 MEMBER MAY: Yes, so, I did not  
21 participate in the previous case.

22 CHAIRPERSON JORDAN: But you

1 reviewed the record and know where you are for  
2 this modification?

3 MEMBER MAY: I've reviewed the  
4 record for this case.

5 CHAIRPERSON JORDAN: Okay.

6 MEMBER MAY: For this case.

7 CHAIRPERSON JORDAN: Yes, all  
8 right.

9 MR. HILKE: I guess we need to  
10 make that clear. I also was not in the  
11 original case, but I have reviewed the record.

12 MEMBER ALLEN: Nor was I, have  
13 reviewed the case.

14 CHAIRPERSON JORDAN: All right,  
15 with that, we will move forward.

16 Does the Board have any questions  
17 on this minor modification? I find them  
18 minor, but others may characterize it  
19 differently.

20 Anyone? Anything you need from  
21 the applicant? Does the applicant think that  
22 they need to tell us anything?

1                   MR. FREEMAN: I would. Mr. Chair.  
2                   I'd like to submit, in response to the  
3                   comments from the Department of  
4                   Transportation, we've updated our plan  
5                   slightly.

6                   We've reconfigured the core of the  
7                   office building, in order to provide the  
8                   television displays that DDOT requested.

9                   We've increased the number of bike  
10                  spaces and bike changing rooms in the -- on  
11                  the floor plan, and we've kind of reduced the  
12                  maps of the roof structure.

13                  So, the first two, we made a  
14                  direct response to DDOT comments, and the  
15                  second one is just an additional benefit to  
16                  the plans.

17                  So, we have copies of those plans,  
18                  to submit for the record.

19                  I'd just like to add that today, a  
20                  letter of support came in from the Capitol  
21                  Hill Restoration Society. I'm not sure if  
22                  that was in your packet, but it was submitted

1 this morning.

2 CHAIRPERSON JORDAN: And it's not  
3 in our -- I don't -- do we have it this  
4 morning?

5 Yes, that is my problem with the  
6 late filing, but I know you didn't have  
7 control over it, and -- okay, any other --  
8 thank you.

9 Board, any questions? Office of  
10 Planning, any additional information?

11 MS. THOMAS: No, sir.

12 CHAIRPERSON JORDAN: And that you  
13 recommend approval, correct?

14 MS. THOMAS: We are recommending  
15 approval, given the site conditions. Thank  
16 you.

17 CHAIRPERSON JORDAN: DDOT?

18 MR. ROGERS: Good morning. This  
19 is Jonathan Rogers, Transportation Planner  
20 with DDOT. I'll keep my comments brief.

21 I appreciate the applicant  
22 changing their plans to accommodate some of

1 the conditions that DDOT requested.

2 Taking a step back, the proposed  
3 use for the site will -- is expected to  
4 generate substantially more vehicle and  
5 freight trips than the current use, but the  
6 site is well served by transit and other  
7 alternatives, and some of the concerns we have  
8 are regarding access to Congress Street, in  
9 terms of being too narrow and may cause some  
10 operations issues.

11 In terms of the parking, we found  
12 that the onsite parking is likely to be  
13 sufficient to accommodate the parking demand  
14 generated by the area, and there is also some  
15 excess capacity in the neighborhood, in the  
16 event that a spill-over is generated by the  
17 sites.

18 In terms of conditions, the  
19 applicant has already addressed our issue, or  
20 excuse me, our request to have transit screens  
21 in the office component of the project.

22 We still would like to request

1 that the retail component include the transit  
2 information screens, and I'd be happy to go  
3 into the reasons for why we think that is  
4 important, if you're so interested.

5 We appreciate the offer to include  
6 showers and lockers, to encourage bicycling  
7 amongst office and retail employees.

8 Some additional conditions that  
9 we'd like to see met are that the applicant  
10 work with DDOT and businesses along Congress  
11 Street and any residents there, although I'm  
12 not sure if there are any, to identify an  
13 acceptable cross-section for the street, to  
14 ensure adequate access to the --

15 CHAIRPERSON JORDAN: Wait a  
16 minute, I'm sorry. We don't -- when did you -  
17 - did you submit your report to --

18 MR. ROGERS: It was submitted on  
19 the due date, which was last Tuesday.

20 MEMBER MAY: I was just looking  
21 through the record, and I thought maybe my  
22 package was incomplete.

1 CHAIRPERSON JORDAN: And I just  
2 looked through the --

3 MEMBER MAY: I just looked through  
4 the official record here, and we don't have  
5 it. It's not listed on the exhibit log.

6 CHAIRPERSON JORDAN: And you  
7 started recommending these conditions, and I'm  
8 going what? I don't remember that, and it's  
9 not in my notes from examining the file.

10 MR. ROGERS: I apologize for that.  
11 I did receive confirmation that it was  
12 received. I do have one copy that, if you'd  
13 like to make more photocopies.

14 CHAIRPERSON JORDAN: Copies?

15 MR. ROGERS: We can do that.  
16 Sorry, I don't have any additional ones.

17 (Off mic comments.)

18 MR. ROGERS: They do have some of  
19 my notes on them, so --

20 CHAIRPERSON JORDAN: Yes, I was  
21 like, conditions, what is going on?

22 (Off mic comments.)

1                   CHAIRPERSON JORDAN: That was your  
2 only copy, that one that -- that we have?

3                   Okay, well, do this. Well, you're  
4 talking about some conditions, and you were  
5 running through those, and we have not seen  
6 those. Can you go through those conditions a  
7 little bit slower?

8                   MR. ROGERS: Certainly, I'll walk  
9 through them, and then the applicant has  
10 already addressed some of them. So, I'll make  
11 a note of where the applicant has offered to  
12 meet those conditions, the request conditions.

13                   The first condition is regarding  
14 Congress Street. So, the applicant is  
15 proposing to have access to their parking  
16 structure via Congress Street, which is a  
17 public street. It's very narrow. It's only 24  
18 feet, and there is currently, occasional use  
19 for parking, unregulated parking on both  
20 sides, and also loading for businesses along  
21 Congress Street.

22                   As the street is currently

1 programmed, there is -- we have concerns that  
2 if Congress Street will be adequate to  
3 accommodate the current uses, and also, the  
4 access to the parking structure.

5 So, we would request that the  
6 applicant work with DDOT and the businesses  
7 along Congress Street, to arrive at an  
8 appropriate and acceptable cross-section for  
9 this street, to meet everyone's needs.

10 The second condition is to have a  
11 loading management plan, because of all of the  
12 -- the additional truck traffic expected for  
13 the site. There is a significant retail  
14 component, as well as office component.

15 So, we'd like to see some  
16 conditions for loading that include truck  
17 routing options, limits to delivery times  
18 outside the AM and PM peaks, and preclude  
19 access to regular deliveries from trucks that  
20 are 40 feet long or greater.

21 We would also like a loading  
22 coordinator to be assigned for the sites.

1 There are back-in movements for the loading,  
2 which is occurring off of -- is proposed to  
3 occur off of Delaware Street.

4 Typically, DDOT does not support  
5 back-in movements through public space, but  
6 because of the historic nature and orientation  
7 of the site, one of the -- it's best case --  
8 best option for loading, will include a back-  
9 in.

10 So, we want to have a loading  
11 coordinator to coordinate that, and make sure  
12 that there are no pedestrian bicyclists and  
13 traffic conflicts.

14 Another condition was to have  
15 transportation information screens that would  
16 provide real-time transit information, to let  
17 people know about options for transit in the  
18 area.

19 The applicant has offered to  
20 provide that in the office component.

21 We are still requesting that the  
22 applicant provide that also in the primary

1 retail component, which is proposed to be  
2 about 40,000 square feet, with a food type  
3 destination retailer, and people will be  
4 making more leisurely trips, too.

5 They may not be familiar with the  
6 area and the transit options that are  
7 available to them. So, we feel like the real-  
8 time transit information screens, particularly  
9 in that big retail space, would be most  
10 appropriate.

11 Finally, the -- we asked that the  
12 applicant provide showers and lockers to  
13 encourage bicycling amongst office and retail  
14 employees, and the applicant has modified  
15 their plans to accommodate that request, and  
16 those are the conditions that we've requested.

17 MEMBER MAY: Good. So, of these  
18 conditions, how many of them are prompted by  
19 the new design versus what was previously  
20 approved?

21 MR. ROGERS: The loading proposal  
22 changed, as did the parking arrangement.

1                   So, the specific that is being  
2 proposed, those have changed.

3                   So, anything related to access to  
4 the parking on Congress Street and some of the  
5 loading conditions, are related to changes in  
6 the proposed site design.

7                   The transportation information  
8 screens is something that we typically ask for  
9 in larger projects, and showers and lockers is  
10 another relatively standard request that we  
11 make.

12                   MEMBER MAY: So, did you ask for  
13 those in the previous application and not get  
14 them?

15                   MR. ROGERS: So, the previous  
16 application was several years ago. DDOT  
17 always tries to enforce, or request up to date  
18 questions, so, no, we did not ask for it, but  
19 because of --

20                   MEMBER MAY: Okay, so, I mean, for  
21 my own personal information, it's helpful when  
22 you note that in your report, because what I

1 don't -- I think what you're trying to do is  
2 admirable, in terms of getting additional  
3 parking or showers, bike parking and showers  
4 and things like that, but sort of things that  
5 you usually ask for.

6 But I really don't like the idea  
7 of DDOT trying to re-adjudicate cases  
8 previously decided.

9 So, it's very important to -- when  
10 something comes back for modification like  
11 this, to understand what has changed and what  
12 you're doing differently this time, what  
13 you're recommending differently this time --

14 MR. ROGERS: Okay.

15 MEMBER MAY: -- and if you ask for  
16 something, asking for something that you  
17 didn't ask for the first time around, why that  
18 is -- you know, what that is and why that's  
19 important.

20 It's easy enough to understand  
21 that what you're asking is modest. So, I am  
22 not that concerned about it, you know, we'll

1 see what the applicant has to --

2 CHAIRPERSON JORDAN: But let me  
3 add something. You said these last two  
4 conditions are things that you normally do on  
5 large projects.

6 I've been here going on two years  
7 or so, and we've seen some large projects, and  
8 I have not seen these are requested  
9 conditions.

10 So, this the first time I've seen  
11 these.

12 MR. ROGERS: The transit  
13 information screens is something newer that  
14 we've discussed internally at DDOT.

15 CHAIRPERSON JORDAN: You said  
16 newer, that you discussed at DDOT?

17 MR. ROGERS: Yes.

18 CHAIRPERSON JORDAN: Okay.

19 MR. ROGERS: So, recently, and  
20 then the showers and lockers have come up.

21 MEMBER MAY: And we do see both of  
22 those in the Zoning Commission.

1 CHAIRPERSON JORDAN: We don't see  
2 them here. We've seen some large projects.

3 MR. ROGERS: Just to add to that,  
4 this is, from our perspective, a larger BZA  
5 case. I mean, not the extent of this.

6 This particular relief being  
7 requested, but the impact of the development.  
8 So, even though the proposed program itself is  
9 mostly a matter of right, the impact is still  
10 a large one.

11 So, that is why we're asking for  
12 the conditional --

13 CHAIRPERSON JORDAN: Let me ask  
14 the applicant, have you had a chance to go  
15 through each one of these and what is your  
16 position?

17 MR. FREEMAN: We actually have  
18 gone through, and we've -- as I said at the  
19 beginning, we agree with all five of their  
20 bullets, other than providing the  
21 transportation information screen in a retail  
22 component, and that is because the retail

1 below we're showing approximately 40,000.

2 That could ultimately be broken up  
3 in the different retail days, and we don't  
4 want to create a situation in which that  
5 individual retailer has to have a  
6 transportation screen, because we don't know  
7 what retailer will actually be in that space.

8 We know for the office, that it  
9 will have a central lobby, with frontage out  
10 on the street. That is why we're okay with  
11 having a transportation information screen in  
12 an office building, but we're not comfortable  
13 with having that as a requirement at this  
14 point, for the retailers, for the reason I  
15 just described.

16 I would note, just in terms of  
17 comparison of the prior case to this case, the  
18 prior case was required to provide 243 parking  
19 spaces, and the Board granted a range of 162  
20 to 182 spaces.

21 So, that was a variance of about -  
22 - they were providing about 75 percent in that

1 case, and in that case, DDOT did not submit a  
2 report.

3 In our case, we provided -- we're  
4 required to provide 201 parking spaces, and  
5 we're asking to provide a range of 162 to 176  
6 parking spaces, which is 81 to 88 percent.

7 So, in essence, we are providing  
8 more parking in this case, than we were  
9 providing in the approved BZA case, just so  
10 you could have that as a point of comparison.

11 CHAIRPERSON JORDAN: Okay, so, all  
12 of these conditions are new for this?

13 MR. FREEMAN: All of these  
14 conditions are new for this case. There were  
15 no conditions in the prior case.

16 However, as I said, we've agreed  
17 to all, other than the transportation screen  
18 in the retail space.

19 CHAIRPERSON JORDAN: Okay.

20 MEMBER MAY: So, you said that  
21 there was a revised plan?

22 MR. FREEMAN: Yes.

1                   MEMBER MAY: And that is  
2 essentially for the showers and lockers?

3                   MR. FREEMAN: Yes, I'll get it out  
4 to the --

5                   CHAIRPERSON JORDAN: Is that --  
6 what's in that revised plan?

7                   MR. FREEMAN: The three changes in  
8 the revised plan, as he distributes them --

9                   MEMBER MAY: Sir?

10                  CHAIRPERSON JORDAN: No, give them  
11 to the Board. No, no, give them to the Board  
12 Secretary, please. Go ahead.

13                  MR. FREEMAN: And I'll just  
14 through them quickly.

15                  Initially, our office core was  
16 more of an interior facing core. Now, it's  
17 shifted, such that it fronts out onto Delaware  
18 Street, and that's shown on page 12.

19                  We've added the bike spaces and  
20 changing rooms for -- we're showing 26, but if  
21 we double-hang them, we could get up to 52,  
22 and that's shown on page 13.

1 CHAIRPERSON JORDAN: Fifty-two

2 what?

3 MR. FREEMAN: Fifty-two bike

4 racks.

5 CHAIRPERSON JORDAN: Bike racks,

6 okay.

7 MR. FREEMAN: And then we -- when

8 they reconfigure the office core, we were able

9 to reduce a little of the mass -- of the roof

10 structure, and that is shown on page 16.

11 So, those are the three changes.

12 CHAIRPERSON JORDAN: From what was

13 previously submitted?

14 MR. FREEMAN: From what our pre-

15 hearing submission included.

16 MEMBER HINKLE: And I'm just

17 glancing at the plans that we just received.

18 So, there is no retail lobby, per

19 se, in terms of what we're looking at on these

20 plans?

21 MR. FREEMAN: There are retail

22 entrances, but no, there are no retail

1 lobbies, and again, that space might be broken  
2 up into multiple retail operators. We don't  
3 have a retail tenant.

4 MEMBER HINKLE: Okay, thank you.

5 MR. FREEMAN: So far.

6 CHAIRPERSON JORDAN: Does the  
7 Board have any questions, or Office of --  
8 Department of Transportation?

9 Does the applicant have any  
10 questions of Department of Transportation?

11 MR. FREEMAN: No, sir.

12 MEMBER MAY: Where was the lobby  
13 before?

14 CHAIRPERSON JORDAN: Yes, because  
15 I'm --

16 MEMBER MAY: Which page? Is it 12  
17 for the last one? Okay, I see, it was on the  
18 --

19 MR. FREEMAN: It's 12 of our new  
20 plans, yes.

21 CHAIRPERSON JORDAN: Page 12?

22 MR. FREEMAN: It's page 12 of our

1 new plans.

