

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

APRIL 1, 2008

+ + + + +

The Regular Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 1:00 p.m., Ruthanne G. Miller, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

- RUTHANNE G. MILLER, Chairperson
- MARC D. LOUD, Vice Chairman
- MARY OATES WALKER, Board Member
- SHANE L. DETTMAN, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

- MICHAEL G. TURNBULL, FAIA, Commissioner (OAC)

OFFICE OF ZONING STAFF PRESENT:

- CLIFFORD MOY, Secretary
- BEVERLEY BAILEY, Sr. Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

LORI MONROE, ESQ.  
SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN  
MAXINE BROWN-ROBERTS

The transcript constitutes the minutes from the Public Hearing held on April 1, 2008.

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1

2

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

3

1:35 p.m.

4

CHAIRPERSON MILLER: Good

5

afternoon, ladies and gentlemen. This hearing

6

will please come to order. This is the April

7

1, 2008 public hearing of the Board of Zoning

8

Adjustment of the District of Columbia. My

9

name is Ruthanne Miller. I'm the Chair of the

10

BZA.

11

To my right is Mr. Michael

12

Turnbull representing the Zoning Commission on

13

the BZA. To my left is May Oates Walker on

14

the Board and Mr. Shane Dettman who represents

15

NCPC on the Board. Next to Mr. Dettman is

16

Sherry Glazer. She is with the Office of

17

Attorney General, and Ms. Beverley Bailey who

18

is with the Office of Zoning. I expect that

19

Mr. Clifford Moy will be joining us shortly

20

and he's with the Office of Zoning.

21

Copies of today's hearing agenda

22

are available to you and are located to my

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1 left in the wall bin near the door. Please be  
2 aware that this proceeding is being recorded  
3 by a court 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 your microphone off so that your  
12 microphone is no longer picking up sound or  
13 background noises.

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

1 exceptions and variances is as follows: (1)  
2 Statement and witnesses of the applicant; (2)  
3 Government reports including Office of  
4 Planning, Department of Public Works, DDOT,  
5 etc.; (3) Report of the Advisory Neighborhood  
6 Commission; (4) Parties or persons in support;  
7 (5) Parties or persons in opposition; (6)  
8 Closing remarks by the applicant.

9 Pursuant to sections 3117.4 and  
10 3117.5 of the Zoning Regulations the following  
11 time constraints will be maintained. The  
12 applicant, persons and parties, except an ANC  
13 in support, including witnesses, 60 minutes  
14 collectively. Persons and parties except an  
15 ANC in opposition including witnesses, 60  
16 minutes collectively. Individuals, three  
17 minutes.

18 These time restraints do not  
19 include cross examination and/or questions  
20 from the Board. Cross examination of  
21 witnesses is permitted by the applicant or  
22 parties. The ANC within which the property is

1 located is automatically a party and a special  
2 exception or variance case. Nothing prohibits  
3 the Board from placing reasonable restrictions  
4 on cross examination including time limits and  
5 limitations on the scope of cross examination.

6 The record will be closed at the  
7 conclusion of each case except for any  
8 materials specifically requested by the Board.  
9 The Board and the staff will specify at the  
10 end of the hearing exactly what is expected  
11 and the date when the persons must submit the  
12 evidence to the Office of Zoning. After the  
13 record is closed no other information will be  
14 accepted by the Board.

15 The Sunshine Act requires that all  
16 public hearings on each case be held in the  
17 open and before the public. The Board may  
18 consistent with its rules of procedure and the  
19 Sunshine Act enter into executive session  
20 during or after the public hearing on a case  
21 for the purposes of reviewing the record  
22 and/or deliberating on a case.

1           The decision of the Board in  
2           contested cases must be based exclusively on  
3           the public record. To avoid any appearance to  
4           the contrary the Board request that persons  
5           present not engage the members of the Board in  
6           conversation. Please turn off all beepers and  
7           cell phones at this time so as not to disrupt  
8           the proceeding. The Board will make every  
9           effort to conclude the public hearing as near  
10          as possible to 6:00 p.m. If the afternoon  
11          cases are not completed at 6:00, the Board  
12          will assess whether it can complete the  
13          pending case or cases remaining on the agenda.

14                 The Board will now consider any  
15          preliminary matters. Preliminary matters are  
16          those which relate to whether a case will or  
17          should be heard today such as request for a  
18          continuance, postponement, or withdrawal, or  
19          whether proper and adequate notice of the  
20          hearing has been given.

21                         If you are not prepared to go  
22          forward with a case today, or if you believe

1 that the Board should not proceed, now is the  
2 time to raise such a matter.

3 Does the staff have any  
4 preliminary matters?

5 MS. BAILEY: Madam Chair, members  
6 of the Board, to everyone, good afternoon.  
7 Staff does not.

8 CHAIRPERSON MILLER: Excuse me.  
9 Would all individuals wishing to testify today  
10 please rise to take the oath and Ms. Bailey  
11 will administer it.

12 MS. BAILEY: Would you please  
13 raise your right hand. Do you solemnly swear  
14 or affirm that the testimony you will be given  
15 this afternoon will be the truth, the whole  
16 truth, and nothing but the truth?

17 WITNESSES: I do.

18 MS. BAILEY: Thank you.

19 CHAIRPERSON MILLER: Ms. Bailey,  
20 then we are ready to proceed with the agenda  
21 for this afternoon.

22 MS. BAILEY: Thank you, Madam

1 Chair. The first case is Application No.  
2 17742 of UNIQUE Learning Center pursuant to 11  
3 DCMR 3104.1, and 3103.2, for a variance from  
4 the court requirements under section 406, and  
5 a special exception under section 209, to  
6 operate a community center in the R-4 District  
7 at premises 1251 through 1253 4th Street,  
8 N.W., Square 523, Lot 858.

9 Is the applicant here?

10 MR. KEVLIN: Thank you. My name  
11 is John Kevlin and my address is 1623 R  
12 Street, N.W. I'm a law clerk with the law  
13 firm of Goulston & Storrs here in Washington.  
14 We have been representing the UNIQUE Learning  
15 Center for the last couple years in this  
16 process of obtaining zoning relief from the  
17 Board.

18 I was going to start by discussing  
19 some of the technical aspects of the project  
20 and the process we have taken to get to this  
21 point. Then I also wanted to have Sherry Wood  
22 here, who is the director of the center, to

1 discuss the programs that they are intending  
2 to run out of the center.

3 CHAIRPERSON MILLER: Okay. before  
4 you launch into that, I just wanted to ask you  
5 one of the areas of relief that you're seeking  
6 is relief from the court requirements.

7 MR. KEVLIN: Yes.

8 CHAIRPERSON MILLER: Was there  
9 already a nonconforming court in existence  
10 with respect to this project?

11 MR. KEVLIN: Yes.

12 CHAIRPERSON MILLER: Okay. Did  
13 you consider adding relief under 2001.3? Are  
14 you familiar with that provision?

15 MR. KEVLIN: I have the  
16 regulations here but if you have it right  
17 there.

18 CHAIRPERSON MILLER: I do. Okay.  
19 2001 deals with nonconforming structures  
20 devoted to conforming uses and 2001.3 says  
21 that, "Enlargements or additions may be made  
22 to the structure provided (a) the structure

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1 shall conform to percentage of lot occupancy  
2 requirements except as provided in 2001.13,  
3 and (b) the addition or enlargement itself  
4 shall (1) conform to use and structure  
5 requirements, and (2) neither increase or  
6 expand any existing nonconforming aspects of  
7 the structure nor create any new nonconformity  
8 of structure and addition combined."

9 I would ask Office of Planning  
10 their opinion also. If you decide you need  
11 it, you could amend the application here today  
12 because it's not anything that's really new as  
13 far as I can determine that would require  
14 advertising but it's a provision really that  
15 if you went forward with permitting that you  
16 might not have a problem later on if they  
17 said, "You don't comply with 2001.3."

18 MR. KEVLIN: Actually, now that  
19 you remind me, this is a discussion that came  
20 up in our talks with the Zoning  
21 Administrator's Office. One of the issues  
22 that had come up when discussing applying

1 under this section is that there is that  
2 three-story egress that is being built on the  
3 southern part of the lot or added to the  
4 southern part of the building. That is  
5 actually creating a new west side court.

6 Further, that stairwell is also  
7 extending that nonconforming use that was  
8 already on the west side -- excuse me, east  
9 side of the building. The west side one is  
10 the one that is being created. And the new  
11 third floor on the southern half of the  
12 building is also extending it up, if you will.  
13 We had discussed that with the Zoning  
14 Administrator's office and they recommended  
15 that we pursue the court variance.

16 CHAIRPERSON MILLER: Right. I'm  
17 not suggesting this be instead of. This is  
18 sometimes in addition. Did you discuss that  
19 or not really?

20 MR. KEVLIN: No.

21 CHAIRPERSON MILLER: Okay. Why  
22 don't we ask the Office of Planning their

1 opinion before we proceed further.

2

3 MR. MORDFIN: Well, I think 2001.3  
4 what they would need to do from what you've  
5 said is request the variance to that and then  
6 if the Board grants the variance to reduce the  
7 court width from the number that they're  
8 requesting, then it's no longer nonconforming  
9 because it's been permitted by the BZA. I  
10 think that's how I would address that. I  
11 would do the variance first for the court  
12 width and then follow that by 2001.3

13 CHAIRPERSON MILLER: Okay. Do you  
14 think it's appropriate to have that relief?

15 MR. MORDFIN: Yes. It is a  
16 nonconforming building because of that court  
17 width. It's a nonconforming court.

18 MEMBER DETTMAN: I'm just  
19 wondering if I can ask one quick question  
20 because it might relate to additional relief  
21 having to be added to the application. I  
22 don't want to get too far into the plans or

1 anything like that but I see you are adding an  
2 elevator for access to the third floor.

3 I'm just wondering if your  
4 elevator is going to require a elevator  
5 override on the roof. I can't tell from the  
6 plans if you have an elevator override on your  
7 roof. The reason why I ask is that the  
8 elevator override would be considered a roof  
9 structure which you would require special  
10 exception relief from 411. Maybe we could get  
11 DCLP's input on this as well.

12 MR. MORDFIN: I have to say I'm  
13 not sure about the technical requirements of  
14 the elevator that is being installed. I don't  
15 know if they have an elevator override or not.  
16 If they do have, they would need relief from  
17 411 also then.

18 MEMBER DETTMAN: I raise the  
19 question because it's a very good project and  
20 I wouldn't want to see them run into an issue  
21 when they go to the Zoning Administrator for  
22 a building permit and this issue raises and

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1 they have to come back.

2 CHAIRPERSON MILLER: I'm just  
3 wondering, though, if it's too speculative at  
4 this point and we don't have a plan that shows  
5 it that we would be approving.

6 COMMISSIONER TURNBULL: Right.  
7 The only thing we have are the elevations  
8 which really don't show anything. If it's a  
9 hydraulic elevator, they probably don't have  
10 anything but it would be something to confirm  
11 for us.

12 MR. KEVLIN: Actually, our  
13 architect is here with us today and she is  
14 confirming it will require an override.

15 CHAIRPERSON MILLER: Do you want  
16 to come forward, please?

17 MS. LAURIE: Good afternoon. My  
18 name is Barbara Laurie. I'm with Devereaux &  
19 Purnell Architects.

20 CHAIRPERSON MILLER: Excuse me.  
21 My fellow Board member --

22 MS. LAURIE: Oh, I need to --

1 CHAIRPERSON MILLER: Yes. That's  
2 exactly what she was saying. Yes.

3 MS. BAILEY: Do you solemnly swear  
4 or affirm that the testimony you are about to  
5 give is the truth, the whole truth, and  
6 nothing but the truth?

7 MS. LAURIE: Yes, I do.

8 MS. BAILEY: Thank you.

9 MS. LAURIE: Again, Barbara  
10 Laurie, Devereaux & Purnell Architects. Yes,  
11 we would be adding this elevator. It would be  
12 a hydraulic elevator. The intention is that  
13 it is on the north side of the building. It's  
14 against the sort of alley way, not on the face  
15 of the building.

16 That was the intention for  
17 creating sort of a setback from the perimeter  
18 edge. We are allowed to have an overrun above  
19 a certain height given the fact that it's  
20 setback. That's the intention.

21 MEMBER DETTMAN: Well, 411 says  
22 that regardless of where the overrun is you

1 have to be setback but 411.11 says that you  
2 can get relief from that as a special  
3 exception. It looks like in your plan, your  
4 third-floor plan, your second-floor plan, that  
5 your elevator is sort of against the existing  
6 court wall.

7 If you're saying there is going to  
8 be a roof structure, depending upon how high  
9 it is, it looks like it's not appropriately  
10 setback from that court wall. In order to go  
11 forward with the case it might be a good idea  
12 to add in special exception relief from 411.3,  
13 I think it is.

14 MS. LAURIE: I think that's fine.

15 CHAIRPERSON MILLER: Okay. This  
16 is a little bit further removed as far as a  
17 different avenue of relief that would be added  
18 to this case. When I mentioned 2001.3 it was  
19 for the same relief basically. It was  
20 addressed under a different provision because  
21 there was a nonconforming court there.

22 This roof structure, I think, if

1 we were going to add that I have two concerns.  
2 I understand Mr. Dettman's concern is (1) we  
3 don't want to grant you relief and then have  
4 you go back and then be sent back here. On  
5 the other hand, one of my concerns is we need  
6 a plan that shows what relief we are granting.

7 (2) I don't know whether you would  
8 be submitting revised plans or whether Mr.  
9 Dettman and others think that the plans in  
10 here are sufficient. I have a concern about  
11 that. Then my other concern is advertising.  
12 Is this something that wasn't advertised that  
13 the community might be concerned about. If  
14 you just want to address those issues.

15 The other choice is you don't add  
16 it to this case and then you might have to  
17 come back or you do add it and you can address  
18 why you wouldn't need to advertise, why you  
19 don't think you would need to advertise this.

20 MS. LAURIE: I certainly can  
21 provide additional sketches as needed but I'm  
22 not sure about the timing one on the

1 advertising and how that would come into play.

2 CHAIRPERSON MILLER: Okay. Let me  
3 just ask you one question first before we go  
4 into the advertising question. Ms. Walker and  
5 Mr. Dettman were wondering whether this is a  
6 picture of what the roof structure would look  
7 like or no? Is it designated on the plans at  
8 all?

9 MS. LAURIE: No, it's not on the  
10 plans at this time.

11 COMMISSIONER TURNBULL: No, what  
12 you're seeing is basically a chimney.

13 CHAIRPERSON MILLER: Ms. Bailey,  
14 do you have an idea if they were to revise  
15 this application as opposed to coming back at  
16 a later date with a new application what kind  
17 of timing would be involved with that to  
18 advertise it? That was one of the questions.  
19 We addressed whether advertising is required  
20 at all.

21 MS. BAILEY: Madam Chair, I would  
22 think at minimum you would need to notify the

1 ANC and the property owners a couple of weeks.

2 CHAIRPERSON MILLER: Okay. That's  
3 that answer then. Then the other question if  
4 you want to address this you might argue that  
5 you wouldn't need to advertise this because  
6 what you already advertised is primarily use  
7 of the building for a community center or  
8 something like that, that this may not be an  
9 issue.

10 You don't think the community is  
11 concerned about it or I don't know. This is  
12 something we would have to just consider and  
13 then decide what we are going to do here. I  
14 know this is just something Mr. Dettman is  
15 raising to save you all but we have to tread  
16 kind of carefully on this area.

17 MS. LAURIE: Yes. It's a good  
18 point.

19 CHAIRPERSON MILLER: Is the ANC  
20 here? Anybody from the ANC? Okay. You want  
21 to come forward for a minute if you just want  
22 to give an opinion.

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1 MS. PEOPLES: Barbara Peoples,  
2 1252 New Jersey Avenue, N.W.

3 CHAIRPERSON MILLER: I'm sorry.  
4 What was your name again?

5 MS. PEOPLES: Barbara Peoples,  
6 1252 New Jersey Avenue, N.W. This is coming  
7 as a shock about the elevator. I've been to  
8 every meeting and I have not heard anything  
9 about an elevator until now. My property is  
10 right behind there. If the elevator is going  
11 to be on the north side, that's right on the  
12 corner which is the sidewalk. There is no  
13 space to put an elevator shaft or anything  
14 there. That's that sidewalk. The building is  
15 right on the sidewalk if it's going to be on  
16 the north side.

17 COMMISSIONER TURNBULL: It will be  
18 on the north side of the building but inside  
19 the building.

20 MS. PEOPLES: Okay. We just had a  
21 meeting at the neighborhood council and she  
22 never brought up an elevator was going to be

1 in the building at all.

2 COMMISSIONER TURNBULL: Okay.

3 MS. PEOPLES: I have two sets of  
4 plans and each one was changed and now it's a  
5 new change that was never mentioned.

6 CHAIRPERSON MILLER: Okay. Thank  
7 you.

8 Do you want to address that?

9 MR. KEVLIN: Yes. Thank you.

10 CHAIRPERSON MILLER: Could you  
11 remind me what your name is?

12 MR. KEVLIN: Sure. It's John  
13 Kevlin.

14 CHAIRPERSON MILLER: Kevlin.  
15 Okay.

16 MR. KEVLIN: The process we've  
17 taken to get here today with the community  
18 we've been working on this for about a year  
19 now. We initially met with the Historic  
20 Preservation Review Board and had made some  
21 design changes that they had suggested. That  
22 was last April of 2007.

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1           We met initially with the ANC last  
2 June and got preliminary approval unanimous  
3 from the Board subject to review of the  
4 application when we were ready to submit it.

5           Then this past January 2008 we met  
6 with the Mount Vernon Square Neighborhood  
7 Association that Ms. Peoples speaks of. The  
8 plans that you have in front of you today are  
9 the ones that were presented at that meeting  
10 which in the design shows the elevator there.

11           As you had mentioned, also in  
12 terms of the outside shot it shows a flat  
13 roof. These are the plans that were given to  
14 the Neighborhood Association which did approve  
15 our application unanimously. Since then we've  
16 also been to the single member ANC district  
17 and have gotten their support. Just earlier  
18 this month we received the unanimous support  
19 of the ANC-6 commissioners.

20           CHAIRPERSON MILLER: Okay. I  
21 think we have a couple of options and then we  
22 can get into what you're here for today. We

1 can proceed today with what you are prepared  
2 to address in any event. I'm not sure you're  
3 prepared to address roof structures.

4 Let me see if the Board members  
5 think this is a good suggestion as well. We  
6 could continue the case and maybe schedule it  
7 for a hearing just on the roof structure in a  
8 month or so if they want to go forward that  
9 way at which time they could file the revised  
10 plans with the Board and the ANC and then  
11 address it at that point. How does that sound?  
12 I'm just trying to save you, as Mr. Dettman  
13 was saying, from being sent back here several  
14 months down the road.

15 On the other hand, we would like,  
16 first of all, for you to be prepared to  
17 address it and, second of all, for the  
18 community to get the proper notice on it and  
19 opportunity to respond. I don't think it  
20 sounds like something to me that has a great  
21 impact on the community. In any event, we  
22 would cover all t hose bases.

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1                   MR. KEVLIN:   And Sherry has a good  
2                   relationship with all the community groups in  
3                   the area so if we were to go back to them in  
4                   the next month or so to show the roof  
5                   structure, is there an issue with the notice  
6                   of the nearby properties if we were to send  
7                   out this revised application?  Would it be  
8                   possible for us to appear again before the  
9                   Board in a month or so?

10                   CHAIRPERSON MILLER:  No, that's  
11                   not a problem.  I think we just have to work  
12                   out logistically.  Maybe either Mr. Moy or Ms.  
13                   Bailey can help me out here as to what they  
14                   would need to do for this kind of amendment.  
15                   Would we need to be sending the notices again  
16                   to the people within 200 feet or not?

17                   MS. BAILEY:  Madam Chair, I would  
18                   suggest -- Mr. Moy, please if you would like  
19                   to add.  I would suggest that the ANC be  
20                   notified.  That's No. 1.  Then the application  
21                   is amended and we do send the notice to  
22                   property owners within 200 feet of the

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1 property if the applicant would provide us  
2 with that information. Of if they choose to  
3 send it out, just certify to us that it has  
4 been done.

5 CHAIRPERSON MILLER: Do they have  
6 to post again as well?

7 MS. BAILEY: Is there a preference  
8 for posting? Would the Board like for it to  
9 be posted?

10 CHAIRPERSON MILLER: I'm just kind  
11 of inquiring whether you all have an opinion  
12 whether that's necessary.

13 MS. BAILEY: I would suggest to go  
14 the entire way.

15 MR. MOY: Just to weigh in, Madam  
16 Chair, I think it would be consistent in our  
17 advertisement that. Certainly it's an easy  
18 matter to repost on site. I think certainly  
19 this is a public hearing so I think we --  
20 there is also a public announcement as well in  
21 terms of the applicant making an amendment to  
22 his application.

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1                   CHAIRPERSON MILLER: So when we  
2 get to the end of the hearing we may go over  
3 this again or you could speak with Mr. Moy  
4 afterwards. Actually I think it's a good  
5 idea, too, if you have good relations with the  
6 community you don't want to jeopardize them at  
7 this point over this type of issue.

8                   MR. KEVLIN: We would be perfectly  
9 happy to repost on the building. That would  
10 not be any extra burden.

11                   CHAIRPERSON MILLER: Okay. Great.  
12 All right. I guess you can take a seat again  
13 unless you are going to be testifying. Okay.  
14 You can proceed with the substance of the case  
15 you were planning on presenting.

16                   MR. KEVLIN: Great. Thank you.  
17 We are looking for zoning relief at our  
18 property at 1251 to 1253 4th Street, N.W.  
19 Currently it is an unoccupied mixed-use  
20 building but the same type of design as the  
21 rowhouses in the area, long and narrow.

22                   It's currently in two sections.

1 There's a northern section that is three  
2 stories and there's a southern section that's  
3 two stories. What we are proposing is to  
4 increase the southern half to three stories,  
5 add a third story, and also add a three-story  
6 staircase for egress on the southern side of  
7 the building.

