

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC MEETING

+ + + + +

TUESDAY

OCTOBER 8, 2013

+ + + + +

The Regular Public Meeting of the District of Columbia Board of Zoning convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:30 a.m., Lloyd J. Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD J. JORDAN, Chairperson  
S. KATHRYN ALLEN, Vice Chair

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Commissioner  
MICHAEL G. TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

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OFFICE OF PLANNING STAFF PRESENT:

STEVEN COCHRAN  
PAUL GOLDSTEIN  
STEPHEN GYOR  
KAREN THOMAS  
ELISA VITALE

OFFICE OF THE DEPARTMENT OF TRANSPORTATION STAFF  
PRESENT:

EVELYN ISRAEL

The transcript constitutes the minutes  
from the Regular Public Meeting held on October  
8, 2013.

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P R O C E E D I N G S

1  
2 BZA CHAIR JORDAN: Good morning.  
3 Please come to order. We are located at the  
4 Jerrily R. Kress Memorial Hearing Room at 441 4th  
5 Street, N.W.

6 Today's date is October 8th, 2013,  
7 and we're here for a meeting, a public hearing  
8 of the Board of Zoning Adjustment in the District  
9 of Columbia.

10 My name is Lloyd Jordan,  
11 Chairperson. To my left is Michael Turnbull, a  
12 member of the Zoning Commission. To my right is  
13 S. Kathryn Allen, a member of the Board.

14 Please be advised that this  
15 proceeding is being recorded by a court reporter  
16 and also being Webcast live. So therefore, I'm  
17 going to ask you to refrain from any disruptive  
18 noises here in the hearing room. Certainly  
19 silence your telephones, and the like.

20 The Board's hearing procedures are  
21 contained in the pamphlet, or a document to my  
22 left, by the back door. So if you're not

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1 familiar with how we operate, please feel free  
2 to get that information.

3 There's two things I need you to do  
4 for us today, if you plan on testifying or  
5 presenting a statement to the Board.

6 The first thing I need you to do is  
7 to complete two witness cards per person. Two  
8 witness cards per person, and you give those  
9 cards, prior to your testimony, to the court  
10 reporter who's sitting to my right, and your  
11 left.

12 The second thing I need you to do is  
13 to, at this time, if you're going to give  
14 testimony or present a statement to the Board,  
15 I'm going to ask you to stand now and take the  
16 oath or affirmation that'll be given by the  
17 Board's secretary, Mr. Moy.

18 So if you're going to provide any  
19 testimony or statement to the Board, please  
20 stand and take the oath or affirmation.

21 (EN MASSE SWEARING OF WITNESSES)

22 MR. MOY: Ladies and gentlemen, you

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1 will consider yourselves under oath.

2 Good morning, Mr. Chairman, and the  
3 Board. The case before the Board is Appeal No.  
4 18031. This is of the West End Citizens  
5 Association. This is the DC Court of Appeal's  
6 remand, and Action Item attendant to the Board's  
7 Procedural Order on Remand, July 1st, 2013. This  
8 is part of the Board's decision making --

9 COURT REPORTER: Sir, are your  
10 microphones on?

11 MR. MOY: Yes; it is. How's that?  
12 Better.

13 COURT REPORTER: That's better.

14 MR. MOY: Better. Sorry. Apologize.

15 Let me end with that, then, Mr.  
16 Chairman.

17 We do have some preliminary matters  
18 on this agreement.

19 BZA CHAIR JORDAN: All right. So  
20 what's the preliminary matter?

21 MR. MOY: There's a Motion to  
22 Strike, which is the Appellant's reply to DCRA

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1 and FoBoGro of their filings, dated September  
2 3rd, 2013, which is Exhibit No. 35.

3 BZA CHAIR JORDAN: Okay. Could you  
4 give us--I don't know if you have it in front of  
5 you--a procedural history--what we've done. I  
6 think we last had--we issued two orders  
7 regrading this that--for briefings, and  
8 etcetera.

9 Do you have that in front of you?

10 MR. MOY: Yes, sir. Let me begin  
11 this and say that--addresses this. On September  
12 17th, 2013, on its own motion, the Board  
13 rescheduled this decision to October the 8th.  
14 This would allow additional time for a Board  
15 review.

16 On July 1st, 2013, a majority of the  
17 members of the Board approved the issuance of the  
18 procedural order and remand, which is Exhibit  
19 No. 30. As outlined in that order, the Board will  
20 allow briefs to be filed by August 16, 2013, any  
21 reply briefs to be allowed by September 3rd.