2 MEMBER MAY: It used to be on the  
3 first floor, now, it's on the second floor,  
4 and it's on Delaware and instead of being on -  
5 -

6 MR. FREEMAN: Right.

7 MEMBER MAY: -- on M, right, or  
8 off M?

9 MR. FREEMAN: Off M, yes.

10 MEMBER MAY: Yes, okay.

11 MR. FREEMAN: And then page 13 of  
12 our other set we just distributed, shows the  
13 bike spaces and changing rooms, because we did  
14 not have that before.

15 MEMBER MAY: Did you lose parking  
16 in the process of adding --

17 MR. FREEMAN: We have, which is  
18 why our roof parking range that we're asking  
19 for is 162 to 176, because once we actually  
20 kind of get in there to do those --

21 MEMBER MAY: And what was it in  
22 the earlier submission?

1 MR. FREEMAN: In the earlier  
2 submission, we had 176.

3 MEMBER MAY: And the reduction of  
4 14 spaces, I mean, was parking an issue for  
5 the ANC?

6 MR. FREEMAN: The only issue --  
7 the short answer is no, parking wasn't an  
8 issue.

9 MEMBER MAY: So, they're not  
10 uncomfortable with the notion of --

11 MR. FREEMAN: No, because at the  
12 end of the day, we're still providing -- the  
13 162 is the same minimum that was provided in  
14 the approved case.

15 MEMBER MAY: Okay, and then one  
16 last question.

17 Where was -- where have been the  
18 access to parking before it was Congress  
19 Street?

20 MR. FREEMAN: Well, the prior plan  
21 did not have the parking structure.

22 MEMBER MAY: Right.

1 MR. FREEMAN: So, the access from  
2 Congress is a new --

3 MEMBER MAY: Right.

4 MR. FREEMAN: -- is a new issue.

5 MEMBER MAY: And where was the  
6 access to the parking that was in the original  
7 plan?

8 CHAIRPERSON JORDAN: It was  
9 underground?

10 MR. FREEMAN: In the other  
11 building, we had below-grade parking.

12 MEMBER MAY: Right.

13 MR. FREEMAN: And I believe that  
14 was the -- the entrance to that -- give me  
15 just one second. I'm looking at our plans  
16 from the initial case.

17 That parking entrance was on  
18 Delaware Avenue.

19 MEMBER MAY: Thank you, okay. All  
20 right, thanks.

21 MR. FREEMAN: Thank you.

22 CHAIRPERSON JORDAN: All right,

1 any other agency, no. Is there anyone here  
2 from ANC-6C?

3 We do have a letter from ANC-6C,  
4 recommending approval of the application.

5 Is there anyone here, wishing to  
6 speak in support of this application? Anyone  
7 wishing to speak in support?

8 Anyone here wishing to speak in  
9 opposition? Anyone in opposition?

10 We will turn back to the  
11 applicant, to see if there is any additional  
12 rebuttal or anything else you need to say.

13 MR. FREEMAN: Thank you for your  
14 time today. We appreciate the ANC Capitol  
15 Hill Restoration Society and DDOT supports,  
16 and we'd ask that the Board approve our  
17 application, at your earliest convenience.  
18 Thank you.

19 CHAIRPERSON JORDAN: Okay, all  
20 right, thank you. Is the Board ready to  
21 deliberate on this matter?

22 MR. FREEMAN: I'm sorry, just one

1 more thing.

2 One, in our statement, we ask for  
3 flexibility, on page five, and a minor tweak.

4 This subject -- this site is  
5 subject to HPRB review. So, we've asked for  
6 flexibility to modify the design and internal  
7 layout, to address any HPRB comments during  
8 final review, so long as those modifications  
9 do not change any of the zoning relief, and  
10 that is the standard condition that the Board  
11 has added in these types of cases.

12 So, that would be our first  
13 request, and then the second again, is just  
14 for flexibility to provide the range of 162 to  
15 176, in terms of parking spaces, in case the  
16 garage gets reconfigured a little, to  
17 accommodate the bike parking.

18 CHAIRPERSON JORDAN: Okay, does  
19 anybody have any other comments?

20 Then I would move that we grant  
21 the relief requested by the applicant for the  
22 modification, providing some leeway, regarding

1 to what is necessary for HPRB, and also, that  
2 the range for parking goes from 162 to 175.

3 That the conditions set forth by  
4 the Department of Transportation be included,  
5 except for number four, which I would delete,  
6 and retail uses -- and retail, for both office  
7 and -- and for both office -- for office use,  
8 deleting retail use requirement for the  
9 information screen.

10 That would be my motion.

11 MEMBER MAY: Second.

12 CHAIRPERSON JORDAN: Motion made  
13 and seconded. Any unreadiness?

14 MEMBER HINKLE: Mr. Chair, just  
15 for clarification.

16 I think the conditions that DDOT,  
17 so that the applicant should do this and  
18 should to that, and I think that should be  
19 changed to 'shall'.

20 CHAIRPERSON JORDAN: Yes, okay,  
21 yes. Thank you. We would modify it  
22 accordingly, and seek to change the 'should'

1 to 'shall'.

2 All right, all those in favor,  
3 signify by saying 'aye'.

4 ALL: Aye.

5 CHAIRPERSON JORDAN: Those  
6 opposed, 'nay'. The motion carries. Mr. Moy?

7 MR. MOY: We've recorded the vote  
8 as four to zero, this on the motion of  
9 Chairman Jordan, to include the application  
10 per the -- for the conditions, as he has just  
11 cited.

12 Second, the motion, Mr. Peter May,  
13 also support Ms. Allen and Mr. Hinkle, and we  
14 have a Board seat vacant.

15 The motion carries, Mr. Chairman.

16 CHAIRPERSON JORDAN: Summary  
17 order, please?

18 MR. MOY: Yes, sir. The next  
19 application before the Board for a public  
20 hearing is Application No. 18555.

21 This application of Jemal's  
22 Prospect's LLC. This is before the Board for

1 a special exception relief to change a non-  
2 conforming use under Sub-Section 2003.1, and  
3 that completes the summary, Mr. Chairman.

4 CHAIRPERSON JORDAN: No, you can  
5 leave. We'll go onto the next application.

6 For the record, introduce  
7 yourself, again, Mr. Freeman.

8 MR. FREEMAN: Good morning, Mr.  
9 Chair, Members of the Board.

10 For the record, my name is Kyrus  
11 Freeman, with Holland & Knight, on behalf of  
12 the applicant Jemal's Prospect's LLC.

13 CHAIRPERSON JORDAN: Okay, before  
14 we begin, I think there is some -- just a  
15 small, little minor technical change.

16 The self-cert form, I understand  
17 had relief from 2001.3, and it should be from  
18 2003.1, is that -- I think you picked it up in  
19 your pre-hearing.

20 MR. FREEMAN: It's 2003.1.

21 CHAIRPERSON JORDAN: Yes, okay, I  
22 do that sometimes, mix the numbers.

1                   The other thing, tell us the exact  
2 use. What is going to be there, because it  
3 kind of went back and forth for yoga, yoga  
4 accessories and then something else. What is  
5 it?

6                   MR. FREEMAN: A couple of things.  
7 I would point your attention, first of all, to  
8 our pre-hearing, because I think that will  
9 help clarify what uses and where we're  
10 proposing those uses.

11                  CHAIRPERSON JORDAN: Why don't you  
12 kind of just tell us about it?

13                  MR. FREEMAN: Initially, we have -  
14 -

15                  CHAIRPERSON JORDAN: We've looked  
16 at this several times, and we've had  
17 discussion. I just need to know --

18                  MR. FREEMAN: Initially, we  
19 proposed a range of uses, furniture store,  
20 yoga, retail and accessories.

21                  However, there was a concern  
22 raised from our ANC Single Member District

1 representative, and some of the folks he spoke  
2 to in the area adjacent to our site.

3 So, we've narrowed to specifically  
4 only include yoga studio, yoga apparel and  
5 yoga accessories.

6 In our current application, on  
7 Exhibit-C, shows where we're proposing those  
8 uses.

9 Specifically, we're proposing them  
10 in two vacant spaces with the flexibility to  
11 expand into a hair salon.

12 So, that is the location we're  
13 proposing those uses, under this application.

14 MEMBER MAY: Can you say that  
15 again? I was -- it took me a while to catch  
16 up.

17 MR. FREEMAN: Sure, Exhibit-C  
18 shows the site plan.

19 MEMBER MAY: Right.

20 MR. FREEMAN: We're proposing it,  
21 in what is currently vacant, the 1,246 square  
22 feet.

1 MEMBER MAY: Right.

2 MR. FREEMAN: The current vacant  
3 519 square foot site, with the option as of  
4 now, under this application to expand into  
5 this 616 square foot hair salon studio.

6 So, that is what our current  
7 application includes. I think there was a  
8 letter that suggested we were dislocating some  
9 of the existing -- the existing furniture --

10 MEMBER MAY: Yes.

11 MR. FREEMAN: That is not the case  
12 not the case with this application.

13 So, there might have been some  
14 confusion. It could be our fault. It could  
15 just have been the lack of clarity, in the  
16 process.

17 CHAIRPERSON JORDAN: Now, have you  
18 -- can you tell me where you'd find a yoga use  
19 in the zoning regulations?

20 MR. FREEMAN: Actually, it's  
21 actually in a new definition --

22 CHAIRPERSON JORDAN: The

1 instructional center.

2 MR. FREEMAN: Instructional  
3 Center.

4 CHAIRPERSON JORDAN: But not yoga  
5 use, okay.

6 MR. FREEMAN: Well, that includes  
7 martial arts.

8 CHAIRPERSON JORDAN: Got you,  
9 okay.

10 MR. FREEMAN: And group exercise,  
11 under the group --

12 CHAIRPERSON JORDAN: It's a text  
13 amendment, yes, okay, all right. Yes, because  
14 I didn't see it referenced in your materials,  
15 and I was like, where is yoga, which is funny,  
16 you know, where is yoga, because there's no  
17 yoga use in the District of Columbia, but it  
18 falls with the catch-all that was just  
19 recently passed.

20 MR. FREEMAN: Recently, yes.

21 CHAIRPERSON JORDAN: By the Zoning  
22 Commission, to acknowledge yoga and some other

1 things like that.

2 So, you agree, it's group  
3 instructional center and studio?

4 MR. FREEMAN: Yes, and just for  
5 your information, we initially -- when we were  
6 at the ANC, we asked for that use, but the ANC  
7 said that could include a range of things,  
8 which is why we narrowed it down specifically  
9 to yoga.

10 CHAIRPERSON JORDAN: That's  
11 interesting, okay, yes, because it could be a  
12 martial arts studio or a gym, or something  
13 else, too.

14 MR. FREEMAN: Yes, and they  
15 specifically did not want those uses there.

16 CHAIRPERSON JORDAN: All right,  
17 okay. Yes, we're kind of all on the same page  
18 there. We all kind of hit the -- the light  
19 bulb hit us and said that, you know, the use  
20 has to be a sanction use, which is the broader  
21 category, but we probably then would enter a  
22 condition saying yoga, if that's acceptable.

1 MR. FREEMAN: That's fine.

2 CHAIRPERSON JORDAN: Because  
3 otherwise, we have to -- okay, any questions  
4 from the Board, anyone?

5 Then is there anything -- yes?

6 MEMBER ALLEN: Thank you. Mr.  
7 Freeman, can you -- you said that here was  
8 some misunderstanding about somebody being  
9 misplaced.

10 So, can you just show that chart  
11 to me again? I just missed when you were  
12 showing the -- why it was -- why there was a  
13 misunderstanding.

14 MR. FREEMAN: All right, well, the  
15 Exhibit-C, which is in our pre-hearing  
16 submission, shows the -- I'll start from 34th  
17 Street.

18 Shows a vacant area, which is 519  
19 square feet, a hair salon, which exists there,  
20 which is 616 square feet, and an additional  
21 vacant space, which is 1,246 square feet.

22 So, the current application is

1 asking for approval to put the yoga studio  
2 accessory and uses in these three spaces.  
3 That is what the current application is for.

4 The letter suggests that we are --  
5 that this upholsterer would be kicked out, as  
6 they were resolving this application, and this  
7 application is not causing them to be kicked  
8 out.

9 MEMBER ALLEN: Thank you.

10 CHAIRPERSON JORDAN: Then let's  
11 turn to Office of Planning. So, Mr. Mordfin,  
12 if there is anything additional you need to  
13 leave us with.

14 MS. HUBBARD: There is nothing  
15 additional that the Office of Planning needs  
16 to add. Thank you.

17 CHAIRPERSON JORDAN: Okay, does  
18 the applicant have any questions or Office of  
19 Planning?

20 MR. FREEMAN: No, sir.

21 CHAIRPERSON JORDAN: Anyway,  
22 Department of Transportation, anyone? No?

1                   We have a letter of -- their  
2                   letter of no objection. I guess that means  
3                   they're in support, letter of no objection to  
4                   the application.

5                   Is there any representative here  
6                   from ANC-2E? ANC-2E?

7                   (Off mic comments.)

8                   CHAIRPERSON JORDAN: We do have a  
9                   letter from ANC-2E, who recommends approval,  
10                  to which we will give great weight to, in  
11                  support of this.

12                  Is there anyone in the audience  
13                  wishing to testify in support of this  
14                  application? Anyone in support, please come  
15                  forward.

16                  Anyone wishing to testify in  
17                  opposition? Yes, come forward, please, and  
18                  did you give a witness -- two witness cards,  
19                  and you were here this morning, to do all of  
20                  that, and can you tell us your name?

21                  MR. FREEMAN: Same Freeman.

22                  CHAIRPERSON JORDAN: And you have

1 three minutes, Mr. Freeman.

2 MR. FREEMAN: Yes, the reason that  
3 I was confused is, the application actually  
4 refers specifically to 3343 Prospect, and it  
5 specifically asks for the upholsterer  
6 furniture variance, and so, I'd like to make -  
7 - would request that that be written, that  
8 that is not being overturned, for that  
9 particular address.

10 The addresses that we are talking  
11 about are 1227 to 1229 Prospect -- or excuse  
12 me, 34th Street, and I think the application  
13 needs to be corrected, to reflect that.

14 Additionally, I have the same  
15 concerns about displaying the hair salon,  
16 which has been there for over 30 years.

17 So, there are three yoga studios  
18 in Georgetown today, and I just hate to  
19 somebody that's been a loyal supporter of our  
20 community and the hair salon, for over 30  
21 years, to be displaced.

22 CHAIRPERSON JORDAN: The property

1 address -- the property address is 3343  
2 Prospect?

3 MR. FREEMAN: That's where the  
4 upholstery store is.

5 MR. FREEMAN: I could explain.

6 CHAIRPERSON JORDAN: Yes, please.

7 MR. FREEMAN: I can clarify,  
8 because the underlying square is 1220 and the  
9 lot is 30.

10 So, that is the main address that  
11 runs with that square lot, but that building -  
12 -

13 CHAIRPERSON JORDAN: That's the  
14 recorded address, it's 33 --

15 MR. FREEMAN: The building has  
16 multiple --

17 CHAIRPERSON JORDAN: I understand.

18 MR. FREEMAN: -- tenants within  
19 it.

20 CHAIRPERSON JORDAN: Okay.

21 MR. FREEMAN: That's why they're -  
22 - that's why there are different addresses for

1 each of the --

2 CHAIRPERSON JORDAN: So, that's  
3 the recorded address?

4 MR. FREEMAN: I would assume that  
5 they're variances for each of the locations.  
6 So, I would think that we'd need to correct  
7 the variance that is in those spaces today,  
8 which was an art gallery for many years.