8 We are applying for a special  
9 exception for the use of the building as a  
10 community center. I'll have Sherry speak to  
11 the programs that we are intending on running  
12 out of there in a moment. We are also  
13 applying for an area variance which is also  
14 gone over in the application and we would be  
15 more than happy to answer any questions you  
16 have regarding that. I was going to go over  
17 the process to where we go to today but I have  
18 already done that but feel free to please ask  
19 any questions if there are any.

20 Would you like to speak to the  
21 program, Sherry?

22 MS. WOODS: Yes. My name is

1 Sherry Woods. I live at 115 S Street, N.W. in  
2 Washington, D.C. I am the Director of One  
3 Ministries' UNIQUE Learning Center. The  
4 program has been in existence there on New  
5 Jersey Avenue near Dunbar High School for 25  
6 years. I have actually been the director  
7 through its duration.

8 The property that we have  
9 purchased is intended to be a permanent home  
10 for what we are providing for kids after  
11 school hours. The children that we're serving  
12 are coming primarily from the neighborhood  
13 schools. The 24 families that we serve, most  
14 of them are single-parent households.

15 We are helping to provide academic  
16 enrichment and recreational cultural  
17 development and also moral guidance for the  
18 kids that attend our program. We have a  
19 tutorial aspect to what we do. We have Bible  
20 study. We've got a computer lab, book club,  
21 a variety of different things that we are  
22 providing for the kids after school.

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1 CHAIRPERSON MILLER: From what  
2 I've read in the file it sounds like you've  
3 done a wonderful job and you run this program  
4 that is greatly appreciated in the community.

5 MS. WOODS: Thank you.

6 CHAIRPERSON MILLER: I just want  
7 to ask you are you operating under any BZA  
8 order for where you are? Are you operating as  
9 a community center now?

10 MS. WOODS: No. Right now we are  
11 sort of homeless so to speak. We use space at  
12 Immaculate Conception Catholic Church one  
13 night a week to provide the meal and tutoring  
14 for the kids. Then we are using space in 3rd  
15 Street Church of God's sunday school building  
16 during the after-school hours.

17 CHAIRPERSON MILLER: And I think  
18 you said you were going to limit the  
19 enrollment to 40 students. Can you explain  
20 why that is the right number?

21 MS. WOODS: It's the right number  
22 as of this point because we really like to

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1 work with our kids at a very intimate level.  
2 We visit their schools. We know their  
3 families, the parents. We are aware of even  
4 the other outside things that they are doing  
5 besides the center.

6 We feel that in order to really  
7 effectively continue to meet their needs and  
8 ensure their success that a smaller number is  
9 what works for us. The new building would  
10 provide us opportunity to have a greater  
11 impact on families' lives of the students.

12 In other words, having various  
13 classes and things for the parents of the  
14 children who are attending our program. If we  
15 can impact the home at that level, we believe  
16 that will continue to improve the quality of  
17 their lives.

18 CHAIRPERSON MILLER: How many  
19 staff do you have?

20 MS. WOODS: We have three right  
21 now that are full-time and one part-time  
22 staff.

1                   CHAIRPERSON MILLER: Okay. so all  
2 this time that you've been serving the  
3 community you've been in other people's  
4 property basically. This is your first time  
5 on your own.

6                   MS. WOODS: Yes.

7                   CHAIRPERSON MILLER: Okay. Other  
8 questions?

9                   MEMBER DETTMAN: I noticed in the  
10 record looking at the HPRB report they make a  
11 recommendation about something to do with the  
12 parking lot and not to provide parking which  
13 I don't think you are required to do because  
14 you are a contributing structure in an  
15 historic district.

16                   HPRB actually recommends that you  
17 investigate sort of subdividing this property  
18 and developing the other piece of it for  
19 residential uses. Could you just sort of  
20 address if you saw that and what do you think  
21 of that?

22                   MS. WOODS: We haven't explored

1 that further. We did have a discussion with  
2 the Historic Preservation Board and they  
3 actually opted, if I remember this correctly,  
4 to leave the parking piece to you guys, to the  
5 Zoning Board.

6 We do have a 15-passenger van that  
7 we transport the kids home in after school and  
8 use it for trips. Our staff does need  
9 parking. On Tuesday evenings is our tutorial  
10 night and that is when our volunteers come in  
11 to meet one-on-one with the kids and provide  
12 tutoring.

13 Some of those tutors would also  
14 need parking and, in turn, they wind up  
15 parking in residential spaces which, of  
16 course, isn't going to go over well with the  
17 community. Over all keeping the space, the  
18 lot for us, makes sense so that we are not  
19 occupying residential parking space.

20 MEMBER DETTMAN: It looks to me  
21 you are proposing 10 spaces. I noticed in  
22 even DCOP's report they say that the

1 requirement is one space for every 600 square  
2 feet which I actually think it's every 2,000  
3 square feet. What I think I'm hearing is that  
4 you've looked at it and there is a need to  
5 provide 10 spaces. You are not providing 10  
6 just because that is the requirement.

7 MS. WOODS: No.

8 MEMBER WALKER: How many tutors do  
9 you have on your tutorial evening?

10 MS. WOODS: We have just about an  
11 equal number of tutors. Right now there are  
12 about 35. Many of them do actually Metro.  
13 They use the Mount Vernon Square Yellow and  
14 Green line. If they work in the District they  
15 take Metro in and come to us that way. A few  
16 of them drive.

17 I would estimate that 10 to maybe  
18 15 at the most actually drive. The rest are  
19 Metroing from their respective offices and  
20 work places. Some car pool and that sort of  
21 thing. That is just one night a week. Let me  
22 make sure I'm clear on that. That is just

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1 Tuesday evenings that takes place.

2 CHAIRPERSON MILLER: So basically,  
3 if I understand this correctly, your schedule  
4 is going to be the same as it has always been  
5 and the same amount of students and staff as  
6 you have now been operating with but just in  
7 a different location. Correct?

8 MS. WOODS: That's correct.

9 CHAIRPERSON MILLER: Sometimes in  
10 orders governing community centers or child  
11 development centers or whatever we sometimes  
12 put in the order the days of the week that  
13 you'll be operating or the times. If your  
14 hours of operation are 9:00 to something all  
15 the time and that's not going to change, we  
16 could consider putting that in as a condition  
17 in the order.

18 I just wanted to throw that out  
19 for discussion and then also to the Office of  
20 Planning and the Board. If you have any  
21 concerns with some of those basics and want to  
22 reiterate what they are Monday through Friday

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1 and these hours Tuesdays or one night a week,  
2 what it does it gives the community the  
3 specifics of this is how this organization is  
4 going to be operating. Do you want to address  
5 that? Do you know what I'm saying?

6 MS. WOODS: Sure. Certainly. I'm  
7 happy to. During the school year we operate  
8 Monday through Friday. The evening times that  
9 we conclude vary. Tuesday night goes a little  
10 later because we serve the kids dinner first  
11 and then they do their tutoring session. That  
12 usually wraps up at 8:30.

13 The other nights of the week,  
14 Monday, Wednesday, Thursday, Friday, we wrap  
15 up by 7:30. The only time there is a schedule  
16 change is actually for our summer program. We  
17 run a very intensive summer program for our  
18 teenagers and grade school kids. That  
19 actually operates Monday through Wednesday  
20 from 9:00 to 5:00.

21 Then Thursdays the kids come in to  
22 prepare for an all-day fun day so we are

1 actually not even on campus on Thursdays. The  
2 kids meet here and then we are gone for the  
3 day. Fridays during the summertime we are  
4 actually closed. That is our schedule now.

5 Having a new building that may  
6 allow us to be able to actually have the kids  
7 Monday through Thursday and then Friday would  
8 be the day that we are off campus having our  
9 fun day. Summertime is the only time where  
10 the schedule changes and then it's kind of a  
11 traditional 9:00 to 5:00 sort of thing during  
12 the summer months. No evening hours in the  
13 summer.

14 COMMISSIONER TURNBULL: What time  
15 do you start during the normal year?

16 MS. WOODS: During the after-  
17 school time?

18 COMMISSIONER TURNBULL: Yes.

19 MS. WOODS: Our staff is in place  
20 to receive the kids by 3:00. Most children  
21 begin to arrive about 3:30.

22 COMMISSIONER TURNBULL: Okay.

1 CHAIRPERSON MILLER: So what's  
2 going to be happening at the center before  
3 then? Will there be staff there? Will it be  
4 used?

5 MS. WOODS: Staff will be there  
6 prepping, meeting and prepping for the day for  
7 the activities and things that we have for the  
8 kids.

9 CHAIRPERSON MILLER: What time  
10 does that begin?

11 MS. WOODS: We don't have a place  
12 so --

13 CHAIRPERSON MILLER: I know.  
14 That's my concern here because I don't want to  
15 suggest necessarily -- I want to see how this  
16 works -- that we pin you into a schedule that  
17 actually you haven't thought through yet.  
18 We're not trying to do that. We're just  
19 trying to --

20 MS. WOODS: I understand.

21 CHAIRPERSON MILLER: If there is  
22 some predictability that we can put in the

1 order, we might do that. I mean, sounds like  
2 you have a stellar record in general of  
3 providing services to the community without  
4 people's concern, although I haven't heard  
5 unless there are people in the audience who  
6 might want to testify otherwise. That's all.  
7 I don't want you to lock yourself into  
8 something wrong.

9 MS. WOODS: No, no. I understand.

10 CHAIRPERSON MILLER: For instance,  
11 if we said 3:30 to 8:30 but then, in fact, are  
12 other people going to be using the building  
13 earlier we wouldn't want to preclude that in  
14 our order.

15 MS. WOODS: No, and I would expect  
16 that right now we are all having to work from  
17 home because we don't have an office. My day  
18 for me personally I would probably be in there  
19 by 10:00 after I drop my own kids off at  
20 school and get in.

21 But then that may fluctuate based  
22 on who we are meeting with that day and what

1 needs to be done. I would say that other  
2 staff probably by 1:00 in the afternoon would  
3 be there. Occasionally there may be a staffer  
4 that stays after the time that the kids are  
5 dismissed in the evening to prep.

6 I try to let my staff kind of  
7 determine that as long as they are getting  
8 done what needs to be done for us. Some do  
9 better staying later in the evening and  
10 getting a couple of things done after the kids  
11 are gone and others like to come in earlier.  
12 That will kind of fluctuate. But there won't  
13 be any obscure odd hours.

14 CHAIRPERSON MILLER: Okay. So  
15 basically the students are at the property  
16 Monday through Friday 3:30 to 7:30 except on  
17 Tuesdays they are there until 8:30?

18 MS. WOODS: That's correct.

19 CHAIRPERSON MILLER: Okay. And  
20 summer is more of a Monday through Friday 9:00  
21 to 5:00. You may be playing with some of  
22 those days whether they are there or not

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1       there.

2                   MS. WOODS: Right.

3                   CHAIRPERSON MILLER: Do I  
4 understand correctly, though, that the  
5 enrollment figure is not going to change or  
6 might that change, the 40 students?

7                   MS. WOODS: Right now we don't  
8 anticipate changing that. We've had to  
9 actually cut back on some of the programs we  
10 are providing for the kids because of our  
11 space issue. As the director I really want  
12 like two years at least to just manage this  
13 and get our things back.

14                   Some things we've had to recess  
15 and we want to bring those back in again now  
16 that we'll have potentially the space to be  
17 able to do it. Again, for us we want to be  
18 able to do something more with particularly  
19 the moms.

20                   As I said, of the 24 families we  
21 serve 21 of them are single parents, single-  
22 parent households, so we want to be able to

1 more effectively reach out to the moms if it's  
2 an exercise class, if it's a computer class,  
3 something like that.

4 Those things for moms that are in  
5 transition aren't working, that may take place  
6 during the early afternoon hours before  
7 children arrive, that sort of thing. We  
8 really see it as an opportunity more to impact  
9 in a deeper way the families that we are  
10 serving.

11 CHAIRPERSON MILLER: Okay. Thank  
12 you. Others? Okay. There is a hand up in  
13 the audience and I'm not sure if you were here  
14 when I read the rules of procedure here but  
15 just in case you missed it, you will be called  
16 upon later.

17 Okay. Is there more you want to  
18 add right now with respect to the special  
19 exception relief for the community center?

20 MR. KEVLIN: I don't think there  
21 is anything we would like to add in addition  
22 to what we have written in our burden of proof

1 statement. We are, of course, available for  
2 any other questions you have.

3 CHAIRPERSON MILLER: Okay. I  
4 don't see any other questions coming. How  
5 about the variance test?

6 MR. KEVLIN: Yes.

7 CHAIRPERSON MILLER: Would you  
8 like to address that now?

9 MR. KEVLIN: Sure.

10 CHAIRPERSON MILLER: Okay.

11 MR. KEVLIN: According to the  
12 regulations there needs to be -- for an open  
13 court there must be four inches per foot of  
14 height. Calculating that for our three-story  
15 building it would be a requirement of  
16 somewhere around 11'3" wide.

17 We have a westside court that is  
18 being created and that is going to be 8'6".  
19 We have an eastside court that's going to be  
20 extended both southerly and up. That has an  
21 approximate width of four feet.

22 It is our belief that having to

1       comply with the open court requirements would  
2       be undue hardship upon the UNIQUE Learning  
3       Center either having to extend that wall to  
4       the property line thereby removing the court  
5       completely or, you know, encroaching in on the  
6       building thereby increasing the court width to  
7       what is required by the Zoning Regulations.

8                   CHAIRPERSON MILLER:  You want to  
9       address the first prong, that there is  
10      something exceptional or unique about the  
11      property that leads to that practical  
12      difficulty?

13                  MR. KEVLIN:  Yes.  First, the  
14      building is shaped as it is.  When UNIQUE  
15      Learning Center purchased the building that  
16      was the shape it was in.  I think the building  
17      is a good 50 years old or so.  It is in a  
18      nonconforming use right now.

19                  CHAIRPERSON MILLER:  It's historic  
20      as well.  Is it not?

21                  MR. KEVLIN:  Yes.  In the historic  
22      neighborhood.

1                   CHAIRPERSON MILLER: Oh, okay.  
2                   Are you limited in what you can do because of  
3                   that or no?

4                   MR. KEVLIN: I don't believe so.  
5                   Not in terms of -- I mean, other than what the  
6                   Historic Preservation Board brought up in  
7                   terms of some of the aesthetic aspects of it.  
8                   According to them we're not limited.

9                   The third floor egress as required  
10                  by, I believe, the building permits now --  
11                  requirements now for a building permit, we are  
12                  required to place that on the southern edge of  
13                  the building or to provide some sort of egress  
14                  in that way.

15                  CHAIRPERSON MILLER: Okay. Others  
16                  may be following this differently. You  
17                  already have a building that is existing and  
18                  it is already nonconforming because it was in  
19                  existence before the Zoning Regulations. That  
20                  to a certain extent can be characterized as an  
21                  exceptional situation. At least on one side  
22                  the court is already -- nonconforming is

1 already there.

2 MR. KEVLIN: Yes.

3 CHAIRPERSON MILLER: If you were  
4 to make it conforming, were you saying you  
5 would have to demolish part of the building?

6 MR. KEVLIN: Either encroach in  
7 and demolish a portion of the building to  
8 increase it to 11 feet and change, 11'3", or  
9 fill in that court with building there, both  
10 of which I gather would be quite costly.

11 CHAIRPERSON MILLER: Right. Okay.  
12 And the new court, can you explain that one?  
13 You still have the existing building so what  
14 is the practical difficulty of complying with  
15 the regulations with respect to avoid that new  
16 court?

17 MR. KEVLIN: Well, I have to admit  
18 that I'm not an expert on the design or the  
19 proposed plan of this building. I can only  
20 defer to the folks that have planned the  
21 staircase. The staircase was planned in a way  
22 to provide that egress to the building and

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1 that is the design that they had come up with.

2 MS. WOODS: I can address that to  
3 a degree if I may. Certainly Barbara Laurie  
4 can return and address it, our architect. For  
5 safety reasons we need an egress that the  
6 children and staff and so forth can exit the  
7 building safely so that addition is just the  
8 stairwell. It won't be used for anything  
9 else. It won't be spaced for anything else.

10 There is a very rickety iron fire  
11 escape that is attached to the rear of the  
12 building. The community has asked us to  
13 remove that and not restore it whereby it  
14 could be used as a safe egress. We are  
15 complying with that request so that addition  
16 -- the addition for the egress is to provide  
17 safety in the event of an emergency exit.

18 CHAIRPERSON MILLER: Maybe Ms.  
19 Laurie wants to come back up. I'm not an  
20 architect so that is why I ask these kind of  
21 questions. Is the court a result of the new  
22 stairway and you have to have a new stairway?

1 MS. LAURIE: Yes. It's for egress  
2 reasons.

3 CHAIRPERSON MILLER: How is that  
4 related to the creation of a court?

5 MS. LAURIE: The additional stair  
6 wanted to be on the far end where it's located  
7 right now just in terms of distances. In  
8 terms of it being an existing structure and  
9 doing an addition it wanted to be setback from  
10 -- it wanted to be clearly an addition as  
11 opposed to a continuance at the face of that  
12 existing building. That really is more an  
13 historic preservation issue than an egress  
14 issue.

15 CHAIRPERSON MILLER: So is that  
16 court being created in part because of how you  
17 did the addition in response to HPRB's  
18 recommendations?

19 MS. LAURIE: Actually, the initial  
20 design idea has to do with creating sort of an  
21 outdoor space that is usable and is visible,  
22 but it also worked in concert with the idea

1 that this thing wanted to -- that the stair  
2 wanted to be not at the face of the existing  
3 structure so it sort of worked together.

4 COMMISSIONER TURNBULL: So is that  
5 why you didn't turn it sideways?

6 MS. LAURIE: Correct.

7 COMMISSIONER TURNBULL: I mean, it  
8 would have worked sideways?

9 MS. LAURIE: It could have, yes.

10 MS. WOODS: If I may add to that.  
11 We had actually several discussions with the  
12 Historic Board and then I had a few  
13 discussions with the Mount Vernon Square  
14 Neighborhood Association in reference to the  
15 egress. The neighborhood was not in favor of  
16 an open egress. There were obvious concerns  
17 about people accessing it and camping out  
18 there, what have you.

19 The bricked-in egress was, in  
20 fact, in the end a compromise to provide the  
21 safety that we needed but also security for  
22 the community to not feel like there was not

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1 this new stairway that would be good place to  
2 hang out or what have you. And obviously  
3 security for our own building.

4 MEMBER DETTMAN: I noticed in the  
5 HPRB report that they state that the stair  
6 tower would not have any windows. In the  
7 plans that you have in the record here it  
8 looks like there are windows on the rear and  
9 the west elevation. Have the plans changed at  
10 all or is that just a misprint?

11 MS. LAURIE: Actually, the windows  
12 were added in keeping with the rest of the  
13 building and that was presented to HPRB and  
14 they were fine with that.

15 MS. WOODS: Also, Mr. Dettman, in  
16 reference to your question, Mount Vernon  
17 Square also several of the neighbors expressed  
18 a concern about just this solid brick addition  
19 and they wanted windows. They wanted it to  
20 look more like it was part of the whole  
21 building and not just this brick structure  
22 that they had to look at. It was also to

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1 respond to their concern.

2 CHAIRPERSON MILLER: Since it's  
3 quiet up here I'm going to ask just a follow-  
4 up question with respect to HPRB staff report  
5 and recommendation. I'm looking at what I  
6 think is attached to Office of Planning --  
7 well, I'm not sure if it was attached. It's  
8 our Exhibit No. 11, April 26, 2007.

9 It's a meeting date and they say  
10 this, "The use of potentially developable lots  
11 in an historic district for what will appear  
12 as a large paved parking area is not an  
13 appropriate one." I think this may be what  
14 Mr. Dettman mentioned earlier. Then they say,  
15 "A smaller play area could be located adjacent  
16 to the building which would allow for the rear  
17 portion of the site to be used for residential  
18 development."

19 I think you did bring that up  
20 before but I'm just bringing it up right now  
21 as a question to you. I just might ask the  
22 Office of Planning just so we can understand

1 what happened with it before HPRB. Is that  
2 just something that was an idea that they had  
3 but not necessarily something that you needed  
4 to do in order to get their approval of the  
5 project?

6 MS. LAURIE: Yes, we had  
7 discussions about it but when presented with  
8 the plan that you're looking at there was no  
9 further discussion about it.

10 CHAIRPERSON MILLER: Okay. Any  
11 other questions? Did you want to add  
12 something, Mr. Mordfin?

13 MR. MORDFIN: Yes. What you are  
14 referring to as the HPRB report is actually  
15 the HPO report, the Historic Preservation  
16 Office, the recommendation to HPRB. They did  
17 not adopt the recommendations of the Historic  
18 Preservation staff. What they did was they  
19 adopted what the applicant presented to them  
20 and did not take HPO's recommendation. The  
21 recommendations at the end on the second page  
22 were not adopted by the Board.

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1 CHAIRPERSON MILLER: Thank you.

2 MS. LAURIE: Is it possible for me  
3 to make a clarification?

4 CHAIRPERSON MILLER: Sure.

5 MS. LAURIE: Back to the roof  
6 structure issue, I just want to make it clear  
7 that this overrun is not a full height  
8 overrun. It's just within the four feet  
9 because we are not actually taking the  
10 elevator to the roof. I just wanted to say  
11 that we are sort of in the bounds of 411 for  
12 a maximum height of four feet. I just wanted  
13 to make that clarification that we are not  
14 going up like another 10 or 12 feet.

15 CHAIRPERSON MILLER: You know  
16 what? You may decide this earlier but I think  
17 the whole thing with the roof structure, I was  
18 going to say you could certainly have the  
19 opportunity to evaluate this outside of the  
20 hearing and then determine whether or not you  
21 want to amend the application further.

22 If you know by the end of the

1 hearing today that you don't, you can let us  
2 know. Whatever happens at the end of this  
3 hearing, you wouldn't be compelled to pursue  
4 that if you determined later that it wasn't  
5 required.

6 MS. LAURIE: Okay.

7 MEMBER DETTMAN: I think what I  
8 heard is that you are saying that the elevator  
9 override will not exceed four feet.

