

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

DECEMBER 15, 2009

+ + + + +

The Regular Public Hearing
convened in Room 220 South, 441 4th Street,
N.W., Washington, D.C., 20001, pursuant to
notice at 10:30 a.m., Shane L. Dettman, Vice
Chairman, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHANE L. DETTMAN, Vice Chairman (NCPC)
MERIDITH H. MOLDENHAUER, Board Member

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
BEVERLEY BAILEY, Sr. Zoning Specialist
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

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Board of Zoning Adjustment
District of Columbia
CASE NO. Transcript
EXHIBIT NO. null

OFFICE OF PLANNING STAFF PRESENT:

DAN EMERINE
MICHAEL GIULIANI
ARLOVA JACKSON
ARTHUR JACKSON
KAREN THOMAS

This transcript constitutes the minutes
from the Public Hearing held on December 15,
2009.

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

10:36 a.m.

BZA VICE CHAIR DETTMAN: The hearing will please come to order.

Good morning again, ladies and gentlemen.

This is the December 15, 2009 Public Hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Shane Dettman, Vice Chairman representing NCPC. To my right is Chairman Anthony Hood representing the D.C. Zoning Commission. To my left Ms. Meredith Moldenhauer, Mayoral appointee to the BZA. Mr. Clifford Moy with the Office of Zoning, Ms. Sherry Glazer with the Office of Attorney General. And rounding us out today is Ms. Beverley Bailey, Zoning Specialist with the Office of Zoning.

Copies of today's hearing agenda are available to you and are located to my left in the wall bin near the door.

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1 Please be advised that this
2 proceeding is being recorded by a court
3 reporter and is also webcast live.
4 Accordingly, we must ask you to refrain from
5 any disruptive noises or actions in the
6 hearing room.

7 When presenting information to the
8 Board, please, turn on and speak into the
9 microphone, first stating your name and home
10 address. When you are finished speaking,
11 please turn the microphone off so that your
12 microphone is no longer picking up sound and
13 background noise.

14 All persons planning to testify
15 either in favor or in opposition are to fill
16 out two witness cards. These cards are
17 located to my left on the table near the door
18 and on the witness tables. Upon coming
19 forward to speak to the Board, please, give
20 both cards to the reporter sitting to my
21 right.

22 The order of procedure for special

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1 exceptions and variances is as follows:

2 Statement and witnesses of the
3 applicant;

4 Government reports, including the
5 Office of Planning, the Department of Public
6 Works, and others;

7 Report of the Advisory Neighborhood
8 Commission;

9 Parties or persons in support;

10 Parties or persons in opposition,
11 and;

12 Finally, closing remarks by the
13 applicant.

14 Pursuant to Sections 3117.4 and 5
15 the following time constraints will be
16 maintained:

17 The applicant, appellant, persons
18 and parties, except the ANC in support
19 including witnesses, 60 minutes collectively;

20 Appellee, persons and parties,
21 except the ANC in opposition including
22 witnesses 60 minutes collectively, and;

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1 Individuals wishing to testify will
2 be provided 3 minutes each.

3 These time restraints do not
4 include cross examination and/or questions
5 from the Board.

6 Cross examination of witnesses is
7 permitted by the applicant or parties. The
8 ANC within which the property is located is
9 automatically a party in a special exception
10 or variance case.

11 Nothing prohibits the Board from
12 placing reasonable restrictions on cross
13 examination, including time limits and
14 limitations on the scope of cross examination.

15 The record will be closed at the
16 conclusion of each case, except for any
17 material specifically requested by the Board.

18 The Board and the staff will specify at the
19 end of the hearing exactly what is expected
20 and the date when the persons must submit the
21 evidence to the Office of Zoning. After the
22 record is closed, no other information will be

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1 accepted by the Board.

2 The Sunshine Act requires that the
3 Public Hearing on each case be held in the
4 open before the public. The Board may,
5 consistent with its Rules of Procedure and the
6 Sunshine Act, enter into Executive Session
7 during or after the Public Hearing on a case
8 for purposes of reviewing the record or
9 deliberating on the case.

10 The decision of the Board in these
11 contested cases must be based exclusively on
12 the public record. To avoid any appearance to
13 the contrary, the Board requests that persons
14 present not engage the members of the Board in
15 conversations.

16 Please turn off all beepers and
17 cell phones at this time so as not to disrupt
18 these proceedings.

19 The Board will now consider any
20 preliminary matters. Preliminary matters are
21 those which relate to whether a case will or
22 should be heard today, such as requests for

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1 postponement, continuance or withdrawal or
2 whether proper and adequate notice of the
3 hearing has been given. If you are not
4 prepared to go forward with a case today or if
5 you believe that the Board should not proceed,
6 now is the time to raise such a matter.

7 Does the staff have any preliminary
8 matters?

9 MS. BAILEY: Mr. Chairman, members
10 of the Board and to everyone, happy holidays.

11 No, Mr. Chairman, I do not.

12 BZA VICE CHAIR DETTMAN: Thank you,
13 Ms. Bailey. Noting that there are no
14 preliminary matters from the audience and the
15 Office of Zoning staff, let's proceed with
16 today's agenda.

17 Before calling the first case would
18 all individuals wishing to testify today
19 please rise to take the oath? And Ms. Bailey
20 will administer the oath.

21 (Witnesses sworn.)

22 BZA VICE CHAIR DETTMAN: Thank you,

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1 Ms. Bailey. And when you're ready, we can
2 call the first case.

3 MS. BAILEY: Thank you, Mr.
4 Chairman.

5 The first case is Application
6 18009, and we will read it as it is
7 advertised.

8 This is the Application of Samia
9 El-Baroudy, pursuant to 11 DCMR § 3103.2, for
10 variances from the lot occupancy requirements
11 under section 403, rear yard requirements
12 under section 404, and nonconforming structure
13 requirements under subsection 2001.3, to allow
14 an addition to an existing one-family row
15 dwelling. The property is zoned R-3. It's
16 located at 3302 Prospect Street, Northwest.
17 Square 1205, Lot 822.

18 There are a few matters, Mr.
19 Chairman, that I would like to bring to your
20 attention the first of which is there is a
21 request for party status in opposition to the
22 application.

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1 And then secondly, clarification
2 may be required from the Board concerning the
3 exact relief that is required. And, for
4 example, the Office of Planning did not
5 recommend rear yard relief. OP did not
6 indicate that this relief is required.

7 With that said, is the applicant
8 here for that case? Would you please have a
9 seat at the table?

10 BZA VICE CHAIR DETTMAN: Good
11 morning.

12 Before we get into introductions,
13 is a Michael Haar here? Why don't you come
14 and join us at the table as well and we'll
15 take up your application of party status.

16 And, good morning to everyone.

17 Why don't we start off by way of
18 introductions. And we can start with Mr.
19 Haar.

20 MR. HAAR: My name is Michael Haar.
21 I own the adjacent property at 3304 Prospect
22 Street.

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1 MR. EVANS: Good morning. My name
2 is Jason Evans. I am the designer/contractor
3 for Ms. El-Baroudy.

4 BZA VICE CHAIR DETTMAN: Could you
5 turn your mic on, please?

6 MS. EL-BAROUDY: My name is Samia
7 El-Baroudy and I live on 3302 Prospect Street.

8 BZA VICE CHAIR DETTMAN: Great.
9 Thank you.

10 Let's address the two matters. One
11 is the application for party status and,
12 colleagues, that's our Exhibit 26. And then
13 we'll ask the Office of Planning to just
14 quickly weigh in on the areas of relief that
15 you think are necessary. That issue was
16 raised by Ms. Bailey.

17 Mr. Haar, in addition to what
18 you've included in your application for party
19 status do you want to quickly articulate why
20 you're pursuing this application, how you're
21 so distinctly and uniquely effected then the
22 rest of the property owners in the vicinity or

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1 the general public?

2 MR. HAAR: Per the letter that I
3 submitted with the applicant status
4 application, I believed any allowed variance
5 from the 60 percent lot occupancy and
6 nonconforming structure requirements would
7 seriously impact our property and to a great
8 extent than other properties. The extension,
9 however well intentioned, would in effect hem
10 our property in on both sides. The resulting
11 extension to the rear of 3302 would unduly
12 impact our property by dramatically impacting
13 the light, air and views at 3304 Prospect, the
14 property we own. It would result in a rear
15 section of 3304 being partially hemmed in on
16 both sides. The proposed 6.5 extension of
17 3302 --

18 BZA VICE CHAIR DETTMAN: Mr. Haar,
19 sorry to interrupt. But it looked like you
20 were maybe reading some prepared remarks. And
21 at this point --

22 MR. HAAR: No, no. I'm just taking

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1 parts of the letter.

2 BZA VICE CHAIR DETTMAN: Okay. At
3 this point the Board just needs to know how
4 you are kind of uniquely and significantly
5 impacted in advance of what the impacts on the
6 overall neighborhood will be. We can get into
7 specifics as we move forward.

8 MR. HAAR: Sure. Okay. I'm not
9 familiar with the process.

10 BZA VICE CHAIR DETTMAN: Not a
11 problem.

12 MR. HAAR: It would basically to
13 summarize in a sentence, it would have a
14 significant adverse impact on the character
15 and quality of our property by effecting
16 light, view and air flow.

17 BZA VICE CHAIR DETTMAN: Okay. And
18 this is all pertaining to the relationship of
19 your property to the applicant's property?

20 MR. HAAR: Correct.

21 BZA VICE CHAIR DETTMAN: Okay. Any
22 questions?

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1 MEMBER MOLDENHAUER: I have no
2 questions. And I believe qualifies as a party
3 status.

4 BZA VICE CHAIR DETTMAN: Okay. Mr.
5 Haar, basically there are two ways to
6 participate in a hearing; one is as a party,
7 one is as a person. A person does not have to
8 seek party status. Obviously they're given the
9 opportunity to provide testimony to the Board.
10 Typically it's three minutes per testimony.

11 A party is afforded some additional
12 privileges, and one of them is the ability to
13 ask the applicant questions, to cross examine
14 the applicant. Are those privileges that you
15 were aware of and if you were, are those the
16 reasons why you're seeking party status?

17 MR. HAAR: That is correct. I am
18 aware.

19 BZA VICE CHAIR DETTMAN: Okay.
20 Great. Thank you.

21 Colleagues, I'm in agreement with
22 you. I think that given Mr. Haar's

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1 application, the location of his property in
2 respect to the applicant's property and past
3 Board actions in terms of allowing people in
4 as party status, I think that the application
5 meets the necessary standard. And I would be
6 inclined to grant Mr. Haar party status to
7 this proceeding. Is that the consensus of the
8 Board? Great.

9 So, Mr. Haar, you've been allowed
10 in as a party to this case. You can remain
11 right where you are.

12 Again, after the applicant puts on
13 its testimony, you can ask questions. And
14 there will be a point in the proceeding where
15 you can put on your testimony as well and then
16 the applicant will be afforded the opportunity
17 to ask you question as well. Great.

18 Thank you.

19 Quickly, from the Office of
20 Planning, as noted by Ms. Bailey, was there
21 any kind of uncertainty on what the areas of
22 relief were necessary for this case.

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1 MR. EMERINE: The only uncertainty
2 that I'm aware of is that at some points the
3 applicant referred to the application as a
4 variance and the later, I believe, corrected
5 that to an application for special exception
6 relief under 223.

7 So it's my understanding that this
8 is a 223 application and the Office of
9 Planning analyzed it as such.

10 The areas of relief that we noted
11 in the Office of Planning report are related
12 to lot width and lot area. And that is simply
13 in the course of, I guess what you would call
14 a housekeeping in the sense that it's already
15 an existing lot and then lot occupancy.

16 Ms. Bailey, I believe, referred to
17 rear yard and none of the information that
18 I've seen do I have an indication that the
19 rear yard relief is required.

20 BZA VICE CHAIR DETTMAN: Because
21 they meet the requirements?

22 MR. EMERINE: That's correct.

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1 BZA VICE CHAIR DETTMAN: Great. I
2 did note in reviewing the record that it had
3 gone from a special exception to a variance,
4 back to a special exception. And that was
5 kind of the understanding that I had going
6 into it that we're looking at 223. But
7 perhaps the applicant can clarify that as they
8 put on their case.

9 And furthermore, I think we're
10 ready to go into the applicant's case.

11 There was some filings in the
12 record that referred to specifically Exhibit 3
13 where, Mr. Evans, you referred to floor area
14 ratio, FAR. And I think you were referring to
15 really was lot occupancy. So you're not
16 looking for any kind of FAR relief which isn't
17 even really applicable to the R-4. So as you
18 put on your case, just kind of provide that
19 kind of clarity for the Board; that we're
20 looking for lot occupancy.

21 And if there are no other questions
22 -- oh, thank you, Ms. Moldenhauer.

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1 Is the ANC here? ANC 2E? We have
2 a report from them and we'll address the ANC's
3 resolution at the time.

4 So if there are no other questions,
5 I think we can move forward. Great.

6 MR. EVANS: Okay. As for not being
7 overly redundant, my client here would wish to
8 read a statement as to why she wants this
9 extra space.

10 I mean, I think we all know that
11 the general area of Georgetown is already a
12 very intimate area and the living quarters are
13 very intimate as well. What we are looking to
14 do here is recapture the little alleyway.

15 And I assume that everyone up there
16 has a set of plans or can I make reference to
17 the Board? Okay.

18 BZA VICE CHAIR DETTMAN: Thank you.
19 Yes, so why don't we turn the easel so that
20 those watching online can pick that up. And
21 if you're going to stand by the easel, you're
22 going to need the microphone.

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1 MR. EVANS: Okay. So the rear
2 setback requirement is 20 feet, and we're not
3 going to come close to that.

4 What we have is the existing plan
5 and the proposed. It's been my understanding
6 that once we touch this structure, this area
7 here, this courtyard of four feet in width,
8 since its under five feet in width, is going
9 to count against our lot coverage. So it's an
10 existing nonconforming situation that we're
11 dealing with.

12 Immediately to the west what we
13 have is Mr. Haar's building which has about
14 eight feet of a rear addition, and we're
15 seeking six feet here.

16 We have the three prong test to
17 support, which is air and light. This is the
18 southern orientation. So by the sun comes up
19 above the eastern part of 33rd Street, which
20 is a one-way street, the sun really will have
21 been impacted very little, if any, on the
22 western neighbor.

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1 We do have a letter of endorsement
2 from the neighbor to the east for the project.

3 And further down in this direction we have
4 other buildings that have their setbacks even
5 farther back. So really the effect on air and
6 light by anybody in either direction is very
7 minimal, if any.

8 We also have the privacy and
9 enjoyment of Mr. Haar's residence to consider.

10 And again, since his structure is a couple of
11 feet back farther back than our proposal, we
12 feel that especially since we're not going to
13 have any windows on either side, the privacy
14 and enjoyment should be impacted none.

15 And then lastly for the visual
16 intrusion and the character of the
17 neighborhood. We're really looking at keeping
18 very much in form historically with the
19 neighborhood. Brick veneer and historically
20 support of the windows.

21 As far as the address frontage
22 prospect, there will be no notable change.

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1 And I'll also note that 33rd Street
2 is a one-way street. So really visually from
3 the street nobody really has much of a chance
4 to really see what's going on over there.

5 And I think that's really all I
6 have as far as introducing the project.

7 BZA VICE CHAIR DETTMAN: Okay.
8 Thank you.

9 Board members, are there questions
10 that you'd like to ask at this time?

11 ZC CHAIR HOOD: Mr. Evans, if you
12 could help me? I think you said the subject
13 property sits back a little bit. Help me
14 understand the orientation again. I'm sitting
15 here and I have the OP report and I have
16 pictures. But if you could help me
17 understand?

18 I don't know if you have a
19 rendering up there. I see you just have one.
20 I guess there's one, or is there one behind
21 that? If you have a blown-up version of it
22 and just help me kind of understand the

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1 orientation. But if you don't have it, that's
2 all right.

3 Okay. Let's look at the
4 photograph. What exhibit are you looking at?

5 You need to be on a microphone.

6 And do we have it? Is it behind
7 the OP report? I'm just trying to understand
8 the orientation.

9 MR. EVANS: Okay. Photographically
10 speaking, the building with the red roof is
11 the client's structure.

12 ZC CHAIR HOOD: I have it in front
13 of me now. Let me see yours, Mr. Chairman.
14 No, those photographs. That one, yes. Okay.
15 I'm looking at -- it doesn't have an exhibit
16 but there's three photographs, that's what I'm
17 looking at.

18 MR. EVANS: All right.

19 ZC CHAIR HOOD: And you said you
20 have support of the neighbor to the east, I
21 believe.

22 MR. EVANS: Right. So we have

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1 support of the neighbor on the corner here.
2 Mr. Haar, the gentleman sitting next to us, is
3 in the structure immediately to the west. And
4 you can already see the addition on the back
5 of Mr. Haar's. That's about -- we haven't
6 been in his rear yard, but we think it's about
7 eight feet. We're looking for six feet. And
8 then you can look at the further west
9 structures here which are even farther back.

10 And here's the southern orientation
11 coming from here.

12 So really our impact is going to be
13 very minimal.

14 ZC CHAIR HOOD: Okay. You hit what
15 I was asking. Thank you.

16 BZA VICE CHAIR DETTMAN: Mr. Haar,
17 questions for the applicant?

18 And again, this is cross
19 examination so this is really questions that
20 pertain to what came out in their testimony.

21 MR. HAAR: With respect to the
22 testimony as to the lot occupancy

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1 requirements, it's my understanding based on
2 what was said and from the documentation --

3 BZA VICE CHAIR DETTMAN: Again,
4 this is your opportunity for questions of the
5 applicant. You're going to have your time to
6 provide the Board testimony. But if you had
7 questions about what the applicant said during
8 their case.

9 MR. HAAR: Can I ask what the lot
10 occupancy would be after the proposed
11 extension was done?

12 BZA VICE CHAIR DETTMAN: You can
13 certainly ask the applicant.

14 MR. EVANS: 69.8.

15 MR. HAAR: Okay. And the square
16 footage? You mentioned the intimate nature of
17 these houses and I know smaller townhomes are
18 often are a compelling reason for people
19 wanting to expand. What is the square footage
20 of the three levels that are finished?
21 Because I have the same unit and they're not
22 very small. I mean, they're good sized units

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1 for Georgetown?

2 MR. EVANS: Right. Is this what
3 we're going to get into as far as the
4 dialogue? Is that --

5 MR. HAAR: You had mentioned the
6 intimate nature and so I thought it was fair
7 question.

8 MR. EVANS: Okay. I mean, I didn't
9 know if that was up for argument or not.
10 Okay. So we're looking 720 feet per level.

11 MR. HAAR: On my plat, which is
12 similar, it's close 850. Still, that's over
13 2,000 square feet on three floors so I won't
14 argue that number.

15 One of the other things, you
16 mentioned the neighbor who agrees they're
17 located at the corner, at the very end of the
18 rowhouse run on Prospect. So they're really
19 an end unit townhome, is that correct?

20 MR. EVANS: Yes.

21 MR. HAAR: Okay. And so that has a
22 great bearing on our position in terms of

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1 where we are and how we'll be effected.
2 That's it.

3 BZA VICE CHAIR DETTMAN: Okay.
4 Great. And how that makes a difference, you
5 can kind of articulate for the Board during
6 your time to put on your case.

7 MR. HAAR: I certainly can.

8 BZA VICE CHAIR DETTMAN: Excellent.
9 Thank you.

10 Board members, anything yet before
11 we move on to the Office of Planning?

12 Mr. Evans, you had mentioned that
13 your client was going to read a prepared
14 remark. Did you want to do that at this time?

15 MR. EVANS: She will.

16 MS. EL-BAROUDY: Gentlemen, since I
17 purchased my home in 1993 my family has grown
18 considerably. My son has a family now, and I
19 have a grandson. I recently got married and
20 my husband has two children and six
21 grandchildren. We have outgrown the house as
22 it is, and we badly need this addition.

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1 We love our home and the
2 neighborhood and have not thought of moving.
3 The two houses immediately to are left already
4 have rear extensions. Given that precedence
5 has already been established in our block,
6 what we want is to be granted similar
7 privileges, although our extension side is
8 more modest as other houses, additions on the
9 block project deeper into the backyard.

10 By the way. our neighbor, he sent
11 us a letter 100 percent supporting our
12 extension request.

13 Many of the houses along Prospect
14 Street are rented to university students. As
15 a result, they are not kept in the best shape.

16 In our case we are using our house as a
17 single-family dwelling which we believe is the
18 very core and fiber of the family unit from
19 which Georgetown benefits.

20 On a personal note, not too long
21 ago I had an armed intruder enter my house
22 when I was sleeping there alone. The bedroom

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1 door was the only division between me and the
2 armed intruder. Including the courtyard from
3 which the intruder climbed up the wall to
4 enter my house would eliminate the
5 reoccurrence of this nightmare.

6 We understand completely that if
7 BZA endorses our request for special exception
8 relief, that this would be the beginning of
9 the process. We would clearly be prepared to
10 work closely with Historic Preservation on
11 issues concerning on design and on materials
12 in order to come up with a design that would
13 be satisfactory to them.

14 In conclusion, we are committed to
15 our neighborhood. Investing in our house is a
16 reflection of that. I think that having
17 students living around brings vibrancy and
18 diversity to Georgetown, hence we want to both
19 co-exist with the students and make an
20 investment to improve our house. Such an
21 improvement we believe will benefit our family
22 and the neighborhood as it would help raise

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1 the value of the houses on the block, and
2 would also increase the tax revenue to the
3 District.

4 Thank you for your consideration.

5 BZA VICE CHAIR DETTMAN: Thank you.

6 Board members, questions?

7 Mr. Haar, questions? No questions.

8 Okay.

9 Could you turn your mic up, please?

10 MR. HAAR: I would mention 3306 is
11 owner occupied and several other townhomes.
12 It's not all student housing, although being
13 Georgetown there are quite a bit. There is a
14 decent percentage on Prospect Street of
15 student housing. A lot of that has been
16 turning over slowly. We --

17 COMMISSIONER MAY: Do you have a
18 question? Because, again, this is cross
19 examination time frame.

20 MR. HAAR: I guess not.

21 ZC CHAIR HOOD: You know, Mr. Haar,
22 what you're trying to do is be helpful to us.

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1 She just made a statement and if you want to
2 have cross examination with my Board members
3 here, you want to make sure you're helpful to
4 the Board to help us understand your case.
5 That's what cross is about.

6 MR. HAAR: I understand. I'm just
7 not familiar with the process.

8 ZC CHAIR HOOD: All right.

9 MR. HAAR: I'm learning as I go
10 here.

11 ZC CHAIR HOOD: Okay. You'll have
12 time to tell us later.

13 MR. HAAR: Okay.

14 BZA VICE CHAIR DETTMAN: Hold that
15 thought. I think it's a very good point to
16 make. And, actually, I saw the applicant
17 nodding in agreement about the composition of
18 the neighborhood. But definitely hold on to
19 that thought and we can hear it during your
20 case.

21 If there are no other questions for
22 the applicant, and to the applicant, does that

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1 conclude your presentation?

2 MR. EVANS: Yes, it does.

3 BZA VICE CHAIR DETTMAN: It does?

4 Okay. Great.

5 MEMBER MOLDENHAUER: From 33rd
6 Street, you said that it was a one-way so
7 you're not actually going to see a lot of the
8 addition because it's one-way traffic?

9 MR. EVANS: Correct.

10 MEMBER MOLDENHAUER: Isn't that a
11 slight hill so you are looking up into the
12 rear of those properties?

13 MR. EVANS: Yes.

14 MEMBER MOLDENHAUER: Okay. And
15 don't you have a lot of pedestrians walking up
16 that street considering it's just one block
17 from M Street?

18 MR. EVANS: Yes.

19 MEMBER MOLDENHAUER: Okay.

20 MR. EVANS: Since it's Georgetown.

21 MEMBER MOLDENHAUER: Yes, I grew up
22 in the area so I am familiar with this

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1 property.

2 And I guess I have another question
3 about the other additions. The addition of
4 Mr. Haar's property is a single floor. But
5 I'm looking at the plans. I'm just trying to
6 confirm that you're looking at putting on a
7 two floor addition on both the first and the
8 second floor level, correct?

9 MR. EVANS: Right. I think Mr.
10 Haar has main level and lower level. We're
11 looking for a main level and second level.

12 MEMBER MOLDENHAUER: But if you put
13 an addition on the second level, how is that
14 not going to impact? Can you maybe touch on
15 that a little bit, how that won't impact the
16 light or air of the property if you're
17 actually going to be doing an addition on the
18 second level?

19 MR. EVANS: Speaking to the light
20 is much easier than speaking to the air.

21 If I'm standing on the roof of
22 3302, which is the applicant's residence, and

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1 looking over at the rowhomes to the east of
2 33rd Street, again to my original presentation
3 of that, the sun being south by the time it
4 gets over those structures, I don't see having
5 really any significant impact on the actual
6 light coming into 3304 at that point.

7 I have another photograph here
8 that, I mean really if you're familiar with
9 the neighborhood, there's a monster horrible
10 looking tree in the backyard of 3300 and a
11 wall. So there's already some obstruction
12 there from the adjoining neighbor. But again,
13 if we're only looking for a six foot setback,
14 I think it's going to be very minimal.

15 MEMBER MOLDENHAUER: Have you
16 conducted any light studies, related tree
17 studies with this?

18 MR. EVANS: No, I have not.

19 COMMISSIONER SCHLATER: No. Have
20 you conducted the light and tree studies in
21 the past?

22 MR. EVANS: I personally have not.

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1 MEMBER MOLDENHAUER: Because it
2 would be helpful. Because I'm looking at page
3 6 of th OP's report. Maybe OP can touch on it
4 later on. And even looking at this one
5 picture, it appears as though, I don't know
6 what time of day this was taken, that there is
7 light that is coming in through or over top of
8 those rear buildings that face M Street I'm
9 assuming onto the second floor -- second story
10 of the adjacent neighbor's property.

11 And one of the standards we look at
12 is how significant is a significant impact.
13 And that I would be something that I would
14 look to you to testify to as in regards to
15 have you conducted certain studies to tell me
16 that it's not a significant impact, it's a
17 minor impact, or whether it's something
18 otherwise. And I guess if you don't have that
19 information, that's an area where then maybe
20 the record is lacking.

21 MR. EVANS: Well, I understand
22 where you're coming from and I agree with you.

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1 However, in that particular photograph that
2 sun we're looking from left to right, is from
3 south to north. So I don't feel like we're
4 going to have any impact on that respect.

5 MEMBER MOLDENHAUER: On to my next
6 question then. In regards to the standards of
7 section C whether the view of the addition
8 from the street or alley shall not be
9 substantially visible to intrude on the
10 character, scale or pattern of the houses. Do
11 you think that with this square addition onto
12 the rear, since that would be visible from
13 driving up through 33rd Street or from
14 individuals who are going downtown Georgetown,
15 do you think that, that square rectangular
16 kind of thing, be butting out from the rear of
17 the property, that that would be in the
18 character and nature of the neighborhood?

19 MR. EVANS: Yes, I do. I think
20 that's the only way it would fit into the
21 neighborhood.

22 MEMBER MOLDENHAUER: And can you

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1 maybe elaborate on that a little bit, or is
2 that--

3 MR. EVANS: Yes. I mean, obviously
4 what we're going to do is this rear addition
5 is going to be of the masonry materials. I
6 can flip it around and show you the rear
7 elevation. But also the fenestration is going
8 to be historical -- wooden.

9 MEMBER MOLDENHAUER: But will there
10 be any windows looking towards 33rd Street?

11 MR. EVANS: No.

12 MEMBER MOLDENHAUER: Okay. Thank
13 you.

14 MR. EVANS: You're welcome.

15 BZA VICE CHAIR DETTMAN: Mr. Evans,
16 just looking at that rear elevation, well my
17 first question is you'll be required to go to
18 the HPRB, is that correct?

19 MR. EVANS: I'm sure.

20 BZA VICE CHAIR DETTMAN: And CFA,
21 do you know?

22 MR. EVANS: I think that's up to

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1 them.

2 BZA VICE CHAIR DETTMAN: Okay.
3 That was just a question.

4 Looking at the rear elevation I see
5 a stair leading down to the rear yard. Are you
6 contemplating some kind of outdoor deck on the
7 back of this dwelling?

8 MR. EVANS: As you can tell by the
9 smile on my client's face, she would love to.

10 But I think that a rear landing is -- and
11 stairs continual as she already has existing
12 is something that she would prepared to
13 accept.

14 There's a courtyard down below.

15 BZA VICE CHAIR DETTMAN: Well, I
16 don't believe the plans that we had before us
17 show a deck or anything like that. Well --

18 MR. EVANS: So as to not be greedy.

19 BZA VICE CHAIR DETTMAN: What is
20 the height from the rear yard to that second
21 level?

22 MR. EVANS: It's approximately 8½

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1 feet.

2 BZA VICE CHAIR DETTMAN: Eight and
3 a half feet. So according to the regulations
4 anything above four feet counts towards lot
5 occupancy. So if that were something that
6 you're contemplating, I just want to make
7 clear that we don't have it before us right
8 now and it would require additional relief.

9 MR. EVANS: Right. That's why a
10 landing of the stairs is merely what we're
11 looking for.

12 BZA VICE CHAIR DETTMAN: Okay.
13 Well, yes. Okay. Ms. Moldenhauer did just
14 point out that we do have the same rear
15 elevation, which shows the stair but nothing
16 planned, although it does show a sliding glass
17 door at the rear of the family room. Okay.

18 Mr. Haar, do you have any
19 questions?

20 MR. HAAR: Not at this time, no.

21 BZA VICE CHAIR DETTMAN: Okay.
22 Well, I think there'll be additional

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1 opportunities for questions. And just to
2 check very quickly, is anyone from the ANC
3 here at all yet? No? Okay.

4 So, I think that we can move onto
5 the Office of Planning. And there is one
6 preliminary matter to take care of before we
7 get into OP's report, and that was their
8 request for a waiver of our rules to allow
9 their submission into the record sooner than
10 the seven day time line that they're required
11 to provide the report. Under 3114.2 I think
12 for good cause shown and no prejudice to any
13 party, I would be in favor of waiving our
14 rules under 3100.5 to allow the OP report in
15 the record. And, colleagues, do you have any
16 response to that? No.

17 And to the applicant as well as the
18 party opponent, do you have any response or
19 opposition to allowing the DC OP report into
20 the record?

21 MR. EVANS: No.

22 MR. HAAR: One question. How long

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1 has that report been in existence? Because I
2 wasn't aware there was a report.

3 BZA VICE CHAIR DETTMAN: Being that
4 you were granted party status today, unless
5 you were checking in with the record at the
6 Office of Zoning there's no really no reason
7 why you would have been served with it.

8 I think that we can get you a copy
9 of the Office of Planning report. It's
10 December 8th.

11 MR. HAAR: December 8th?

12 BZA VICE CHAIR DETTMAN: Yes. And
13 it is -- well, it's our Exhibit 29. And why
14 don't get Mr. Haar a copy of that report? And
15 as the Office of Planning is presenting their
16 testimony, it'll give you an opportunity to
17 look at their report.

18 MR. HAAR: Okay.

19 BZA VICE CHAIR DETTMAN: Did you
20 want an opportunity to look at the report
21 before you weigh in on the waiving of our
22 rules to allow it in the record?

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1 MR. HAAR: Actually, I would.

2 BZA VICE CHAIR DETTMAN: I think we
3 can take a minute.

4 MR. HAAR: Sure.

5 MS. BAILEY: Mr. Chairman, Mr. Moy
6 went to get a copy.

7 BZA VICE CHAIR DETTMAN: Thank you,
8 Ms. Bailey.

9 (Whereupon, at 11:13 a.m. off the
10 record until 11:14 a.m.)

11 BZA VICE CHAIR DETTMAN: Yes, sir.

12 MR. HAAR: I'm sorry. What is my--

13 BZA VICE CHAIR DETTMAN: What we're
14 doing right now is the Office of Planning
15 under our rules is required to submit the
16 report seven days in advance of the hearing
17 and it was not. So the Board is contemplating
18 right now their request to waive our rules to
19 allow it in the record. And the standard for
20 that is for good cause shown and no prejudice
21 to any party.

22 The applicant has already said that

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1 they have no problem with us waiving the
2 rules.

3 MR. HAAR: Well, I do have a
4 concern in that I vehemently disagree with
5 what is in front of me. And I can go into
6 detail at the appropriate time why.

7 I am a little disappointed that I
8 did not have this information so I could
9 provide additional data o show why I believe
10 the conclusions are false. And I guess so I'm
11 not real sure what my options are and how to
12 proceed and how to really address what I think
13 is an incorrect conclusion.

14 Again, there are photographs that
15 were submitted by the applicant that I believe
16 directly disagrees with some of these
17 statements. And I've got other photographs
18 that show that the light would be very
19 seriously effected. I don't want to get too
20 far ahead because I'm going to be going into
21 those details, which are basically summarizing
22 the letter that I submitted with the

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1 application for party status.

2 So I guess that kind of summarizes
3 my thought process right now.

4 BZA VICE CHAIR DETTMAN: Well, I
5 think in terms of whether or not you agree or
6 disagree with the Office of Planning report
7 isn't a reason for us not to allow in the
8 record.

9 MR. HAAR: Okay.

10 BZA VICE CHAIR DETTMAN: If you
11 were somehow significantly prejudiced by this
12 report in one way or another, the way that the
13 Board cure that is to take a break and to
14 allow you to review this thoroughly before
15 deciding whether or not to waive our rules and
16 allow it in the record.

17 You're going to have an opportunity
18 to ask questions of the Office of Planning on
19 the analyses that they used, what they relied
20 upon. And then during your case you can
21 provide information to the Board on how you
22 believe that this is inaccurate and then show

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1 us why using the information that you might
2 have with you.

3 Whether or not the Board will delay
4 their decision to allow you or any other party
5 to supplement the record with additional
6 information, that's an issue that the Board
7 will take up at the conclusion of the hearing.

8 MR. HAAR: What's the basis for
9 making a determination?

10 BZA VICE CHAIR DETTMAN: To decide
11 whether -- it's basically after the proceeding
12 the Board will decide whether or not it
13 believes the record is full enough in order to
14 make an informed decision. If during the
15 course of the proceeding issues are raised
16 that might make the Board think that there's
17 not enough information in the record to decide
18 the case, at that time we would put off our
19 decision to a later date.

20 MR. HAAR: Before allowing it in
21 the record can I ask questions as to how it
22 was derived?

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1 MEMBER MOLDENHAUER: I believe you
2 will have had that opportunity during your
3 cross examination, the same way you've been
4 able to ask questions of the applicant. Once
5 OP, if we determine to allow this in the
6 record, they would present their conclusions.

7 MR. HAAR: That would be after I
8 gave a aye or nay as to whether it should be
9 allowed in the record, right?

10 MEMBER MOLDENHAUER: Yes. But we
11 have to weigh whether or not you determine to
12 allow this into the record.

13 MR. HAAR: Okay. I'll go ahead and
14 allow it into the record.

15 MEMBER MOLDENHAUER: And then
16 obviously at this point then you'd be able to
17 ask questions that would go to the weight that
18 we'll eventually give the OP report, you know
19 how they came to these conclusions.

20 MS. BAILEY: Mr. Chairman, for the
21 record the OP report was filed Monday night.

22 BZA VICE CHAIR DETTMAN: Thank you,

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1 Ms. Bailey.

2 Board members, it's back to us. And
3 I think that the necessary standard has been
4 met; good cause shown and no prejudice as
5 testified to by the applicant as well the
6 party opponent, they have no objection to
7 allowing it into the record. So I would
8 recommend that we waive our rules under 3100.5
9 and allow the OP report, dated December 8th in
10 the record. All right.

11 With that, it's to the Office of
12 Planning. And, Mr. Emerine, how are you today?

13 MR. EMERINE: Fine, sir. Thank
14 you.

15 And I apologize for the one day
16 late submission. That was a clerical error
17 which I take full responsibility for.

18 Again, good morning, members of the
19 Board. The Office of Planning, as indicated
20 in the report in front of you, supports
21 approval of the applicant's proposal to
22 receive relief under 223 for a two story

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1 building addition that would be on a lot not
2 conforming to the written area requirements of
3 the R-3 District and reaching 69.8 percent in
4 lot occupancy, which is above the 60 percent
5 maximum allowed in the R-3 District.

6 I'll briefly summarize the findings
7 of the report and also give some indication of
8 how the Office of Planning arrived at these
9 conclusions.

10 The Office of Planning reviewed the
11 application presented by the applicant. Asked
12 for additional information from the applicant,
13 including axonometric drawings to get an
14 indication of the proposed bulk of the
15 addition as compared to its adjoining
16 neighboring buildings. And I also went out on
17 one site visit on an afternoon. It was
18 approximately 4:00 in the afternoon, and that
19 is when the photographs that you see attached
20 to the OP report were taken.

21 So in summary the proposed addition
22 extends the applicant's building by

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1 approximately six feet to the rear, i.e., to
2 the south. And based on the evidence in front
3 of us the Office of Planning concluded that
4 there could be some impact on the light
5 available to the property to the west, 3304
6 Prospect.

7 The test of the 223 requirements is
8 whether there is an undue impact or whether
9 the privacy of use and enjoyment of
10 neighboring properties is unduly comprised.
11 And based on the evidence before us including
12 the fact that the rear of these properties is
13 south facing, that the addition would extend
14 the bulk of the building back only by
15 approximately six feet it was our conclusion
16 that there is not undue impact or an undue
17 compromise on the privacy of use and enjoyment
18 of neighboring properties.

19 With regard to the character and
20 the scale and pattern of houses along the
21 subject street frontage, clearly the addition
22 would be visible from 33rd Street. It would

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1 extend back and become visible.

2 Again, extending it back only by
3 six feet would not inconsistent with the
4 extension of either Mr. Haar's property to the
5 west or with other properties along the
6 Prospect Street frontage also which extend
7 further back approximately along the same rear
8 building line.

9 And as the applicant has indicated
10 and as we've noted in our report, the
11 applicant will be required to go before the
12 Historic Preservation Review Board, submit a
13 design, proposal and get building materials
14 and fenestration approved. And that will
15 certainly have a positive impact on the
16 applicant's ability to fit in with the
17 surrounding character.

18 So in summary, the Office of
19 Planning does recommend approval of this
20 application. And I'm available for any
21 questions.

22 BZA VICE CHAIR DETTMAN: Thank you,

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1 Mr. Emerine.

2 Board members, any questions for
3 the Office of Planning?

4 MEMBER MOLDENHAUER: Good afternoon
5 -- or good morning. We're not in the
6 afternoon just yet, are we?

7 A couple of questions for you. You
8 mentioned the fact that the addition would
9 conform with some of the other additions on
10 the block.

11 MR. EMERINE: I think what I said
12 is that it would extend to approximately the
13 same depth as some of the other additions on
14 the block.

15 MEMBER MOLDENHAUER: Because it
16 looks to me, and I'm just trying to make sure
17 I understand the facts here, that the other
18 homes beyond I guess 3306 -- I'm sorry. Beyond
19 3304 are all actually originally longer or
20 larger because they setback from Prospect, is
21 that correct?

22 MR. EMERINE: I'm not sure that

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1 they're longer in total. But you're correct
2 that they are set back further from Prospect.

3 MEMBER MOLDENHAUER: Setback
4 further from Prospect, and that's why they are
5 setback?

6 MR. EMERINE: That's correct.

7 MEMBER MOLDENHAUER: Did your
8 analysis take into consideration even though
9 some of these other properties on Prospect are
10 setback further, that this property, the
11 applicant's property is only the second house
12 no the corner and that any addition would be
13 more visible from 33rd Street and how that
14 would effect the neighborhood?

15 MR. EMERINE: I did consider the
16 fact that the property is closer to 33rd
17 Street. I guess in the end, I didn't see
18 anything in the proposal that didn't meet the
19 test of section 223.2(c), a substantial visual
20 intrusion. It's certain visible, I'll concede
21 that. In fact, I acknowledge that.

22 I guess there are other sort of

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1 structures including the wall that is along
2 33rd Street that I think, you know to a
3 certain extent, mask at least the lower
4 reaches of the first floor part of the
5 addition. So to me it met the test of not
6 substantially visually intruding.

7 MEMBER MOLDENHAUER: And I guess my
8 problem isn't as much with a lower floor
9 addition. It is kind of I guess with how
10 adding that second floor of the addition
11 effects: (1) The visual intrusion from the
12 street seen from 33rd, and; (2) the potential
13 light on neighboring properties. How did you
14 look at that? What was your analysis in that
15 regard?

16 MR. EMERINE: Well, again,
17 regarding the light available, any light
18 available that potentially could be blocked by
19 the second floor portion of the addition, I
20 think the factor that I weighed -- the two
21 factors that I weighed most heavily were: (a)
22 that the rear of these properties is out

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1 facing and then therefore already receives
2 relatively substantial sunlight and that the
3 increase and extension by six feet I did not
4 think would be likely to have a substantial
5 impact on the light available.

6 Now, you know, you asked about
7 light studies before. And the Office of
8 Planning did not conduct any light studies to
9 gain greater evidence of that. It was more
10 based on an analysis of the photos and of the
11 site visit that I undertook.

12 With regard to the visual character
13 of the neighborhood. I think that the
14 properties that you mentioned earlier that are
15 setback further from Prospect Street are
16 visible extending back there. Whether I
17 listed whether or not they're setback, the
18 fact is that they are visible. So that to me,
19 the fact that this addition was relatively
20 consistent with that seemed to me to be -- and
21 the fact that those addition -- excuse me.
22 More than likely original rear portions of

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1 those other buildings. And it's consistent
2 with the depth of those and that those are
3 also two stories indicated to me that it was
4 basically consistent with the pattern of the
5 rear of those properties as you would view it
6 from 33rd Street.

7 MEMBER MOLDENHAUER: Thank you very
8 much.

9 ZC CHAIR HOOD: I want to talk a
10 little bit again, and Ms. Moldenhauer's line
11 of questioning. Again, in your report, Mr.
12 Emerine, is the -- let me see. 223.2 again the
13 light and air. And you said that based on the
14 site visit OP does not believe that the
15 proposed addition would significantly impact
16 the light and the air available to the
17 neighboring property to the east. What about
18 on the other side? I think to the east, and
19 my orientation may be off. It's hard to
20 believe I have orientation merit badge. But
21 anyway, and that's speaking in the terms of
22 the opponent's, the party who is in

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1 opposition, are you to the west or are you to
2 the east?

3 If you could turn your mic on.
4 Okay.

5 And I'm sorry, Mr. Chairman.
6 Because I just want to try to get a --

7 MR. HAAR: I believe it's to the
8 west, close to the Georgetown University. I
9 guess my east/west --

10 ZC CHAIR HOOD: Oh, so you're me?
11 Okay. Good. And I'm not as familiar with the
12 neighborhood as Ms. Moldenhauer. Because I
13 notice in your report you say to the east.

14 MR. EMERINE: I believe my report
15 mentioned both properties. The first mention
16 I think at the very beginning of our analysis
17 under 223.2(a) refers to the property to the
18 east, which I believe the applicant has
19 indicated has submitted a letter of support.

20 And the property to the west in
21 question is Mr. Haar's property.

22 ZC CHAIR HOOD: Okay. And I'm just

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1 looking, and help me. And I'm looking at your
2 analysis and I may have overlooked it. At the
3 bottom of page 2 where it addresses the
4 standard 223.2. You're saying your analysis
5 based on this site visit, and then you go on
6 and then you say "significantly impact the
7 light and air relative to the neighboring
8 property to the east." And I just didn't --
9 can you help me?

10 MR. EMERINE: Yes, sir. And then
11 on the top of page 3 I then proceeded with an
12 analysis of any potential impact on Mr. Haar's
13 property, the property to the west.

14 ZC CHAIR HOOD: You know why I
15 don't have it? Because I don't have page 3.
16 Oh, okay. Okay. Okay.

17 But anyway -- okay. I appreciate
18 that. You do mention that.

19 Let's look at the tabulation sheet
20 on page 2. Lot occupancy. So we're only
21 going over, what, 9.8 percent based on the
22 building of an area of 955.4 square feet, is

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1 that correct?

2 MR. EMERINE: That's correct.

3 ZC CHAIR HOOD: And we're talking
4 about six feet?

5 MR. EMERINE: That's correct.

6 ZC CHAIR HOOD: Okay. All right.
7 Thank you.

8 BZA VICE CHAIR DETTMAN: Thank you,
9 Chairman Hood.

10 Does the applicant have any
11 questions for the Office of Planning?

12 MR. EVANS: Questions or
13 statements?

14 BZA VICE CHAIR DETTMAN: Questions
15 for the Office of Planning?

16 MR. EVANS: No.

17 BZA VICE CHAIR DETTMAN: No?

18 Mr. Haar?

19 MR. HAAR: Yes. Yes, I have
20 questions.

21 From what I understand here you say
22 3304 will not be unduly effected. Did you

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1 take into account that with the properties
2 that are inset on 3306 extending further up
3 the street, that therefore extend further into
4 the rear yard and with the six foot extension
5 that our rear will in effect will be hemmed in
6 on both sides and that the views, did you take
7 into account that it would restrict the views
8 from the second floor?

9 You also mentioned a structure that
10 extends out eight feet, but did you take into
11 account it's a screened porch, not a solid
12 wall brick structure, which is totally-- I
13 don't see how you can say that's consistent
14 with a three story, first floor, second, third
15 all brick structure that impedes air flow and
16 light, and certainly our views that would be
17 restricted to a side wall of a townhouse on
18 33rd Street. I have the address somewhere in
19 here in my letter. I don't recall what it is.

20 Also, when you say it doesn't
21 effect --

22 BZA VICE CHAIR DETTMAN: Mr. Haar,

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1 do you have a question for the Office of
2 Planning?

3 MR. HAAR: Sure. Did you take a
4 look at the applicant's photo, not mine but
5 the applicant's photo which surely clearly
6 shows a shadow line when coming to the
7 determination that our property would not be
8 unduly effected?

9 MR. EMERINE: Which photo are you
10 referring to, sir?

11 MR. HAAR: I'm referring to --
12 let's see which one. It's this one here that
13 shows -- it should be in the package.

14 MR. EMERINE: Yes.

15 MR. HAAR: Which distinctly shows a
16 very sharp shadow line going to the very edge
17 of our property. Now with all due respect to
18 light engineering, it doesn't take a lot of
19 imagination that if this is coming out the way
20 it is here, I'm just curious how after looking
21 at this photo you could come to a
22 determination that our light would not be

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1 impacted in a significant way?

2 MR. EMERINE: Okay. I did look at
3 that photo. I do see the shadow that you're
4 referring to. And I think it's difficult to
5 say how far that shadow would extend without
6 doing a shadow study, essentially, as a result
7 of the six feet in added depth.

8 MR. HAAR: But again you said that
9 there was no light study done. So in the
10 absence of a light study, I think it's a
11 heroic leap of faith to say that it's not
12 effected. I believe it will be impacted. And
13 I believe most light engineers looking at this
14 photo will say at certain times of the day
15 we're going to be in a dark shadow.

16 I also have photographs from the
17 inside I'll present later that further
18 demonstrate that point.

19 MS. GLAZER: Mr. Chair, I wonder if
20 we could back up for a moment and just for the
21 record, say, refer to the exhibit number of
22 the photographs? I believe it's Exhibit 6.

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1 But I wonder if the applicant or if Mr. Haar
2 could point out which photographs by exhibit
3 number and if it's --

4 MR. HAAR: I don't have an exhibit
5 number. And I don't know. I got this several
6 weeks ago in the mail.

7 BZA VICE CHAIR DETTMAN: Okay.
8 Thank you, Ms. Glazer.

9 It is indeed Exhibit 6 and it's the
10 last photograph, the third photograph in that
11 exhibit.

12 MR. HAAR: And I might add that's
13 the applicant's photo, not mine.

14 BZA VICE CHAIR DETTMAN: That's
15 right.

16 And again, this is the time for
17 questions for the Office of Planning. If you
18 ask a question and you disagree with the
19 response, the time to address that would be
20 during your case.