9 That is what's being displaced,  
10 not the upholstery furniture --

11 CHAIRPERSON JORDAN: Well, we  
12 understand what the recorded lot is, and  
13 correct me, their zoning is not before us  
14 today, and I can't tell you even what it is,  
15 if it's zoned differently. Are those other  
16 spaces zoned differently?

17 MR. FREEMAN: I'm not sure.

18 CHAIRPERSON JORDAN: I mean, and  
19 it's still within the same lot?

20 MR. FREEMAN: It's all the same  
21 building.

22 CHAIRPERSON JORDAN: Yes, it's all

1 the same lot and square. So, the zone?

2 MR. FREEMAN: Is the same for all  
3 of them.

4 CHAIRPERSON JORDAN: Okay.

5 MR. FREEMAN: But then you've got  
6 people in those spaces, that are not under  
7 upholstery furniture, and if that's what the  
8 whole building is -- has got a variance for.

9 That needs to be -- somehow, I  
10 would think, that needs to be corrected to  
11 reflect what is actually in those spaces.

12 CHAIRPERSON JORDAN: Is there any  
13 other variances that are already aligned with  
14 --

15 MR. FREEMAN: I think if the Board  
16 approves the application, we would make it  
17 clear in a footnote, that the approved  
18 application would apply to and indicate the  
19 spaces, as shown on the site plan included as  
20 Exhibit-C, Exhibit-X of the record.

21 CHAIRPERSON JORDAN: That is  
22 acceptable. Thank you.

1 MR. FREEMAN: Then the only one I  
2 would ask to consider is not displacing the  
3 hair salon, which is -- he has literally been  
4 there for over 30 years. He's been a great  
5 tenant, and I don't know why you would have a  
6 variance change for that purpose.

7 CHAIRPERSON JORDAN: We can't get  
8 into what the owner can do with his property,  
9 in that regard, to who he leases, and that  
10 gets into a whole other business aspect of it.

11 But I mean, I just -- that is --  
12 yes, Mr. May?

13 MEMBER MAY: I mean, the as I  
14 understand it, the threshold that we have to  
15 use for our decision making is whether the use  
16 is allowed.

17 We don't really weigh-in on what  
18 is the -- you know, whether the owner of a  
19 particular property is doing the best thing  
20 for the community with a given space. It's  
21 just a question of whether the use that  
22 they're proposing to do is allowed.

1                   In this circumstance, we're  
2                   dealing with grand-fathered non-conforming  
3                   uses, and there is a standard for how you can  
4                   switch from those grand-fathered uses to other  
5                   uses.

6                   This meets that standard,  
7                   theoretically for the whole building, and if  
8                   the applicant wants to condition it, to say  
9                   that it's only going to be these, you know,  
10                  three spaces, or these two spaces out of the  
11                  whole building with an option for the third,  
12                  you know, I think it pretty clearly meets the  
13                  test for that.

14                  I mean, we're sympathetic to it  
15                  and I'm sure that the -- you know, the  
16                  landlord is going to be sympathetic to that,  
17                  if it's a good, profitable business and a good  
18                  neighbor, they -- you know, I imagine they'd  
19                  want to keep him, but that is not really our  
20                  business.

21                  MR. FREEMAN: It's too bad that we  
22                  work that way. I would say that the building

1 ought to have non-conforming use, as is in the  
2 place, because if it's all under upholstery,  
3 that is not what there is -- is there today.

4 So, I don't know, who would I  
5 report a violation to?

6 MR. FREEMAN: Well, just to be  
7 clear, our pre-hearing submission actually  
8 references the existing C of O's, and what the  
9 C of O's are for those uses.

10 So, on page -- the second page of  
11 our pre-hearing submission under 'description  
12 of site' in the proposal, where it says the --  
13 once the -- the fourth bullet says, "A vacant  
14 1,246 square foot space, last used for office  
15 and display of interior decorator and pursuant  
16 to C of O number."

17 So, we actually --

18 CHAIRPERSON JORDAN: This is the  
19 second page of your pre-hearing statement?

20 MR. FREEMAN: The second page of  
21 our pre-hearing submission.

22 We've actually identified the last

1 C of O's issued for the vacant spaces that we  
2 are referring to.

3 So, and then the fifth bullet  
4 refers to the vacant 519 square foot space,  
5 last used for office space, pursuant to -- and  
6 we cite the C of O.

7 So, we cite the C of O's that  
8 properly describe the last uses for the spaces  
9 that we are applying for.

10 CHAIRPERSON JORDAN: Okay, have  
11 you seen that?

12 MR. FREEMAN: No, I only saw what  
13 -- the letter I received from you all, which  
14 had the address of the upholstery shop.

15 But I am concerned of displacing  
16 the hair salon, that has been there for over  
17 30 years. I think that is too bad.

18 CHAIRPERSON JORDAN: All right,  
19 thank you for your comment, and I'm glad it  
20 kind of helped reshape what the relief is  
21 going to be. Thank you.

22 Is there anyone else wishing to

1 speak in opposition? Anyone else to speak in  
2 opposition?

3 Then we will turn back for any  
4 rebuttal or wrap-up comment by the applicant.

5 MR. FREEMAN: Thank you for your  
6 time. We believe we meet the standards for  
7 approval of our application, and we would  
8 request that you approve it. Thank you.

9 CHAIRPERSON JORDAN: Okay, then we  
10 will conclude this hearing and the record in  
11 this matter, and see if the Board is ready to  
12 deliberate.

13 All right, I would move that we  
14 grant the relief requested by the applicant,  
15 regarding the lots that were specifically  
16 specified in testimony here today, the spaces  
17 rather, and those spaces again were, Mr.  
18 Freeman?

19 MR. FREEMAN: That's shown on  
20 Exhibit-C.

21 CHAIRPERSON JORDAN: Exhibit-C?

22 MR. FREEMAN: That's shown on

1 Exhibit-C of our pre-hearing submission, the  
2 vacant 519 square foot space, the vacant 1,246  
3 square foot space, with the option to extend  
4 into the 616 square foot space, for the hair  
5 salon.

6 CHAIRPERSON JORDAN: And just so  
7 that the record is clear that we are granting  
8 the relief requested regarding -- and the use  
9 as a group instructional center or studio, and  
10 the condition that it shall only be a yoga  
11 studio, yoga apparel or yoga accessories.

12 Yes, and maybe we need to amend  
13 the caption? Is that what I'm understanding?  
14 No?

15 Okay, then we will amend the  
16 caption accordingly. So, that would be my  
17 motion.

18 MEMBER ALLEN: Second.

19 CHAIRPERSON JORDAN: Motion made  
20 and seconded. On the readiness?

21 Seeing none, all those in favor,  
22 signify by saying 'aye'.

1 ALL: Aye.

2 CHAIRPERSON JORDAN: Those  
3 opposed, 'nay'. The motion carries. Mr. Moy?

4 25: Staff would record the vote as  
5 four to zero on the motion of Chairman Jordan  
6 to approve the application as cited and as  
7 specified for the specific lots.

8 Second the motion of Ms. Allen,  
9 also in support, Mr. Peter May and Mr. Jeff  
10 Hinkle. Know the Board Members are  
11 participating, as a seat is vacant. The  
12 motion carries, Mr. Chairman.

13 CHAIRPERSON JORDAN: Thank you,  
14 but I ask that -- Mr. Freeman, that you  
15 present to the Board, a finding of facts and  
16 conclusions of law, consistent with what the  
17 Board has rendered here, and present it to us  
18 within -- how long do you think? A week?  
19 Seven days? Ten days?

20 MR. FREEMAN: I can do it within  
21 seven days.

22 CHAIRPERSON JORDAN: Okay, I'll

1 raise you that. No, okay, seven days is fine.  
2 Thank you.

3 MR. FREEMAN: Thank you.

4 CHAIRPERSON JORDAN: That  
5 concludes this hearing. Wait, before you  
6 start taking seats here, how many cases do we  
7 have? What do we have left from the docket?

8 MR. MOY: We have one, two, we  
9 have three more cases, Mr. Chairman.

10 CHAIRPERSON JORDAN: Three? Okay,  
11 are you 59? Yes, okay, we'll do 59.

12 (Off mic comments.)

13 MR. MOY: Okay, in that case, that  
14 would be Application No. 18559. This is the  
15 application of Einstein and Noah Corporation.

16 This is for a special exception  
17 relief for a fast-food establishment under  
18 Section 773, Mr. Chairman.

19 CHAIRPERSON JORDAN: Okay, thank  
20 you. Good afternoon.

21 MS. BRAY: Good afternoon, Mr.  
22 Chairman.

1                   CHAIRPERSON JORDAN: We're here in  
2 the afternoon? My goodness. I guess we had a  
3 couple of bumps here today.

4                   Would you identify yourself for  
5 us, please?

6                   MS. BRAY: Good afternoon, Mr.  
7 Chairman and Members of the Board. My name is  
8 Kinley Bray with the law firm of Arent Fox, on  
9 behalf of the applicant.

10                  MR. JONES: Good afternoon,  
11 everyone. Perry Jones with Einstein and Noah  
12 Restaurant Group.

13                  CHAIRPERSON JORDAN: And you  
14 turned in your cards and all that stuff, and  
15 you were here for your thing with raising your  
16 hand, okay.

17                  All right, I think this is pretty  
18 clear and pretty straight forward. Did we get  
19 something in subsequent on this, from anybody?  
20 I think this is one which it kind of was like  
21 a no-brainer.

22                  No, it's just basically stopping

1 one business out and popping another one into  
2 the same spot, you know. You're not really  
3 doing cooking or anything. You're going to do  
4 some warming, right?

5 MS. BRAY: That is correct.

6 CHAIRPERSON JORDAN: Warming the  
7 bagels or something.

8 MS. BRAY: Baking the bagels and  
9 there will be some preparation, like there is  
10 a process to warm sandwiches, a soup warmer.  
11 That is what kicked this into the fast-food  
12 category, rather than prepared food shop, as  
13 determined by the Zoning Administrator.

14 There is one factual piece of  
15 information I'd like to clarify for the  
16 record. Otherwise, we're prepared to stand on  
17 the record and answer any questions that the  
18 Board might have, if you're ready.

19 CHAIRPERSON JORDAN: Yes, go  
20 ahead, please.

21 MS. BRAY: The one item is that we  
22 mentioned in our application that there would

1 be tables and chairs outside, in an outdoor  
2 caf,, and then that would be in the public  
3 space, and I was incorrect in saying that.

4 Most of where the tables and  
5 chairs will be located will be actually under  
6 the --

7 CHAIRPERSON JORDAN: Under that --

8 MS. BRAY: -- over-hang of the  
9 building in the arcade space, and completely  
10 on private property.

11 But I'd like to commend DDOT and  
12 OP for their reports. DDOT did note that in  
13 the event we wanted to utilize the public  
14 space, we need to seek a separate permit for  
15 that, and we're prepared to do so, in the  
16 event that that becomes necessary, but not at  
17 this time.

18 CHAIRPERSON JORDAN: Yes, because  
19 the over-hang, you step back, it has and  
20 indentation of maybe three or four feet or so?

21 MS. BRAY: It's actually about 10  
22 feet.

1                   CHAIRPERSON JORDAN:  It's 10 feet,  
2                   okay.  Okay, all right, good.

3                   Anyone from the Board, questions  
4                   on this application?

5                   Okay, then we'll turn to see if  
6                   there is anything that Planning needs to add  
7                   to their report.

8                   MR. GYOR:  Good afternoon, Mr.  
9                   Chairman, Members of the Board.  Stephen Gyor  
10                  with Office of Planning.  We rest on the  
11                  record.  Thank you.

12                  CHAIRPERSON JORDAN:  Any questions  
13                  for Office of Planning, from anyone?  
14                  Applicant?  Okay, anyone from DDOT?

15                  We do have a letter of no  
16                  objection from DDOT.  I don't have an ANC  
17                  letter?

18                  MS. BRAY:  That is correct.

19                  CHAIRPERSON JORDAN:  Okay, did you  
20                  --

21                  MS. BRAY:  We reached out to the  
22                  ANC and they declined to hear it, and didn't

1 submit anything on the record.

2 CHAIRPERSON JORDAN: Okay, well,  
3 that is consistent with my records.

4 Anyone here, other than Jeffrey  
5 Hinkle from NCPC?

6 We do have a letter of no adverse  
7 effect from NCPC.

8 Is there any -- does anyone in the  
9 audience wish to testify in support of this  
10 application? Anyone who wants to testify in  
11 support?

12 Anyone who wants to testify in  
13 opposition? Anyone in opposition?

14 Okay, well, good. Then we'll turn  
15 back to the applicant, and I'm sure there is  
16 nothing to rebutt, or to conclude.

17 So, we will conclude the hearing,  
18 based upon the record before the Board, and  
19 then I would move that we grant the relief  
20 requested by the applicant.

21 MEMBER MAY: Second.

22 CHAIRPERSON JORDAN: Motion made

1 and seconded. Readiness? All those in favor,  
2 signify by saying 'aye'.

3 ALL: Aye.

4 CHAIRPERSON JORDAN: Those  
5 opposed? The motion carries. Mr. Moy?

6 MR. MOY: Yes, sir, staff would  
7 record the vote as four to zero, the zoning  
8 motion of Chairman Jordan to approve the  
9 application and the further relief requested.

10 Seconding the motion is Mr. Peter  
11 May. Also in support, Ms. Allen and Mr.  
12 Hinkle, and we have a Board seat vacant. The  
13 motion carries, Mr. Chairman.

14 CHAIRPERSON JORDAN: Okay, was  
15 there hour conditions here? I might have to  
16 note it, for this one. That must have been a  
17 previous one.

18 (Off mic comments.)

19 CHAIRPERSON JORDAN: Yes, we can  
20 go back and -- well, we'll -- I'd want to  
21 recall that and add those hour conditions for  
22 the other.

1                   Can we just have a summary order  
2                   on this matter?

3                   MR. MOY:    Yes, sir.

4                   MS. BRAY:   Thank you very much,  
5                   Mr. Chairman.

6                   CHAIRPERSON JORDAN:  Thank you,  
7                   and I want to go back on the record regarding  
8                   -- we had 18555, and I want to amend the --  
9                   substitute the motion that was made and the  
10                  approval, and just simply make -- add there a  
11                  condition that the hours of operation shall be  
12                  from 7:00 a.m. to 9:30 p.m., Monday through  
13                  Friday, and 9:00 a.m. to 9:30 p.m. on Saturday  
14                  and Sunday.

15                  Is that by consensus of the Board,  
16                  for that change?  Thanks.  I missed that one.  
17                  Thank you for catching that.

18                  All right, let's do 18518, 18518,  
19                  could you call that, Mr. Moy?

20                  MR. MOY:    Yes, sir, that would be  
21                  -- I should say Application No. 18518.

22                  This is the application of YMCA

1 Capitol View, and this is a for a special  
2 exception relief for a child development  
3 center.

4 CHAIRPERSON JORDAN: Yes, we know  
5 these people quite well, but I think we  
6 finally got it. We at least know you went to  
7 the ANC, and I just wanted -- introduce  
8 yourselves for the record.