10 MS. LAURIE: That's correct.

11 MEMBER DETTMAN: Okay. 411.17  
12 states that roof structures less than four  
13 feet in height above a roof or parapet wall  
14 shall not be subject to the requirements of  
15 this section so special exception relief is  
16 not even required.

17 CHAIRPERSON MILLER: Okay.

18 MEMBER DETTMAN: Thank you.

19 CHAIRPERSON MILLER: You can let  
20 me know. If that is the last word on it, you  
21 know, then we can complete the hearing today.

22 MS. LAURIE: That's the last word.

1 CHAIRPERSON MILLER: Okay. Good.  
2 All right. So we are definitive on that.  
3 Okay.

4 COMMISSIONER TURNBULL: So if you  
5 could make sure it's not above four feet,  
6 you're free.

7 MR. MOY: Madam Chair, if that  
8 turns out to be the case, then certainly the  
9 Board would need revised drawings of the roof  
10 top, roof plan drawings.

11 MS. LAURIE: And we'll provide  
12 those.

13 CHAIRPERSON MILLER: Okay.  
14 Anything else? Do you want to address the  
15 third prong now or in your closing argument?  
16 There is no detriment.

17 MR. KEVLIN: I have nothing more  
18 to add than what is in our burden of proof  
19 statement right here so I will conclude with  
20 that. Thanks.

21 CHAIRPERSON MILLER: If there  
22 aren't any further questions, we can turn now

1 to the Office of Planning.

2 MR. MORDFIN: Good afternoon. I'm  
3 Steven Mordfin with the Office of Planning.  
4 The subject application is in conformance with  
5 the provisions of section 209 for a community  
6 center in that UNIQUE Learning Center is  
7 registered as a nonprofit organization. No  
8 articles will be offered for sale.

9 It will not become objectionable  
10 because of noise or traffic because sufficient  
11 off-street parking will be provided and the  
12 entrance to the building will be located away  
13 from the residences on N Street and those that  
14 are located farther south of 4th Street and it  
15 will serve Shaw residents only.

16 The subject application also  
17 conforms to the criteria for the granting of  
18 a variance to the minimum court provisions in  
19 that the subject property is unique as a  
20 result of its shape and the location of the  
21 existing building on the site.

22 The uniqueness limits the ability

1 of the applicant to modernize and reuse the  
2 building due to the configuration of the  
3 existing improvements and the uniqueness in  
4 combination with the Zoning Regulations  
5 results in a peculiar and exceptional  
6 practical difficulty to the applicant.

7 Therefore, the Office of Planning  
8 recommends that the Board approve the special  
9 exception variance request as submitted by the  
10 applicant. Thank you.

11 CHAIRPERSON MILLER: Thank you. I  
12 have a question for you. At one point I was  
13 exploring whether or not we might want to  
14 impose any conditions on this center in the  
15 order with respect to hours of operation, days  
16 of the week, enrollment, things like that. I  
17 mean, I think it's a real toss-up in this  
18 case.

19 On the one hand it's good notice  
20 to the community as to the parameters that an  
21 organization might be operating under. On the  
22 other hands, they are new and they are still

1 trying to figure out the best schedule to  
2 serve the community.

3 I am waiting to hear if there is  
4 any opposition in this case from neighbors --  
5 we don't have any from the ANC I don't believe  
6 -- with respect to concerns on impact on the  
7 neighborhood.

8 That being said, I'm wondering if  
9 you have an opinion. I don't think you  
10 recommended conditions in the Office of  
11 Planning Report. Then, of course, terms  
12 sometimes we do. If you have an opinion on  
13 that.

14 MR. MORDFIN: The applicant  
15 limited itself to the number of people that it  
16 can serve at once which is a maximum of 40  
17 students. By approving it as they applied for  
18 it, that limitation is there so they can't  
19 serve more than 40 without coming back to the  
20 Board.

21 The hours of operation I don't  
22 believe they included in their application.

1 Sometimes with these similar type of things,  
2 we've done it with daycare centers, we've done  
3 it with schools, we say between this hour and  
4 that hour and these days and then we have them  
5 come back. We've also done it with other uses  
6 where we are not sure.

7 If the applicant hasn't been  
8 proven to everyone to know they will follow  
9 them, this gives the community the opportunity  
10 to come back in however many years and decide  
11 it's appropriate to say, "Hey, they have not  
12 been following this."

13 Or if they have been following it,  
14 sometimes then after that Office of Planning  
15 will recommend no conditions on it, no time  
16 limit because it's been proven that the  
17 applicant will follow all the regulations and  
18 runs it the way -- it just gives the community  
19 a sense that they will be able to come back  
20 again if it turns out there are detrimental  
21 affects on the community because of the way  
22 it's being run.

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1 I'm not trying to say that the  
2 applicant is not trustworthy but it just gives  
3 the community the sense of -- I can't think of  
4 the right word to use -- assurance that this  
5 won't go too far off in any one direction  
6 without any controls.

7 CHAIRPERSON MILLER: You actually  
8 are going to have an opportunity to ask about  
9 this if you can hold. Can you hold it for a  
10 minute just so we can keep the procedure where  
11 the Board members ask questions and then we  
12 will turn to you for questions.

13 Are there other Board questions?  
14 Yes.

15 COMMISSIONER TURNBULL: Mr.  
16 Mordfin, I wonder if you could just go over  
17 again what you were just talking about earlier  
18 about HPO is separate from the Board and maybe  
19 talk about the parking lot issue a bit.

20 MR. MORDFIN: The Historic  
21 Preservation Office, which is the staff, had  
22 recommended -- they had written a report dated

1 April 26th where they recommended two  
2 conditions at the end, that the Review Board  
3 approve the proposed alterations to the  
4 building and also that they disapprove the use  
5 of the rear part of the site for a parking lot  
6 and direct the applicant to investigate a  
7 disposition of this portion of the site for  
8 residential development.

9 Those were the recommendations  
10 from staff from the Office of Planning. At  
11 the hearing from speaking with the staff  
12 member that was assigned to this case, he said  
13 that they did not adopt their recommendations.  
14 What they did was they approved the plans that  
15 were presented by the applicant.

16 These two conditions that were  
17 recommended by the Office of Planning staff  
18 were not adopted by the Historic Preservation  
19 Review Board and they did approve the parking  
20 lot as shown on the plans that you see before  
21 you.

22 COMMISSIONER TURNBULL: Okay.

1 Thank you. Thank you for clarifying that, Mr.  
2 Mordfin. I just wanted to be sure. We don't  
3 normally get a copy of that final report?

4 MR. MORDFIN: Oft times you get a  
5 copy of the report from the Historic  
6 Preservation -- HPO office. It says on the  
7 top, "Historic Preservation Review Board staff  
8 report recommendations." This is going to  
9 that board.

10 COMMISSIONER TURNBULL: Okay.

11 MR. MORDFIN: I think also you  
12 have HPRB actions dated April 26 that was part  
13 of the application. At the top of the second  
14 page under Mount Vernon Square Historic  
15 District it says, "The staff report  
16 recommending board approval for the proposed  
17 alterations allocating final approval to staff  
18 passed." It doesn't include any of the  
19 conditions that were adopted because none were  
20 adopted as part of it.

21 COMMISSIONER TURNBULL: Okay.

22 Thank you.

1                   CHAIRPERSON MILLER: Just with  
2                   respect to adding the stairway onto the  
3                   building that created the court, can you  
4                   address why there was a practical difficulty  
5                   to comply with the regulations in that case  
6                   necessitating the creation of the court?

7                   MR. MORDFIN: Or the extension of  
8                   the court?

9                   CHAIRPERSON MILLER: Yes.

10                  MR. MORDFIN: The court does exist  
11                  now. What the applicant is doing is providing  
12                  a second stairwell. Right now that building  
13                  has one staircase. This provides the second  
14                  means of escape from the building, the second  
15                  stairwell.

16                  There is a fire escape on the back  
17                  of the building currently which I would  
18                  provide that now. The applicant intends to  
19                  remove that. From discussions with community  
20                  members they did want that fire escape removed  
21                  from the rear of the building. This provides  
22                  an interior second stairwell to the building.

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1                   CHAIRPERSON MILLER: But it  
2                   couldn't have been done in a way to avoid  
3                   extension of the existing court. Is that what  
4                   you're saying?

5                   MR. MORDFIN: I think any way they  
6                   would have designed it because it's so narrow  
7                   at that northern portion of the site they  
8                   would have run into problems with that court  
9                   width. They could not have provided the court  
10                  width as required.

11                  CHAIRPERSON MILLER: How does the  
12                  other court get created?

13                  MR. MORDFIN: The other part is  
14                  where they are building on top of the two-  
15                  story portion. Right now there is a three-  
16                  story portion of the building that is at the  
17                  corner of 4th and N and then behind it is a  
18                  two-story.

19                  What they are going to do is  
20                  increase the height of the two-story to match  
21                  the three story. That is the portion that is  
22                  adjacent to the existing court, an existing

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1 four-foot court on the east side of the  
2 building.

3 CHAIRPERSON MILLER: Okay. Other  
4 questions?

5 You have a question for Office of  
6 Planning, Ms. Woods? I hope you didn't forget  
7 it.

8 MS. WOODS: No, I didn't.

9 CHAIRPERSON MILLER: Okay.

10 MS. WOODS: Thank you. In  
11 relationship to the hours of operation, I  
12 don't have a problem with allowing those for  
13 the community. I don't have any issues there.  
14 In working with kids and serving their needs  
15 there are times when we may stay later with a  
16 couple students to help finish a science  
17 project or something like that.

18 Or if we have a program for the  
19 kids and the parents and it goes beyond 8:30  
20 on a Tuesday night are we looking at having  
21 considerable issues if those kinds of things  
22 happen once in a while? Our programs are very

1 seasonal.

2 Usually the holidays and the  
3 spring we don't have too much in between there  
4 because those are school nights but there are  
5 times when occasionally we are going to  
6 continue to work with a student or a couple of  
7 kids, especially when it's science fair  
8 project season or that sort of thing and they  
9 need the additional support.

10 The best time to give it to them  
11 is once everybody else is out of the building  
12 so we can focus on helping them to get it  
13 done. What I'm hearing about the hours are we  
14 saying we'll be restricted to those? I just  
15 want a clear understanding so my staff  
16 understands.

17 CHAIRPERSON MILLER: We're not  
18 saying anything yet. What I was doing earlier  
19 was exploring and I hear your concerns. That  
20 is to be weighed against whatever concerns we  
21 hear about mitigating potential efforts and  
22 facts which we haven't heard yet. No, I hear

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1 your concerns. That's what I was saying to  
2 the Office of Planning.

3 You're just starting out. You're  
4 not sure of your flexibility. You are serving  
5 the community. You have a very good record.  
6 It may not be necessary. We have to see what  
7 the rest of the Board feels to set forth a  
8 rigid schedule where you may have issues where  
9 you won't be able to use your center because  
10 it's 8:00 instead of 7:30, even though you  
11 have a child there that you're trying to help.  
12 I hear you.

13 MS. WOODS: Okay. Thank you.

14 MR. KEVLIN: Chairwoman Miller,  
15 quick question as well. I want to actually  
16 follow up on where you were going with Mr.  
17 Mordfin. I just want to be clear about what  
18 this rear stairwell is doing on the back lot  
19 because the way I read that in the Zoning  
20 Regulations of a court, that the west side of  
21 that stairwell is creating a court on the  
22 property.

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1 I want to make sure if it is that  
2 we are also speaking to that today as well.  
3 Not just the long and narrow court on the east  
4 side but the new space that is created by the  
5 two walls, one the west wall of the stairwell  
6 and the south wall of the existing building.

7 This was pointed out to us by the  
8 Zoning Administrator's office so I just want  
9 to be clear that we clarify whether or not  
10 that is a court and whether or not we do need  
11 a variance to it.

12 COMMISSIONER TURNBULL: The 8'6"  
13 court.

14 MR. KEVLIN: Exactly.

15 COMMISSIONER TURNBULL: No, I  
16 think you're right. I mean, you are creating  
17 an open court along the property line there.  
18 Mr. Mordfin can probably best address that.

19 MR. MORDFIN: That is an open  
20 court on that side of the property. The other  
21 side is a closed court.

22 COMMISSIONER TURNBULL: I guess

1 that what I was talking about before. You  
2 could have turned the stair sideways and  
3 avoided the court except then you've got the  
4 historical preservation aspect of trying to  
5 separate the stair structure from the existing  
6 structure.

7 CHAIRPERSON MILLER: Okay. Any  
8 other questions for Office of Planning? Do  
9 you have a copy of their report?

10 MR. KEVLIN: Yes.

11 CHAIRPERSON MILLER: Anybody here  
12 from the ANC? Did you want to add anything  
13 before I go on to whether there is anybody  
14 here who wants to testify in support of the  
15 application.

16 MR. KEVLIN: We will still have a  
17 chance to conclude at the end?

18 CHAIRPERSON MILLER: You have the  
19 final word, yes. Okay. Anybody here who  
20 wishes to testify in support of the  
21 application? Anybody here who wishes to  
22 testify in opposition to the application?

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1 Okay. I see one individual.

2 MS. PEOPLES: I'm Barbara Peoples,  
3 1252 New Jersey Avenue. I was unclear on  
4 writing opposed or in favor because I'm  
5 basically in favor of the program. I was  
6 there when she started it. I watched the kids  
7 leave and be there and grow up. I just have  
8 some issues about the new property.

9 One thing is every meeting I've  
10 gone to I've wanted to make it clear and I  
11 have not heard it mentioned, even though it  
12 was on record, that the program should be only  
13 for the kids and the only adults that should  
14 be in that program anytime at all should be  
15 the program workers and the children or the  
16 family members who are attached to the kids.

17 No other people should be in that  
18 program at all. It should only be for this  
19 particular program. I have mentioned that and  
20 have been told, "Okay. We can do that," in  
21 every meeting that I've been to. I would like  
22 that to be reflected in the way you read what

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1 it should be. I would like that to be an  
2 official part of the record.

3 Another thing, does this committee  
4 have anything to do with the lighting that is  
5 going to be around this building now? Right  
6 now it's an abandoned building but once you  
7 build a parking lot.

8 Sherry said she's going to put a  
9 wrought iron fence there but will that be  
10 locked and have lighting so that being on the  
11 back we know who is coming up on that property  
12 because it's about seven houses that's  
13 connected to -- that will be connected to the  
14 back of that property.

15 Anybody can walk up and come into  
16 the backyard. Right now we have wooden fences  
17 but we all know what wooden fences are. We  
18 have a chain link fence so we've been  
19 basically putting locks there and they get  
20 torn down and we put locks there just to try  
21 to give us some security from 4th Street  
22 coming toward New Jersey Avenue. I would like

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1 that to be addressed.

2 At the last neighborhood meeting  
3 it was mentioned when we were sitting and  
4 discussing and it was said that this program  
5 would be the only program in the building. I  
6 believe you said in the meeting, you made a  
7 comment that something about five years and  
8 this purpose could be changed.

9 Is that possible? Do you have to  
10 come back here or to a board to make the  
11 purpose of this program change in that  
12 building? I'm an older woman so I don't think  
13 I'll be around a long enough time but I don't  
14 want that building to be -- the program to be  
15 changed in that building basically because  
16 it's supposed to be for the kids and I have a  
17 lot of history knowing what goes on in the  
18 neighborhood of how different programs work  
19 and who's attached and who's affiliated with  
20 who.

21 I don't want adult programs coming  
22 in that building when no one is watching. As

1 long as I'm alive I'll watch it but when I'm  
2 gone it won't be and that is putting the kids  
3 in a position that I don't want them to be in  
4 because we have a program right down the  
5 street that is sort of affiliated with people  
6 who go there everyday, a daycare, basically a  
7 day center for people who are from any place.

8 Homeless people who go there and  
9 they are there all day. I have to keep track  
10 of that. You know, don't come here in the  
11 beginning of the day without the program open.  
12 Leave out of the neighborhood when the program  
13 is over. I don't want them to be incorporated  
14 in this building at all because it's basically  
15 men with no background checks.

16 They are just homeless men. I  
17 don't want them in that program. I don't want  
18 them in that building. I don't want them  
19 going up those separate steps and going to the  
20 third floor if they decide to move people in  
21 there. I don't want the men around there.  
22 That has been my concern and that is why I

1 keep saying make it only for this program  
2 period.

3 I don't want to be able for them  
4 to come back in two years because of a  
5 loophole that I'm not aware of and change the  
6 purpose of this building. That is my only  
7 problem. The program should be there. Sherry  
8 should run it. It should be there. It will  
9 give us a nice building.

10 I'm sick of looking at the stuff  
11 and cleaning up behind the homeless when they  
12 come up in the back. I'm tired of that.  
13 Every day I have to clean my walkway for my  
14 handicap brother to go down in the wheelchair  
15 because it's filled with feces.

16  
17 She'll take care of that because  
18 it will be a building that people are using.  
19 I'm aware of that. I just don't want anybody  
20 else in that building. That's my concern. I  
21 approve it but if that is not added, I will  
22 keep coming and saying the same thing.

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1                   CHAIRPERSON MILLER: You can stay  
2 there for a minute in case there are some  
3 questions Board members might have. I think  
4 you raised some very legitimate good concerns.  
5 This is an application before us for this  
6 particular community center as described. We  
7 might think about what we want to reference to  
8 with respect to the mission of this center or  
9 something like that.

10                   We'll get to that. I think that  
11 is a very legitimate point. It's not a  
12 community center just for anything. It's this  
13 project that is being presented to us. That  
14 is a good concern. Then we can talk about  
15 lighting and security.

16                   We hear that with respect to  
17 centers like this in general because there is  
18 a period of time when the building is not  
19 occupied, for instance on the weekends and  
20 what is the security going to be and what is  
21 the lighting going to be. Is it going to be  
22 dark, you know. I think those are very good

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1 issues that you raised and we do look at that  
2 in this hearing.

3 Then the other thing, I don't know  
4 whether we talked about this before, a term if  
5 we want to put a term on it. Like, for  
6 instance, I'm going to throw this out and then  
7 the Board will deliberate.

8 For instance, if we had very few  
9 conditions but we had a description of  
10 whatever concerns we are aware of now like,  
11 for instance, we get in the description of  
12 what this center is about and that is what is  
13 going to be there.

14 That addresses your concern that  
15 it's not just for homeless men. I mean, it  
16 can't be. I understand that is a very real  
17 concern of the neighbors. We'll get in  
18 whatever may need to be addressed with respect  
19 to lighting or security issues that we know  
20 now but maybe we won't pin them down to  
21 specific hours.

22 That might be difficult. We can

1 think about whether or not -- let me ask you  
2 this question, whether or not they should come  
3 back in five years and say, okay, it's worked  
4 or it hasn't worked, this has work or it  
5 hasn't.

6 MS. PEOPLES: I would agree to  
7 that. As far as the time, especially in the  
8 summer when they go out of town and they come  
9 back. We've never had an issue with her as  
10 far as the time that they are there or not  
11 there, you know.

12 That's no issue really. We know  
13 that spring break and breaks she'll get the  
14 kids and keep them there and that way the  
15 parents can work and not have to worry about  
16 the kids all over the place.

17 That has never been an issue about  
18 the time period because she'll take them over  
19 the night and bring them back. No problem  
20 with that. I don't see where that would be an  
21 issue so much.

22 CHAIRPERSON MILLER: Okay. Any

1 other Board questions?

2 COMMISSIONER TURNBULL: I was just  
3 going to say that we normally get into, which  
4 we haven't gotten into with the applicant, on  
5 fences and lighting so you're right. You've  
6 got two very good points which we didn't  
7 address.

8 On the lighting we are not only  
9 concerned about safety of the lighting of the  
10 lot but we are worried about the adverse  
11 affects on the properties adjacent to it, the  
12 neighbors. We want a safely lit lot but a lot  
13 that doesn't obviously provide glaring light  
14 on your properties. We should get into that  
15 and talk about it.

16 MEMBER DETTMAN: I was just  
17 wondering actually if the applicant could  
18 briefly describe what they had in mind in  
19 terms of the new gate that is going to be  
20 around the parking lot, any lighting that you  
21 might be providing and sort of what kind of  
22 security in terms of locking mechanisms or

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1 anything that you might have in mind.

2 MS. WOODS: Certainly. We have  
3 listened carefully, particularly to the  
4 concerns of the residents of Mount Vernon  
5 Square Association. They have asked us to do  
6 motion lighting on the lot so there weren't  
7 bright lights that were consistently on  
8 throughout the night but we will do and  
9 maintain lighting on the outside perimeters of  
10 the building at the entrances and so forth for  
11 security.

12 The gate we envision an iron fence  
13 in keeping with the historic preservation of  
14 the community and my hope is that it's an  
15 electronic gate that closes and locks and is  
16 secure. We plan to put into our budget the  
17 hiring of a custodial/security person who will  
18 maintain the grounds and then check on things  
19 in the evenings or when we are recessed.

20 If I may address Ms. Peoples'  
21 concern in reference to the purpose of the  
22 building. For 25 years our commitment has

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1       been children and it will remain as such. To  
2       change that means to go back and change our  
3       mission statement. It means going back to our  
4       donors and foundations that support what we do  
5       and revising all of that. We have absolutely  
6       no intention of changing our mission to  
7       children.

8                   MEMBER WALKER: So does that also  
9       mean that there are no plans to share your  
10      space at all perhaps with another organization  
11      during the time that you are not in operation,  
12      the hours of the day that you are not using  
13      the space?

14                   MS. WOODS: Unless it benefitted  
15      the children that we are serving we wouldn't  
16      do it. To embark on some kind of partnership  
17      that includes meeting the needs of homeless  
18      folks or folks that are in transition creates  
19      an incredible security issues for our children  
20      and we would not do that. We absolutely would  
21      not do that.

22                   COMMISSIONER TURNBULL: I wonder

1 if -- you had mentioned a wrought iron fence.  
2 The fence around the whole perimeter and the  
3 gate will be similar to some of the wrought  
4 iron fences in the neighborhood?

5 MS. WOODS: Exactly.

6 COMMISSIONER TURNBULL: Okay. The  
7 lighting even though it's motion sensitive  
8 will be primarily down lighting on the  
9 property itself?