21 MR. HAAR: Okay. I guess a
22 question also with the fact that my question

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1 would be you said that in your study here
2 light and air would not be impacted. Again,
3 did you take into account not only would there
4 be an extension on one side, but that our
5 property would actually be inset or hemmed in
6 on both sides? I just want to make sure that
7 -- because that's -- it's not just an
8 extension on one side, we're looking at being
9 hemmed in on two sides here. I just want to
10 make sure you took that into account?

11 MR. EMERINE: Yes, that's correct.

12 I did that into account. And I think it's the
13 basis of our conclusion that there would not
14 be an undue impact was based on additionally
15 that the six foot added depth would
16 essentially not be so intrusive as to cause
17 any major impacts.

18 MR. HAAR: That's all the questions
19 I have for now. I'll have the opportunity
20 later to ask additional questions, correct?

21 BZA VICE CHAIR DETTMAN: Sure.

22 MR. HAAR: Thank you.

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1 BZA VICE CHAIR DETTMAN: Board
2 members, any additional questions?

3 Checking with the applicant, any
4 questions for the Office of Planning?

5 MR. EVANS: Not at this time.
6 Thank you.

7 BZA VICE CHAIR DETTMAN: Okay.
8 Moving on, at this point we go to the ANC.
9 And we've inquired twice if anyone from the
10 ANC is here. Noting that there's no one from
11 the ANC present, we do have their resolution.

12 That's our Exhibit 27 from ANC 2E stating
13 that they held a meeting on November 2nd, it
14 was duly notice, at which time seven members
15 were present and they adopted the following
16 resolution: To oppose any additions to the
17 property noting that the property is already
18 eight square feet beyond Zoning Regulations
19 and that they do not want to see further
20 building in that area.

21 They also note that the addition
22 will have a negative impact on the adjoining

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1 property as to light, air and views.

2 And again, that's our Exhibit 27.
3 And it appears to meet the great weight
4 requirements per our rules. So I think that
5 the Board will consider that at the time we
6 deliberate this case.

7 And it's to you, Mr. Haar, for your
8 case.

9 MR. HAAR: To reiterate what I
10 started on early on at the wrong time, you
11 know any allowed variance from the 60 percent
12 rule I believe would impact us to a much
13 greater degree than any of the other
14 properties. The requested variance and the
15 resulting extension would basically hem us in
16 on two sides.

17 The 3306 side because those
18 properties, 3306 and continuing west, all
19 those properties are inset 16 feet 2 inches
20 from inset further than 3304, 3302, 3303. As
21 a result, those rear properties extend out
22 further and don't violate the 60 percent rule

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1 as is proposed by the applicant. Okay. They
2 adequately accommodate the associated rowhouse
3 structures.

4 And in addition, and I talked a
5 little bit about the light, air and view, it
6 would restrict our view out the back window to
7 basically a two story brick wall, whereas in
8 one of the windows we can see 33rd Street we'd
9 be looking at a two story brick wall at the
10 townhouse behind our property on 33rd Street.

11 It would have a serious impact on
12 light. I took these photographs, and I don't
13 know if it's appropriate. This was before the
14 ANC meeting. Showing the amount of light.
15 This is --

16 BZA VICE CHAIR DETTMAN: Mr. Haar,
17 do you have copies for the Board?

18 MR. HAAR: I do not have copies.

19 BZA VICE CHAIR DETTMAN: If those
20 are photos that you want to submit into the
21 record --

22 MR. HAAR: Yes, i do.

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1 BZA VICE CHAIR DETTMAN: -- then
2 maybe we can get some copies. And the
3 applicant will need some copies as well.

4 Thank you, Ms. Bailey.

5 MR. HAAR: The view from some of
6 the windows, not all but some of the windows
7 would be limited to a two story brick wall,
8 that's 1218 33rd Street. It would also disrupt
9 the uniform pattern of a townhome. hose three
10 townhomes were built together in 1890 by a
11 lady by the name of Lucy Songer.

12 The idea that it would not impact
13 the views from 33rd Street, I mentioned
14 there's a tree in the way. That tree was
15 taken down, the photographs will show that
16 since the original photographs were taken. It
17 will look rather funny. It will effect the
18 uniform view that you now have the three rear
19 townhomes.

20 Okay. I'd also like to talk about
21 the rear porch that we have, since that's been
22 mentioned as a reason why extending out six

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1 feet with a solid brick structure would not
2 unduly effect our property. The porch was
3 built in 1916. I have a copy of the original
4 permit that was taken out. It's a screened
5 porch. It in no way impacts the air, light or
6 views of anyone, especially where our property
7 is located given the adjoining wall at 3306
8 and the fact that 3304 -- 3302, excuse me and
9 3300 are both closer to 33rd Street.

10 It i no way supports the argument
11 that the proposed changes to lot occupancy
12 limits would have minimal effect because those
13 limits have already been exceeded by the
14 screen porch. Again, it doesn't impact air or
15 light to my adjacent neighbors.

16 I realize, you know, that the
17 applicant is well intentioned and would very
18 much like this space, but I really firmly -- I
19 adamantly believe that this would have a major
20 impact as it relates to the character and
21 quality of the property. It would effect the
22 light. It would effect the air flow. And it

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1 certainly would effect the views.

2 And 33rd Street is traffic. You
3 know, there's a lot of pedestrian traffic.
4 It's hard for me to imagine disrupting the
5 uniform pattern of a historic run of rowhouses
6 and at the same time hemming in our property
7 would be appropriate.

8 BZA VICE CHAIR DETTMAN: Mr. Haar,
9 Ms. Bailey is just handing out the photographs
10 that you submitted. And if you wanted to
11 describe what we're looking at here, that
12 would be great.

13 MR. HAAR: Okay. I don't have
14 them, obviously, numbered. This is a side
15 view with the tree taken out. And so you can
16 begin to see how our property would be hemmed
17 in by having an extension. Our property would
18 be in between these two. Again, you can see
19 it's a screened porch. It's almost a 100 years
20 old. It was built by the grandparents of the
21 people we purchased the property from. So it
22 would have impact the uniform view.

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1 A second photograph was taken the
2 day of the ANC meeting. I didn't choose it
3 for any particular time. I wanted a
4 photograph before going to the ANC meeting.

5 Just to show you the difference in
6 light, one, it's a second floor window, two
7 windows. One is adjacent to 3302. It gave you
8 a kind of idea of what would happen to the
9 amount of light coming through if the wall was
10 extended.

11 The one in back, the light is not
12 blocked. Just to give you an idea that the
13 proposition that my light would not be
14 severely impacted, just, I don't believe it
15 accurate.

16 And by the way, this is the view
17 from 33rd Street, the original one. So it's
18 hard to see -- it's pretty noticeable. I
19 really take issue with the idea hat because
20 it's a one way street that impacts how
21 noticeable this addition would be.

22 That's it.

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1 BZA VICE CHAIR DETTMAN: Thank you,
2 Mr. Haar.

3 Board members, any questions for
4 Mr. Haar?

5 ZC CHAIR HOOD: Yes. I know you're
6 not an expert, and neither am I. But just try
7 to help me understand.

8 So with the addition of six feet,
9 and I'm looking here -- it's not an exhibit,
10 but your second picture, the last one that you
11 just spoke about, this light area here. I
12 think that's your rear of the property, right?

13 So looking at this picture, the way
14 of the lines and looking at this picture, with
15 the six feet at some point it'll probably be
16 parts of the day when you won't get any light.

17 But do you think, and I know you're not an
18 expert, I'm just asking; do you think that
19 that will -- it will diminish the amount of
20 time you may get with the light depending on
21 the rotation of the sun, but you still would
22 probably get this type of light at some point

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1 in time during the day, am I correct?

2 MR. HAAR: I don't know. I'm not a
3 light expert. And I don't know what a light
4 expert would say in terms of what percentage
5 of the time it would be blocked versus, you
6 know, how many hours a day we would have of
7 unrestricted light.

8 ZC CHAIR HOOD: Right.

9 MR. HAAR: But just looking at the
10 other photograph, which is Exhibit 6 of the
11 applicant, and the dark shadow line that goes
12 to the very edge of our property. Again, I'm
13 a layman, I don't know anything about light
14 studies. But it really is difficult for me to
15 believe that with this dark shadow line one
16 could draw the conclusion that our light would
17 not be seriously impacted.

18 ZC CHAIR HOOD: And maybe that was
19 an unfair question. I'm just trying -- I
20 figured between the two of us, you live there
21 and I know what I'm seeing, and we can figure
22 out that at some point I know that this will

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1 be impacted. But I guess six feet, I'm trying
2 to figure out how much and for how long. And
3 I guess maybe that --

4 MR. HAAR: Well, the way I look at
5 it, again this is a very uneducated guess, I
6 look at, okay, it extends out six feet. This
7 dark shadow line, at some part of the day its
8 going to extend out another six feet.

9 MEMBER MOLDENHAUER: Can I jump in
10 here and ask a quick question of the
11 applicant?

12 These are you pictures, correct?

13 MR. EVANS: Yes. And
14 unfortunately, taken too early in the day.

15 MEMBER MOLDENHAUER: That's my
16 question. Just so we can have an idea, what
17 time do you recall at all?

18 MR. EVANS: Probably closer to
19 eight. 7:30.

20 MEMBER MOLDENHAUER: 8:00 a.m.
21 Right, early in the morning. Just so that it
22 gives us reference. Thank you.

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1 Sorry.

2 ZC CHAIR HOOD: Okay. And, Mr.
3 Haar, what time were your pictures taken?

4 MR. HAAR: My photographs were
5 taken probably it was close to -- this was,
6 like, within a two hour window between 10:00
7 and noon.

8 ZC CHAIR HOOD: Okay. And what
9 time frame was it? I mean, recently? Your
10 pictures were taken recently?

11 MR. HAAR: Like, it was the day of
12 the ANC meeting. I don't have a date in front
13 of me, but you have the letter.

14 ZC CHAIR HOOD: And the applicant,
15 when were your pictures taken?

16 MR. HAAR: November 7th, I believe.

17 ZC CHAIR HOOD: When were your
18 pictures taken, what time of the year?

19 MR. EVANS: What time of the day?

20 ZC CHAIR HOOD: Actually year.

21 MR. EVANS: Oh, I'm sorry. Two
22 months ago.

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1 ZC CHAIR HOOD: Okay. All right.
2 Thank you. Thank you, both.

3 BZA VICE CHAIR DETTMAN: Does the
4 applicant have any questions for Mr. Haar?

5 MR. EVANS: Yes, I do.

6 Can I ask what your lot coverage is
7 existing?

8 MR. HAAR: You mean the percentage?

9 MR. EVANS: Yes.

10 MR. HAAR: I'm assuming it is right
11 at 60 percent. I believe all -- that's my
12 understanding just looking at the plat I have.

13 And my understanding from looking at a copy
14 of my survey and a copy of the plan that you
15 submitted. And I'm assuming, you know, that
16 it is at 60 percent because its built out just
17 like yours is. And you said your lot occupied
18 60 percent. So I'm assuming it is the same.

19 MR. EVANS: Okay. Thank you.

20 MR. HAAR: Excuse me. That does
21 not include -- I did not into account the
22 screened porch because the plat, I was just

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1 looking at the actual building itself. So I
2 don't know how the screened porch itself would
3 impact that. But, again, it's not a solid
4 wall structure. And its a 100 years old.

5 BZA VICE CHAIR DETTMAN: Mr. Evans,
6 anymore questions?

7 MR. EVANS: Of the opponent? No.

8 BZA VICE CHAIR DETTMAN: I think
9 now would be the time, because the next point
10 in the proceeding is we'll open it up to
11 persons in the audience in support or against,
12 there might be one or two, and then we turn it
13 back to you for closing statements. So if you
14 do have any further questions, I would
15 recommend that maybe now is the time to ask
16 them. No additional?

17 MR. EVANS: I have none.

18 BZA VICE CHAIR DETTMAN: Okay. I
19 do have a couple of questions for the
20 applicant. Referring to the photos that were
21 submitted by Mr. Haar, the one taken from 33rd
22 Street, just kind of a rough estimate in

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1 relation to the screened porch you can see the
2 vertical support that's there separating the
3 two screened windows. How far in advance of
4 that vertical support would the extension go?
5 Would it be half way?

6 MR. EVANS: Half way.

7 BZA VICE CHAIR DETTMAN: Half way?
8 Yes.

9 And right now you're at around 56
10 percent, 56.5 percent?

11 MR. EVANS: Again, given the
12 courtyard rule, once we touch a brick we're
13 over six feet.

14 BZA VICE CHAIR DETTMAN: So in OP's
15 report on page 2 I think under existing 56.5
16 percent, does that include the nonconforming
17 open court?

18 MR. EMERINE: If you're asking me
19 to answer that, I think that I might have
20 erroneously included the nonconforming open
21 court from that. So I think the applicant's
22 information that its right around 60 percent

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1 currently is the more accurate number.

2 MR. EVANS: It's actually 61
3 percent. 61.9.

4 BZA VICE CHAIR DETTMAN: Did you
5 explore any other options other than what
6 you're proposing now looking to setback the
7 addition from Mr. Haar's side property? I
8 know you're filling in the nonconforming
9 court. But any different variations on the
10 project that attended to some of the concern
11 that Mr. Haar's raising?

12 MR. EVANS: Yes. As a matter of
13 fact that's why we are coming back from a
14 variance. We wanted to go to seven feet, which
15 still did not go to the extent of Mr. Haar's.
16 But in an effort to stay within special
17 exception raise our chances of obtaining this
18 and having less impact on any air or light,
19 this is where we are.

20 BZA VICE CHAIR DETTMAN: Do you
21 didn't explore a setback from Mr. Haar's
22 property at a six foot extension?

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1 MR. EVANS: You mean a side
2 setback? No.

3 BZA VICE CHAIR DETTMAN: I don't
4 have any other questions.

5 Colleagues? Nothing? Okay.

6 It's a little bit uncharacteristic
7 because right now we turn it to the audience.
8 But I will ask the applicant as well as Mr.
9 Haar, any last minute questions for the
10 applicant for the Office of Planning?

11 MR. HAAR: Sure. I just wanted to
12 make sure I understood the response to the
13 question in terms of halfway between. What
14 was the photograph that was being referred to?

15 BZA VICE CHAIR DETTMAN: I was
16 referring to your picture. We can use that
17 one as well. As essentially the addition is
18 going to come about halfway.

19 MR. HAAR: Okay. My understanding
20 this comes out about eight feet. And the six
21 and a half feet would be inset a foot and a
22 half. And this is like over about a three

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1 foot span. So I think that understates the
2 extension. Six and a half feet would be a
3 foot and a half in from here. So that is more
4 than an insignificant difference.

5 BZA VICE CHAIR DETTMAN: I think
6 the applicant wants to address that.

7 MR. EVANS: We wanted to clarify
8 what we had done. Coming back from a variance
9 going to a special exception, actually brought
10 us back to six feet, not six and a half feet.

11 And I think since the existing main structure
12 rear elevations are at the same point, each
13 section of that screened in porch would
14 represent four feet. So we're looking at one
15 and a half sections.

16 BZA VICE CHAIR DETTMAN: Okay. At
17 this point in time let's turn it to the
18 audience.

19 Is there anyone in the audience
20 here wanting to testify either in support or
21 again the project? Seeing none, it's back to
22 the applicant for closing statement.

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1 Oh, I'm sorry. Why don't you come
2 up and join us? You need to get no the mic.
3 You need to turn the mic on.

4 MS. KULSRETHSIRI: Hello.

5 BZA VICE CHAIR DETTMAN: Thank you.
6 And state your name for the record.

7 MS. KULSRETHSIRI: I'm sorry?

8 BZA VICE CHAIR DETTMAN: We need
9 your name for the record.

10 MS. KULSRETHSIRI: Sulyporn
11 Kulsrethsiri.

12 BZA VICE CHAIR DETTMAN: Okay.

13 MS. KULSRETHSIRI: I'm
14 Samia's friend. I just wanted you to know
15 that I'm not impartial. And she takes care of
16 the grandchildren sometimes.

17 BZA VICE CHAIR DETTMAN: Okay.

18 MS. KULSRETHSIRI: And she just
19 needs a room for her grandchildren to play
20 with. Just like that. And so there won't be
21 any noise, anything. There's just be kids
22 crawling and playing. And by about 5:00 --

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1 and she doesn't do it all the time. She just
2 does it when the parents need her to do it.

3 So just to have an empty room out
4 there for the kids to play, one level, without
5 any floor, I'm kind of -- I love her
6 grandchildren, so that's all. And it is very,
7 very subjective. I just want everybody to
8 know that.

9 BZA VICE CHAIR DETTMAN: Okay.
10 Well, thank you. I appreciate your patience
11 and your comments.

12 MS. KULSRETHSIRI: Oh, I have to
13 swear also?

14 BZA VICE CHAIR DETTMAN: Ms.
15 Bailey, why don't we administer the oath just
16 to keep things squared away here.

17 (Witness sworn.)

18 BZA VICE CHAIR DETTMAN: I
19 certainly hope her comments about her love for
20 the children was the truth.

21 Okay. At this point it's back to
22 the Board for a decision on whether or not

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1 we're prepared to go forward with a decision
2 today or putting this off for a later date.
3 And I'd be willing to entertain comments from
4 my colleagues on that.

5 MEMBER MOLDENHAUER: Mr. Chairman,
6 I believe that we are able to go forward
7 today. I think that there were some questions
8 as to not having light studies. I don't think
9 we actually need that. I think that based on
10 the testimony. Sometimes we get those light
11 studies, sometimes we don't. I don't think
12 it's an absolute requirement in order for us
13 to determine whether or not the record is
14 full. And in my opinion, I believe that we
15 can move forward today.

16 BZA VICE CHAIR DETTMAN: Yes?

17 MR. EVANS: Regarding proceedings,
18 I hope I didn't misunderstand. I thought I was
19 going to have an opportunity for a closing
20 statement.

21 BZA VICE CHAIR DETTMAN: You will.
22 I thank you for that.

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1 Why don't we do that now?

2 MR. EVANS: Okay. I think in
3 closing I respectfully admire Mr. Haar for
4 being here and expressing his concern.

5 With regards to the character and
6 staying within the scale, which is letter C of
7 section 223, we really do believe that this is
8 going to be an improvement to the area. And I
9 think that with regards to how light might
10 effect 3304, Mr. Haar might know better if he
11 were an actual resident of that address, which
12 I don't think you've actually lived in. So I
13 can appreciate that as well. But I do believe
14 that with regards to Zoning, 3304, Mr. Haar's
15 residence, would be excess of 70 percent. And
16 we're not even looking for 70 percent here.

17 I think the property would enhance
18 character. And I'm not going to go into the
19 photographs that we could provide from the
20 interior of 3302 looking at the screened
21 porch. I know it was built between -- or
22 before 1958. It might seem a little unfair

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1 that just because in fact it was built before
2 1958 that 3304 gets a certain lot coverage and
3 3302 does not. And I understand that the
4 Department of Zoning is in fact looking at
5 recalculating its calculations for Zoning and
6 how it has been unfair to my jurisdictions.
7 And I believe that ours is in fact in that
8 category.

9 That is all.

10 MR. HAAR: Could I respond to
11 something that I believe is not totally
12 accurate?

13 BZA VICE CHAIR DETTMAN: I think
14 that it's come back to the Board. I mean the
15 applicant does give closing statements.

16 As to his comment about whether or
17 not you live in the property, that was in the
18 record. We noticed that. And it really --

19 MR. HAAR: But part of the record
20 is, you know --

21 BZA VICE CHAIR DETTMAN: --may not
22 have an impact on the proceeding.

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1 MR. HAAR: We do plan to make it
2 our home after our kids graduate from college.

3 I have three in college at the same time, so
4 you can offer your condolences here or in
5 private. I have two in state schools so we
6 don't plan to leave Maryland until after
7 they're done. So that's the reason.

8 But we -- my wife was born at
9 Georgetown Hospital. We have a long family
10 history. And we want to -- we care deeply
11 about the neighborhood and plan to become a
12 member.

13 BZA VICE CHAIR DETTMAN: Well, as
14 the Board was discussing how to proceed, I
15 think the Board is going to need a little bit
16 of extra time to review the record. We think
17 the record is full, however we did want to
18 make available the opportunity to you, Mr.
19 Haar, to supplement the record with any kind
20 of statement that you wanted to submit since
21 you did get the Office of Planning's report
22 just today.

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1 MR. HAAR: Yes.

2 BZA VICE CHAIR DETTMAN: In that
3 filing you can stipulate how you feel the
4 Office of Planning report is in error, you can
5 talk about the points that you just made about
6 your intentions with the property. If you do
7 submit something, the applicant will have the
8 opportunity to respond to that filing. So if
9 that's the way you want to proceed, we can
10 start to put together a briefing schedule.

11 MR. HAAR: I believe everything was
12 said as part of the record and will be
13 considered. And a written statement would
14 just be a repeat of what has been communicated
15 orally regarding, you know, the lack of light
16 study.

17 BZA VICE CHAIR DETTMAN: Okay.
18 Okay. Well then that being said, I think the
19 record is full and we're going to put this off
20 for a decision.

21 We do have the necessary number of
22 Board members, that's three, in order for us

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1 to render a decision. However, I think
2 between now and the time that we do decide the
3 case we will have either one, maybe two other
4 Board members that will read the record and
5 the transcript thoroughly and potentially
6 participate in the vote.. That's not a
7 definite thing, but it's a chance that that
8 might happen.

9 Mr. Moy, you we have any potential
10 dates that this could work?

11 SECRETARY MOY: Well, if we're
12 waiting for the transcript to be available, it
13 takes about two weeks, so that would rule a
14 decision by the Board for next week. So we're
15 looking at January, either a Special Public
16 Decision Meeting on January 12th or the 19th.

17 BZA VICE CHAIR DETTMAN: I see that
18 we do have a slot for a Public Meeting on
19 January 12th. That's the Board's first day
20 back.

21 What was the second date? You said
22 January 12th or?

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1 SECRETARY MOY: Or the following
2 week.

3 BZA VICE CHAIR DETTMAN: How does
4 January 12th work? Well, it's a decision so
5 we don't take any public testimony, just the
6 Board deliberating the case. You can attend
7 the decision or you can watch on the website.
8 So why don't we just go ahead and schedule it
9 for the 12th unless the applicant and the
10 party opponent don't want to have that date.

11 MR. EVANS: Is there any benefit
12 for either party to be here?

13 BZA VICE CHAIR DETTMAN: No.

14 MR. EVANS: Okay.

15 BZA VICE CHAIR DETTMAN: I don't
16 think so. And sometimes in cases where the
17 Board might have a question that requires you
18 to come up. But I think that the record is
19 full here and any questions the Board might
20 have been answered. Okay.

21 MR. HAAR: What time on the 12th
22 would that be?

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1 BZA VICE CHAIR DETTMAN: It's going
2 to be in the morning. So 9:30, Mr. Moy?
3 January 12th, 9:30.

4 MS. EL-BAROUDY: Mr. Chairman, can
5 I submit this letter from my neighbor for the
6 record?

7 BZA VICE CHAIR DETTMAN: Do we not
8 already have those? I thought I saw something
9 in the record.

10 Sure. Why don't you submit that and
11 get a copy to Mr. Haar as well.

12 MS. BAILEY: Mr. Chairman, to be
13 absolutely clear, the record is closed. No
14 additional information is to be filed, is that
15 correct?

16 BZA VICE CHAIR DETTMAN: Going
17 forward?

18 MS. BAILEY: Going forward?

19 BZA VICE CHAIR DETTMAN: That's
20 correct.

21 MS. BAILEY: Thank you.

22 BZA VICE CHAIR DETTMAN: So why

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1 don't we get a copy of that letter, again.
2 Give a copy to Mr. Haar. And at that point,
3 the record will be closed.

4 I think that's it for this case,
5 and we can move forward and call the next
6 case.

7 Thank you very much. I appreciate
8 your time. And the Board will thoroughly
9 deliberate this on the 12th.

10 And, Ms. Bailey, when you're ready.

11 MS. BAILEY: Thank you, Mr.
12 Chairman.

13 Application 18008. This is the
14 application of M. Sikder, and it's pursuant to
15 11 DCMR § 3104.1, for a special exception to
16 construct a one-family row dwelling under
17 section 353. The property is located in R-5-A
18 District at premises 832 Bellevue Street,
19 Southeast. Square 5924, Lot 142.

20 BZA VICE CHAIR DETTMAN: Thank you,
21 Ms. Bailey. And it appears we have the
22 applicant at the table, Mr. Sikder. Good

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1 afternoon. How are you? Welcome back.

2 Just a couple of question before we
3 proceed. Have you taken the oath? Have you
4 been sworn in?

5 MR. SIKDER: Yes.

6 BZA VICE CHAIR DETTMAN: Okay.
7 Secondly, I just wanted to say that the Board
8 has reviewed the record. And we're of the
9 mind that it's a very full record. We might
10 have some questions, specific questions, but I
11 say this because I'll give you the opportunity
12 if you are comfortable with where the record's
13 at, you could either rest on the record or you
14 could very, very quickly take the Board
15 through the provisions of 353 and supplement
16 the record through oral testimony, or we can
17 go directly through Board questions. I'll
18 give it up to you, whichever you're most
19 comfortable with.

20 MR. SIKDER: It is okay with me in
21 any process you'd -- I mean, if you'd like to
22 ask me some questions, I can answer. If

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1 that's the way it will be easier, that's fine
2 with me.

3 BZA VICE CHAIR DETTMAN: Okay. And
4 we have a very good Office of Planning report,
5 which we'll get to.

6 Board members, do you have any
7 questions?

8 ZC CHAIR HOOD: Mr. Chairman, I
9 just want to ask Mr. Sikder, Exhibit 23. I
10 really didn't get a really good feeling of
11 figuring out the ANC supported it or -- what
12 was the feeling? You have in that Exhibit
13 page 101 the questions that were asked by the
14 ANC, but what was their general feeling after
15 these questions were answered?

16 MR. SIKDER: Well, at the meeting
17 we had some comments, that me, I have a
18 theory.

19 ZC CHAIR HOOD: I think right
20 behind your initial letter.

21 MR. SIKDER: Right. I think I
22 sensed that the issues at the time I filed

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1 that revised drawing, your question is type of
2 questions?

3 ZC CHAIR HOOD: Yes. I'm just
4 considering after these questions were
5 answered, like question No. 2: Would you hire
6 local employees for this project? I guess
7 your answer was "Yes, I would hire qualified
8 persons." And some of this stuff is not in
9 our jurisdiction, but I was just curious after
10 all these questions were answered, what was
11 the general consensus, even though I don't
12 think we have anything formal from the ANC?

13 MR. SIKDER: You know, from ANC at
14 the meeting actually a few of the people they
15 ask similar questions and we answered. And
16 then -- I mean, I guess you know a few of the
17 questions was -- I don't know if you received
18 this letter from the Commissioner -- I mean,
19 the ANC members I sent to Mr. Moy.

20 BZA VICE CHAIR DETTMAN: We didn't
21 see a letter from the ANC? If for some reason
22 it's not already in the record, is that

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1 something you can submit today?

2 MR. SIKDER: Yes. I received on
3 December 8. And I emailed the same date to
4 Office of Planning as well as Cliff Moy. But
5 I can give it to you right now. I have on
6 copy.

7 ZC CHAIR HOOD: Okay. Well, maybe
8 that'll answer my questions.

9 Thank you. Mr. Chairman.

10 BZA VICE CHAIR DETTMAN: Thank you,
11 Chairman Hood. Thanks for asking about the
12 ANC. That was a question that was in mind as
13 well.

14 Mr. Sikder, I'm looking at our
15 Exhibit 3, which is your statement of
16 explanations and reasons. And I recognize
17 this property from a previous BZA case that we
18 decided in July 2009 for an eight unit condo
19 building.

20 MR. SIKDER: Correct.

21 BZA VICE CHAIR DETTMAN: And I
22 guess I have a couple of questions. One is

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1 that in your statement in Exhibit 3 you make
2 reference to a 12 unit condominium building.
3 Is that --

4 MR. SIKDER: Yes, I realized that
5 was my error. I mean, somehow I missed two --
6 I mean, edit the statement properly. But I
7 intend to make it rowhouse. I mean, to
8 single-family rowhouse.

9 BZA VICE CHAIR DETTMAN: Single-
10 family rowhouse. Okay. Thank you.

11 I'm curious in OP's report there
12 was a note that building permits have been
13 issued for the properties that are immediately
14 adjacent. And was curious as to the reasoning
15 why you didn't pursue the eight unit apartment
16 building that was approved by the Board in
17 July. And your decision as to why you went
18 forward with this development proposal?

19 MR. SIKDER: Well, this because of
20 the market. I mean, actually we are supposed
21 to get some financing for condominium. But
22 because of the market banks are not willing to

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1 finance any project, especially in southeast
2 area. That was the one factor.

3 And then again, that some of the
4 ruling by FHA that from buyer's side they're
5 also not providing anything. So final thing.

6 So as a result, I mean we are
7 deciding which is the best way. But we
8 realize that condominium definitely will not
9 work because of this funding share and, I
10 mean, real estate market.

11 And the other too is there are -- I
12 mean, we can build those houses, the semi-
13 detach on both sides there as a matter-of-
14 right. So I think we applied all three for
15 the single-family homes. But in the middle
16 one they said we need a variance because this
17 is in R-5-A and its a special exception. So as
18 a result, we went forward.

19 BZA VICE CHAIR DETTMAN: Okay.
20 Thank you. I appreciate that. I was just
21 something that was on my mind having
22 participated in the previous proceeding.

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1 MR. SIKDER: Great.

2 BZA VICE CHAIR DETTMAN: Board
3 members, any other questions?

4 We've just received a letter from
5 the ANC. It doesn't appear to be an actual
6 resolution that would qualify for the great
7 weight requirement. However, it is a letter
8 from Ms. Sandra Seeger, the Chairwoman of ANC
9 8E.

10 MR. GIULIANI: Good.

11 BZA VICE CHAIR DETTMAN: Mr.
12 Sikder, anything else that you wanted to add?

13 MR. SIKDER: No.

14 BZA VICE CHAIR DETTMAN: Okay. Why
15 don't we just -- if there are no Board
16 questions, let's go to the Office of Planning.
17 And we have their report, our Exhibit 24. And
18 good afternoon.

19 MR. GIULIANI: Good afternoon to
20 you, Mr. Chair and members of the Board.

21 Michael Giuliani with the Office of
22 Planning.

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1 As the record's full, I would like
2 to get some direction as to whether or not
3 you'd like me to proceed with a full report.

4 BZA VICE CHAIR DETTMAN: I think
5 the record's full and it's a very full report
6 that you've provided us. If there's anything
7 that you wanted to supplement your report with,
8 that would be fine. I think I get a sense
9 that the Board is comfortable just going right
10 to questions if they have any.

11 MR. GIULIANI: There was no
12 additional information between our filing of
13 the report and today that we believe is
14 necessary is to be brought to the record. But
15 I would be happy to answer any questions,
16 should you have them.

17 BZA VICE CHAIR DETTMAN: Great.
18 Board members, any questions? Okay. I don't
19 have any questions either. Again, it was a
20 great report. And we certainly appreciate
21 that.

22 Does the applicant have any

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1 questions for OP?

2 MR. SIKDER: No.

3 BZA VICE CHAIR DETTMAN: Okay. Is
4 anyone ANC 8E here? No?

5 Anyone in the audience wishing to
6 testify in support or in opposition? Seeing
7 none, it's back to the applicant for a
8 closing.

9 MR. SIKDER: It's okay. No
10 closing.

11 BZA VICE CHAIR DETTMAN: Nothing
12 to--

13 MR. SIKDER: Nothing to add.

14 BZA VICE CHAIR DETTMAN: All right.
15 Okay. Then it's back to the Board.

16 I think the record is full enough
17 for us to go forward, and I can get us started
18 here.

19 This is an application for a
20 special exception pursuant to section 363 of
21 the Zoning Regulations which governs new
22 residential developments in the R-5-A zone.

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1 This is a proposal to construct a single-
2 family row dwelling at location 932 Bellevue
3 Street, Southeast. Relying upon the Office of
4 Planning's report I'll just stipulate for the
5 record that I think the provisions of 353 have
6 been met. Ad just quickly looking at them,
7 the application has been referred to the D.C.
8 Board of Education, the D.C. Department of
9 Transportation, and DHCD. I did not see
10 anything in the record, a response from them.

11 The applicant does in his statement
12 of explanation and reasons, stipulates that
13 the property is in close proximity to some
14 recreational facilities, some education, some
15 existing schools that can service this one-
16 family dwelling. The Office of Planning has
17 weighed in in support of the application,
18 that's our Exhibit 24. And with respect to
19 parking, the property will be serviced by a
20 parking pad located in the rear of the
21 property.

22 So, again, I think the provisions

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1 under 353 have been met and am prepared to
2 make a motion if Board members are ready.

3 If there's nothing further, I'll
4 move from approval of Application 18008,
5 pursuant to 11 DCMR § 3104.1, for a special
6 exception to construct a one-family row
7 dwelling under section 353 IN THE R-5-A
8 District located a 932 Bellevue Street,
9 Southeast.

10 MEMBER MOLDENHAUER: I second.

11 BZA VICE CHAIR DETTMAN: The
12 motion's been made and seconded. Is there
13 anything further? All those in favor say aye.

14 ALL: Aye.

15 BZA VICE CHAIR DETTMAN: Opposed?

16 And no abstentions.

17 Can we call the vote?

18 MS. BAILEY: Board members, the
19 vote is recorded as three-zero-two to grant
20 the application. Board Member Dettman made
21 the motion. Board member Moldenhauer
22 seconded. Commissioner Hood supported the

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1 motion.

2 BZA VICE CHAIR DETTMAN: Thank you,
3 Ms. Bailey. I think this should be
4 appropriate for a summary order. Thank you.

5 Thank you, Mr. Sikder.

6 And whenever you're ready to call
7 the next case.

8 MS. BAILEY: The last case this
9 morning is that of Ashley B. Poole, and it's
10 No. 18010, pursuant to 11 DCMR §3103.2, for a
11 variance from the rear yard requirements under
12 section 404, a variance from the court
13 requirements under section 406, and a variance
14 from the nonconforming structure provisions
15 under subsection 2001.3 to allow a second
16 story addition to an existing one-family row
17 dwelling. The property is zoned R-4, it's
18 located at premises 1212 Wylie Street,
19 Northeast. Square 1003, Lot 887.

20 BZA VICE CHAIR DETTMAN: Thank you,
21 Ms. Bailey. And it appears we have the
22 applicant at the table.

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1 Good afternoon. I really
2 appreciate your patience.

3 And for the record, if you're ready
4 to get started, if you could start off by
5 giving us your name and address?

6 MS. POOLE: Sure. Good afternoon.
7 Ashley Poole, 1212 Wylie Street, Northeast,
8 Washington, 20002.

9 BZA VICE CHAIR DETTMAN: Good
10 afternoon.

11 And you have, I see, one other
12 gentleman in the audience. Do you intend on
13 providing testimony today?

14 MS. POOLE: No.

15 BZA VICE CHAIR DETTMAN: No
16 testimony today? Great.

17 The Board has reviewed the record.
18 It's a fairly full record. But I think what
19 we will need is maybe you can take us through
20 the request, the areas of relief that you
21 need. And then if you're at all familiar with
22 the variance test that we have to apply, maybe

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1 you could take us through those as well.

2 MS. POOLE: Sure. And I have one
3 additional letter and copies from the Capitol
4 Hill Restoration Society.

5 BZA VICE CHAIR DETTMAN: You can
6 submit that now. Sure.

7 MS. POOLE: Okay.

8 BZA VICE CHAIR DETTMAN: Why don't
9 we give it Ms. Bailey so she can give us an
10 exhibit number.

11 We're in receipt of a letter from
12 the Capitol Hill Restoration Society
13 expressing unanimous support for the
14 application.

15 So, if you're ready, you can
16 proceed.

17 MS. POOLE: Yes. So as you
18 mentioned, I'm asking for a variance to add a
19 second floor addition onto an existing first
20 floor addition on the house. And the house
21 was already 77 percent lot coverage when I
22 purchased it in June. It's on a lot that's

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1 825 square feet. And the only way to get
2 additional space would be to add the second
3 floor addition. There's no other way to add
4 space onto the house. And it's a modest
5 addition of 147 square feet. And it would not
6 increase the foundational footprint of the
7 house at all.

8 It also would not impact the light
9 or air for the neighbors. And they have
10 submitted letters of support for his
11 additional.

12 And I'm sorry, I guess another
13 piece of it is noise. Would not add any
14 noise.

15 BZA VICE CHAIR DETTMAN: Thank you,
16 Ms. Poole. Is there anything else?

17 MS. POOLE: The other thing that I
18 would add is that the lots on Wylie Street are
19 all small lots and that my house was built in
20 1907, obviously before 1958 Zoning
21 Regulations. And it appears that
22 approximately 50 percent of the houses on the

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1 street, on the north and south side, are over
2 60 percent -- well actually I should say most
3 of the houses on the street are over 60
4 percent lot occupancy. And many of them have
5 had additions similar to what I'm asking for.

6 BZA VICE CHAIR DETTMAN: Did you
7 receive a copy of the OP report?

8 MS. POOLE: I did.

9 BZA VICE CHAIR DETTMAN: And have
10 you had a chance to read it then?

11 MS. POOLE: Yes.

12 BZA VICE CHAIR DETTMAN: Board
13 members, any questions?

14 ZC CHAIR HOOD: It has really not a
15 whole lot to do with it, but is this the same
16 block with The Fishing School? Is the Fishing
17 School in the --

18 MS. POOLE: It is, it's in the same
19 block. Yes.

20 ZC CHAIR HOOD: Okay. Thank you.

21 MEMBER MOLDENHAUER: If you take a
22 look at the OP report, I guess, one of the

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1 areas that OP has stated that you don't
2 satisfy as part of their statement to not
3 approve the application is the unique
4 conditions and circumstances. You know, can
5 you touch on that a little more.

6 MS. POOLE: Sure. When I talked to
7 Mr. Jackson about this before he submitted the
8 report, I -- you know, I think with the lot
9 being 15 by 55 feet and a very small living
10 space, I think that adding a small amount of
11 living space should be allowed. And many of
12 the houses on the street have actually already
13 have done that. So the precedence has been
14 set for modest additional like that.

15 MEMBER MOLDENHAUER: Do you know
16 any specific Zoning orders or any of those
17 application numbers that you're referencing?

18 MS. POOLE: I don't. I know that
19 when I first came in to talk to the Zoning
20 Office they pulled up a couple of those houses
21 and they were not permitted, and they didn't
22 have zoning numbers. So I don't have

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1 specific--

2 MEMBER MOLDENHAUER: Okay. Thank
3 you.

4 BZA VICE CHAIR DETTMAN: You said
5 that you purchases the property in June of
6 this year?

7 MS. POOLE: Yes.

8 BZA VICE CHAIR DETTMAN: Can you
9 testify to the condition of the property when
10 you purchased it or where its at right now?

11 MS. POOLE: Yes. When I purchased
12 it in June, it was in very poor condition. It
13 was not liveable. And things like -- it
14 actually did not have any kitchen appliances.
15 It was just an empty room where the kitchen
16 used to be.

17 And it appears to me without
18 knowing specifics that the stairs were not
19 built to code. They were kind of extra steep
20 ad dangerous.

21 And parts of the floor had holes in
22 it.

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1 So I went to DCRA and obtained a
2 permit to do the interior renovation for that
3 part of the house, and that has since been
4 completed. And now its in very good
5 condition.

6 And also it reportedly had been
7 vacant for four to five years before I bought
8 it.

9 BZA VICE CHAIR DETTMAN: I
10 apologize. The structural condition of the
11 property when you purchased it, was there
12 anything that you needed to do to stabilize
13 the exterior walls or anything?

14 MS. POOLE: No.

15 BZA VICE CHAIR DETTMAN: No? Okay.

16
17 You had just mentioned something
18 about the stairs being steep and not to code.
19 Did the interior renovation you to replace
20 the stair?

21 MS. POOLE: Yes, I had to replace
22 them.

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1 BZA VICE CHAIR DETTMAN: And did
2 that result in any kind of reduction in the
3 amount of useable living space?

4 MS. POOLE: Yes.

5 BZA VICE CHAIR DETTMAN: Can you
6 just kind of briefly describe that?

7 MS. POOLE: Yes. So basically the
8 steps were going up in one direction when I
9 bought the house. And then -- and this is not
10 exact but I'm going to approximate, were maybe
11 two feet wide, the steps going across. And
12 then so I moved the steps in reverse direction
13 and now they're normal width of steps, a
14 normal staircase. So I haven't done that
15 calculation of how much square footage that
16 reduced in the living room. But the room is
17 the same size, the steps are bigger now.

18 BZA VICE CHAIR DETTMAN: Okay.
19 What about the upstairs, how did that impact
20 your space upstairs?

21 MS. POOLE: Let's see, it also
22 would have taken some space out of the

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1 hallway. And I reconfigured the upstairs room
2 because I had to change the direction of the
3 steps. One of the bedrooms is the same and
4 the hallway and the entrance into the other
5 room were shifted slightly.

6 BZA VICE CHAIR DETTMAN: Did the
7 stair impact the size of the bedrooms when you
8 purchased the property?

9 MS. POOLE: Yes. One of the bedroom
10 areas is smaller because of the hallway.

11 BZA VICE CHAIR DETTMAN: Okay.

12 MEMBER MOLDENHAUER: So I'm just
13 trying to understand this. You say that the
14 new staircase, you flipped it around.

15 MS. POOLE: Yes.

16 MEMBER MOLDENHAUER: And that
17 impacting sort of the hallway. So then did
18 you end up having to moving a wall from one of
19 the bedrooms?

20 MS. POOLE: Yes. What happened was
21 when the stairwell up the opposite direction
22 and the door for the bedroom was moved. So it

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1 used to be in the middle of the hall, and now
2 the stairs come up the other way, the doorway
3 to the bedroom is not here anymore. It's at
4 the back of the hall. And actually if the
5 variances are approved, then my plan is to put
6 the bedroom straight out in the back in the
7 new area and to turn the -- this space was
8 where the old bedroom was into a bathroom and
9 closet area. Or if not, it would be the
10 second bedroom.

11 MEMBER MOLDENHAUER: Okay. Thank
12 you.

13 MS. POOLE: Does that make sense
14 about -- okay.

15 BZA VICE CHAIR DETTMAN: I'm
16 looking at the photos that you provided us.
17 When you purchased the property when you
18 walked through the front door were you looking
19 at the stairway or --

20 MS. POOLE: No. You were looking at
21 the back side of the staircase. They came up
22 the opposite direction.

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1 BZA VICE CHAIR DETTMAN: Okay. So
2 they did actually run up the side of it, and
3 you basically with your revisions, now they're
4 facing the door?

5 MS. POOLE: Yes.

6 BZA VICE CHAIR DETTMAN: Okay.

7 MS. POOLE: And so they're on the
8 same side of the house, just reversed around.
9 So you face them ow when you walk in.

10 BZA VICE CHAIR DETTMAN: Looking at
11 the next two photographs, this photograph that
12 you provided us --

13 MS. POOLE: Yes.

14 BZA VICE CHAIR DETTMAN: -- the
15 rear of your property is the red brick?

16 MS. POOLE: Yes.

17 BZA VICE CHAIR DETTMAN: It is? Do
18 you have a garage in that?

19 MS. POOLE: No. So the gray part
20 that you see was the existing first floor, I
21 guess. And actually when you asked about the
22 condition of the walls, I was thinking of the

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1 house and not that addition. That was in very
2 poor condition and my contractor actually
3 rebuilt that in the same place; so that's a
4 new structure but in the same footprint.

5 BZA VICE CHAIR DETTMAN: The one
6 story on the back of the house?

7 MS. POOLE: Yes.

8 BZA VICE CHAIR DETTMAN: And so
9 this is the neighboring house here?

10 MS. POOLE: Right.

11 BZA VICE CHAIR DETTMAN: Showing
12 that it comes out a little bit further than
13 your property? And then what we're seeing
14 here, we can see a gutter running along the
15 side property line, that's your one story?

16 Ms. Poole, I'm wondering how much
17 rear yard do you have?

18 MS. POOLE: I'm going to look at
19 this and tell you to be exact.

20 BZA VICE CHAIR DETTMAN: The OP
21 report says nine and a half feet, and I think
22 that's my answer. Okay.

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1 Can you just briefly summarize the
2 interaction that you had with your adjacent
3 neighbors as well as the ANC and the letter
4 that we received from the Capitol Hill
5 Restoration Society, and maybe you can
6 describe what occurred at that meeting?

7 MS. POOLE: Sure. And I'm assuming
8 you did receive the ANC letter? Okay. Yes.

9 When I purchased the property and
10 both of my adjacent neighbors were very
11 interested to know if I was going to occupy it
12 myself and what I was going to do. And I am
13 living there, and I plan to live there. They
14 both immediately were in support after they
15 looked at my plans to make sure they knew
16 exactly what was going to happen. They
17 immediately were in full support of the
18 addition.

19 And the ANC meeting actually was
20 the exact same night as the Capitol Hill
21 Restoration Society meeting at the same time.

22 So I attended the ANC meeting. First I

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1 attended the Zoning and Economic Committee
2 meeting, presented the case. They were in
3 unanimous support and then they presented it
4 at the ANC meeting. It was full support ANC.

5 And then my friend actually
6 attended the Capitol Hill Restoration Society
7 meeting and similarly explained the plans to
8 them and the situation. They also were in
9 full support.

10 I should also mention that other
11 neighbors on the street have also been
12 supportive.

13 BZA VICE CHAIR DETTMAN: Okay.
14 Thank you.

15 Colleagues? No.

16 At this point, Ms. Poole, do you
17 have anything else to add before moving on?

18 MS. POOLE: No.

19 BZA VICE CHAIR DETTMAN: No? Okay.

20 At this point we'd move on to the Office of
21 Planning and maybe he's hiding behind the
22 column there. I think it's Mr. Jackson? No?

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1 Okay. Well, we don't have an OP
2 representative with us to provide the report.

3 We do have Exhibit 23, their report,
4 indicating that they cannot support the
5 variance. And primarily it's that the Office
6 of Planning does not see that the applicant
7 fails to meet the first prong of the variance
8 test with respect to whether or not there's an
9 existence of an exceptional situation. They
10 go on to say that since there's no unique
11 condition, there can be no practical
12 difficulties. Again, that's our Exhibit 23.

13 I will note that they do say that
14 under the third prong whether or not the
15 relief can be granted without causing any
16 substantial detriment to the public good and
17 the Zone Plan, they said it does not appear
18 that the addition as proposed would unduly
19 impact the neighboring properties. They do go
20 on to say that it could harm the Zone Plan.

21 I don't see anyone in the audience
22 from the ANC. However, we do have a

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1 resolution from them, our Exhibit 24,
2 indicating that they met on November 12th.
3 Four Commissioners is a quorum, they voted
4 seven-zero in support of the application. And
5 they lay out their rationale for their
6 support. So we have that as well.

7 It doesn't appear as if we have
8 anyone in the audience wishing to testify in
9 support or in opposition. So that being said,
10 I think we're to closing and, Ms. Poole, it's
11 to you.

12 MS. POOLE: I am interested in
13 investing in the neighborhood personally and
14 financially. And as I've mentioned before,
15 when I bought the house it was in poor
16 condition and I wanted to make improvements in
17 the house itself and in the neighborhood in
18 general.

19 My lot is 15 by 55 square feet.
20 And the space in the house is practical
21 difficulty for living space. And this
22 addition that I'm asking for a variance on is

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1 the least impact that I could architecturally.

2 There's no change to the street facade. And
3 in the back many houses like this are already
4 extended that far, so from the alley it would
5 fit in also with the back of the street.