9 MS. JOHNSON: Yoshimi Johnson.

10 MS. TALLEY: Stacey Talley.

11 MR. FLETCHER: And Cory Fletcher.

12 CHAIRPERSON JORDAN: You're new?

13 MR. FLETCHER: I came to the  
14 initial one.

15 CHAIRPERSON JORDAN: All right,  
16 that's so long ago, I forgot.

17 We really appreciate your outreach  
18 on those things that were necessary, that we  
19 sent you back for a couple -- two or three  
20 times, and the only concern I have here.

21 We did receive a letter from ANC.  
22 Were you at the meeting? What did they vote?

1       What did they agree, because the letter gave  
2       us all the particulars of who was there, that  
3       there was a quorum, etcetera, but we did not  
4       get an -- in their report to us, the  
5       recommendation, anything.

6                       So, what happened at the meeting?  
7       Do you know?

8                       MS. JOHNSON:  Yes, we all were  
9       present at the meeting, and actually, there  
10      were not any recommendations.  We met with the  
11      --

12                      CHAIRPERSON JORDAN:  Well, no,  
13      simply tell us, did they take a vote?

14                      MS. JOHNSON:  Yes, they did.

15                      CHAIRPERSON JORDAN:  And their  
16      vote was to approve it?

17                      MS. JOHNSON:  Yes.

18                      CHAIRPERSON JORDAN:  Okay, that's  
19      what we're missing.

20                      So, based upon the sworn testimony  
21      of the witnesses, we're going to -- have for  
22      our record, to indicate that the report we did

1 -- we did have from ANC, which failed to  
2 complete that section, as to what they  
3 actually voted and approved.

4 Based upon the testimony given  
5 here was that it was a vote to approve, and it  
6 appears like it was unanimous, at that  
7 meeting, from what -- well, they just didn't  
8 say what they did. It was unanimous, but --

9 MS. JOHNSON: And she wanted to --  
10 our ANCE wanted to here today, but  
11 unfortunately, she couldn't get off of work.

12 CHAIRPERSON JORDAN: Okay, and we  
13 have all the other letters. We've been  
14 through this with you guys. You're just kind  
15 of supplementing the record, because we were  
16 concerned that you had not met with the ANC  
17 and some of the neighbors, regarding this.

18 Is there anything else that the  
19 Board needs on this, because we became quite  
20 familiar with this, at least three other  
21 times, right?

22 MS. TALLEY: Yes.

1                   CHAIRPERSON JORDAN: Yes, but  
2 those things have to be done. It's important  
3 that the community knows what you're doing,  
4 and people have the opportunity to weigh-in,  
5 that the ANC in particular has a right to  
6 weigh-in, and it's just good, that people know  
7 what's going on. Better to hear it up front  
8 than the back end.

9                   So, I think we already concluded  
10 the hearing before, Mr. Moy, is that correct?  
11 We got a condition? There was a condition,  
12 correct, that we had?

13                  MR. MOY: I'm checking my notes.

14                  CHAIRPERSON JORDAN: We continued  
15 the hearing?

16                  MR. MOY: There was a continued  
17 hearing.

18                  CHAIRPERSON JORDAN: Continued  
19 hearing, okay. So, then is there any  
20 questions we need to ask this applicant? Does  
21 the Board have any questions?

22                  Okay, then is there anything that

1 Planning needs to add to what we've already --

2 MS. BROWN-ROBERTS: No, Mr.  
3 Chairman.

4 CHAIRPERSON JORDAN: Okay, did  
5 DDOT weigh-in on this already?

6 Yes, DDOT had no opposition, no  
7 objection, and OSSE, anyone from the State  
8 Office of Education, and they had support for  
9 the application.

10 We talked about -- is there anyone  
11 here from ANC-8D? We do have their letter and  
12 now, I understand what their vote was.

13 Then I'm going to turn -- is there  
14 anyone here wishing to testify in support of  
15 this application? Anyone here wishing to  
16 testify in opposition?

17 I'm going to go back to the  
18 applicant for a minute.

19 As you know, the Office of  
20 Planning had recommended some conditions, and  
21 I think you've seen those.

22 One, the number of enrolled

1 children shall not exceed 150, that the number  
2 of staff shall not exceed eight, and that the  
3 hours of operation shall be I guess, are you  
4 Monday through Friday?

5 MS. TALLEY: Yes.

6 CHAIRPERSON JORDAN: Monday  
7 through Friday, from 7:00 a.m. to 9:00 a.m.,  
8 and from 2:00 p.m. to 6:00 p.m. Is that  
9 right? No, that's not right. Before and  
10 after-care, is that what that is?

11 Okay, all right, and that's  
12 acceptable to you?

13 MS. TALLEY: Yes.

14 CHAIRPERSON JORDAN: All right,  
15 then if there is no other evidence that needs  
16 to be received by the Board, we can conclude  
17 the hearing and move to deliberations.

18 Then so, I would move that we  
19 grant the relief requested, finally, and that  
20 we add the conditions as I've just read to  
21 this approval.

22 MEMBER ALLEN: Second.

1                   CHAIRPERSON JORDAN: Motion made  
2 and seconded. Any unreadiness?

3                   All those in favor, signify by  
4 saying 'aye'.

5                   ALL: Aye.

6                   CHAIRPERSON JORDAN: Those  
7 opposed? The motion carries. Thank you.

8                   MS. JOHNSON: Thank you, and we  
9 thank the Board.

10                  CHAIRPERSON JORDAN: Mr. Moy, he's  
11 got to pole the Board.

12                  MR. MOY: Staff is going to record  
13 the vote as four to zero. This is on the  
14 motion of Chairman Jordan to approve your  
15 application for the relief under the -- for  
16 the special exception relief under 205 and  
17 with the three conditions, as he cited.

18                  Also, second is Ms. Allen. Also  
19 in support, Mr. Peter May and Mr. Jeffrey  
20 Hinkle.

21                  CHAIRPERSON JORDAN: All right,  
22 and we can have a summary order.

1 MR. MOY: Yes, sir.

2 CHAIRPERSON JORDAN: Yes, I guess  
3 we won't be seeing you again, but thanks for  
4 joining us for all of these periods of time.

5 MS. TALLEY: No, and we just  
6 wanted to say thank you for your patience and  
7 we've also learned a lot sitting in these  
8 hearings.

9 CHAIRPERSON JORDAN: You know  
10 what? I should have had you come over to talk  
11 to the one group, because we try to work with  
12 you. Ask those folks in the back.

13 MS. TALLEY: Thank you.

14 MS. JOHNSON: Thank you.

15 CHAIRPERSON JORDAN: We're going  
16 to take a five minute break and we're going to  
17 wrap it up, because I think -- yes, five  
18 minutes and we're going to wrap it up.

19 (Whereupon, the above-entitled  
20 matter went off the record at approximately  
21 12:20 p.m. and resumed at approximately 12:35  
22 p.m.)

1 MR. MOY: Yes, sir, the next  
2 application is Application No. 18563. This is  
3 the application of MCSKA, LLC, pursuant to  
4 DCMR 3103.2.

5 This is for a variance, Mr.  
6 Chairman, from the off-street parking  
7 requirements under Sub-Section 2101.1.

8 CHAIRPERSON JORDAN: All right,  
9 will the parties please come to the witness  
10 table, please?

11 We have a party status request.  
12 Do we have a typo? It's Eric Hoy, right?  
13 Yes, please come forward.

14 When I retyped my notes, I put an  
15 'e' instead of an 'o', and it's like, that's  
16 not his name, because I've seen the video.

17 (Off mic comments.)

18 CHAIRPERSON JORDAN: Please  
19 identify yourselves for the record, please.

20 MS. GREER: My name is Carmel  
21 Greer with District Design.

22 MS. LAI: My name is Tzu Ching Lai

1 with District Design.

2 MR. HOY: And I am Eric Hoy, and I  
3 live adjacent to the property.

4 CHAIRPERSON JORDAN: Do we have --  
5 I thought it was an issue on this matter that  
6 letters of authorization. Do we have that?  
7 They came? Let me see.

8 (Off mic comments.)

9 MS. GREER: I have a copy, if  
10 you'd like.

11 CHAIRPERSON JORDAN: Okay, just  
12 one second, please. I'm told that there is  
13 one bouncing around somewhere here.

14 Okay, I see it. I do have it,  
15 okay. I do have it. It was just filed.

16 All right, we'll accept that as  
17 being filed late, since it's not substantive.

18 We have here a party status  
19 request by Mr. Hoy, who indicates the need for  
20 party status, but I think he meets the  
21 criteria and qualification for party status.

22 Since the Board doesn't have any

1 objection, let me first ask you, Mr. Hoy, do  
2 you plan on putting on witnesses or you just  
3 want to make comments, in addition to what  
4 you've already submitted?

5 MR. HOY: I think I just want to  
6 comment on what has already been submitted,  
7 along with the witnesses here.

8 CHAIRPERSON JORDAN: Well, let me  
9 do this. Let's not do a party status, because  
10 we'll give you the opportunity to do that, and  
11 we've examined your record.

12 Usually, party status is when  
13 you're going to bring in evidence, exhibits,  
14 charge, cross-examine and all of that.

15 I think we're pretty distinct in  
16 what the issue is here. So, that's kind of --  
17 yes?

18 MR. HOY: I would like the  
19 opportunity to ask some questions of Office of  
20 Planning and the applicant.

21 CHAIRPERSON JORDAN: Okay, then  
22 we'll go ahead and complete the -- make you a

1 party and give you party status in this  
2 matter.

3 All right, this is -- I mean,  
4 going back to the applicant.

5 I don't believe we need a complete  
6 presentation. I think the issue is very  
7 distinct, and that is what is -- well, a  
8 couple of things that we may want to ask you.

9 One, are you putting an addition -  
10 - you can write these down, because I want you  
11 to reply to this.

12 MS. GREER: Okay.

13 CHAIRPERSON JORDAN: An addition  
14 to the building and taking up more of the  
15 yard.

16 Two, with the alley portion at, is  
17 it 5.8?

18 MS. GREER: Five-six.

19 CHAIRPERSON JORDAN: Five-point-  
20 six, is it? Five-point-eight, I have in my  
21 records.

22 MS. GREER: I'm sorry, yes.

1                   CHAIRPERSON JORDAN: Five-point-  
2 eight, is it your contention that you cannot  
3 get a full size car through that spot, and I  
4 think Mr. Hoy, in your notes to us, also said  
5 that you couldn't do it.

6                   Then why we're doing eight units,  
7 as opposed to four units, and how does that  
8 affect where we are?

9                   The other thing is that, have you  
10 taken a look? Do you know whether or not  
11 people can get a residential parking permit in  
12 that area?

13                   MS. GREER: The street is strictly  
14 for the -- it's the restricted residential  
15 parking.

16                   CHAIRPERSON JORDAN: So, they can  
17 get RPP?

18                   MS. GREER: Yes.

19                   CHAIRPERSON JORDAN: Okay, is that  
20 something -- are you willing to restrict the  
21 tenants in this building to have no RPP?

22                   MS. GREER: Yes, that would be

1 fine.

2 CHAIRPERSON JORDAN: Okay, those  
3 are questions that I have, up front. Does the  
4 Board have other questions that we need to  
5 address, because I think that also goes to the  
6 concerns of the neighborhood.

7 But so, if you'd begin answering  
8 those questions.

9 MS. GREER: Sure, I'm sorry.

10 CHAIRPERSON JORDAN: No, go ahead.  
11 Just talk about the -- just go initially about  
12 the addition.

13 MS. GREER: So, regarding the  
14 addition, we're actually decreasing the  
15 footprint of the building.

16 There is currently a wood frame  
17 addition on the building, which we're  
18 removing.

19 There is no zoning relief being  
20 sought, other than the parking, and we would  
21 love to -- it's a very large lot. It's 3,000  
22 square feet.

1           So, if it were configured in a  
2 more typical way, relative to the alley, it  
3 would certainly be possible to provide ample  
4 parking for the number of units proposed.

5           But there is simply no way to get  
6 a full-sized car onto the site.

7           We have -- there were a few ways  
8 we thought of, that we could provide parking,  
9 which would involve purchasing easements from  
10 the neighbors.

11           We have approached the neighbors,  
12 to purchase an easement, so that --

13           CHAIRPERSON JORDAN: So,  
14 reconfigure that narrow part of the alley, is  
15 that what you're saying?

16           MS. GREER: Exactly, and they are  
17 not interested in selling an easement at this  
18 time.

19           So, and so, then, we met with --  
20 we held an informal meeting at our office, and  
21 then the ANC did vote in support of the  
22 proposed variance.

1                   At the meeting, it was clear that,  
2                   you know, people really are concerned about  
3                   parking.

4                   One idea we had, which is, I think  
5                   maybe slightly unconventional, but in addition  
6                   to providing bike racks, we could certainly  
7                   park smart-cars back there, because they  
8                   would, of course, you know, they're very small  
9                   smart-cars and the Fiat 500's do fit, you  
10                  know, through the alley opening.

11                  And so, I believe you have a plan  
12                  showing proposed smart-car parking back there,  
13                  and we'd be happy to work, you know, with Matt  
14                  LeGrant.

15                  There aren't strict standards, as  
16                  to what a smart-car parking space is in the  
17                  city, because I think they're relatively new,  
18                  but we would certainly be happy to work with  
19                  Planning or Zoning, to accommodate smart-cars.

20                  The site is of course, located  
21                  next to an abundance of public transportation  
22                  and bus lines. It's a, you know, a very --

1 around the corner from the Columbia Heights  
2 Metro, and a variety of zip-cars also are  
3 adjacent.

4 CHAIRPERSON JORDAN: So, why are  
5 you doing eight units, as opposed to say, four  
6 units, or a lesser number?

7 MS. GREER: Well, I mean, there is  
8 a demand for housing in the city, and we feel  
9 that, you know, eight units really fit quite  
10 easily on the site, with no zoning relief,  
11 other than parking.

12 You know, I think the trend now is  
13 towards these little, tiny, you know, mini-  
14 units, in which case, you know, you could  
15 certainly 12 to 16 on the site.

16 We felt that eight was, you know,  
17 providing two -- either four two-bedroom units  
18 and four one-bedroom units that are  
19 reasonable.

20 CHAIRPERSON JORDAN: Four two-  
21 bedrooms and four one-bedrooms, and eight is  
22 mixed?

1 MS. GREER: Exactly, and we felt  
2 that was a reasonable mix for this site and  
3 the market certainly, there is demand for  
4 those.

5 CHAIRPERSON JORDAN: There is also  
6 a demand in the neighborhood for parking.

7 MS. GREER: Yes, which is why -- I  
8 mean, if we could get a car from the alley  
9 onto the site, we absolutely would, and since  
10 we can get a smart-car, you know, we proposed  
11 doing that, as well as providing -- the Office  
12 of Planning has suggested providing bicycle  
13 racks, which we're more than happy to provide  
14 also.

15 CHAIRPERSON JORDAN: So, have you  
16 thought about restricting your building to 'no  
17 parking', no cars?

18 MS. GREER: In the condo  
19 documents?

20 CHAIRPERSON JORDAN: Yes.

21 MS. GREER: That is not something  
22 that has come up. I'm not sure how -- if the

1       condo documents could legislate that no  
2       residents could --

3                   CHAIRPERSON JORDAN: Well, they  
4       could cover it, if you -- if the declarant of  
5       the condo had it in there, and people agreed  
6       to it, but I'm just asking the question.