10 MS. WOODS: Yes. It would be sort  
11 of low-level lighting as opposed to sort of  
12 the overhead that would wash onto other  
13 properties.

14 COMMISSIONER TURNBULL: Okay.  
15 Thank you.

16 CHAIRPERSON MILLER: Ms. Woods,  
17 did you say you wanted to extend the program  
18 to the mothers or the parents of the children?

19 MS. WOODS: That is one area where  
20 we would like to see our ability to reach our  
21 families at a greater level. Any programming  
22 that we would add or include would be directed

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1 to the mothers or the fathers, we do have some  
2 dads involved, that are the parents of the  
3 children we have enrolled, not open to anybody  
4 sort of thing. We say that because we know  
5 the needs of our families and we have some  
6 moms that are trying to find work but need to  
7 develop some computer skills or need help with  
8 their resume, you know, those kinds of things.

9 We've had several family members  
10 express a desire for a financial literacy  
11 class. Anything we do would be again directed  
12 to the children that we are serving and their  
13 parents or caretakers, whoever is caring for  
14 that child that we have enrolled.

15 CHAIRPERSON MILLER: Okay. Ms.  
16 Peoples requested that, you know, that the  
17 center only serve the families of the  
18 students.

19 MS. WOODS: We have no issue with  
20 that.

21 CHAIRPERSON MILLER: That's fine.

22 MS. WOODS: We have no issue with

1 that.

2 CHAIRPERSON MILLER: Okay.

3 MEMBER WALKER: Can you tell me a  
4 little bit more about the fence that is shown  
5 on the plans that goes around the perimeter of  
6 the property?

7 MS. WOODS: Yes. Right in front  
8 of the existing property will be a lower  
9 standing kind of traditional homestyle fence  
10 in front that's lower with, you know, a gate  
11 that kind of open. Then it's the lot that  
12 will have the higher fencing and it will  
13 encompass the size of the lot.

14 MEMBER WALKER: How tall will it  
15 be?

16 MS. WOODS: It would want to be  
17 somewhere between six to eight feet.  
18 Relatively high.

19 MEMBER WALKER: And made of what  
20 material?

21 MS. WOODS: Wrought iron.

22 MEMBER WALKER: Okay. So the

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1 fence around the lot will be wrought iron as  
2 well.

3 MS. WOODS: Yes, it's all the same  
4 material.

5 MEMBER WALKER: Any consideration  
6 to providing some buffer between the rear of  
7 the parking lot and the backyards of the  
8 properties that face New Jersey Avenue?

9 MS. WOODS: Yes. Actually we have  
10 talked quite a bit about that making sure that  
11 there is a buffer and that there is -- what  
12 you're seeing is sort of green space that is  
13 allowing for the growth of trees that create  
14 that buffer. It's landscaping that we are  
15 trying to handle it with.

16 CHAIRPERSON MILLER: With respect  
17 to lighting I just want to clarify. Did you  
18 say that there will be motion lighting on the  
19 lot?

20 MS. WOODS: Yes. The community  
21 asked that there be motion lighting so that  
22 there weren't these permanent bright lights

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1 shining down on the parking lot all hours of  
2 the night.

3 Ms. Peoples' home is one that the  
4 rear windows overlook that space so they  
5 wanted the motion so that it would come on if  
6 somebody entered but come off when no one was  
7 there. Of course, as I mentioned, we would  
8 make sure that the perimeter lighting of the  
9 structure was there shining down.

10 CHAIRPERSON MILLER: When is that  
11 going to be lit? For instance, you're not  
12 there on the weekends. Is that going to be  
13 controlled or have you thought that through?  
14 Or is that going to be always on when you're  
15 not there?

16 MS. WOODS: Honestly I haven't  
17 thought that through but my preference would  
18 be that those exterior lights to the building  
19 itself remain on.

20 CHAIRPERSON MILLER: And you would  
21 like to get a security guard but you're not  
22 positive you are going to be able to have that

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1 in the budget. Is that correct?

2 MS. WOODS: We expect that we will  
3 be able to do that with being able to occupy  
4 the building and let go of some of the other  
5 expenses we have to deal with right now. With  
6 leasing space in other places we expect that  
7 to be a very manageable thing so that we would  
8 have someone who would maintain the grounds  
9 and make sure everything was secured at night.

10 MEMBER WALKER: And would that  
11 include locking the gate to the parking lot?  
12 Is there a plan to lock it at the end of the  
13 evening or would it remain open?

14 MS. WOODS: No, the gate would be  
15 secured every evening once staff has left.  
16 Yes.

17 COMMISSIONER TURNBULL: What about  
18 trash pickup? Where do you see storing waste  
19 from the site and how will that be picked up?

20 MS. WOODS: We are changing the  
21 curb cut so trash pickup will be able to be  
22 accessed through the --

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1 COMMISSIONER TURNBULL: Parking  
2 lot?

3 MS. WOODS: -- main gate. Yes,  
4 the parking lot.

5 COMMISSIONER TURNBULL: Okay. So  
6 you will have -- will there be a dumpster or  
7 something?

8 MS. WOODS: You know, we're not  
9 that big where we need a dumpster. Right now  
10 we are sort of managing it with trash cans.

11  
12 COMMISSIONER TURNBULL: So you are  
13 looking at either -- is this a trash can or  
14 two that will be in the --

15 MS. WOODS: Yes. I don't  
16 anticipate us needed a dumpster service. We  
17 will probably have the city trash cans  
18 available.

19 COMMISSIONER TURNBULL: Okay.

20 MS. WOODS: Empty those and put  
21 them out as needed.

22 COMMISSIONER TURNBULL: Sure.

1 Okay. Thank you.

2 MS. WOODS: Um-hum.

3 MEMBER WALKER: I have another  
4 question. I'm just curious about why there is  
5 no play area reflected on the plans. Did you  
6 consider including a playground of some sort  
7 since you are servicing young children?

8 MS. WOODS: The community, Mount  
9 Vernon Square Neighborhood Association,  
10 requested that we not put a play area. We had  
11 originally intended to put a half court on the  
12 lot and they have asked us not to do those at  
13 all so we submitted to their request and we  
14 will do as they have asked us to.

15 MEMBER WALKER: And the issue for  
16 them was noise?

17 MS. WOODS: The issue was noise.  
18 The issue was security being concerned that  
19 people would access it on the weekends. Those  
20 were the two primary things.

21 CHAIRPERSON MILLER: Yeah. I'm  
22 looking at the Mount Vernon Square

1 Neighborhood Association letter which is  
2 Exhibit 30 and they say, "We express several  
3 concerns we have regarding a basketball hoop,  
4 the esthetics of the rehabilitation, the  
5 placement of greenery on the property and the  
6 lighting in the parking lot." And that the  
7 applicant took their concern into account.

8 They didn't even want there to be  
9 more green space because if it was attractive  
10 to people that people might want to go in that  
11 green space when you're not there. Is that  
12 the point?

13 MS. WOODS: No. What they asked  
14 us to do and we addressed it was they wanted  
15 green space at the curb cut which you can see  
16 on the plans there. And they wanted green  
17 space at the rear of the parking lot to help  
18 create a buffer for the residents there. That  
19 is the green space they were addressing.

20 CHAIRPERSON MILLER: Okay. I have  
21 two quick questions. The security guard, is  
22 that 24 hours that you are anticipating

1 having, or you'll see how it goes?

2 MS. WOODS: I don't anticipate 24  
3 hours.

4 CHAIRPERSON MILLER: Okay.

5 MS. WOODS: I don't think we need  
6 that.

7 CHAIRPERSON MILLER: Okay. I just  
8 wanted to envision what you meant. You mean  
9 in the evening?

10 MS. WOODS: Right. It would be  
11 someone we would hire that would be available  
12 in the evening hours to help maintain the  
13 building, the property, and then make sure  
14 things are secure at night.

15 CHAIRPERSON MILLER: Okay. Then  
16 my other question is if we wanted to reference  
17 something that describes your program like,  
18 for instance, Ms. Peoples' concern is that it  
19 be the program that we see now before us which  
20 is what you want and you're not seeking to be  
21 flexible, to do other things, what would be  
22 reference?

1           Is there a mission statement in  
2 here that you have attached or is there  
3 something in particular that describes, that  
4 covers, you know, what you do without limiting  
5 it to something that doesn't include what you  
6 do?

7           MS. WOODS: Well --

8           CHAIRPERSON MILLER: Like with the  
9 families. Is something in here going to cover  
10 not only the children's program but reaching  
11 out to their families as you would like to do  
12 and as Ms. Peoples hasn't expressed any  
13 objection to?

14          MS. WOODS: Well, our mission  
15 statement, I think, was submitted but it's  
16 part of our website and I actually can just  
17 tell you that off the top of my head after all  
18 these years. We are an outreach program to  
19 at-risk intercity children. We serve grade  
20 school through high school students.

21           We serve them after school in  
22 three primary areas, academic enrichment,

1 recreational and cultural development, and  
2 then the moral and spiritual guidance. That  
3 is what we do after school. We are a little  
4 different than a lot of other programs. We  
5 don't actually recruit students after the 6th  
6 grade.

7 We like to get the kids when they  
8 are very young and then hold onto them and  
9 bring them through their high school education  
10 and onto college. We actually have several  
11 kids that have completed their degrees, two  
12 that are in school now, two more that go off  
13 next fall.

14 Those are representative of  
15 children that we got somewhere between  
16 kindergarten and second grade and held onto  
17 them and cared for their families and so  
18 forth. Now they are off and running. That is  
19 what we will continue to do. That is what we  
20 are committed to and what we see ourselves  
21 doing.

22 CHAIRPERSON MILLER: Okay. Any

1 other questions? There isn't anybody here  
2 from the ANC unless they have recently come in  
3 so I just want to reference that we did get a  
4 report from them, that is our Exhibit No. 31,  
5 in support nine zero zero of the application.  
6 It references that it was at a duly-noticed  
7 regularly scheduled monthly meeting of ANC-6C  
8 with a quorum of nine out of nine  
9 commissioners and the public present.

10 They state, "Because the applicant  
11 presented good reason for this request and  
12 there was no neighborhood opposition at either  
13 the March 5 ANC-6C Zoning Committee meeting or  
14 at this March 12th meeting, the Commissioners  
15 voted nine zero zero to support the  
16 application."

17 Okay. This is a report that meets  
18 the great weight standard and we'll give it  
19 great weight. Okay. I guess it's up to you  
20 now for final remarks unless Board members  
21 have any other questions. No? Okay.

22 MR. KEVLIN: I guess the only

1 final remark I have was to ask if we were to  
2 embrace your recommendation to amend the  
3 application to include the section 2001.3  
4 relief is that something where we would need  
5 to go through a process? Is that something we  
6 could --

7 CHAIRPERSON MILLER: Advertising,  
8 etc.?

9 MR. KEVLIN: Exactly.

10 CHAIRPERSON MILLER: No. That's  
11 what I was saying. It really involves the  
12 same courts, the same relief basically. It's  
13 just another provision of the regulations that  
14 comes into play because it's a nonconforming  
15 -- it's a pre-existing nonconforming whatever,  
16 condition, so no.

17 MR. KEVLIN: Okay. So if we were  
18 amend it to include that, we wouldn't need to  
19 come back. Okay. I think we would like to do  
20 that.

21 CHAIRPERSON MILLER: I think it is  
22 the consensus of the Board that we would

1 accept that amendment. Correct? Okay.

2 MR. KEVLIN: Thank you.

3 CHAIRPERSON MILLER: Anything  
4 else?

5 MS. WOODS: Just thank you for  
6 your time today and your consideration to  
7 this. I hope your vote will be favorable so  
8 we can continue to serve kids in the community  
9 where we have been for so many years so thank  
10 you.

11 CHAIRPERSON MILLER: Okay. Thank  
12 you. Okay. Let me just say this publicly and  
13 we'll see what happens. It's 3:00 and we have  
14 another case ahead of us that is coming on  
15 right after you. My personal opinion is that  
16 you have made a strong case for approval of  
17 the application in general.

18 We have to go through our analysis  
19 of the variance test which is something  
20 separate. Then there's the community center  
21 issue. I guess what I would just want to  
22 raise with my Board members and see what they

1 want to do is we've had a situation like this  
2 before where we have actually explored  
3 conditions and then had the applicant and/or  
4 whoever they want to work with come back and  
5 put in writing proposed conditions.

6 Then the Board would deliberate  
7 and decide whether we wanted those conditions  
8 or if we wanted different ones or add to them.  
9 I raise this because, for instance, I think  
10 that one of the conditions I would be  
11 considering would be that this center operate  
12 in accordance with your description, for  
13 instance, Ms. Woods, of what you actually do.  
14 You said it so easily but if we were to  
15 articulate it right now I don't think we could  
16 articulate it as correctly as you could.

17 That's why I throw this out as  
18 perhaps whether we ought to postpone  
19 deliberation and maybe we can discuss just in  
20 general what kind of conditions we might be  
21 interested in seeing. What do others think  
22 about this? The other alternative is to

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1 plunge right on forward.

2 MEMBER WALKER: Madam Chair, I  
3 think it's an excellent idea to have Ms. Woods  
4 and Mr. Kelvin work with Ms. Peoples on  
5 conditions that we discussed related to  
6 lighting and fencing and security and  
7 operations consistent with the mission. Then  
8 once those conditions are submitted, then the  
9 Board could revise them as needed.

10 COMMISSIONER TURNBULL: Yes, Madam  
11 Chair. I would concur. I don't think there  
12 is any major -- at least I don't have any  
13 significant problems with where we are going  
14 on the center.

15 I think we just want to capture  
16 everything that we feel that the community is  
17 looking for and that we sort of got all the  
18 ideas and things that are protecting the  
19 neighborhood. If we could have that, I think  
20 we'll be fine. I really don't see any major  
21 issues with this.

22 CHAIRPERSON MILLER: Okay. I

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1 think that is really the best way to proceed.  
2 I think Ms. Walker covered most of the  
3 conditions that we talked about as a result of  
4 what Ms. Peoples said and as a result of the  
5 applicant's response. The only other question  
6 that I -- I also throw out the question of  
7 whether a term would be a good idea.

8           Sometimes it's five years to see  
9 how everything is working or whether that's  
10 not necessary because you are so well known in  
11 the community or whatever. It's just  
12 something that I think we would like your  
13 input because you are going to be affected  
14 most by these conditions obviously and that  
15 they be articulated correctly. Are you really  
16 going to be able to provide a fence? Are you  
17 comfortable putting that in as the condition?

18           I'm going to throw out one other  
19 thing because sometimes items might not be  
20 conditions but they might be phrased in what  
21 you plan to do. If you plan to do something  
22 but you're not 100 percent sure it's going to

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1 happen, we can reference that this what you  
2 intend to do.

3 If you are 100 percent sure that  
4 you can live with obviously what your mission  
5 is. Not this is what you plan to do, this is  
6 what your mission is and that's fine with you  
7 that's a condition, that's a good thing.

8 I think it's a good thing for the  
9 comfort of the neighborhood and it's a good  
10 thing for certainty as to what this order is  
11 allowing you to do. I think the variance test  
12 is fully briefed and everything else is fully  
13 briefed.

14 There was a question earlier. I'm  
15 not clear about it. I just want to discuss  
16 this and then we'll wrap this up. Whether or  
17 not there needs to be additional plans with  
18 respect to the roof. We are not considering  
19 relief from the roof structure provisions so  
20 was there a need for revised plans showing the  
21 roof structure? Does anybody have a comment  
22 on that?

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1                   COMMISSIONER TURNBULL: I think  
2 for the sake of having a complete plan set in  
3 the record it would be helpful to have a roof  
4 plan and maybe a east elevation showing that  
5 the roof structure, the elevator override is  
6 less than four feet, and possibly a detail of  
7 the proposed fence that is going to surround  
8 the parking area.

9                   MS. LAURIE: We can definitely  
10 provide that.

11                   CHAIRPERSON MILLER: Okay. I  
12 think that the proposed conditions certainly  
13 should be served on if not discussed with the  
14 ANC as they are a party in this case. For  
15 whatever input they want to provide, they will  
16 have the opportunity to.

17                   So looking at the schedule perhaps  
18 we should set this for decision making on May  
19 1st which is our next decision date and give  
20 you enough time to serve the ANC and they  
21 could have a meeting if they want unless you  
22 want to raise some other concern that it's a

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1 great delay for some reason. Would that date  
2 work for you?

3 It would mean that we decide by  
4 May 1st but the conditions and the revisions  
5 would be coming in I guess in a couple weeks  
6 or so. We'll set dates. Will that one-month  
7 period work for you all? Is there anything  
8 else we should know that there is some other  
9 kind of hurry on this? Okay. Yes.

10 MS. WOODS: Just for clarity for  
11 my sake because I have to be the one to manage  
12 this, are you asking me to go back to the ANC  
13 or are you asking me to go back to Mount  
14 Vernon Square Neighborhood Association because  
15 the issues that we've discussed I have made  
16 adjustments. Each of the adjustments that  
17 Mount Vernon Square asked to make we have done  
18 it. I just want to be clear on what it is you  
19 want -- how you want me to proceed and with  
20 who.

21 CHAIRPERSON MILLER: Okay. The  
22 ANC is a party in this case. They filed a

1 report that meets the great weight standard.  
2 Any documents that you would file would need  
3 to be filed on them as well as on the Board.  
4 There aren't any other parties in the case.

5 They are a party. They need to be  
6 served. It's up to you whether you want to  
7 talk to them before you file your conditions  
8 and get them on board with them or not. You  
9 are not obligated to do that but it might be  
10 a good idea but we are not requiring it per  
11 se. And Mount Vernon they are not a party so  
12 you are not required to serve them.

13 MR. KEVLIN: Can I just confirm  
14 exactly which conditions the Board is looking  
15 for some clarification on? What I have heard  
16 is the mission or basically the kind of  
17 general description of the program that will  
18 kind of bind us, that will be binded by  
19 lighting, fence, hours of operation. That's  
20 what I have.

21 CHAIRPERSON MILLER: I just want  
22 to comment and you can address some. For

1 instance, give us the proposed conditions, the  
2 certain ones we were talking about. There  
3 doesn't seem to be a dispute with respect to  
4 like the mission to get that in as a  
5 condition.

6 Hours of operation, there seems to  
7 be a concern that I'm hearing that maybe you  
8 don't want to be bound because you are new and  
9 you want to be flexible. If you don't think  
10 it's necessary as a condition, you don't have  
11 to propose it as a condition. If you want to  
12 put in writing why you don't think it should  
13 be a condition, you are free to do that as  
14 well.

15 I didn't hear from Ms. Peoples  
16 that she thought that was a real concern. The  
17 real concerns sounded like the mission, the  
18 security, the lighting. The term, I would  
19 address that, whether you think you should or  
20 shouldn't have a term. It would be good to  
21 get your opinion.

22 MEMBER WALKER: Just as a point of

1 clarification, Madam Chair, this condition  
2 related to the mission statement really should  
3 capture that you intend to operate in keeping  
4 with your mission statement. Ms. Peoples'  
5 concern was that you didn't have other  
6 operations going on in the building. We just  
7 want to capture in the condition that your  
8 operations are going to be consistent with  
9 your mission.

10 CHAIRPERSON MILLER: I'm not sure  
11 they legally could have other operations  
12 without getting our permission. If we are  
13 authorizing this, it's this alone unless it's  
14 an accessory. Okay, we don't need to go down  
15 that road. Okay.

16 So we are going to be setting a  
17 deadline time frame for the submittal of the  
18 revised plans and any proposed conditions.  
19 Also if you want to address an explanation as  
20 to anything you think we might be considering  
21 that you don't think should be a condition and  
22 why. That will be served on the ANC. Okay.

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1 Ms. Bailey, with a May 1st  
2 decision date, do you have a recommended time  
3 line?

4 MS. BAILEY: Madam Chair, the only  
5 question that I would have is did you want to  
6 leave the record open for the ANC to respond?

7 CHAIRPERSON MILLER: Yes.

8 MS. BAILEY: Okay. With that I  
9 would suggest April 14th for the applicant to  
10 file and then we would give the ANC two weeks  
11 to respond and that would be April 28th. That  
12 is two weeks from now for the applicant to  
13 respond and serve the ANC and then the ANC  
14 would have approximately two weeks to consider  
15 whatever is filed by the applicant.

16 CHAIRPERSON MILLER: Is that  
17 enough time for you, two weeks? Okay. Good.  
18 Okay. You got that schedule then? Okay.  
19 Good. Any other questions? Okay. It sounds  
20 like you have a good program and we'll see if  
21 we can fine tune this and take it from there  
22 on May 1st.

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MR. KEVLIN: Chairwoman, just to confirm if we do amend this application do so by the 14th as well?

CHAIRPERSON MILLER: I thought it was a done deal that you weren't going to amend it. For the roof structures?

MR. KEVLIN: No, no, no. I'm sorry. To include 2001 relief.

CHAIRPERSON MILLER: I thought we did it.

MR. KEVLIN: Oh, we did? Okay. This is my first time.

CHAIRPERSON MILLER: That's okay. That's okay. Unless you want to take it back, it's done. You don't need to advertise for it. This is advertisement on the internet. Okay. Then we are all set then. Right? Thank you very much.

While the next case is setting up, I think we are going to take a five to 10-minute break. Thanks.

1 (Whereupon, at 3:20 p.m. off the  
2 record until 3:40 p.m.)

3 CHAIRPERSON MILLER: Okay. We are  
4 back on the record. Ms. Bailey, would you  
5 call the next case, please.

6 MS. BAILEY: Thank you, Madam  
7 Chair. I will be reading the application as  
8 it is advertised. The number is 17741. It's  
9 the application of Fort Lincoln-Eastern  
10 Avenue, LLC, pursuant to 11 DCMR 3104.1 and  
11 3103.2 for a special exception under section  
12 353 (New Residential Development) and section  
13 2516 (Theoretical Lot), and a variance relief  
14 from the floor area ratio and rear yard  
15 requirements under section 2516, to construct  
16 62 residential dwelling units (31 stacked  
17 townhouses in 5 separate buildings).