6 My neighbors are in approval of
7 this.

8 And the other thing I'd like to say
9 is that the street has many houses that
10 actually seem as if they're taking up the
11 whole lot and are going way over variances.

12 So, that's all.

13 BZA VICE CHAIR DETTMAN: I see that
14 Mr. Jackson from the Office of Planning has
15 joined us. So, I think we can slightly out of
16 order.

17 Good afternoon, Mr. Jackson. And
18 if you wanted to provide your report to the
19 Board right now, that would be great.

20 MR. JACKSON: Good afternoon. I
21 wanted to do a brief summary of the Office of
22 Planning's report.

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1 Essentially the applicant's
2 primary, you know the basis of their
3 application was that they indicated that the
4 site, the property's unique in terms of size.

5 And based on our analysis we don't find that
6 the property is particularly unique in that
7 regard in that 41 percent of the lots on the
8 square are either at or less than 825 square
9 feet. And the size of the property in terms
10 of overall size is 1,000s square feet, which
11 is not de minimis when you consider a single-
12 family, one family residence -- can you hear
13 me? Okay. I'm sorry.

14 I'll repeat. I'll start over.

15 The analysis of the lots in the
16 vicinity of this property indicates that there
17 are a number of lots that are 825 square feet
18 or less. In fact, 41 percent of the lots are
19 825 square feet or less, which means in terms
20 of size their properties are not unique. In
21 terms of the width, 15 feet is also not the
22 minimal size of the lots on the square. In

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1 fact, there are I think 14 that are all the
2 same size. And most of them appear just on
3 the aerial, to have essentially the same
4 amount of lot occupancy.

5 Now this was not a lot analyses,
6 but basically as you see in the aerial in the
7 back of the attachment if you extend the line
8 along the rear property, a lot of the rear
9 property approximately where the rear wall of
10 the dwellings, it intersects the rear walls of
11 dwellings. And continuing across the square,
12 this is the portion to the east, but if you
13 continue it west they all basically come to
14 the same extent along the property which means
15 that most of the lots that are of this size
16 and of this width would have the same lot
17 occupancy.

18 And, of course, when you're seeking
19 for a variance relief one of the key
20 components, one of the first components you
21 look for is uniqueness. And we just weren't
22 able to establish how this property was

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1 unique.

2 So based on that not meeting the
3 first test of the variance, the first of the
4 variance test, we don't think that the second
5 part of the variance test are met either.

6 Although, on the third part we
7 don't think that the proposal as presented,
8 that is to attach a second floor addition to
9 the existing kitchen addition, would be
10 detrimental to the neighborhood properties.
11 We don't think that would be a significant
12 impact there. But we don't think that this is
13 consistent with the intent of the Zoning
14 Regulations, which is to encourage all
15 additions, renovations and expansions to bring
16 the property into conformance, not continue
17 nonconformities and thereby reenforce the
18 regulations that currently exists.

19 With that, that concludes the
20 Office of Planning's report in brief, and
21 we're available to answer questions.

22 BZA VICE CHAIR DETTMAN: Thank you,

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1 Mr. Jackson.

2 And, Ms. Poole, just to let you
3 know, we're a little bit of order but the
4 Board's going to ask questions of the Office
5 of Planning. And you're going to have the
6 opportunity to ask questions as well. And
7 then you can actually augment your closing
8 statement at the end.

9 Mr. Jackson, a couple of questions
10 about your report. One is that on page 2
11 underneath the chart it says: "Section 401.1
12 also states a building that on May 12, 1958
13 was located on a lot that does meet the width
14 and area requirements of 401.3 may not be
15 enlarged except in accordance with the other
16 provisions of the Zoning Regulations." I was
17 just wondering why you made that point in
18 reference?

19 MR. JACKSON: Well, I think in
20 part, well I think that this regulation is on
21 point and that's what rules the day. But the
22 other part of it, though, was that there are a

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1 number of places in the regulations -- I'll
2 put this differently. The regulations as a
3 whole really try to encourage conformity.
4 That is, you bring this property into
5 conformance. If it's nonconforming and any
6 major changes to that property go toward
7 making it conforming.

8 Now the regulations that do support
9 renovations, modernization, upkeep and even
10 structural alterations, as long as those
11 alterations don't increase the nonconformity
12 or that those alterations go toward making it
13 more conforming. But in this case the
14 regulations as they're currently stated do not
15 tend to support this kind of activity unless
16 it was bringing the property into conformance.

17 And that is the construction of an addition.

18 BZA VICE CHAIR DETTMAN: And is it
19 the point you're making on page 3 where you
20 say "The Zoning Regulations allow ordinary
21 repairs, modernizations, structural
22 modernizations of nonconforming structures

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1 devoted to conforming uses, but not
2 additions"?

3 MR. JACKSON: Yes. That's taken
4 straight from the regulation. But if you look
5 at 201.3, that provision is actually where
6 they talk about things you can do and what you
7 can't.

8 BZA VICE CHAIR DETTMAN: But I'm
9 curious. The repairs, modernizations,
10 structural, the language that shows up 2001.3,
11 however wasn't the purpose of 223 put in place
12 in order to relieve the burden on property
13 owners to put additions on their properties
14 and not have to go by way of a variance?

15 MR. JACKSON: Right. And 223
16 expanded the boundaries of what one could do
17 on one's property in terms of having a
18 nonconforming property, building or use to a
19 certain extent by allowing, for example, I
20 think in R-4 you'd go from 60 to 70 percent
21 lot occupancy. But that was considered to be
22 the out of boundary.

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1 So expanding the boundaries too at
2 at one point and this property as it currently
3 exists, even exceeds that.

4 BZA VICE CHAIR DETTMAN: Okay. So
5 it's not necessarily that it's not necessarily
6 that the Zoning Regulations allow the repairs
7 but not additions, isn't it more so that the
8 Zoning Regulations allow repair, modernization
9 as a matter-of-right and that additions are
10 required to seek some sort of relief from the
11 Zoning Regulations which is allowed under 223
12 or by way of a more stringent variance?

13 MR. JACKSON: I would say that the
14 reason that wording is in there is just to
15 make sure that people are not prevented from
16 maintaining their property by the fact that
17 they can't -- with the current regulations.
18 But they wanted to make sure is people do
19 maintain their property and they do make
20 requirements that are contingents that are
21 necessary to keep it structural sound and
22 liveable, but that the regulations as they

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1 currently stand do not support outright
2 expansion or additions to the --

3 BZA VICE CHAIR DETTMAN: Well, you
4 wouldn't agree that 223 is in place, and the
5 idea that the Board is empowered to grant
6 variances from almost every provision --

7 MR. JACKSON: Yes.

8 BZA VICE CHAIR DETTMAN: -- that
9 those are in place in order to not prevent the
10 applicants from putting additions on their
11 house?

12 MR. JACKSON: Well, but I think 223
13 had the purpose of expanding the allowable lot
14 occupancy, adjustments in rear yards and
15 unique bodies that were legally nonconforming
16 when the regulation was put in place.

17 I think variances really are more
18 focused on properties that have inherent
19 problems within themselves, such as a
20 triangular lot or a lot with unusual slopes,
21 or a lot may be extremely small in terms of
22 how a person could use the lot for allowable

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1 use.

2 So I think variances, really we're
3 looking at lots that could not meet the Zoning
4 Regulations with regard to some physical
5 attribute of the lot, of the lot or other
6 circumstances. Whereas, 223 actually just
7 broadened the possibilities for expansion and
8 improvement of existing properties that are
9 usually nonconforming under the current
10 regulations.

11 BZA VICE CHAIR DETTMAN: Okay. Now
12 for a variance, the only reason why the
13 applicant is required to pursue a variance is
14 because they're currently nonconforming as to
15 lot occupancy, is that correct?

16 MR. JACKSON: That's primarily the
17 reason.

18 BZA VICE CHAIR DETTMAN: If they
19 were at 70 percent, they could come in as a
20 223?

21 MR. JACKSON: Yes.

22 BZA VICE CHAIR DETTMAN: Okay. You

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1 had mentioned that a variance really looks at
2 a specific property and some kind of physical
3 attribute of that property. Are you aware if
4 whether or not the Board, or the Office of
5 Planning for that matter, considered a
6 circumstance that fell outside the particular
7 property or was not physical in nature that
8 could lend itself to satisfying the first
9 prong?

10 MR. JACKSON: I couldn't -- unless
11 you were referring to a certain instance, I
12 wouldn't know.

13 Now I will say that I did find that
14 there was a variance granted for a property, a
15 lot that's on this square. That lot was 500 -
16 - I think it was 560 square feet. And it's
17 down at the west end of the square.

18 And there they were saying their
19 lot 128. So that property was, I guess, 40
20 percent smaller than the subject property. And
21 that that was approved based on the fact that
22 it was extremely small. They actual want to

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1 make it more level.

2 BZA VICE CHAIR DETTMAN: Do you
3 know whether or not the Office of Planning
4 supported that application?

5 MR. JACKSON: Yes.

6 BZA VICE CHAIR DETTMAN: They did?
7 The R-4 requires, I believe, it's
8 an 18 foot wide lot, 1800 square feet?

9 MR. JACKSON: Yes.

10 BZA VICE CHAIR DETTMAN: Do you not
11 consider this particular lot being almost a
12 1,000 square smaller than what's required
13 exceptional?

14 MR. JACKSON: No, because there are
15 so many others that are the same, the same
16 dimensions in size.

17 I will note that the case I
18 referred to, the lot was 13 feet wide.

19 BZA VICE CHAIR DETTMAN: Okay.

20 MR. JACKSON: And that would have
21 made it of the three smallest lots on the
22 square.

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1 BZA VICE CHAIR DETTMAN: Okay. Is
2 there a particular reason why this property
3 was rendered nonconforming, other than simply
4 the adoption of the Zoning Regulations?

5 MR. JACKSON: I couldn't say. But
6 the existing building does not currently meet
7 the rear yard setback, doesn't meet the court.
8 So there are a lot of conformities in the
9 structure on the property. And then the
10 property itself is nonconforming.

11 BZA VICE CHAIR DETTMAN: The
12 nonconforming is to open court, rear yard, lot
13 occupancy, lot dimension and the inability to
14 meet the requirements of 2001.3 and 223; are
15 all those nonconformities the result of the
16 adoption of the Zoning Regulations, would you
17 happen to know?

18 MR. JACKSON: Well, the
19 nonconforming area and dimension would be as a
20 result of the adoption of Zoning Regulations.

21 I really can't say -- I don't think
22 you can say it's nonconforming with 223

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1 because 223 was implemented specifically just
2 to address nonconforming lots that were within
3 a -- met a certain standard. So --

4 BZA VICE CHAIR DETTMAN: Well, yes.

5 MR. JACKSON: So the dimensional
6 limitations -- the dimensional
7 nonconformities do appear to be a result of
8 the adoption of the Zoning Regulations.

9 BZA VICE CHAIR DETTMAN: Including
10 lot occupancy?

11 MR. JACKSON: I believe so.

12 BZA VICE CHAIR DETTMAN: Okay.
13 Before you arrived the applicant was
14 testifying that when she purchased the
15 property in June it was in substantial
16 disrepair. And that in order to bring some of
17 the features, mainly the stairway into
18 compliance; the existing stair was very steep,
19 it didn't meet code and that the new stair
20 actually had to be widened and decreased the
21 amount of liveable space on the ground floor
22 as well as the upstairs. And the

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1 reconfiguration of the bedroom, I believe the
2 middle bedroom was slightly decreased.

3 MR. JACKSON: Yes.

4 BZA VICE CHAIR DETTMAN: I was just
5 wondering if whether or not that factored into
6 your analysis?

7 MR. JACKSON: No.

8 BZA VICE CHAIR DETTMAN: No?

9 MR. JACKSON: No.

10 BZA VICE CHAIR DETTMAN: And if now
11 knowing that, the need to bring a particular
12 property to code and the result that that has
13 had on the useable liveable space, does that
14 change your analysis?

15 MR. JACKSON: Well, I guess the
16 question would be how much of a change are we
17 talking about? From three to four feet or
18 four to five; I'm not sure the degree of
19 change we're talking about. And this is one
20 flight, I assume?

21 BZA VICE CHAIR DETTMAN: Do you
22 have any idea what the existing square footage

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1 of the house is?

2 MR. JACKSON: It's 1,040 square
3 feet.

4 BZA VICE CHAIR DETTMAN: So 520
5 foot square footprint, roughly?

6 MR. JACKSON: No, because remember
7 you have a first floor and then you have a
8 reduced second floor. So it's not quite that.
9 Let's see here.

10 BZA VICE CHAIR DETTMAN: Let's let
11 the applicant answer.

12 MS. POOLE: I have this. It's 638
13 square.

14 BZA VICE CHAIR DETTMAN: That's the
15 footprint of the house including the one story
16 addition? Do you have any idea what the
17 "footprint" of the second story would be?

18 MR. JACKSON: It would be 12.6 by
19 11.9 according to submitted plans. So, let's
20 see --

21 BZA VICE CHAIR DETTMAN: Oh, that's
22 the one story. So the second story would be

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1 actually 15 by 30, is that right?

2 MR. JACKSON: The second story?

3 BZA VICE CHAIR DETTMAN: The square
4 footage of the second story currently?

5 MS. POOLE: Yes, that's right.

6 MR. JACKSON: Was 28 by 15, yes.

7 BZA VICE CHAIR DETTMAN: 28 by 15?

8 I don't have any other questions.

9 MEMBER MOLDENHAUER: I'm not sure
10 if, Mr. Jackson, if you know this or if the
11 applicant knows this. But do you know when
12 the lower level kitchen addition was added to
13 the property?

14 MR. JACKSON: Well -- okay.

15 MS. POOLE: I was just going to
16 say, I asked the Zoning Office, and there was
17 no record for that.

18 MEMBER MOLDENHAUER: Yes.

19 MS. POOLE: So I don't know.

20 MR. JACKSON: Now it's interesting
21 you should raise that. When you go back to
22 the vice maps, the historical maps of the area

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1 and we did some analysis of that, all the
2 buildings when the vice maps were in place,
3 which we're talking about the '50s or '60s or
4 late '40s early '50s, had the same footprint.

5 So it appears a kitchen or an addition like a
6 kitchen has been in place for many years, at
7 least back to when the vice maps were being
8 used.

9 MEMBER MOLDENHAUER: So you're
10 saying so back when the vice maps were being
11 used they had the addition already added back
12 in the '50s?

13 MR. JACKSON: Well, there a
14 footprint that appeared to show an addition
15 there.

16 MEMBER MOLDENHAUER: That appeared
17 to show an addition?

18 MR. JACKSON: Yes.

19 MEMBER MOLDENHAUER: Okay. Thank
20 you.

21 MS. POOLE: May I comment? I was
22 just --okay.

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1 BZA VICE CHAIR DETTMAN: Board
2 members, any additional questions?

3 Does the applicant have any
4 questions for the Office of Planning?

5 MS. POOLE: No.

6 BZA VICE CHAIR DETTMAN: Okay.
7 Thank you, Mr. Jackson. It was great for the
8 Board to be able to ask you some questions,
9 and we certainly appreciate the report.

10 So, continuing back on to the
11 applicant if you wanted to supplement your
12 closing statement based on the testimony of
13 the Office of Planning, that would certainly
14 be appropriate.

15 MS. POOLE: Okay. This isn't
16 exact, I'm looking at my plans and I think to
17 answer the question about how many square feet
18 were lost by changing the staircase, I'm
19 estimating it's probably about 15 to 20 square
20 feet counting upstairs and upstairs.

21 And the other thing I'd like to add
22 is that I think the Office of Planning is not

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1 presenting a complete view of Wylie Street.
2 That there are many houses more to the east of
3 my lot towards 13th Street that are, as I was
4 saying earlier, are houses that are almost
5 taking up the complete lot.

6 And to the question of conformance,
7 it would be almost impossible without taking
8 down all the houses on the street for them to
9 be in conformity.

10 And again, I would just say I'm
11 seeing variance for the most practical way to
12 get a little more space through this modest
13 addition since there's no basement and it
14 would be the least impact on the architecture
15 and the space and design of it are good.

16 BZA VICE CHAIR DETTMAN: Thank you,
17 Ms. Poole.

18 Board members, if there are no
19 other questions for the applicant or the
20 Office of Planning, and I believe I inquired
21 whether or not there was anyone in the
22 audience to provide testimony. Seeing none,

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1 it's up to use whether or not we want to
2 proceed with a decision or put this off to a
3 later date.

4 I actually think the record's full.

5 And I don't see a need to put it off just for
6 the purposes of getting additional
7 information. I think we have what we need in
8 order for us to thoroughly analyze the
9 requested variance. And so that's my position.

10 (Whereupon, at 1:02 p.m. off the
11 record until 1:09 p.m.)

12 BZA VICE CHAIR DETTMAN: Back on
13 the record, and I apologize for the delay.

14 I think the Board has decided that
15 it needs a little additional time to analyze
16 the record and look at this more fully. And
17 in addition to that, we're going to try to
18 find a date to decide this so that perhaps we
19 can get the other Board members up to speed on
20 this case and so they can review the record
21 and participate as well.

22 So that being said, Mr. Moy, why

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1 don't we place this on the morning calendar
2 for January 12th?

3 SECRETARY MOY: I was going to
4 suggest that.

5 BZA VICE CHAIR DETTMAN: Great.
6 That works for staff?

7 SECRETARY MOY: Whatever the Board
8 wants.

9 BZA VICE CHAIR DETTMAN: I
10 appreciate that.

11 Ms. Poole, the Board is going to
12 decide the case, as you just heard, on January
13 12th. There's no need to come down. You can
14 if you want. You can also watch online. We
15 don't take any public testimony on decisions.
16 So that's up to you if you want to come down.

17 I don't think that given what's in
18 the record right now, I don't think that
19 there's going to be a need for the Board to
20 ask questions of you. So that's even more of
21 a reason why you wouldn't have to come down
22 for January 12th.

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1 So the decision will be made
2 January 12th. And at that point, we'll take
3 up the case.

4 MS. POOLE: Okay. Thanks.

5 BZA VICE CHAIR DETTMAN: Thank you.

6 Ms. Bailey, is there anything else
7 for the morning agenda?

8 MS. BAILEY: No, Mr. Chairman.
9 That's it.

10 BZA VICE CHAIR DETTMAN: Okay.
11 Thank you, Ms. Bailey.

12 For the audience, the Board as you
13 can see, is running a little bit behind here.
14 We're going to take a break. It's not going
15 to be a full lunch break that we typically
16 take.

17 I think what we'd like to do is
18 reconvene at 1:45. The Board has one decision
19 on the calendar to deliberate, that is
20 Community Auto Service Center. The Board is
21 prepared to vote on that case, and then we can
22 get started with the two hearings that we have

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1 in the afternoon.

2 So we will reconvene at 1:45.

3 (Whereupon, at 1:11 p.m. the
4 A.M. Session of the Public Hearing being
5 complete, was adjourned until the Afternoon
6 Session of the Public Hearing beginning at
7 2:11 p.m.)

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2:11 p.m.

Good afternoon, ladies and gentlemen.

My name is Shane Dettman, Vice Chairman representing NCPC. As I've stated earlier, this is Mr. Anthony Hood representing the Zoning Commission. Ms. Meredith Moldenhauer, Mayoral appointee to the BZA. Mr. Clifford Moy and Ms. Beverley Bailey with the Office of Zoning.

Copies of today's hearing agenda are available to you and are located to my left in the wall bin near the door.

Please be advised that this proceeding is being recorded by a court reporter and is also webcast live.

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1 Accordingly, we must ask you to refrain from
2 any disruptive noises or actions in the
3 hearing room.

4 When presenting information to the
5 Board, please, turn on and speak into the
6 microphone, first stating your name and home
7 address. When you are finished speaking,
8 please turn the microphone off so that your
9 microphone is no longer picking up background
10 noises or sound.

11 All persons planning to testify
12 either in favor or in opposition are to fill
13 out two witness cards. These cards are
14 located to my left on the table near the door
15 and on the witness tables. Upon coming
16 forward to speak to the Board, please, give
17 both cards to the reporter sitting to my
18 right.

19 The order of procedure for special
20 exceptions and variances cases is as such:

21 Statement and witnesses of the
22 applicant;

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1 Government reports, including the
2 Office of Planning, the Department of Public
3 Works, District Department of Transportation
4 and others;

5 Report of the Advisory Neighborhood
6 Commission;

7 Parties or persons in support;

8 Parties or persons in opposition,
9 and;

10 Finally, closing remarks by the
11 applicant.

12 Pursuant to Sections 3117.4 and 5
13 the following time constraints will be
14 maintained:

15 The applicant, appellant, persons
16 and parties, except the ANC in support
17 including witnesses, 60 minutes collectively;

18 Appellees, persons and parties in
19 opposition, except the ANC including witnesses
20 60 minutes collectively;

21 Individuals will be provided with 3
22 minutes each.

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1 These time restraints do not
2 include cross examination and/or questions
3 from the Board.

4 Cross examination of witnesses is
5 permitted by the applicant or parties. The
6 ANC within which the property is located is
7 automatically a party in a special exception
8 or variance case.

9 Nothing prohibits the Board from
10 placing reasonable restrictions on cross
11 examination, including time limits and
12 limitations on the scope of cross examination.

13 The record will be closed at the
14 conclusion of each case, except for any
15 material specifically requested by the Board.

16 The Board and the staff will specify at the
17 end of the hearing exactly what is expected
18 and the date when the persons must submit the
19 evidence to the Office of Zoning. After the
20 record is closed, no further information will
21 be accepted by the Board.

22 The Sunshine Act requires that the

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1 Public Hearing on each case be held in the
2 open before the public. The Board may,
3 consistent with its Rules of Procedure and the
4 Sunshine Act, enter into Executive Session
5 during or after the Public Hearing on a case
6 for purposes of reviewing the record or
7 deliberating on the case.

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

14 At this time please turn off all
15 beepers and cell phones so as not to disrupt
16 these proceedings.

17 The Board will make every effort to
18 conclude the Public Hearing as near as
19 possible to 6:00 p.m. If the afternoon cases
20 are not completed at 6:00, the Board will
21 assess whether it can complete the pending
22 case or cases remaining on the agenda.

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1 At this time the Board will
2 consider any preliminary matters. These
3 matters are those which relate to whether a
4 case will or should be heard today, such as
5 requests for postponement, continuance or
6 withdrawal or whether proper and adequate
7 notice of the hearing has been given. If you
8 are not prepared to go forward with a case
9 today or if you believe that the Board should
10 not proceed, now is the time to raise such a
11 matter.

12 Does the staff have any preliminary
13 matters?

14 MS. BAILEY: Mr. Chairman, members
15 of the Board, to everyone good afternoon.

16 The staff does not, Mr. Chairman.

17 BZA VICE CHAIR DETTMAN: Thank you,
18 Ms. Bailey. Why don't we proceed with the
19 afternoon agenda then.

20 MS. BAILEY: Mr. Chairman, there
21 are two cases on this afternoon, the first of
22 which Application is 18012 is the application

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1 of Urban Adventures of Washington, and its
2 pursuant to 11 DCMR § 3104.1 and 3103.2, for a
3 special exception from the roof structure
4 requirements under subsection 411.11, a
5 variance from the floor area ratio
6 requirements under section 771, a variance
7 from the nonconforming structure provisions
8 under subsection 2001.3, and a variance from
9 the parking requirements under subsection
10 2100.10(a), to allow the renovation and
11 expansion of an existing historic building
12 housing a fitness club, rooftop pool,
13 restaurant and beauty salon. The property is
14 located at 1612 U Street, Northwest. Square
15 176, Lot 62 and it is zoned C-2-A.

16 BZA VICE CHAIR DETTMAN: Thank you,
17 Ms. Bailey.

18 Is the applicant here for that
19 case?

20 MS. BAILEY: Mr. Chairman, if I
21 could just quickly swear the witnesses in?

22 BZA VICE CHAIR DETTMAN: Certainly.

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1 MS. BAILEY: If that's okay. All
2 persons wishing to testify today, if you would
3 please stand to take the oath. In all of the
4 cases this afternoon.

5 (Witnesses sworn.)

6 MR. KADLECEK: Good afternoon.

7 BZA VICE CHAIR DETTMAN: Good
8 afternoon. Why don't we just start out with
9 introductions?

10 MR. KADLECEK: Yes. We also have
11 one preliminary matter. I'd like to have Mr.
12 Martin submitted as an expert in architecture.
13 I believe Ms. Bailey is handing out his
14 résumé right now.

15 BZA VICE CHAIR DETTMAN: Okay. Mr.
16 Martin, have you testified before the BZA or
17 the Zoning Commission prior?

18 MR. MARTIN: Yes, both.

19 BZA VICE CHAIR DETTMAN: And you've
20 been qualified as an expert before?

21 MR. MARTIN: Yes.

22 BZA VICE CHAIR DETTMAN:

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1 Colleagues, any questions for Mr. Martin?

2 It looks like it's the consensus of
3 the Board to allow Mr. Martin in as an expert
4 in architecture. Okay.

5 MR. KADLECEK: Great. Thank you.

6 Good afternoon, members of the
7 Board. I'm Cary Kadlecek from the law firm of
8 Pillsbury, Winthrop, Shaw, Pittman.

9 With me today is David Von Storch,
10 to my right who is the applicant. And to his
11 right is Guy Martin, the project architect.
12 With me today also is John Epting of
13 Pillsbury.

14 The case before you concerns an
15 addition to a nonconforming historic building
16 on U Street in the DuPont Circle neighborhood.

17 With this attractive and complimenting
18 addition already approved by the Historic
19 Preservation Board, Mr. Von Storch plans to
20 update and enhance this popular neighborhood
21 serving health club, salon and restaurant
22 already present in the building. This

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1 addition will also enhance the streetscape by
2 closing a gap in the urban fabric where a
3 small parking lot currently stands.

4 To make this addition possible we
5 are requesting variance and special exception
6 relief.

7 Because the building is
8 nonconforming as to FAR, any addition to the
9 building required variance relief. We are
10 also requesting variance relief from the
11 parking requirements so that the addition can
12 be constructed on the open parcel next to the
13 building where six parking spaces currently
14 stand.

15 The special exception relief will
16 allow the roof structure to be setback less
17 than the one-to-one required distance, thereby
18 allowing interior building renovations without
19 extensive interior reconfigurations.

20 I would also like to note that this
21 special exception relief is actually a
22 reduction from the amount of relief we

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1 initially asked for when we filed the
2 application.

3 With that, I'd like to go ahead and
4 Mr. Von Storch testify about the program.

5 BZA VICE CHAIR DETTMAN: Certainly.

6 And I wanted to note that the record is very
7 full and you have the support of the ANC as
8 well as the Office of Planning.

9 MR. KADLECEK: Right.

10 BZA VICE CHAIR DETTMAN: We did
11 receive one letter. It wasn't a request for
12 party status, but it was noting some concerns.

13 However, the record is full. And in the
14 interest of time if your testimony can go
15 directly to the prongs of the variance test as
16 well as the special exception, that would be
17 great. So in terms of background on the
18 building and the historical development of the
19 building and historical use, if you could
20 cater those remarks to specifically the
21 variance test, that would be great.

22 MR. KADLECEK: Sure. Well, I think

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1 given in light of your comments, I think we'll
2 just skip to Mr. Martin and have him discuss
3 the elements of the relief that we're seeking.

4 I don't think it's necessary for Mr. Von
5 Storch to testify.

6 So, Guy, would you like to go ahead
7 and just present the overview of the project?

8 MR. MARTIN: Yes. Ladies and
9 gentlemen, I'm Guy Martin. I'm the architect
10 for this building. And I'll give a brief
11 description.

12 The building in question is this
13 structure here. This is a facade picture
14 along U Street showing the various buildings.

15 And as you can see, it's considerably larger
16 than the buildings around it.

17 It was built in the 1920s as a
18 school for auto mechanics. It is a
19 contributing structure in the Historic
20 District. And the site for the addition is
21 this gap between it and the next building
22 adjacent.

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1 Essentially the existing building
2 and the gap are on one lot at the moment. And
3 the existing building is over the FAR for that
4 entire lot as it stands. On the other hand,
5 wishing to fill the gap from both an urban
6 design point of view and a functional point of
7 view, are left with the difficulty of
8 developing the gap as an independent project
9 leaving the nonconforming other structure. So
10 in a sense, anything we did on this site would
11 have to come before for some form of relief.
12 So we're constrained in that sense.

13 And I'm speaking first to the area
14 issue. We did explore whether it would be
15 possible at all to develop a residential
16 structure on this site. The site is very
17 narrow, 28 feet, very long. And it would be
18 very difficult to achieve a reasonable
19 residential building because we only have
20 light and air at the two extreme ends of the
21 site per code.

22 In addition, in our discussions

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1 which have been ongoing from very early on
2 with the Historic Preservation Review Board
3 and their staff, a residential structure would
4 have been limited in the same ways as we're
5 limited in what we presented you.

6 What we have developed, and we can
7 go to the next slide, is a three story
8 addition filling the gap between the historic
9 structure and the adjacent building, which is
10 also a contributing historic structure. We
11 started out actually with a four story
12 building in discussions and reviews with the
13 Historic Preservation Review Board. We
14 lowered it to three stories. The building is
15 designed to be very simple and to preserve the
16 exterior wall of the existing buildings. So
17 it will incur both inside, and then the reason
18 for lowering the building was to allow the
19 existing structures sort of arched openings at
20 the top to continue to read as they come
21 around the side of the structure.

22 Part of the program here was to get

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1 access to the roof. The existing elevator
2 penthouse, which is there and you can see in
3 the photograph below, is right there. It's
4 actually the elevator shaft from the original
5 construction. It was an automobile elevator
6 and it had been replaced with a passenger
7 elevator. We would extend it to the roof and
8 in order to do so, we need to bring to bring
9 the roof structure a little closer to U
10 Street. So this requires us to ask for relief
11 to have a roof structure which is not
12 compliant with the one-to-one setback. It's
13 actually only ten feet back from the wall. It
14 needs normally by Zoning to be 16 feet back.

15 MEMBER MOLDENHAUER: Can I just
16 jump in and ask you a question. What's the
17 reason why you couldn't have put that
18 additional structure to the rear of the
19 property instead of moving it closer to U
20 Street?

21 MR. MARTIN: Because of the
22 existing internal configuration of the

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1 building and this elevator shaft which is
2 already there, it would be a considerable
3 hardship for us. We would have to blast a new
4 shaft through a concrete structure and somehow
5 relocate that elevator to another part of the
6 building. So we basically are asking for
7 relief for that particular item.

8 The last item to discuss in terms
9 of relief is really to do with the fact that
10 where we are placing the addition at the
11 present time is an empty space. And on that
12 empty space there are six parking spaces. In
13 order to fill the gap, which has a curb cut on
14 U Street, we will lose three of the six
15 spaces. We will maintain the three that are
16 accessed from the alley in the rear.

17 I'm glad to answer any further
18 questions that you may have.

19 The boards we're presenting are all
20 identical to the material that was submitted
21 with the application.

22 MR. KADLECEK: That concludes our

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1 testimony. So if you have any questions.

2 BZA VICE CHAIR DETTMAN: Great.
3 Mr. Martin, I have a couple of questions. If
4 I understand you correctly, essentially with
5 respect to the variance test and the
6 exceptional condition that needs to give rise
7 to the practical difficulty, if I understand
8 your testimony correctly it's really the
9 building as its situated on the site currently
10 and as it was originally constructed. And
11 essentially the adoption of the Zoning
12 Regulations rendered the building
13 nonconforming as to FAR?

14 MR. MARTIN: That is correct.

15 BZA VICE CHAIR DETTMAN: What is
16 the exceptional condition that makes it
17 practically difficult for you to continue to
18 provide the six spaces that are currently
19 there, parking spaces?

20 MR. MARTIN: The practical
21 difficulty that prevents us from continuing to
22 provide the six spaces is the -- I would like

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1 to phrase this carefully. It is the desire on
2 the part of planners and those who administer
3 the Historic Preservation goals of the city to
4 fill the street front with building rather
5 than maintain the gap.

6 As an example, I do not think
7 anyone would approve of our having constructed
8 this addition 20 feet from the street and have
9 three cars parked in front of it, which would
10 satisfy the --

11 BZA VICE CHAIR DETTMAN: And if the
12 regulations were strictly applied in terms of
13 what you're proposing, what kind of practical
14 difficulty does that create for you?

15 MR. MARTIN: On the parking?

16 BZA VICE CHAIR DETTMAN: No. If
17 the Zoning Regulations were strictly applied?

18 MR. MARTIN: Oh.

19 BZA VICE CHAIR DETTMAN: If we were
20 going to require you to --

21 MR. MARTIN: To meet all of the
22 Zoning Regulations?

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1 BZA VICE CHAIR DETTMAN: --
2 continue to provide the six spaces that are
3 there?

4 MR. MARTIN: We would have to in
5 order to provide them and meet code, we would
6 have to maintain the full curb cut, 27 feet
7 wide, on U Street and have three cars pulled
8 onto the site from U Street. Because we can
9 only pull three cars onto the site from the
10 alley in the rear. So there's --

11 MR. KADLECEK: If I may, I'd just
12 like to add to that comment and Guy can, I
13 think, elaborate a little bit on this.

14 In order to fit six spaces on that
15 site essentially from the alley you would have
16 to probably park them tandem because its so
17 narrow. So, Guy, maybe if you could explain a
18 little bit about how much floor area then
19 would be lost from the building if we had to
20 do that.

21 MR. MARTIN: Bring down one more.
22 And one more. I'm sorry, I need one more.

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1 Well, let me start with this: This
2 is the existing condition and the lot is right
3 there, the empty lot. And what we would have
4 to do in order to park on it because the lot
5 is only 27 feet wide, we cannot get a Zoning
6 drive aisle and a parking space on the lot
7 because we would need 20 feet for the aisle
8 and 19 feet for the space. So absent 38 feet
9 of width, we would either have to encroach on
10 the historic structure, i.e., demolish a
11 portion of it in order to park in it or we
12 would have to bring the cars in. And if we
13 parallel parked, we actually wouldn't get all
14 six spaces along the length of the site. And
15 so the only way to put six spaces on the site
16 would be to have a full curb cut front and
17 rear.

18 MEMBER MOLDENHAUER: Are there any
19 other similarly situated properties or lots of
20 this size in this area of U Street?

21 MR. MARTIN: None that I know of
22 that have these issues.

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1 MEMBER MOLDENHAUER: Thank you.

2 ZC CHAIR HOOD: I just wanted to
3 ask in our Exhibit 26, and the Chairman
4 alluded to that earlier on in his comments,
5 I'm just looking at some of the concerns that
6 were raised by Paul Kawata. Hopefully that's
7 how you pronounce his last name.

8 What's going on on the roof?
9 Explain to me what's happening on that roof.

10 MR. MARTIN: The next, please.

11 The roof basically will have a
12 swimming pool put into it. We're actually
13 deleting floor area from the floor below to
14 create a large well and place a swimming pool
15 in. And Mr. Von Storch can address this.
16 This is an added facility for the fitness club
17 and so it provides the ability to actually
18 have a 60 foot long swimming pool for the
19 members of the club who can then workout in a
20 pool.

21 And so as we spoke earlier, the
22 elevator provides the access because we are

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1 required to meet the Handicap Code. If we
2 have a facility there, we must bring the
3 elevator to it to meet that code.

4 ZC CHAIR HOOD: Okay. As far as,
5 and one of the concerns that he raised, he
6 lives at 1624., One of the concerns, his
7 issue is about privacy. He's skeptical about
8 someone looking into my bedroom window.

9 Let me ask you, where are the
10 windows on there? I know you had front.
11 Where are the others? Are the windows on the
12 side?

13 MR. MARTIN: On the existing
14 building there are windows only on the U
15 Street face and on the rear. And then on this
16 side there are windows which we will then
17 block with our addition with the exception of
18 the fourth floor.

19 ZC CHAIR HOOD: So the necessary
20 buffering, I guess --

21 MR. VON STORCH: I'm sorry, that's
22 not true. There are windows on the west

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1 elevation of the building in my office. I can
2 look in this guy's patio right now. So I'm
3 not sure. I guess it's the incremental viewing
4 of his patio. But I can tell you right now,
5 it's at my office which is on the west side of
6 the building on the fourth floor there are
7 windows up and down, or from the north edge of
8 the building to the south edge of the building
9 on the west side. We currently look into his
10 patio, and it's not very neat.

11 ZC CHAIR HOOD: You currently look
12 into his patio?

13 MR. VON STORCH: We already do.

14 ZC CHAIR HOOD: So this is an
15 existing situation?

16 MR. VON STORCH: Yes, it's an
17 existing problem. He's never raised it
18 before. We currently have access to the roof
19 where we maintain equipment. And so there is
20 already the ability for somebody to look over
21 the parapet wall of the building into his
22 patio, as there is from inside the building.

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1 Because his fourth floor is lower in elevation
2 than the fourth floor of our building.

3 MR. KADLECEK: Right. Which I
4 think Mr. Von Storch makes a good point, which
5 is we're not creating a situation that impedes
6 anymore in privacy than exists right now.
7 People can already go on the roof. They can
8 already peer down over the parapet into his
9 balcony and invade his privacy, as he sees it.

10 And also as David mentioned, windows from the
11 offices already look directly into his patio.

12 So nothing that we're seeking will
13 impede on his privacy anymore than the current
14 situation.

15 ZC CHAIR HOOD: Okay.

16 MEMBER MOLDENHAUER: Can I just ask
17 a couple of questions about that?

18 What's the roof currently used, how
19 is the roof currently used?

20 MR. VON STORCH: The roof is
21 currently used as -- it's where all the air
22 conditioning equipment is.

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1 MEMBER MOLDENHAUER: So it's not
2 currently used then for people to go up and
3 swim and hang out and sunbathe?

4 MR. VON STORCH: There's not a pool
5 up there right now.

6 MEMBER MOLDENHAUER: So my question
7 would be considering the increased use and
8 number of people that would eventually be up
9 on the roof, can you address that as an issue
10 for potentially invading or producing even
11 further a privacy issue that this neighbor is
12 concerned about?

13 MR. EPTING: I'm John Epting.

14 First of all, we can do the roof
15 pool now without BZA ruling. So that's on the
16 existing structure. So let's be clear about
17 that.

18 MEMBER MOLDENHAUER: You do need
19 the elevator shaft roof structure setback in
20 order to do the roof pool?

21 MR. EPTING: Handicap compliance,
22 yes.

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1 MEMBER MOLDENHAUER: Yes.

2 MR. EPTING: But in the building
3 code for Zoning purposes we could do it. The
4 rest of the relief is related to the addition.

5 As Mr. Van Storch said, the privacy
6 conditions already exist and he can talk
7 briefly about whether the intentional use is
8 going to increase very much. And I think the
9 answer, we'll have an acceptable answer.

10 MR. VON STORCH: Well, the pool is
11 only going to be available for use by the
12 members. So this is not a public pool. This
13 is not open to the public.

14 Yes, there will be incremental, you
15 know how you can quantify that, I think it's
16 very subjective.

17 MEMBER MOLDENHAUER: Is this going
18 to be similar to the indoor lap pools that you
19 have at other fitness centers?

20 MR. VON STORCH: No. The indoor
21 lap pools that we have at our other fitness
22 centers, they're called current pools. And

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1 you swim again a current so you don't actually
2 have the opportunity to turn. And this will
3 be the only opportunity that we have -- this
4 is the only place that we can locate a pool
5 that would give our members the ability to
6 swim the full length of the pool and practice
7 their turns.

8 MEMBER MOLDENHAUER: Okay. Thank
9 you.

10 ZC CHAIR HOOD: Let me ask this,
11 Mr. Chairman. And I'm just going by the
12 letter because it looks as though these are
13 new circumstances, and I'm hearing now that
14 they're not, at least from the letter.

15 He also mentions the concern about
16 the bar moving around the building.

17 MR. KADLECEK: I think his concerns
18 about the bar really go to his liquor license.

19 You know, as Mr. Von Storch said, there's
20 maybe an incremental increase, at most, of the
21 number of people who will actually patronize
22 the facility. But with respect to issue that

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1 arise out of a bar, that really goes to the
2 liquor license. I don't believe that's a
3 Zoning issue.

4 ZC CHAIR HOOD: Okay. I agree.
5 But the bar's not moving up to the top floor?
6 You're not going to use the roof?

7 If you look at Exhibit 26 you will
8 see why we're forming a line of question.
9 Okay. Thank you.

10 BZA VICE CHAIR DETTMAN: Just along
11 Mr. Hood's question, and I understand that
12 these issues that are related to the pool, the
13 pool becomes a matter-of-right. So the use of
14 the pool and the intensity of the use of the
15 roof is not really before the Board. However,
16 when I see a pool lounging area, sundeck, bar,
17 cabanas, a food service you know I don't get
18 the sense that this is an amenity for the gym
19 users to workout in. I get the sense that
20 this is going to be a nightclub on the roof.
21 So is that's what contemplated for the roof?

22 MR. VON STORCH: No. Plain and

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1 simple no.

2 BZA VICE CHAIR DETTMAN: No?

3 MR. VON STORCH: You have to be a
4 member of the club in order to have access to
5 the pool.

6 We have a secure system for
7 admitting people. As a matter of fact, you
8 have to have your fingerprint registered to be
9 able to get a building. I can state
10 categorically this is not open to the public.
11 This is a private members only facility.

12 BZA VICE CHAIR DETTMAN: And what
13 are we looking at in terms of hours of
14 operation? Are they tied to the gym?

15 MR. VON STORCH: The gym is open
16 from 5:00 a.m. to 11:00 p.m. Monday through
17 Friday and on the weekends it closes about
18 10:00 p.m.

19 BZA VICE CHAIR DETTMAN: Okay. And
20 same goes for the use of the pool?

21 MR. VON STORCH: Yes, I would
22 imagine so.

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1 BZA VICE CHAIR DETTMAN: Okay.
2 Board members, any other questions?

3 MEMBER MOLDENHAUER: Just a follow-
4 up on your question, Mr. Dettman.

5 The same, if I can disclose this,
6 I'm a member of Vida. And so my question
7 would be is right now if you're a member of
8 one gym, you can go to other gyms if you have
9 that membership. Is that going to be the
10 same? I just wanted to make sure I understand
11 the use, kind of going to your point of making
12 sure there's a really large aspect of use of
13 the pool in that regard.

14 MR. VON STORCH: Well, the answer
15 is that there are three levels of membership
16 anticipated at Vida Fitness. One is what's
17 called a single membership or a single use
18 membership which allows you to only use one
19 facility.

20 A more restricted membership is one
21 that allows you to use all facilities, and
22 that's a higher priced one.

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1 And then yet a higher priced one is
2 what would be the pool membership.

3 So in order to be a member of the
4 pool, to access the pool, you have to be a
5 member of Vida and you have to pay a premium.

6 So it is theoretically possible that someone
7 who does not use Vida Fitness on U Street as
8 his primary facility will have access. But
9 also as a practical matter, we are limiting
10 the number of pool membership. Otherwise we
11 haven't created an amenity for the members,
12 we've created a nightmare for management. So,
13 I mean there is a practical limitation as to
14 what we can offer our members and have it
15 perceived as an amenity.

16 BZA VICE CHAIR DETTMAN: Counsel,
17 does that conclude your case?

18 MR. KADLECEK: Yes, that concludes
19 our testimony and our case. Thank you.

20 BZA VICE CHAIR DETTMAN: Okay.
21 Then moving on, why don't we go to the Office
22 of Planning. Their report is our Exhibit 29

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1 and we have Ms. Jackson with us.

2 Good afternoon.

3 MS. JACKSON: Good afternoon Chair
4 and members of the Board.

5 For the record, my name is Arlova
6 Jackson with the D.C. Office of Planning.

7 The Office of Planning recommends
8 approval of the variance and special exception
9 request to allow construction of a three story
10 side addition to an existing historic
11 structure.

12 If you like, I can briefly address
13 the requested relief and how we feel it meets
14 the tests?

15 BZA VICE CHAIR DETTMAN: Yes, why
16 don't you very quickly do that?

17 MS. JACKSON: Okay.

18 BZA VICE CHAIR DETTMAN: Take us
19 through the three prongs.

20 MS. JACKSON: Basically the
21 exceptional characteristics of the property
22 would include a contributing structure within

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1 the Strivers' Section Historic District which
2 is an existing four story building which is an
3 existing four story building constructed in
4 1921 with a 3.0 FAR containing a
5 nonresidential use.

6 Among the defining elements of a
7 historic structure are its east exterior walls
8 and windows, the use of which should try to be
9 maintained.

10 The east 28½ feet of the property
11 is unimproved with a curb cut onto to U
12 Street, which historically provided loading
13 access to the building which was formally used
14 as an automobile warehouse and school. This
15 area connects with the rear alley and is
16 currently occupied by six off-street parking
17 spaces.

18 This property has one of two curb
19 cuts within the square not serving the public
20 alley, and the only one with a 28 plus foot
21 wide interruption in the retail street
22 frontage. Such features would create a

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1 practical difficulty given the limits on FAR
2 for nonresidential uses within the C-2-A zone.

3 This is a historic building, it can't be made
4 to comply without demolishing a part of the
5 existing structure. The structure was built
6 with a nonconforming FAR, so any addition
7 would exceed that permitted in the zone. And
8 while a residential FAR of 2.5 is allowed,
9 given the site conditions it would be
10 practically difficult to create one here due
11 to the deep narrow area which would be hard to
12 configure for residential occupancy.

13 Use, again, of the historical east
14 exterior wall and windows would like to be and
15 need to be preserved under any development
16 alternative which would also be difficult to
17 accommodate within a residential building.

18 The current design includes a
19 majority glass facade and allows views of the
20 wall to remain.

21 The applicant also provided a
22 detailed analysis of other development

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1 alternatives which found it impractical to
2 attempt an as-of-right scenario.

3 With regard to parking, the
4 presence of a historic structure on the
5 majority of the lot and the narrow width of
6 the undeveloped portion would create a
7 practical difficulty for providing underground
8 off-street parking. And parking at grade would
9 take up a large portion of the lot,
10 potentially razing the building to accommodate
11 proposed expansion and/or blocking views of
12 the east windows and lessening the prominence
13 of the existing four story building.

14 We found that requested variances
15 wouldn't substantially detriment the Zone Plan
16 or the public good. The proposed increase in
17 FAR would not significantly increase the in
18 tensity of the use and a portion of the fourth
19 floor place would be dedicated to the rooftop
20 pool.

21 The building as proposed would have
22 less office space as is currently in the

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1 building and would be designed to preserve the
2 view of the existing building historic
3 features.

4 The addition would allow
5 continuation and expansion of the existing use
6 of a historic structure which has been
7 nonconforming for the past 50 years.

8 The property is located on a major
9 bus thoroughfare in between two Metrorail
10 stops. So the reduction in off-street parking
11 spaces should not negatively impact the public
12 good or the Zone Plan.

13 And in addition, the project would
14 result in the elimination of an existing curb
15 cut on U Street and redirect all vehicular
16 access through the adjacent rear alley.

17 Regarding the special exception, as
18 mentioned the roof structure encompasses an
19 elevator penthouse and adjacent stairway,
20 which is currently 16 feet in height and 15
21 feet 3 inches from the north exterior wall.
22 The proposed expansion would maintain the same

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1 height and reduce the distance to the north
2 property wall to 10 feet 4 inches.

3 The expansion to provide co-
4 compliant access to the roof is located over
5 an existing elevator and stairway. These are
6 two features that could not easily be altered
7 or changed within the building without
8 significant expense and/or potential adverse
9 impacts to the structural integrity of the
10 building.

11 The requested relief should not
12 impair the Zone Plan or the provision of light
13 to neighboring properties.

14 The expanded structure would be at
15 least 26 feet away from the west property
16 line, and 70 feet from the east property line.

17 The height of the penthouse would
18 be 16 feet, the same as existing and has been
19 designed to compliment the building with
20 regard to materials and scale. And has been
21 reviewed and approved by the Historic
22 Preservation Review Board.