7                   MS. GREER: Okay, that is  
8       something I haven't investigated.

9                   MEMBER MAY: But you said earlier  
10      that you're willing to restrict it, so that  
11      there is no RPP.

12                  MS. GREER: Exactly.

13                  MEMBER MAY: Okay.

14                  MS. GREER: In which case, I mean,  
15      there is an abundance of parking at the --

16                  MEMBER MAY: Is this --

17                  MS. GREER: -- at, for instance,  
18      the Target.

19                  CHAIRPERSON JORDAN: Is the whole  
20      street RPP?

21                  MS. GREER: Yes, I believe so.

22                  CHAIRPERSON JORDAN: All right.

1 MS. GREER: Actually, we can --

2 CHAIRPERSON JORDAN: I know just a  
3 little bit -- this is a little bit out of  
4 order, but yes, is it? Just answer that for  
5 us.

6 MR. HOY: On the north side of the  
7 street is RPP Zone 1. On the south side of  
8 the street is two-hour parking.

9 MS. GREER: Zone 1 two-hour  
10 parking.

11 MR. HOY: And except on Tuesday,  
12 when you have street cleaning on the left-hand  
13 side, and then the RPP folks move to the south  
14 side.

15 MEMBER MAY: But that is all --  
16 all of that is still RPP. You have to have a  
17 permit. It's just that sometimes --

18 CHAIRPERSON JORDAN: Both sides,  
19 you need to have it.

20 MEMBER MAY: On one side, you can  
21 park without a permit for two hours.

22 CHAIRPERSON JORDAN: Right.

1 MEMBER MAY: Okay.

2 CHAIRPERSON JORDAN: But after --  
3 but you still need a permit to last longer  
4 than two hours.

5 MEMBER MAY: Okay, all right.

6 MR. HOY: Yes, you need an RPP  
7 permit to last longer than two hours, correct.

8 CHAIRPERSON JORDAN: Yes, all  
9 right, what was the other question?

10 So, the issue here, why four units  
11 versus eight units is the marketability and  
12 the ability to raise more money, make more  
13 money?

14 MS. GREER: Yes.

15 CHAIRPERSON JORDAN: Okay.

16 MS. GREER: The building easily  
17 supports eight units.

18 CHAIRPERSON JORDAN: Okay, all  
19 right, Ms. Allen?

20 MEMBER ALLEN: Thank you, Mr.  
21 Chairman. I'm looking at the site plan, and  
22 I don't know if you have one that we could

1 hold up.

2 But is what you're saying that as  
3 you come in the public alley from which --  
4 from which street, is the one that you're  
5 saying you can't get down?

6 MS. GREER: The public alley is  
7 parallel to Harvard Street, and it basically  
8 dead-ends into the property.

9 MEMBER ALLEN: And so, are you  
10 saying that none of the properties -- I don't  
11 know if that is south or west, but -- south or  
12 west or east, or north.

13 But the adjacent properties, none  
14 of them have parking either? Is that what  
15 you're suggesting? So, nobody is able to get  
16 a car down there?

17 MS. GREER: But the properties to  
18 the -- and I can run through a PowerPoint, if  
19 you'd like.

20 But the properties to the west all  
21 have alley parking. The properties to the  
22 east do not.

1 MEMBER ALLEN: Okay.

2 MS. GREER: Is it possible to turn  
3 on the projector?

4 CHAIRPERSON JORDAN: Yes.

5 MS. GREER: There it is, okay.

6 CHAIRPERSON JORDAN: Yes, if you  
7 can show us, that would be fine.

8 (Off mic comments.)

9 MS. GREER: So, this is the alley  
10 here, and you can see it only touches our  
11 property in a very narrow way.

12 This is -- so, the properties down  
13 here all have parking off of the alley. The  
14 alley does not continue through our property  
15 here.

16 CHAIRPERSON JORDAN: So, what is  
17 to the left side of those cars?

18 MS. GREER: This is carriage  
19 house. There was a previous variance, but  
20 granted that, a parking exception, and it's  
21 uses are residents. It's an alley dwelling.

22 CHAIRPERSON JORDAN: All right.

1                   MEMBER ALLEN: I'm just trying to  
2                   -- do you have this slide? The one that shows  
3                   the neighborhood? I mean, the whole block, I  
4                   guess. I'm just trying to understand. I'm  
5                   not sure I understand where the lines are.

6                   MS. GREER: So, this is -- you can  
7                   see here, this is the alley dwelling. This is  
8                   the existing property. This rear addition  
9                   will be removed.

10                   This is the alley access here,  
11                   which is very narrow. It's too narrow for a  
12                   car to fit.

13                   MEMBER ALLEN: But if you move  
14                   that building, is it -- what --

15                   CHAIRPERSON JORDAN: Which  
16                   building?

17                   MEMBER ALLEN: The one she said  
18                   they were going to remove, the carriage house.

19                   CHAIRPERSON JORDAN: No, not the  
20                   carriage house.

21                   MEMBER ALLEN: I'm sorry, not the  
22                   carriage house.

1                   CHAIRPERSON JORDAN: The white  
2 structure.

3                   MEMBER ALLEN: The white  
4 structure, yes.

5                   MS. GREER: So, the white  
6 structure is the rear addition, and it's  
7 coming off, but it doesn't touch the alley.  
8 It doesn't impact the parking situation at  
9 all.

10                  CHAIRPERSON JORDAN: It does gain  
11 you access, is what you mean.

12                  MS. GREER: Exactly. So,  
13 unfortunately, the only access to this site is  
14 this little tiny area here.

15                  So, this is -- in the foreground,  
16 this is the alley.

17                  CHAIRPERSON JORDAN: What is the  
18 width of the alley?

19                  MS. GREER: The alley width is  
20 approximately 14 feet, but don't -- that is  
21 approximate.

22                  CHAIRPERSON JORDAN: Okay, got

1 you, and so, you would have to kind of turn  
2 past -- try to slide in on an angle.

3 MS. GREER: So, you would -- so,  
4 one way into the site would be to purchase an  
5 easement to -- over this triangular portion  
6 here, which we attempted to do, but you know,  
7 that is a -- that's a free market. You know,  
8 he kindly, I don't believe, wants to sell an  
9 easement there.

10 MEMBER MAY: I think he's in the  
11 audience. So, we'll ask him that question.

12 MS. GREER: Yes.

13 MEMBER ALLEN: And then just  
14 explain, so, the back -- what we're seeing  
15 there, that yellow, yes, where that is, is  
16 that the footprint of where your condos will  
17 be?

18 MS. GREER: No, so, this is the  
19 carriage house, and so, the condos will be in  
20 back of where this white building is now.

21 MEMBER ALLEN: Okay, so, this is  
22 looking further from --

1 MS. GREER: So, this is the alley.  
2 The warehouses facing Harvard Street are --  
3 I'm sorry, the warehouses facing Harvard  
4 Street are here. This is our building. You  
5 can see it's a brick building with a white  
6 addition.

7 So, the white addition comes off.  
8 This is the existing carriage house, and this  
9 is the very tight alley access.

10 CHAIRPERSON JORDAN: Okay.

11 MEMBER MAY: So, if you were able  
12 to purchase an easement, either from the  
13 carriage house or the property, you know, next  
14 door to your building, would it -- how many  
15 parking spaces could you actually get on the  
16 site?

17 MS. GREER: We would propose a  
18 different shape of the building. Right now,  
19 we're keeping the historic shape and keeping  
20 the court, because it provides nice light.

21 We would propose a different shape  
22 of building and probably move the entire

1 building closer to Harvard Street, in order to  
2 provide the parking spaces.

3 MEMBER MAY: So, you would get  
4 four?

5 MS. GREER: Yes.

6 MEMBER MAY: Okay, and --

7 MS. GREER: It's a 3,000 square  
8 foot lot. So, the four spaces are, you know,  
9 684 square feet, which could be amply provided  
10 for, if we had access.

11 MEMBER MAY: But you'd have to  
12 take down more of the brick structure?

13 MS. GREER: Exactly.

14 MEMBER MAY: Yes.

15 CHAIRPERSON JORDAN: That is  
16 historic?

17 MS. GREER: It's not historic.  
18 However, we are -- unlike many of the  
19 buildings on this street, we are keeping the  
20 facade and keeping the facade as though it  
21 were our -- our pop-up is set back from the  
22 facade and we're treating the facade with

1       respect.

2                   CHAIRPERSON JORDAN: All right.

3                   MS. GREER: But it is not  
4       historic.

5                   MEMBER MAY: But you're otherwise  
6       not going to be -- you're basically building  
7       on top of the existing structure?

8                   MS. GREER: Exactly.

9                   MEMBER MAY: And then you would  
10      not otherwise -- the only -- it's not like  
11      you're tearing down everything but the facade.  
12      You're tearing down --

13                  MS. GREER: No, we're removing --  
14      tearing down only the previously added on  
15      addition --

16                  MEMBER MAY: Okay

17                  MS. GREER: -- leaving the  
18      existing structure in tact, and adding on top.

19                  MEMBER MAY: All right, and so, if  
20      you were to somehow purchase an easement, I  
21      mean, how -- is this -- do you wind up with a  
22      legally wide enough driveway entrance?

1 MS. GREER: We would, like I said,  
2 we would reconfigure the building and --

3 MEMBER MAY: Yes.

4 MS. GREER: -- the building would  
5 become a different shape --

6 MEMBER MAY: Right, but then --  
7 I'm not worried about the shape of your  
8 building. It's the access point.

9 MS. GREER: Yes.

10 MEMBER MAY: You'd wind up with 10  
11 or 11 feet, or what would you wind up with?

12 MS. GREER: We would wind up with  
13 -- it depends on the shape of the easement.

14 MEMBER MAY: Right.

15 MS. GREER: But we would wind up  
16 with definitely what the minimum required  
17 would be.

18 MEMBER MAY: Okay, and did you  
19 also look at -- I mean, other than the  
20 carriage house, did you look at the -- did you  
21 talk to the neighbor next door?

22 MS. GREER: Yes, they too,

1 declined. That would be --

2 MEMBER MAY: Right.

3 MS. GREER: And they declined to  
4 sell an easement, also.

5 MEMBER MAY: Okay, and if you did  
6 that one, you'd have to move the utility pole  
7 there?

8 CHAIRPERSON JORDAN: That's what I  
9 thought.

10 MS. GREER: Yes, exactly. So, the  
11 more desirable easement is the carriage house.

12 CHAIRPERSON JORDAN: Right, okay.

13 MS. GREER: But that would cut,  
14 you know, very close to his front door. So,  
15 I think it's --

16 MEMBER MAY: Right.

17 MS. GREER: -- logical, that he  
18 might not want that.

19 MEMBER MAY: Right, all right.

20 MR. HOY: If I can go slightly out  
21 of turn?

22 CHAIRPERSON JORDAN: No, you

1 can't, because we've got to stay -- we'll give  
2 you an opportunity. Write it down, so you  
3 don't forget it, because we want to get back  
4 to it.

5 Mr. Moy, let's have a light. Any  
6 other questions that the Board has of the  
7 applicant?

8 Okay, now, why don't you ask  
9 questions? If you've got any questions you  
10 want to ask.

11 MR. HOY: Sure, I have a few  
12 questions. I just wanted to point out, with  
13 the --

14 CHAIRPERSON JORDAN: Oh, you need  
15 that?

16 MR. HOY: -- with the photo, as it  
17 is, that my ability to give an easement would  
18 be quite limited, only because my car is  
19 parked right there.

20 CHAIRPERSON JORDAN: I see that, I  
21 see that, okay. So, that is your car?

22 MR. HOY: Yes, nice car.

1 CHAIRPERSON JORDAN: Yes, okay.

2 MEMBER MAY: Well, don't you --  
3 you get for your easement, you know, you get  
4 enough for your easement, you might get a  
5 nicer one.

6 MR. HOY: I mean, I suppose that's  
7 true. I mean, we could go to a compact car,  
8 or kill the tree.

9 CHAIRPERSON JORDAN: Oh, that's  
10 what that is, okay. You have a question of  
11 the applicant?

12 MR. HOY: Just a few questions,  
13 based upon the testimony here, you know,  
14 regarding the easement.

15 You know, we have a problem, maybe  
16 we could do a foot. I know Norm is the  
17 carriage house owner, and I think they've  
18 negotiated back and forth, but I think you all  
19 have that question for him later.

20 MEMBER MAY: Assuming he wants to  
21 testify.

22 MR. HOY: Fair enough. If we go

1 to four regular sized parking spaces, which  
2 would change the architectural drawings, then  
3 that would change -- the current proposal is  
4 to go with four two-bedrooms and four one-  
5 bedroom.

6 It would probably mean eliminating  
7 the two-bedrooms, or eliminating bedrooms here  
8 and there, just -- is that generally correct?

9 MS. GREER: I mean, I think if we  
10 were to gain -- you know, even if we were to  
11 get -- if we hopefully, will get a variance  
12 today, and if we could subsequently come to an  
13 agreement on an easement, we would be  
14 delighted to provide parking.

15 I think if we had access to the  
16 site, we would -- it would involve redesigning  
17 the building.

18 Right now, the building is  
19 designed, assuming we don't have access,  
20 because we haven't obtained access.

21 MR. HOY: I'm not sure if this is  
22 the appropriate time to ask this, but in terms

1 of parking, proposed parking in between the  
2 carriage house and the new property, and a  
3 bike rack, we're still concerned about where  
4 trash would go in the drawing, and whether  
5 trash folks can actually get around the bike  
6 rack to retrieve the --

7 CHAIRPERSON JORDAN: So, where is  
8 the bike rack going to be located? I guess  
9 that is Mr. Hoy's question.

10 MS. GREER: We proposed the bike  
11 rack be located here, and we would have trash  
12 -- you know, unfortunately, trash collection  
13 on this site isn't -- you know, it's like many  
14 land-locked sites in the city. It's a little  
15 bit difficult.

16 We would use the mini-cans, rather  
17 than one large dumpster, because once again,  
18 in the same way, there is no way of getting a  
19 large car onto the site. There is certainly  
20 no way of getting a large dump truck onto the  
21 site.

22 MR. HOY: And then I'm not sure

1       how far I want to go down this rabbit hole of  
2       the smart-cars that are shown here in this  
3       diagram.

4                       They would need to fit within a  
5       space that is only five feet and nine and a  
6       half inches wide.

7                       My understanding is as smart-car,  
8       like a car2go smart-car, the width of the car  
9       is five feet exactly. So, 60 inches.

10                      But that then doesn't account for  
11       the mirrors. The mirrors themselves --

12                      CHAIRPERSON JORDAN: I understand  
13       where you're going.

14                      So, your question that you're  
15       asking is, how you're going to fit those  
16       smart-cars in there, and you're saying four.  
17       How is it going to fit?

18                      MR. HOY: That is correct. That  
19       is my question.

20                      MS. GREER: We've worked on other  
21       projects where we've tandem-parked full-sized  
22       cars, and what we did, because there are no

1 D.C. guidelines about smart-car parking space  
2 sites, we simply scaled down the large car  
3 guidelines proportionally, to a smart-car.

4 I think the smart-car idea, you  
5 know, it's an idea we had, just to recognize  
6 the reality that, you know, not every car is  
7 a Chevrolet Suburban, and we -- I think it's  
8 something that we just threw out there as, you  
9 know, we'd be happy to work with, you know --

10 CHAIRPERSON JORDAN: Yes, I don't  
11 -- the relief you're requesting is the relief  
12 you're requesting, whether or not that is  
13 there or not is another issue.