18 The property is zoned R-5-A and R-  
19 5-D and it's bounded by Bladensburg Road,  
20 N.E., Eastern Avenue, N.E., and Fort Lincoln  
21 Drive, N.E., Square 4325, Lots 44, 802 and  
22 Parcel 174/15). As you know, Madam Chair,

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1 there has been some adjustments to the  
2 application since it was advertised.

3 CHAIRPERSON MILLER: Thank you.  
4 Okay. Now that we finished our complex case  
5 we can go to the simple case. Right?

6 MR. TUMMONDS: That's what we like  
7 to hear.

8 CHAIRPERSON MILLER: All right.  
9 Why don't we start with introductions.

10 MR. TUMMONDS: Sure. Good  
11 afternoon, Madam Chair, members of the Board.  
12 I am Paul Tummonds with the law firm of  
13 Pillsbury Winthrop Shaw Pittman. Cary  
14 Kadlecek of Pillsbury Winthrop is also with me  
15 this afternoon.

16 We'll have two witnesses to  
17 present testimony, brief testimony, this  
18 afternoon. First Michele Hagans on behalf of  
19 the applicant. We'll present her testimony  
20 regarding the proposed project and the  
21 dialogue that has occurred with the  
22 surrounding community.

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1           In addition, Jami Milanovich of  
2 Wells and Associates, the traffic and parking  
3 consultant will provide a brief overview of  
4 the traffic impact study that was prepared for  
5 this project and will comment on the DDOT  
6 report that was filed in this case late last  
7 week.

8           I will then summarize the  
9 projects, satisfaction of the special  
10 exception, and variance relief standards. I  
11 will now ask our first witness, Ms. Hagans, to  
12 present her testimony.

13           CHAIRPERSON MILLER: Can we just  
14 clarify a couple of preliminary issues first?  
15 First with respect to the change in the  
16 application for relief, do you want to  
17 clarity, No. 1, how it's been amended and has  
18 it been amended? Has it been officially  
19 amended, advertised, or what is the status of  
20 that?

21           MR. TUMMONDS: I think that with  
22 regard to original application that asked for

1 special exception relief for residential units  
2 pursuant to 353 in the R-5-A zone, that relief  
3 still exist. We have added two additional  
4 units into that R-5-A zone.

5 The original application requested  
6 special exception relief to create five  
7 buildings on five separate lots. We have  
8 removed one of those buildings so now we are  
9 only requesting special exception relief  
10 pursuant to 2516 for four proposed lots.

11 With regards to the variance  
12 relief, we originally requested variance  
13 relief from 2516.4 which states that all the  
14 proposed lots shall satisfy all bulk and area  
15 requirements with regard to those proposed  
16 lots. We initially requested FAR relief for  
17 those lots in the R-5-A zone.

18 We are still requesting that  
19 relief. With regards to one of the lots in  
20 the R-5-B zone -- I should say two of those  
21 lots, we are requesting rear yard relief.  
22 With the removal of that fifth lot we are no

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1 longer requesting the rear yard relief.

2           However, in going through in a  
3 little more detail, we note that one of the  
4 proposed lots in the R-5-B zone does require  
5 side yard relief and that is mostly because  
6 while the buildings are the same height, in  
7 the R-5-B zone measured building height is  
8 determined differently than measured building  
9 height in the R-5-A zone so, in effect, it has  
10 a larger side yard requirement than the exact  
11 same building just across the entrant way.

12           I believe the technical aspects of  
13 our application remain the same, special  
14 exception relief pursuant to 353, 2516,  
15 variance relief from 2516.4. None of that has  
16 changed.

17           CHAIRPERSON MILLER: Okay. So you  
18 didn't advertise any changes. Right?

19           MR. TUMMONDS: That's correct.

20           CHAIRPERSON MILLER: But you don't  
21 think you need to because basically the relief  
22 is the same coming under the same provisions.

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1 Right?

2 MR. TUMMONDS: That's correct.

3 CHAIRPERSON MILLER: Did you amend  
4 it yet or are you amending it here today?

5 MR. TUMMONDS: We are amending it  
6 here today.

7 CHAIRPERSON MILLER: Okay. Any  
8 Board members have any concerns about that?  
9 Okay. So that's done. You can consider it  
10 amended by consensus of the Board.

11 I just want to clarify or see if  
12 you can shed any light on who the applicant  
13 is. I understand that Michele Hagans is here.  
14 I don't remember if I saw her name as the  
15 applicant in the filings. It looked like it  
16 was NCRC or --

17 MR. TUMMONDS: In our initial  
18 application and then also in our prehearing  
19 statement we note that in a footnote on page  
20 1 that the Fort Lincoln-Eastern Avenue, LLC is  
21 the contract purchaser of the property and  
22 will be the developer of this project.

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1           The owner of the property at this  
2 time, the former NCRC, now the Deputy Mayor's  
3 Office for Planning and Economic Development,  
4 signed the original application form when this  
5 project was filed back on October 8, 2007. In  
6 addition, NCRC signed the agent authorization  
7 letter allowing Pillsbury Winthrop Shaw  
8 Pittman and Fort Lincoln-Easter Avenue, LLC to  
9 present this project before the BZA.

10           CHAIRPERSON MILLER: Okay. I  
11 think in your footnote 1 it says NCRC had  
12 jurisdictional authority over the site. What  
13 does that mean?

14           MS. HAGANS: The LDA for those  
15 properties in Fort Lincoln is a three-party  
16 contract between the exclusive right developer  
17 which is Fort Lincoln Newtown Corporation, HUD  
18 which actually is the owner and has title on  
19 the property, and the District government  
20 which at one time acted through RLA and then  
21 acted through NCRC, and today acts through the  
22 Deputy Mayor for Economic Development. That

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1 power just sort of moves with whoever is  
2 assuming the power at the moment.

3 CHAIRPERSON MILLER: What did you  
4 characterize as a three-part?

5 MS. HAGANS: No, the LDA is a  
6 three-party contract in which the Fort Lincoln  
7 Newtown Corporation is the exclusive rights  
8 developer, HUD is the title owner of the land,  
9 and the District of Columbia government  
10 provides oversight. That oversight rest in a  
11 designated agency depending on which agency it  
12 resides in.

13 It did reside in RLA and when RLA  
14 transferred all of its rights it went to NCRC.  
15 As this administration closed down NCRC, then  
16 it transferred to the Deputy Mayor for  
17 Economic Development, the actual D.C.  
18 government.

19 CHAIRPERSON MILLER: So in this  
20 three-part contract the District has  
21 "jurisdictional authority?"

22 MS. HAGANS: Oversight, yes. They

1 are the entity which has project approval.

2 CHAIRPERSON MILLER: And is that  
3 set forth anywhere in a document?

4 MS. HAGANS: In the LDA?

5 CHAIRPERSON MILLER: Do we have  
6 the LDA in the file?

7 MR. TUMMONDS: No. We do not. In  
8 the initial application form dated October 4,  
9 2007 there is a letter dated September 28,  
10 2007, from Mr. Jackson, the development  
11 manager at NCRC, noting that, "As the duly  
12 authorized representative of the owner of the  
13 property known as Lots 44, 802 and Parcel  
14 174/15, Square 4325, I hereby sign this letter  
15 to evidence that the information included is  
16 correct.

17 I authorize Fort Lincoln-Eastern  
18 Avenue, LLC to act as the applicant in all  
19 proceedings before the BZA. Also authorize  
20 Pillsbury Winthrop Shaw Pittman to act in all  
21 proceedings for the BZA."

22 CHAIRPERSON MILLER: Exhibit 6,

1 September 28, 2007?

2 MR. TUMMONDS: That's correct.

3 CHAIRPERSON MILLER: Yes, it is.

4 Okay. This is just BZA technicalities.

5 3113.3 says that the owner of the property for  
6 which application is made may file an  
7 application with the Board. You said that HUD  
8 is the owner. However, it sounds like the  
9 duly authorized agent is the District because  
10 of this LDA agreement.

11 MEMBER DETTMAN: Yes. I actually  
12 have a couple questions. I'm a little bit  
13 unfamiliar with urban renewal plans and sort  
14 of the agreement or the relationship between  
15 HUD and what was then RLA and stuff. Does the  
16 LDA -- I guess I'm a little bit confused why  
17 it's sort of in this forum for sort of review  
18 and what is the role of NCPC. It seems to me  
19 if it's federally owned land, this project  
20 should go before NCPC for review. Could you  
21 sort of help me figure that out?

22 MS. HAGANS: All projects have to

1 meet the regulatory requirements of the  
2 District of Columbia so we sit here before you  
3 because this project must be a project that  
4 meets all the requirements of the District of  
5 Columbia. NCPC has its stated role in various  
6 and sundry parts of it, just not at this  
7 level.

8 MEMBER DETTMAN: Okay. Will the  
9 project eventually be referred to NCPC for  
10 comment?

11 MS. HAGANS: Not this one because  
12 there is a master plan and as long as the  
13 projects are within the master plan there  
14 isn't a requirement for NCPC to do it. Not at  
15 this level.

16 MEMBER DETTMAN: I know that Fort  
17 Lincoln-Eastern Avenue, LLC is the contract  
18 purchaser but would you say this is still  
19 considered a District project? Why I ask that  
20 is that the National Capital Planning Act says  
21 that District projects outside the central  
22 area are still required to be referred to NCPC

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1 for comment. I'm just wondering if the  
2 contract purchaser is the applicant, I guess  
3 you could say it's a non-District project and  
4 would not be required to be referred to NCPC.

5 MS. HAGANS: NCPC has its role  
6 that is spelled out in the LDA and it  
7 operates. What happens is the Fort Lincoln  
8 Urban Renewal has a master plan and those  
9 things that are in there that allot itself  
10 with the plan NCPC does not get involved.

11  
12 If we were in the Gateway, then we  
13 would have to do whatever it is that are the  
14 regulatory requirements of the District. Then  
15 NCPC would also look at it from it site lines  
16 and other things. They have their places that  
17 they weigh in.

18 MEMBER DETTMAN: Okay. That's all  
19 laid out in the LDA?

20 MS. HAGANS: Yes.

21 MEMBER DETTMAN: Okay.

22 CHAIRPERSON MILLER: Excuse me.

1 Is there any problem with putting the LDA in  
2 the record?

3 PARTICIPANT: It's 300 pages.

4 CHAIRPERSON MILLER: It's 300  
5 pages? Okay excerpts that respond to just our  
6 questions about the relationship between the  
7 District and NCPC and HUD.

8 MS. HAGANS: Okay.

9 MEMBER DETTMAN: I think that  
10 would be very helpful. Just one final  
11 question. Maybe you can sort of clarify this  
12 during your testimony. I don't want to get  
13 too far into the merits. What happens in  
14 situations where the Zoning Regs, the building  
15 requirements, the area requirements of the  
16 Zoning Regs and the Fort Lincoln Urban Renewal  
17 Plan are not in sync? Let's just say for FAR.

18 I gave the plan a very, very quick  
19 review this morning and I think the FAR for  
20 residential .8 in the Urban Renewal Plan, and  
21 we are looking at an allowable FAR of .9 in  
22 the R-5-A area. Where there are

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1       inconsistencies who is the entity that sort of  
2       raised that concern and how are they handled?

3               MR. TUMMONDS:  The first thing I  
4       would answer I believe in the Fort Lincoln  
5       Renewal Plan it has FARs for various types of  
6       residential uses.  I believe for the type of  
7       -- also, one of the problems we have with the  
8       Fort Lincoln Urban Renewal Plan is it was  
9       created 30 years ago.

10              It refers to walk-up apartment  
11       buildings and certain things that we just  
12       don't see anymore.  I believe that the .8 FAR  
13       limitation noted in the Fort Lincoln Urban  
14       Renewal Plan would not apply to this type of  
15       residential use.

16              In general, to answer your  
17       question, we did face this issue with regards  
18       to another project that was a PUD project so  
19       it went to NCPC through its review of the  
20       federal interest.  We did have the issue of  
21       how do we bring the differing requirements  
22       together.

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1                   What it, in fact, requires is an  
2                   amendment to the Urban Renewal Plan. That is  
3                   a process in these type of cases. I don't  
4                   believe in this case there is any conflict  
5                   between this project and Fort Lincoln Urban  
6                   Renewal Plan but in other cases, for lack of  
7                   a better term, one side has to go first.

8                   We have to get approval from, say,  
9                   the Zoning Commission to have a PUD so that we  
10                  know we have a project that may be in conflict  
11                  with the Fort Lincoln Urban Renewal Plan.  
12                  Then we go to the city council to get the Fort  
13                  Lincoln Urban Renewal Plan amended.

14                  In large part most of the issues  
15                  that we do face are basically trying to bring  
16                  the Fort Lincoln Urban Renewal Plan up to 2007  
17                  so we are not talking about walk-up apartment  
18                  buildings and warehouse uses in areas that we  
19                  now certainly what to be residential.

20                  CHAIRPERSON MILLER: Okay.

21                  MR. TUMMONDS: Ms. Hagans.

22                  MS. HAGANS: Good afternoon, Madam

1 Chair and members of the Board. My name is  
2 Michele Hagans and I'm President and CEO of  
3 Fort Lincoln Newtown Corporation. I am  
4 pleased to be here this afternoon to present  
5 to you our city homes project that is at Fort  
6 Lincoln.

7 Mr. Tummonds will address the  
8 project's satisfaction of the special  
9 exemption and variance standards. In  
10 addition, members of our design and  
11 development team are here this afternoon to  
12 answer any questions that you might have.

13 Before Mr. Tummonds makes his  
14 statements, I would like to make some brief  
15 opening remarks. The city homes at Fort  
16 Lincoln Project will create high quality  
17 ownership opportunities in a new community  
18 that is consistent in size and scale with the  
19 surrounding properties.

20 The proposed stack townhome  
21 condominiums will provide a unique residential  
22 type that will add to the variety of

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1 residential options in the Fort Lincoln  
2 community. Our initial application, as you  
3 spoke about earlier, included 62 units and  
4 five buildings on the property.

5 As we engage in further detailed  
6 study of the site, we initiated a revision of  
7 the project that reduced the number of  
8 residential units and also reduced a whole  
9 building on the site. We increased the  
10 distance between our proposed new buildings  
11 and the adjacent existing condominium  
12 buildings.

13 The proposed project thoughtfully  
14 utilizes the open spaces on and adjacent to  
15 our site to create a vibrant and inviting  
16 atmosphere for our residents and members of  
17 the Fort Lincoln community. We have minimized  
18 the number and size of retaining walls on this  
19 site and have effectively incorporated rain  
20 gardens into the project.

21 For all of these reasons, we  
22 believe this project will be a wonderful

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1 addition to the Fort Lincoln community. We  
2 have reached out to the neighboring property  
3 owners and community to obtain their feedback  
4 on the project. We made a presentation before  
5 some of the homeowners in Prime View Court.

6 And we also had a meeting with  
7 some of the residents on the single-family  
8 homes on 35th Street. We are not aware of any  
9 opposition of this project at this time. ANC-  
10 5A adopted a unanimous resolution in support  
11 of this application and the Office of Planning  
12 also supports our applications. Thank you  
13 very much.

14 MR. TUMMONDS: We will now have  
15 Ms. Milanovich present her testimony.

16 MS. MILANOVICH: Thank you. Good  
17 afternoon. For the record, my name is Jami  
18 Milanovich with Wells and Associates, business  
19 address at 1420 Springhill Road, McLean,  
20 Virginia.

21 I just want to briefly summarize  
22 the report that we prepared as well as to

1 respond to DDOT's report that was submitted,  
2 I believe, on March 27th. Access to the  
3 proposed City Homes development would be  
4 provided via Eastern Avenue south of the  
5 intersection of Bladensburg Road and Eastern  
6 Avenue and via Pine View Court at Fort Lincoln  
7 Avenue.

8 Because of the minimal amount of  
9 traffic expected to be generated by the site  
10 and as agreed to by DDOT at the outset of the  
11 project, the study area was limited to the  
12 Eastern Avenue-Bladensburg Road intersection.

13 The proposed City Homes  
14 development is expected to have a minimal  
15 impact on the study area. The proposed 56  
16 condominiums would generate just 29 a.m. peak  
17 hour site trips and 33 p.m. peak hour site  
18 trips.

19 The proposed development would  
20 then just add one vehicle every two minutes to  
21 the area roadway network. The increase in  
22 delay at the Eastern Avenue-Bladensburg Road

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1 intersection associated with the proposed  
2 project is expected to be minimal.

3 In order to mitigate that minimal  
4 impact at the intersection, minor traffic  
5 signal timing adjustments were recommended as  
6 part of the traffic impact study. Again,  
7 these recommended timing adjustments were  
8 recommended to offset the impact of the 56  
9 condominium units.

10 I would just like to conclude by  
11 briefly responding to a couple of points  
12 presented in DDOT's report dated March 24th.  
13 First, the DDOT memo indicates that with the  
14 proposed 56 condominiums the Eastern Avenue-  
15 Bladensburg Road intersection would experience  
16 serious degradation in level of service and  
17 delay.

18 DDOT specifically refers to the  
19 delays incurred by the eastbound left turning  
20 motorists turning from Eastern Avenue onto  
21 Bladensburg Road. It should be noted that the  
22 degradation DDOT referred to is attributable

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1 to not only traffic associated with the City  
2 Homes project but also traffic associated with  
3 other projects in the immediate study area as  
4 well as anticipated regional growth resulting  
5 from projects outside of the immediate study  
6 area.

7 In fact, traffic not associated  
8 with the City Homes development is projected  
9 to account for 91 percent of the a.m. peak  
10 hour delay and 97 percent of the p.m. peak  
11 hour delay for that eastbound left turn  
12 movement that they referenced in their memo.

13 I would also note that the traffic  
14 associated with the City Homes project would  
15 again be minimal. It would account for less  
16 than one percent of the total traffic at the  
17 Eastern Avenue-Bladensburg Road intersection.

18 Finally, again, based on the  
19 minimal impact associated with the proposed  
20 City Homes development the TIS recommended  
21 only minor traffic signal timing adjustments  
22 at the intersection which would not require

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1 upgrades to the signal equipment or  
2 significant engineering or construction work  
3 at the intersection.

4 MR. TUMMONDS: Ms. Milanovich, in  
5 your opinion, is it appropriate for this  
6 project to have to contribute the \$25,000 to  
7 any sort of improvements to that intersection?

8 MS. MILANOVICH: No. Again, given  
9 the very minor amount of traffic that this  
10 project would be contributing to that  
11 intersection I don't believe that would be  
12 appropriate.

13 CHAIRPERSON MILLER: Can we take  
14 this opportunity? Does it fit in for us to  
15 ask questions on that?

16 MR. TUMMONDS: Sure. Absolutely.

17 CHAIRPERSON MILLER: What is TSI?  
18 Did you say TSI was the one that recommended  
19 the --

20 MS. MILANOVICH: No, the TIS. I'm  
21 sorry. The traffic impact study that we  
22 prepared.

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1 CHAIRPERSON MILLER: Your traffic  
2 impact study.

3 MS. MILANOVICH: Yes, that's  
4 right.

5 CHAIRPERSON MILLER: Your traffic  
6 impact study -- that's what I thought --  
7 recommended minor traffic signal adjustments.

8 MS. MILANOVICH: Right. Timing  
9 adjustments. That is correct.

10 CHAIRPERSON MILLER: Okay. For  
11 the contribution that this development would  
12 make to the traffic problem which you say is  
13 one percent. Is that correct?

14 MS. MILANOVICH: It's actually  
15 less than one percent during the peak hours.  
16 That's correct.

17 CHAIRPERSON MILLER: Did you have  
18 conversations with DDOT before they issued  
19 this recommendation?

20 MS. MILANOVICH: Yeah. We talked  
21 with them prior to beginning the traffic  
22 impact study to discuss the methodology that

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1 we would use as well as the study area. We  
2 also had a follow-up phone conversation after  
3 we submitted it just to make sure they had it  
4 and if they had any questions, that type of  
5 thing. At the time they indicated that  
6 everything seemed to be in order.

7 CHAIRPERSON MILLER: Do you know  
8 the cost of a minor traffic signal adjustment?

9 MS. MILANOVICH: Off the top of my  
10 head I don't know. I would estimate it to be  
11 in the couple thousand dollar range.

12 CHAIRPERSON MILLER: Can you just  
13 testify a little bit more what developments  
14 you are referring to that also are  
15 contributing to the traffic impacts at that  
16 intersection? I think you said there were  
17 some that exist now and some that are coming  
18 down the road?

19 MS. MILANOVICH: We actually when  
20 we project our future traffic we look at two  
21 components. One being any specific  
22 developments that are occurring in the

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1 immediate area that either are planned or  
2 approved but not yet constructed and occupied.

3 The second component would be  
4 developments that are occurring outside of the  
5 immediate study area that we don't take into  
6 explicit account but what we do is look at  
7 historical accounts and develop a growth rate  
8 to apply that account for growth that is  
9 occurring outside of the study area.

10 The specific developments that we  
11 took into consideration included the Village  
12 at Washington Gateway, Dakota Crossing which  
13 is built and partially occupied so what we did  
14 was take into account the unoccupied portion,  
15 the Washington Gateway retail development, as  
16 well as the Wesley House development.

17 CHAIRPERSON MILLER: Do you have  
18 right there how many units each of those have  
19 or anything?

20 MS. MILANOVICH: I can look it up.

21 MS. HAGANS: Wesley House  
22 development, which is just about finished its

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1 construction, is market rate elderly housing  
2 and is 119. The villages at Gateway, I guess  
3 that's the title now, 357. That was the PUD.

4 The retail center which is at the  
5 other end of the community which is what you  
6 see that's behind the Welcome to Washington  
7 sign as you come in on New York Avenue is a  
8 43-acre project which as we speak with OP is  
9 anywhere from 400 to maybe 448,000 square  
10 feet.

11 That one is still in development  
12 for site layout. Dakota Crossing is a  
13 townhouse project that has a total of 209  
14 units which constructed probably about 167 of  
15 them are done and occupied and it actually  
16 border on South Dakota, 33rd and 31st.  
17 Traffic from that would have to leave out the  
18 development and come back down and go out.