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1 We recommend approval. And I'll
2 take any questions that you have at this time.

3 BZA VICE CHAIR DETTMAN: Thank you,
4 Ms. Jackson.

5 Board members, any questions for
6 the Office of Planning? No. No questions? I
7 don't have any questions.

8 Thank you, Ms. Jackson. It was an
9 excellent report and we really appreciate it.

10 Moving on then -- I'm sorry. Does
11 the applicant have any questions for the
12 Office of Planning?

13 MR. KADLECEK: No questions.

14 BZA VICE CHAIR DETTMAN: Okay. I
15 think up next is the Advisory Neighborhood
16 Commission. And let me just ask, is there
17 someone from ANC 2B in the audience wishing to
18 testify?

19 Seeing no one, we do have their
20 resolution in the record. It was an
21 attachment to our Exhibit 27. And just
22 quickly scanning the resolution, again it's a

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1 resolution from ANC 2B, meeting on November
2 11th, the application was reviewed. They list
3 the areas of relief that are being required.
4 They make reference to two areas of
5 restructure relief, being the variable heights
6 as well as the setback, as stated by the
7 applicant. One area has been removed from the
8 application and all that remains is the
9 setback relief.

10 And finally, ANC 2B states that
11 they have no objection to the Zoning relief
12 requested, and thanks the applicant for their
13 communication.

14 So, again, we have a resolution
15 that appears to meet the great weight
16 requirements.

17 Is there anyone in the audience
18 wishing to testify in support or against the
19 instant application? Seeing none, I will note
20 that we do have a letter in our record,
21 Exhibit 26 from a Paul Kawata, a resident of
22 the adjacent condo building located at 1624 U

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1 Street stipulating concerns about noise and
2 privacy. The applicant has addressed some of
3 those concerns. That's in our record for
4 consideration, Board members.

5 And with that, I think it's back to
6 the applicant for closing.

7 MR. KADLECEK: Great. Thank you.

8 I would just like to summarize
9 really quickly the relief and some of the
10 issues that we discussed during the hearing
11 here.

12 First, with respect to the variance
13 relief. I think Mr. Martin made it quite
14 clear that the building is unique because it's
15 a nonconforming history building, built in
16 1921 prior to the adoption of the 1958 Zoning
17 Regulations.

18 In fact, the applicant would face a
19 practical difficulty if he tried to comply
20 with the Zoning Regulations because of the
21 fact that the building is nonconforming as it
22 is, and also because of significant costs and

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1 expense that would have to be undertaken to
2 make a separate building that would
3 essentially be nonviable if the building were
4 developed separately on that open parcel.

5 Given all that I think that would
6 be no perceptible impact on the neighborhood
7 based on the variance relief that we are
8 seeking, and there would no harm to the Zone
9 Plan.

10 With respect to the special
11 exception relief that we're seeking, I think
12 Mr. Martin articulated pretty clearly how the
13 interior of the building would have to be
14 reconfigured essentially to accommodate moving
15 the roof structure back away from the U Street
16 wall. And because of that, it would be
17 extraordinarily expensive for the applicant
18 given that the special exception relief to
19 have a roof structure that doesn't conform to
20 the one-to-one setback would be warranted and
21 would have no perceptible harm on neighboring
22 properties or from views along U Street.

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1 With respect to the letter that was
2 submitted in opposition to the case, there's
3 just a couple of issues that I would just like
4 to summarize.

5 The first is, as we discussed, the
6 applicant could put a pool on the roof and a
7 bar on the roof if he so chose right now. It
8 would be a matter-of-right and really isn't an
9 issue before the Board right now.

10 Secondly, as Mr. Von Storch
11 indicated, he doesn't anticipate any sort of
12 increase in the intensity of use because of
13 the presence of a pool. As he mentioned, the
14 tiers of membership and the restricted entry
15 to the building. It's not something that would
16 be a nightclub or something that would be
17 drastically different than a typical health
18 club type use that exists in other places
19 primarily outside of D.C. But these types of
20 amenities do exist elsewhere.

21 Finally, the letter primarily
22 states issues that relate to the liquor

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1 license. In fact, those are exclusively
2 issues that relate to the liquor license with
3 respect to noise and whatnot. And, again,
4 those are not issues before the Board right
5 now.

6 Because of the nature of the
7 objections in the letter, I would like to
8 request that the Board does make a bench
9 decision and issue a summary order.

10 Thank you.

11 BZA VICE CHAIR DETTMAN: Thank you.

12 Board members, it is back to us to
13 determine whether or not we're prepared to go
14 forward. And it appears to me that the record
15 is full in this case and I'm comfortable going
16 forward with a decision today unless you see
17 otherwise. And very well, I think the Board
18 will go into deliberation right now on this
19 case. And I think Ms. Moldenhauer is going to
20 start us off.

21 MEMBER MOLDENHAUER: Yes. Thank
22 you, Chairman.

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1 Let's see here, we have before us
2 in deliberation is Case 18012 for 1612 U
3 Street. And this is for three elements of
4 relief for area ratio under 771, relief under
5 2101 for off-street parking requirements from
6 six spaces provided to three spaces proposed,
7 and under 2001.3 for an addition to an
8 existing nonconforming structure.

9 I will first review the variance
10 relief. Under the variance test we look at
11 the first prong as to whether or not the
12 property is unique due to exceptional
13 narrowness, shadowlessness or shape at the
14 time of the original zoning regulations
15 adopted, exceptional topography conditions or
16 other exceptional situations.

17 There's case law, there's
18 statements right now into the record by the
19 applicant that the building was constructed in
20 1921 and that the original use of the property
21 was for a automobile educational facility.
22 Yes, while the building was constructed prior

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1 to the regs, I think that that alone does not
2 conform with the requirement, but that in
3 addition to the fact that it is historic and
4 that it is a contributing structure in a
5 historical area of U Street, that that
6 together and also in addition to that, they've
7 presented evidence that this is a very unique
8 lot size and lot conformity in the area. And
9 that there is no other similar lots that are
10 as large as this, especially considering the
11 fact that at the time the purpose of the lot
12 was to allow cars to drive in to teach
13 students auto repair. So because of that,
14 they did not build on all of the lot as would
15 be typical in a lot that size. But rather,
16 they built only on a portion of it leaving
17 this 28 foot opening to the left of the lot.

18 So I think that based on those
19 multiple factors that they meet the first
20 prong of the test.

21 And then the second prong is
22 whether or not this uniqueness result in a

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1 particular difficulty, a practical difficulty
2 for providing an addition or to the addition
3 to the nonconforming structure. And I think
4 that they have met that requirement.

5 I think that there was sufficient
6 testimony about the fact that if they were to
7 try to meet the parking requirements and the
8 current structure building, that they would
9 either have to:

10 (1) Demolish an existing
11 historical structure which, obviously, is not
12 recommended or looked favorably upon.

13 And also there was testimony that
14 because of the narrowness of the width of that
15 parcel that is undeveloped, they would not be
16 able to create a drive aisle and parking at
17 the same time. So because of that, I think
18 that they have shown a practical difficulty on
19 both of those elements.

20 I don't think that there's any
21 substantial detriment to the public good or
22 any impact to the Zone Plan. I think that OP

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1 has summarized those points, and I did
2 incorporate that into my notes, into my
3 analysis at this current time.

4 Then jumping to the special
5 exception criteria for the setback requirement
6 for the roof structure, I think that the
7 applicant has sufficiently provided testimony
8 that in order to provide ADA compliance to
9 provide access to the roof, that they could
10 not simply just provide the addition to the
11 current existing roof structure to the rear,
12 but rather they have to go to the front
13 portion of U Street because of the already
14 existing concrete and layout of the building.

15 Any of that would be a definite detriment
16 that they would have to have, you know,
17 reconstructed the entire area to provide or to
18 conform with that setback of the one-to-one
19 ratio.

20 As Chairman Dettman already
21 provided, we have a letter from the ANC of
22 unanimous support. In addition to that, I

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1 think that the elements that were raised by
2 Exhibit 26 by a neighbor in regards to any
3 potential public detriment had been addressed.

4 And I think that the major elements that they
5 would be able to talk to would:

6 (1) Public detriment, or;

7 (2) Potentially light and air.

8 And there really are no issues with
9 regard to light and air. It's more a matter
10 of privacy. And so I don't really think that
11 in this current analysis that that's
12 applicable.

13 And I would be in favor of
14 supporting this application. And I'll open up
15 the floor to any other additional discussion.

16 BZA VICE CHAIR DETTMAN: Thank you,
17 Ms. Moldenhauer.

18 Chairman Hood?

19 ZC CHAIR HOOD: If that was a
20 motion, I'll second it.

21 BZA VICE CHAIR DETTMAN: Was that a
22 motion?

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1 MEMBER MOLDENHAUER: I don't know
2 legally if that would suffice as a motion. So
3 I can rephrase to provide a motion if,
4 Chairman, if you don't believe there's any
5 additional discussion that needs to be.

6 BZA VICE CHAIR DETTMAN: I really
7 don't have much to add. I think you did a
8 great job of summarizing the evidence in the
9 record and how it fits into the variance test.

10 I question the presence of the gap
11 as an exceptional condition. But listening to
12 you kind of articulate how that gives rise to
13 a practical difficulty and why it's there in
14 the first place, given the history of the
15 building, I was certain convinced with respect
16 to that point.

17 So I agree with you. I think that
18 there are exceptional conditions on this
19 property that give rise to practical
20 difficulties the property owner for both area
21 variances that are being requested.

22 With respect to the roof structure

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1 requirements I think that the applicant has
2 demonstrated adequately that it would be
3 impracticable to require the applicant to
4 comply with the one-to-one setback
5 requirements given the location of the current
6 elevator shaft and what they'd have to do in
7 order to move that thing back away from the
8 exterior wall.

9 So I'm in agreement with you. I
10 think the special exception standard for that
11 area of relief has been met.

12 So I think that being said, we can
13 move on to a motion.

14 MEMBER MOLDENHAUER: I move a
15 motion to approve the Application of Urban
16 Adventures of Washington, pursuant to § 3104.1
17 and 3103.2, for a special exception for a roof
18 structure requirements under subsection
19 411.11, and for a variance from the floor area
20 ratio requirement under section 771, and a
21 variance from the nonconforming structure
22 provision under subsection 2001.3, and a

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1 variance from the parking requirements under
2 subsection 2100.10(a), to allow renovation and
3 expansion of an existing historic building
4 housing a fitness club, rooftop pool,
5 restaurant and beauty salon in the C-2-A at
6 1612 U Street, Northwest.

7 BZA VICE CHAIR DETTMAN: And,
8 Chairman Hood, would you still like to second
9 that?

10 ZC CHAIR HOOD: I'll second the
11 motion with the caveat that Board members
12 Moldenhauer did an excellent job summarizing,
13 and the Office of Planning report really
14 captured it very thorough.

15 Thank you.

16 BZA VICE CHAIR DETTMAN: And I
17 agree with your comments.

18 The motion's been made and
19 seconded. Further deliberation? All those in
20 favor say aye.

21 ALL: Aye.

22 BZA VICE CHAIR DETTMAN: Opposed.

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1 And there are no abstentions.

2 Can we call the vote?

3 MS. BAILEY: Mr. Chairman, the vote
4 is recorded as three-zero-two to grant the
5 application. Board members Moldenhauer made
6 the motion, Commissioner Hood seconded, Mr.
7 Dettman supported the motion. There are two
8 Board members not sitting at this time.

9 BZA VICE CHAIR DETTMAN: Thank you,
10 Ms. Bailey.

11 And as there is no parties in
12 opposition to this case, I think we can do a
13 summary order.

14 MS. BAILEY: Thank you.

15 BZA VICE CHAIR DETTMAN: Okay.
16 Thank you.

17 (Whereupon, at 2:59 p.m. off the
18 record until 3:04 p.m.)

19 BZA VICE CHAIR DETTMAN: Mr.
20 Bailey, when you're ready can we call the next
21 case?

22 MS. BAILEY: Mr. Chairman, the next

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1 case is the Application of Emory United
2 Methodist Church, and the number is 17963.
3 It's pursuant to 11 DCMR § 3104.1 and section
4 3103.2, for a variance from the height
5 requirements under section 770, a variance
6 from the floor area ratio requirements under
7 subsection 771.2, a variance from the lot
8 occupancy requirements under section 722, a
9 variance from the loading facility
10 requirements under section 2201, and a special
11 exception for multiple roof structures and
12 required setbacks under subsections 770.6(a),
13 777 and 411.11, to allow the construction of a
14 new building containing a church, office,
15 retail, residential and recreation uses on
16 premises located at 6100 through 6210 Georgia
17 Avenue, Northwest. Square 2940, Lots 801,
18 802, 808 and 813. The property is zoned C-2-
19 A.

20 And members of the Board, as you
21 are aware, this case is a continuation from
22 the September 22, '09 Public Hearing.

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1 BZA VICE CHAIR DETTMAN: Thank you,
2 Ms. Bailey.

3 And good afternoon, Mr. Keys. How
4 are you?

5 MR. KEYS: Good afternoon, Vice
6 Chairman.

7 BZA VICE CHAIR DETTMAN: There's a
8 couple of preliminary matters that I want to
9 work through. But before we get to that, why
10 don't we start with introductions of the
11 people at the table.

12 MR. KEYS: Yes. What I would like
13 to do, I am George Keys with the firm of
14 Jordan & Keys. I'm the land use counsel for
15 Emory United Methodist Church.

16 What I would like to inform the
17 Board, we had seen that we were going to be
18 the first in the afternoon agenda today. And
19 there are a couple of people here who are in
20 support of the application who are under time
21 pressure because of the late consideration of
22 this case. And what I'd like to ask the

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1 Board's indulgence if those people in support
2 could offer their statements now just so that
3 they're in the record.

4 BZA VICE CHAIR DETTMAN: Certainly.
5 What kind of time constraints are we talking
6 about? What time do they have to leave?

7 MR. KEYS: Well, I think the
8 witness with me now has to leave momentarily.

9 BZA VICE CHAIR DETTMAN: Okay.

10 MR. KEYS: And the other within an
11 hour. And I don't think we'd be able
12 otherwise to get to them.

13 BZA VICE CHAIR DETTMAN: Okay.
14 Well, I'll ask my Board members. I certainly
15 think that that's an appropriate course of
16 action. And the preliminary matters that have
17 in front of me don't necessarily need to be
18 addressed now.

19 Board members, any issue with
20 taking this particular witness out of order?
21 No. Okay.

22 MR. KEYS: Thank you.

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1 Would you introduce yourself for
2 the record, please

3 MS. ANDERSON: My name is D. Kamili
4 Anderson. I'm the former --

5 MS. GLAZER: I'm sorry. Excuse me,
6 Mr. Chair. I don't know if the witnesses were
7 sworn. And were the opposition parties
8 introduced as well. As I recall, there were
9 opposition parties --

10 BZA VICE CHAIR DETTMAN: No, there
11 are no parties in opposition.

12 Let me ask if the ANC is here, a
13 representative from the ANC? No.

14 But, you know, why don't we just
15 take a second --

16 MS. BAILEY: Mr. Chairman, the
17 witness -- Ms. Glazer I don't think was in the
18 room when the witnesses were sworn in.

19 BZA VICE CHAIR DETTMAN: Okay. Is
20 there anyone in the room that was not sworn in
21 at the time that Ms. Bailey administered the
22 oath? Do you plan to testify today? Sorry?

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1 We're going to need to get you in
2 the record. But why don't we just administer
3 the oath for those who were not in the room,
4 and then we can very quickly get to the
5 witness.

6 MS. BAILEY: Sir, would you stand
7 and raise your right hand.

8 (Witnesses sworn.)

9 BZA VICE CHAIR DETTMAN: Okay.
10 Thank you.

11 Mr. Keys, is the witness a person
12 just testifying in support or --

13 MR. KEYS: Just a person testifying
14 in support. She's not my witness.

15 BZA VICE CHAIR DETTMAN: Okay.
16 Excellent. Okay. So I think that we can get
17 started with three minutes on the clock, and
18 we're all set.

19 MS. ANDERSON: Okay. Again, my
20 name is D. Kamili Anderson. I'm the former
21 President of the Brightwood Community
22 Association up through past November. I'm

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1 currently the Chair of the Business
2 Improvement Committee for that association.

3 I appreciate your indulgence.

4 But I want to be clear about one
5 thing from the very outset. My purpose here
6 today is quit simply to present and to make
7 the most compelling case you'll hear this
8 afternoon in support of the Emory Beacon of
9 Light proposal for a major development of the
10 exact size and dimensions, height and
11 otherwise that that organization has
12 originally stipulated and they do here today
13 on Georgia Avenue abutting the historic Fort
14 Stevens site. For my neighbors' sake and for
15 the historic value of the -- many of us would
16 like to ultimately see Brightwood accrue, I
17 hope I'm successful.

18 I've been a resident of the
19 District of Columbia for 36 years. I was a
20 teenager when I arrived here, so I guess you
21 could say I practically grew up here, most of
22 that time in the Brightwood and the Pettworth

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1 neighborhoods. But as I moved more rapidly
2 into my senior years, the less I began to see
3 some significant and drastic changes in the
4 major commercial corridor within my current
5 neighborhood of Brightwood, and that's mainly
6 the great street of Georgia Avenue. My dreams
7 will increasingly be ones of having a license
8 plate on my car other than a District of
9 Columbia one. And I have one of the Mayor's
10 tags, at that. But that doesn't matter.

11 Again, I was the President of the
12 Brightwood Community Association for six
13 years. And in that role I participated in a
14 number of hearings such as these. But in my
15 time as President through to this very moment
16 and one of my hardest part and most overriding
17 goals has been to see and support with all my
18 might in every possible instance a massive
19 renewal and infusion of commercial development
20 on the Georgia Avenue corridor through
21 Brightwood.

22 I strongly believe that in order to

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1 be competitive and to resist the outflow of
2 retail dollars to areas like Columbia Heights
3 and Chevy Chase, D.C. to the west, Silver
4 Spring and Wheaton to the north and downtown
5 D.C. to the south Brightwood, like the
6 Nation's Capitol in general, deserves a great
7 street east of Rock Creek Park and not just a
8 pass through about historic times.

9 Just like these areas with their
10 destination sites and their venues and their
11 major commercial residential and retail-based
12 developments, the residents of Brightwood want
13 to spend, shop, dine out, worship and be
14 entertained where they live. We are not
15 second class consumers.

16 The Emory Beacon of Light Project,
17 for all its size and scope and along with its
18 many conscientious community servant aspects
19 is posed to represent the beginning of
20 positive progress and change in Brightwood.

21 But before I move on to some other
22 comments, stress a viewpoint held by

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1 substantial numbers of my neighbors that such
2 progress and change in Brightwood as this
3 project for which variances are being sought
4 today, have been talked in other cases by
5 other so called historic preservation and
6 other efforts and those that currently present
7 resistance to the Emory Beacon of Light
8 Project before. And many of us in the
9 Brightwood neighborhood don't like it at all.

10 For example, another stalled
11 project on Georgia Avenue near the Emory
12 Church, directly across from there, is the
13 proposed redevelopment of the former Curtis
14 Chevrolet Dealership site stalled right into
15 the current recession by preservationists
16 insistence on preserving a transport system
17 car barn from the early era. Many of the
18 residents did not care one bit about the car
19 barn, not one bit. And many rightfully voiced
20 their opposition to its conclusion in the
21 developer's plans in public forum with our
22 Ward 4 Councilmember Muriel Bowser. Yet the

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1 preservationists, none of who I suspected
2 lived in Brightwood, persisted and valuable
3 design time was spent to massage them,
4 valuable time that possibly pushed this
5 vitally important neighborhood to the back
6 burner for who knows how long. The result?
7 Has anybody seen anything going on at the
8 Curtis Chevrolet site for many months?
9 Nothing.

10 And one advantage I find with no
11 longer holding the leadership position in the
12 organization affords me that I can at least be
13 decidedly more opinionated and less measured
14 in my position. I can say that something
15 smells when I smell it, and I can call efforts
16 to block important indigenous initiatives to
17 uplift an under served area; efforts that have
18 suspicious motives and smell of uncaring or
19 fear of competition, efforts that will have
20 negative impact due to veiled ulterior
21 motives, I can call them bogus. And that's a
22 real relief.

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1 And here we have a proposal for
2 development from an organization that has a
3 strong history of service and regarding our
4 neighborhood, an organization that has been
5 diligently and properly gathering the provided
6 resources to pull off this development plan at
7 a time when others are pulling back. And
8 quite frankly, we in Brightwood who want to
9 see this development happen with all the force
10 of our reason, are being stifled and stymied
11 by some unfounded-- by an assault.

12 And I'm going to go quickly through
13 my notes here, but just say that simply put,
14 the argument --

15 BZA VICE CHAIR DETTMAN: Ms.
16 Anderson, I don't want to interrupt you, I
17 want to give you a little bit more time. I
18 just want to ask you to just be mindful of the
19 clock.

20 MS. ANDERSON: Okay. Thank you.

21 The arguments that the Emory Beacon
22 of Light development would block potential

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1 tourist views of Fort Stevens from Georgia
2 Avenue are bogus. They' are B.S. Unless the
3 opponents of this development foresee visitors
4 to the Fort in the near distant future flying
5 in to see it, a skyscraper could be built on
6 the proposed Emory Beacon of Light development
7 site and not block the view of the site
8 anymore than it already is.

9 Plus, anyone who drives through the
10 Brightwood Georgia Avenue corridor on a
11 regular or a singular basis knows you just
12 can't see it from that street. And anyone
13 driving along the back side of the Fort on
14 13th Street also knows that if you blink you
15 will miss it. A large looming development
16 such as that proposed by Emory Beacon of Light
17 with its landscaped rear side and dramatic
18 facade would decidedly draw a traveler's eyes
19 to the left to see the Fort below it. And with
20 the Emory Beacon of Light provision of space
21 for a Fort Stevens Memorial or souvenir shop
22 to the rear of its development abutting the

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1 Fort, what would Mr. Lincoln say? To steal a
2 line from another more infamous President
3 "Mission accomplished."

4 I wish to conclude by accenting the
5 statements of other supporting this
6 development plan here today by affirming my
7 associations of position that the
8 revitalization of Georgia Avenue in Brightwood
9 is contingent upon projects such as the one
10 being proposed by the Emory Beacon of Light
11 and the Emory United Methodist Church.

12 The residents need and want
13 consciousness quality development and housing
14 from organizations already in our community
15 who have shown a commitment to care about
16 those they serve.

17 If we were talking about keep the
18 faith, we want to keep that faith in D.C. and
19 the BCA supports Emory Church and Emory Beacon
20 of Light in that regard.

21 So basically those are my comments.

22 I have full testimony if you'd like to hear

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1 or read it. But I just strongly want to say
2 that the BCA, the Brightwood Community
3 Association stands with the developers of this
4 project and their plan, and will oppose
5 wholeheartedly any attempts to prevent it from
6 coming to fruition. And that is the
7 organization's position.

8 Thank you very much.

9 BZA VICE CHAIR DETTMAN: Thank you,
10 Ms. Anderson.

11 Board members, any questions for
12 Ms. Anderson? No.

13 I do have one question. Just that
14 do you have your remarks, a copy of your
15 remarks that you could submit into the record?
16 I think it would be very helpful.

17 MS. ANDERSON: I could submit them.

18 But I'd prefer that if you could give me an
19 email address, I can send it in an email or
20 something like that because I've kind of
21 marked them a little bit. I do have a clear
22 copy, but it's somewhat marked up.

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1 BZA VICE CHAIR DETTMAN: Okay.
2 Well, let me make a note of it. And if the
3 Board decides at the end of the hearing, if we
4 get to the end of the hearing today and if we
5 decide that we're going to put off our
6 decision, maybe we'll leave the record open
7 for you to submit those comments.

8 MS. ANDERSON: Thank you. I would
9 appreciate.

10 BZA VICE CHAIR DETTMAN: Thank you.
11 Mr. Hood?

12 ZC CHAIR HOOD: Ms. Anderson, were
13 you representing Brightwood Civic Association?

14 MS. ANDERSON: Brightwood Community
15 Association.

16 ZC CHAIR HOOD: Community
17 Association?

18 MS. ANDERSON: It's an organization
19 that was chartered in the District in 1958.

20 ZC CHAIR HOOD: Okay. So that's
21 who you're representing? And you're the past
22 President?

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1 MS. ANDERSON: Yes. I'm the past
2 President and presently Chair of the Business
3 Improvement Committee of the Brightwood
4 Community Association.

5 ZC CHAIR HOOD: Okay. Thank you.

6 MS. ANDERSON: Yes.

7 BZA VICE CHAIR DETTMAN: Great.
8 Thank you again, Ms. Anderson.

9 A second one? Okay.

10 REV. POPPEI: Hi. I'm Reverend
11 Amanda Poppei. I'm the Senior Leader of the
12 Washington Ethical Society Congregation on
13 16th Street, also in Ward 4 and quite close to
14 the Emory United Methodist Church.

15 And you've just heard some
16 impassioned thought about so of the business
17 aspect of the Emory Beacon of Light proposal.

18 And as a pastor, I can speak really to how we
19 take care of our communities and that's what
20 I'd like to tell you a little bit about today.

21 I actually went to seminary in D.C.
22 at Wesley Theological Seminary, which is a

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1 United Methodist Seminary, and so I have heard
2 about Emory for quite some time and know that
3 pretty much whatever comes out of Emory is
4 going to be good for the community, is going
5 to have the city and the community at its
6 heart. And that certainly seems to be the
7 case with this proposal.

8 Ward 4 is changing rapidly. That
9 Georgia Avenue corridor is changing and will
10 continue to change. I know that I don't need
11 to tell you folks that. And so from my
12 perspective having change that comes and takes
13 care of the community, that provides
14 affordable housing, that provides transitional
15 housing, supportive housing, veterans housing;
16 that's the kind of resources that this
17 community needs and will continue to need as
18 it changes and grows as it becomes yet more
19 vibrant.

20 You know, I know that Emory has
21 been responding to concerns and requests from
22 the community. I believe that they actually

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1 changed some housing to include veterans
2 housing at the request of some folks. That
3 they really are listening to what's needed in
4 the community and in the city. And so I just
5 want to lend my support to that to the way
6 that they're taking care of the folks in their
7 neighborhood, and in the neighborhood that
8 ultimately my congregation shares with them in
9 Ward 4.

10 That's all.

11 BZA VICE CHAIR DETTMAN: Thank you,
12 Ms. Poppei, right?

13 REV. POPPEI: Reverend Poppei, yes.

14 BZA VICE CHAIR DETTMAN: I remember
15 you from a previous BZA.

16 REV. POPPEI: Yes, that's right. I
17 was before you. The day care is in and
18 everybody's happy, including the neighbors I'm
19 glad to say.

20 BZA VICE CHAIR DETTMAN: Very good.

21 Board members, any questions for
22 Ms. Poppei? Very well. Thank you very much

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1 for your testimony.

2 REV. POPPEI: Thank you very much.

3 BZA VICE CHAIR DETTMAN: Mr. Keys?

4 MR. KEYS: Yes. Mr. Chairman,
5 there's one more person I think.

6 I'm at a loss to tell you how many
7 people there are that now wish to speak. And
8 I'll leave it to your judgment as to how you
9 wish to proceed. I don't want to -- at some
10 point this inverts my case and I want to
11 preserve that, too.

12 BZA VICE CHAIR DETTMAN: Well, let
13 me ask this of the audience. How many persons
14 not connected to the applicant's case are here
15 to provide testimony in support or in
16 opposition? And how many have time
17 constraints? I need a show of hands here. We
18 have one, two. Thank you.

19 I think after conferring with my
20 colleagues I think I saw two hands. This
21 gentleman here as well as this gentleman in
22 the audience.

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1 I think for purposes for the Board,
2 I think that we can allow those two gentlemen
3 to provide some testimony. And at that point
4 we're going to move on with the applicant's
5 case. Again, because we're receiving
6 testimony and the Board still has not heard
7 anything in terms of the merits of the case.
8 So let's go ahead and do that.

9 MR. DAWKINS: My name is Hasim
10 Dawkins, and I'm the President Beacon
11 Brightwood Business Alliance, which is a
12 business community association within the
13 Brightwood area.

14 Our nation, city and neighborhoods
15 are in dire need of strategies that create
16 economic development, not only from federal
17 programs to free up credit to stimulate our
18 national and local economy, but also from
19 local development initiatives that optimize
20 the use of neighborhood land to attract retail
21 professional service providers that are able
22 to increase tax revenue by employing local and

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1 nonlocal residents.

2 The Beacon Center is such a
3 development. It will create 91 units of
4 affordable housing, nine transitional units of
5 housing, 16 units of family affordable housing
6 and 20 to 25 provided to Brightwood residents.

7 As it stands today, the Fort
8 Stevens' site is not viewed, You can't view it
9 from Georgia Avenue. So even if it was able
10 to be viewed from Georgia Avenue, you have to
11 remember that it will be enhanced if the
12 Brightwood Community Association or the Beacon
13 Center up. Because what we'll be able to do
14 is leverage the activity, the economic
15 activity of that site to actually try to bring
16 people to the Fort Stevens Park.

17 So that is basically my statement.

18 BZA VICE CHAIR DETTMAN: Thank you.

19 And could you just repeat -- is it Dawkins?

20 MR. DAWKINS: Dawkins, yes.

21 BZA VICE CHAIR DETTMAN: Okay. And
22 your first name?

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1 MR. DAWKINS: Hasim.

2 BZA VICE CHAIR DETTMAN: Okay.

3 Thank you.

4 Board members, any questions for
5 Mr. Dawkins? None? All right. Well, thank
6 you very much.

7 And I think we were going to
8 entertain one more witness?

9 And based on my remarks hat I had
10 earlier, just be mindful of the clock.
11 Typically persons providing testimony are
12 given three minutes. But we're a little
13 flexible there.

14 MR. SINDRAM: Thank you, Mr.
15 Chairman, Board members. Good afternoon, and
16 for your indulgence.

17 My name is Michael Sindram. I'm a
18 disabled veteran who has served our country
19 more than most. My building and my home abuts
20 the Battleground National Cemetery, 6645
21 Georgia Avenue, Northwest.

22 I understand that the National Park

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1 Service may be in opposition to this honorable
2 endeavor Emory House. For a moment, I'd just
3 like to focus on Battleground National
4 Cemetery.

5 Again, as a disabled veteran I hold
6 near and dear to my heart our flag. We've had
7 a lot of wind. The flag has been in tatters
8 for months with the Park Service not doing
9 anything about it. They recently this past
10 Saturday were coming around to measure the
11 stonewall saying that it needs to renovated.
12 The wall's perfect. What needs to be done is
13 where Abe Lincoln spoke in the miniature
14 amphitheater, which is decrepit, in dire need
15 of repair has yet to happen.

16 So if on the one hand the Park
17 Service can come forward and say something
18 about an honorable endeavor Emory House and
19 let the Battleground National Cemetery
20 deteriorate to its condition, I think it's
21 highly disingenuous and a disservice.

22 As you can see, I'm wearing the

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1 great seal of our nation. And in my
2 conclusion I'm going to bring the point that
3 I'm making about the shirt I'm wearing.

4 Turning our attention to the issue
5 at hand, the Emory Beacon House, in this area
6 of Walter Reed Hospital, which has done a
7 tremendous disservice to our veterans, is soon
8 to soon to close, actually September 15, 2011
9 at 20:00 hours, I understand.

10 There is across the street at 6825
11 Georgia Avenue a part of Walter Reed that used
12 to be a medical holdover barrack. There was a
13 big brouhaha about vermin and mold and
14 whatnot. We've had every politician on the
15 hill come through. You can eat off the floor,
16 but guess what? As we speak it's a ghost
17 town. Meaning the soldiers from Iraq and
18 Afghanistan have nowhere to go.

19 So if Emory is picking up the slack
20 and saying we're going to house the vets and
21 Walter Reed isn't when its their mission as
22 Department of Defense, I see no reason why

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1 this should not be approved similarly sua
2 sponte, each of you.

3 The enhancement use and appearance,
4 there could be nothing said other than with
5 more vision of the outlay of where Emory House
6 is and the battlefield area is going to
7 enhance and bring in more folks there. Right
8 now it's kind of in an area where not many
9 people know about it, or for that matter even
10 use it. So if you've got more visibility and
11 more awareness on the part of the community,
12 that can only benefit that park and the
13 National Park Service. And I don't see where
14 the disservice would be.

15 One other thing I'd like to mention
16 too with regard to the Battleground National
17 Cemetery, it's a cemetery for veterans
18 interred. Not a doggie park. And I know of
19 someone who lives in my building regularly,
20 let's the dog come in there and urinate and
21 defecate. And I would dare say that may be
22 happening over with the area where the Emory

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1 House. And the name of that park escapes me
2 at the moment. Could somebody help me here?
3 Fort Stevens. All right. I dire say without
4 oversight as well becoming a doggie park too,
5 which ought not be.

6 In conclusion, like I said, I was
7 wearing this shirt with the great seal of the
8 United States. And I'm going to stand up. It
9 shows an eagle within its hand one talon's
10 left, the arrows and the other talon's an
11 olive branch. And notice which way the eagle
12 faces pointing; to the right with the olive
13 branch.

14 I would beseech the National Park
15 Service and all others to say let's have peace
16 and bring this Emory House for veterans to be
17 housed and pu thumbs up.

18 Thank you. If there would be any
19 questioned, I'd be delighted to field them at
20 this time.

21 BZA VICE CHAIR DETTMAN: Thank you,
22 Mr. Sindram.

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1 Board members, questions? None. I
2 don't have any questions.

3 Mr. Sindram, thank you very much
4 for your testimony. We very much appreciate
5 it.

6 And I think at this time, Mr. Keys?

7 MR. SINDRAM: Okay. And thank you
8 for your indulgence, Mr. Chairman.

9 BZA VICE CHAIR DETTMAN: Thank you.

10 MEMBER MOLDENHAUER: Thank you for
11 your time, and thank you for your service.

12 BZA VICE CHAIR DETTMAN:
13 Absolutely.

14 Mr. Keys, I think maybe we're ready
15 to get started with your case. And let me ask
16 a couple of questions.

17 As Ms. Bailey noted, this is a
18 continuation of a case but we haven't heard
19 anything yet in terms of the case that you
20 plan on putting on.

21 Just looking over my records I
22 noticed that there was an earlier filing from

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1 DDOT requesting additional time because they
2 didn't have tan opportunity to look at the
3 transportation report. We did receive our
4 Exhibit 35 from DDOT. And, Mr. Keys, did you
5 receive the DDOT report dated December 9?

6 MR. KEYS: I did.

7 BZA VICE CHAIR DETTMAN: Okay. I
8 think technically that is a later filing, and
9 perhaps we can take that up as a preliminary
10 matter in terms of whether or not the Board
11 sees fit to waive their rules to allow it in
12 the record.

13 Mr. Keys, did you have any concerns
14 with the Board waiving their rules and
15 allowing the DDOT report in the record? And
16 again, the standard that the Board will be
17 applying is for good cause shown as well as
18 prejudice to any party?

19 MR. KEYS: No, Mr. Chairman. We
20 can't claim prejudice on the basis of that. I
21 was hoping that there would be a DDOT witness
22 here to introduce this report and to explain

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1 some of its conclusion. We very much would
2 like to cross examine DDOT.

3 BZA VICE CHAIR DETTMAN: Okay.
4 Well, how about this? The Board will
5 deliberate whether or not they actually want
6 to waive the rules and allow it into the
7 record. If the Board does, perhaps maybe
8 during the course of this hearing DDOT will
9 show up and you'll have the opportunity to
10 cross examine them on their report. If not,
11 and if the Board sees that hey want to put off
12 their decision at the end of the hearing, if
13 we conclude tonight, or if you feel strongly
14 enough that the Board should put off their
15 decision in order for you to respond to this
16 report, we could take up that matter at the
17 close of the hearing?

18 MR. KEYS: Yes. I think we would
19 certainly want the opportunity to respond to
20 the report if there is no DDOT witness to
21 testify.

22 BZA VICE CHAIR DETTMAN: Okay.

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1 Colleagues, we have before us our Exhibit 35,
2 it's the DDOT report. IT was received by the
3 Office of Zoning December 9th. The report is
4 dated the same day.

5 Under our rule 3100.5 we can waive
6 the requirement for reports from District
7 agencies, the seven day requirement, we can
8 waive that rule 3100.5 and allow this into the
9 record. And I would be in support of actually
10 doing that.

11 Chairman Hood? Great. It looks
12 like it's the consensus of the Board that we
13 will waive that rule and allow this into the
14 record. And then we'll address the report at
15 the appropriate time.

16 The second matter I had, and again
17 this was just me looking through the record
18 leading up to today's hearing, the affidavit
19 of posting our Exhibit 24, was that filed
20 timely?

21 MR. KEYS: Yes, it was, Mr.
22 Chairman.

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1 BZA VICE CHAIR DETTMAN: It was?
2 Okay. There was a question mark in my head
3 and I didn't see anything in the record that
4 would make me believe that, but I wanted to
5 clarify that.

6 And finally, when we did postpone
7 this hearing some time ago, I believe it was
8 in September?

9 MR. KEYS: September 22nd.

10 BZA VICE CHAIR DETTMAN: September
11 22nd. We did take up the issue of expert
12 witnesses?

13 MR. KEYS: Yes, Mr. Chairman. And
14 Edward Papazian, who is here today, was
15 admitted as an expert in traffic planning and
16 Sean Pichon, the project architect was
17 admitted as an expert in architecture.

18 BZA VICE CHAIR DETTMAN: Great.
19 Thank you, Mr. Keys.

20 And, colleagues, that's our Exhibit
21 25. Their rèsumès are in the record attached
22 to, I believe it was like a prehearing

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1 statement provided by the applicant.

2 So that's all of the housekeeping
3 issues that I have. And if there are no
4 further issues, I think we can proceed.

5 MR. KEYS: Thank you, Mr. Chairman.

6 I'm going to be as brief as
7 possible to conserve time for the witnesses
8 that I think you need to hear from.

9 This is a complex project that has
10 come forward over time. It represents the
11 confluence of a lot of community and local
12 interests coming together in an appropriate
13 location in spite of the number of variances;
14 and we've got height, we have FAR, we have lot
15 occupancy, we have loading, we have a roof
16 setback variance and a special exception for
17 multiple roof structures.

18 This site really resolves itself
19 very simply, and that's one of the things that
20 we want to be able to persuade the Board of
21 that this case really reduces when you
22 understand the site, you understand the

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1 building and you understand the challenges of
2 meeting the constraints that operated on this
3 site.

4 It's important that the Board
5 recognize that this project is situated in a
6 C-2-A zone, that more importantly the
7 Comprehensive Plan picks out specifically as
8 one appropriate for moderate density
9 residential and low density retail. And
10 that's exactly what's being proposed.

11 The standards, and I think the
12 variance standards are the ones that will bear
13 the most scrutiny. The special exception
14 really doesn't impact because it is a minor
15 deviation in terms of the roof structures
16 facing Georgia Avenue. I don't think that's
17 going to occupy. I think the real test is
18 going to be the variance standard. And that's
19 going to require our identifying exceptional
20 circumstances related to the property which
21 can be granted without substantial detriment
22 to the public good and without impairing the

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1 intent, purpose and integrity of the Zone
2 Plan.

3 I have four, possibly five
4 witnesses that I'd like to introduce to the
5 Board that will explain the context in which
6 this building exists and the reasons for its
7 existence.

8 First, Reverend Joseph Daniels, the
9 Pastor of Emory United Methodist Church.

10 BZA VICE CHAIR DETTMAN: And, Mr.
11 Keys, very quickly do you have a general idea
12 of how much time your case might take? I
13 don't want to rush you along. You're allowed
14 to time.

15 MR. KEYS: No. We'll meet the
16 hour.

17 BZA VICE CHAIR DETTMAN: Okay.

18 REVEREND DANIELS: My name is
19 Joseph Daniels. I serve as Pastor of Emory
20 United Methodist Church. I've served as
21 Pastor there for 17½ years now.

22 My life has been intertwined in

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1 Brightwood since 14 years of age. Before
2 there was a Safeway, back when there was a
3 Polar Bear Ice Cream Parlor, back when Ida's
4 Department Store was still around and Faces
5 was still around and Mortons and some of the
6 other prominent place that define the
7 Brightwood community. Pozen's Delicatessen
8 and the like.

9 I want to be able to set context
10 for us today as to the origins of the Beacon
11 Center and how we've gotten to this point.
12 And they really reflect the marriage that has
13 taken place between not only the Emory
14 congregation and other congregations in the
15 Brightwood neighborhood, but also the Emory
16 Beacon of Light, Incorporated which is the
17 501(c)(3) not for profit faith-based community
18 development corporation in Brightwood as well
19 as Brightwood Community Association and other
20 entities.

21 We have gotten unanimous support
22 from the community for the project, and it is

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1 born out of that marriage between congregation
2 and community.

3 A lot of this started, and really
4 all of this started, and really all of this
5 started about five years ago when we
6 experienced two fires within our congregation
7 within a 16 month period. And the evident
8 need for us to build as a congregation was
9 very strong, but we have always been a
10 congregation that has had a community heart
11 and a community mind. And the creation of the
12 Emory Beacon of Light comes out of that.

13 And so in our seeing that we were
14 worshiping in a very old facility, of which
15 the back part which is closest to Fort Stevens
16 is literally crumbling. And we've been told
17 by structural engineers that it needs to be
18 replaced. Out of that and out of a strong
19 need within our neighborhood that we saw, that
20 we witnessed that we live in, a need that
21 requires affordable housing, a need that
22 requires housing for homeless people, a need

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1 that requires the strengthening of small
2 businesses, a need that requires youth and
3 family development, a need that requires
4 Immigration services, a need that requires
5 housing for seniors, a need that requires
6 housing for veterans in our proximity and
7 relationship with Walter Reed Hospital we
8 embarked upon an effort to have a community
9 project, a community and congregational
10 project that would serve and try to meet as
11 many needs as possible.

12 We did that within our own initial
13 Brightwood meetings. And then we began doing
14 that through our relationship with the
15 Washington Interfaith Network, which is a 50
16 church network in the city that represents
17 about 20,000 folks, 50 congregations. And that
18 is across the city, of which I am one of the
19 co-chairs of that organization. We are very
20 prominent in writing into legislation the
21 Neighborhood Investment Fund, I should say the
22 Neighborhood Investment Act of 2004 out of

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1 which came the Neighborhood Investment Fund
2 which was passed unanimously by the City
3 Council, D.C City Council in 2004.

4 Out of that there were 12 targeted
5 areas that we saw where development needed to
6 happen across the city. We were very much
7 concerned that with the economic boom during
8 that time in the city that very prominent
9 neighborhoods that had been neglected for
10 years, and you heard Ms. Anderson speak of the
11 neglect of Brightwood, were not getting monies
12 that were coming from downtown development and
13 that neighborhoods deserved a similar kind of
14 development as was happening downtown. And so
15 we were able to get that legislation into
16 place.

17 As a part of that Brightwood was
18 one of the 12 neighborhoods identified. To in
19 fact get support from the Neighborhood
20 Investment Fund we had to prove that we had a
21 development plan that was worthy. And so we
22 began to identify all of our community

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1 partners who had a stake in the development of
2 Brightwood to begin hearing and listening from
3 them what types of needs that they had. And I
4 just laid those out.

5 We then entered into relationship
6 with the Office of Planning, which about a
7 year after we began also came to Brightwood to
8 say we want to work with you to develop a
9 neighborhood plan. And so in conjunction with
10 the Office of Planning, then in conjunction
11 with the Deputy Mayor's Office, Deputy Mayor
12 for Planning and Economic Development's
13 office, in conjunction with the Historic
14 Preservation League in which we went to them
15 to say that we were doing this understanding
16 the historical nature of Emory, understanding
17 the historical nature of Emory in relation to
18 Fort Stevens. And in conjunction with other
19 community players who we felt were very
20 important we began to put together a plan that
21 has become initially the Beacon Center.

22 As I told you, the Beacon Center is

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1 an effort to meet housing needs in particular
2 from homelessness all the way to permanent
3 residency. It is, and you will hear this, a
4 91 unit housing facility that will have within
5 it permanent support of housing for a number
6 of homeless people who we work with on the
7 street regularly, several who are here today.

8 It will house our transitional housing
9 component. It will have housing for
10 transitional individuals, a service that we
11 provided through the church and the Beacon
12 Center since 1996.

13 It will incorporate veterans
14 housing. As you've heard, veterans housing is
15 a major need. It's been identified not just
16 obviously by us, but by the Obama
17 Administration.

18 It will also house seniors. And in
19 Ward 4 and in our community in Brightwood we
20 have a strong senior population. And many of
21 our seniors in Brightwood are literally being
22 priced out of the neighborhood in which they

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1 lived almost all of their lives because of
2 rising property taxes and just the inability
3 to afford to be able to stay and wanting to
4 stay there.

5 And so it will house those
6 components. It will also provide affordable
7 rental housing for families, first time
8 families, first time families who are hoping
9 to move into housing for the first time but
10 can't afford it, but need rental space.

11 It will cover all those housing
12 components. In addition, it will provide space
13 for commercial development, which we want to
14 see built up as you have heard already in
15 testimony.

16 And there will be a full size
17 college gymnasium in the facility that will
18 begin to address issues that young people have
19 brought up. And that is number one, there are
20 very few places to gather as youth. Number
21 two, there is an increasing need in the
22 District of Columbia and in the entire

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1 Washington metropolitan area for gymnasium
2 space to address the needs that many of our
3 youth, basketball leagues in particular, and
4 indoor soccer leagues have for practice space
5 and for places to play. And so we plan on
6 doing that.

7 Parking has also been an issue in
8 Brightwood. And we have two levels of
9 underground parking that you will see in this
10 project.

11 And there will be enough and
12 adequate green space as well to address the
13 green needs that we have.

14 So I just wanted to just state the
15 context of that and how this literally comes
16 out of not just the Emory congregation, but
17 this literally comes out of the community of
18 Brightwood which for years has been neglected
19 politically, which for years has had promises
20 made and promises broken, which for years has
21 gone neglectful.

22 And let me just say two things and

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1 I'll wrap up my testimony.

2 This project has full support of
3 Mayor Adrian Fenty, who we have met with about
4 this project as well as his Administration.

5 It has the full support of our
6 Councilwoman Muriel Bowser, who we have met
7 with regularly.

8 It has the full support, as I said,
9 the community, our ANCs, our community
10 associations and like.

11 We've also reached out to one
12 entity that we have not been able to come to
13 full agreement with, and that is the National
14 Park Service. We've had a very healthy
15 relationship with them for years. Our
16 congregation has grown significantly in 17½
17 years. When I got there, I think my first
18 Sunday there in worship there were between 50
19 and 60 people there. We now average more than
20 400 people a Sunday at Emory Church. We have
21 parking issues. We've had times where people
22 have parked on National Park Service grounds.

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1 The Park has come and said, you know you
2 can't park here, we're going to ticket you.
3 We have understood that.

4 We've had a good relationship with
5 them from the standpoint of when there have
6 been groups to come and look at the park, many
7 of them have come to Emory and looked at
8 Emory. They've used our parking facility.
9 We've opened our parking facility freely for
10 that. WE've opened our doors freely for people
11 who've needed to use the restroom, who've
12 wanted to somehow do other things. We have
13 seen the relationship between the Park and the
14 church. And we have sought to honor that as
15 best as we can, recognizing that we have
16 community need.

17 The sign of that, I think a major
18 sign of that relationship is that we have felt
19 the need within this facility to have a
20 welcome center built in so that people who
21 come to Fort Stevens can have a better
22 understanding, a larger understanding of the

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1 significance of the Fort and of its
2 relationship to the history of the city.
3 There is not one that exists right now. Many
4 people come to us asking questions about the
5 Fort. And because we have spent a lot of time
6 educating our congregation as to the
7 relationship of the history of the Fort, we
8 end up becoming advocates of the Fort to tell
9 the story.