22 In the record is a filing from DCRA,

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1 dated August 13, 2013, under Exhibit 32. There's  
2 a filing from the Foggy Bottom Grocery, the party  
3 and the operator, Exhibit--on August 16, 2013.  
4 That's identified under Exhibit 33 in your case  
5 folder.

6 The Appellant's filing, dated  
7 August 19, 2013, under Exhibit 34, and Exhibit  
8 35, as I've just cited for the Board.

9 BZA CHAIR JORDAN: Okay. This is  
10 when it's set for the Board, for a decision, one  
11 that we've been briefed and briefed and briefed,  
12 and advised, and advised, and advised, and  
13 whatnot, looked at, and the Board has looked at  
14 very seriously, over and over again, especially  
15 because this is kind of precedent setting for  
16 this particular Board, as well as I assume for  
17 most of Government, as it reflects what the  
18 Supreme Court case, **Bowles v. Russell**, looking  
19 at what most jurisdictions and most courts  
20 looked at as a subject matter jurisdictional  
21 kind of rule, or requirement, to be one that's  
22 been broken down now, where the body, or the

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1 board, the judicial board, or quasi-judicial  
2 board needs to look at whether or not the rule  
3 is one which can be considered claim processing  
4 and/or jurisdictional, and that brought in to  
5 question, under the remand, our Zoning  
6 Regulation 3112, which says, which requires that  
7 an appeal be taken within 60 days from an action,  
8 or should have been known to take an action, so  
9 was--and then it was called up by the D.C. Court  
10 of Appeals, the **Bowles v. Russell**. I think it's  
11 the **Smith** case, which put in effect, in the  
12 District of Columbia, whether or not the  
13 regulation is--in a administrative body,  
14 whether or not the rule is claim processing,  
15 meaning that it can be forfeited, or  
16 jurisdiction, when it can never be forfeited.

17 This matters where we had an earlier  
18 case with FoBoGro, raised an equitable defense  
19 of both estoppel and laches to an action being  
20 raised by the West End Citizens Association,  
21 that sought an appeal of the Zoning  
22 Administrator's decision to issue a certificate

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1 of occupancy for several floors in the building,  
2 when one had already been issued for August 2008,  
3 for the first floor, and some controversy over  
4 that particular document.

5 The Board, at that time, made a  
6 decision not to rule regarding the question of  
7 equitable defenses raised by the FoBoGro party,  
8 meaning that it said that they're going to  
9 withhold its decision pending the outcome on  
10 whether or not it was necessary to do so, and the  
11 Board found in favor of FoBoGro on the appeal.

12 However, on remand, the Court of  
13 Appeals has reversed that decision and put that  
14 back--reversed the decision of the BZA at that  
15 point. So in considering a review of--and the  
16 Court of Appeals then remanded this matter back  
17 to us to make a decision whether or not 3112 was  
18 claim processing or jurisdictional, and based  
19 upon the case law, I would clearly--it's my  
20 belief that it's clearly claim processing,  
21 especially since it was not the--the rule was not  
22 put in place by the Congress of the United

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1 States, which actually, under the act, creating  
2 the zoning board, creating Board of Zoning  
3 Adjustment, laid out the foundation.

4 And even if it was some intent to be  
5 jurisdictional, there's nothing in the act by  
6 Congress and/or--in the act of Congress, that  
7 indicated that this specifically was supposed to  
8 be a bar, or a jurisdictional kind of regulation.

9 So following those cases, it would  
10 be my thought, certainly, that this is claim  
11 processing. And in that light, then, that puts  
12 us back to review what has happened in the other  
13 underlying appeal, and that being that the Board  
14 deferred off to the decision on the equitable  
15 defenses raised.

16 So based upon that kind of analysis,  
17 I would offer this to the Board, that the Board  
18 set this matter for hearing on the--well, but the  
19 Board--well, whether we rule or not, that we rule  
20 that the 3112 is claim processing, and therefore  
21 3112, since it was not raised as a defense at the  
22 time of the underlying matter, is now forfeited

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1 by FoBoGro, and therefore it would now--they  
2 would have lost that, or waived it, by not  
3 raising an issue, and that we would then set this  
4 for hearing, as the Board had deferred the  
5 defenses of laches and equitable estoppel.

6 So I would offer that to the Board, and  
7 then have the parties brief it, and set an  
8 evidentiary hearing based upon those sole two  
9 issues for the Board to render. So that's my  
10 thought. Does anybody else have any other on the  
11 matter?