19 I think the one thing that Jami  
20 didn't mention is, of course, we have Thurgood  
21 Marshall Middle School so you would have  
22 traffic coming in and out for any of the

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1 employees that work at the schools.

2 CHAIRPERSON MILLER: Okay. Thank  
3 you.

4 MEMBER DETTMAN: Of the four  
5 projects that you just listed, the Dakota  
6 Crossing, Wesley House, the Village -- I  
7 didn't catch the name of that one -- and also  
8 the retail component, as they were sort of  
9 stepping through the zoning process or the PUD  
10 process or whatever they were, are you aware  
11 DDOT requested sort of similar financial  
12 assistance for transportation improvements?

13 MS. HAGANS: I'm sure they thought  
14 about them. However, I think when we give you  
15 the snippets of the LDA to address what you  
16 asked, there is also a piece in there that  
17 says the District is responsible for funding  
18 all public infrastructure.

19 It is not something in this  
20 particular development not specifically to the  
21 project but to the development that the  
22 developer does not contribute to public

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1 infrastructure so they have always done it.

2 Times change and things change.

3 As Mr. Tummonds said before,  
4 things that went 30 years ago people have  
5 different ways of approaching them so we  
6 always try to have a little bit of it. There  
7 are always discussions. There are not  
8 discussions of contribution from the  
9 developer.

10 MR. TUMMONDS: Mr. Dettman, in  
11 answering your question, I would just note  
12 that the second page of the DDOT report in the  
13 second paragraph, the last two sentences, the  
14 last sentence ask that -- states that, "With  
15 the competitive nature of so many other  
16 worthwhile projects moving forward in the  
17 District, we would like to assure that funding  
18 exist to make the necessary signal changes."

19 I think what we're seeing is that  
20 in this case and other cases DDOT is asking  
21 for these types of contributions when they  
22 have the opportunity to ask for it. We

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1 believe that in this case the contribution  
2 would not be appropriate because the traffic  
3 generated by this project does not lead to  
4 this level of financial contribution.

5 PUD project. The PUD project has  
6 amenities, weighing of amenities. I think  
7 that would be probably more appropriate in a  
8 PUD project than in a BZA special exception in  
9 a variance case.

10 COMMISSIONER TURNBULL: I wonder  
11 if we could talk a little bit of what is going  
12 on at 35th Street in the alley with the gate  
13 and the road changes along there.

14 MS. HAGANS: Okay. Do you want me  
15 to talk about it?

16 COMMISSIONER TURNBULL: Yes.  
17 Where making a significant road change you  
18 have to change the curb to accommodate traffic  
19 going into the project.

20 MS. HAGANS: This?

21 COMMISSIONER TURNBULL: No, down  
22 further. Down by 35th Street.

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1 MS. HAGANS: Oh, here?

2 COMMISSIONER TURNBULL: Right.  
3 Yeah.

4 MS. HAGANS: There is no traffic  
5 that goes through here.

6 COMMISSIONER TURNBULL: Right.

7 MS. HAGANS: There is not a  
8 vehicular connection here. This has been here  
9 since the construction of this condominium  
10 unit and it exist for fire safety because at  
11 the time this here was the only egress and  
12 ingress to this particular development. As we  
13 open up here on a connection at Eastern Avenue  
14 you now really can transverse the whole thing.  
15 There will be no traffic going this way.

16 COMMISSIONER TURNBULL: Going that  
17 way.

18 MS. HAGANS: Right. I think when  
19 I mentioned to you earlier that we had sat  
20 with some homeowners for 35th Street, their  
21 concern was parking. As we go through you  
22 will see that we have more than ample parking

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1 on the site and that would mean somebody would  
2 park on 35th Street or down the Bladensburg  
3 Road, up Bladensburg Road, up Eastern Avenue  
4 to come to here.

5 As you can see, we have more than  
6 enough visitor parking in there. That is not  
7 a likelihood for someone to park here and walk  
8 all the way around to get into the project,  
9 even on Eastern Avenue.

10 COMMISSIONER TURNBULL: So that is  
11 really considered the second entrance/exit to  
12 your project?

13 MS. HAGANS: This?

14 COMMISSIONER TURNBULL: That.

15 MS. HAGANS: This is not a --

16 COMMISSIONER TURNBULL: No, the  
17 road. The alley itself is your second  
18 entrance/exit.

19 MS. HAGANS: This?

20 COMMISSIONER TURNBULL: Yeah.

21 MS. HAGANS: This is an ingress  
22 and egress. This is the actual existing one

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1 that is there with the project that already  
2 sits here. This is an existing building and  
3 there is more than exist. This is one of  
4 three buildings and the other two are sitting  
5 here with existing parking.

6 This particular access is one that  
7 was for fire safety so it has a -- well, it  
8 started out with just a gate and somehow on  
9 the 35th side they decided, or somebody  
10 decided to put a jersey barrier there so I'm  
11 not sure there is much access there of any  
12 kind of vehicular traffic at this moment, only  
13 some foot traffic if you squeeze between the  
14 gate and the structure.

15 COMMISSIONER TURNBULL: I would  
16 just note that that area that Ms. Hagans is  
17 pointing out is not on the property that is  
18 part of this application but what we really  
19 see is that this application allows for an  
20 improvement to the entire vehicular  
21 circulation pattern for our project and also  
22 for the Prime View Court Condominium

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1 Association below. Okay. Thank you.

2 MS. HAGANS: Um-hum.

3 MR. TUMMONDS: I would just  
4 conclude our presentation. I would note that  
5 we have requested the amended relief. Also in  
6 our prehearing statement pages C7 and C9 of  
7 Exhibit A we show how the proposed four lots  
8 satisfy the various zoning requirements  
9 pursuant to 2516.4 and in those two instances  
10 which they do not.

11 In our prehearing statement  
12 submitted on March 18th and in the Office of  
13 Planning Report I believe both of those  
14 documents clearly address how the project  
15 satisfies the relevant special exception and  
16 variance standards.

17 In regard to the satisfaction of  
18 variance standards, the court in the Gilmartin  
19 case noted that a project's uniqueness can  
20 arise from a confluence of factors. In this  
21 case those factors include an irregularly  
22 shaped split-zoned lot that includes a grade

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1 change of over 35 feet.

2 As a result of this exceptional  
3 situation or condition the applicant is faced  
4 with a practical difficulty in creating a  
5 development that presents itself to the  
6 community as a single integrated and cohesive  
7 development with density evenly distributed  
8 throughout the property. The overall project  
9 FAR is 0.89 which is less than the R-5-A  
10 maximum. The side yard relief requested is  
11 truly diminimus and as a result of the  
12 irregularly shaped lot.

13  
14 The granting of the requested  
15 variance relief will not result in harm to the  
16 public good or to the zone plan as the  
17 development of this project will create a  
18 safer and more vibrant environment for the  
19 residents of the Fort Lincoln neighborhood  
20 compared to the vacant site that currently  
21 exist.

22 This project is consistent in

1 scale and bulk with the surrounding buildings  
2 and properties and furthers numerous goals and  
3 policies of the Fort Lincoln Urban Renewal  
4 Plan and the comprehensive plan.

5 Representatives of our civil  
6 engineering firm, VICA, and representatives of  
7 the applicant are here to address any other  
8 questions that you might have. Thank you.

9 CHAIRPERSON MILLER: I have a  
10 question about the variance for the FAR. It's  
11 with respect to specific units. Right? I  
12 mean, how many units are you seeking FAR  
13 relief from?

14 MR. TUMMONDS: Just for the two R-  
15 5-A lots. You will note that on C7 in your  
16 book that these two lots are the lots in the  
17 R-5-A zone. This lot has an FAR of 0.93 to be  
18 reviewed on its own. This lot has an FAR of  
19 1.02 if it was to be reviewed on its own. The  
20 totality of the site has an FAR of 0.89.

21 I would note that in the R-5-D  
22 zone portion matter of right R-5-D is 90 foot

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1 tall and 3.5 FAR. I think this is an  
2 anomalous situation that we have a site in  
3 this totality which is significantly  
4 underdeveloped in the matter of right. It is  
5 also in its totality less than the R-5-A zone  
6 maximum FAR of 0.90.

7 I go to the practical difficulty  
8 standard of looking at is the overall relief  
9 requested, the severity of that relief, is it  
10 diminimus. I believe that it is diminimus and  
11 its totality were significantly less than what  
12 could be developed on the site as a matter of  
13 right.

14 CHAIRPERSON MILLER: With respect  
15 to the practical difficulty, what would happen  
16 if you had to comply with the FAR  
17 requirements? What would happen to the  
18 development? Is it just that it wouldn't look  
19 like one integrated development or what?

20 MR. TUMMONDS: The practical  
21 difficulty would be that if we were to shift  
22 density around to provide more density in the

1 R-5-D zone would that be as appropriate?  
2 Would we be able to provide the open space,  
3 the green space, the tot lots that we are able  
4 to provide with this project?

5 We've seen with our previous  
6 incarnation of this application probably not  
7 to the same degree. We believe that this  
8 project is better by having the density evenly  
9 distributed over the site.

10 I think it's important to note,  
11 too, that for anyone walking down Eastern  
12 Avenue you wouldn't notice that site is a  
13 split zone. That's R-5-A over here and then  
14 I cross this imaginary line and it's R-5-D.  
15 I think another factor in our practical  
16 difficulty in the exceptional situation  
17 condition there is a significant setback on  
18 Eastern Avenue.

19 Again, to anyone walking down  
20 Eastern Avenue, they see approximately 54 feet  
21 of green space. This is the right-of-way. It  
22 appears to anyone to be really large front

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1 yards. We believed it was appropriate to  
2 bring the property line, the face of our  
3 buildings as close as we could to the  
4 sidewalks that exist on Eastern Avenue.

5 If we were able to use even a  
6 portion of this extremely large Eastern Avenue  
7 right-of-way in the calculation of our FAR, we  
8 wouldn't need an FAR variance. I think that  
9 is an exceptional situation or condition for  
10 this property and we addressed that in our  
11 prehearing statement.

12 CHAIRPERSON MILLER: It seems like  
13 the large green space in the front is a great  
14 thing. But you're saying it somehow  
15 interferes with the amount of FAR you  
16 otherwise could use?

17 MR. TUMMONDS: I think what I'm  
18 saying is if we were to reduce the amount of  
19 density we are providing on this site so we  
20 had only .9 one of the ways we could do that  
21 would be pull this building even further back.  
22 Pull these buildings and make them not as

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1 deep.

2 We believe we already have from an  
3 urban design perspective probably too large of  
4 a front yard here. People don't really  
5 understand is this public space or is it the  
6 front yard for those buildings? We brought it  
7 as far out as we could to Eastern Avenue  
8 right-of-way as we could. I believe the  
9 appearance of -- this is an FAR request.  
10 Would anyone walking down Eastern Avenue say,  
11 "Those buildings look too big for the R-5-A  
12 zone."

13 I don't think they would because,  
14 again, the diminimus amount of area we are  
15 requesting and the fact that it already is so  
16 far set back from the sidewalk and what people  
17 are used to in a development in the District.  
18 We encourage to bring out the buildings to the  
19 sidewalk and have clearly delineated public  
20 spaces, private spaces.

21 We discussed this in our  
22 prehearing statements and through the advice

1 of OP we sought to animate our fronts more,  
2 incorporate that big space to the degree that  
3 we can and we are allowed to with the public  
4 space requirements. Make this look like  
5 vibrant usable area. We think that's what  
6 we've done with the project we are presenting  
7 today.

8 CHAIRPERSON MILLER: To me that  
9 sounds like no substantial detriment or  
10 whatever. Because you have all that green  
11 space in front it's not a big deal that you  
12 don't -- well --

13 MR. TUMMONDS: By the diminimus  
14 nature of the FAR relief we are requesting,  
15 are we making the units less appealable by  
16 decreasing that size so that we would only  
17 have a .90 FAR on the site? I believe the  
18 answer to that is yes.

19 We believe that these are the  
20 optimal units for this project. Again, the  
21 practical difficulty. We don't have to show  
22 that it's impossible but that we face a

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1 practical difficulty in satisfying the strict  
2 requirements of the Zoning Regulations.

3 MEMBER DETTMAN: Well, I was glad  
4 we finally got there and you made that point  
5 in terms of shrinking the size and how they  
6 will appeal to a potential resident. You had  
7 mentioned that one thing you could do to come  
8 into your FAR is to pull the front of the  
9 building back and make it a little bit  
10 smaller.

11 But from an urban design  
12 perspective I agree with you. Bringing them  
13 as close as you possibly can to the edge of  
14 the right-of-way of Eastern Avenue is the  
15 right thing to do. But you could also pull  
16 the rear of the building in and come into your  
17 FAR.

18 I understand that you are making  
19 this argument that you have a confluence of  
20 factors but I am not sure that the wide right-  
21 of-way of Eastern Avenue is actually a factor  
22 at all because it's not really the right-of-

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1 way that is not allowing you to come into your  
2 FAR. It's your choice to decide that is the  
3 size footprint that you actually need to make  
4 these things marketable.

5 With respect to some of your other  
6 factors you mentioned irregular shape and  
7 grade. If you could just clarify it. You  
8 have pointed them out as factors but looking  
9 at your existing grade and then the grade that  
10 you are proposing I'm not seeing it.

11 I see that you have a pretty steep  
12 slope along Fort Lincoln Drive but for the  
13 great length of Eastern Avenue I'm not seeing  
14 a huge difference in the existing grade and  
15 what you are proposing. For the length of  
16 Eastern Avenue I'm not an engineer but it  
17 looks like you have about a 4 percent grade  
18 going towards Bladensburg Road.

19 Then when you show your grade  
20 plan, you still have about a 16-foot  
21 difference in elevation over that expansive  
22 length that is about a 4 percent slope. How

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1 do you make the argument that a steep grade is  
2 a factor that leads to a practical difficulty  
3 when you are basically keeping the same grade  
4 from existing to proposed?

5 I guess another way to ask the  
6 question is how does the grade lead to your  
7 practical difficulty? How is it stopping you  
8 from coming within your FAR or your side yard?

9 CHAIRPERSON MILLER: Excuse me.

10 Before you testify I want to ask if you've  
11 been sworn in. Okay, good. Thank you.

12 MR. OLIVER: My name is Kyle  
13 Oliver. My residence is 21579 Goodwin Court  
14 in Ashburn, Virginia. I'm a civil engineer  
15 with the firm VICA, Inc. I think to answer  
16 your question on the practical difficulty on  
17 the grading issue is in order to minimize the  
18 grades where the actual lots are, that is one  
19 of the questions you need to look at. We have  
20 done that with the entrance of walls.

21 We've had to come in at the middle  
22 of the site because of the steepness of the

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1 site in order to gain access into the site and  
2 help by stair-stepping the buildings and it's  
3 actually pushing us to set the buildings this  
4 way. We want to put the buildings along the  
5 frontage of Eastern Avenue obviously for the  
6 look, have them front Eastern Avenue. We are  
7 also pushed into that because of the grade  
8 change. We can make up the grade in the  
9 buildings. The practical difficulty is trying  
10 to fit the units in with the sloping of the  
11 grade that goes down the site. I don't know  
12 if I've answered your question or not.

13 MR. TUMMONDS: I think the answer  
14 is we've used a unit type that minimizes the  
15 amount of grade change that we have to do  
16 artificially. We sited the building such  
17 that, for lack of a better term, tuck into the  
18 grade change and, again, addressing the idea  
19 of pushing those buildings to the front so we  
20 have a good urban design street scape along  
21 Eastern Avenue.

22 I think also answering your

1 question, too, about the court's views of the  
2 factors that can be used to determine whether  
3 there is unnecessary burden or practical  
4 difficulty. In the Tyler case some of those  
5 factors the BZA may consider are the weight of  
6 the burden of strict compliance, the severity  
7 of the variances requested, and the effect the  
8 proposed variance will have on the overall  
9 zone plan.

10           Again, I think the amount of FAR  
11 variance we are requesting here is truly  
12 diminimus. As I've mentioned, the overall  
13 density of the project is below the R-5-A  
14 maximum. We have a split zone site. I  
15 believe that makes it exceptional. The  
16 confluence of factors goes to is this an  
17 exceptional situation or condition. I think  
18 that it is.

19           However, those exceptional  
20 situation conditions that affect our variance  
21 test, I think we show that this site plan is  
22 determined by the grade. We think we have

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1 effectively used it so our retaining walls  
2 have a maximum height of only four feet as  
3 opposed to, say, the need for excessive  
4 retaining walls.

5 I would note, too, it an  
6 irregularly shaped lot. This is the one issue  
7 we haven't addressed as much. The side yard  
8 variance request is for this unit right here.  
9 Because of the angle of this lot, we are only  
10 able to provide a 9.38 side yard here rather  
11 than the 11 that is required.

12 As I mentioned before, these  
13 buildings are the same height. Because this  
14 is R-5-A this building has a measured height  
15 of 32 feet and is only required to have an  
16 eight-foot side yard. R-5-D, same building.

17 The measured building height is 44  
18 feet so we miraculously have an 11-foot side  
19 yard requirement here. I think because of the  
20 lot not being 90 degrees to Fort Lincoln,  
21 that's how we do, I think, satisfy the side  
22 yard variance request that we are seeking.

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1 CHAIRPERSON MILLER: Okay. That's  
2 pretty visual. If you were to comply with the  
3 side yard requirement it looks like you would  
4 have to eliminate a unit. Is that correct?

5 MR. TUMMONDS: Yes, that's  
6 correct.

7 CHAIRPERSON MILLER: Okay. So the  
8 Board would weigh that as a practical  
9 difficulty versus the degree of the relief  
10 that is being requested here for the side  
11 yard. The exceptional condition obviously is  
12 the way the driveway is angled leaving only a  
13 certain amount of sideyard and then you look  
14 at what is the impact on the abutting property  
15 which there isn't one really because it's  
16 abutting the driveway. Okay.

17 Going back to the FAR though, to  
18 me I can see that the fact that it's a split  
19 zone is an exceptional condition. From what  
20 I heard you say, in order to make this  
21 development fairly uniform, you are seeking  
22 the adjustment in the FAR and it balances out

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1 in both zones basically.

2 I see that. I agree with Mr.  
3 Dettman. I don't see that you are forced to  
4 do what you are doing with the FAR because of  
5 the topography. It looks like you are  
6 choosing to for the good of the whole look of  
7 the project. Or else, again, I don't know,  
8 perhaps you would have to eliminate some  
9 units.

10 I don't know if that is the case  
11 or not. I just don't see unless you want to  
12 say more about it. Maybe others do. You talk  
13 about a confluence of factors. There are a  
14 lot of things that might be unique. It might  
15 be unique that you've got this great front  
16 expanse but that doesn't mean that is leading  
17 to your practical difficulty in complying with  
18 the FAR. If you think it is, you can give it  
19 a try.

20 MR. TUMMONDS: Obviously the  
21 answer would be the easiest thing in the world  
22 to address, lose two units.

1                   CHAIRPERSON MILLER: I was kind of  
2                   guessing that. Why would you lose two units  
3                   if you complied with the FAR? I can see the  
4                   side yard. That is really obvious. You just  
5                   take that unit away.

6                   MR. TUMMONDS: This is the R-5-A  
7                   zone portion of the property. The denominator  
8                   in our FAR calculation is not going to change.  
9                   That's going to remain the same. The only way  
10                  we could not have more FAR is to not build as  
11                  much. If we need to get to a .9 FAR, the only  
12                  way to do it would be to lose development.

13                  CHAIRPERSON MILLER: Is it really  
14                  two? Let's say the Board would really be  
15                  weighing again the severity of the practical  
16                  difficulty versus the degree of relief. Would  
17                  it be two units?

18                  MR. TUMMONDS: Yes. Each one of  
19                  these structures include duplex units. These  
20                  are not the type of things where you can just  
21                  have -- the end unit is smaller or shrunk.  
22                  They are a consistent pattern. These are two

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1 buildings. They will be constructed at the  
2 same time so it wouldn't be a matter of just  
3 making this one not as wide.

4 You would, in fact, have to lose  
5 the entirety of, say, unit 14 or anyone of  
6 those. It's two units because it is a duplex.  
7 What we show here as eight has one entrance.  
8 There is the upper and lower units in what we  
9 have marked here as number eight.

10 MEMBER DETTMAN: I agree with you  
11 to come into conformance with FAR you could  
12 eliminate one of the units. I think a little  
13 bit earlier we said we could also sort of  
14 shrink the footprint a little bit in all of  
15 the units and sort of spread that across all  
16 of the units to come into conformance. I  
17 think we may have established that would  
18 actually be burdensome for the applicant as  
19 well in terms of the marketability and the  
20 size.

21 CHAIRPERSON MILLER: Okay.  
22 Anything else?

1                   COMMISSIONER TURNBULL: I have a  
2 question on drawing C5A in your set. I'm  
3 looking at the double retaining wall on Fort  
4 Lincoln. Is there also then a fence alongside  
5 that? Is there a fence on top? It looks like  
6 I see a pole.

7                   MR. OLIVER: There's a couple of  
8 railings on top of each wall.

9                   COMMISSIONER TURNBULL: A couple  
10 of railings.

11                  MR. OLIVER: Right. You are going  
12 to be able to walk down the sidewalk and the  
13 walls within proximity to the existing  
14 sidewalk so we want to protect someone in case  
15 they accidentally walk off the sidewalk that  
16 they are not going to fall down the hill or  
17 fall down the wall.

18                  COMMISSIONER TURNBULL: Who  
19 maintains in between all of these things? Is  
20 there a homeowner's association?

21                  MR. TUMMONDS: Yes, there will be  
22 a homeowner's association.

1                   COMMISSIONER TURNBULL:  So they  
2                   will take care of the buyer retention pond,  
3                   the tot lot, and all of the other common areas  
4                   of the site then?

5                   MS. HAGANS:  Yes.

6                   COMMISSIONER TURNBULL:  Does the  
7                   water -- I mean, are you collecting water down  
8                   to the buyer retention?  Is everything going  
9                   down there then?