10 So we understand the importance of
11 that and we've made the effort to have a
12 welcome center where people can buy
13 memorabilia, where people can gain history and
14 the like to bring attention ad, hopefully, to
15 bring more visitors to the Fort.

16 As I said, I have a long history
17 with the Fort. Many of my friends growing up
18 used to get high behind the cannons, used to
19 drink and get drunk behind the cannons. Used
20 to leave Boone's Farm, Strawberry Hill wine
21 bottles, Thunderbird, MD 20/20, you name it.
22 They littered the Fort. And fortunately many

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1 of those friends have turned their lives
2 around.

3 Ironically, I happened to be sent
4 there to pastor at the church next to the
5 Fort. And we have made significant efforts in
6 our work with homeless people, in our work
7 with everybody in the community to make
8 Brightwood the kind of neighborhood that not
9 only Brightwood wants to have, but the model
10 neighborhood that Brightwood is and Brightwood
11 can become with the right and proper support.

12 And so it's my hope that you will
13 hear not only the testimonies that have been
14 rendered today and will be rendered, but it is
15 my hope that you will even hear from those who
16 are here who cannot speak today, but are
17 speaking through their presence; those who
18 have had to leave, who were here at 1:00 who
19 could not speak, but spoke because of their
20 presence of the desire and the passion for
21 this project and the hope that it will be
22 approved and the variances can be honored.

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1 Thank you.

2 BZA VICE CHAIR DETTMAN: Thank you,
3 Pastor Daniels.

4 Just a quick question, Mr. Keys and
5 also to my colleagues, do we want to hold off
6 on questions until the applicant puts on their
7 case, or do we want to ask questions after
8 each individual witnesses? Okay. I don't
9 think Board members have questions for Pastor
10 Daniels. However, I think Ms. Moldenhauer may
11 have some questions following the architect's
12 testimony.

13 MR. KEYS: In fact, if I could, Mr.
14 Chairman, I'd like to Reverend Daniels you
15 mentioned the idea of giving space or
16 dedicating space for Park Service use. Could
17 you be a little bit more expressive about
18 that?

19 REVEREND DANIELS: Sure. As I
20 said, we've always had a longstanding
21 relationship with the Park and we want to
22 continue that. We do not see ourselves as

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1 enemies of the Park. The Park is our allies.
2 We look at NPS as our ally. And I believe a
3 result of that has been that the three
4 meetings that we have had with them, the three
5 meetings that we've had since we've embarked
6 on this project not only to let the Park
7 Service know what our plans have been as a
8 community, but also to gather their support.

9 Our desire through the welcome
10 center is to, in fact, have the Fort, have the
11 National Park Service run that welcome center.

12 They, obviously, know the history of parks
13 and know the history of the Fort better than
14 we do, although we know it very, very, very
15 well. But we believe that they should have
16 the right, they should have the ability, they
17 should have the honor of being able to operate
18 the welcome center in the hours that they
19 believe are most effective for that.

20 And so, I hope that answers your
21 question.

22 MR. KEYS: It does. But for the

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1 Board's information are there any structures
2 on the Fort Stevens' land that could
3 accommodate that purpose?

4 REVEREND DANIELS: There are none.

5 Right now unless you see the sign of Fort
6 Stevens, unless you go up and read placards
7 where you wouldn't necessarily know are there,
8 you could, as was testified earlier, pass by
9 and not know that that is a fort. Unless you
10 have some history of the neighborhood, you
11 wouldn't know.

12 MR. KEYS: Thank you, Reverend
13 Daniels.

14 REVEREND DANIELS: You're welcome.

15 ZC CHAIR HOOD: Reverend Daniels,
16 since we're doing it, I just wanted to ask a
17 question.

18 I'm looking through the PowerPoint
19 or presentation that we received today. And I
20 saw where you had, I guess this is where it
21 was, it was alluding Matthews Memorial on
22 Martin Luther King, Jr. Drive or Martin Luther

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1 King, Jr. Avenue. Is this project similar to
2 that project, or is that what you're trying to
3 accomplish here? Are you familiar with that,
4 because that's --

5 REVEREND DANIELS: I'm not familiar
6 completely with the Matthews Memorial project,
7 only from the standpoint that they too, I
8 believe, have a faith-based community
9 development organization. I'm not exactly
10 sure of the detail of that.

11 I would answer your question by
12 saying that our project is unique unto itself.

13 And the very fact that we've had a lot of
14 interest from the private sector as well as
15 the public sector on what we're doing has been
16 phenomenal because people have said "Wow, this
17 is something new. You're trying to incorporate
18 these various pieces." People haven't seen
19 this before but are very excited about it and
20 very supportive of it.

21 So I know Matthews Memorial is
22 involved in its development piece. I'm not

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1 educated enough to speak to the details of
2 that.

3 I do know some of what they're
4 doing.

5 ZC CHAIR HOOD: Right.

6 REVEREND DANIELS: But I know that
7 in comparison to our project, ours is unique
8 unto itself.

9 ZC CHAIR HOOD: Right. Okay. I
10 appreciate that. But maybe your architect put
11 that in there and I'll ask him. Because I'm
12 going a little further.

13 REVEREND DANIELS: Not a problem.

14 ZC CHAIR HOOD: Okay. Thank you.

15 MR. KEYS: I'd now like to ask Sean
16 Pichon, the project architect, to introduce
17 himself and to give you the really important
18 context to understand this site, site and
19 building. And, you know, this is the heart of
20 the case, obviously, is how the site and the
21 variances interact.

22 BZA VICE CHAIR DETTMAN: Certainly.

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1 And will Mr. Pichon be speaking to the
2 handouts that we received?

3 MR. KEYS: Absolutely, he will.

4 BZA VICE CHAIR DETTMAN: Is what we
5 received today any different than the handout
6 we received in September? Has it changed at
7 all?

8 MR. KEYS: In substance, no. I
9 mean, there are different pictures, there are
10 different exhibits but no, the details are the
11 same. The relief is the same.

12 BZA VICE CHAIR DETTMAN: Thank you.

13 MR. PICHON: Good afternoon, Board
14 members. I want to thank you for allowing me
15 to present this project today.

16 My name is Sean Pichon. I'm a
17 partner at PGN Architects. We're a District-
18 based architectural firm located in Ward 6.

19 Just as brief overview of our firm,
20 we're a service oriented firm. Our firm works
21 collaboratively and throughout the design
22 process. And we have experience presenting to

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1 several boards, the Zoning Commission, the BZA
2 and the HPRB.

3 Our office has done work throughout
4 all the wards in D.C. Some of our recent
5 work. This project located directly across
6 Fort Stevens from the Emory Beacon of Light
7 site is a 60 unit affordable housing project
8 that's preserving housing and has recently got
9 a historic designation.

10 Also presented under a PUD is the
11 East Capital Project. We got a PUD approved
12 for a 144 unit apartment building located just
13 west of RFK Stadium.

14 And downtown on 11th Street we were
15 a part of a preservation of a historic
16 building, 74 units of affordable housing of a
17 co-op that actually purchased their property
18 and renovated.

19 And to Board Member Hood,
20 Commissioner Hood, Matthews Memorial Church is
21 a project that we're working on in Ward 8
22 which is a PUD, a 99 unit PUD with a three

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1 story commercial building adjacent to it along
2 the Martin Luther King, Jr. Avenue. And this
3 project is a critical part of the
4 revitalization of Ward 8. And similar to
5 Emory Beacon of Light which is why I included
6 this, it is a catalyst project and it's seen
7 as being a huge part of the revitalization of
8 an overall neighborhood.

9 That leads me to the Beacon Center
10 which we're here to present to you today.
11 This project is very complex in terms of the
12 uniqueness of the site and the constraints
13 that we're working up against.

14 I wanted to outline today, begin by
15 outlining the surrounding context of the
16 property, then go into the specific site
17 conditions that exist on the property. And
18 then speak a little bit about the process of
19 how we got to where we are today. And then
20 explain the design, the project program and
21 then follow-up with a summary of the zoning
22 relief or BZA relief we're asking for.

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1 The surrounding context of the
2 property is our property is located at 6100
3 Georgia Avenue and it's along the C-2-A
4 corridor of the Georgia Avenue Great Streets.

5 It's bordered by several different
6 residential neighbors. It's leading up to a
7 C-3-A District toward Missouri Avenue, which
8 is seen as a node of development for the Great
9 Streets.

10 This overview gives you a picture
11 of the existing conditions around the site.

12 As you can see, Georgia Avenue runs
13 straight up and down the image here. And to
14 the west of Georgia Avenue and the west of our
15 site is 13th Street, which runs around the
16 Fort Stevens Park and separates Fort Stevens
17 Park from the residential districts towards
18 the west. The majority of those districts are
19 established districts, R-5-A District which is
20 where our Fort Stevens project is. And most
21 of those building are nonconforming use. They
22 were built prior to 1958. And they most of

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1 them are being reused or occupied right now.

2 Towards the north are mainly
3 rowhouses and single-family detached homes.
4 And towards the east of Georgia Avenue are
5 more rowhouses and single-family detached
6 townhomes.

7 Specifically at our site directly
8 to the west boundary of our site across Old
9 Piney Branch Road is Fort Stevens Park. Old
10 Piney Branch Road is a road on paper, it's
11 unimproved and it is basically asphalt paved
12 access to the church parking lot as it exists
13 right now.

14 To the south of our --

15 MR. KEYS: Sean, I'm sorry to
16 interrupt you. Could you say something about
17 Old Piney Branch Road in terms of its width?

18 MR. PICHON: The current width of
19 Old Piney Branch Road, it actually narrows and
20 widens as it goes up the hillside. At its
21 narrowest point it goes down to, I believe,
22 around 20 feet and it widens to closer to 30

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1 feet towards the top of the hill.

2 To the south of our property across
3 Quackenbos is National Park Service land as
4 well. And across 13th Street is another
5 parcel of National Park Service land.

6 Across from our site to Georgia
7 Avenue is commercial uses. And directly
8 adjacent to the north is a mixed use ground
9 floor retail and residential building above.

10 Our specific site conditions are
11 unique in and of themselves. The actual site
12 has a 14 foot berm that exists currently along
13 Georgia Avenue and Quackenbos Street.

14 The existing church sits up top on
15 the hill, on top of the 14 foot berm and the
16 actual floor level of that church is another
17 approximately six feet above that berm. So
18 you have a 14 foot berm and then a six foot
19 additional raise above that to get to the
20 actual sanctuary of the church existing. And
21 you depict that from these photographs as it
22 goes around the site. The church is raised

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1 above the 14 foot berm.

2 As you go up Quackenbos Street
3 along the rear of the site you can see an
4 existing condition of Old Piney Branch Road as
5 it exists today. As I said, it's an
6 unimproved road and its narrowest point is
7 approximately 20 feet and it widens to about
8 30 feet.

9 This is a view looking back across
10 Fort Stevens along Quackenbos Street towards
11 our site. And you can see the hillside
12 continues across Fort Stevens and begins to
13 come down to grade as it reaches the corner of
14 13th and Quackenbos Street.

15 This view is taken from the plateau
16 up top of Fort Stevens looking back towards
17 Georgia Avenue. This picture depicts the
18 actual view that exists right now from Fort
19 Stevens to Georgia Avenue across our site.
20 And this is exactly where our gift shop, the
21 future site of the gift shop will be located.

22 And just to give you a little bit

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1 clearer understanding of the site, this
2 exhibit shows the hillside wrapping around
3 Georgia Avenue and Quackenbos Street and
4 rising up along Old Piney Branch Road to the
5 plateau where the church exists today and the
6 Fort Stevens site exists today.

7 Our process of how we got here. We
8 began a collaborative effort with the Office
9 of Planning and the Historic Preservation
10 Office beginning in October of 2008. We made
11 decisions through that process to retain the
12 church which had impacts or influenced the
13 project massing as we developed the project.
14 By that I mean by retaining the church, it set
15 in motion a couple of key decisions.

16 One, it established the floor
17 heights of the new structure having to come
18 and meet the existing floor heights of the
19 church, marrying with the sanctuary level.

20 Also with that was a decision or a
21 desire to preserve the imagery of the hillside
22 as it wraps around Georgia Avenue around to

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1 Quackenbos Street.

2 And these decisions ultimately
3 created a need for relief that we're
4 requesting today.

5 The project design. The Beacon
6 Center has been designed as a beacon for the
7 Brightwood neighborhood. As you can see in
8 this image here, we have worked to preserve
9 the imagery of the hillside as it wraps around
10 Quackenbos Street and Georgia Avenue, and with
11 that we've been able to tuck in or create
12 spaces beneath that berm or hillside along
13 Georgia Avenue while preserving the existing
14 steps leading up to the church.

15 The framing of the existing church
16 and the views along Georgia Avenue was a key
17 component of the design. And you can see from
18 these images that the massing of the new
19 building structures as it wraps around the
20 church helped to frame the views currently
21 existing from Georgia Avenue to the church.

22 The project exists, as has been

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1 stated a couple of times already in this
2 testimony, it's a mix of residential uses.
3 There's the church function, expanded church
4 and the recreational component of the project.

5 And all these are program components that
6 were born out of community input.

7 To get into the details of the
8 plan, our site plan here we can mark off the
9 major entrances to the project itself. The
10 major entrance to the residential component,
11 the senior housing component is located along
12 Georgia Avenue. There are retail spaces that
13 exist along Georgia Avenue with entrances off
14 of Georgia Avenue, as well as the existing
15 steps that will remain along Georgia Avenue.

16 At the corner of Georgia Avenue and
17 Quackenbos Street will be the main entry to
18 the church functions of the project: To the
19 Beacon Center, to the sanctuary and to the
20 other component uses of the Beacon Center.

21 As you go along Quackenbos Street
22 there is one entry to the lower level parking,

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1 and at that corner will be the entrance to the
2 recreational facilities, a separate entrance.

3 As you go along Old Piney Branch
4 Road as you go up that ramp, we've located our
5 loading facilities, trash and loading
6 facilities. And the second entrance to the
7 upper level or intermediate level of the
8 parking.

9 And I'm noting all of this to you
10 but I will explain it further as we go through
11 the later slides.

12 At the ground floor level there are
13 a number of uses, retail along Georgia Avenue.

14 The EBOL offices which is the nonprofit group
15 will have their office space at the corner of
16 Georgia Avenue and Quackenbos Street. The
17 lower level of the church and tucked in behind
18 the retail spaces will be the two levels of
19 garage providing approximately 97 spaces.

20 The process of locating two
21 separate entrances was an attempt to use the
22 existing grading and make use of the ramping

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1 that exists along Old Piney Branch Road to
2 access the two different levels of parking.
3 So the ground level parking is accessed off of
4 Quackenbos Street and is separate in its
5 entrance from the intermediate level parking.

6 We explored the option of doing
7 internal ramping and if we were to have one
8 entrance off of Old Piney Branch Road, it
9 results in a loss of over 30 spaces of parking
10 within the garage to get the ramping system to
11 work internally.

12 This shows the intermediate level
13 of parking, which again tucks in behind the
14 retail along Georgia Avenue. The entrance up
15 top along Old Piney Branch Road. And located
16 on this level is also the gift shop because
17 this becomes that level along the park service
18 as you go up north along Old Piney Branch
19 Road, the gift shop is located directly off of
20 the sidewalk.

21 And it also should be noted that
22 through this process we are proposing to

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1 enhance the street along Old Piney Branch
2 Road, which right now is unimproved. We are
3 proposing to enhance that with planting a
4 planting strip street trees and sidewalk to
5 provide access and improve the access along
6 the rear of the property.

7 On the courtyard level you have the
8 main functions of the church, the sanctuary--

9 MR. KEYS: Sean, before you leave
10 that intermediate level in the rear of the
11 property, is the building entitled to be
12 situated on the property line? Let me ask it
13 another way, is the building setback?

14 MR. PICHON: The building is within
15 its set -- it's exceeding its setback
16 requirements for a rear yard being that our
17 measuring point and our entry is along Georgia
18 Avenue. Old Piney Branch Road becomes our
19 rear yard. And the rear yard requirement is
20 15 feet and we are exceeding that by three
21 feet. So, I believe, it's 18'6" or something
22 like that at the narrowest point. Because,

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1 again, Old Piney Branch Road is not a
2 conforming street. It actually expands as it
3 goes up. So at the narrowest point we're 18
4 feet.

5 MR. KEYS: Now just to be clear
6 about that: Apart from the rear yard
7 requirements which allows you to measure from
8 the center line, I'd like to ask you
9 specifically is the building located on the
10 property line or is it setback from the
11 property line?

12 MR. PICHON: The building is not
13 located directly on the property line. In
14 order to provide the enhancements along Old
15 Piney Branch Road we've actually set the
16 building back, I believe it's a little bit
17 over two feet to allow the additional feet to
18 provide the planting strip and the sidewalk.

19 I'll quickly orient you through the
20 levels.

21 The first level of the project
22 which is established by the retention of the

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1 church is the sanctuary level of the church,
2 which again is six feet above the 14 foot
3 berm. The rest of the project at the first
4 level from an accessibility standard is coming
5 up and meeting that existing sanctuary level.

6 At this level we have the recreational space
7 directly behind the existing sanctuary, the
8 church offices to the south and across a
9 courtyard that we're creating will be the
10 first level of senior housing.

11 As you go up the building, the
12 church and the recreational space have a
13 double heightened space. And there are spaces
14 church-related that wrap around those double
15 heightened spaces.

16 The senior housing component
17 continues up in a similar footprint.

18 I would also like to note at these
19 levels, the first floor and the second floor,
20 because we're combining residential and
21 nonresidential uses it's creating our request
22 for lot occupancy relief. And I'll get into

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1 that a little bit further as I go down through
2 the summary. But in essence because we have a
3 nonresidential use on that floor level from
4 retaining the church, it's pushing us over our
5 lot occupancy by, I believe, 7 or 8 percent.

6 And as we go up above the existing
7 church and we get to the levels where we have
8 all residential components or uses on that
9 floor, we're actually below the lot occupancy
10 maximum. And I believe we're six percent
11 below at the levels where there are only
12 residential uses.

13 To get into the design the project
14 and the imagery that's created, as you can see
15 from this image we were intent on preserving
16 the imagery of the hillside along Georgia
17 Avenue. We were challenged and we came up
18 with a creative response to creating retail at
19 the street edge and keeping the hillside
20 imagery above it. So we've created curved
21 green rooftops above the retail spaces that
22 mimic the imagery of the hillside. And you

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1 can see this from the images here as it wraps
2 around Quackenbos Street. The existing
3 hillside along Quackenbos Street remains
4 intact and it marries into the creative or the
5 replica of the hillside above the uses that
6 we've tucked in along Georgia Avenue.

7 Around the rear of the property one
8 thing to note again is the enhanced street
9 edge as it relates to the building and the
10 continuation of the material and fenestrations
11 and attentions to massing articulation as it
12 wraps around from Quackenbos Street to Old
13 Piney Branch Road.

14 We perceived this project as having
15 three main facades: Georgia Avenue being the
16 Great Street and getting a large part of the
17 emphasis, but also with Quackenbos Street and
18 Old Piney Branch Road the selection of
19 materials and detailing of bands and
20 adjustments and plains continue around those
21 two facades.

22 MR. KEYS: Sean, before you leave

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1 the rear facade, we had a meeting last week
2 with the National Park Service in which we
3 discussed the far end of the building. Can
4 you relate to the Board some of the issues
5 that came up regarding that far end of the
6 building?

7 MR. PICHON: Yes. What Mr. Keys is
8 referring to is this portion of the building
9 down at the plateau of the Fort Stevens and
10 the church site. There was discussion about
11 the view corridor through our site, which I
12 had an image earlier in the set that portrayed
13 that existing view. The concern of that view
14 being blocked. And that view was, as we
15 discovered in that meeting after digging into
16 the essence of the concern of the Park
17 Service, that view will be blocked by one
18 story structure. Anything that's placed on
19 the church site will block that view.

20 Based off of that recognition, we
21 were going into discussions with the National
22 Park Service about ways to conform this facade

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1 here to make it look less commercial and more
2 of a traditional residential style. And we
3 acknowledged that that's something that we
4 would entertain as we move forward with the
5 design of the project.

6 BZA VICE CHAIR DETTMAN: What
7 facade is that? Did you point to somewhere
8 specifically? I was looking down.

9 MR. PICHON: I'm sorry. Yes, this
10 facade here.

11 BZA VICE CHAIR DETTMAN: That far
12 end?

13 MR. KEYS: And what is the
14 rationale? What's the connection between that
15 end of the building and what portion of Fort
16 Stevens? I mean, why was there concern about
17 that and not other?

18 MR. PICHON: Well, the connection
19 is, as I understand it, that is the plateau
20 and that is where the actual battleground
21 cannons are located. And the idea of that
22 having a reference to the more residential

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1 neighborhoods that actually surround the other
2 sides of the Fort and incorporating that into
3 that facade.

4 I'm going to go quickly through
5 these next couple of slides here because
6 they're a repeat of the facade treatments and
7 discussion and take you right into the
8 sections of the proposed development.

9 And I think this slide begins to
10 explain a little bit clearer the way we're
11 using the site and the addition of retail
12 along Georgia Avenue and how we're able to
13 incorporate two levels of parking behind that
14 retail.

15 Again, the levels of the project
16 were set by the existing church, which you can
17 see here, the top of the retail and the garage
18 level meet with the existing level of the
19 sanctuary. And that begins the four story
20 structure that we have above that level.

21 This section begins to detail a
22 little bit of the Old Piney Branch Road and

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1 the enhanced street edge that we're creating
2 with the street trees and the sidewalk and how
3 the actual structure relates to the Fort.
4 This is a pretty realistic interpretation of
5 what the building looks like and how it would
6 sit relative to the Fort.

7 I would also mention that this
8 incorporates that rear yard setback that we
9 discussed earlier, as well as noting that the
10 height of the structure at this point at the
11 plateau level of the Fort is roughly 53 feet
12 at that point.

13 MR. KEYS: Sean, could you identify
14 the edge of Old Piney Branch Road, the western
15 edge of Old Piney Branch Road in that diagram?

16 MR. PICHON: The western edge of
17 Old Piney Branch Road as it exists right now
18 is approximately here.

19 BZA VICE CHAIR DETTMAN: Mr.
20 Pichon, if you're pointing at something, the
21 Board can't see it.

22 MR. PICHON: Oh, I'm sorry.

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1 Yes. So the western edge of Old
2 Piney Branch Road is approximately in this
3 location, which is upwards of 30 foot of
4 street with additional ten feet of planting
5 and sidewalk.

6 MR. KEYS: Mr. Chairman, I have to
7 ask you, is the Board able to see that right
8 now?

9 BZA VICE CHAIR DETTMAN: Yes.
10 Thank you.

11 MR. KEYS: Okay.

12 MR. PICHON: Again, these are
13 images of more how the actual components of
14 the buildings fit together. And you can see
15 how the levels of the existing church meet up
16 against some of the new uses.

17 This image here actually shows the
18 courtyards and the first level of the building
19 mass meeting the existing church sanctuary.

20 And we've provided some additional
21 details of the Old Piney Branch Road facade,
22 some blow-up elevations of facade treatments

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1 and actually this facade here shows the
2 treatment of the gift shop that's being
3 planned for the rear of the property. And,
4 again, some more additional details.

5 And lastly, I just wanted to
6 explain a little bit clearer the Georgia
7 Avenue side of the property where we have the
8 retail berths and we are maintaining the
9 imagery of the hillside. And this depicts a
10 retail bay that has a green roof on top of it
11 curving back to the courtyards that are
12 elevated.

13 In summary, I'd just like to
14 quickly point out the relief requested for the
15 project.

16 In FAR, we are approximately .46
17 above the allowable FAR.

18 Lot occupancy. On the first and
19 second floor as I noted earlier in the
20 presentation, the first and second floor where
21 we have two uses on one level, we're
22 approximately 7 to 8 percent over that

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1 allowable 60 percent.

2 Building height, which is a direct
3 function of the hillside that we're
4 maintaining and the existing church that we're
5 maintaining, having been measured from Georgia
6 Avenue as a measuring point, we're 13 feet 4
7 inches above the allowable height.

8 Loading. We're requesting relief
9 from loading for the 55 foot loading berth
10 that is an abnormal request in this day and
11 time for 55 foot loading trucks to service a
12 building of this nature.

13 And as well as the roof structures,
14 the setbacks. There is actually one roof
15 structure that I didn't point out in the
16 presentation, but there's one roof structure
17 in particular that does not meet the one-to-
18 one setback. We actually have multiple roof
19 structures because of the nature of the
20 project, the multi use nature of the project
21 and the multiple cores that exist throughout
22 the building, thus creating multiple

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1 penthouses.

2 The setback, we're requesting
3 relief from the setback and it's an internal
4 core that pops up above the church and it's a
5 direct impact of the retention of the church
6 and not having building on that side of the
7 corridor.

8 That concludes my presentation.

9 MR. KEYS: I'd like you to make a
10 bit more clear the reason for the height
11 variance. I mean, I'd like you to point out
12 exactly where the measuring point is, what the
13 elevation of the measuring point is and what
14 the elevation of the first floor, the ground
15 floor, the first floor of the church is so
16 that the Board understands the actual 63 foot
17 height requirement or request that we're
18 making.

19 MR. PICHON: Okay. Because of the
20 retention of the church and the entrance to
21 the church being along Georgia Avenue here,
22 the measuring point is being measured from

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1 that point. The approximate height along
2 Georgia Avenue at that point is 303.7 feet
3 above sea level.

4 The existing church sanctuary floor
5 is at approximately 323 feet, which the
6 inclusion of that 14 foot berm and the six
7 foot of additional height above the berm.

8 The building structure because of
9 the berm and the retention of the existing
10 church measures from that point four stories
11 and gets us to the 63 feet 4 inches of
12 building height. And that's inclusive of the
13 berm and the additional six feet to the
14 sanctuary floor.

15 MR. KEYS: Now I'm going to ask
16 about the FAR. We're about .46 over the
17 matter-of-right FAR in the C-2-A Zone. Can
18 you particularize what accounts for that
19 overage?

20 MR. PICHON: Yes. Thank you for
21 reminding me of that.

22 The FAR allowed on this site is

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1 2.5. The reason we're over is a direct
2 function of us counting that immediate parking
3 level as FAR space. There's approximately
4 27,000 square feet of parking area in that
5 intermediate level that because we're six feet
6 above the existing berm, we're calculating
7 that as part of FAR. And that actually bumps
8 us over the 2.5 requirement.

9 We're right now 22,000 square feet
10 over the requirement. And the square footage
11 of that intermediate parking level is 27,000.

12 So without having to count that parking
13 level, we would actually be below the required
14 FAR or the maximum FAR.

15 MR. KEYS: Let me ask you a
16 question, Mr. Pichon. Taking this program
17 that Emory has decided upon for the Beacon
18 Center if I gave you a flat side of the same
19 land area, could you fit that program on the
20 site within the matter-of-right requirements
21 of C-2-A?

22 MR. PICHON: Without the restraints

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1 of the berm and having to keep the existing
2 church, we would be able to include the
3 program spaces that we have in the project
4 currently right now within the matter-of-right
5 C-2-A limits. And that is evident by the fact
6 that we actually have a four story building
7 above the berm and with that being said, we
8 would normally have the uses separated
9 vertically as opposed to horizontally. So we
10 wouldn't have the combination of uses on one
11 floor. We would have all residential levels
12 which we've shown or demonstrated in this
13 project that can exist within the matter-of-
14 right limits. And that would be carried
15 throughout the site.

16 MR. KEYS: I also wanted to ask you
17 a question to clarify the loading issue. Are
18 there other issues that impact on the decision
19 of why a 55 foot berth wasn't necessary? And
20 this would relate to the condition of the
21 topography in the rear of the site?

22 MR. PICHON: Because of the

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1 topography of Old Piney Branch Road it creates
2 a problem for a 55 foot length truck to
3 actually access any sort of loading facility
4 along that rear side of the building. They
5 would have to back up that hillside and the
6 turning radius to get into any loading
7 facility is not adequate.

8 And I would also note that we
9 located the loading facility along Old Piney
10 Branch Road, which is a requirement of DDOT
11 and it not being on the major thoroughfares.
12 But that, we kept the loading dock as close as
13 possible to Quackenbos Street because of the
14 topography. As it goes up Old Piney Branch
15 Road it becomes very, very steep as it goes
16 further into the site. So we've tried to
17 maintain the loading facility as close as
18 possible to Quackenbos Street.

19 MR. KEYS: Now I think in your
20 testimony you indicated that you probably
21 skipped over the exhibit that showed the roof
22 structure setback. Could you use I think

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1 perhaps that exhibit to just identify where
2 the setback issue is and what compels its
3 location in the location that you proposed it?

4 MR. PICHON: Yes. The roof
5 structure in question, as soon as my cursor
6 comes up here, is this roof structure here.
7 And it is located internally to the site,
8 internally to the building. But because we are
9 keeping the existing church there is no
10 building on the other side of it to actually
11 have a setback from. So all of the other roof
12 structures are located centrally to the
13 building mass that they're in. This roof
14 structure because of how the spaces function
15 within the building, is pushed to an edge that
16 doesn't have a massing on the other side.

17 Yes, and you can refer o any of the
18 floor plans A-1, 2 in your package that shows
19 the location internally to the stair tower,
20 stair and elevator tower.

21 MR. KEYS: Is that penthouse
22 setback visible from any vantage point? I

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1 mean, which vantage point is it visible from?

2 MR. PICHON: It's setback from
3 Georgia Avenue and Quackenbos Street by over
4 one-to-one setback. It is not setback from the
5 church side or the courtyard side of the
6 property.

7 MR. KEYS: The north side?

8 MR. PICHON: The north side of the
9 project.

10 MR. KEYS: Would that penthouse
11 setback be visible, let's say, from the Fort
12 Stevens side of the project?

13 MR. PICHON: No, not at all.

14 MR. KEYS: I have no further
15 questions for Mr. Pichon. If the Board is
16 satisfied, I can move on to the next witness,
17 or if you would like to engage him.

18 BZA VICE CHAIR DETTMAN: Let me
19 check in with my colleagues. Before I do
20 that, how many additional witnesses do you
21 have? Just doing a time check.

22 MR. KEYS: I think I have two more

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1 witnesses, and they're very brief.

2 BZA VICE CHAIR DETTMAN: Okay.

3 MR. KEYS: And we've intentionally
4 put most of the time into Mr. Pichon's
5 testimony because I think that's the most
6 relevant.

7 BZA VICE CHAIR DETTMAN: Right.
8 Well, based on that point, colleagues, I know
9 that you probably might have some questions
10 about the proposal as it's designed. Do we
11 want to ask questions of the architect now or
12 do we want to go forward with the last two
13 witnesses and then ask questions later? Okay.
14 I think we'll continue on.

15 MR. KEYS: Mr. Papazian, would you
16 introduce yourself for the record, please?

17 MR. PAPAZIAN: For the record, my
18 name is Edward Papazian. I'm with the firm of
19 Kimley-Horn & Associates with offices in
20 Herndon, Virginia and Bethesda, Maryland and I
21 have served as the traffic engineer. Our firm
22 did the traffic impact study for the Emory

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1 Beacon of Light property for the Beacon
2 Center. And I'd like to summarize the results
3 of our analysis.

4 We performed our traffic study, our
5 firm performed the traffic study after having
6 discussions within the parameters of the study
7 with the District Department of Transportation
8 and we agreed on study area intersections and
9 also the peak periods that we were asked to
10 analyze. We were directed to analyze the AM
11 and PM peak hours, the Saturday midday hours
12 and the Sunday midday hours when church
13 activity is greatest.

14 Our study uses the typical steps
15 in a traffic impact study. We performed
16 existing turn moves and traffic counts at the
17 various study intersections. We forecast for
18 future condition based upon the growth of
19 traffic through the area and inclusion of the
20 nearby Curtis Chevrolet Development site to
21 forecast for future conditions. And we also
22 forecast traffic generated by this proposed

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1 development by the Beacon Center.

2 Overall, our studies concludes that
3 all of the area intersections will operate
4 quite well. They will operate at satisfactory
5 levels of service. The levels of service will
6 be A and B during all peak hours.

7 And that the Beacon Center will
8 have a negligible effect on the area roadway
9 system. That conclusion is concurred by DDOT
10 in their memorandum. They have concurred with
11 our findings and the conclusions of our study.

12 And I'd be happy to answer any
13 questions at the appropriate time.

14 MR. KEYS: Mr. Papazian, I'd like
15 to ask you a question about your observations
16 of Quackenbos Street. Because this apparently
17 is one of the area that DDOT feels is somehow
18 implicated in the decision about a curb cut on
19 Quackenbos Street. What can you tell us about
20 Quackenbos Street?

21 MR. PAPAZIAN: Quackenbos Street,
22 while it travels throughout the northern

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1 portion of the District, Quackenbos Street in
2 this area is really, I would classify it as a
3 collector. It extends from 13th Street
4 immediately to the west, eastward to Blair
5 Road which is at approximately 1st Street,
6 Northwest. It extends for about 12 city
7 blocks. It basically is not a thorough street
8 by any means. It doesn't go further east from
9 there and it breaks off at both 13th Street
10 and at Blair Road.

11 So the traffic volumes that exists
12 on the street, on Quackenbos Street, similar
13 to Rittenhouse Street are quite low. We've
14 performed traffic counts at the area
15 intersections and we can give you the details
16 of those numbers, but the bottom line is that
17 the existing traffic is not going to increase
18 substantially because it just extends for a
19 short distance, the 12 or 13 or so blocks
20 between 13th and Blair Road.

21 Like I said, we have existing
22 counts. If you'd want me to get into that

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1 detail, I can mention it.

2 MR. KEYS: I'd like you to
3 particularize. I'm interested in the area of
4 Quackenbos Street between 13th and Georgia
5 Avenue because that's the part that runs along
6 the site. What did your observations tell you
7 about peak hour traffic on Quackenbos Street?

8 MR. PAPAZIAN: Well, the two-way
9 peak hour traffic, we did counts on Quackenbos
10 Street at both 13th Street and at Georgia
11 Avenue and the two adjacent intersections.
12 And the existing counts at the Georgia Avenue
13 intersection just immediately to the west of
14 Georgia Avenue would be 78 trips, two-way
15 trips in the AM peak hour. That's 78 total
16 both directions in the AM peak hour. Fifty
17 vehicles in the PM peak hour, which is
18 essentially one per minute, let's put it in
19 that context.

20 During the Saturday midday peak
21 hour that count was about 60 cars two ways.
22 And on a Sunday peak hour of activity that

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1 number was 59.

2 So that the volumes ranged from
3 about 50 to about 78 during any of the peak
4 hours that were analyzed. So we're talking
5 about on the order of magnitude of one vehicle
6 per minute on that piece of Quackenbos Street.

7 MR. KEYS: Mr. Papazian, how would
8 you characterize a street like that?

9 MR. PAPAZIAN: I would characterize
10 that as a very low volume street. It just
11 does not carry very much traffic. These
12 volumes re-enforce my observation that
13 Quackenbos Street is really a local collector
14 that handles very local traffic.

15 MR. KEYS: Is there anything about
16 the traffic flow on Quackenbos Street that
17 argues against a curb cut because of
18 interference with traffic flows?

19 MR. PAPAZIAN: No, it does not.
20 These volumes are minimal. These volumes are
21 minimal. These volumes are the sorts of
22 volumes that do not create a congestion

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1 problem or a major conflict problem when you
2 have a handful vehicles that may be turning
3 into and out of a garage entrance, the parking
4 level entrance given the activity in and out
5 and the volumes along Quackenbos Street.
6 These are volumes that could be very easily
7 handled, accommodated without any appreciable
8 delay.

9 BZA VICE CHAIR DETTMAN:
10 Colleagues, any questions before Mr. Papazian.

11 Yes, we're going to wait until the
12 end so we can just move on with the last
13 witness.

14 MR. KEYS: Okay. Mr. Dettman, I
15 believe that I'm going to stop at that point
16 in the presentation of the case. I don't think
17 we have another witness, unless it's a
18 rebuttal witness. So if you wish to engage
19 the witnesses we presented, this would be the
20 time.

21 BZA VICE CHAIR DETTMAN: I think
22 that's fine. Very well.

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1 MEMBER MOLDENHAUER: Most of my
2 question are for the architect an also
3 potentially for Mr. Daniels, Pastor Daniels.

4 Did you consider providing any sort
5 of, I guess opening or courtyard, the
6 courtyard that you have to the right of the
7 church right now, did you consider putting in
8 some sort of opening or courtyard in the rear
9 of the property to allow for a more open air
10 feel facing the Fort?

11 MR. PICHON: We did not entertain
12 that option. Per the Zoning Regulation that
13 this is one lot and the building has to be one
14 building. So he continual nature of the
15 massing exists because of that, and it has to
16 be connected, I believe, George, at the ground
17 floor level?

18 MR. KEYS: I believe at grade.

19 MR. PICHON: At grade.

20 And the location of the open areas
21 were born out of the retention of a church and
22 trying to give some separation of the building

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1 to the church to allow the view corridors to
2 be maintained. And that was a recommendation
3 from the Historic Preservation Office.

4 MEMBER MOLDENHAUER: I understand
5 now why, I guess, you didn't consider putting
6 a courtyard in the back. But then I guess my
7 next question would be did you consider or if
8 you did consider why did you then go into
9 another direction of putting maybe some sort
10 of -- we've seen a lot of designs recently
11 where you have kind of a glass view or you
12 kind of view the growing area to view, which
13 it kind of creates this connection between the
14 church and the Fort? Did you consider that
15 and if so, what was your analysis?

16 MR. PICHON: We did not at that
17 location because those are actual residential
18 units. And we didn't see how that would be
19 accommodated looking through someone's actual
20 unit to provide that view corridor.

21 MR. KEYS: Mr. Pichon, I think to
22 clarify you might relate the differences

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1 between the front and rear elevations of the
2 property. Because there was a --

3 MR. PICHON: Yes, you're right. I
4 can go back to one of the sections. And it
5 shows the relationship between the structure
6 and the existing Quackenbos Street.

7 Our second level or intermediate
8 level of parking is actually above grade,
9 which is why we're required to count it as
10 FAR. So that intermediate level of parking
11 which is directly behind the retail berth,
12 again which is tied to the elevation of the
13 church sanctuary, establishes that top level
14 of parking. And that is above the grade level
15 at Old Piney Branch Road. So your view
16 corridor is interrupted by the retention of
17 the church and establishing a floor level as
18 it relates to Old Piney Branch Road.

19 MEMBER MOLDENHAUER: Does the
20 parking go all the through to the very end of
21 the structure from Quackenbos Street?

22 MR. PICHON: Yes. The parking

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1 levels wrap around the existing basement of
2 the church and abut the retail berth and the
3 EBOL offices along Georgia Avenue. So, yes,
4 they are continuous throughout.

5 MR. KEYS: Let me ask you a
6 question, Mr. Pichon, on that below grade
7 because I think it's an interesting point.
8 This below grade parking doesn't look like the
9 parking you would design if you had a free
10 hand to design. There's an inefficiency right
11 in the middle of it, and what is that?

12 MR. PICHON: Well, like I stated,
13 the existing basement of the church sits right
14 in the middle of the site which creates the
15 inefficiency of the parking layout.

16 Typically in a parking garage you
17 want to have double rows of parking. That's
18 where you get your highest efficiency of
19 parking design. Because of the church
20 basement we don't have that double row of
21 parking happening anywhere within that --
22 well, we do have it in one place within the

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1 parking level, but it's not something that's
2 continuous throughout. So it creates a
3 natural inefficiency with the parking.

4 MEMBER MOLDENHAUER: Old Piney
5 Branch Road, it kind of ends. Is that
6 supposed to go all the way through? I mean,
7 what's the history there?

8 REVEREND DANIELS: Old Piney Branch
9 Road is a District street. Its origins begin
10 really over Missouri Avenue coming behind the
11 McDonald's there, Georgia Avenue and Peabody.

12 Coming up literally through the property that
13 is Nativity Catholic Church and then across
14 Quackenbos Street up to our parking lot and
15 right where the cannons are at Fort Stevens.
16 It stops there. If it were to continue down,
17 it would literally become 12th Street.

18 MEMBER MOLDENHAUER: Right.

19 REVEREND DANIELS: But its origins
20 begin really going all the way down to
21 Missouri. And its origins really go all the way
22 back to when the curve now which is Old Piney

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1 Branch Road going into 13th Street on the back
2 pat by Fort Stevens was created because of
3 traffic on the Seven Street Highway and the
4 trolley that used to come up the highway.

5 MEMBER MOLDENHAUER: I guess the
6 reason why I asked is to be honest, it doesn't
7 look attractive. There, I mean you have a
8 road that just of concrete. You're obviously
9 are going to probably improve that concrete
10 slab in order to have loading trucks go on
11 that. It kind of just comes up and then it
12 ends. It doesn't create any sort of traffic
13 flow enhancement. It creates a bottleneck.
14 If you're having now increased number of
15 residences in the area because of this
16 improved project, you're going to create again
17 another asset of a bottleneck instead of
18 trying to improve the flow around this area,
19 around the Fort, around the community,
20 especially with a church. You said you had
21 500 members that come on a Sunday. I mean, I
22 can't imagine that you didn't look into

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1 potentially finishing that off or talking to
2 DDOT. I don't know, maybe DDOT isn't here.
3 They may disagree with me. They may consider
4 it not a good idea. But I think that: (1)
5 It's visually unattractive; (2) It looks like
6 it would create traffic hazards and parking
7 issues.

8 MR. KEYS: Ms. Moldenhauer, I think
9 the Map would suggest that the District's land
10 ends there. I think that Park Service land.

11 MR. PICHON: Park Service land.

12 MEMBER MOLDENHAUER: See, that
13 would be conditioned information.

14 MR. KEYS: And that cuts us off.

15 MEMBER MOLDENHAUER: Okay. So it
16 does cut it off?

17 MR. PICHON: Yes. The exhibit on
18 the screen right now shows the end of the
19 District property being here and the Park
20 Service land actually wrapping around and
21 coming and abutting our property line and the
22 adjacent site property line. This is all Park

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1 Service land here.

2 REVEREND DANIELS: We use it now as
3 a driveway to the existing parking lot to the
4 church. That's the only way to access our
5 driveway right now as the land stands.

6 I was saying that if you went
7 through, it would become 12th Street. But you
8 can't go through because that is Park Service
9 land.

10 MEMBER MOLDENHAUER: I wasn't aware
11 of that.

12 REVEREND DANIELS: Right. So the
13 street actually ends right where the cannons
14 are at Fort Stevens. But even beyond that is
15 Park property.

16 MEMBER MOLDENHAUER: So, again,
17 just trying to get some perception on these
18 things. If you're going to now finish that
19 paving, I heard that there's a two foot
20 distinction between where your property line
21 ends and where you're building, the facade of
22 your building starts. What type of -- are you

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1 working with the D.C. Government and DDOT to
2 try to maintain some sort of landscaping on
3 that area to create a transition area? And if
4 so, can you talk about that transition?

5 MR. PICHON: Yes. We have met with
6 DDOT and we are proposing this as an enhanced
7 street edge along our side of Old Piney Branch
8 Road. And that entail a six foot planting
9 strip or six foot sidewalk with a four foot
10 planting strip. We're anticipating putting in
11 and maintaining street trees along that edge
12 to provide an additional buffer at the eye
13 level along Old Piney Branch Road. As well as
14 we're maintaining that as the access to our
15 property and we have the entrance to the upper
16 level or intermediate level parking as well as
17 the loading service bays there.

18 MEMBER MOLDENHAUER: I noticed in
19 one of the pictures you had that there
20 currently are some mature trees along Old
21 Piney Branch Road right now that kind of
22 create a nice scape. Are you planning on

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1 those replacing those with mature trees, or
2 are these trees going to be demolished in the
3 construction?

4 MR. PICHON: Yes. The trees that
5 are located there right now are going to be
6 demolished and new trees will be planted along
7 the street edge.

8 MEMBER MOLDENHAUER: Thank you. I
9 have no further questions right now.

10 ZC CHAIR HOOD: Okay. Mr.
11 Chairman, I just have a few questions.

12 Mr. Pichon, we started talking
13 about Matthews Memorial. And you mentioned
14 that it was a PUD and I forgot all what you
15 said. I don't know if you were the architect
16 on that case. But I'm very familiar with it
17 because we voted on it.

18 But let me just ask you this: When
19 I look at the relief and things, the requests,
20 why was this not presented as a PUD?

21 Okay. Mr. Keys, you can answer.

22 ZC CHAIR HOOD: Mr. Hood, I think I

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1 can answer that. It seems like a lot of
2 relief, except you appreciate this becomes
3 because of its topography a conforming
4 building sitting on a pedestal, a natural
5 pedestal. And I think that's the point of the
6 exercise that Mr. Pichon tried to take the
7 Board through in analyzing what's above the
8 first floor level of the church.

9 It's a four story building that
10 fits in within the height requirements whose
11 FAR, whose massing all meet the requirements
12 of the regulations.

13 We actually had hoped because we
14 front on three streets, we had hoped to be
15 able to utilize the regulations to our
16 advantage to pick a measuring point on one of
17 the three streets that would be advantageous
18 to the project. But because we were forced
19 into retaining the existing church, we were
20 also then forced to make Georgia Avenue our
21 front door. And that is the absolute worst
22 measuring point for this project.

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1 ZC CHAIR HOOD: Mr. Keys --

2 MR. KEYS: It puts you 20 feet
3 below your floor levels. And, you know it's
4 the appreciation that this case resolves
5 itself to a conforming structure sitting up on
6 a platform. And that was our rationale.

7 We are not asking for relief that
8 goes beyond the C-2-A limits if you consider
9 the natural topography of the site.

10 ZC CHAIR HOOD: Okay. I still
11 don't know if you answered my question, but
12 I'm not going to peruse it any further because
13 I've seen things in front of the Commission
14 that have been asked with less than this and
15 exactly goes to exactly what you're saying.
16 And I just think you case, it would have been
17 a little easier. And then also the Commission
18 would have been able to kind of shape some of
19 the issues that may exist now. But we are
20 what we are, and what you have in front is
21 what you have in front of us.

22 And actually, you mentioned the

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1 architect of the site preserving the church,
2 you were forced to do that. I actually like
3 the design. If it was a PUD, I do actually
4 like it. I like the way it's presented.

5 MR. KEYS: Well, Mr. Hood, the
6 point of saying we were forced into keeping
7 the church was simply another way of saying we
8 could have presented a much different project
9 that would have had a lower profile if we
10 didn't have to keep the church. I mean,
11 that's all.

12 ZC CHAIR HOOD: I'm more concerned-
13 -

14 MR. KEYS: That's my conclusion
15 statement.

16 ZC CHAIR HOOD: Okay. That's good.
17 But I'm more concerned about the loading
18 berths, how the loading is going to work. And
19 I know we're looking at 30 foot trucks and how
20 all that's going to intertwine. And I believe
21 in a PUD you get that. You get that. I just
22 don't see where -- you know, I'm looking here

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1 at this laundry list of relief that's
2 requested in front of the Board. And I'm not
3 going to stay on the PUD, but I just noticed
4 that Mr. Pichon, he mentioned Matthews
5 Memorial. And that was a PUD.

6 And I also know that there's a few
7 comments here that this should be a PUD. But
8 we are where we are, and we have what we have
9 in front of us at this time.

10 Let me just ask this: How is all
11 that going to work, the loading berth? Again,
12 can you go back over this? Show me how that's
13 going to work. And these are the questions
14 that I would ask if we had a PUD case, so
15 hopefully my colleagues will indulge me.

16 MR. PICHON: Again, the loading
17 berths are located Old Piney Branch Road and
18 held as close as possible to Quackenbos Street
19 for the purpose of not going up the hill and
20 encountering the steep slope.