12 COMMISSIONER TURNBULL: This,  
13 then, is just a limited hearing, and a narrow  
14 scope hearing on just the issues that you talked  
15 about?

16 BZA CHAIR JORDAN: Yes. It's my  
17 thought that we would just have it on the laches  
18 and the equitable estoppel.

19 COMMISSIONER TURNBULL: Okay. I'm  
20 agreeable to that.

21 BZA CHAIR JORDAN: And the Court of  
22 Appeals has said, over and over again, that this

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1 body, on an appeal, can render an  
2 equitable--make equitable rulings and consider  
3 equitable defenses. So we'd be in line with that.

4 VICE CHAIR ALLEN: I do agree, Mr.  
5 Chairman.

6 BZA CHAIR JORDAN: With that, then,  
7 I would move that we order that this matter be  
8 set down for hearing on the limited basis of  
9 deducing--receiving briefs on a point of laches  
10 and equitable estoppel, and to receive evidence  
11 in support of or against the issues of laches and  
12 equitable estoppel as it would affect this  
13 particular underlying appeal.

14 And so that would be my motion.

15 VICE CHAIR ALLEN: Second.

16 BZA CHAIR JORDAN: The motion made  
17 and seconded. All those in favor, signify by  
18 saying aye.

19 (Chorus of ayes)

20 BZA CHAIR JORDAN: Those opposed,  
21 nay.

22 The motion carries.

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1 Mr. Moy.

2 MR. MOY: Yes. The staff would  
3 report the vote as three to zero on the motion  
4 of Chairman Jordan, seconded by Vice Chairperson  
5 Allen, also supporting the motion which Mr.  
6 Turnbull and no other sitting. The motion  
7 carries.

8 BZA CHAIR JORDAN: Then I would  
9 offer this as a briefing, or hearing schedule.  
10 I think we're--because we're very tight until,  
11 I think, what? December something? December 3rd?

12 MR. MOY: Yes.

13 BZA CHAIR JORDAN: Yes. I think  
14 December 3rd is our--we're real tight because we  
15 come in to a different type of holiday periods.  
16 And so I offer that. I believe the briefing  
17 schedule should be as follows. December 3rd,  
18 working our way backwards. FoBoGro is the  
19 proponent of the motions, of the defensive of  
20 laches and equitable estoppel, so they should go  
21 first. So let's say, counting  
22 backwards--thirty--at least 30 days. So let's

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1 say FoBoGro should present a brief on the laches  
2 and equitable--on the equitable estoppel and  
3 supporting evidence by November 5th.

4 Thereafter, the Washington--excuse  
5 me--the West End Citizens Association, and  
6 Department of Consumer and Regulatory Affairs,  
7 should be given at least two weeks to respond to  
8 that. So let's say November 19th.

9 And then FoBoGro should have the  
10 opportunity to do a reply brief. So that's 19 and  
11 seven. At least a week. So that's November 26.  
12 So FoBoGro should have their reply brief in by  
13 November 26, and we set this for hearing on  
14 November 3rd. Does that make sense to you, Mr.  
15 Moy?

16 MR. MOY: That works. I think that  
17 allows ample time for the briefing, Mr.  
18 Chairman.

19 BZA CHAIR JORDAN: Okay. So then  
20 that should be the order.

21 MR. MOY: Okay. Very good.

22 BZA CHAIR JORDAN: And we

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1 appreciate you coming in, even though I think  
2 you're--aren't you off?

3 COMMISSIONER TURNBULL: No.

4 BZA CHAIR JORDAN: Okay. You're  
5 working.

6 COMMISSIONER TURNBULL: I'm  
7 essential.

8 BZA CHAIR JORDAN: I know  
9 you're--you're always essential. Thanks,  
10 Mike.

11 (Commissioner Turnbull leaves)

12 BZA CHAIR JORDAN: As you see, our  
13 Board has been slightly truncated because some  
14 people are federal employees and not essential,  
15 and essential, and--Anthony Hood, who is the  
16 chairperson of the Zoning Commission, we  
17 appreciate him being here.

18 Most--a lot of people don't know.  
19 The Zoning Commissions sometimes meet the night  
20 before, and they get out very late. I think last  
21 night, it was at 11:00 o'clock, or so, they got  
22 out, and then have to come up in the morning and

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1 be here. We appreciate it.