10                  MR. OLIVER:  Correct.  The overall  
11                  drainage pattern is from Fort Lincoln Drive  
12                  down to Bladensburg.  we will have a couple of  
13                  catch basins along the street to collect some  
14                  of the water.  Most of the water that actually  
15                  goes into -- it will be treated with an  
16                  underground storm filter but a majority of the  
17                  two buildings here on Eastern Avenue and the  
18                  driveways will drain right down directly into  
19                  the bio retention area.

20                  COMMISSIONER TURNBULL:  So you are  
21                  trying to keep as much water on the site as  
22                  possible?

1 MR. OLIVER: Correct. We don't  
2 want to overtax the area we have for the bio  
3 retention so I don't want to drain the entire  
4 site to it because of the nature of the bio  
5 retention. It's got the sandy soils.

6 COMMISSIONER TURNBULL: Right.

7 MR. OLIVER: We don't want to send  
8 too much water to it because we want it to  
9 function properly so we will collect some of  
10 the water and treat it in an underground  
11 facility and some of the water will let sheet  
12 flow down into the bio retention area.

13 COMMISSIONER TURNBULL: Okay.  
14 Thank you.

15 CHAIRPERSON MILLER: Mr. Tummonds,  
16 I want to ask you another follow-up question.  
17 The history of this project has been that you  
18 have already eliminated a number of units.  
19 Correct?

20 MR. TUMMONDS: That's correct. We  
21 have eliminated six units from the original  
22 application.

1 CHAIRPERSON MILLER: Part of that  
2 was -- was that as a result of consultation  
3 with the Office of Planning?

4 MS. HAGANS: No. As a result as I  
5 stood there and looked at it I thought we  
6 actually eliminated a whole building and two  
7 of the units that were added were just too  
8 close to the existing building and I didn't  
9 think it lended itself to the right  
10 environment.

11 Those buildings were built in the  
12 late '80s and they have windows. I'm already  
13 putting something in front of it. You need  
14 enough space so that people can continue to  
15 have the kind of environment that they bought  
16 into. Even though I built that one, I come  
17 along a little later and I sort of really  
18 manipulate the environment. We really are  
19 trying to engage so it's a continuation of  
20 what is existing so it becomes one community.

21 CHAIRPERSON MILLER: Okay. This  
22 is just a follow-up question for the practical

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1 difficulty analysis that we were engaging in.  
2 I think we got to one way of looking at this  
3 is that if we don't grant the relief that is  
4 being sought, the two variances in at least  
5 one way, you would have to comply by  
6 eliminating two -- is it four units or two  
7 units?

8 MS. HAGANS: It's two units. One  
9 footprint represents two units in that one  
10 because they're stacked.

11 CHAIRPERSON MILLER: Okay.

12 MS. HAGANS: If I take one off  
13 anywhere on there you really have eliminated  
14 two.

15 CHAIRPERSON MILLER: So it would  
16 be two for the FAR and two for the side yard.

17 MS. HAGANS: So that's four. We  
18 would be down actually eight units.

19 CHAIRPERSON MILLER: From the  
20 original. I just want to know if you have  
21 something to say with respect to -- the test  
22 is not impossible. Yeah, you could do it.

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1 The test is that it would be unduly burdensome  
2 on you. I just want to know if you have  
3 anything to add to why that would be unduly  
4 burdensome.

5 MS. HAGANS: As you continue to  
6 eliminate units you continue to stretch the  
7 economics of the project. It is already a  
8 project that we have slated for workforce  
9 housing and so that in and of itself our  
10 intention is we are selling at the far end of  
11 the project probably an average of \$525,000  
12 per townhouse.

13 This is a workforce zone so it  
14 will come out in the threes, the very low  
15 threes. The more units I have, the more  
16 economical it becomes to try to make this  
17 project work. If I eliminate four more units,  
18 it doesn't change the infrastructure, it  
19 doesn't change the part, and it doesn't change  
20 a lot of the fixed cost in there. It just  
21 gives me less of units to spread it across.

22 CHAIRPERSON MILLER: Is all of

1 this workforce housing or just part of this?

2 This whole project is workforce housing?

3 MS. HAGANS: From that number we  
4 will -- we had been in conversation with NCRC  
5 that doesn't exist anymore to try to take some  
6 units and put them aside for the public.

7 The public schools had a program  
8 for teachers and we had that conversation. We  
9 will have to see with all of that changes  
10 where that is but we had set aside like about,  
11 I think, six or eight units that would be less  
12 than the market rate for D.C. teachers, public  
13 school teachers.

14 CHAIRPERSON MILLER: So that is  
15 less than the workforce housing, the ones set  
16 aside for the teachers?

17 MS. HAGANS: Yes.

18 CHAIRPERSON MILLER: Okay.

19 Mr. Tummonds, did you finish with  
20 your presentation?

21 MR. TUMMONDS: Yes.

22 CHAIRPERSON MILLER: Okay. Then

1 I'm going to ask a few more questions just in  
2 general, others can and then we'll go to the  
3 Office of Planning. Let's see. Office of  
4 Planning will probably address this. I mean,  
5 we'll ask them the same question but on page  
6 9 of their report there's a difference with  
7 respect to how the access, egress, ingress  
8 area is described and whether you need a  
9 modification for that. Do you know what I'm  
10 talking about?

11 MR. TUMMONDS: Yes, I know what  
12 you're talking about.

13 CHAIRPERSON MILLER: Okay. Good.  
14 You can take it from here then. I'm sure you  
15 can say it better.

16 MR. TUMMONDS: I think we've had a  
17 difference of opinion with Office of Planning  
18 in the last couple of projects that have come  
19 forward with that. Substantively it doesn't  
20 change anything that we are proposing. The  
21 numbers don't change.

22 My argument has always been that

1 if we had an apartment building on the R-5-D  
2 portion of the site, the driveway, the parking  
3 areas I have in the back of that building,  
4 very similar to what we have here, wouldn't  
5 deem to be any sort of private means of  
6 ingress and egress.

7 I think this project, a project  
8 like this, is much more similar to that type  
9 of case than, say, a 27 single-family homes  
10 that could be -- 2516 was originally created  
11 for development of large estate properties off  
12 of Foxhall Road so they had pipe stem lots and  
13 kind of winding driveways to get to 2752  
14 single-family homes.

15 I think that was the purpose  
16 behind that section in 2516 that said private  
17 means of ingress/egress shouldn't be counted  
18 towards various things. I believe our  
19 statement came from there. Again, I don't  
20 want to belabor it. I don't think we need to  
21 belabor it any further. Office of Planning  
22 and I have a disagreement. It doesn't really

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1 impact this substantively at all.

2 CHAIRPERSON MILLER: Does it not  
3 impact it -- it's doesn't. It's kind of like  
4 how we deal with it. Right?

5 MR. TUMMONDS: That's correct.

6 CHAIRPERSON MILLER: Either way it  
7 can be modified if it does apply?

8 MR. TUMMONDS: In the same way we  
9 have shown here, too, while the 2516  
10 requirement that we provide 25 feet of access  
11 roads, we are providing 20 here. We provided  
12 the truck turning diagrams to show how 20  
13 works. OP agrees that 20 is more appropriate.

14 We agree that 20 is more  
15 appropriate. Again, the idea of saving that  
16 five feet for green space rather than paved  
17 area is a benefit and we think that is part of  
18 the BZA's authority to approve it. Yes, we do  
19 think that is appropriate.

20 CHAIRPERSON MILLER: I think you  
21 also included in the application several  
22 optional floor plans. Am I correct on that?

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1 MS. HAGANS: Option one and option  
2 two. Is that what you're speaking of?

3 CHAIRPERSON MILLER: I'm going to  
4 see if I can find them. I'm pretty sure I saw  
5 a lot of options and I was just wondering how  
6 that is working if I'm correct. I'll try to  
7 pinpoint it.

8 COMMISSIONER TURNBULL: There's  
9 some end-unit options on A2, end-unit option  
10 one and end-unit option two. I think the idea  
11 behind that is that if a purchaser would  
12 desire option two which provides a bay window,  
13 they would be able to add that upgrade to  
14 their unit.

15 CHAIRPERSON MILLER: Okay. I do  
16 see a lot of different ones that say option  
17 one and option two. In approving these plans  
18 we would allow for the townhouses to be built  
19 in accordance with either of these options.

20 MR. TUMMONDS: That's correct.

21 CHAIRPERSON MILLER: Okay. One  
22 more tiny issue. We were discussing this this

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1 morning when we approve plans what, if any,  
2 flexibility is allowed. We don't interpret  
3 that there is very much unless we say there's  
4 flexibility.

5 I just had a question with respect  
6 to the tot lots. In your mind are they  
7 intended to be tot lots forever or would you  
8 want them to be able to transform into a  
9 general play area as kids get older?

10 MS. HAGANS: I intend for them to  
11 be what it is, a community that uses them and  
12 intends for them to be. I mean, once the  
13 project is sold out they have their own board  
14 and if they no longer need a tot lot and they  
15 need something else, I think they will make it  
16 into something else.

17 CHAIRPERSON MILLER: That's what I  
18 thought. Okay.

19 Let me ask you, Mr. Tummonds, do  
20 you think there is any problem with the  
21 labeling of something like this like 10 years  
22 down the road that someone is going to say,

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1 "Oh, it's not a tot lot anymore. They are not  
2 in compliance with the order."

3 MR. TUMMONDS: I don't believe so.  
4 I believe this is the type of flexibility that  
5 the Zoning Administrator has to grant. He  
6 looks at the intent, I believe of what exist  
7 there. On something like this it's shown as  
8 a recreation space. It's delineated as a tot  
9 lot.

10 I believe he couldn't turn it into  
11 something like parking spaces or another unit  
12 but I believe that the idea of a tot lot that  
13 eventually evolves into something for 12-year-  
14 olds versus four-year-olds. I believe the  
15 Zoning Administrator has that type of  
16 authority inherent in his office.

17 CHAIRPERSON MILLER: He has the  
18 type of -- I mean, originally you are going to  
19 take it to the Zoning Administrator. You are  
20 going to get your permits, you are going to  
21 build, etc. Okay. He's not involved in the  
22 process anymore. This may not be a problem at

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1 all and this is an opportunity to

2 MS. HAGANS: Why don't we say play  
3 area.

4 CHAIRPERSON MILLER: Okay. That's  
5 fine. My concern is sometimes neighbors will  
6 say, "Oh, that's not a tot area. They are  
7 violating their order." Why

8 MS. HAGANS: Why don't we say play  
9 area.

10 CHAIRPERSON MILLER: All right.

11 MS. HAGANS: Or recreational area.  
12 I mean, what works to give you the comfort for  
13 the most flexibility to the owners eventually?  
14 That's not going to be a decision of the  
15 developer. Clearly it will be the decision of  
16 those who live there.

17 CHAIRPERSON MILLER: Can I ask you  
18 just while we are talking about this in  
19 general are there other play areas in the  
20 vicinity for older kids and that's why this  
21 was designated as a tot area or tot lot?

22 MS. HAGANS: I could go there if

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1 you want me to walk there but --

2

3 CHAIRPERSON MILLER: Don't walk  
4 for me. Tell us what it is.

5 MS. HAGANS: Then I won't. I  
6 think that is just something -- it gets to be  
7 something that people do. It is across the  
8 street from Thurgood Marshall Middle School.  
9 We have for the community just redone their  
10 entire playground. Fort Lincoln has a  
11 ballfield where the little league plays.

12 It has a rec center and outdoor  
13 swimming pool. They are not short on any  
14 amenities out there so there's plenty of  
15 places. In the Dakota Crossing townhouses  
16 there are areas where there is some kind of  
17 play equipment for young kids and it is across  
18 the street from the park.

19 I think it's just a designation  
20 when you are looking at the green space  
21 doesn't just look like flat green grass but  
22 really put something there designated so

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1 owners will feel comfortable in taking their  
2 kids to play.

3  
4 That also precludes people from  
5 walking animals around there, too, because if  
6 you see it's designated for children to play  
7 in, you have a little better sense of respect  
8 rather than an open just green space. I think  
9 sometimes people are not as careful about what  
10 this space is really intended to be used for.

11 MR. TUMMONDS: I would just C3A in  
12 our prehearing statement is the expanded site  
13 context plan which shows the general area of  
14 Fort Lincoln and it shows the proximity of  
15 this project to the rec center, ballfields,  
16 the pool that Ms. Hagans mentioned.

17 CHAIRPERSON MILLER: Thank you  
18 very much.

19 MS. HAGANS: You're welcome.

20 MEMBER DETTMAN: I just have one  
21 last observation and one last question. If my  
22 observation is wrong, then you can hopefully

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1 correct me. With respect to FAR and given the  
2 diminimus nature of your relief, it seems to  
3 me that on the R-5-D portion of your property  
4 you have made a choice to build something  
5 significantly less dense than what you could  
6 actually build there.

7 I am thinking you made this choice  
8 because of the surroundings from a public good  
9 standpoint. You have built something probably  
10 around a .9 where it looks like you could  
11 probably go to a 3.5. That is the  
12 observation.

13 It seems to me it helps the  
14 variance test because you have been very  
15 sympathetic to what is sort of going around in  
16 the neighborhood. You have willingly decided  
17 to build something a third of the size of what  
18 you could potentially build.

19 Then my question is with respect  
20 to the height of the buildings. There is no  
21 problem along Eastern Avenue given 120-foot  
22 right-of-way but I don't know the right-of-way

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1 width of Forth Lincoln Drive. I was just  
2 wondering if you knew the width of Fort  
3 Lincoln Drive.

4 MS. HAGANS: Fort Lincoln Drive  
5 has a very large median strip with four lanes  
6 on each side.

7 MR. TUMMONDS: One hundred foot  
8 right-of-way.

9 MEMBER DETTMAN: Oh, 100 foot.  
10 Thank you.

11 MR. TUMMONDS: In answering your  
12 first question, I think Ms. Hagans did talk  
13 about that. The original proposal showed more  
14 density on the R-5-D portion of the site, that  
15 internal fifth lot. She made the choice, the  
16 decision maybe that is not the type of project  
17 that we want to pursue.

18 We think it is better for the  
19 community to remove some of that density. I  
20 think overall, yes, the project has less  
21 density. It's a better project for the area  
22 even though we are requesting this diminimus

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1 FAR variance.

2 CHAIRPERSON MILLER: Okay. Why  
3 don't we go to the Office of Planning then.  
4 Good afternoon, Ms. Brown.

5 MS. BROWN-ROBERTS: Good  
6 afternoon, Madam Chairman, and members of the  
7 Commission. I'm Maxine Brown-Roberts from the  
8 Office of Planning.

9 The Fort Lincoln Eastern Avenue,  
10 LLC, which the applicant submitted an  
11 application for 62 which was later reduced to  
12 56. The applicant has requested variances for  
13 the FAR side yard setback and special  
14 exception for section 353 and 2516.

15 Regarding the variances for the  
16 FAR and the side yard setback we also  
17 expressed some concerns about the increase in  
18 the FAR. We did talk to the applicant about  
19 bringing it into conformance. However, I  
20 think what sort of convinced us was that we  
21 thought it did make a better project to have  
22 the FAR sort of distributed evenly through the

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1 site with the split zoning.

2 In addition to that, we think that  
3 topo was a factor in that it is steeper in  
4 some areas but the unit type that they were  
5 using with each unit being split and how it's  
6 arranged I think they were able to take that  
7 into consideration and to make the units  
8 better. With that type of unit you needed to  
9 have some additional space. We thought that  
10 was appropriate.

11 Again, regarding the side yard  
12 setback, again because of the topography and  
13 in trying to connect to the right-of-way or  
14 the private driveway on the other side which  
15 impacted the curvature in the road and it then  
16 impacted the side yard we also thought they  
17 had a practical difficulty there and the  
18 request for the reduction in the side yard.  
19 We also wanted to note that it was not the  
20 entire side yard. It was just a portion of  
21 the side yard that is reduced.

22 Regarding the special exceptions

1 as outlined in our report, they do meet the  
2 requirements of section 353 and 2516. It was  
3 mentioned that we did bring attention to  
4 2516.6 which talks about the width of the  
5 right-of-way and also for the turning area.

6 As stated by the applicant, we do  
7 have a difference in interpretation of that.  
8 Until we can get the language changed, I think  
9 it is quite appropriate. I think we are  
10 interpreting it the correct way. However, I  
11 think that the reduction that is being  
12 requested for the five foot request is  
13 appropriate and will not cause any harm.

14 Also the applicant was able to  
15 demonstrate that both emergence of vehicles  
16 and trash pickup will not have any problems in  
17 going into the alley to service the units.  
18 In addition to that, we did talk to DDOT about  
19 the reduction and they were satisfied there  
20 would be no negative impact on that reduction.

21 Based on those things we recommend  
22 approval of all the requested variances and

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1 special exception. Thank you, Madam Chairman.

2 CHAIRPERSON MILLER: You did an  
3 excellent report. I don't think you usually  
4 comment on DDOT but I don't know if you want  
5 to comment on the DDOT memorandum with respect  
6 to requesting that the applicant contribute  
7 \$25,000 to mitigate adverse traffic impacts.

8 MS. BROWN-ROBERTS: I did not talk  
9 to them about that issue so I don't think I  
10 want to comment.

11 CHAIRPERSON MILLER: I guess part  
12 of my problem with this memorandum, and then  
13 we'll have to see to what extent the Board  
14 wants to consider it, we don't have DDOT here  
15 to ask them why this amount and did you look  
16 at the applicant's traffic study and those  
17 kind of questions.

18 MS. BROWN-ROBERTS: When I saw the  
19 application and I called to talk about it and  
20 basically they said that's what it is. That's  
21 what they wanted. I didn't go into a  
22 discussion with them about the justification.

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1 They just told me that.

2           However, one of the things is that  
3 this application is going to go back. DDOT is  
4 going to see it again because it has to go  
5 through -- when it goes for the building  
6 permit it has to go through public space. I  
7 think at that time again the applicant will  
8 have to have some sort of discussion with DDOT  
9 about that because I'm sure it will come up  
10 again.

11           CHAIRPERSON MILLER: Any other  
12 questions? With respect to that  
13 egress/ingress area issue, are you also of the  
14 opinion that it's not a significant issue?  
15 It's just a question of whether we think it's  
16 applicable or we modify?

17           MS. BROWN-ROBERTS: Yes. I think  
18 2516.9 or 6 that gives the Board the ability  
19 to waive that. I think it's appropriate. I  
20 did talk to DDOT about that that the 25 feet  
21 is appropriate and they said, "Yes, we've done  
22 it on other projects before." They were able

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1 to demonstrate to our satisfaction about the  
2 turnaround and so I think that is fine with  
3 us.

4 CHAIRPERSON MILLER: I understand  
5 that one with the width. The other is whether  
6 or not there is a private road.

7 MS. BROWN-ROBERTS: We think that  
8 the entrance/exit along Eastern Avenue is a  
9 private road. I don't know what the  
10 definition of a driveway or something like  
11 that what is so different. I never understood  
12 that part. We look at it as a private road  
13 and then the other two as alleys.

14 CHAIRPERSON MILLER: Okay. And if  
15 it's a private road what is the implication  
16 then?

17 MS. BROWN-ROBERTS: Even if it is  
18 going to be dedicated as a public road, the  
19 regulation says it should have a width of 25  
20 feet. DDOT has also taken reductions to 20  
21 feet so long as it is built to their standard  
22 into their system. I don't think that is a

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1 problem.

2 CHAIRPERSON MILLER: Okay. I see  
3 what you're saying. If we were to consider it  
4 a private road, then we would have to waive  
5 the regulation for the 25 feet because it's  
6 only 20 feet. Is that right?

7 MS. BROWN-ROBERTS: No. I think  
8 what I'm trying to say is whether it's a  
9 private street or a public street, either way  
10 it's okay to do the reduction, the requested  
11 reduction. What we're saying is we look at it  
12 as a street and not as a driveway so that's  
13 the difference. The driveway would be like  
14 the alley or something like that. That's what  
15 we think about it.

16 CHAIRPERSON MILLER: Okay. I may  
17 be getting tired but I thought that looking at  
18 2516.6(a) on page 9 that perhaps if it's a  
19 road or not if affects whether or not it's  
20 included in the area of the lot. Is that an  
21 issue that we need to look at or no?

22 MS. BROWN-ROBERTS: I think that

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1 is also an issue that we had also because all  
2 the driveways and the alleys were included in  
3 the lots so that is something that also needs  
4 a waiver I think.

5 CHAIRPERSON MILLER: Mr. Tummonds,  
6 do you want to comment on that?

7 MR. TUMMONDS: Again, I think we  
8 believe that to the units along in the R-5-A  
9 zone it appears to be a driveway. That is how  
10 it -- those are the direct access to those  
11 parking spaces, to those rear loaded. I don't  
12 think anyone would see this as a private road  
13 that kind of snakes through the property. I  
14 think this is the entrance/exit driveway to  
15 get to those units.

16 CHAIRPERSON MILLER: Okay. So you  
17 think it's a driveway but does that affect  
18 2516.6(a) referenced in the Office of Planning  
19 Report at page 9 that says, "The area of land  
20 that forms the covenanted means ingress or  
21 egress shall not be included in the area of  
22 any theoretical lot or any yard that is

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1 required by this title?"

2 MR. TUMMONDS: With regards to the  
3 yard that is why we have our side yard  
4 variance. Even if we accept that, we can  
5 include any part of the entrance/exit there.  
6 We agree that the entrance part coming in can  
7 be the private road. We subtracted -- if you  
8 look at our page C1, our cover sheet, we  
9 subtracted 2,056 square feet as our  
10 ingress/egress area.

11 We said that is the area coming  
12 down into there. Then we said basically the  
13 areas behind the R-5-A lots that's the  
14 driveway getting to those units. That's how  
15 we address that issue of -- you know, we did  
16 not include the covenanted means of ingress  
17 and egress as part of the determination of  
18 that lot.

19 CHAIRPERSON MILLER: Okay. So you  
20 are in compliance with that, that you didn't  
21 include it in your lot area. Is that correct?  
22 Office of Planning says that the access

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1 egress/ingress area is included within the  
2 area of each lot. Is that not right? I'm  
3 looking at page 9.