21 We were able to fit before the
22 topography got too steep, we were able to fit

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1 two loading berths at 30 foot deep. And then
2 an additional enclosed trash berth that will
3 not be serviced by a truck pulling into it,
4 but trash being brought out and loaded into
5 the trucks.

6 So the two loading berths at 30
7 foot allow trucks to pull in and the trash
8 will be removed and brought out and loaded
9 into trucks.

10 ZC CHAIR HOOD: And I'm not sure,
11 did I see some material boards or was that
12 your case? I saw some over there. Maybe that
13 was the case prior.

14 MR. PICHON: Sorry.

15 ZC CHAIR HOOD: Is that the actual
16 color of the -- is that the color mix that I
17 see here? Is that pretty much a light -- was
18 is it, light cast or brick?

19 MR. PICHON: Yes. Those are -- I
20 actually have it in the presentation if you
21 would like to look at it this way, titled to
22 the side.

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1 ZC CHAIR HOOD: I'm trying to get
2 the full color. And sometimes, laser views,
3 Xerox, Cannon or high view reproduce your copy
4 sometimes you --

5 MR. PICHON: Well, those are actual
6 colors that are painted on. So these are
7 actual material selections that we're
8 proposing for the building. The split face
9 CMU and ground face CMU will be used at the
10 base of the building. Above that will be a
11 mix of Hardie Panel Reveal Siding which is a
12 modern approach and an affordable approach to
13 your metal panel buildings and it provides a
14 nice take on affordable housing.

15 The actual church itself will be
16 done in a replacement stone. The addition to
17 the church will be done in a replacement stone
18 that will be in slight contrast to the
19 existing church stone so as not to appear to
20 be mimicking the existing church, but to
21 actually have a separation or a visual
22 separation there.

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1 And again, we are actually looking
2 at rebuilding or redoing the stonewall that
3 exists along Georgia Avenue right now and
4 along Quackenbos Street. We're looking to
5 incorporate that material into the new facades
6 along the retail store fronts as a base
7 material. Again, to just pull from the
8 existing materials that are there.

9 And lastly, I would say that the
10 recreational facility will have a translucent
11 type panel. Instead of full glass, it would
12 translucent panels to provide more daylight
13 into the rec center.

14 ZC CHAIR HOOD: Okay. Pastor
15 Daniels, you mentioned that you went from, I
16 think you said 100 members to 400 or 500?

17 REVEREND DANIELS: We went from my
18 first Sunday there, there were between 50 and
19 60 who worship. And now we worship more than
20 400 on Sunday.

21 ZC CHAIR HOOD: So that's where my
22 church members went. No, I'm just kidding. I

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1 hope nobody's watching our webcast live.

2 Is there a church, I think, to the
3 south?

4 REVEREND DANIELS: Yes. Nativity is
5 next to us.

6 ZC CHAIR HOOD: And I think Board
7 Member Moldenhauer was going down this line,
8 does the parking accommodate -- everybody,
9 obviously, I don't hear of parking problem.
10 Is there a parking problem?

11 REVEREND DANIELS: For those who
12 don't want to park on the street and come and
13 jam in the parking lot with our 25 spaces
14 there, our parking problem is twofold. Number
15 one, we don't have enough spots on our current
16 parking lot and getting out and in can
17 sometimes be a challenge. That's number one.

18 Number two, our parking is
19 essentially street parking. And because of
20 that people have to walk a little ways.

21 And so not only is there a need for
22 parking in our situation as a congregation but

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1 even with current small businesses along
2 Georgia Avenue and that 6100 block and 6200
3 block there are parking issues, particularly
4 as it relates to the retail across the street
5 from us. And so the parking lot has multiple
6 uses to it and multiple needs.

7 ZC CHAIR HOOD: Okay. Thank you.

8 And the existing building to the
9 north, what is that? It sits on the same
10 parcel, but there's a building there that's
11 going to the north that you're going to build
12 right up against, I believe.

13 MR. PICHON: That is an existing
14 mixed use building with ground floor retail and
15 housing units above.

16 ZC CHAIR HOOD: Okay. And Mr.
17 Papazian. Okay. I can't even read my own
18 writing.

19 You said a level of service during
20 peak hours is going to be A and B?

21 MR. PAPAZIAN: That is correct.
22 Yes.

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1 ZC CHAIR HOOD: And that's taking
2 into consideration the traffic signal at
3 Georgia Avenue and --

4 MR. PAPAZIAN: Yes, sir.

5 ZC CHAIR HOOD: So all the time
6 it's peak hours is level of service is A and
7 B?

8 MR. PAPAZIAN: Yes. Yes. The
9 volume's just -- once again, it's the
10 situation that I mentioned a few moments ago;
11 Rittenhouse and Quackenbos Street are both
12 relatively low volume streets. They carry
13 comparable amounts of traffic because of their
14 nature. And Georgia Avenue, we all know about
15 Georgia Avenue up in Silver Spring. But as
16 the traffic dilutes itself as you come further
17 south here into the District and with the
18 relative low volumes on the cross streets does
19 not create a capacity problems at these
20 intersections.

21 ZC CHAIR HOOD: And, Mr. Pichon,
22 what is the width of Georgia Avenue?

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1 MR. PICHON: I believe it's a 90
2 foot street.

3 ZC CHAIR HOOD: Okay.

4 MR. PAPAZIAN: If I may, it is six
5 lanes and I'm not sure of the exact width, but
6 it does carry six lanes. You do have parking
7 on the curb lanes.

8 ZC CHAIR HOOD: Okay. All right.
9 All right. Thank you. That's all I have for
10 now.

11 BZA VICE CHAIR DETTMAN: I have a
12 few questions and I think I'll probably just
13 bounce back and forth between Mr. Pichon and
14 Papazian.

15 The ceiling of the upper parking
16 level is essentially the floor of the church,
17 is that correct? What is the clearance height
18 inside that second parking level?

19 MR. PICHON: That parking level is
20 ten feet from floor to ceiling. So it's
21 giving us clear enough to get the handicap van
22 inside.

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1 BZA VICE CHAIR DETTMAN: So if I'm
2 entering that, I actually drive down a little
3 bit?

4 MR. PICHON: Yes, you will. You
5 will. There is a slight ramp at the entrance
6 to the garage off of Old Piney Branch Road.

7 BZA VICE CHAIR DETTMAN: And you
8 had mentioned that the existing basement of
9 the church is kind of sitting right in the
10 middle of -- is it both parking levels?

11 MR. PICHON: Correct.

12 BZA VICE CHAIR DETTMAN: If I was
13 in the basement, is it just one room floor to
14 ceiling taking up both levels of that parking
15 area?

16 MR. PICHON: Yes. It's the
17 fellowship hall that exists down there right
18 now. It has about a clearance of 14 feet or
19 so. A portion of that will have to be shored
20 up to accommodate the new construction around
21 it.

22 BZA VICE CHAIR DETTMAN: Okay.

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1 When you were calculating your FAR you had
2 mentioned that had it not been for the
3 topography of the site -- well, given the
4 topography of the site that upper parking
5 level actually contributes to your FAR, which
6 is throwing you above the allowable limit. Is
7 it the entire level of that parking that's
8 being included into your GFA, or is it a
9 portion thereof?

10 MR. PICHON: It is the entire
11 level, the 27,000 square feet that's included
12 in our FAR.

13 BZA VICE CHAIR DETTMAN: And is
14 that because -- I understand the topography of
15 Old Piney Branch Road, if I'm looking at your
16 west elevation, the topography increasing from
17 right to left, essentially. And that level
18 was shared by residential units as well as
19 parking?

20 MR. PICHON: No. That is the
21 intermediate parking level is strictly parking
22 at that level.

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1 BZA VICE CHAIR DETTMAN: Okay. So
2 as the topography increases going to the
3 north, the portion of the parking garage that
4 protrudes above the grade is eventually below
5 grade, is that right?

6 MR. PICHON: No. As you go further
7 north the top of that level is six feet above
8 grade at the highest point of the site.

9 BZA VICE CHAIR DETTMAN: Okay. So
10 at the northern most portion of the site
11 you're still 60 above?

12 MR. PICHON: Correct.

13 BZA VICE CHAIR DETTMAN: Okay.

14 MR. PICHON: And that matches the
15 existing sanctuary level.

16 BZA VICE CHAIR DETTMAN: Okay. I
17 noticed in your filings, I think it was your
18 prehearing, Exhibit 25, there was some clarity
19 provided about why you were required to
20 measure from Georgia Avenue. And correct me
21 if I'm wrong, it was the ZA who required you
22 to do that?

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1 MEMBER MOLDENHAUER: Yes. We met
2 with --

3 BZA VICE CHAIR DETTMAN: Mr. Le
4 Grant?

5 MR. KEYS: Matt Le Grant. To
6 understand the flexibility, what flexibility
7 we had. We wanted to be very sure on the
8 parking calculation, we wanted to be sure on
9 the height and the FAR. Because we actually
10 wanted the flexibility of looking at another
11 street as a front door because we realized
12 what this measurement was going to do. And he
13 explained that with that church building
14 oriented as it was, that was going to be our
15 front entrance. And he didn't have a choice.
16 Which, if we had a blank site, we would have
17 had a choice.

18 BZA VICE CHAIR DETTMAN: So the
19 only basis that requires you to measure from
20 Georgia Avenue is because the front door of
21 the church faces Georgia Avenue?

22 MR. KEYS: That's correct.

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1 BZA VICE CHAIR DETTMAN: Okay. Mr.
2 Pichon, I think I heard you correctly when you
3 said the height of the building from Old Piney
4 Branch Road was at 57?

5 MR. PICHON: Fifty-three feet.

6 MR. PICHON: Fifty-three? And
7 that's -- yes. If you have something that
8 maybe you can demonstrate. I also heard you
9 say that it's essentially a four story
10 building on that side. And so I'm just trying
11 to get a sense on how do you get to 50 some
12 feet on four floors. And I know that you have
13 six feet of parking deck protruding above the
14 grade. So if you have something that shows
15 that, that would be great.

16 MR. KEYS: I think the booklet that
17 was filed, if you look at drawing A.2.3.A it's
18 the rear elevation and there are the measuring
19 points that are carried across through the
20 site. And the measuring point in that drawing
21 would be approximately where the tree is,
22 right in the middle of the building, because

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1 you would measure from the center or the
2 middle. And that comes in at, it looks like
3 about 312.

4 MR. PICHON: Correct.

5 MR. KEYS: And the building goes up
6 at that point to roof top of 365.

7 BZA VICE CHAIR DETTMAN: Okay.
8 Thank you. That's very helpful.

9 I think I have a couple of more
10 questions for Mr. Pichon. But let me first
11 ask Mr. Papazian a couple of questions on the
12 traffic study.

13 I noticed on page 18 where you're
14 kind of describing the trip generation rates.

15 MR. PAPAZIAN: Yes.

16 BZA VICE CHAIR DETTMAN: And for
17 the residential apartments it's all driven by
18 -- unit. It looks like the retail, the
19 recreation community and general office, it's
20 all driven by per thousand square feet?

21 MR. PAPAZIAN: That is correct.

22 BZA VICE CHAIR DETTMAN: The

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1 church, what is the metric there? It's one
2 trip per?

3 MR. PAPAZIAN: The metric for the
4 church is seats, per seat.

5 BZA VICE CHAIR DETTMAN: Per seats?

6 MR. PAPAZIAN: Yes. And once again,
7 we use the ITE trip generation data.

8 BZA VICE CHAIR DETTMAN: Is it per
9 ten seats?

10 MR. PAPAZIAN: It is actually per
11 seat. It's, you know point something per
12 seat. And obviously when you're dealing with
13 like in this case a 125 seats, it gets to a
14 whole number.

15 BZA VICE CHAIR DETTMAN: Okay. I
16 had one other question about, I'm looking at
17 pages 20 and 21 and was wondering as you kind
18 of allocate the anticipated number of trips to
19 the street network, on page 21 under the
20 residential office column I see on the first
21 two lines 30 percent is anticipated to come
22 from the north and 30 percent from the south

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1 along Georgia Avenue.

2 MR. PAPAZIAN: That is correct.

3 BZA VICE CHAIR DETTMAN: However,
4 on page 21 it looks like 25 percent was used
5 when you applied it to the actual streets.
6 And I was wondering if I was reading that
7 wrong or --

8 MR. PAPAZIAN: Let me the math. I
9 believe that's a typographical error.

10 BZA VICE CHAIR DETTMAN: Okay.

11 MR. PAPAZIAN: Yes. We did not lose
12 any trips. I think that that was just an
13 error as I do the math.

14 BZA VICE CHAIR DETTMAN: Okay. So
15 the numbers that are actually shown there in
16 the parentheses and in the brackets are
17 reflective of a 30 percent distribution?

18 MR. PAPAZIAN: That is correct. My
19 apologies. Thank you.

20 And actually for the retail and
21 church on the next page, that is the 25
22 percent. That may have just been a

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1 transposing error.

2 BZA VICE CHAIR DETTMAN: I know you
3 mentioned in your report, however I did not
4 highlight it, did you apply any kind of modal
5 split?

6 MR. PAPAIZIAN: We did not in this
7 instance. We wanted to be conservative on the
8 high side and, obviously, we could have taken
9 full advantage of its proximity to the bus
10 lines and just the urban nature of the
11 setting. But we chose not to.

12 BZA VICE CHAIR DETTMAN: Okay.
13 Okay. I think that's all with the
14 transportation study. However, Pastor
15 Daniels, I was wondering do you have a general
16 idea what percentage of your congregation
17 relies upon public transportation to come to
18 Sunday services or to come to the building?

19 REVEREND DANIELS: I can tell you
20 that I would guess about 10 or 15 percent
21 takes modal transportation. Most everybody
22 else is driving, carpooling, Metro Access or

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1 walking.

2 BZA VICE CHAIR DETTMAN: Is there a
3 large percentage of congregants that carpool?

4 REVEREND DANIELS: By and large,
5 no. By and large, no.

6 BZA VICE CHAIR DETTMAN: It's
7 happening to some degree, though?

8 REVEREND DANIELS: To some degree.
9 I mean, you have those who are obviously
10 because of the recession who are carpooling
11 because of gas issues. But most of our folk,
12 the majority of our people are D.C. residents.
13 And so that's a good thing.

14 BZA VICE CHAIR DETTMAN: Okay. One
15 final question --

16 REVEREND DANIELS: And if I might
17 answer one of Mr. Hood's questions. We have
18 three services. We have an 8:00, a 10:00 and
19 a 12:00. So everybody's not, all 400 plus
20 aren't there at the same time.

21 BZA VICE CHAIR DETTMAN: And my one
22 final question --

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1 REVEREND DANIELS: And let me just
2 clarify. I'm sorry. Our biggest traffic
3 issue is in terms of our parking right now is
4 after the 10:00 service. So around 12:00 noon
5 on Sunday, that's our biggest get in and get
6 out parking challenge. We don't have that
7 challenge at 9:30. We don't have that
8 challenge at 1:30, which is when the other two
9 services let out approximately around that
10 time.

11 BZA VICE CHAIR DETTMAN: Mr.
12 Pichon, I just was wondering if you could kind
13 of give the Board a sense of where you stand
14 with the Historic Preservation Office. You had
15 mentioned that based on discussions with the
16 National Park Service you might revisit a
17 portion of the west elevation.

18 I noticed -- and we'll get to the
19 Office of Planning report, but I did notice
20 that they had some further recommendations
21 about the articulation of that elevation. As
22 well as in your discussions with the Historic

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1 Preservation Office to what extent did those
2 discussions include the presence of the
3 Historic Board and how that may have
4 influenced the design of the building?

5 MR. PICHON: The process we went
6 through with the Historic Preservation Office
7 for the most part was focused on the Georgia
8 Avenue perspective and the retention of the
9 church itself. We spent a lot of time working
10 out how to introduce additional uses along
11 Georgia Avenue and maintain some semblance of
12 the view corridor and the imagery of the
13 hillside.

14 The discussion with the Historic
15 Preservation Office, we left off that
16 discussion with them understanding that we had
17 both reached our sort of maximum of
18 flexibility. And there are some suggestions
19 still that we are willing to entertain on just
20 the facade treatments. But from a massing
21 standpoint, we have reached our goal of
22 working through that process with HPO.

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1 MR. KEYS: Just so the record is
2 clear, this building is not a historic
3 landmark, is it?

4 MR. PICHON: No. This building is
5 not a historic landmark, however we are
6 conscious of the historic nature of it and,
7 thus, led us to pursue retaining the church.

8 BZA VICE CHAIR DETTMAN: Did your
9 discussion with HPO acknowledge at all the
10 presence of the historic Fort?

11 MR. PICHON: We did acknowledge the
12 presence of the Fort. The discussions about
13 the edge along Old Piney Branch Road and the
14 addition of the gift shop. It was a
15 discussion that was led not directly
16 influenced by the National Park Service, so
17 they didn't really have a lot of input as to
18 the impact of the Fort. We did that directly
19 with the National Park Service, that
20 discussion directly with National Park
21 Service.

22 BZA VICE CHAIR DETTMAN: Would you

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1 say that based on your discussions with HPO
2 that -- and I know you can't speak for them.
3 But based on your understanding of those
4 discussions did they reach a level of comfort
5 with respect to the potential impacts of this
6 building on the landmark?

7 MR. PICHON: Yes. And not misquote
8 them, but for the record we were at a 99
9 percent sort of agreement with the HPO office
10 with some minor understanding of their wishes
11 versus our wishes. So we did reach a
12 satisfactory comfort level, I believe.

13 BZA VICE CHAIR DETTMAN: Thank you.

14 One last point you made. It was
15 about the rear yard and the setback of the
16 building, and I kind of missed it. And I'm
17 looking at this slide here. And what is the
18 rear yard requirement, and by the sounds of it
19 you meet that requirement?

20 MR. PICHON: Yes. The rear yard
21 requirement for a C-2-A District is a minimum
22 of 15 feet measured from the center line of

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1 the alleyway or street. And in this case we
2 are at our minimum because, again, the street
3 widens and narrows as it goes along Old Piney
4 Branch Road. We choose the measuring point
5 from the narrowest part and we were at, I
6 believe, 18. I can get you the exact number.
7 We're at a little over 18 feet for the rear
8 yard.

9 BZA VICE CHAIR DETTMAN: And you
10 had said that Old Piney Branch Road varies in
11 width and the narrowest is 20 feet?

12 MR. PICHON: Correct.

13 BZA VICE CHAIR DETTMAN: Okay. So
14 on this drawing, I mean you're taking half of
15 Old Piney Branch Road, which is ten feet, and
16 then at the point where the building is
17 closest to Quackenbos Street, you're an
18 additional eight feet into your property? Am
19 I reading that correctly?

20 MR. PICHON: If I can get to the
21 graphic that actually shows the measurement.

22 I'm sorry, Mr. Dettman. I have an

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1 exhibit here that's not part of what you have,
2 but it shows a measurement at the Quackenbos
3 Street end of Old Piney Branch Road at our
4 actual property line. And it measures out at
5 18 foot 6 inches. I'll be happy to pass this
6 around if you need it.

7 BZA VICE CHAIR DETTMAN: Certainly,
8 I think maybe the Board could take a look at
9 it.

10 I was just trying to get a sense
11 that in addition to the ten plus feet that
12 you're using for your rear yard down the
13 center line of Old Piney Branch Road, the
14 building, the entire western elevation is also
15 setback slightly into the property in order to
16 meet your 15 foot rear yard. Am I saying that
17 correctly?

18 MR. PICHON: Correct.

19 BZA VICE CHAIR DETTMAN: Okay.
20 Great.

21 Board members, any other questions?

22 REVEREND DANIELS: Could I just add

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1 something very quickly? And I think this is
2 good for the record.

3 Before we were able to secure Mr.
4 Pichon's great services our team from the
5 church and from the Emory Beacon of Light had
6 several meetings with the Historical
7 Preservation Office, even site visits in where
8 Steve Callcott and others of his team came to
9 Emory to review the site, to look at the site
10 for us to begin communicating to them what we
11 were envisioning. And so they were very much
12 aware of where we were from the beginning and
13 made their recommendations to Mr. Pichon once
14 we had started that relationship with him.

15 So the 99 percent that he's
16 speaking with was really 100 percent when we
17 were meeting with him, particularly around the
18 site visits.

19 MR. KEYS: Reverend Daniels, wasn't
20 there one more aspect of the coordination or
21 collaboration with Historic Preservation? Did
22 the church commission a archeological survey

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1 of the site?

2 REVEREND DANIELS: Correct. We had
3 various surveys of the site taken just so that
4 we would know what we were dealing with. And
5 we know we're on a site that has a lot of
6 history to it. So we've done a lot of
7 homework with surveys and the like in
8 preparation of this.

9 MEMBER MOLDENHAUER: I just have
10 one question for clarification. I believe
11 there was testimony about the rear loading
12 area and the trash. And you made some comment
13 about the fact that you're going to take the
14 trash out onto the street to be picked up.
15 Can you clarify that?

16 MR. PICHON: Yes. Because of the
17 location of the trash and the size of trash
18 trucks, we don't have the 14 foot clearance at
19 that point along Old Piney Branch Road to get
20 a trash truck inside the building. So that
21 the trash room will house trash dumpsters that
22 roll out and get picked up by the trash trucks

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1 off of Old Piney Branch Road.

2 MEMBER MOLDENHAUER: So I'm just
3 trying to understand this. You have either
4 the large ones that the truck kind of fork
5 lifts and picks up, or do you have the smaller
6 ones that are easier to kind of wheel out?
7 What type of trash facility are you going to
8 have?

9 MR. PICHON: Right now we're
10 planning on the large dumpsters that can be
11 rolled out and fork lifted up. However, that's
12 subject to change based on the recommendations
13 of the trash company that actually does the
14 pick-up from the site. They may have their own
15 preference on whether or not use smaller or
16 larger.

17 MEMBER MOLDENHAUER: And how many
18 of those trash containers are you going to
19 have? I just can't tell from the diagram.

20 MR. PICHON: Yes. We're showing
21 approximately six bins within that trash room.
22 Some of those are recycling and I believe

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1 three of those are actual trash bins.

2 MEMBER MOLDENHAUER: You show six?

3 I don't see that.

4 MR. PICHON: It's very hard.
5 There's writing over top of it. But there's
6 one, two, three bins and then another three
7 along this side of the wall.

8 MEMBER MOLDENHAUER: Okay. I'm
9 just trying to make sure that you have
10 adequate space for loading.

11 One, considering the unique nature
12 of trying to actually take trash outside to
13 then be picked up I think is kind of unique,
14 especially considering you have 91 units,
15 you'll have I guess four or five retail bays
16 that'll be generating trash along with 400
17 church members. I'm sure that you guys have
18 after church receptions and programs like
19 that, and you probably have children where you
20 have church Sunday school and things like
21 that. And so I just wanted to make sure that
22 the design is also -- especially also

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1 considering the fact that that's the side
2 that's looking onto Fort Stevens. So I'm just
3 trying to understand how that would
4 potentially impacting it if you're not
5 providing something that can be directly
6 picked up in your own facility?

7 MR. PICHON: Well, in addition to
8 the trash room that we're focused on where the
9 actual pick-up happens, there are trash
10 compactors located underneath the towers of
11 the two cores where the trash will be
12 compacted into smaller sizes and then taken to
13 this trash room, and then taken out to the
14 trash trucks when they come for pick-up.

15 So there's an effort to reduce the
16 amount or the size of the trash to minimize
17 the number of pick-ups that have to happen
18 during the week.

19 BZA VICE CHAIR DETTMAN: Mr.
20 Pichon, one more question. The roof structure
21 that's not adequately setback, does that
22 elevator, is it providing access to the church

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1 mezzanine as well? Is that driving its
2 location?

3 MR. PICHON: It is providing access
4 on that side of the project to all the
5 functions that surround the church. So, yes,
6 the mezzanine is accessed from that elevator
7 as well.

8 BZA VICE CHAIR DETTMAN: Okay. Mr.
9 Keys, does that conclude your case?

10 MR. KEYS: Yes, it does, Mr.
11 Chairman.

12 BZA VICE CHAIR DETTMAN: Great. I
13 think what the Board wants to do is now is the
14 next point in the proceedings is to go to the
15 Office of Planning. However, I would suggest
16 that we maybe break for five minutes and then
17 we can reconvene. When we reconvene in five.

18 And I know there are times where the Board
19 slips on the amount of time that they say
20 they're going to break. But really let's make
21 a big effort to get back here in five minutes
22 and we can restart the proceedings. And at

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1 that point we'll do a time check in terms of
2 the witnesses that want to provide testimony,
3 and then we're going to go on to the Office of
4 Planning.

5 (Whereupon, at 5:36 p.m. off the
6 record until 5:43 p.m.)

7 BZA VICE CHAIR DETTMAN: While
8 we're waiting for Ms. Moldenhauer to joint us,
9 I think in her absence we can discuss how
10 we're going to proceed.

11 MR. KEYS: Yes, Mr. Chairman. I
12 would ask the Board's indulgence. There are
13 two more in support statements, people who
14 have been waiting here, that we would very
15 much like to have an opportunity. They
16 promised brief statements for the record.
17 They don't have written statements.

18 If that could be accommodated, we
19 would be forever grateful.

20 BZA VICE CHAIR DETTMAN: I think
21 we're thinking along the same lines. And so
22 in addition to that, Mr. Keys, do you have any

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1 objection to allowing any persons here that
2 are wishing to provide testimony in opposition
3 to the case, can we take care of all the
4 persons that are wishing to testify tonight
5 before going to the Office of Planning?

6 MR. KEYS: I'd have no objections.

7 BZA VICE CHAIR DETTMAN: Okay.
8 And, of course, you still have the opportunity
9 to ask questions of any witness that comes
10 before us.

11 I could be wrong. Ms. Glazer, a
12 witness that comes to the Board and provides
13 testimony, say, in opposition to this case,
14 Mr. Keys would have the opportunity to ask
15 questions of that witness, is that not
16 correct?

17 MS. GLAZER: Yes, he would have the
18 opportunity to cross examine them.

19 BZA VICE CHAIR DETTMAN: You look
20 perplexed.

21 MR. KEYS: Well, I just was not
22 going to have the cross examining public

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1 participants. But --

2 BZA VICE CHAIR DETTMAN: I think
3 that question came up recently at a Board
4 proceeding. And I think the Board resolved
5 that as a party you have the right to cross
6 examine any party as well as a person here to
7 testify.

8 MR. KEYS: To testify on behalf of
9 the party?

10 BZA VICE CHAIR DETTMAN: I'm sorry.
11 No. A person appearing before the Board as
12 themselves to provide testimony, you have the
13 right to question them.

14 I just wanted to check in with --

15 MS. GLAZER: Mr. Chairman, there
16 are no oppositional parties. I had thought
17 there were, but they're all person in
18 opposition.

19 BZA VICE CHAIR DETTMAN: Right.
20 And I think the question is although they're
21 not parties in opposition, there may be
22 persons in opposition in the audience. After

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1 their three or five minute testimony, Mr. Keys
2 has the opportunity to question those persons,
3 right?

4 MS. GLAZER: Yes, that's correct.

5 BZA VICE CHAIR DETTMAN: Okay.

6 MS. BAILEY: Mr. Chairman, I think
7 the reason Mr. Keys seems a little perplexed
8 is it had not been done that way previously,
9 and that's why I think he's --

10 BZA VICE CHAIR DETTMAN: Great. Mr.
11 Keys, if you don't want to ask questions of
12 those persons --

13 MR. KEYS: I will.

14 BZA VICE CHAIR DETTMAN: Okay. And
15 I've just been told that the Office of
16 Planning has to leave at quarter to 7:00. So
17 why don't we get started with those two
18 witnesses that you have, Mr. Keys, and then
19 we'll going to move on to any other persons in
20 the audience that wish to testify this
21 evening.

22 REV. EDMONDS: Good evening. My

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1 name is H. Lionel Edmonds. I'm the Pastor of
2 the Mount Lebanon Baptist Church in Ward 6.

3 I am the President of Washington
4 Interfaith Network, co-founder, co-chair.

5 And you have, I believe -- you may
6 have the letter that we drafted in support of
7 this project. You have that letter, so I
8 won't read the whole letter because you
9 already have it. Basically you've heard that
10 the Washington Faith Network is an
11 organization of 50 congregations, a 100,000
12 members in each ward of the city, multi-
13 racial, multi-faith District-wide citizens
14 organization. And our work for the last 15/16
15 years has been devoted to improving the lives
16 of District residents economically and in
17 housing, and educationally.

18 And Emory has -- and WIN would not
19 be where it is had it not been for the
20 leadership of Pastor Daniels and Emory.

21 I realize this is a very complex
22 project. I was talking with Joe in the

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1 hallway and he was letting me know that this
2 Fort was the place where Abraham Lincoln
3 visited. And it was a place where he kind of
4 viewed the battle. And that his hat got shot
5 off during the course of that battle. It
6 seems like there's still a lot of shooting
7 going on a number of years later. But I'm
8 reminded as I close one of the advisors to
9 Abraham Lincoln was Ralph Waldo Emerson, a
10 Unitarian minister at the time. And he said
11 "Do we not we also have a right to make
12 history as well."

13 And I don't see a conflict here in
14 the history of ideas on institutions and
15 individuals creating present history as we
16 move forward. To me what Emory is trying to
17 do is to create a present history and a
18 present vision.

19 So, once again, we support
20 wholeheartedly what Emory is doing.

21 And thank you for your time.

22 BZA VICE CHAIR DETTMAN: Thank you,

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1 Mr. Edmonds. And we did receive your letter.
2 We have it before us and we will incorporate
3 that into our consideration for this case.

4 Board members, any questions for
5 Mr. Edmonds? No questions?

6 Well, thanks again, Mr. Edmonds.
7 We appreciate your testimony.

8 And I think we can move on.

9 MEMBER MOLDENHAUER: Can I just
10 find out what exhibit number that letter is?

11 MR. EDMONDS: Excuse me. We have
12 one more person here that's going to testify.

13 BZA VICE CHAIR DETTMAN: I think--

14 MS. BAILEY: I'll look that up for
15 you.

16 MEMBER MOLDENHAUER: All right.
17 Thank you.

18 BZA VICE CHAIR DETTMAN: I think we
19 can proceed.

20 MR. MOORE: My name is John Moore.
21 I'm a resident of Ward 4 in the nearby
22 Colonial Village, Sheppard Park. So I shop on

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1 Georgia Avenue and have been there since 1979,
2 and so I've seen the changes. Luckily,
3 they're getting more positive than they were
4 at a certain point.

5 I'm also a former co-chair of
6 Washington Interfaith Network and currently a
7 Treasurer and Board member. I've been heavily
8 involved in WIN's housing efforts including
9 the building of an award winning affordable
10 housing, 147 unit, over off of Benning Road in
11 Ward 7.

12 And I was a former President of the
13 standing committee of the Episcopal Dioceses
14 of Washington, and as such I was involved in a
15 lot of churches, the financing for churches,
16 doing projects in the city of similar sorts.

17 And finally, I was on the Parish
18 Council for St. Johns Church Lafayette Square
19 for about 14 or 15 years. And during that
20 process I was involved in getting approvals
21 for making improvements working with the
22 Historic Preservations Office. So I've had a

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1 certain amount of experience, although I'm not
2 a zoning lawyer or a historic preservation
3 lawyer. I'm here as an activist.

4 I would say four quick things.

5 First, as a resident of Ward 4 and
6 an activist in WIN I strongly believe that
7 this is a project that can help preserve
8 affordable housing and seniors and veterans
9 housing in an area of the city that's becoming
10 upscale. And so this is an important part of
11 keeping the city available for those who have
12 lived through the ups and the downs in the
13 city and we believe that living in the up part
14 is something that they should have.

15 And secondly, as a resident of Ward
16 4 and an activist in WIN, I believe this is a
17 wonderful solution for this section of Georgia
18 Avenue. It's part of the continued
19 development of Georgia Avenue. It's a gateway
20 street into the District, something that you
21 really when I first got here, you didn't
22 really want to drive down Georgia Avenue. Now

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1 with the improvement of Silver Spring Gateway
2 area and this project, we're getting more and
3 more positive development and we're getting
4 better retail and things that the neighborhood
5 needs. So I think this is a great benefit.

6 Also, as someone who has used the
7 tennis courts and other facilities and been to
8 Fort Stevens, I believe that this is going to
9 be a great enhancement of the value of Fort
10 Stevens in the sense that it will now bring
11 people to this area that they wouldn't have
12 otherwise been there. And from what I see of
13 the design, it's one that will encourage
14 people to visit the Fort and therefore has a
15 benefit for this urban park.

16 Third, as a member of WIN and also
17 involved in the standing committee of the
18 Dioceses of Washington, I strongly support
19 efforts by churches who remain in our city,
20 are strong points of our city and their
21 attempts to continue the revitalization of the
22 city. Continue working for poorer people and

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1 providing affordable housing. And I think
2 that their efforts should be encouraged, and
3 therefore projects like this and, you know,
4 working with getting the variances that are
5 necessary to do the projects is really a great
6 benefit for the city and should be encouraged.

7 And finally as a member of WIN and
8 also at St. Johns Church and having been
9 involved with creating a PUD for the DuPont
10 Commons and also getting variances or whatever
11 needed for the developed rebuilding or
12 redevelopment parts of St. Johns Church which
13 is in a very historic neighborhood, I think
14 that it's incumbent on all of us to work
15 together when you have a good partner, which I
16 believe Emory and I know St. Johns was, and
17 WIN has been, to create positive results for
18 the city.

19 So those are my remarks. Thank you
20 for the opportunity to speak.

21 BZA VICE CHAIR DETTMAN: Thank you,
22 Mr. Moore.

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1 Board members, any questions for
2 Mr. Moore? No.

3 Thank you for your testimony and we
4 appreciate your patience.

5 MS. BAILEY: Ms. Moldenhauer, I'm
6 not finding a letter from Edmonds. Do you
7 have it?

8 BZA VICE CHAIR DETTMAN: It was
9 submitted today, I believe, and it hasn't been
10 assigned an exhibit number.

11 Mr. Keys, any additional witnesses?

12 MR. KEYS: There are none that I'm
13 aware of that have any pressure of time. Was
14 it my understanding that you were going to
15 take persons in opposition?

16 BZA VICE CHAIR DETTMAN: Yes, I
17 inquired whether or not you knew any other
18 witnesses that might be in support.

19 MR. KEYS: I don't at this stage.
20 I mean, you'd just have to ask them to come
21 forward.

22 BZA VICE CHAIR DETTMAN: Okay. Why

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1 don't we move on to persons wishing to testify
2 in opposition to the case. And by show of
3 hands, can I get a sense of how many we have?

4 We have four. Okay.

5 Maybe a couple of you can come up
6 to the table and join us here.

7 Let me just check before we
8 proceed. Is there anyone else in the audience
9 wishing to testify that did not raise their
10 hands when I asked? No? Okay.

11 So we have four witnesses before
12 us. And why don't we proceed right now.

13 Would you turn your mic on, please?

14 MS. COLEMAN: Thank you very much.

15 My name is Adrienne Coleman and I
16 am the Superintendent of Rock Creek Park. And
17 I am here today on behalf of the National Park
18 Service.

19 Pastor Daniels is absolutely
20 correct. The National Park Service and Emory
21 Church have enjoyed a wonderful relationship
22 for many, many years now. We have a shared

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1 history. And we hope that that cooperative
2 relationship will continue.

3 We appreciate the church's desire
4 to satisfy community needs. And we also
5 believe, as Pastor Edmonds mentioned, that
6 community issues, community concerns, need and
7 historic preservation are not mutually
8 exclusive.

9 We are here today to express our
10 concerns about the application for variance
11 relief for the proposed Beacon Center.
12 Specifically, we oppose the applicant's
13 request for relief on the height requirements
14 of section 770.1 and the floor area ratio
15 requirements of section 771.2 of the District
16 of Columbia Zoning Regulations. We believe
17 that to grant such relief would cause
18 substantial detriment to the public good and
19 would impair the intent, purpose and integrity
20 of the Zone Plan because of the direct impacts
21 it would have on the adjacent historic Fort
22 Stevens.

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1 Fort Stevens is a District landmark
2 that is also listed on the National Register
3 of Historic Places, and it is the centerpiece
4 of the Historic Civil War Defenses of
5 Washington, a series of field fortifications
6 which were built on high points to protect the
7 city from Confederate attack.

8 Fort Stevens was built in 1861 on
9 the same site where the Emory Church currently
10 stands to control the turnpike leading to
11 Silver Spring, now known as Georgia Avenue.
12 The Fort was expanded to the west in 1863 to
13 include the grounds and reconstructed parapet
14 which can be seen by visitors today.

15 In 1864 Fort Stevens was the scene
16 of a Confederate attack, a bold one, an attack
17 that would ultimately be the Confederate's
18 only attack against Washington, D.C.

19 So picture this. You've got
20 Confederate soldiers marching down Georgia
21 Avenue. You have got Union soldiers at Fort
22 Stevens waiting for the Confederate soldiers

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1 to attack. You have Unions soldiers marching
2 up Military Road going to Fort Stevens. And
3 this battle occurs. I think that is
4 remarkable imagery.

5 And as Pastor Edmonds mentioned,
6 Abraham Lincoln was at the scene giving Fort
7 Stevens the distinction of being the only
8 battle in which a sitting U.S. President came
9 under fire during a time of Civil War.

10 So Fort Stevens is a very, very
11 important Civil War site.

12 It is smaller scale to Gettysburg,
13 Manasses but it is equally as important.

14 Though not the original church
15 structure, the history of Emory Church and
16 Fort Stevens have been intertwined since the
17 Civil War. The existing church replaces a
18 previous structure which served as barracks,
19 hospital and jail in conjunction with the
20 operation of Fort Stevens. The unusual and
21 unique topography cited as the decisive
22 feature of this property that causes the

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1 proposed building to depart from the matter-
2 of-right characteristics of the C-2-A Zoning
3 is the 14 foot high berm running along Georgia
4 Avenue and Quackenbos Street frontages. The
5 berm itself is a remanet of the Civil War
6 defensive.

7 We appreciate the applicant's
8 desire to retain the views of the existing
9 church building from the street level of
10 Georgia Avenue, but we feel that the church's
11 visual relationship to Fort Stevens is equally
12 important. Unfortunately, the proposed
13 additions to the church as currently
14 configured serve to isolate it completely from
15 the historic Fort with a massive wall that
16 would loom over Fort Stevens. At the same
17 time, the proposed courtyard around the church
18 serves to displace the density of the
19 development and push it closer to Fort
20 Stevens.

21 I do want to mention that Old Piney
22 Branch Road is also the entrance to Fort

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1 Stevens. And so we also have concerns about
2 trash and traffic, and other bottlenecks on
3 Old Piney Branch Road.

4 We also disagree with the
5 applicant's request to treat the berm as an
6 anomalous condition, or in other words as Mr.
7 Keys mentioned, a 14 foot pedestal from which
8 the building height limitations should be
9 measured. This results in a significantly
10 higher structure adjacent to Fort Stevens.

11 So where visitors can now look
12 across the open church yard toward the road
13 from which the Confederate forces advanced,
14 they will only see a looming five story wall
15 of residential development should the height
16 and FAR variances be granted.

17 The Office of Planning report
18 states: "Extensive excavation on the site to
19 provide floors well below grade is not
20 preferred due to its historic relationship to
21 Fort Stevens." However, no evidence is given
22 by the applicant as to why the two garage

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1 levels cannot be excavated around the
2 perimeter of the church so as to lower the
3 structure above grade.

4 We also disagree with the applicant
5 and do not feel the variances can be granted
6 without having an adverse impact on the
7 intent, purpose and integrity of the Zone
8 Plan, particularly as it relates to historic
9 resources.

10 Chapter 22 of the Revised
11 Comprehensive Plan for the nation's capitol,
12 10 DCMR Comprehensive Plan Part I identifies
13 this property as being within the Rock Creek
14 East planning area. To paraphrase, the Rock
15 Creek East plan recognizes the significant
16 historical resources of the area and requires
17 their recognition and protection.

18 The National Park Service feels
19 strongly that this protection should also
20 include historic Fort Stevens, a District
21 landmark and a listed property on the National
22 Registry of Historic Places.

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1 I would like to speak to a point
2 that Mr. Pichon made that when the applicant
3 consulted with the Historic Preservation
4 Office, that was before the applicant had
5 consulted with the National Park Service. So
6 our concerns about Fort Stevens I do not
7 believe were discussed or addressed during
8 those discussions with the HPO.

9 We also believe that the variance
10 and special exception process which the
11 applicant is seeking is not intended for
12 relief of the scale they are proposing and
13 wonder if this case would be better as a
14 planned unit development before the Zoning
15 Commission. To grant relief to virtually the
16 same maximums as called for in the regulations
17 for a PUD far exceeds the intentions of the
18 Zoning Regulations as they apply to the BZA in
19 variance and special exception.

20 I would reference a letter that has
21 been submitted to you for the record by John
22 Parsons, who served on the Zoning Commission

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1 for 32 years. He is saying in his experience
2 the variance and special exception process
3 which this applicant is seeking is not
4 intended for relief of the scale they are
5 proposing. And he is suggesting, and we
6 agree, that the building should be lowered to
7 40 feet in height and setback at least 30 feet
8 so as to allow a dense screen of trees to be
9 planted in that setback protecting the views
10 from Fort Stevens.

11 Thank you for your consideration.

12 BZA VICE CHAIR DETTMAN: Thank you,
13 Ms. Coleman.

14 Board members, any questions for
15 Ms. Coleman? No.

16 Ms. Coleman, you had mentioned in
17 your testimony that you believed the project
18 is going to have substantial impacts on the
19 historic Fort. And I was wondering if you
20 could further articulate what that means? I
21 mean, what is it about the project and what
22 are the actual impacts? Is it light, is it

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1 air? You know, could you get a little more
2 specific about that?

3 MS. COLEMAN: It's the wall. It's
4 the wall that's presented by the rear of the
5 structure. When visitors come to Fort Stevens
6 and look out what they will see is a massive
7 wall that does loom over Fort Stevens and does
8 have an adverse impact on our ability to
9 interpret that site and has an effect on the
10 quality of the visitor experience.

11 BZA VICE CHAIR DETTMAN: Okay. So
12 your testimony is that the wall is actually
13 going to have a substantial impact that's
14 going to be substantially detrimental to the
15 visitor experience?

16 MS. COLEMAN: It is.

17 BZA VICE CHAIR DETTMAN: Are there
18 other things specifically?

19 MS. COLEMAN: Its proximity to the
20 property line. As I mentioned before, Old
21 Piney Branch Road is also the only entrance to
22 Fort Stevens. And so we do have concerns

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1 about traffic bottlenecks, and trash, and
2 other things that could ultimately --
3 operational issues that could ultimately have
4 an effect on us.

5 MEMBER MOLDENHAUER: What efforts
6 has your organization taken to work with Emory
7 Church?

8 MS. COLEMAN: We have met with
9 Emory Church on three occasions and discussed
10 our concerns. And as I said, we have been
11 partners with Emory Church for many, many
12 years now and we want to continue to work and
13 enjoy a cooperative relationship with them.

14 MEMBER MOLDENHAUER: What type of,
15 I guess, alternatives or discussions were
16 discussed as a potential solution to this
17 problem?

18 MS. COLEMAN: We talked about
19 staying within the existing building height
20 limitations and complying with the FAR
21 regulations.

22 We also talked about stepping back

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1 the rear of the structure. And with that, I
2 think I would like to defer to my colleague
3 Doug Jacobs who also works for the National
4 Park Service. He is an architect and can
5 probably answer with more detail those kinds
6 of questions.

7 MR. JACOBS: Hi. For the record,
8 my name is Doug Jacobs. I'm with the National
9 Capitol Region of the Park Service.

10 And, you know, we feel strongly
11 about this. You know, obviously, we've waited
12 a long time to testify today, so that's
13 evidence to it, certainly.

14 We feel that 14 feet makes a
15 difference. That, you know, when you are
16 standing there in that Fort and when you are
17 trying to imagine the events that went on, the
18 character is very different with such a large
19 building right next to it.

20 When we did meet with the folks
21 from Emory, we did talk about trying at least
22 in the northwest corner where it's closest to

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1 the field battlements, to try to set that back
2 a little back or at least try to reduce the
3 height a little bit. And so certainly we
4 think that a 40 feet, which it was our
5 understanding of what that would translate to
6 on the west side if we were held to the 50
7 maximum by right; we think 40 feet is much
8 more comfortable than basically right now 53
9 feet.

10 We also, I believe that one of the
11 earlier folks testified that we'd had some
12 discussions about the character of that
13 facade. And what we were trying to suggest
14 that we could break up the perceived mass of
15 it and if there were a way to not only bring
16 it down, but also change of planes, that to
17 try to be more in keeping with the lower
18 character of the existing Fort, which frankly
19 is very close. It's within only about 50 feet
20 of that back wall that we're talking about how
21 close it is to Old Piney Branch Road. But
22 that is actually Park Service property at the

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1 end of Old Piney Branch Road which extends up
2 to the back of the Emory property. And that's
3 a very important access point for visitors to
4 the Fort.

5 MEMBER MOLDENHAUER: Do you
6 currently have a National Park Service
7 employee station at the location for visitors?

8 MS. COLEMAN: Not on a regular
9 basis. We have a Ranger there for special
10 events and he or she is available upon
11 requests for special tours.

12 MEMBER MOLDENHAUER: And how often
13 do you have these type of events annually?

14 MS. COLEMAN: About twice a year.
15 There is Fort Stevens Day, which is well
16 attended. We also participate in tours along
17 with cultural tours in D.C. Fort Stevens is a
18 part of the Brightwood Heritage Trail.

19 MEMBER MOLDENHAUER: And there was
20 testimony earlier about a newer kind of
21 apartment complex on the corner of Georgia
22 Avenue -- the northern street. Rittenhouse,

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1 which kind of would from my viewing of this,
2 would kind of blocked more of your northern
3 view of Georgia Avenue.

4 MS. COLEMAN: Yes.

5 MEMBER MOLDENHAUER: Did your
6 organization protest that development of that
7 building?

8 MS. COLEMAN: I am not aware of a
9 protest of that building.

10 MEMBER MOLDENHAUER: Okay. But
11 you're aware of the building I'm talking
12 about?

13 MS. COLEMAN: It's not ringing a
14 bell right now.

15 MEMBER MOLDENHAUER: Well, Mr.
16 Keys, do you have this diagram that you can
17 provide?

18 MR. JACOBS: And although I do not
19 believe that we went on record against that
20 proposal, that proposal is certainly much in
21 keeping with something close to the adjacent
22 Fort. If you look at the height of it. And

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1 respectfully if you were to turn the model
2 around so that you could see the relationship
3 of the building next to the Fort, you'll
4 notice to the left of the building right now,
5 the proposed building, is the housing
6 development you were just talking about. Now
7 if you turn it all the way around, you'll see
8 the relationship of that housing development
9 next to the Fort. And when you see how much
10 the proposed project steps up and how much
11 taller it is, and how much more of a visual
12 barrier it is adjacent to the battlements.

13 MEMBER MOLDENHAUER: Thank you.

14 MR. JACOBS: I'd also like to add
15 one other thing. There was a mention also of
16 the state of repair of the project. And I did
17 want to mention that we were fortunate enough
18 in the American Recovery Act to be able to get
19 the secure funds to be able to make some
20 improvements to the Fort. We will be
21 including additional waysides for additional
22 interpretative opportunities, we'll be doing

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1 some additional stabilization of the
2 structures.

3 And as a couple of the other
4 witnesses will testify, this is part of the
5 Fort Circle Parks Initiative, which is seeking
6 to bring more notoriety, more interest to the
7 Civil War battlements, try to improve the
8 connections between the Civil War forts. And
9 we believe will be bringing a lot more
10 visitorship to the Fort.

11 MS. COLEMAN: It's an effort that
12 we have collaborated on with the Office of
13 Planning as well as the National Capitol
14 Planning Commission and other District land
15 management agencies, recognition of the Fort
16 Circle Parks and the Civil War defenses of
17 Washington and working on improvements to
18 those fort sites is a high priority for the
19 Office of Planning, National Capitol Planning
20 Commission and the National Park Service.