2 ZC CHAIR HOOD: So what you're  
3 saying is if I doze off, then forgive me.

4 BZA CHAIR JORDAN: Right. Well, you  
5 know, sometimes you get out after 12:00, and it  
6 didn't happen last night.

7 Mr. Moy, if we could, let's do this.  
8 I think we do have a case where the party  
9 status--18632?

10 MR. MOY: Yes, sir. That's correct.

11 BZA CHAIR JORDAN: Let's have a  
12 representative from the party status person and  
13 the representative of the Applicant come forth,  
14 please.

15 Would you please identify  
16 yourselves.

17 MS. MOLDENHAUER: Good morning.  
18 Meredith Moldenhauer, from Griffin, Murphy,  
19 Moldenhauer & Wiggins, is representing the  
20 Applicant.

21 MR. MADANI: My name is Sia Madani  
22 of Madison Investments. We are the Applicant.

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1                   BZA CHAIR JORDAN:        Make your  
2 microphone -- thank you.

3                   MS. JOHNSON:    Thank you. My name is  
4 Aileen Johnson. I submitted a request for party  
5 status.

6                   BZA CHAIR JORDAN:   Yes.

7                   MS. JOHNSON:    I am withdrawing my  
8 request for party status.

9                   BZA CHAIR JORDAN:   Well, there you  
10 go. Then that eliminates that.

11                   Very good. So what I was going to say  
12 now is all for naught. Thank you very much. Then  
13 we'll call you in our normal order. Thank you.

14                   Just let me know if I need to run.  
15 What's that noise? Is it an alien invasion or  
16 what?

17                   Some of you know, we have a history  
18 of trying to understand--do me a favor. If you  
19 need witness cards and other things, just kind  
20 of let me know and I'll get them over to you, so  
21 we can keep our process going. All right.

22                   Sometimes we have fire evacuations

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1 or fire alarms. The way this building's  
2 situated, sometimes we know they're going off,  
3 sometimes we don't know they're going off.  
4 Sometimes we know we should evacuate. Sometimes  
5 we don't. So we're kind of conscious of that.

6 So let's do this, Mr. Moy. Let's  
7 start with the public meeting, the first case,  
8 public meeting.

9 MR. MOY: Okay. The two actions  
10 for the Board, and it's a Public Decision  
11 Meeting. The first would be Application No.  
12 18647. This is of Otto Hoernig. This is on the  
13 expedited review calendar, as a matter of fact,  
14 pursuant to 11 DCMR 3104.1, for a special  
15 exception for an addition to an addition--for an  
16 addition to a one-family semi-detached dwelling  
17 under section 223, not meeting the lot occupancy  
18 requirements under section 403, and  
19 nonconforming structure provisions under  
20 subsection 2001.3, in the R-3 District at  
21 premises 3301 N Street, N.W., Square 1229, Lot  
22 140.

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1                   Three preliminaries in this, Mr.  
2                   Chairman.

3                   BZA CHAIR JORDAN: 18647?

4                   MR. MOY: Yes. Very quickly, as you  
5                   notice in your case folder, there's no affidavit  
6                   of posting. There is a follow-up for affidavit  
7                   of posting. That came in to the record. It's  
8                   dated October 3rd, which still make it--

9                   BZA CHAIR JORDAN: Out of time.

10                  MR. MOY: --late, not within the 14  
11                  days, and of course we also have a ANC 2E letter  
12                  that's in the file now, which was submitted on  
13                  October the 7th, yesterday, on Monday. So that  
14                  would be late.

15                  BZA CHAIR JORDAN: Okay. So there  
16                  would be--so there's two matters. Unless  
17                  there's any opposition by the Board, I'm  
18                  going--I would accept those things in to the  
19                  record.

20                  Is there anything else with that?  
21                  Any--okay.

22                  I think this one's pretty--well,

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1 here's the issue, and I think that--I have not  
2 seen anything in the file, and I think we checked  
3 the record for relief under 2001.3, which I think  
4 is required. I saw some reference in the OP  
5 report that something had been pending, or there  
6 was a request. But I think we can handle that as  
7 the Board in any motion. I don't think there's  
8 a reason to hold up this particular file, because  
9 the non-conforming requirement in 2001.3 goes  
10 actually to the relief that they're looking for  
11 under 403 for lot occupancy.

12 So I think the file is real complete  
13 in regards to the relief, and on the expedited  
14 review, the file is pretty complete, it's very  
15 complete, and I believe that they should be  
16 granted relief, especially in light of ANC 2E  
17 providing a six-zero vote on this matter.