4 MR. TUMMONDS: Are you waiting for  
5 a response from us?

6 CHAIRPERSON MILLER: Yes.

7 MR. TUMMONDS: Okay.

8 CHAIRPERSON MILLER: I want to  
9 know whether that is something we are supposed  
10 to be considering waiving or not, whether you  
11 are in compliance or not in compliance.

12 MR. TUMMONDS: The area between  
13 what is shown on here is 14 and 15, those two  
14 buildings, we subtracted that area which is  
15 the 2,056.26 square feet out of the lots and  
16 then the driveways that are in the backs of  
17 one through 14 and then 15 through 28. Those  
18 were included as driveways and lots. The  
19 2,000 square feet is really just pieced  
20 between buildings 14 and 15 as shown in the  
21 plan.

22 MR. TUMMONDS: So I think to what

1 Ms. Brown-Roberts said when she says the  
2 access ingress area is included within the  
3 area of each lot, her delineation of what we  
4 call the driveway behind, yes, she --

5 CHAIRPERSON MILLER: What is she  
6 talking about it? I see between 14 and 15  
7 which is the main entrance. Correct?

8 MR. TUMMONDS: That's correct.

9 CHAIRPERSON MILLER: And you  
10 didn't include that in our lot area?

11 MR. TUMMONDS: That is correct.

12 CHAIRPERSON MILLER: Okay. Where  
13 else are you looking?

14 MR. TUMMONDS: The driveway. If  
15 you come in off Eastern Avenue you go through  
16 that ingress/egress area which we didn't count  
17 and then you are going to drive all the way  
18 down to unit one in the 20-foot wide area. We  
19 said that's the driveway to get to your unit  
20 one. We did include that in the calculation  
21 of our R-5-A lot.

22 The Office of Planning is saying

1 that is a covenanted means of ingress and  
2 egress that should be deleted from the  
3 calculation. I think the importance of that  
4 is that, again, if that was especially on our  
5 R-5-D portion if we had one big 90-foot tall  
6 apartment building that was an L so it was one  
7 lot, one building on a record lot, if we drove  
8 in there that would certainly be deemed to be  
9 the driveway. That is included in your lot  
10 area.

11 That is no different than what we  
12 are proposing here. I just don't think -- I  
13 recognize that 2516 is a section has been in  
14 the regulation for a long time and it could  
15 use some review as to how it is actually used  
16 now, especially with the removal of the Zoning  
17 Commission last year of section 410. Now we  
18 use 2516 in more ways as well.

19 CHAIRPERSON MILLER: Where do we  
20 look to determine whether this is a driveway  
21 or a road? Besides, you know, our experience  
22 or common sense, where is it in the regs that

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1 we can determine who's right?

2 Ms. Roberts, where are you pulling  
3 that from?

4 MS. BROWN-ROBERTS: I haven't seen  
5 it anywhere in the regs that sort of defines  
6 the difference between the driveway. I  
7 suppose it just depends on who is interpreting  
8 it.

9 CHAIRPERSON MILLER: Okay. So you  
10 are just interpreting the words "covenanted  
11 means of ingress or egress" and applying it to  
12 all the ingresses and egresses in here?

13 MS. BROWN-ROBERTS: Right. Right.

14 CHAIRPERSON MILLER: Okay.

15 MS. BROWN-ROBERTS: All the site  
16 plans that I've seen where they have the lots  
17 outlined, I haven't seen where they have  
18 deducted that right-of-way because that right-  
19 of-way also is included in both sides, in the  
20 lot to the north of the driveway and to the  
21 south. If you look at C7 I'm looking at the  
22 lot lines and the roadways are all included in

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1 that and not delineated as separate lots.

2 MR. TUMMONDS: I think at the end  
3 of the day this goes to FAR variance which we  
4 have requested. If we were to say, you know,  
5 that, okay, we'll except that, it still goes  
6 to the issue of, all right, you need then an  
7 FAR variance from the R-5-A portion. We are  
8 requesting that.

9 CHAIRPERSON MILLER: That's the  
10 impact. It just increases your FAR.

11 MR. TUMMONDS: Right. Yes.

12 MS. BROWN-ROBERTS: There it is.

13 MR. TUMMONDS: We're already here.  
14 We're already there. It's already advertised  
15 for it. I have no questions for OP.

16 CHAIRPERSON MILLER: Do you have a  
17 copy of the Office of Planning Report?

18 MR. TUMMONDS: I think is probably  
19 part of -- again, I would just like to  
20 reiterate my comments with regards to the DDOT  
21 report. I don't want this to sound flip but  
22 I don't begrudge DDOT for asking for the money

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1 for this.

2 They have budgetary constraints.  
3 I just don't believe that in this case with  
4 evidence that we have provided that their  
5 request is appropriate or based on the  
6 evidence of record in this case.

7 COMMISSIONER TURNBULL: You don't  
8 want to pay for everyone else.

9 MR. TUMMONDS: Yes, that is  
10 correct.

11 MEMBER WALKER: Ms. Hagans  
12 mentioned that the LDA specifies that the  
13 government is to pay for all infrastructure.  
14 Does it specifically address that issue? What  
15 kind of detail does the document have? Just  
16 as you are submitting for the record excerpts  
17 related to relationship between the parties,  
18 can you also submit excerpts related to who is  
19 responsible for infrastructure costs?

20 MR. TUMMONDS: Absolutely. I have  
21 been told that the LDA refers to "public  
22 infrastructure." We will also provide for the

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1 record the excerpts from the LDA that will  
2 address that issue as well.

3 MEMBER WALKER: Thank you.

4 CHAIRPERSON MILLER: Any other  
5 questions for Office of Planning? Okay. Is  
6 anyone here from the ANC? Ah, you want to  
7 come forward? Good afternoon.

8 MR. KING: Good afternoon.

9 CHAIRPERSON MILLER: Do you want  
10 to introduce yourself for the record?

11 MR. KING: Yes. For the record,  
12 Madam Chair and members of the BZA Board, my  
13 name is Robert "Bob" King and I am the ANC  
14 commissioner representing the Fort Lincoln  
15 community. I have done so for the past 25  
16 years.

17 This is a great day for me, Madam  
18 Chair and members of the Board. If we are  
19 able to get the special exemption passed by  
20 the BZA, it will kind of bring to a closure  
21 for me the residential portion of the  
22 development of Fort Lincoln to a close after

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1 more than 30 years.

2 The projects in Fort Lincoln have  
3 basically gone through five mayors, Walter  
4 Washington, Marion Barry, Sharon Pratt-Kelly,  
5 Tony Williams, and now Mayor Fenty. At least  
6 12 former council members have also been  
7 involved.

8 As ANC commissioner representing  
9 the Fort Lincoln community for over 25 years,  
10 there has been countless civic association SMD  
11 meetings where Michele Hagans and I have told  
12 the Fort Lincoln residents "not long" when the  
13 residents were asking, "How long?" They  
14 simply wanted retail and housing development.

15 Many have given up saying "how  
16 long" and have replied "never" and just simply  
17 moved away. There were times that my dreams,  
18 hopes, and aspirations had reached an  
19 explosive level but I have never lost faith in  
20 Michele Hagans and the development team to get  
21 the job done.

22 I want to provide you just a

1 little historical background on Fort Lincoln.  
2 Fort Lincoln is a 360-acre enclave within  
3 Washington, D.C. situated on the rolling hills  
4 with a beautiful vista of Maryland to the east  
5 and Washington, D.C. to the south and west.

6 Fort Lincoln was part of a larger  
7 plan grant given by Lord Baltimore to John  
8 Vista in 1719. Before the American Civil War  
9 Fort Lincoln was named Camp Union. In 1861  
10 Massachusetts Infantry constructed a defensive  
11 complex and named it Fort Lincoln to protect  
12 both railroads and turnpikes with a 34-gun  
13 battery.

14 In 1866 Fort Lincoln was  
15 decommissioned. Between 1872 and 1874 in an  
16 area called by local leaders as Mount Pleasant  
17 the National School for Boys was constructed.  
18 In 1868 the school was closed when a new  
19 facility was built in West Virginia.

20 Then we moved to the Fort Lincoln  
21 Urban Renewal Plan. In May of 1972 the  
22 National Capital Planning Commission, which

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1 was referred to as the NCPC, adopted the Fort  
2 Lincoln Plan and that was approximately 36  
3 years ago.

4 On April 5, 1990, NCPC readopted  
5 the Urban Renewal Plan which was then 18 years  
6 ago. I just will pause since we are talking  
7 about April. In a few days we will be paying  
8 tribute to the late Dr. King who was  
9 assassinated on April 4, 1968.

10 July 26, 1972, the city council  
11 approved the plan which was then 36 years ago.  
12 On December 6, 1994 a second approval with  
13 some modifications of the plan, at least 15  
14 years ago. When we talk about Fort Lincoln  
15 today, Madam Chair, and members of the BZA,  
16 let's just look inside of Fort Lincoln. I  
17 just want you to take a little journey with me  
18 on your bicycle or car and walk with me  
19 through Fort Lincoln.

20 Fort Lincoln is home to the  
21 largest population of seniors living anywhere  
22 in the city, approximately 3,000 residents

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1 including the seniors. 3001 Bladensburg Road  
2 has 187 units, 3005 Bladensburg Road has 177,  
3 2855 has 120 units, and 3298 has 306. Wesley  
4 AME Church has under construction 119 units  
5 soon to be occupied for a total of 917 senior  
6 units.

7 Condo townhouses. Canon Village,  
8 where I have lived since 1976, is home to 233  
9 residents. Condo II on Hillside has 105  
10 units. Condo III in Summer Village have 90.  
11 Maple View has 55. Pineview has 40.  
12 Washington Overlook, a luxury high-rise  
13 apartment, has 158 units for a total of 679.

14 Pulty Homes at Dakota Crossing,  
15 209 units under construction with  
16 approximately 167 sold which has been the  
17 fastest selling homes in the region which is,  
18 incidentally, Madam Chair, home to the Chief  
19 of Police as well.

20 Fort Lincoln Gateway Village is a  
21 PUD project, 357 units on about 23 acres.  
22 Thirty of those units are set aside for

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1 workforce housing for D.C. public school  
2 employees. The project has 183,000 public  
3 benefits and amenity package thanks for  
4 Michele Hagans and I sitting down and working  
5 out giving something back to the community.

6 She has already started to put her  
7 money where her mouth is. She has constructed  
8 a brand new playground at the Thurgood  
9 Marshall Middle School which cost about  
10 \$100,000 that was completed last year. There  
11 is a community newsletter coming out of that  
12 package, renovation upgrade of the senior  
13 culture center, landscaping package,  
14 scoreboard for the baseball field, Fort  
15 Lincoln Community Day which will allow us to  
16 come together and enjoy the unity of that day  
17 and the spirit of cooperation as we look  
18 forward to a better and safe community for all  
19 of our children.

20 Not to leave out the retail  
21 development, Madam Chair. There are 400,000  
22 square feet on 42 acres of land. It's the

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1 first future home to Costco, Shopper's Food,  
2 a bank, two sit-down restaurants, and some  
3 other stores.

4 This development were to create,  
5 no doubt, a substantial contribution to the  
6 tax base and create employment training  
7 opportunities for the much needed workforce in  
8 Washington, D.C.

9 Other Fort Lincoln amenities that  
10 will help sell homes. This is what is so  
11 unique about Fort Lincoln. Fort Lincoln,  
12 Madam Chair, is the only community that has  
13 two types of development taking place,  
14 residential and commercial retail. You have  
15 to have the upscale development to support  
16 that retail.

17 We have a 2.5 acre amusement park  
18 which started in January. If you don't get  
19 your permit request in by February, you might  
20 be left out with seven or eight gazebos that  
21 can hold up to 200 folks. \$2 million state-  
22 of-the-art baseball field, eight tennis

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1 courts, indoor and outdoor pool.

2 Thurgood Marshall Middle School  
3 has the backing of a premium distributors, one  
4 of our partners, who has contributed \$10,000  
5 to that school for the last five years as an  
6 annual contribution. I'm simply delighted to  
7 present that huge check, Madam Chair, on  
8 graduation day. Thank you, for the record,  
9 Mr. James Ray.

10 Fort Lincoln is so unique, Madam  
11 Chair, it is the only community that has its  
12 own voting precinct, 139. That speaks to why  
13 I've probably been elected for 25 years  
14 because the hearts of the seniors never grow  
15 yonder, they keep growing fonder.

16 In addition to having its own  
17 voting precinct, it's probably going to be the  
18 only community in the next census count that  
19 will have two ANC commissioners and we have to  
20 wrestle with that.

21 I am here before you today to  
22 outline my single member district 5A support

1 and ANC-5A support to which I have been  
2 authorized to convey their support by me  
3 through my chairman, Ms. Angie Austin,  
4 regarding BZA Application No. 17741 for a  
5 special exemption.

6 The proposed City Home project  
7 will create 56 residential units and four new  
8 buildings that will face Eastern Avenue and  
9 Fort Lincoln Drive. As part of that I am very  
10 happy to work with my developer partner  
11 Michele Hagans again to insist on putting  
12 eight to 10 workforce housing units.

13 The community support, Madam  
14 Chair, for that project started on October 25,  
15 '07. The proposed project was presented to  
16 the Fort Lincoln community at my annual SMD  
17 meeting by Michele Hagans and several hundred  
18 of the community folks were there to support  
19 that project. Included among the 700 folks  
20 was Mayor Fenty, Chairman Vincent Gray, Quami  
21 Brown, Phil Menison, Cal Swartz, and a quorum  
22 of ANC.

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1           Madam Chair, if I wanted to change  
2           the zoning maddox I could have done it on  
3           October 25th at my community meeting almost  
4           having a quorum of the council.

5           On February 27th the project was  
6           placed on the 5A committee as a whole agenda.  
7           March 17th ANC-5A committee of a whole voted  
8           approve BZA application number 17741 to create  
9           56 new residential units and designate me to  
10          speak on their behalf.

11          March 18th I met with the  
12          residents on 35th Street who live in the 19  
13          single family detached dwelling units built in  
14          1925. We received the support and I promised  
15          to keep them abreast of the development of the  
16          project. March 25th at the ANC public meeting  
17          held at Providence Hospital the committee of  
18          the whole reflected the ANC-5A vote.

19          This brings me now, Madam Chair  
20          and members of the BZA Board, which is April  
21          1. Madam Chair, we urge you and members of  
22          the BZA Board without hesitation and without

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1 reservation to vote yes for the project.

2 Thank you, Madam.

3 CHAIRPERSON MILLER: Thank you.

4 Thank you for your long years of service.

5 That's fantastic. And giving us a history and  
6 a flavor for the community that this is going  
7 to be built in.

8 I just have some basic questions  
9 to start with. We don't have any ANC report  
10 in our record. Are you aware that there was  
11 a report that we should have in our file for  
12 this particular case?

13 MR. KING: I spoke with the  
14 chairperson and she said she had sent a letter  
15 down designating and authorizing me to speak  
16 on the vote of 5A and that was done about a  
17 week ago because we were trying to get it  
18 down, I think, seven days prior to the  
19 hearing.

20 CHAIRPERSON MILLER: Okay. Am I  
21 correct that it's not in our file, Ms. Bailey?

22 MS. BAILEY: Madam Chair, unless

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1 someone else have a copy I haven't seen one.  
2 I don't know if someone else does. Does the  
3 Office of Planning?

4 CHAIRPERSON MILLER: Okay. What  
5 I'm going to ask is if you could have that  
6 letter --

7 MR. KING: I certainly will.

8 CHAIRPERSON MILLER: -- faxed in,  
9 brought in.

10 MR. KING: Part of the record.

11 CHAIRPERSON MILLER: Get it into  
12 the record.

13 MR. KING: Got to have the record.  
14 Yes.

15 CHAIRPERSON MILLER: Good. You  
16 represent the single member district. Did you  
17 say there are just two ANC commissioners?

18 MR. KING: I said it requires a  
19 single member district to have 2,000 to  
20 qualify as a single member district. We are  
21 over 2,000 and by the next census count we  
22 will have to have at least two commissioners.

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1 CHAIRPERSON MILLER: Are you the  
2 only commissioner?

3 MR. KING: Yes.

4 CHAIRPERSON MILLER: Who is it  
5 that would be sending this letter authorizing  
6 you?

7 MR. KING: 5A. Great weight is  
8 not given to the single member district. It's  
9 given to the ANC as a whole.

10 MR. TUMMONDS: How many  
11 commissioners are there in ANC-5?

12 MR. KING: Twelve.

13 CHAIRPERSON MILLER: Okay. That's  
14 different. Thank you.

15 MR. KING: I represent the single  
16 member district. I represent Fort Lincoln  
17 which is part of it.

18 CHAIRPERSON MILLER: Right. I  
19 thought you said there were only two in this  
20 ANC.

21 MR. KING: No. I'm saying when  
22 the census is taken again the next time around

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1 Fort Lincoln will have two commissioners so we  
2 got to figure out how to divide up Fort  
3 Lincoln to accommodate another commissioner.

4 CHAIRPERSON MILLER: Okay. It's  
5 your representation that there was a vote and  
6 a report not only that you're authorized to  
7 speak for the commission or for -- okay, for  
8 the commission. Do you remember what the vote  
9 was or anything like that with respect to this  
10 project?

11 MR. KING: The committee as a  
12 whole I believe it was nine commissioners  
13 present out of 12 which was a quorum. You  
14 have to have a quorum to conduct business. It  
15 was a quorum that actually voted to support  
16 the project.

17 CHAIRPERSON MILLER: Okay. We'll  
18 look for that report.

19 MR. KING: In fact, there were at  
20 least 10 commissioners present on the 27th  
21 when the project was presented to the Fort  
22 Lincoln community because that is my public

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1 meeting.

2 CHAIRPERSON MILLER: Okay. That  
3 was the 27th of what?

4 MR. KING: The 27th of October,  
5 '07. It's normally every year in 5A. Each  
6 commissioner we rotate our single member  
7 district meeting. Mine is in October because  
8 that is the time for the last almost 20 years  
9 I have asked the developer Michele Hagens and  
10 her team to come to the Fort Lincoln family  
11 and let us know what's going on with the  
12 retail space, what's going on with housing,  
13 are there any changes in the development.

14 That's why the question of, "How  
15 long?" "Not long." After 15 years folks just  
16 decided they ain't coming because every  
17 October we come and say, "It's coming, it's  
18 coming, it's coming. It's on its way."  
19 People say, "I can't smell it, I can't hear  
20 it, I can't feel it."

21 CHAIRPERSON MILLER: Okay. Any  
22 other questions? Did you have any questions

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1 for the Office of Planning or the applicant?

2 MR. KING: No. I would just like  
3 to invite the BZA committee out to Fort  
4 Lincoln one day and see that magnificent  
5 community and all its amenities. Then plus if  
6 you decided that you want to move, we sure  
7 have a lot of nice homes in Fort Lincoln and  
8 I will personally show you around.

9 CHAIRPERSON MILLER: Thank you  
10 very much.

11 MR. KING: We can have our meeting  
12 at Fort Lincoln. We don't have to have it  
13 down here where the parking issue is.

14 CHAIRPERSON MILLER: Okay. Thank  
15 you.

16 MR. KING: Thank you.

17 CHAIRPERSON MILLER: Does the  
18 applicant have any questions? Okay.

19 Is there anybody here in the  
20 audience who wishes to testify in support of  
21 this application? Anyone who wishes to  
22 testify in opposition of this application?

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1 Do Board members have any final  
2 questions for the applicant? Okay. Then I'll  
3 turn to you, Mr. Tummonds, for final remarks.

4 MR. TUMMONDS: Sure. I know that  
5 it's been a long afternoon. We have provided  
6 a lot of information in the record of this  
7 case both in the prehearing statement, the  
8 Office of Planning Report, and testimony  
9 today. We believe that the application  
10 satisfies the special exception and variance  
11 standards.

12 We believe the applicant faces a  
13 practical difficulty in satisfying the FAR  
14 requirements and that satisfaction of strict  
15 FAR requirements would be unnecessarily  
16 burdensome and that it would result in the  
17 loss of the additional units as Ms. Hagans  
18 described earlier today.

19 We would request approval of the  
20 application as amended earlier today. We will  
21 submit excerpts from the LDA for the record.  
22 I would like to note that I believe that we do

1 have the information necessary for the for the  
2 Board to take a vote on this case today.

3 If you decide that you do not have  
4 such information, I would request that we be  
5 able to schedule this for a special public  
6 meeting in that waiting until May 1, I've been  
7 told, would cause some financial constraints  
8 to the applicant in the future development of  
9 this project. Thank you very much.

10 CHAIRPERSON MILLER: Thank you.  
11 Okay. I'm going to suggest that we schedule  
12 this for a special public meeting for next  
13 Tuesday. The Board, as far as I know, always  
14 has the material in the record prior to  
15 issuing a decision. I think there is no  
16 problem with getting the excerpts from the  
17 LDA, is there?

18 MR. TUMMONDS: No. Absolutely  
19 not. We can have those to you in the next  
20 couple of days.

21 CHAIRPERSON MILLER: Okay. That  
22 would be great. I want to leave the record

1 open for the ANC report. It would be good if  
2 it were in this week and then the Board could  
3 give it the great weight in its deliberations.

4 But if it's not in, I think the  
5 Board would still deliberate and you were here  
6 to testify but it would be better if it comes  
7 in. Do you want to say that on the record?  
8 Okay. So we'll have both pieces of  
9 information.

10 The record will then be fully  
11 complete and we'll deliberate on it next  
12 Tuesday. It would be the first item of our  
13 agenda. It will be the only item on our  
14 special public meeting and we'll do that  
15 before our hearing.

16 MR. TUMMONDS: Thank you very  
17 much.

18 CHAIRPERSON MILLER: Okay. Thank  
19 you. Any other questions or anything? All  
20 right. Then that concludes this case.

21 Ms. Bailey, do we have anything  
22 else on the hearing agenda for this afternoon?

1 MS. BAILEY: No, Madam Chair.

2 CHAIRPERSON MILLER: Okay. This  
3 hearing is adjourned.

4 (Whereupon, at 5:28 p.m. the  
5 hearing was adjourned.)

6

7