21 ZC CHAIR HOOD: Mr. Chairman.

22 Let me just ask, I think Mr. Jacobs

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1 you mentioned this earlier, or Ms. Coleman,
2 you mentioned the issue is basically the
3 setback and the height. If you gotten one and
4 not the other, would that kind of give you
5 more support for the project?

6 Case in point, if the height was
7 reduced and you didn't get the setbacks, would
8 that kind of give the Park Service to be able
9 to sit down and give more support for the
10 project?

11 MR. JACOBS: I think that the
12 setback would allow us to plant a buffer. And
13 I think that that would go probably a little
14 further than the height. I don't know if you
15 agree with that. Yes.

16 ZC CHAIR HOOD: Okay. So in other
17 words, if you got the setback and you didn't
18 get the height, you'd be more supportive?

19 MR. JACOBS: I think that would be
20 more helpful to us, yes.

21 ZC CHAIR HOOD: Has that discussion
22 been had with Emory?

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1 MR. JACOBS: We have not had that
2 specific discussion, no.

3 ZC CHAIR HOOD: Okay. And the
4 other question, you know I often hear, having
5 served with Mr. Parsons for some years, I
6 often hear about the preservation of the Fort,
7 what is it again? The Fort -- the parks --
8 the parks. I hear that, and I heard that
9 quite a bit.

10 Let me ask, is there an example of
11 a development that you know of, and it doesn't
12 have to be locally, of a park maybe with some
13 contingent sort of efforts with the developer
14 where it worked out to be a win/win for both
15 the Park Service, the community? Is there an
16 example out there like that?

17 I know I'm asking something that
18 may be farfetched. But I just want to know if
19 there is an example that we can kind of look
20 to?

21 MS. COLEMAN: I would have to think
22 about that. A specific example doesn't come

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1 to mind right now. But what I can say is that
2 when we do work with developers adjacent to
3 Park Service land the two issues that we
4 usually talk about are height and setback.
5 And if we can reach compromises on those two
6 things, or either of those two things, that is
7 a win/win for us.

8 ZC CHAIR HOOD: Okay. Thank you.

9 Thank you, Mr. Chairman.

10 BZA VICE CHAIR DETTMAN: Thank you,
11 Chairman Hood.

12 A couple of more questions. Ms.
13 Coleman, would you be able to say that if this
14 was not a historic Civil War park, if it was a
15 piece of National Park Service land would you
16 have the same position on the project?

17 MS. COLEMAN: We would not feel as
18 strongly about it as we do about this site.
19 Because Fort Stevens is not just open space,
20 it's not just green space. It is a national
21 historic landmark. It is where a battle was
22 fought. It is where soldiers died. In fact,

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1 the Union soldiers that fought in that war are
2 buried across the street at Battleground
3 Cemetery.

4 So, yes, we would feel differently
5 were it just open space. But it's much more
6 than that.

7 BZA VICE CHAIR DETTMAN: Certainly.

8 In addition to the events that took
9 place there, which of course those are the
10 events that led to the park being considered a
11 local as well as a national historic landmark
12 --

13 MS. COLEMAN: Yes. Yes.

14 BZA VICE CHAIR DETTMAN: In
15 addition to the events, would you happen to
16 know some of the other characteristics that
17 feed into its designation as a local and
18 national historic landmark? Meaning, is it
19 the openness, is it its proximities? You
20 know, what qualities of the space make it a
21 landmark, and then how does this project
22 substantially detriment those qualities?

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1 MS. COLEMAN: I wish I could speak
2 to all of that, and I'm afraid I can't except
3 to tell you that the Civil War forts were
4 built on the high points in the District of
5 Columbia so that we would have -- or the Union
6 soldiers would have the vantage point. So all
7 of the Civil War forts are on high points
8 within the District of Columbia.

9 So I believe that it's not only the
10 battle that took place there, but the vistas
11 that contribute to the value of the site.

12 MR. JACOBS: And I would also add
13 that this is really the flagship -- that's the
14 wrong analogy. But, you know, this is the
15 preeminent Civil War fort, that this is really
16 in the best condition in Washington, it really
17 is the one that is best for us to be able to
18 tell the story of the Civil War
19 fortifications.

20 BZA VICE CHAIR DETTMAN: And how
21 does the project substantially detriment
22 anyone's ability to tell that story, to

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1 describe the battle, to gain a sense of the
2 high point in the city and the vistas to and
3 from the site?

4 MS. COLEMAN: You don't get a sense
5 of what the battle was like with this high
6 wall looming over Fort Stevens. You don't get
7 the connection between Fort Stevens and Emory
8 Church. And as we mentioned before, where
9 Emory Church currently stands is where the
10 original fort site was.

11 So there is an inability to
12 completely discuss the site and an inability
13 for our visitors to visualize what occurred
14 there and what was there.

15 BZA VICE CHAIR DETTMAN: So does
16 that mean that any development on the site
17 would be unacceptable to the National Park
18 Service?

19 MS. COLEMAN: No. What we are
20 objecting to is the height and the proximity
21 to our property line.

22 BZA VICE CHAIR DETTMAN: And the

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1 northern most portion of this development near
2 the battlements, I think I heard Mr. Jacobs
3 testify to that whether it was height, whether
4 it was setback, whatnot; if that area of the
5 development was modified in some way, the
6 National Park Service feels that that
7 substantial detriment that you referred to, to
8 the areas that you had testified to, that
9 somehow you could reach a level of comfort?

10 MS. COLEMAN: That would help.

11 BZA VICE CHAIR DETTMAN: Okay.

12 Thank you.

13 Board members, any other questions?

14 ZC CHAIR HOOD: Unless I
15 misinterpret, I thought they said they could
16 go with the height if they were able to work
17 the setback. So that's one or the other. And
18 I think that would be a clear -- or at least, I
19 thought that was more support. Now I'm
20 hearing -- am I hearing that correctly or
21 maybe I didn't hear his correctly?

22 BZA VICE CHAIR DETTMAN: No, I

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1 think it was --

2 MS. COLEMAN: I was responding to
3 the question about --

4 BZA VICE CHAIR DETTMAN: I think
5 you're right. I think it was one or the
6 other.

7 I think the main thing to my
8 question was that it's that area of the
9 project that, you know they could deal with
10 development on the site. They're not
11 necessarily saying that no development is the
12 only option and that it would help in terms of
13 their support for the project and their
14 position if that one area of the development
15 was modified.

16 ZC CHAIR HOOD: Thank you. I'm
17 sorry about that.

18 MEMBER MOLDENHAUER: I just have
19 some other questions. What other
20 battlegrounds exist in the District of
21 Columbia?

22 MS. COLEMAN: Fort Stevens is the

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1 only location in the District of Columbia
2 where a battle was fought in the city. There
3 are other fort sites that comprise the circle
4 around the city during the Civil War. But
5 this is the only place where action occurred.

6 MEMBER MOLDENHAUER: Then what are
7 the other forts sites?

8 MS. COLEMAN: I don't remember
9 exactly how many there are. But they cover the
10 whole city.

11 MEMBER MOLDENHAUER: Are
12 developments now all surrounding them?

13 MS. COLEMAN: Not to the extent
14 that this one -- not in the close proximity
15 that this one would be. Not where you look
16 out and see a huge looming wall.

17 Fort Reno is an example of a fort
18 site. Fort Totten. Fort DeRussy, Battery
19 Kemble. These are all sites within Rock Creek
20 Park. Fort Slocum.

21 MEMBER MOLDENHAUER: You keep on
22 mentioning this wall.

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1 MS. COLEMAN: Yes.

2 MEMBER MOLDENHAUER: And for any
3 development I can't see that, you know, if the
4 Board were to approve it, that there's going
5 to be some sort of wall there.

6 MS. COLEMAN: Yes.

7 MEMBER MOLDENHAUER: Have you
8 discussed the potential or the opportunity to
9 put a mosaic or some sort of mural on the wall
10 to recreate this vista, this image, this
11 contributing factor? Has that been discussed?

12 MS. COLEMAN: That was something
13 that was presented to us by the developers.
14 We didn't see that visually that would make a
15 difference. You would still see a wall there.

16 I think what we did talk about was
17 moving it away from the property line,
18 stepping it back so that it wouldn't have so
19 much of a visual impact.

20 I was interested in your idea of a
21 visual break in the building so that it didn't
22 seem like such a massive structures. But

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1 those are the kinds of things that we would
2 love to consider.

3 MEMBER MOLDENHAUER: I obviously
4 was throwing those out to try to see what type
5 of thoughts the architect had gone through.
6 But I'm also trying to see -- so I guess, the
7 applicant had presented you with that
8 opportunity or the idea of potentially putting
9 a mosaic on it, and you guys did not find that
10 to be adequate?

11 MS. COLEMAN: We did not.

12 MEMBER MOLDENHAUER: All right.
13 Thank you.

14 BZA VICE CHAIR DETTMAN: Mr. Keys,
15 questions for Ms. Coleman?

16 MR. KEYS: Yes, now that I find
17 that I had the opportunity, I would be
18 delighted.

19 Ms. Coleman, in what sense is Old
20 Piney Branch Road an entrance to Fort Stevens?

21 MS. COLEMAN: It's our only
22 handicap entrance.

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1 MR. KEYS: Are there any fences
2 around Fort Stevens, the two acre entirety of
3 the site?

4 MS. COLEMAN: No. There is
5 pedestrian access. What I was talking about
6 was vehicular access and ADA access.

7 MR. KEYS: So visitors enter Fort
8 Stevens from a variety of locations?

9 MS. COLEMAN: Pedestrians can, yes.

10 MR. KEYS: Do you currently pick up
11 trash on the site? Do you have a trash
12 receptacle on the site?

13 MS. COLEMAN: We do have a trash
14 receptacle.

15 MR. KEYS: Now you had mentioned
16 the relationship of this site to Georgia
17 Avenue as being one of the critical parts of
18 the interpretative relationship of the
19 elements. Can you see Georgia Avenue from the
20 site?

21 MS. COLEMAN: There are points
22 along Fort Stevens where you can see pieces of

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1 Georgia Avenue, but --

2 MR. KEYS: Are there any points
3 that this building will eliminate a view of
4 Georgia Avenue?

5 MS. COLEMAN: It will destroy the
6 visual relationship between Fort Stevens and
7 the Emory Church site which is integral to the
8 interpretation of the battle of Fort Stevens.

9 MR. KEYS: But looking east you
10 can't see Georgia Avenue currently?

11 MS. COLEMAN: We can see elements
12 of it. But again, it is --

13 MR. KEYS: You mean "by elements"-
14 -

15 MS. COLEMAN: Georgia Avenue is
16 important, but I think the point that we are
17 also making is the fact that you have this
18 wall looming over Fort Stevens which inhibits
19 our ability to effectively interpret the site.

20 MR. KEYS: Can Fort Stevens been
21 seen from Georgia Avenue?

22 MS. COLEMAN: I don't know. Do you

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1 know?

2 MR. KEYS: Now you have said that
3 you object to the height and you want the
4 height lowered to 40 feet, would be --

5 MS. COLEMAN: That would be the
6 compromise.

7 MR. KEYS: Does that change your
8 view?

9 MS. COLEMAN: What it would do
10 would be to lessen the visual impact and it is
11 our effort to try to reach some compromise
12 with the Emory Church.

13 MR. KEYS: What plans do you have
14 to improve the Fort Stevens site to make it
15 more friendly or minimal to visitors?

16 MS. COLEMAN: The National Park
17 Service recognizing the need to improve these
18 sites, developed a management plan a couple of
19 years ago that talks about the needs of the
20 sites and how we are going to address those
21 needs. Most recently, as I mentioned, we
22 worked with the National Capitol Planning

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1 Commission and the Office of Planning in
2 determining how we would implement that
3 management plan and highlight these fort
4 sites.

5 We have most recently begun to
6 install interpretative signage at Fort Stevens
7 and Battleground Cemetery, Fort DeRussy, Fort
8 Totten as well as all of the other fort sites.

9 We will also be asking for
10 additional staff to staff the sites.

11 And as Mr. Jacobs mentioned, we
12 were fortunate to receive recovery money to
13 physically improve the sites.

14 MR. KEYS: Do you have any plans or
15 any budget to put a structure for Rangers or
16 visitors on the site?

17 MS. COLEMAN: We don't. And in
18 fact, that management plan that I mentioned
19 talks about the desire of the Park Service to
20 have a visitor contact facility adjacent to or
21 near Fort Stevens and Battleground Cemetery.
22 And so we do appreciate the church's offer to

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1 put a welcoming facility or a gift shop within
2 the proposed development.

3 MR. KEYS: I'm curious why you
4 didn't mention that in your statement.

5 MS. COLEMAN: Because overall we
6 are concerned about the impact of the total
7 development.

8 MR. KEYS: Could you not use a
9 facility like the one we're proposing to give
10 the Park Service free of charge to use to
11 interpret the site with historical
12 photographs, current photographs of views to
13 Georgia Avenue or any other way that you
14 wished to use it?

15 MS. COLEMAN: It would certainly be
16 a very, very nice thing to have, and we
17 certainly appreciate the offer. As I
18 mentioned, our concern is for the overall
19 adverse effect of the project on Fort Stevens.

20 MR. KEYS: How many visitors do you
21 have at Fort Stevens?

22 MS. COLEMAN: We don't keep

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1 visitation numbers by fort site. And, in
2 fact, Mr. Keys, you had asked me for
3 visitation numbers and I had mentioned to you
4 that we weren't able to provide them
5 specifically for Fort Stevens. We can provide
6 you with a figure for all of the Fort Circle
7 sites. And I'm sorry that we weren't able to
8 get them to you today.

9 MR. KEYS: So you had mentioned
10 that there are two groups per year that get
11 scheduled to come to Fort Stevens.

12 MS. COLEMAN: No, not groups.
13 Activities.

14 MR. KEYS: Two activities per year
15 that happen at Fort Stevens.

16 MS. COLEMAN: Yes. Yes.

17 MR. KEYS: But other than that, do
18 you have any way of knowing how many visitors
19 Fort Stevens has on a daily basis?

20 MS. COLEMAN: Not on a daily basis,
21 no. But we do collect visitor information on
22 Fort Stevens. And I would be happy to provide

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1 that to you as soon as it's available to me. I
2 had mentioned to you, Mr. Keys, that I would
3 have that information available by the end of
4 this week.

5 MR. KEYS: Oh, information on the
6 Fort Circle Parks in the entirety or
7 information on Fort Stevens?

8 MS. COLEMAN: For Circle Parks in
9 their entirety.

10 MR. KEYS: But that doesn't allow
11 one to determine what the visitor load is for
12 Fort Stevens, does it?

13 MS. COLEMAN: No, it doesn't.

14 MR. KEYS: And you don't have any
15 idea what the visitor load for Fort Stevens
16 is?

17 MS. COLEMAN: I can give you the
18 visitor use information that we collect.

19 MR. KEYS: But that's only
20 pertaining to the entire Fort Circle?

21 MS. COLEMAN: That is only
22 pertaining to the entire Fort Circle.

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1 The number of visitors that we have
2 for Fort Stevens Day and other special events
3 we could probably pull that information. But
4 day-to-day visitor information we can't
5 provide specifically for Fort Stevens or
6 Battleground.

7 We had over 200 people at our last
8 Fort Stevens Day celebration.

9 We counted about 150 people for the
10 last ceremony that we had for Fort Stevens and
11 Battleground Cemetery this summer where we
12 were acknowledging the recognition of the
13 soldiers who died there. So we get good
14 participation when we have an event.

15 MR. KEYS: Ms. Coleman, when is the
16 first time that the National Park Service met
17 with Reverend Daniels and a member of the
18 church board to discuss the Beacon Center
19 project?

20 MS. COLEMAN: I don't know.
21 Perhaps you can tell me. I know we've met
22 three times, but when the first time was I

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1 don't know.

2 MR. KEYS: Was it in 2009?

3 MS. COLEMAN: Yes.

4 MR. KEYS: How far is Battleground
5 Cemetery from the site? And I'll ask that
6 question of either one of you?

7 MS. COLEMAN: I think it's about
8 two blocks. It is past the Safeway, you're
9 right. It is past the Safeway.

10 MR. KEYS: So do you want to amend
11 your answer a little bit?

12 MS. COLEMAN: It's a few blocks
13 away. But I can assure you that the same
14 soldiers who fought and died at Fort Stevens
15 are buried at Battleground Cemetery.

16 MR. KEYS: That's all the questions
17 that I have for Mr. Coleman.

18 BZA VICE CHAIR DETTMAN: Thank you,
19 Mr. Keys.

20 Board members, additional questions
21 for Ms. Coleman.

22 Okay. I think we can move on then.

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1 Thank you for your testimony. We very much
2 appreciate it.

3 So was that two of the four
4 witnesses? Okay. So I think we have -- let
5 me check in with the Office of Planning. Are
6 you okay with time. You can stay until
7 midnight? Okay.

8 I think we have our next two
9 witnesses up at the table. And I think that
10 would be our last two witnesses up at the
11 table. So why don't we get started.

12 MR. BOASBERG: Mr. Chairman, my
13 name is Tersh Boasberg. With me is Dr.
14 Benjamin Franklin Cooling. We are both
15 members of a new nonprofit group called the
16 Alliance For the Preservation of Civil War
17 Defenses of Washington and which we have 17 in
18 the District, 17 forts in answer to Ms.
19 Moldenhauer's question, including Battleground
20 Cemetery.

21 Most of these forts were put
22 together by the Milland Commission around the

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1 turn of the last century and the land was
2 bought. So that we actually have almost a
3 connecting green swath going from Ward 8 all
4 the way through St. Elizabeths. Fort DuPont,
5 of course, and through Fort DuPont Park is
6 part of that, over to Totten, over to of
7 course where we are down, and Battery Kemble
8 and so forth down to Georgetown. And that
9 swath was purchased by the Federal Government
10 really to have as a carriage ride because it
11 had all the high points in the city. And the
12 idea would be that you would view it. And then
13 gradually it became a drive. The land was
14 purchased, the drive was never fully connected
15 because the Federal Government ran out of
16 money, which I think we're all familiar with.

17 And so one of the reasons that we were formed
18 was to add citizen support to the Park Service
19 which does a wonderful job but is terribly
20 under funded and understaffed. And so we were
21 formed as citizens to try to help them.

22 Now I appear here not in any other

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1 capacity, but only as a private citizen as
2 Chair of this Alliance.

3 You have a couple of submissions
4 from the -- I'm not going to read them. I
5 would just to hit some of the high points.

6 The first point I want to make is
7 that this connecting, better connecting and
8 the whole emphasis on the D.C. forts is a
9 special initiative of the Park Service. So
10 this is something that the Park Service with
11 the D.C. Office of Planning and NCPC. It's
12 called the Capitol Space Initiative. And I
13 mention that in my testimony. There is a
14 number of brochures out on this. And the
15 whole emphasis that the city and the National
16 Park Service are doing in preparation for the
17 150th anniversary of the Civil War, which will
18 start in 2011 and 2014, of course will be the
19 150th anniversary of the Battle of Fort
20 Stevens.

21 I want to say that the Dr. Cooling
22 is going to talk about the historic

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1 significance of Fort Stevens and the Battle of
2 Fort Stevens. You can see, I think, from the
3 model which I hadn't seen until I came here
4 that if you were at Fort Stevens.

5 BZA VICE CHAIR DETTMAN: Ms.
6 Boasberg, we have a hand held mic here.

7 MR. BOASBERG: Thank you.

8 The Old Piney Branch Road stops
9 here. It doesn't go all the way through. It
10 stops right there. And this land is owned by
11 the Park Service.

12 And when you're a visitor at Fort
13 Stevens what you want to come, is you want to
14 come here and you want to get on the parapets,
15 which even I can do and who knows what the Park
16 Service will do with this land. And what you
17 see out in front of you is not just a battle
18 wasn't fought here, as Frank will tell you,
19 the battle was fought within a mile area. So
20 you have entrenchments that go all around and
21 they go as far as Fort DeRussy on the other
22 side of Rock Creek Park.

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1 And so if you're here and you want
2 to have a sense of what that battle was, you
3 would be looking out all over here. Yes, you
4 would be seeing somewhat of Georgia Avenue,
5 but what you really want to see is what is the
6 terrain over here, where are the hills, where
7 are the high points. One of the Confederates
8 -- a lot of the battle was fought at Walter
9 Reed. Walter Reed is about a mile up here.
10 That's where a lot of the battle was fought.
11 But it was right here where the whole thing
12 started.

13 So having this kind of wall as
14 you're standing here is going to not only
15 impact the visitor so that you're huddling
16 over like this, but it'll greatly calm the
17 kind of view sheds, and again not just of
18 Georgia Avenue but of this.

19 If it was possible to cut this
20 corner down and back, then it would just help
21 enormously. Because this is where the bulk of
22 the visitors are going to come. Yes, they'll

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1 be here, but nothing's going to happen.

2 I agree that you can't do anything
3 about that. But at this point, you now have
4 four stories, you have 53 feet, so you over
5 five stories. Now the idea of putting this up
6 at Gettysburg or at Antietam or at Manassas
7 would be -- I mean, nobody in their right mind
8 would allow a structure like this to impede
9 that view of those battles.

10 So part of our problem is just not
11 understanding how important the Battle of Fort
12 Stevens was, how close Washington came to
13 being burned and what a difficult time that
14 would have been for President Lincoln. And I
15 will turn that over to Frank.

16 But let me now mention some of the
17 specifics.

18 I don't know how to turn this off.
19 Here we go.

20 Some of the specifics. The first
21 point I wanted to mention is --

22 BZA VICE CHAIR DETTMAN: Mr.

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1 Boasberg, before you get into your points,
2 just a general idea of how much additional
3 time you need for testimony.

4 MR. BOASBERG: Maybe three or four
5 minutes.

6 BZA VICE CHAIR DETTMAN: Okay. As
7 a member of an organization you've been given
8 five already. So to the extent that you can
9 paraphrase, that would be helpful.

10 MR. BOASBERG: I will. I will, and
11 I appreciate it.

12 I would agree with the Chairman of
13 the Zoning Commission, Commissioner Hood, that
14 this would be a much better case if it were a
15 PUD because then you could actually lower and
16 add on somewhere else and you could deal with
17 some of the problems that we can't deal with
18 at the BZA. So I would hope that the
19 Commission would consider having this as a
20 PUD.

21 The second point is I just want to
22 again say that a variance cannot be granted

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1 without substantial detriment to the public
2 good. And so it was substantially impair the
3 intent, purpose and integrity of the Zone
4 Plan.

5 I want to point out that we mention
6 that our Comprehensive Plan, the D.C.
7 Comprehensive Plan specifically mentions the
8 Fort Circle Parks and it specifically says to
9 prevent District and federal actions that
10 would harm the Fort Circle Parks and you
11 should strongly support actions that would
12 improve their maintenance, connectivity and
13 visibility, and that's in Chapter 8, 31.5.
14 It's quoted there.

15 And also the National Park Service
16 mentioned Chapter 22, and I won't go into
17 that.

18 Again, the variance is difficult.
19 It's an additional 14 feet, yes, from Georgia
20 Avenue but what that results in on the western
21 side facing Fort Stevens is it results in a 53
22 foot building rather than a 40 foot building.

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1 So it's very, very difficult.

2 And in terms of FAR, obviously
3 there's about a 20 percent increase in the
4 FAR. If that was not there, then perhaps that
5 could be set back further.

6 So I would hope that we could drop
7 the height, set it back especially at that
8 corner.

9 This is not to stop the project.
10 This is not to say there shouldn't be a
11 project. I think both can coexist, but I
12 think it has to be done with some conscious
13 reshaping of the project.

14 Thank you, Mr. Chairman.

15 BZA VICE CHAIR DETTMAN: Thank you,
16 Mr. Boasberg.

17 Questions?

18 I think while Ms. Moldenhauer is
19 looking over notes, maybe a couple of
20 questions.

21 Mr. Boasberg, you had mentioned
22 that visitors want to stand up on the

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1 parapets. And you identified that one that's
2 closest to the building and they want to look
3 out and kind of gain a sense of the views. Is
4 that not something that they can do on the
5 other parapets further west to gain that sense
6 of view?

7 MR. BOASBERG: No. Because the land
8 slopes down as you go west. If you'd go out
9 there, you'll see the highest point is right
10 at the property line with the church. And as
11 you go further west the land slopes down
12 generally toward Rock Creek.

13 So the key viewpoint is in the
14 northeastern portion of the fort.

15 BZA VICE CHAIR DETTMAN: And is
16 there something significant to the northeast
17 that you can see --

18 MR. BOASBERG: Sure.

19 BZA VICE CHAIR DETTMAN: -- that
20 you could not see --

21 MR. BOASBERG: You see the whole
22 spread out before you. You can see where the

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1 Confederate lines would have been, where Early
2 would have come. You see that whole part of
3 the city, and you can probably see into
4 Maryland.

5 I mean, I realize there is a build
6 up, there are houses there. But if you look in
7 front of Fort Stevens you'll see there's an
8 open space there which gives you a certain
9 sense. You can actually when you're on the
10 parapet you can sort of see over that and you
11 can probably see, if you knew where it was,
12 all the way to Walter Reed.

13 But I think there are two points,
14 Mr. Chairman. One is the sense, as Ms.
15 Coleman said, of the visitor experience and
16 what that person would sense in a 19th fort,
17 there was Abraham Lincoln. He was there. What
18 was he doing there? What did he feel like?
19 And it's very hard to go through that. It's
20 kind of like going to the Lincoln Memorial and
21 you see the Lincoln Memorial. I mean, you're
22 sensing Lincoln's presence there.

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1 If you've got a wall, which at that
2 point is about three feet away from you. I
3 mean, they talk about being 18 feet, but it's
4 not 18 feet because they're using, as you
5 point out, ten feet of the -- and they don't
6 even have that up at the northern part. That
7 ten feet, you know they don't have anymore.
8 All they have is about three to five feet. So
9 that wall, five stories, 53 is coming right
10 next to you, you could reach out and almost
11 touch it. That's how close you are.

12 So you have that sense of looming
13 of the presence. And then you have the sense
14 of -- the notion of the whole battle. You
15 have 15,000 Confederate troops. Now they
16 don't fit in, you know, a few feet. They're
17 spread out all over and you've got a lot of
18 Federal troops. And Frank here has got maps
19 and you can show you were the Union
20 entrenchments and the two Confederate
21 entrenchments were.

22 BZA VICE CHAIR DETTMAN: My last

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1 question is had it not been for the Zoning
2 Administrator requiring the applicant to
3 measure from Georgia Avenue, which is fairly
4 uncharacteristic to how buildings are measured
5 in the city, those that front on multiple
6 streets, are you aware that if the applicant
7 was able to measure from Old Piney Branch Road
8 as a matter-of-right, they could build a 50
9 foot building under current zoning?

10 MR. BOASBERG: Well, there's
11 nothing we can do as a matter-of-right,
12 obviously. They're entitled to build as a
13 matter-of-right, it's a matter-of-right.
14 There's nothing we can do.

15 I would hope that we could go into
16 a PUD process where they get more than the
17 amount of FAR they could have gotten as a
18 matter-of-right but we would be able to so
19 locate it and so configure it so that they
20 would get their square footage and we would
21 get better visibility because of that
22 northwest corner.

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1 MEMBER MOLDENHAUER: Before you
2 guys were talking about the northwest corner,
3 but now from your walking over to the diagram,
4 I kind of understand that.

5 On the southeast corner of the
6 building they have a glass facade. You can
7 see it on this diagram here. And if there was
8 a glass facade on the rear section, would that
9 be something that would provide the view or
10 the vista and visibility that you're looking
11 for.

12 MR. BOASBERG: Ms. Moldenhauer,
13 obviously, I'm not an architect. I would be
14 against just having -- I mean, you can have an
15 all glass facade. You got people living
16 there. You got living quarters. You got --

17 MEMBER MOLDENHAUER: There's a lot
18 of all facades all throughout the District of
19 Columbia in office buildings, residential.
20 I'm asking a hypothetical question. If
21 hypothetically they could put a glass facade
22 on that corner, just a corner structure, so

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1 that visibility could be obtained, would that
2 provide an additional enhancement for somebody
3 visiting the battleground?

4 MR. BOASBERG: I don't -- if you're
5 talking about people living there, people
6 living inside and having bedrooms and
7 bathrooms and all the rest of it, it's not
8 going to be a pure glass facade. I mean, it
9 may have a glass cover. But I mean you're not
10 going to be able to see through it. It's not
11 going to be transparent.

12 So I mean, again, these are the
13 kinds of things which I think can be worked
14 out on a PUD. You might be able to get some
15 kind of glass approach which would help. But
16 I think what you basically have to do is
17 reduce the height and move it back. Now, if
18 you could move it back far enough, you
19 wouldn't have to reduce the height. But I
20 don't know if they want to do that. That's
21 why I think with some kind of negotiations we
22 may be able to find a solution that both

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1 parties could live with.

2 MR. KEYS: Mr. Boasberg, when's the
3 last time you've been out to Fort Stevens?

4 MR. BOASBERG: Oh, probably last
5 week. I took Senator Levin on a tour. He had
6 three of his high school classmates. They
7 call the Civil War Trust and asked who could
8 take them around. And Frank was busy that day,
9 so he put on and Senator Levin have a law
10 school classmate of mine. So I was always too
11 happy to take him around there.

12 But I go out there quite a bit.

13 MR. KEYS: Okay. Now, did you
14 stand at the high point in that northeast
15 corner of --

16 MR. BOASBERG: No, I don't know if
17 that day. But I have tried to get up to that
18 parapet. I had my hip replaced last year, so I
19 haven't been up there in a year.

20 MR. KEYS: Okay. Now you say that
21 you want to preserve the views looking
22 northeast. Now if I'm not mistaken from the

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1 description that you gave and where you
2 pointed, looking at northeast you'd be looking
3 right at the condominium apartment buildings
4 that are already built.

5 MR. BOASBERG: Looking north --

6 MR. KEYS: Can you see over those
7 condominium apartment buildings from --

8 MR. BOASBERG: Yes. Let me say in
9 this case, that I'm not looking just at the
10 condominiums. I'm looking into the distance
11 as well. Because these arms were a mile
12 apart. So you can see a mile and that kind of
13 distance. You can see, and yes I have looked
14 at it, you can see what the configuration of
15 the land is like. Absolutely. And you can
16 see where that ground was. And that gives you
17 -- and what that does is it gives you a sense
18 of how big this battle were, how many troops
19 were here and how much of a threat it was to
20 Washington, D.C. This just wasn't, you know,
21 a 100, 200 guys out there. You had thousands
22 of people. I mean, Washington stood by a

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1 thread, and maybe the nation stood by a thread
2 because Lincoln was up for election, you know,
3 in a few months. If they had lost the city,
4 burned it down.

5 And I would also add that if the
6 Confederates came into Washington and burned
7 it down, they could have carted away African-
8 American citizens. Because they would have
9 said "Ah, let's take these guys back south."

10 So you're sitting in a potential
11 very serious situation, which is why I think
12 the Fort is important.

13 MR. KEYS: Mr. Boasberg, you
14 maintain that standing at the parapet on the
15 high point of Fort Stevens that you could look
16 northeast over the apartment buildings? Those
17 apartment buildings seem to be from the model
18 and from the topography depicted, to be higher
19 than the high point of Fort Stevens.

20 MR. BOASBERG: The apartment
21 building may occupy a small part of the
22 spectrum. It doesn't block out all the views

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1 to the northeast.

2 I have looked very carefully at
3 this because I wanted to see exactly how much
4 you could see. You can see a mile, maybe you
5 can see more than a mile, but you can
6 certainly see that. I mean, Dr. Cooling might
7 be able to testify on that, too.

8 MR. KEYS: Do you have a copy of
9 our submission before you?

10 MR. BOASBERG: I borrowed one from
11 the Park Service.

12 MR. KEYS: Could you go to A.0.2,
13 and I'll help you find that. It's toward the
14 front.

15 BZA VICE CHAIR DETTMAN: Mr.
16 Pichon, I was just wondering, could you turn
17 the model 90 degrees?

18 MR. KEYS: Now I'm looking at the
19 parapets where the cannons are in place.

20 BZA VICE CHAIR DETTMAN: Thank you.

21 MR. KEYS: At the edge of our site.
22 And that I think is the high point you're

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1 referring to, is it not?

2 MR. BOASBERG: Well, I'm afraid
3 that whole area up in here, that's probably
4 the highest part of Fort Stevens.

5 MR. KEYS: Right. Right.

6 MR. BOASBERG: And you're looking
7 out.

8 MR. KEYS: Now north is the
9 direction to the left of the page, is it not?

10 MR. BOASBERG: Right. Right.

11 MR. KEYS: And northeast would be
12 at an angle from those parapets?

13 MR. BOASBERG: Right.

14 MR. KEYS: Right through the
15 apartment buildings?

16 MR. BOASBERG: Yes, but you can
17 see. If you're here --

18 MR. KEYS: How tall do those
19 apartment buildings appear to you to be?

20 MR. BOASBERG: Mr. Keys, I think,
21 you know, you and I are not seeing eye-to-eye
22 on this thing. I am not saying you only have

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1 one view and that one view is directly at the
2 apartment. You can move around Fort Stevens,
3 you can move over here, you can move here.
4 And what you're seeing is that whole
5 northeastern section.

6 MR. KEYS: And I agree with you.
7 But how is that impeded by the proposed
8 project?

9 MR. BOASBERG: Well, I mean, it's
10 much further out. If you're standing here,
11 you know, you can certainly by now you can see
12 on this side as well. Now obviously, you're
13 not going to be able to see that. That's sort
14 of due east. But I would say that you could
15 definitely see.

16 Now I don't know exactly, you know,
17 if you were standing on the parapet, you know
18 whether you could see something over here.

19 MR. KEYS: Mr. Boasberg, we showed
20 a photograph that was taken from the Fort
21 Stevens' site looking due east. And all that
22 could be seen were the tops of the buildings.

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1 MR. BOASBERG: No -- I think that's
2 right. But you can see the hills over here.
3 You can see parts of Maryland. You can see
4 all that now. Now, I'm not saying you're
5 going to be able -- you know, I would say that
6 the most important view for out here, and it's
7 not just the views but it's this feeling of
8 oppression when you're standing here looking
9 out. Even if you were going to look north, if
10 you were going to look north and you could
11 reach out and touch a five story building,
12 that feeling would completely be compromised.

13 MR. KEYS: Well, that depends
14 entirely on where you are in Fort Stevens when
15 you're looking north.

16 MR. BOASBERG: Well, that's what I
17 said. You're right here.

18 MR. KEYS: But if you were further
19 along the parapet south, the Park Service I
20 believe has the capacity to direct crowds to
21 the most appropriate vantage point, do they
22 not?

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1 MR. BOASBERG: Well, but I mean
2 this is where the bunkers -- this is where the
3 cannons are. They are further down here,
4 you're right. And you don't have the view
5 that way when you're further down. There's no
6 question about it. These are the best views
7 that you can get to the north.

8 MR. KEYS: Thank you, Mr. Boasberg.

9 MR. BOASBERG: Thank you.

10 BZA VICE CHAIR DETTMAN: I think if
11 the Board has nothing further, we can move on
12 to our last witness.

13 DR. COOLING: Good evening, ladies
14 and gentlemen. I appreciate being the last
15 human being standing between you and the door.
16 It's an enviable position and I will try to be
17 as dynamic as I can.

18 I come to you as not an architect
19 not --

20 BZA VICE CHAIR DETTMAN: Sorry to
21 interrupt. First, we need your name for the
22 record. And also --

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1 DR. COOLING: B.F. Cooling and I
2 have submitted a letter, dated November 27,
3 2009 to the Board through the mail.

4 BZA VICE CHAIR DETTMAN: We did
5 receive your letter. And if you could just
6 move your microphone a little bit away from
7 you. That would be great. Thank you.

8 I, too, grew up in that section of
9 Washington, D.C. I went to the schools. I
10 was confirmed at Holy Comforter Church. I am a
11 U.S. Army veteran. And I'm a historian, not a
12 lawyer, not an architect, not even a
13 historical preservationist. I teach as a
14 professor of grand strategy and national
15 security policy at the Industrial College of
16 the Armed Forces, National Defense University.

17 Now what is it about this very
18 educational experience that I would come away
19 with this evening to conclude the proceedings
20 from the standpoint of being in opposition to
21 a very commendable community project. After
22 all, I am a senior citizen. But I teach

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1 youth, And I would recall for everybody
2 assembled the words on the National Archives,
3 something to the effect that those who are
4 forgetful of history, you are doomed to repeat
5 it. And we've heard other people here today
6 talk about the events in northwest Washington
7 in the Brightwood section of northwest
8 Washington where there was a free black
9 community at the time of the Civil War, where
10 Emory Chapel predates. And these are the
11 things we're talking about here this afternoon
12 where the singular event of the Civil War that
13 occurred in our city as natives was the Battle
14 of Fort Stevens and the fact that it was Mr.
15 Lincoln fort.

16 A colleague and I about ten years
17 ago produced a book *Mr. Lincoln's Forts: A*
18 *Guide to the Civil War Defenses of Washington.*

19 And he chose particularly Mr. Lincoln's image
20 for the next edition.

21 There is no doubt, as we have heard
22 today, that had it not been for this battle, a

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1 Union victory, the nation's capitol would have
2 been captured by an enemy force. There is no
3 doubt that President Lincoln was in attendance
4 as the only sitting President in the history
5 of this country to come under enemy fire and
6 nearly lose his life at this particular
7 battle. There is no doubt that if he had been
8 those months before he was assassinated, there
9 would have been no emancipation, the capitol
10 would have been captured, the United States of
11 America would not exist as we know it today.
12 This is historical fact.

13 Historical fact is also that this
14 particular commendable project has violated
15 the last part of Fort Stevens where President
16 Lincoln actually stood under enemy fire.
17 Recent research has proven that sharpshooters
18 actually took him under enemy fire not where
19 the stone exists alone on the parapet of Fort
20 Stevens, but actually as he was walking around
21 what was then known or previous to Fort
22 Stevens was known as Fort Massachusetts,

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1 enlarged into Fort Stevens as we've heard
2 today. President Lincoln walked around this
3 area.

4 A free black woman who owned the
5 property where Fort Stevens was expanded, Ann
6 Elizabeth Thomas was living as were Cabinet
7 members, civilian citizens. Sharpshooters
8 were within a 100 yards of the position at one
9 point in this battle. And it makes no
10 difference whether they were aiming from the
11 left, the right, the center or what have you,
12 this whole central point, this historically
13 significant point in the history of this city,
14 of this nation was in danger and came under
15 enemy at that particular point in time.

16 Now why does this have meaning? I
17 am not particularly a fan of militarism. In
18 fact, I wish we were not so in engaged around
19 the world. But we do need to use the tools of
20 military experience, the tools of neighborhood
21 experience, the Brightwood community, the
22 tools of the Emory Church experience to teach

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1 the next generation. And I cannot teach if I
2 have a wall in front of me trying to portray
3 to Mr. Hood, Mr. Dettman and Ms. Moldenhauer
4 the historical visage that captures in the
5 young the impression of the past and the
6 present so that they will carry forward with
7 them the legacy of Mr. Lincoln and Betty
8 Thomas, the Emory Church and, indeed, the
9 superb community project that's going on
10 today. A wall will not do the job for a
11 historical and educational opportunity for the
12 future.

13 So I would ask you to seriously --
14 seriously entertain the objections to the
15 project as it is currently formulated. Around
16 the county historical preservation and the
17 historical legacy is under fire in all our
18 communities. And the Civil War Preservation
19 Trust, the National Park Service works
20 together with the individual groups trying to
21 build and come up with new approaches for the
22 future.

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1 This proposal does not serve the
2 future of Washington, the nation or our in my
3 opinion as a historian in a very favorable
4 fashion. But it certainly can with further
5 consideration, further working together by
6 architects and lawyers with the National
7 Trusts and Civil War Preservation Trust just
8 answer the question that you all asked before:

9 Are there other experiences around the
10 country with alternatives that have been
11 worked out? I don't hear any of that today
12 and as a historian, as a Washingtonian and as
13 an American that kind of bothers me.

14 Thank you for the opportunity to
15 make my comments.

16 I have maps here that I'm perfectly
17 willing to introduce in that will show you the
18 overall landscape that we're talking about
19 that extends in front and can be used as an
20 educational tool for the future in this
21 particular regard.

22 Thank you.

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1 BZA VICE CHAIR DETTMAN: Thank you,
2 Mr. Cooling. And if you have those maps to
3 share with us, certainly we'll have a copy.
4 And Mr. Keys needs a copy as well.

5 And Board members, are there any
6 questions that you might have for Mr. Cooling?

7 MEMBER MOLDENHAUER: Yes. I have
8 one. You talked about being a historian and
9 teaching. And I very much that concept and
10 really it's very important. My husband was in
11 the Navy, I think battles are important, the
12 issue is important. But I have to ask, and I
13 ask this to both of you, don't you think that
14 having a facility with neighbors and residents
15 and a gym that was talking about a, a large
16 scale gym for a lot of children in the area,
17 don't you see that this could be a benefit to
18 educating and passing this message?

19 I never heard of it. I grew up in
20 D.C. I went to high school. I mean, maybe
21 it's sad for maybe my history teachers if
22 they're listening, hopefully they're not.

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1 But, you know, I never knew of this history of
2 Fort Lincoln -- I'm even getting the name
3 wrong. Fort Stevens. I'm thinking of
4 Lincoln's fort from the book you were showing
5 us.

6 And I guess I ask the question of
7 don't you see that this could potentially be a
8 great opportunity for organizations like
9 yourself and other organizations to teach
10 people and to utilize more individuals in the
11 area to educate them about the great history
12 that happened here?

13 MR. BOASBERG: Let us both answer
14 that.

15 This is not an either/or
16 proposition. We do not want to stop this
17 project. That's ridiculous. This project
18 needs to be reshaped. And I think both the
19 National Park Service and both of us feel that
20 if we could somehow reduce the setback of the
21 northwest corner, that's as good as we can do.

22 We're not trying to stop the

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1 project. We have no problems with all of the
2 kind of things that the church -- it's great.

3 That's fine. We have no problems. We're
4 just asking if we can reshape. Now that's why
5 I hope that we can go to a PUD format. But if
6 it's only the question of increased height,
7 again that makes a difference.

8 MEMBER MOLDENHAUER: And for
9 clarification, your opposition is only i
10 opposition of the height of the setback
11 requirement for that northeast corner?

12 MR. BOASBERG: It's the northwest
13 corner.

14 MEMBER MOLDENHAUER: I'm sorry.
15 Northwest. It's getting late. I know, sir.

16 MR. BOASBERG: Yes, and that's set
17 forth pretty clearly in the material we've
18 submitted.

19 MEMBER MOLDENHAUER: Again, it's
20 more for the testimony and on the record I
21 want to make sure. Thank you.

22 DR. COOLING: That is Mr.

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1 Boasberg's testimony. Let me address your
2 question because you raised a rather
3 interesting point.

4 At the conclusion of the Civil War
5 the garrison at Fort Stevens, which included
6 Fort Massachusetts, undertook to educate the
7 freed people's youth in that particular area.

8 The school, Soldiers School for the African-
9 American youth in that settlement evolved into
10 the Military Road School in the District of
11 Columbia as part of the public school system
12 that later is now preserved as a legacy with
13 the Military Road School Trust. Brightwood
14 School is nearby. There is a magnet school or
15 some other school nearby. Paul Junior High
16 School where I went to school is nearby.
17 Nativity Parochial School, unless it is no
18 longer in existence, was right next door.

19 I would say that the facility known
20 as Fort Stevens will not benefit, no, from a
21 gym and recreational pursuits. Part of the
22 problem that preservationists have and

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1 historical interpreters have is with the
2 conflict between recreation and the open space
3 and educational school. Now in most cases
4 this has been accommodated, and I believe Ms.
5 Coleman will attest to the fact that the
6 National Park Service has done a wonderful job
7 of accommodating.

8 But this is a very delicate
9 relationship that cannot be dismissed or
10 answered very quickly. The size of the gym,
11 the amount of people in this facility is far
12 out of proportion to what the landscape and
13 the historical scape will tolerate in that
14 particular locale. And that would be my
15 historical and concerted answer to your
16 question.

17 ZC CHAIR HOOD: Mr. Chairman, I
18 actually think Board members Moldenhauer
19 brings up a very good point. And I think that
20 for me growing up as a kid in this city when
21 Curtis Chevrolet was across the street, an
22 opportunity to go across the street to Fort

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1 Stevens.

2 So, Mr. Cooling, I don't know if I
3 agree with you. I kind of think you're on to
4 something. So anyway, for what it's worth.

5 BZA VICE CHAIR DETTMAN: Mr. Keys,
6 questions?

7 MR. KEYS: Yes. Mr. Cooling, what
8 do you know of the gymnasium proposed for the
9 site?

10 DR. COOLING: What I know is what
11 you have presented. I know what a gymnasium
12 looks like. We have them down at Fort McNair.

13 MR. KEYS: No. But you seem to
14 speak in terms of the size of it being
15 objectionable as well as the number of people
16 that it would attract --

17 DR. COOLING: Let us just simply
18 say the traffic that is usually incurred in a
19 gymnasium and recreational facility can
20 impinge upon a site which is not devoted to
21 recreational purposes as Fort Stevens is not
22 so designated.

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1 MR. KEYS: There was no testimony
2 as to that today.

3 DR. COOLING: You mentioned it in
4 your own. The whole proposal has been
5 mentioned about a recreational facility.

6 MR. KEYS: Well, I understand. But
7 there's no testimony as to capacity, there's
8 no testimony as to traffic. Where do you draw
9 your conclusions from?

10 DR. COOLING: Perhaps experience.

11 MR. KEYS: And where are you a
12 resident of?

13 DR. COOLING: I reside right at the
14 moment in Chevy Chase, Maryland. I'm not a
15 resident of the District of Columbia. I left
16 the city to go work when I was 20 years of age
17 and jobs have kept me away.

18 I visit Fort Stevens at least once
19 a week.. I'm familiar with the area. I'm
20 quite familiar with the wonderful work that
21 the Park Service is doing over at Battleground
22 National Cemetery in terms of interpretation.

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1 And so that will answer some of Mr. Keys'
2 questions I think.

3 MR. KEYS: No more questions.

4 BZA VICE CHAIR DETTMAN: Thank you.

5 And thanks to Mr. Boasberg and Mr.
6 Cooling for their testimony again.

7 Yes, I think where we're at in the
8 proceedings is, let me just take one final
9 check before we move on to the Office of
10 Planning if there's anyone in the audience
11 wishing to testify.

12 Seeing none, let's move on to the
13 report of the Office of Planning. That's our
14 Exhibit 22 in the record.

15 Mr. Keys, did you receive a copy of
16 the Office of Planning report?

17 MR. KEYS: Yes, I did, Mr.
18 Chairman.

19 BZA VICE CHAIR DETTMAN: Great.

20 Ms. Thomas?

21 MS. THOMAS: Good evening, Mr.
22 Chair, members of the Board.

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1 Excuse my voice. I have a really
2 bad cold.

3 OP's recommending approval of the
4 requested variance relief from the
5 requirements for height, lot occupancy, FAR
6 and roof structure setback and loading
7 requirements.

8 OP concurs that the property is
9 unique due to the combination of its
10 topography, its historic significance relative
11 to Fort Stevens and the existing church
12 structure.

13 The site's topography relative to
14 the Fort creates a practical difficulty in not
15 being able to excavate to the degree that
16 would be required to bring the height and FAR
17 into conformance with the zone's requirements
18 as explained in our report.

19 The additions must be attached to
20 the existing building to create one principal
21 structure on the lot and the church's ground
22 floor is above grade. Thus, the height

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1 increase is a result of balancing minimal
2 excavation of the berm with a new building
3 attachment in conformance with section 2517.