14 MS. GREER: Okay, thank you.

15 CHAIRPERSON JORDAN: Because  
16 you're already at -- not unless we make it  
17 motorcycle restricted, you know.

18 Mr. Hoy, I'm sorry, any other  
19 questions?

20 MR. HOY: I don't think I have any  
21 further questions.

22 CHAIRPERSON JORDAN: Yes, it's a

1       heck of a situation.

2                   Board, any other questions?

3                   MEMBER MAY:   Yes, I guess I might  
4       have questions for Mr. Hoy, when he testifies.

5                   But going back to the applicant  
6       again, just looking at this diagram, it seems  
7       to me that if you had access to the property,  
8       you could, without modifying your plans for  
9       the building, park three cars relatively  
10      easily, right?

11                  MS. GREER:   Yes.

12                  MEMBER MAY:   Okay, so, you put one  
13      where each of the pairs of the smart-cars are,  
14      and then one where the bike rack is, right,  
15      and you could even -- if you stacked them, you  
16      might get four cars in, by pulling all the way  
17      into that space where the bike racks are.

18                  MS. GREER:   Exactly, I mean,  
19      alternatively, like I said, I think you would  
20      reconfigure the building and make it a square  
21      that comes up to the front property line.

22                  So, you would scoot the entire

1 building forward and make it a square -- a  
2 rectangle, rather than a --

3 MEMBER MAY: Is the front of the  
4 building aligned with the faces of the other  
5 buildings?

6 MS. GREER: It does, and that is  
7 something that we --

8 MEMBER MAY: So, you'd push it  
9 forward of the other buildings?

10 MS. GREER: Well, I'm saying, to  
11 accommodate -- the question is --

12 MEMBER MAY: It's the --

13 MS. GREER: -- could eight units  
14 be accommodated --

15 MEMBER MAY: That's not what my  
16 question is. My question is, are you  
17 suggesting that you would push your building  
18 forward of the lines -- of the facades of the  
19 neighboring buildings, in that circumstance?

20 MS. GREER: I mean, we haven't  
21 drawn the option with alley access because we  
22 don't have alley access.

1                   So, I mean, I think we would have  
2                   to do the drawings and investigate. We  
3                   certainly have --

4                   MEMBER MAY: Well, you have an  
5                   idea about making the building into a  
6                   rectangular form, right?

7                   MS. GREER: Right.

8                   MEMBER MAY: And you'd want to try  
9                   to achieve roughly the same square footage and  
10                  the same configuration of units, right?

11                  MS. GREER: Right, so, I think --

12                  MEMBER MAY: I haven't asked my  
13                  question yet.

14                  MS. GREER: Sorry.

15                  MEMBER MAY: So, in your thinking  
16                  about this, I mean, you've just said something  
17                  about pushing the -- shifting the mass of the  
18                  building forward.

19                  So, in the process of shifting the  
20                  mass of the building forward, would the front  
21                  face of your building be forward of the front  
22                  faces of the adjacent buildings?

1 MS. GREER: Yes.

2 MEMBER MAY: Okay, so, that  
3 obviously makes it a very undesirable  
4 circumstance, for other reasons.

5 MS. GREER: Correct, although I  
6 think there are many -- you know, assuming the  
7 hypothetical that we had alley access, which  
8 we don't, you know, you could remove some of  
9 this rear portion and fill in the existing  
10 court.

11 I mean, I think there are a number  
12 of ways to configure the building, if that --

13 MEMBER MAY: You might find  
14 another way to do it.

15 MS. GREER: -- if that  
16 hypothetical were true.

17 MEMBER MAY: Access would be --

18 MS. GREER: But for the moment, we  
19 don't --

20 MEMBER MAY: But it also -- I  
21 mean, it could also -- see, if you had access  
22 to the building, it would be easier to grant

1 a variance of one parking space than four,  
2 right, and if you were able to stack the  
3 vehicles, and that were -- you know, if that  
4 passed muster, I don't even know if -- on a  
5 project this small, if stacking is okay.

6 Certainly, in a residential home,  
7 you know, people stack cars all the time, and  
8 it happens in some buildings. That's another  
9 way to look at it. I don't know.

10 I just -- I mean, I'm exploring  
11 what level of relief is really necessary, and  
12 if you stick with a rigid application of  
13 zoning regulations, are there other potential  
14 bad outcomes, like pushing the face of the  
15 building forward? Thanks.

16 CHAIRPERSON JORDAN: All right,  
17 yes, let's turn now to the Office of Planning.

18 MS. BROWN-ROBERTS: Good  
19 afternoon, Mr. Chairman and Members of the  
20 BZA. Maxine Brown-Roberts for the Office of  
21 Planning.

22 I am going to stand on the record,

1 basically we recommended approval of the  
2 variance for the parking and we also  
3 recommended that the applicant had, subject to  
4 the drawing, and offered the eight bicycle  
5 parking spaces.

6 So, we also agreed that as a  
7 provision, to help to rectify the situation,  
8 concerning the parking.

9 We also believe that the area is  
10 fully served by a number of bus routes and the  
11 metro station, and therefore, we don't think  
12 that it would be a detriment to the community,  
13 and therefore, we recommend approval. Thank  
14 you, Mr. Chairman.

15 CHAIRPERSON JORDAN: Board,  
16 questions of Office of Planning?

17 Does the applicant have any  
18 questions of the Office of Planning?

19 MS. GREER: No, thank you.

20 CHAIRPERSON JORDAN: Mr. Hoy, do  
21 you have any questions of the Office of  
22 Planning?

1                   MR. HOY: Yes, I have a few. I  
2                   guess the recommendation is that simply the  
3                   eight bike racks would be sufficient for the  
4                   variance.

5                   I think you referred in several  
6                   times, to the possibility of the smart-cars,  
7                   but I don't think that is the core part of  
8                   your assessment. Is it?

9                   MS. BROWN-ROBERTS: No, the  
10                  application was for the variance to zero  
11                  parking.

12                  We thought that the smart -- the  
13                  smart-cars was a good idea, but again, we  
14                  didn't have sufficient details on that.

15                  So, we didn't want to put that as  
16                  part of the condition, but I think the  
17                  bicycles, you know, we are prompting the use  
18                  of bicycles in the city, and so, we thought  
19                  that that was appropriate.

20                  MR. HOY: Have there been other  
21                  recent situations, other recent cases of  
22                  parking variances for four cars, eight units,

1 in Columbia Heights?

2 MS. BROWN-ROBERTS: I don't know.  
3 Off the top of my head, I can't think of any  
4 particular -- I can't give you a particular  
5 example.

6 I know that within the city, we  
7 have granted variances from -- for a greater  
8 number of units, and we've granted parking.

9 However, you know, we look at -- I  
10 mean, that may be the case, if we've done it  
11 in other cases, but I think we look at each  
12 situation individually.

13 MR. HOY: Okay, I do feel like I  
14 have more -- I could go into more questions  
15 regarding the smart-cars, but it -- I also --  
16 it doesn't sound --

17 CHAIRPERSON JORDAN: Yes, the  
18 smart-cars, you know, they're not really  
19 relevant.

20 MR. HOY: Yes, okay.

21 CHAIRPERSON JORDAN: It's just a  
22 throw-away.

1 MR. HOY: Fair enough. Then I  
2 have no further questions.

3 CHAIRPERSON JORDAN: I mean,  
4 because people have smart-cars, right? You  
5 can't make people have them.

6 MEMBER MAY: I think what it boils  
7 down to is that smart-cars don't fit our  
8 definition of any kind of parking. So, we  
9 can't require it or accept it as an  
10 alternative.

11 You know, it may be a means of  
12 lessening the impact in an amenity to the  
13 property and to the neighbors, for those  
14 things to exist, but I think the real  
15 protection comes from not having the property  
16 on RPP. That's really where the protection  
17 comes from.

18 CHAIRPERSON JORDAN: Okay, is the  
19 Department of Transportation here? Do we have  
20 a letter from DDOT? I don't think so. I have  
21 nothing from DDOT.

22 Is there any one here from ANC-1A?

1       Anyone from ANC-1A?

2                   We have a letter recommending  
3 approval from ANC-1A, in which we will give  
4 great weight to.

5                   Is there anyone here wishing to  
6 speak in support of this application? Anyone  
7 wishing to speak in support of this  
8 application?

9                   Then Mr. Hoy, let's turn to you,  
10 to -- to see what you may want to present to  
11 us. You have -- if you want to do a five  
12 minute presentation, and we will also ask  
13 questions about it.

14                   MR. HOY: Okay, fair enough. I  
15 think in this situation, we're looking here at  
16 a three-prong test, to see whether there is a  
17 variance.

18                   I definitely agree that the  
19 property is unique. I agree that there is  
20 uniqueness that results in practical  
21 difficulty, but I do feel that the third  
22 prong, the granting relief is not of the

1 public good.

2 Looking back at that ANC hearing,  
3 they did vote, five votes in favor of the  
4 variance, four votes against, one abstention,  
5 and in their comments, they gave three  
6 sentences of comments.

7 They said, "Neighbors expressed  
8 concern about pop-up buildings and a changing  
9 character of the block, also a concern about  
10 the increase of high-density multi-family  
11 residential development."

12 The third sentence was, "There was  
13 some concern about availability of street  
14 parking."

15 I have to say, I'm kind of puzzled  
16 by those comments, because it's a parking  
17 variance situation. That is why we had shown  
18 up to talk about it.

19 So, we're kind of disappointed  
20 with the outcome of the ANC's vote, and wish  
21 that we had done better preparation and  
22 outreach before the vote.

1                   We've submitted at least 10  
2                   written statements, talking about parking  
3                   issues along this block. We have four  
4                   remaining people who are here to testify  
5                   against -- or to testify regarding parking  
6                   problems, and I've gathered 85 signatures from  
7                   residents in the community, and I've put  
8                   together a nice map of where all of these  
9                   people live.

10                   The only support that I know of,  
11                   that was offered at the ANC hearing was one  
12                   letter of support from the owner of 1460  
13                   Harvard, that I believe is a vacant building  
14                   at this time, and that the resident -- and  
15                   that the owner actually lives outside of D.C.  
16                   and is looking at a conversion, as well.

17                   So, I don't feel that there is any  
18                   support among the neighbors, towards granting  
19                   more cars on the street.

20                   I just want to quickly talk  
21                   through some of the concerns for the people,  
22                   for the neighbors here who could not come to

1 the meeting.

2 And so, Barb and John at 1461  
3 Harvard said that they have to walk blocks,  
4 carrying their groceries, while keeping their  
5 children in tow.

6 Daniella at 1446 said, "There is  
7 very limited parking, which makes it difficult  
8 for my friends and family to visit."

9 David -- wait a minute, he is  
10 here. I'm not going to talk to him. He can  
11 speak. Jeff is here, as well, and Jeff, I'll  
12 let you speak on behalf of your wife, as well.

13 Lou at 1479 Harvard Street gave a  
14 story of how a serviceman attempted to make a  
15 service call and left the area, after spending  
16 45 minutes circling the block, looking for  
17 parking, and that they looked within two  
18 blocks of the neighborhood.

19 Stacey at 1436 was concerned about  
20 double-parked cars loading and unloading on  
21 the block, which are impeding emergency  
22 access, ambulances and fire trucks.

1                   My wife Libbie at 1471 had the  
2                   same concern, and she reached out to some EMS  
3                   folks and they told her the ambulances and  
4                   fire trucks don't even come down Irving  
5                   Street, two blocks north anymore, because of  
6                   all of the traffic on -- at D.C. USA.

7                   So, they are concerned about more  
8                   and more parking and then, illegal parking,  
9                   double-parking.

10                  My final little story is, two  
11                  weeks ago, I was collecting signatures for  
12                  this project, on a Tuesday at -- between 6:30  
13                  and 7:00, and this is a perfect time to get  
14                  signatures, because on the north side of the  
15                  street, there is no parking allowed all day.  
16                  Everybody with RPP permits parks on the south  
17                  side, and then a few minutes, a quarter-hour  
18                  before seven o'clock, everybody starts parking  
19                  again on the north side of the street.

20                  So, the parking enforcement folks  
21                  know this as well, and there is always  
22                  somebody who comes by for parking enforcement

1 at 6:55, and the neighbor three doors down re-  
2 parked his car five minutes before the hour,  
3 was sitting in the car when the enforcement  
4 personnel came along, and the enforcement  
5 personnel made them move, because she started  
6 getting out the ticket machine.

7 So, he, in a huff, drove around  
8 the block, came back five minutes later, and  
9 then when he re-parked his car at the legal  
10 hour, he came running up to me, cursing in  
11 front of myself and my seven year old son, and  
12 saying, "I want to sign that petition again.  
13 Give it to me again. Can't we sign it more  
14 times," and he did not provide a written  
15 statement.

16 But it was a pretty hilarious look  
17 at what the parking situation is on the street  
18 already.

19 My map also showed, I think five  
20 or six buildings that are vacant undergoing  
21 conversion. These will all be residents  
22 looking for street parking, as well.

1 CHAIRPERSON JORDAN: Thank you.

2 Does the Board have any questions of Mr. Hoy?

3 I did see a video, and I mean, you  
4 went out several times during the day, and  
5 took pictures, and it is -- I understand, it's  
6 a very tight block. It's tight throughout  
7 this District, and it's something that this  
8 Board has been wrestling with.

9 Any questions, anyone? Mr. May,  
10 you said you wanted to ask Mr. Hoy something.  
11 Maybe you just -- he answered it.

12 MEMBER MAY: No, I think it's been  
13 answered by --

14 MR. HOY: Okay.

15 CHAIRPERSON JORDAN: Ms. Allen?

16 MEMBER ALLEN: I just want to be  
17 clear. So, you're not concerned about the  
18 increased density by adding folks?

19 MR. HOY: No.

20 MEMBER ALLEN: You're just  
21 concerned about the parking?

22 MR. HOY: No, I absolutely want

1 more residents on the street. I look forward  
2 to meeting the new residents at this building.

3 MEMBER ALLEN: Okay, I just wanted  
4 to be sure.

5 MR. HOY: So, I just want to --

6 MEMBER ALLEN: Thank you.

7 CHAIRPERSON JORDAN: And you do  
8 recognize in all your submissions, that it's  
9 almost an impossibility to get a car in that  
10 little spot on that lot.

11 MR. HOY: Yes, and I --

12 CHAIRPERSON JORDAN: I appreciate  
13 that honesty.

14 MR. HOY: Yes.

15 CHAIRPERSON JORDAN: In that  
16 regard, it's a dilemma. Do you have  
17 something?

18 MEMBER MAY: I have one. So, if  
19 the parking variance were not granted, what  
20 would you see happening to this property?  
21 Would you imagine, what would be a desirable  
22 outcome, because no matter what goes in there,

1 there isn't going to be parking for it, not  
2 legal parking.

3 MR. HOY: Right, I think in the  
4 minds of many neighbors, a very desirable  
5 outcome would be to redevelop the building as  
6 is.

7 MEMBER MAY: And what is it now?

8 MR. HOY: Well, it's right -- it's  
9 two floors with a basement, as well, which I  
10 don't think -- the basement is not a legal  
11 apartment, at this time.

12 MEMBER MAY: And then how many  
13 units?

14 MR. HOY: Just two units right  
15 now.

16 MEMBER MAY: Just two units right  
17 now. So, in your mind, you'd rather have two  
18 units with no parking versus eight units where  
19 nobody can get RPP, because that is what  
20 they're proposing now.