18 So is there anyone in the audience  
19 in opposition to 18647?

20 [No response]

21 BZA CHAIR JORDAN: Does the Board  
22 have any issues or concern with this?

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1 [No response]

2 BZA CHAIR JORDAN: Then I would move  
3 that we grant the relief requested for Case  
4 18647.

5 VICE CHAIR ALLEN: Second.

6 BZA CHAIR JORDAN: Motion made and  
7 seconded. Any further discussion?

8 [No response]

9 BZA CHAIR JORDAN: Any unreadiness?

10 [No response]

11 BZA CHAIR JORDAN: Let me just say  
12 for the record, also, Office of Planning  
13 supported the application.

14 All those in favor, signify by  
15 saying aye.

16 (Chorus of ayes)

17 BZA CHAIR JORDAN: Those opposed,  
18 nay.

19 The motion carries.

20 Mr. Moy.

21 MR. MOY: Thank you, Mr. Chairman.

22 Staff would record the vote as three to zero,

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1 this on a motion of Chairman Jordan to approve  
2 the application for the relief cited. Second,  
3 the motion by Vice Chairperson Allen, also  
4 supported by Mr. Anthony Hood. We have a Board  
5 not participating with us today, and a Board seat  
6 vacant. The motion carries, three to zero.

7 BZA CHAIR JORDAN: Okay. Will you  
8 call the next case, please.

9 MR. MOY: Full order or summary  
10 order, sir.

11 BZA CHAIR JORDAN: I'm sorry?

12 MR. MOY: Full order or summary  
13 order.

14 BZA CHAIR JORDAN: Summary order.  
15 Thank you.

16 MR. MOY: Thank you, sir.

17 The next action for the Board, and  
18 decision, is the--is a request for a minor  
19 modification of approved plans. This is to BZA  
20 Order No. 18555 of Jemal's Prospect's, LLC,  
21 pursuant to section 3129 of the Zoning  
22 Regulations. The original application, if

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1 you'll recall, Mr. Chairman, was approved on  
2 June 4th, 2013, and issued on June 12th, 2013.

3 Did I say that right?

4 Approved on June 4th and issued on  
5 June 12th. All right. This was an application  
6 for a special exception to change the  
7 non-conforming uses to a yoga studio, yoga  
8 apparel, and yoga accessories uses under 2003.1  
9 of the Zoning Regulations, in the R-3 District,  
10 at premises 3343 Prospect Street, N.W., Square  
11 1220, Lot 30.

12 On October 12th, the Applicant made  
13 a filing to modify, and that document is in your  
14 case folders under Exhibit 35. There are  
15 revised site plans shown on Tab C of the  
16 Applicant's filing.

17 The only other filing in the record,  
18 Mr. Chairman, is from the Office of Planning,  
19 dated October 1st, 2013, under Exhibit 36.

20 BZA CHAIR JORDAN: All right. Okay.  
21 Well, this kind a raised a couple of issues.

22 I thought we went back and had a

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1 discussion. This was under--this is that issue  
2 of whether the yoga studio or a group  
3 instructional center studio--correct? Isn't  
4 that kind of the conversation? Well, that's kind  
5 of not before us at this point. I think if we  
6 deal with this matter, we can either go back and  
7 make sure this is the right way.

8 Staff has advised in regards to this  
9 matter, and I would certainly accept the  
10 recommendation that this matter ought to be set  
11 for hearing, in that it's not a minor  
12 modification. If we go back to the history on  
13 this one, this particular portion was actually  
14 carved out, and there was a lot of discussion  
15 about the furniture store where there's a hair  
16 salon, and at that time it was--there was a  
17 person in opposition, another Mr. Freeman, who  
18 indicated that he had a concern about this  
19 property.

20 So I think we'd better dot i's and  
21 cross our t's on this one. I think the space  
22 that is being requested to be modified is not,

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1 was not included in the original order that was  
2 allowed, and as staff has recommended that this  
3 be put, set down for hearing.

4 So that would be my recommendation.

5 VICE CHAIR ALLEN: I would  
6 definitely agree.

7 ZC CHAIR HOOD: No objection.

8 BZA CHAIR JORDAN: So Mr. Moy, let's  
9 order this be--at the time, as soon as we can get  
10 it taken care of.

11 MR. MOY: Yes, sir. Would you care  
12 for a tentative date, or do you want--

13 BZA CHAIR JORDAN: Yes.

14 MR. MOY: Well, to provide enough  
15 notice to the public, on the docket, Mr.  
16 Chairman, I think November the 19th would  
17 suffice.