4 The FAR would also be effected as
5 there is an inability to locate floors well
6 below grade while retaining the historic
7 structure. And no useable residential space
8 will be added with the additional FAR.

9 With respect to the lot occupancy,
10 the increase is directly related to the larger
11 floor plates of the first and second levels
12 where the new senior building would be
13 attached to the church building. The church
14 building cannot be demolished and reducing the
15 size of the senior building floor plates would
16 impractical in terms of living space and the
17 church's programming.

18 With respect to loading, there
19 would not be a need to have all the space
20 required by the regulations as the senior
21 housing needs are not expected to generate a
22 need for large trucks and loading spaces could

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1 be reasonably shared among the proposed uses
2 without harm to the regulations and detriment
3 to the public good as stated in our report.

4 OP also supports the special
5 exception relief from section 411.3 which
6 requires all penthouses and mechanical
7 structures to be placed within one enclosure.

8 In this instance this would not be practical
9 as the roof level heights are varied. The
10 regulation's intent is to minimize the visual
11 impact of roof structures and to create this
12 type of enclosure in this instance would
13 create excessive visual massing on the roof.

14 So we believe that this application
15 meets the criteria for the requested variance
16 relief and special exception requirement. And
17 we also believe that this project is within
18 the limits anticipated by this zone.

19 Thank you.

20 BZA VICE CHAIR DETTMAN: Thank you,
21 Mr. Thomas.

22 Colleagues, questions?

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1 ZC CHAIR HOOD: Let me just go back
2 to this PUD issue because I'm looking at the
3 report on page 2 of 6.

4 Ms. Thomas, obviously from looking
5 at the report it was mentioned to the
6 applicant about this proposal being a PUD.
7 And I read here in this paragraph in this case
8 the proposal was within the limits anticipated
9 in the zone, as you just stated. What was the
10 response from the applicant? And I heard Mr.
11 Keys give me his response earlier. But what
12 was the response that you got from the
13 applicant about why we didn't pursue the PUD.

14 MS. THOMAS: Well, this request,
15 they started working on this project back in
16 2008. And at that time we did, I believe,
17 another OP staff member it was suggested to
18 approach it as a PUD. But they were not
19 convinced that it was necessary to go this
20 route. And they preferred to do -- to go this
21 way instead.

22 ZC CHAIR HOOD: I guess I'll never

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1 get the answer to that question. Thank you,
2 Ms. Thomas.

3 MS. THOMAS: All right.

4 MEMBER MOLDENHAUER: As you can
5 probably tell from some of my testimony I've
6 been trying to figure out, you know, if you
7 have been working together to try to split the
8 baby. And what discussions did you have, I
9 guess, in conjunction with the applicant and
10 potentially the National Park Service about
11 discussions of step backs on that northwest
12 corner of lowering the height overall on the
13 northwest? Were you involved at all in that
14 discussion?

15 MS. THOMAS: No, not at all.
16 Actually, this section of OP, I mean heard
17 from the Park Service development review, we
18 didn't hear -- we heard that they had some
19 concerns about the height. And as this was
20 being negotiated Historic Preservation, but we
21 didn't hear any direct concerns from National
22 Park Service. We didn't have any conversation

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1 with NPS at development review.

2 MEMBER MOLDENHAUER: So none of
3 your analysis in your OP report actually takes
4 into consideration any of the statements that
5 we've heard tonight from the National Park
6 Service?

7 MS. THOMAS: Not from the National
8 Park Service. Because we had no direct
9 conversation.

10 MEMBER MOLDENHAUER: Hearing the
11 testimony tonight about Fort Stevens and the
12 National Park Service, I guess, belief that
13 this would greatly impact the Fort, does that
14 change your analysis at all in regards to
15 detriment to the public good or detriment to
16 the Zone Plan, as there has been a couple of
17 references in multiple opposition testimony
18 about the D.C. Comprehensive Plan?

19 MS. THOMAS: I don't want to assume
20 anything. But at this point I understand
21 their concerns, but there are other
22 stakeholder interests that are also important

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1 in this project. And one would hope that
2 there would be a balanced solution, if
3 possible.

4 From OP's standpoint, you know, the
5 project has been worked through with HP for
6 quite some time. I believe in trying to
7 respect all of HP's wishes, this was as far
8 back as they could push in terms of their
9 design.

10 I didn't hear the parts early on in
11 the process in the review stages about the
12 views from the Fort Stevens, from that angle.

13 I don't know if there is some the applicant
14 could probably address that, but I guess that
15 we'll have to hear from them. I consider it
16 to be a site planning issue, again, that
17 possibly could be discussed with HP, if
18 necessary.

19 MEMBER MOLDENHAUER: You just said
20 that you worked with HP and HP was trying to
21 push them as far back as possible from Georgia
22 Avenue?

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1 MS. THOMAS: Yes. HP's wish was,
2 from what I understand, to maintain some sort
3 of a separation for that building, the
4 existing church structure and the new
5 building. I think that was the intent of that
6 courtyard. Where possible to put everything
7 far away for in the courtyard space, I guess
8 that made it possible. But then that wouldn't
9 satisfy HP.

10 MEMBER MOLDENHAUER: Okay. Thank
11 you.

12 BZA VICE CHAIR DETTMAN: Ms.
13 Thomas, you testified that the existing church
14 can't be demolished. Is that a fact?

15 MS. THOMAS: That's what I
16 understand from HP and from the applicant's
17 standpoint I believe if they were to do that--
18 this attempt is to basically to address HP's
19 wish to preserve as a landmark site. So if
20 they were to go ahead to demolish, I don't
21 think they would be able to. HP would go
22 ahead and landmark the site.

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1 BZA VICE CHAIR DETTMAN: Okay. But
2 currently right now there's nothing in place
3 legislatively, legally that prevents the
4 applicant from demolishing it. I think what
5 I'm hearing is that if they did intend to, it
6 would trigger something?

7 MS. THOMAS: Yes, it would trigger
8 something. As I don't think they can go
9 tomorrow and start bulldozing without some
10 type of permitting and all that.

11 BZA VICE CHAIR DETTMAN: Okay. You
12 had mentioned with respect to the first prong
13 that in addition to topography and the
14 existing structure, another exceptional
15 condition is the historic significance
16 relative to the Fort. How --

17 MS. THOMAS: I'm sorry.

18 BZA VICE CHAIR DETTMAN: No, go
19 ahead. Did I state that incorrectly?

20 MS. THOMAS: No, no. Go ahead.

21 BZA VICE CHAIR DETTMAN: I'm just
22 wondering with respect to the site's historic

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1 significance and its relationship with Fort
2 Stevens whether or not you factored that into
3 your analysis of the third prong and the
4 historic significance of this site in relation
5 to the overall public good?

6 MS. THOMAS: To some extent, yes,
7 because for instance that berm, it was very
8 important for HP to retain that berm, that
9 section along Georgia Avenue, that face. So
10 to preserve that integrity of the site I think
11 was important as well, the historical aspect.

12 Because they see that berm as being part of
13 the Civil War feature of Fort Stevens. That
14 berm is representative of that part of Fort
15 Stevens as well, and that's from their
16 standpoint.

17 There's also archeological
18 significance, potential archeological
19 significance to the site. That's why we
20 believe it is not in the best interest to go
21 digging further to excavate to potentially
22 drop the parking areas further down into the

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1 site, which would in effect remove the FAR
2 requirements and probably potentially the
3 height.

4 So in trying to respect all of
5 that, the one aspect would be the
6 archeological significance and I do believe
7 that it goes to the intent and to the
8 detriment of the public good because you would
9 lose an important aspect for the District as
10 well in terms of its archeology and --

11 BZA VICE CHAIR DETTMAN: Okay. So
12 in analyzing the case and getting to the third
13 prong you found, correct me if I'm wrong, at
14 the end of your analysis you determined that
15 the historic significance and the Emory site
16 and its relationship with the Fort Stevens
17 site, that relationship would not experience
18 any kind of substantial detriment as a result
19 of this project?

20 MS. THOMAS: Yes, that would be a
21 conclusion since the applicant worked for
22 heavily with HP. And so we drew on that, on

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1 HP's expertise in that respect. And we
2 believed that with their input, and their
3 heavy input from early on, that was an
4 important factor as well in determining to get
5 to the third prong.

6 BZA VICE CHAIR DETTMAN: So did you
7 have direct discussions with HP in relation to
8 the project's impact on the relationship
9 between these two sites?

10 MS. THOMAS: Yes, we did.

11 BZA VICE CHAIR DETTMAN: You did?
12 Okay.

13 MS. THOMAS: Yes.

14 BZA VICE CHAIR DETTMAN: And can
15 you share with the Board any comments that
16 Historic Preservation had with respect to why
17 this development does not substantially impact
18 the historic relationship between these two
19 sites?

20 MS. THOMAS: Well, again, in terms
21 of the berms, the relationship of that corner
22 area berm, that 14 foot berm, they didn't want

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1 it to be substantially effected. The way they
2 had to treat it.

3 They also suggested additional
4 treatment that could possibly done. They
5 discussed this with the applicant.

6 So, yes, I reaffirm that that's how
7 the conversation went with OP and between OP
8 and HP with respect to the treatment of the
9 site.

10 BZA VICE CHAIR DETTMAN: Thank you,
11 Ms. Thomas.

12 Board members, any additional
13 questions?

14 Mr. Keys, questions for the Office
15 of Planning?

16 MR. KEYS: No questions, Mr.
17 Chairman.

18 BZA VICE CHAIR DETTMAN: Great.

19 Okay. Moving on, I think we're to
20 the point where we would hear from DDOT and we
21 don't have DDOT with us, but we do have their
22 report, which is our Exhibit 35. The Board

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1 has had a chance to review this.

2 Mr. Keys, how do you want to
3 proceed with respect to the DDOT report?

4 MR. KEYS: Mr. Chairman, I'd like
5 an opportunity to submit information for the
6 Board's consideration responding to that. I
7 mean, I think there are some things in the
8 record that go to that, but in order to pull
9 them together to address DDOT's concerns, I
10 would like to have an opportunity to make a
11 post-hearing submission.

12 BZA VICE CHAIR DETTMAN: Certainly.
13 And I think that let's hold that request
14 until we just finish with the proceedings.
15 But at this point in time did you want to
16 verbally put anything on the record with
17 respect to this or do you want to save it for
18 a written filing?

19 MR. KEYS: I'll save it for a
20 written filing, Mr. Chairman.

21 BZA VICE CHAIR DETTMAN: Perfect.
22 Okay.

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1 I asked earlier in the proceedings
2 whether or not there was a representative from
3 the ANC in the audience. Let me just ask again
4 to make sure. And not seeing one, we do have
5 a resolution from ANC 4A. That's our Exhibit
6 23 stipulating that on September 8, 2009 at a
7 duly noted meeting the ANC recommended
8 approval of the application. There was a
9 quorum present, eight of eight Commissioners
10 were in attendance. So it appears as if our
11 Exhibit 23 does meet the great weight
12 requirement and it will be afforded that
13 weight at the time the Board deliberates on
14 the case.

15 I think that we're through all the
16 witnesses that are wishing to testify. And so
17 it's back to you, Mr. Keys, for closing.

18 MR. KEYS: Well, actually, Mr.
19 Chairman, I do have some rebuttal testimony.

20 BZA VICE CHAIR DETTMAN: Oh,
21 certainly.

22 MR. KEYS: And we can very brief

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1 and very directed with respect to that.

2 I'd like to ask Mr. Pichon,
3 Commissioner Moldenhauer did make a
4 suggestion, or I think Ms. Coleman actually
5 made the suggestion that one of the
6 considerations that we ought to think about
7 was excavating around the existing church
8 lowering the profile of the whole structure,
9 burying it in the ground. And I think I'd
10 like our architect to respond to that.

11 MR. PICHON: Yes. We did entertain
12 the option of lowering the parking level
13 further down below grade. The challenge that
14 represented with that came out of the
15 retention of the church and the setting of the
16 floor level from that point. The question
17 would become, and from this exhibit that's up
18 on the screen, if we were to lower the parking
19 down, what would become of that void space
20 between that, wherever the parking level is
21 set and the church sanctuary level. That area
22 has limits to its light and air. And by

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1 lowering the building down, we actually impede
2 the roof structure of the existing church with
3 the top two levels where we have residential
4 units surrounding the church.

5 So by lowering the building down we
6 would create a loss in residential units on
7 the site. And it's hard to actually explain
8 theoretically by looking at this drawing, but
9 the thought process of how the courtyard
10 relates to the existing church level and how
11 all that light and air enters into the
12 residential units would be impacted by
13 lowering the parking level down because the
14 building would go down with it but the church
15 itself remains at the level where it is. So
16 there would be a significant increase in
17 either ramping or some sort of way to get back
18 up to that church level.

19 MR. KEYS: I wanted to ask you
20 also, we had many suggestions for how Emory
21 United Methodist Church should redesign its
22 site including setbacks and reductions of

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1 height. What does a reduction in height to,
2 say, 40 feet represent in terms of the impact
3 on the overall program?

4 MR. PICHON: Well if I remember the
5 testimony correctly, the suggestion was a
6 lowering of the northern part of the building,
7 which is where we have our senior housing and
8 affordable housing units. We have
9 approximately 17 units per floor. A 40 foot
10 height limit would eliminate those 17 units.

11 It would essentially lose one level
12 of housing units. We would have three story,
13 three levels of housing at that point.

14 MR. KEYS: And let me ask you this:
15 Mr. Parsons' letter, which is an exhibit to
16 the Board, recommended a 30 foot setback as a
17 response Fort Stevens' concerns. What would a
18 30 foot setback do to the program and the
19 project along Old Piney Branch Road and the
20 back of Fort Stevens, along our west boundary?

21 MR. PICHON: Well again if we're
22 talking about the entire length of Old Piney

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1 Branch Road, obviously behind the church a 30
2 foot setback would render that space
3 relatively useless. We would be forced to
4 design a very inefficient building in that
5 sense of having if possible a single loaded
6 corridor which obviously increases cost in
7 construction. You always want to have your
8 corridors double loaded in a residential use
9 to minimize the runs of utilities along those
10 corridors.

11 And then as we move north on the
12 site if we were to set back the senior housing
13 facility thereby reducing the courtyard by 30
14 feet, you can see that there would be a net
15 loss of units stacked through the building. I
16 don't have an estimate of what that would be.

17 But 30 feet is basically one unit either side
18 of the corridor. So we could assume a net
19 loss of around eight to ten units.

20 MR. KEYS: Mr. Pichon, when did
21 your interaction with the Historic
22 Preservation Office commence?

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1 MR. PICHON: We began, PGN
2 Architects began discussions with the Historic
3 Preservation Office in October of 2008.

4 MR. KEYS: And how many meetings
5 did you have, or perhaps another way of saying
6 it is how many versions or how many site plan
7 renditions did you go through before you got
8 to what both parties agreed to was the best
9 effort?

10 MR. PICHON: If I had to estimate
11 the number of versions we went through, it
12 would probably top eight or nine versions.
13 The initial -- the final plan looks nothing
14 like what we walked into the Historic
15 Preservation Office with. We had a completely
16 different layout massing wise and where the
17 open spaces were located.

18 MR. KEYS: And what was the effect
19 of HPO's intervention? How did they change
20 your original conception to where it is now?
21 What are the broad characteristics that HPO
22 negotiated for?

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1 MR. PICHON: One of the major
2 concerns or say the main concern was the view
3 corridor of the existing church. And that
4 compromised from the corner of Georgia Avenue
5 and Quackenbos Street all the way north to the
6 north side of the courtyard and the existing
7 layout that we have now.

8 The desire to create an open air
9 space around the church was strongly
10 suggested. Originally we had open space
11 facing Fort Stevens and the mass of the
12 project along Georgia Avenue. And the desire
13 or the discussion with Historic Preservation
14 was to preserve the view corridors to the
15 church from Georgia Avenue, that that was not
16 going to be acceptable. So thus, the massing
17 basically in essence flipped itself on the
18 senior housing side to allow for the open
19 space to exist adjacent to the church.

20 MR. KEYS: Thank you.

21 I'd like to Ask Reverend Daniels to
22 come forward and I've got a couple of quick--

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1 MEMBER MOLDENHAUER: Can I ask?

2 MR. KEYS: Oh, of course. I'm
3 sorry.

4 MEMBER MOLDENHAUER: Maybe going
5 beyond what I should ask. But if you were to
6 take out unit 104, 204, 304 and 404, it would
7 be one unit, would that not open up that
8 corner that was spoken of by Mr. Boasberg and
9 Mr. Cooling?

10 MR. PICHON: The reduction of that
11 unit would create a void in the mass that
12 would in theory open further that corner of
13 the site.

14 I would also like to add that your
15 suggestion of creating more of a transparent
16 corner there, I would offer as a compromise
17 more so than reducing the number of units
18 similar to what we have as you noted on the
19 Georgia Avenue side --

20 MEMBER MOLDENHAUER: I mean, you
21 have a community center on each of these
22 floors near the stairwell, 2071 square feet.

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1 I mean, obviously a community center would
2 open itself up maybe to more of a glass
3 surrounding open area where you're not going
4 to have people in it as often as a unit. I
5 mean, I see some potential to try to -- as I
6 feel like this project can benefit so much
7 from the educational aspect of the site of the
8 Fort site and at the same time just trying to
9 find areas of compromise. And there's this
10 community area --

11 MR. PICHON: I definitely
12 appreciate the feedback.

13 Just to further explain the
14 topography at that corner, the grade right
15 now --

16 MEMBER MOLDENHAUER: Are you going
17 to talk about the grade of the intermediate
18 parking level would still be above ground?

19 MR. PICHON: Well, that's part of
20 it. I was just going to give some sort of
21 measuring points just in case.

22 MEMBER MOLDENHAUER: Yes. My

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1 suggestion is more matter of I think something
2 would be better than nothing in regards to
3 that suggestion. I feel like one of the
4 concept of the Commission is sort of focus in
5 the areas, and focus it on that northwest
6 corner. And so it's a suggestion. I don't
7 think there needs to be anymore comment.

8 I think I'm finished. Thank you.

9 MR. PICHON: Thank you.

10 MR. KEYS: Reverend Daniels, could
11 you please come up?

12 REV. DANIELS: Reverend Daniels,
13 you're as familiar with Fort Stevens as
14 anyone. How long have you been Pastor at
15 Emory?

16 REV. DANIELS: Seventeen and a half
17 years.

18 MR. KEYS: And you're there on a
19 daily basis?

20 REV. DANIELS: Yes.

21 MR. KEYS: Reverend Daniels, what
22 kind of activity do you see regularly in terms

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1 of people coming and going to Fort Stevens?

2 REV. DANIELS: It is very, very,
3 very minimal. In fact, on most days the only
4 activity on the Fort is people who are walking
5 from one part of the neighborhood to the
6 other. Whenever there are groups who do come,
7 typically we know about it in many respects or
8 we do see small groups that do come and visit
9 the Fort. But the traffic of visitors is
10 very, very minimal.

11 MR. KEYS: I want to ask you,
12 you've walked that site many times?

13 REV. DANIELS: Yes, I have.

14 MR. KEYS: And you heard Tersh
15 Boasberg's testimony about what one can see at
16 the north corner of the Fort Stevens'
17 property? Can you comment on that, can you
18 amplify what that situation is?

19 REV. DANIELS: Very much so. I'm a
20 tall gentleman. If I stood at the northeast
21 side where he was speaking, the only thing
22 that I'm going to see are the condominium

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1 buildings that are standing in front of me.

2 MR. KEYS: How many stories are
3 those buildings?

4 REV. DANIELS: They are three
5 stories, I believe, three or four stories from
6 the Rittenhouse Street level.

7 If I were to stand up at the
8 highest point of these, I'm still going to see
9 the condominium levels, and I may see some
10 rooftops. Not rooftops, but I may see some of
11 the business that are the 6200 block. The
12 tallest aspect of that whole area that he was
13 referring to is really in the center and
14 toward this part here. In fact, when there
15 are tour groups who come to view the Fort,
16 rarely do they come to this northeast side.
17 They usually congregate around the area where
18 the flag is and where there is a metal -- a
19 kind of a stone metal description of the Fort
20 that sits right around the area where the
21 bunkers are. That's, by in large, where
22 people gather when they do come for

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1 visitations to the Fort.

2 MR. KEYS: Okay. When did the
3 church engage an architect?

4 REV. DANIELS: The latter part of
5 2008.

6 MR. KEYS: And when did you first
7 meet with the National Park Service to discuss
8 the Beacon Center project in your concept for
9 what was to go?

10 REV. DANIELS: Summer of 2008.

11 MR. KEYS: So you --

12 REV. DANIELS: We've initiated all
13 three meetings. And the first meeting we
14 initiated through a gentleman on our Board of
15 Directors who knows Ms. Coleman, and that is
16 Merrit Trucker. He was able to organize the
17 first meeting that we had with the Park
18 Service.

19 MR. KEYS: So you engaged the Park
20 Service in discussion about this project
21 before you even had a design?

22 REV. DANIELS: Correct.

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1 MR. KEYS: Mr. Cooling gave us some
2 history of Emory United Methodist Church and
3 that site. Is there any comment that you
4 would make on his rendition of the history?

5 REV. DANIELS: I would. I
6 respectfully and personally disagree with a
7 good portion of his testimony, particularly as
8 an African-American, particularly as someone
9 who is also a history buff myself.

10 Emory Church itself was a Methodist
11 Episcopal South Church. It was originated in
12 1832. It originated on the grounds of what's
13 Nativity Church today. It moved to part of its
14 present location in 1833. In 1855 history
15 records that two-thirds of the property that
16 is now owned by Emory in addition to the third
17 which it was already sitting on, the third was
18 on the Quackenbos Street side now, two-thirds
19 of the property from this Quackenbos Street
20 side over towards the northern boundary was
21 purchased from a black woman, Aunt Betty, in
22 1855 prior to the Civil War.

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1 In fact, history would record and
2 people could argue very clearly that the
3 Federal Government essentially by eminent
4 domain took this land to form Fort Stevens
5 from a free black woman.

6 And so I respectfully decline. I'm
7 somewhat offended by the testimony because it
8 doesn't record history as history is. And so
9 I just wanted to lay that out for the record
10 that this whole area here was known as Vinegar
11 Hill. It was, in fact, one of the only free
12 black enclaves in the District of Columbia.
13 It was land owned by blacks during the slavery
14 time before the Civil War was even waged.

15 And so the capturing of this land,
16 and at that time Emory was known as Emory
17 Methodist Church, at that time Emory Methodist
18 Church as I said was a Methodist Episcopal
19 South Church and if you go back into the
20 Methodist history the Methodist Church split
21 over the issue of slavery in 1844.

22 And so this was land owned by

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1 blacks that as in fact either by eminent
2 domain or by purchase, or whatever, taken over
3 for other needs.

4 MR. KEYS: Thank you, Reverend
5 Daniels.

6 And finally, I think I'd ask Gina
7 Merritt to come forward.

8 Gina, would you please introduce
9 yourself for the record and explain your
10 connection with the Emory Beacon Center
11 project?

12 MS. MERRITT: Gina Merritt. My
13 company is Northern Real Estate Urban
14 Ventures. I'm a development consultant to
15 Emory United Methodist Church and Emory Beacon
16 of Light.

17 I have put together the financing
18 plan for the proposed project.

19 MR. KEYS: Can you tell me what the
20 impact of a reduction in housing units, how
21 that relates to the overall finance ability of
22 the plan?

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1 MS. MERRITT: Yes. In the northern
2 portion of the site is where the bulk of the
3 income generating housing is located. And any
4 reduction there reduces the financial
5 feasibility. Certainly if you took a floor
6 off, that would impact the project. Because
7 actually the smaller it gets, the higher the
8 construction cost is. And without these more
9 income generating uses, you create further
10 financial hardship on the project.

11 MR. KEYS: Thank you.

12 The last rebuttal witness is in
13 Nkosi Ayize.

14 BZA VICE CHAIR DETTMAN: Mr. Keys,
15 before moving onto closing, I just have one
16 question to ask of one of your witnesses.

17 Nkosi, would you toggle on your mic
18 and introduce yourself for the record and
19 explain your connection to the Beacon Center
20 project?

21 MR. AYIZE: Good evening. My name
22 is Nkosi Ayize. I'm the Executive Director

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1 for the Emory Beacon of Light nonprofit
2 community development corporation. Also a
3 third generation Washingtonian.

4 MR. KEYS: Mr. Ayize, are you
5 familiar with the Fort Stevens Emory Church
6 sites and how they come together?

7 MR. AYIZE: Very much so.

8 MR. KEYS: Have you had occasion to
9 observe activity on Fort Stevens?

10 MR. AYIZE: Yes. Here again, I'm a
11 long time D.C. resident specifically living in
12 Brightwood for 19 years. I'm also a historian
13 as well. But I had the pleasure of attending
14 this past summer's Fort Stevens Day.

15 MR. KEYS: Do you know how many
16 people attended that? Was it a heavily
17 attended event?

18 MR. AYIZE: I would say it was
19 mildly attended. I actually did a count of 78
20 people.

21 MR. KEYS: Did you at sometime make
22 a count of pedestrian traffic along Quackenbos

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1 Street?

2 MR. AYIZE: Yes. Actually, I have
3 my notes here. From December 7th through
4 December 11th we actually did a count of
5 pedestrian walking on Quackenbos Street myself
6 and a community volunteer for the hours of
7 1:00 p.m. to 2:00 p.m. on those days as well
8 as 4:00 p.m. to 5:00 p.m. on those days.

9 MR. KEYS: And how did you pick
10 those times?

11 MR. AYIZE: We kind of picked those
12 times, we actually have a community plan team
13 that actually works on beautification of the
14 Brightwood area from Georgia Avenue and 1st
15 Street all the way down to Georgia Avenue and
16 Kennedy Street. And we kind of helped to use
17 their insight on some of the traffic in the
18 area. And they said in the morning, because
19 they're out as early as 7:30 and 8:00 in the
20 morning and no one's really there. So we were
21 trying to pick times when there was more
22 traffic on the block. And they said there was

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1 some lunch traffic and there was some traffic
2 going towards the after 5:00 or just before
3 5:00 hour.

4 MR. KEYS: What were your
5 pedestrian counts?

6 MR. AYIZE: For Monday the 7th 1:00
7 to 2:00 p.m. four people walked the entire
8 block. 4:00 p.m. to 5:00 p.m. six people.

9 Tuesday 1:00 p.m. to 2:00 p.m.
10 three people. 4:00 p.m. to 5:00 p.m. eight
11 people.

12 Wednesday 1:00 p.m. to 2:00 p.m.
13 six people. 4:00 p.m. to 5:00 p.m. five
14 people.

15 Thursday 1:00 p.m. to 2:00 p.m.
16 four people. 4:00 p.m. to 5:00 p.m. six
17 people.

18 And Friday 1:00 p.m. to 2:00 p.m.
19 six people. 4:00 p.m. to 5:00 p.m. nine
20 people.

21 MR. KEYS: Thank you very much.

22 MR. AYIZE: Thank you.

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1 MR. KEYS: Mr. Dettman, we are done
2 with rebuttal witnesses if you have questions
3 of any of them.

4 BZA VICE CHAIR DETTMAN: I just had
5 one question for Pastor Daniels. You had
6 mentioned that prior to commissioning an
7 architect in the summer of '08 you met with
8 the National Park Service. At that meeting
9 did the Park Service express any concerns, the
10 concerns that they had?

11 REV. DANIELS: Ms. Coleman was very
12 appreciative of our coming. We began dialogue.
13 She was concerned about any project that we
14 would do, voiced that.

15 She did voice a personal -- what's
16 the right word I want to use? She voiced a
17 personal support of the ministry that we were
18 doing and the type of project that we were
19 trying to do at the time. And that was
20 without seeing any diagrams or anything. She
21 voiced personal support, but she also voiced
22 professional concern. And that was the

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1 language that she used at the time. As a
2 representative of the Park Service she was
3 concerned about any construction that would
4 take place.

5 BZA VICE CHAIR DETTMAN: And when
6 you did hire an architect did you voice those
7 professional concerns to the architect?

8 REV. DANIELS: Absolutely. We have
9 been up front and have been proactive from the
10 very start of this endeavor because we know
11 very clearly from the training that a number
12 of us have had in the congregation, including
13 myself and my own background, that in order to
14 do any kind of community development work you
15 need the support of your community.

16 The other side is I'm someone who
17 believes very much in collaboration. And so
18 we've sought to collaborate with every
19 possible partner in the community, including
20 the Park Service. And I think we have in our
21 initiating the three meetings and our trying
22 to be proactive, and our trying to find

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1 amicable solutions to differences, I think
2 we've shown that in every step with Historical
3 Preservation, with the Office of Planning,
4 DMPED, every community group we've sought to
5 collaborate and to let people know what we
6 were up to, what the neighborhood wanted to
7 see, how could we make it happen.

8 BZA VICE CHAIR DETTMAN: And
9 finally, when you and your architect engaged
10 the Historic Preservation Office, did those
11 professional concerns as they were worded,
12 were those conveyed to the Historic
13 Preservation Office and is it your
14 understanding that the Historic Preservation
15 Office took that under advisement and factored
16 that into the discussion?

17 REV. DANIELS: We have walked with
18 the Historical Preservation Office from the
19 very beginning before we had an architect,
20 before we had any kind of artist renderings,
21 before we had a developer; anything. We
22 started with Historical Preservation. They

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1 came up to Emory on I know at least two
2 occasions. I was out touring with them. We
3 entertained their questions. We entertained
4 their concerns. We asked them questions
5 because we wanted to make sure historically
6 because we know we were a historic facility,
7 we wanted to be sure that we had everybody on
8 board and we wanted to be sure that we
9 notified everybody from jump street what we
10 were looking at and what needs we had and what
11 concerns.

12 BZA VICE CHAIR DETTMAN: So
13 Historic Preservation was aware of the
14 National Park Service's concerns?

15 REV. DANIELS: Whether they were
16 ware of the National Park Service's concerns,
17 I don't know. I don't know that.

18 I do know that we walked with them
19 from very beginning. Any interaction that
20 they had with NPS, I'm not knowledgeable of
21 that.

22 BZA VICE CHAIR DETTMAN: Okay.

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1 Thank you. Thank you.

2 ZC CHAIR HOOD: Can I ask Pastor
3 Daniels, in the spirit of collaboration, and I
4 think this might have been where Board member
5 Moldenhauer was going, and I can only ask. Is
6 the spirit of collaboration, at least between
7 Emory and the Park Service, is that closed?
8 Are we at just a point where this is it? We
9 can't continue to have any talks? I mean, I'm
10 just trying to see is there any wiggle room in
11 there?

12 REV. DANIELS: Well --

13 ZC CHAIR HOOD: And I'm going to
14 ask the Pastor. I see someone -- I don't know
15 if you're coming up, but let me ask the
16 Pastor?

17 REV. DANIELS: Well, even with our
18 last meeting that we had with NPS, which was
19 on, I believe, December the 4th, Thursday.
20 No, I'm sorry. It was Friday. I think it was
21 Friday, December the 4th. Myself, Mr. Keys,
22 Mr. Pichon, Ms. Coleman and about five to

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1 seven people from her staff sat down, went
2 through things. Went through the project once
3 again. Mr. Pichon tried to show areas where
4 he had sought to incorporate some of the Park
5 Service's earlier concerns.

6 I left that meeting feeling like we
7 were at an impasse. We left the meeting,
8 again, with the door open to keep relationship
9 going, to keep dialoguing, et cetera. I
10 thought we came out of the meeting personally
11 with the Park Service pretty saying they did
12 not support this, they don't want us to build
13 it. They were looking at avenues in which to
14 reduce the property, which you have heard.
15 And the opinions that Ms. Coleman expressed at
16 the table then have been expressed today.

17 I as a Pastor, I never shut the
18 door on anything. I'm always looking for
19 opportunities and possibilities. I left that
20 meeting, however, clear that there was a
21 vision and a direction that we were going in
22 based on what we had gathered from the

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1 congregation and the community. And that
2 there were I don't want to say lines in the
3 sand, but they were pretty determined as to
4 what their position was. And they didn't
5 necessarily come together.

6 ZC CHAIR HOOD: Okay. Well, from
7 this Commissioner's standpoint it seems as
8 though it's more a concern. I don't know if
9 it's just all out opposition. But I will say
10 this, from the testimony I've heard, you know
11 everybody's not all agreed, I want to commend
12 you on the reachout that I see you've done.

13 And a lot of times, I've here 12
14 times, and I don't see a whole lot of reachout
15 like that. And I see some. But I want to
16 commend you for at least reaching out and
17 touching those parties --

18 REV. DANIELS: Thank you.

19 ZC CHAIR HOOD: -- who may have
20 interest in being involved.

21 REV. DANIELS: Thank you.

22 ZC CHAIR HOOD: Thank you, Mr.

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1 Chairman.

2 BZA VICE CHAIR DETTMAN: Thank you,
3 Chairman Hood.

4 Mr. Keys, I think we're at closing.

5 MR. KEYS: Yes. Yes, we are. I
6 think I can briefly bring this to a close.
7 I'm going to rely on the written submission
8 that you have. We do make an argument with
9 respect to the variance standards and the
10 variance relief, and particularly the
11 Comprehensive Plan support for a mixed use
12 project in this location in this C-2-A zone.

13 And I want to pull back a little
14 bit and I want you to get to see Fort Stevens
15 in a context. In a context this Fort is
16 buffered from the surrounding neighborhood.
17 It has strong visual buffers.

18 If you go to the south side,
19 Quackenbos Street plus the land the Park
20 Service owns on the other side of Quackenbos
21 Street.

22 To the west it's 13th Street, which

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1 is a wider street. I think it's a 90 foot
2 width street. That is a buffer.

3 On the north side there's
4 Rittenhouse Street, but it's an R-1 zone there
5 so that you've got low density, low structures
6 on that side. Plus you've got a Park Service
7 buffer under the fortifications on the north
8 side.

9 On the east side, the side we're
10 concerned about, you've got Old Piney Branch
11 Road. That is the buffer.

12 And we by building anything along
13 that stretch are going to take away the sense
14 of openness that the Park Service has. They
15 indicate they don't want to see us build more
16 than matter-of-right, and they oppose it on
17 that grounds that we shouldn't get the
18 variance. Well, that means a 50 foot building
19 as a matter-of-right construction. We're
20 proposing 53 at the back side. I'm not sure
21 that that three foot margin is one worthy of a
22 serious asset or serious advantage to the

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1 visitor experience of Fort Stevens. And I
2 want to get to that visitor experience because
3 right now as we've demonstrated and shown, as
4 you look from the Fort Stevens' site east, you
5 don't see anything but the back side of Emory
6 Church and the roofs of the commercial
7 buildings across Georgia Avenue. You don't
8 see the avenue. There's no visual connection.

9 Now what they're looking for is an
10 interpretive connection. Well, that
11 interpretive connection can be drawn in many,
12 many ways, one of which is leading and
13 directing tour grounds around to the front
14 side of Emory Church to take a look at it.
15 Because they would have been told by the
16 Ranger who is now stationed in the facility
17 we'll provide of them in the back of the
18 building directly opposite Fort Stevens that
19 this is the way they can understand that site.

20 There's an opportunity for the
21 displays, the maps, the photographs, the
22 historic memorabilia, the archeological

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1 artifacts that they don't have a place to
2 display, can be displayed on a site that we'll
3 provide. That is the interpretative link that
4 we propose to substitute for the visual link
5 of looking at the back side of Emory United
6 Methodist Church.

7 I want to respond to the question
8 about the PUD opportunity. And when I first
9 saw this site and I understood the building, I
10 realized that every one of the areas of relief
11 that we are requesting relate and are driven
12 from the topography of this site or the
13 requirement of retaining an existing building.

14 And I think that you will acknowledge that
15 the Regulations interpreting variances do
16 allow for existing structures on the land to
17 constitute an exceptional conditions.

18 Usually, PUD cases involve
19 something else. They involve going beyond the
20 envelop of normal development characteristics.

21 Here this project, this building, is within
22 the development envelop and that's one of the

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1 things that I was trying to express by saying
2 a conforming building in a pedestal.

3 This building, if this land were
4 flat could be built matter-of-right because we
5 are on a berm, because we have been implored
6 to retain the berm, not to reduce the site;
7 we're working within those constraints. And
8 those constraints push us to seek relief, but
9 it's directly related to the site itself. It's
10 not elective, it's not choice.

11 The standard for special exception
12 relates to substantial good, public good. And
13 I think that that's an important recognition.

14 The nature of the expression "substantial
15 good" is a suggestion that it's a balance,
16 that it's not all or nothing, it's a working
17 out. And it's probably a question that this
18 Board needs to think of in terms of what this
19 church is doing to stabilize its membership in
20 this neighborhood, to relate to the retail
21 streetscape needs of the Brightwood area as
22 defined by the Comprehensive Plan, to provide

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1 senior housing, to provide affordable housing,
2 to provide housing for veterans, to provide
3 housing for transitional families, families
4 who are making the move from homeless to a
5 more stable life and creating a recreational
6 opportunity for neighborhood youth.

7 This church exists to serve its
8 community and it functions in that community
9 that way. And I think that good has to be
10 weighed against and what's on the other scale?

11 The interpretative opportunities of the
12 vistas from Fort Stevens which, as we've
13 shown, are negligible and would be impaired by
14 any development on this site?

15 And then there's the question of
16 let's look at the visitors themselves. The
17 Park Service astonishingly doesn't know how
18 many people visit that site. I think Emory
19 United Methodist Church has got a better idea
20 of how many people visit that site, and
21 there's very few. It's a sparsely attended
22 facility.

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1 We can help that. And one of the
2 proposal that we made by providing that
3 interpretative, that center, that ability it's
4 about 400 square feet, they can utilize as a
5 way to draw people towards something that's
6 meaningful on the Fort that will help to
7 provide context. It will also get the Ranger
8 out of the rain because right now he's got
9 nowhere to stand from inclement weather.

10 And so I think when you consider
11 substantial good, I wish you would balance the
12 interest of visitors that no one's counting
13 versus the real hard concerns and realities
14 for the people that will be served by the
15 Beacon Center development.

16 And finally, there is a special
17 exception. And the special exception test is
18 slightly different because the special
19 exception test says that the exception can be
20 granted, provided it doesn't have any adverse
21 effect on the use of adjacent property. In
22 this instance, the special exception is a roof

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1 setback on the Georgia Avenue side. There is
2 no adjacent property. We would argue there is
3 no adverse impact to anybody's enjoyment or
4 use of their property. And that special
5 exception should be granted as being really a
6 de minimis departure from the Regulations as
7 the architect explained.

8 I think that that's all that I
9 would add to summarize this case. That I
10 think that the applicant has carried its
11 burden of proof. I think that the elements
12 are all there. These variances relate
13 directly to topography or the existing
14 building. They are not wide departures if you
15 view the building as being a conforming
16 building, but one that's been pushed up.

17 Thank you, Mr. Chairman. Thank
18 you, Board members.

19 BZA VICE CHAIR DETTMAN: Thank you,
20 Mr. Keys.

21 I do have one question about your
22 closing. You were making the point about the

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1 National Park Service saying they want you to
2 build a conforming building and you had stated
3 that a conforming building would result in a
4 50 foot building along Old Piney Branch Road.

5 Just for the sake of argument, as measured
6 from where you're required to measure per the
7 Zoning Administrator, that would result in a
8 30 foot building on Old Piney Branch Road.
9 And could you address the impacts that a 30
10 foot building would have versus a 50 foot
11 building, versus a 54 foot building and kind
12 of the difference with that?

13 MR. KEYS: I don't know if I could
14 address it. I mean, I can say that if their
15 issue, and really it's an aesthetic issue,
16 isn't it? That you shouldn't have a wall near
17 a historic landmark.

18 Now whether an individual's
19 perception of a 30 foot wall, a 40 foot wall
20 or a 50 foot wall is any different, I can't --
21 that's a hard preference for me to work with.

22 Because remember you're dealing with a two

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1 acre fort site.

2 You can experience this fort and be
3 a couple of hundred feet away from the
4 offending wall and you're still within the
5 fort battlements and you're in the area where,
6 as Reverend Daniels said, most people that he
7 sees visiting the Fort are gathered, which is
8 in the middle of the battlements by the flag
9 pole where they have the markers.

10 So, you know, it's hard for me to
11 say that a 30 foot, 40 foot, 50 foot wall will
12 make that critical a difference for anyone's
13 experience. And again, think about the fact
14 that there is a natural buffer there, there is
15 a buffer. It's Old Piney Branch Road.

16 BZA VICE CHAIR DETTMAN: You
17 answered my question. Thank you.

18 I think at this point, colleagues,
19 we can either decide to move forward with the
20 decision. There was a request by Mr. Keys to
21 supplement the record with a response to the
22 DDOT report. But let me just get your

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1 opinions as to where you're at with respect to
2 a deliberation, a decision on this case.

3 MEMBER MOLDENHAUER: I believe
4 that:

5 (1) With the request of Mr. Keys to
6 have time to supplement a report, I would say
7 that we should put off our decision. And in
8 that time, I've heard that Reverend Daniels,
9 you know he has an open door. I think that I
10 would now put the burden and pressure on Ms.
11 Coleman and the National Park Service to say
12 there's been some really good discussion
13 today. I think it's your opportunity before
14 we go forward and make a decision to have this
15 last bit of opportunity to find some potential
16 ground of compromise. And whether when we
17 give a time frame between now and the
18 decision, I would recommend that strongly.

19 ZC CHAIR HOOD: I would concur with
20 Board member Moldenhauer that we kind of push
21 a little more and see what we can come back
22 with.

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1 And I have been sitting here and
2 thinking about this PUD issue. I will
3 withdraw that, trying to push that issue.
4 Because as Mr. Keys, even though he didn't
5 answer it the first time like I would have
6 liked to have heard it, I think the second
7 time and also with Office of Planning this has
8 been the scope, I didn't necessarily like the
9 pedestal issue. But I appreciate you at least
10 answering my question and I feel more
11 confident in moving in this direction as long
12 as the BZA is not trying to take the Zoning
13 Commission's job.

14 So, thank you.

15 MR. KEYS: Mr. Dettman, I have no
16 idea what the Board's holiday schedule or
17 plans are. But, you know the normal rhythm
18 seems to be about two weeks that you would
19 move this thing toward a decision meeting. I
20 don't know if the holiday is going to
21 interrupt that. That we would have a known
22 space of time to work with. So if your

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1 decision process because of the holidays is
2 going to be into the new year, that would be
3 helpful to know that when this thing might
4 come before the Board for a decision. That
5 would give the parties I think an opportunity
6 to know what they've got to work with.

7 BZA VICE CHAIR DETTMAN: Okay.
8 Well, just looking at the calendar I think we
9 only have one more meeting before we break for
10 the holidays, which is next week. And then we
11 return, according to my calendar, it's the
12 19th or is it the 12th?

13 MS. BAILEY: The 12th.

14 BZA VICE CHAIR DETTMAN: It's the
15 12th. So the 12th is looking pretty busy,
16 too.

17 I know that the Board would
18 schedule not to have anything on the 26th,
19 however we did schedule one decision on the
20 afternoon of the 26th. Board members, is
21 there any reason that we couldn't deliberate
22 this either on the 26th -- I'll say the

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1 afternoon of the 26th.

2 ZC CHAIR HOOD: I see there's
3 something that's going on. Does anyone know
4 how long that's going to take, the training
5 session.

6 BZA VICE CHAIR DETTMAN: The
7 morning.

8 ZC CHAIR HOOD: The whole morning?

9 BZA VICE CHAIR DETTMAN: Not the
10 whole morning.

11 ZC CHAIR HOOD: Maybe two hours.

12 BZA VICE CHAIR DETTMAN: A couple
13 of hours.

14 ZC CHAIR HOOD: And what time does
15 that start?

16 SECRETARY MOY: And 9:00. Unless
17 you want it sooner.

18 ZC CHAIR HOOD: Is the Zoning
19 Commission going to be involved with that?

20 SECRETARY MOY: That's correct.

21 ZC CHAIR HOOD: At 9:00? Could we
22 make this the first case in the afternoon?

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1 BZA VICE CHAIR DETTMAN: We do have
2 a decision.

3 ZC CHAIR HOOD: That's okay. If
4 I'm not able, I'll just do a proxy.

5 BZA VICE CHAIR DETTMAN: Okay. Mr.
6 Hood, I think we can do it first thing in the
7 afternoon. We do what we can for the Zoning
8 Commission.

9 Okay. So it sounds like we got a
10 consensus that we can deliberate this on the
11 afternoon of January 26th.

12 And let's just actually -- Mr.
13 Keys, you wanted to supplement the record with
14 a response to the DDOT report?

15 MR. KEYS: That's correct, Mr.
16 Dettman. And it shouldn't take me more than a
17 week to pull that --

18 BZA VICE CHAIR DETTMAN: That's
19 okay. And as there's no other parties, we
20 don't have to worry about responses or
21 anything.

22 In addition to that if between now

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1 and the deliberation if there are any changes
2 to the plans, modification to the plans that
3 don't change the areas of relief and the
4 extent of relief, we want to see those. If
5 there are modifications to the plans that
6 trigger new areas or reduce areas of relief,
7 we want to know that as well, of course.

8 And then I think it would be to the
9 Board's advantage to receive some photographs
10 taken from that northeast parapet. I think
11 our discussions revolved around that
12 extensively.

13 Do Board members have any
14 preference as to who takes those photographs,
15 who submits them? No. And maybe we can just
16 say we'd like to see photographs from that
17 northeast parapet in all directions. As many
18 directions as we can see, we'd like to see it.

19 Board members, any other filings
20 that you think would be useful?

21 MS. BAILEY: Mr. Chairman, there
22 was a woman who testified earlier, I think her

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1 name was Kamili Anderson and you did promise
2 her that she could file her written testimony.

3 BZA VICE CHAIR DETTMAN: Why don't
4 we leave the record open. I did say that.
5 Thank you, Ms. Bailey. Why don't we leave the
6 record open for Ms. Anderson to submit her
7 remarks that she provided to us. I think that
8 would be helpful.

9 And, Mr. Keys, I don't know if
10 you'll see Ms. Anderson but if you do, maybe
11 let her know that the record is open.

12 MR. KEYS: We can certainly do
13 that. Do you want a date to close the record
14 as far as submissions from my report, Ms.
15 Anderson's testimony?

16 BZA VICE CHAIR DETTMAN: How about
17 this? In terms of your response to the DDOT
18 report, the photographs and maybe Ms.
19 Anderson's remarks, how quickly do you think
20 you can turn that around?

21 MR. KEYS: I'd say two weeks at the
22 outside, Mr. Chairman.

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1 BZA VICE CHAIR DETTMAN: Two weeks?
2 That would put us at what? December 28th?
3 Okay. If December 28th for those three
4 filings works for you, it works for the Board.

5 As to any modifications made to the
6 plan between now and then, I think we should
7 leave the record open until, shall we say, a
8 week before our deliberation? Mr. Keys, does
9 that work for you?

10 MR. KEYS: It would. Yes, it would.

11 BZA VICE CHAIR DETTMAN: Okay. And
12 that would be --

13 MR. KEYS: The 19th?

14 BZA VICE CHAIR DETTMAN: The 19th.
15 Yes, thank you.

16 Okay. Well to the applicant and to
17 the National Park Service and to all the
18 witnesses that provided testimony I just want
19 to say thank you. It was very, very helpful.
20 I appreciate your patience and your tenacity.

21 And if there are no other issues
22 with this application, I think that we can

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1 draw this to a close.

2 Ms. Bailey, do we have anything
3 other?

4 MS. BAILEY: At 8:17, Mr. Chairman,
5 absolutely not.

6 BZA VICE CHAIR DETTMAN: Well, at
7 8:17 I will say I think we'll stand adjourned.

8 (Whereupon, at 8:17 p.m. the P.M.
9 Session of the Public Hearing was adjourned.)
10
11
12

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