21 MR. HOY: I'm not thrilled with  
22 the idea of withholding RPP, because I am

1 going to live next to these future residents -  
2 -

3 MEMBER MAY: Yes.

4 MR. HOY: -- who are going to be  
5 mad at me for --

6 MEMBER MAY: You know, it's buyer  
7 beware. I mean, they know, it's like, you  
8 know, buying a house next to the airport. You  
9 know, it's -- that is the condition you're  
10 buying it under.

11 MR. HOY: Right, but actually, I  
12 think preferably, I would love to see a four  
13 unit building there.

14 MEMBER MAY: And again, a four  
15 unit building with no parking? You'd like to  
16 have four units with no RPP, I bet.

17 MR. HOY: No.

18 MEMBER MAY: Because I mean, it's  
19 -- they are saying nobody is going to be able  
20 to park in the neighborhood, because they're  
21 not going to be able to get RPP.

22 MR. HOY: I would have to -- I

1 guess that is true, that would be better from  
2 a parking perspective, to don't do the RPP,  
3 but I also want to live next to friendly  
4 neighbors, who aren't --

5 CHAIRPERSON JORDAN: Sneering at  
6 you. What is next to the two units? What  
7 would be the -- the present two units?

8 MS. GREER: There are two  
9 extremely large units. They're each 1,800  
10 square feet, and they're --

11 CHAIRPERSON JORDAN: So, they are  
12 --

13 MS. GREER: -- configured in a  
14 slightly bizarre way.

15 CHAIRPERSON JORDAN: They're at  
16 least two bedrooms?

17 MS. GREER: Plus, yes, yes.

18 MEMBER MAY: Conceivably, you'd  
19 wind up with three-bedroom units, or something  
20 like that, which could be group housing, which  
21 could wind up with, you know, four cars per  
22 unit, right, because RPP does not cost you any

1 more, with the traditional permit.

2 So, I mean, here, you're talking  
3 about a property that would be restricted from  
4 getting residential parking permits in  
5 perpetuity, in theory.

6 MR. HOY: In theory.

7 MEMBER MAY: Yes, well, and that  
8 must have happened on other projects, before  
9 this Board and before the Zoning Commission,  
10 where a property has been determined that it  
11 will not be eligible.

12 In fact, we had one property --  
13 one Zoning Commission case, where the  
14 applicant essentially, made -- would make it  
15 a condition of the tenants of the property,  
16 that they could not own a car.

17 If they owned a car, they would be  
18 evicted. Now, I'm not -- nothing is being  
19 offered like that here, but that is the extent  
20 to which some applicants will go, in order to  
21 get the parking variance, and in the end, you  
22 know -- I don't believe that the residents of

1 any of these projects take it out on the  
2 neighbors, if they can't get RPP.

3 I mean, you know, you have to kind  
4 of make a decision that you're not going to  
5 have a car, or you're going to pay to park it  
6 in a garage somewhere nearby, which is, you  
7 know, what happens in many cities.

8 MR. HOY: I think what I would  
9 like to see is potentially some discussion of  
10 a four unit building, where an easement is  
11 granted, so that two cars could be legally  
12 parked there, thus meeting all of the zoning  
13 requirements.

14 MEMBER MAY: So, would you be  
15 willing to grant that easement, yourself?

16 MR. HOY: I could do my part, but  
17 I think I'd have an evidence based compared  
18 with my neighbor.

19 MEMBER MAY: Okay, thanks.

20 CHAIRPERSON JORDAN: Okay, where  
21 are we? Okay, we're asking questions of Mr.  
22 Hoy, right?

1                   Any other questions, Board? No?  
2                   Then we're going to turn to the applicant. Do  
3                   you have any questions of Mr. Hoy?

4                   MS. GREER: No, thank you.

5                   CHAIRPERSON JORDAN: Okay, thank  
6                   you. Is there anyone in the audience wishing  
7                   to testify in opposition to the application?  
8                   Yes, please come forward and take a seat, and  
9                   I saw another hand somewhere, okay.

10                   You all want -- you need to come  
11                   forward and take a seat, or whoever is going  
12                   to testify.

13                   (Off mic comments.)

14                   CHAIRPERSON JORDAN: No, no, I  
15                   want people to come take a seat, please, if  
16                   you would.

17                   All right, and you all have been  
18                   sworn in, and you've completed the two witness  
19                   cards and you've turned them in, correct?

20                   Okay, let's start on -- let's  
21                   start in the middle. Please, first, give me  
22                   your name and tell us -- you have two minutes

1 for your testimony.

2 MS. HUBBARD: I'm going to be very  
3 short.

4 CHAIRPERSON JORDAN: Can you give  
5 us your name, please?

6 MS. HUBBARD: My name is Dana  
7 Hubbard. I live at 1477 Harvard Street, four  
8 doors down from the proposed project.

9 I would like to register my  
10 opposition to this application, for the  
11 reasons that have been stated up here today,  
12 about the difficulty in parking that we find  
13 in our neighborhood.

14 I am turning 65 this year, and I  
15 need to have access to my car. I need it to  
16 be able to load and unload, and as I get  
17 older, I am going to need my car more. I  
18 intend to -- I've lived there for more than 20  
19 years, and I intend to die in that house, if  
20 I possibly can.

21 My daughter is living a block away  
22 and totally prepared to come and help me and

1 help my husband in our old age, and that is  
2 probably going to involve trips to and from  
3 the doctor, involving a car.

4 CHAIRPERSON JORDAN: Okay.

5 MS. HUBBARD: Thank you.

6 CHAIRPERSON JORDAN: Thank you.

7 Any questions of this witness? Does the  
8 applicant have any questions of the witness?

9 MS. GREER: No, thank you.

10 CHAIRPERSON JORDAN: Mr. Hoy, do  
11 you have any questions of the witness?

12 MR. HOY: No, I just want to say  
13 thank you.

14 CHAIRPERSON JORDAN: Right, and  
15 she's 65. Your name, please?

16 MR. VAN LEEUWEN: Hi, my name is  
17 David Van Leeuwen, and I live at 1453 Harvard  
18 Street.

19 I have been there since --

20 CHAIRPERSON JORDAN: Fourteen-  
21 fifty-five?

22 MR. VAN LEEUWEN: Fourteen-fifty-

1 three. I've been there since January of 2010.  
2 I'm a father of two little kids, and I second  
3 the written statement, where it's very  
4 difficult to go shopping of any sort, and  
5 shopping with kids is very difficult.

6 But then coming home and trying to  
7 find parking and negotiating, bringing in  
8 groceries or purchased goods with children.

9 So, that is one thing, and the  
10 other thing I'd like to say is, I do believe  
11 -- I search Redfin quite often, and I believe  
12 that this property languished on the MLS for  
13 about five months, and my thought, my  
14 unsolicited thoughts are any developer would  
15 realize that this parking situation for this  
16 particular building is not ideal for  
17 development.

18 After five months, this MC, this  
19 developer decided to buy it, in hopes that  
20 they could get this variance, and I don't  
21 think other developers found this property  
22 desirable, and I think that this is not a --

1 I think it's okay to ask this Board for a  
2 variance, but I would like to reiterate with  
3 the fellow here and the written letters, that  
4 we hope that it's not granted. So, thank you.

5 CHAIRPERSON JORDAN: Thank you.  
6 Any questions from the Board? Does the  
7 applicant have any questions?

8 MS. GREER: No, thank you. It is  
9 true that it languished on the market, because  
10 it was --

11 CHAIRPERSON JORDAN: I'm asking --  
12 I didn't ask you for that.

13 MS. GREER: Sorry.

14 CHAIRPERSON JORDAN: I'm asking if  
15 you have any questions that you'd like to ask.

16 Okay, Mr. Hoy, do you have  
17 anything?

18 MR. HOY: No, thank you.

19 CHAIRPERSON JORDAN: Thanks. That  
20 is kind of how we have to do things. If you  
21 have questions of each witness, yes.

22 Okay, we're going to take one step

1 back. We have some questions.

2 MEMBER MAY: Sorry, about that.  
3 We're doing this in a slightly different order  
4 in the Zoning Commission, and I wasn't  
5 prepared.

6 CHAIRPERSON JORDAN: Okay.

7 MEMBER MAY: And we're back to Ms.  
8 Hubbard. The applicant has stated that they  
9 would ask -- they would have this property  
10 taken off the rolls for residential parking  
11 permits in the neighborhood, which means that  
12 nobody who lives there would be able to get a  
13 residential parking permit.

14 So, is that not meeting your --  
15 addressing your concerns, by not increasing  
16 the number of cars parking in the  
17 neighborhood?

18 MS. HUBBARD: Well, I don't --  
19 that is not going to reduce the number of cars  
20 parking in the neighborhood.

21 MEMBER MAY: It's not going to  
22 reduce it, but it's not going to add anything,

1 right?

2 MS. HUBBARD: Well, it certainly  
3 could add to them. It just doesn't --

4 MEMBER MAY: How can it add?

5 MS. HUBBARD: That means you'll  
6 have to play parking -- you know, they'd have  
7 to move their car around all the time.

8 MEMBER MAY: Okay, and people do  
9 that all the time --

10 MS. HUBBARD: People do that.

11 MEMBER MAY: -- who live there in  
12 the neighborhood?

13 MS. HUBBARD: People do that, who  
14 have to, absolutely. People who are -- before  
15 we got those little stickers that we can put  
16 in for people who visit us --

17 MEMBER MAY: Yes.

18 MS. HUBBARD: -- to give us the --

19 MEMBER MAY: Well, that has been  
20 around for 30 years.

21 MS. HUBBARD: No, you can go down  
22 and get one from the police department. Now,

1       there is one that is issued to each household.

2                   MEMBER MAY:   Okay, I see.

3                   MS. HUBBARD:   So, you can give it  
4       to somebody who comes to your house.

5                   MEMBER MAY:   Right.

6                   MS. HUBBARD:   But you only get one  
7       of those.

8                   MEMBER MAY:   Right, but then you  
9       can go down to the police department and get  
10      another one, can't you?

11                  MS. HUBBARD:   Yes.

12                  MEMBER MAY:   Well, I mean, that is  
13      what the rest of us do.

14                  MS. HUBBARD:   Only for two weeks.

15                  MEMBER MAY:   Yes.

16                  MS. HUBBARD:   And I find that --

17                  MEMBER MAY:   But and you have to -

18      -

19                  MS. HUBBARD:   -- the parking  
20      restrictions, know that they've made very  
21      great efforts to help the parking in my  
22      neighborhood --

1 MEMBER MAY: Right.

2 MS. HUBBARD: -- because the  
3 parking signs have changed every two weeks,  
4 and make -- you know, not that frequently, but  
5 they keep changing the parking signs, and  
6 adding new restrictions.

7 MEMBER MAY: Right.

8 MS. HUBBARD: Obviously, in an  
9 effort to try to alleviate things, but it's  
10 not working. It's not working.

11 MEMBER MAY: It makes a big  
12 difference in some other neighborhoods.

13 MS. HUBBARD: Well, it's not  
14 working very well in our neighborhood, and  
15 they're still working on it.

16 MEMBER MAY: And I mean, do you --

17 MS. HUBBARD: And that is --

18 MEMBER MAY: And I do believe you  
19 have an extreme situation there.

20 MS. HUBBARD: Maybe, but we have -  
21 - don't forget, we have tons of conversions on  
22 that street.

1 MEMBER MAY: Okay.

2 MS. HUBBARD: So, the other ones  
3 are not requiring variances.

4 MEMBER MAY: I know, but this is  
5 one where you could and --

6 MS. HUBBARD: But yes, it would --

7 MEMBER MAY: -- and we would also  
8 --

9 MS. HUBBARD: The way our --

10 CHAIRPERSON JORDAN: Wait, wait,  
11 wait. Let's ask questions. Let's get an  
12 answer and do it that way.

13 MEMBER MAY: Okay, and in terms of  
14 the -- what could happen to this property, you  
15 could well wind up with two very large units  
16 with multiple RPP stickers being issued as a  
17 result.

18 So, you could wind up with two,  
19 four, six, eight RPP stickers --

20 MS. HUBBARD: I could only get --

21 MEMBER MAY: -- as a matter of  
22 right.

1 MS. HUBBARD: -- to this is one  
2 issue right now. I think that --

3 MEMBER MAY: Right.

4 MS. HUBBARD: -- you should deny  
5 this variance --

6 MEMBER MAY: Right.

7 MS. HUBBARD: -- or at least  
8 reduce the number of units considerably.

9 MEMBER MAY: Okay, so, do you  
10 actually have a parking space in the rear of  
11 your home, since you have alley access?

12 MS. HUBBARD: No.

13 MEMBER MAY: It is possible to  
14 make one? I'm concerned about your ability to  
15 park there in the future.

16 MS. HUBBARD: No, I am not able to  
17 make a parking space in the back.

18 MEMBER MAY: Okay, all right. Mr.  
19 Van Leeuwen, okay, so, same question for you.  
20 Would you -- given that the applicant has said  
21 that they would not have RPP, do you have the  
22 same concerns as Ms. Hubbard, or do you

1 believe that actually, it might be better for  
2 you, to take -- to accept this with RPP  
3 restriction, rather than allowing some other  
4 matter of right development, that would still  
5 wind up with people --

6 MR. VAN LEEUWEN: No.

7 MEMBER MAY: No, okay, all right.

8 CHAIRPERSON JORDAN: Okay, our  
9 next? Make sure your microphone is on,  
10 please. There you go, thank you.

11 MS. CHICK: Is that better?

12 CHAIRPERSON JORDAN: Yes.

13 MS. CHICK: Can you hear me?

14 CHAIRPERSON JORDAN: Yes, fine,  
15 thank you.

16 MS. CHICK: My name is Patricia  
17 Chick. I live at 1483 Harvard Street, on the  
18 end of the row of houses that abuts the 1469  
19 property.

20 I submitted a written statement,  
21 which I believe you have.

22 I had prepared to expound more or

1 less, on what was in the written statement,  
2 but I think you've gotten the major points  
3 that we made, which is that parking is very  
4 limited, that it's getting worse all the time,  
5 and that we think that this would be a  
6 detriment to the community.

7 I do want to address the RPP  
8 issue, though, because -- that Mr. May has  
9 raised, because I don't believe that excluding  
10 these people from RPP would do anything  
11 basically, to alleviate the situation.

12 It certainly wouldn't do what  
13 requiring the developer to provide parking  
14 spaces would do.

15 There are a certain number of  
16 parking spaces in the neighborhood that are  
17 not RPP restricted. Even people who have  
18 permits can often times not find parking  
19 spaces, and maybe these people would take up  
20 fewer of the RPP spaces and more of the other  
21 spaces, but it would not alleviate the problem  
22 of parking for we residents.

1                   If you remember Mrs. Goins' letter  
2                   about her worker, who circled the block for 45  
3                   minutes, he had a residential parking permit,  
4                   and he still couldn't find a parking space.

5                   I think that the -- at least one  
6                   member of the ANC has communicated to the  
7                   neighborhood residents that the reason that he  
8                   voted in favor of the variance was that the  
9                   development proposal leaves the facade  
10                  unchanged.

11                  I consider the -- I think that the  
12                  architect -- architect statement that they'll  
13                  destroy the facade, if they have to provide  
14                  parking is basically an attempt to hold us all  
15                  up, and I think we should resist it.

16                  I think that it's note-worthy that  
17                  the magnitude of the variance that they're  
18                  seeking is huge, and it should be denied.

19                  CHAIRPERSON JORDAN: Okay, Board,  
20                  any questions of this witness?

21                  You do -- going back to what --  
22                  well, that's okay, Mr. May may have already

1 said it, that even if we denied relief, there  
2 can structures here where there will be  
3 parking, which will have some influence --  
4 will have some effect upon parking in the  
5 area.

6 MS. CHICK: It is --

7 CHAIRPERSON JORDAN: I don't -- I  
8 understand what you're looking for, it's a  
9 very difficult situation.

10 Does the applicant have any  
11 questions of Mrs. Chick?

12 MS. GREER: No, thank you.

13 CHAIRPERSON JORDAN: Mr. Hoy?

14 MR. HOY: No.

15 CHAIRPERSON JORDAN: Okay.

16 MS. CHICK: We recognize that  
17 zoning doesn't necessarily protect us from all  
18 unfortunate outcomes.

19 CHAIRPERSON JORDAN: Yes, it's --  
20 yes, okay, and I definitely feel for you. I  
21 can tell you what I did last Sunday, put my --  
22 I had to pull my car in a spot that was

1 illegal, and keep looking out the window every  
2 day -- I mean, every minute, every second, saw  
3 one, ran down the block to get my car.

4 Do you know by the time I got back  
5 to my car, somebody made a u-turn in front of  
6 me and took that space.

7 So, trust me, and it started  
8 raining too, so it was -- yes, please.

9 MR. GASTON: Jeff Gaston at 1444  
10 Harvard Street.

11 CHAIRPERSON JORDAN: Your last  
12 name again?

13 MR. GASTON: Jeff Gaston.

14 CHAIRPERSON JORDAN: Gaston, thank  
15 you.

16 MR. GASTON: The owner of the  
17 building at 1444 Harvard Street, about 200  
18 feet away from the applicant. My two  
19 daughters and wife.

20 Actually, I don't know how much  
21 relevance on the street, but Stacey also --  
22 our two daughters are best friends, about like

1 four houses away.

2           Anyway, yes, basically, I guess,  
3 you guys have the numbers, like looking at the  
4 numbers on what is going on in the street.

5           We know the street is not getting  
6 any bigger for more parking. We don't have  
7 anymore spaces coming in. Nobody is building  
8 car lifts or anything.

9           But when I bought the place, you  
10 know, I knew that we have a street and you  
11 park street or if you're lucky enough to get  
12 parking in the rear, and I have two parking  
13 spots in the back, and you were going to ask  
14 that question.

15           The issue I had is like, just  
16 changing the zone. Like, saying I can put 12  
17 units into my spot. I mean, I'd probably be a  
18 million-dollars richer and I could walk out of  
19 here and that would be nice.

20           But I don't think that changing  
21 the zones from R-5 -- and the only  
22 restrictions in R-5 is to keep the units tied

1 to parking spaces, I mean, R-5 doesn't  
2 actually say how many units you can have.

3 So, I mean, I don't think vary to  
4 five -- up to eight units is -- or should be  
5 allowed. I can attest to that.

6 Just the project right next to me,  
7 I let them dig out my yard, accountability  
8 went right up. We worked with the developers  
9 and rented my space, so that he could put up  
10 his 50 foot-plus wall. Actually, it ended up  
11 being around 60, because you can add another  
12 10 feet on top of it.

13 They have ways around it in DCRA  
14 to get through, some sneaky ways, and make it  
15 a little bit higher.

16 But that is a service area for air  
17 conditioning/deck.

18 The other things they do, I  
19 believe is, they try to get around the parking  
20 situation, putting four spaces in or whatever.

21 What it comes down to, the DCRA, I  
22 believe when you stack them, you actually have

1 to have accessible parking getting in and out.

2 So, really three is what was  
3 allowed next to me, and it -- I have a 20 foot  
4 wide lot, 116 feet, or 100 feet and they maxed  
5 it out.

6 I was at DCRA when I looked at  
7 some of the docs, and the guys is like, "Yes,  
8 we're maxing that place out." I saw three go  
9 in and they have full access. You can put a  
10 tractor trailer down our alley, okay, and that  
11 is how I get my contractors to bring stuff in  
12 there.

13 So, just come down the alley,  
14 there is more room there and you're going to  
15 get hit by something in the front, and  
16 whatever, try to get through. It's really  
17 rough on that street, as you saw from the  
18 video, but in the back, plenty of space, and  
19 they're able to get three cars.

20 So, as the numbers go, if you  
21 wanted to look at that, I guess that equates  
22 to this six units, and when bought my house,

1 the zoning verified that you should restrict  
2 everything to -- generally, the same  
3 residential spaces and residential houses in  
4 my neighborhood.

5 I don't think also, you know, I  
6 can attest that the developers haven't come to  
7 any of our neighbors with any constraints of  
8 how they're going to restrict the way this is  
9 being built. They just said wait for parking.

10 So, if you do that, I mean, that  
11 doesn't say they're going to do eight units,  
12 12 units, I don't know, how many units is  
13 allowed?

14 I know the applicant has eight  
15 units listed, but I actually had documents  
16 from my previous developer as four, and now,  
17 there is six, and I do agree that it is a  
18 unique situation. However, it was existing  
19 prior to that acquisition. So, that's it.

20 CHAIRPERSON JORDAN: Thank you.  
21 Board, any questions of Mr. Gaston?

22 Does the applicant have any

1 questions of Mr. Gaston? Let me -- yes, go  
2 ahead.

3 MEMBER ALLEN: Thank you, Mr.  
4 Chairman. Are you the gentleman that they  
5 requested the easement from?

6 MR. GASTON: No, I'm not. I'm  
7 just 200 feet away. I'm just --

8 MEMBER ALLEN: So, you're not  
9 coming to talk to us, okay.

10 (Off mic comments.)

11 MEMBER ALLEN: That's fine, I was  
12 just -- I wanted to just find out. Thank you.

13 CHAIRPERSON JORDAN: Mr. Hoy, any  
14 questions for Mr. Gaston?

15 MR. HOY: No, thank you.

16 MEMBER MAY: Can I just say, I  
17 mean, for the benefit of the gentlemen in the  
18 audience, if you do not want to take a  
19 position one way or the other, but have things  
20 to say, you're welcome to come and say them.

21 Of course, we're not compelling  
22 you to come forward and answer questions about

1 the easement, but whatever you'd like.

2 (Off mic comments.)

3 MEMBER MAY: You'd have to be on  
4 the microphone, to even answer my question.

5 CHAIRPERSON JORDAN: Yes.

6 MEMBER MAY: So, it's either nod  
7 'yes' or 'no', or come forward.

8 CHAIRPERSON JORDAN: But we can't  
9 make you. If you don't need -- you don't have  
10 to do it.

11 (Off mic comments.)

12 CHAIRPERSON JORDAN: Mr. Moy,  
13 would you swear him in, please?

14 MR. MOY: Gladly.

15 {WITNESS SWORN}

16 CHAIRPERSON JORDAN: Take a seat  
17 at the end, all the way at the end.

18 (Off mic comments.)

19 CHAIRPERSON JORDAN: Please state  
20 your name for the record.

21 MR. VEENSTRA: My name is Norm  
22 Veenstra and I live at and own the carriage

1 house, located at 1469 Harvard Street  
2 Northwest, rear, and I don't know if this has  
3 all been heard.

4 Mr. May and I have known each  
5 other for a number of years.

6 CHAIRPERSON JORDAN: Okay, and did  
7 you have anything you wanted to say?

8 MR. VEENSTRA: Well, my  
9 Switzerland is status is simply is -- it's --  
10 I'm a real estate developer for a living, so,  
11 it doesn't do me very well, to object to a  
12 compatriot, who I've had conversations with  
13 doing a project.

14 However, I'm also a big fan of the  
15 neighborhood, now living in the house for two-  
16 plus years, and my friends have chosen to  
17 speak to you all about the parking issue,  
18 because there is no place for them to get a  
19 foot hole, to object to the fact that eight  
20 units is perceived to be too many.

21 I think that is really a big crux  
22 of this. Yes, they're concerned about a whole

1 bunch of cars, not having any place to park,  
2 but taking a building that is currently two  
3 flats and going to eight units is a shock to  
4 everybody.

5           Myself, as an individual, I'm in a  
6 no-win situation here of pissing off my  
7 friends or objecting to a project that is a  
8 well designed project, plus I also tried to  
9 buy it myself and lost out.

10           I would say that for the record,  
11 there is a couple of things that are worth  
12 knowing, which is this project -- this site is  
13 very unique, in that it is a 30 foot wide site  
14 within a row house structure.

15           Your predecessors going back to a  
16 really long time ago, allowed where I occupy,  
17 where I occupy, my carriage house used to be  
18 alley property, and my property actually came  
19 first. Most people assumed it was assigned,  
20 but here is my case, but mine came separate.

21           So the property that is of  
22 question here came later, and they filled in

1 an alley site, hence it's unique status of  
2 being 30 foot wide, as opposed to more  
3 conventional.

4 So, as a developer, my cringe is,  
5 I think eight units is the wrong call here.  
6 I would develop it as Eric stated, four, I  
7 think is very tasteful. Dig the basement out,  
8 add one floor, do a quality job.

9 But it's not my place to tell  
10 these guys, how to run their company. I'll  
11 shut up.

12 CHAIRPERSON JORDAN: Does the  
13 Board have any questions of this witness?

14 MEMBER MAY: So, the applicant has  
15 approached you about purchasing an easement?

16 MR. VEENSTRA: And my response to  
17 what was stated -- that would be -- I would  
18 say we're in discussion. I have neither said  
19 'yes' or 'no'.

20 MEMBER MAY: Okay, that is all I  
21 was curious about.

22 MR. VEENSTRA: Yes.

1                   MEMBER MAY:  Whether there was any  
2 possibility.  So, thanks.

3                   CHAIRPERSON JORDAN:  Any other  
4 questions, anyone?  Mr. Hoy?

5                   MR. HOY:  No, thank you.

6                   CHAIRPERSON JORDAN:  Is there  
7 anything that you wanted to this?  Any  
8 statements, any rebuttal or anything you might  
9 want to go forward?

10                  MS. GREER:  I think we have  
11 nothing further.

12                  CHAIRPERSON JORDAN:  Then we will  
13 conclude this hearing, based upon what is in  
14 this record.  I think we're going to move this  
15 to a hearing decision date.

16                  I'm going to recommend that the  
17 parties continue to have conversation, because  
18 if you can have conversations where you all  
19 can come together in a meeting of the minds,  
20 it's better than for us to make a decision,  
21 because somebody is not going to be happy.

22                  We'll move this to a hearing date,

1 because this is really -- this is a -- this is  
2 not a, you know, a slam-dunk for anybody on  
3 this one. Mr. Moy?

4 MR. MOY: Yes, sir, did you say a  
5 decision date or a meeting date?

6 CHAIRPERSON JORDAN: A decision  
7 date.

8 MR. MOY: All right, well, the  
9 next decision date, which might be too soon,  
10 but it's next week, June 11th, next Tuesday.

11 CHAIRPERSON JORDAN: And the one  
12 thereafter?

13 MR. MOY: The one thereafter would  
14 be June 25th, that's doable.

15 CHAIRPERSON JORDAN: Okay, so, if  
16 anybody is going to have conversations, you  
17 need to have them, simply, then let the Board  
18 know where you are, and then we still have to  
19 do our own re-pondering over this, and  
20 examining going through.

21 Really, really, really appreciate  
22 everybody's input, whether it's for or

1       against, and it means a lot to us, to have the  
2       neighborhood being active and also, being very  
3       honest about this situation.

4                       Yes, we know how bad it is for  
5       them, but and watch their television show and  
6       your other videos.

7                       MEMBER HINKLE: I'll add in, I  
8       watched the videos, as well. It was the first  
9       time I think we've had --

10                      CHAIRPERSON JORDAN: We had  
11       somebody do that.

12                      MEMBER HINKLE: -- somebody do  
13       that. So, we appreciate it.

14                      CHAIRPERSON JORDAN: And then to  
15       all of the other people that, whether  
16       positively or negatively, were not here and  
17       that -- it's very impactful, so, thanks a lot.

18                      Can we -- so, June 25th? What was  
19       that date?

20                      MR. MOY: June 25th and the record  
21       is closed, Mr. Chairman?

22                      CHAIRPERSON JORDAN: Yes, it is.

1 MR. MOY: Okay.

2 MEMBER MAY: Yes, Mr. Chairman, I  
3 just want to clarify, the -- you know, it  
4 sounds like there are still discussions going  
5 on between the applicant and the neighbors,  
6 and that you're encouraging that conversation  
7 to continue, and it's conceivable that there  
8 might be developments between now and the  
9 25th, that will be helpful in our  
10 deliberations.

11 So, I guess the applicant would  
12 have to file a request to reopen the record,  
13 and then submit something? Is that how we're  
14 going to do this?

15 CHAIRPERSON JORDAN: We will allow  
16 you -- if there is a change in the situation,  
17 then submit any other type of documents, just  
18 on that basis, but only if there is a change  
19 in the situation of the relief being  
20 requested.

21 MEMBER MAY: All right, so, in  
22 other words, if there is discussion of some

1 sort of easement situation, that would resolve  
2 or at least -- or alter the relief requested,  
3 if you could somehow manage to get even three  
4 parking spaces in, I think that would be very  
5 important to know.

6 I would strongly urge that  
7 something like that happen, it would certainly  
8 make it easier, although I think that, you  
9 know, despite the concerns that have been  
10 expressed about RPP, it is something that we  
11 regularly rely upon, the exclusion of RPP, as  
12 a way of addressing some of these issues, on  
13 other cases before this Board and before the  
14 Zoning Commission.

15 CHAIRPERSON JORDAN: Yes, and what  
16 we would probably require, that it run with  
17 the land and it would be put into the  
18 declaration of the -- the condo declaration.

19 MS. GREER: Okay, that would be --

20 CHAIRPERSON JORDAN: So, that  
21 would be --

22 MS. GREER: -- fine with us.

1 CHAIRPERSON JORDAN: So, with  
2 that, we'll conclude this hearing.

3 MR. VEENSTRA: Excuse me, is it  
4 9:30 a.m. on --

5 CHAIRPERSON JORDAN: Yes, that is  
6 usually the time, yes.

7 MR. MOY: Mr. Chairman, any Board  
8 wish to give a date for any late filings?

9 CHAIRPERSON JORDAN: Well, we know  
10 we need it the week before. Is that the 18th?

11 MR. MOY: That would be the 18th or  
12 if you wanted to, on that Friday, then that  
13 would be the 21st.

14 CHAIRPERSON JORDAN: So, if you're  
15 going do anything, if there is any type of an  
16 agreement or any other change for relief, we  
17 need to have it by June 21st.

18 MS. GREER: Okay.

19 CHAIRPERSON JORDAN: Okay, with  
20 that then, as I said, this matter is  
21 concluded.

22 Is there any other action that

1 needs to come in before the Board, at this  
2 time?

3 MR. MOY: Not from the staff or  
4 for the Board, Mr. Chairman.

5 CHAIRPERSON JORDAN: All right,  
6 then we will be adjourned.

7 (Whereupon, the above-entitled  
8 matter concluded at approximately 1:40 p.m.)

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In the matter of: Public Hearing

Before: DC BZA

Date: 06-04-13

Place: Washington, DC

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