18 BZA CHAIR JORDAN: Okay. Let's do  
19 that. So that would be the order by consent.

20 MR. MOY: Thank you, sir.

21 BZA CHAIR JORDAN: Let's see here.  
22 Okay. Let's go ahead and call 18631.

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1 MR. MOY: 18631. All right.  
2 Application No. 18631. This is an application of  
3 David and Samantha Ross, pursuant to 11 DCMR  
4 3104.1. This, Mr. Chairman, is for a special  
5 exception to allow a second story screened porch  
6 addition to an existing row dwelling under  
7 section 223, not meeting the lot occupancy  
8 requirements under section 403, court  
9 requirements under section 406, and  
10 non-conforming structure provisions under  
11 subsection 2001.3. This is in the R-4 District  
12 at premises 1731 Kilbourne Place, N.W., Square  
13 2602, Lot 98.

14 BZA CHAIR JORDAN: All righty. The  
15 parties or persons for 18631, the Applicant,  
16 come forward. Oh, you're here. Okay. I guess  
17 it'd be good if I looked up. And make sure your  
18 microphone is on. And did you give witness cards  
19 to--okay. And tell us your name, please.

20 MR. FOWLER: Mike Fowler from  
21 Fowler Architects, representing the home  
22 owners.

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1                   BZA CHAIR JORDAN: I think we have  
2 everything that's necessary already in this  
3 file. So I think the record is pretty clear.

4                   Let me ask: Is there anyone in the  
5 audience in opposition to 18631? Anyone in  
6 opposition to 18631?

7                   This is a matter that already  
8 has--the Office of Planning has recommended  
9 approval. ANC 1D has recommended approval. DDOT  
10 recommended their normal recommendation of no  
11 objection; however, that's a recommendation.  
12 And there are support letters from the neighbors  
13 on this matter.

14                   So I don't think there's anything  
15 that the Board needs, in addition, unless you  
16 just want to say something. But I need to warn  
17 you, when we get to this point, sometimes people  
18 step in it. So it's your option to--if you want  
19 to waive, we can go ahead.

20                   MR. FOWLER: I have nothing else to  
21 add. Thanks.

22                   BZA CHAIR JORDAN: Okay. Does

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1 Office of Planning have anything else to add?

2 MS. THOMAS: Nothing further.

3 BZA CHAIR JORDAN: Okay. And as I  
4 already asked, if there's anyone in opposition  
5 to this matter.

6 [No response]

7 BZA CHAIR JORDAN: Saying that,  
8 then I want to close--we'll close the record  
9 based upon what we already have, and then I would  
10 move that we grant the relief under--as  
11 requested under 18631.

12 VICE CHAIR ALLEN: Second.

13 BZA CHAIR JORDAN: Motion made and  
14 seconded. Any unreadiness?

15 [No response]

16 BZA CHAIR JORDAN: All those in  
17 favor, signify by saying aye.

18 (Chorus of ayes)

19 BZA CHAIR JORDAN: Those opposed,  
20 nay.

21 The motion carries.

22 Mr. Moy.

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1 MR. MOY: Thank you, Mr. Chairman.  
2 Staff would record the vote as three to zero,  
3 this on the motion of Chairman Jordan to approve  
4 the application for the relief as I've cited.  
5 Second, the motion of Vice Chairperson Allen,  
6 and also in support, Mr. Anthony Hood. We have  
7 a Board member not present and a Board seat  
8 vacant. So the motion carries, three to zero.

9 BZA CHAIR JORDAN: All right. Thank  
10 you. And a summary order. I didn't miss it.

11 MR. MOY: Thank you, sir.

12 BZA CHAIR JORDAN: Okay.

13 MR. MOY: The next application  
14 before the Board, I believe, is Application No.  
15 18628.

16 BZA CHAIR JORDAN: Let's call  
17 18514.

18 MR. MOY: 514. All right.  
19 Application No. 18514. This is the application  
20 of Andrew Daly and Patty Jordan, pursuant to 11  
21 DCMR 3104.1, and 3103.2, for a special exception  
22 under section 223, not meeting the lot occupancy

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1 requirements under section 403, a variance from  
2 the parking space dimensions under subsections  
3 2115.1, and a variance from the garage setback  
4 requirement under subsection 2300.2(b), to  
5 allow a detached garage addition serving a  
6 one-family dwelling in the R-4 District. This is  
7 at premises 1220 Park Street, N.E., square 987,  
8 Lot 8.

9 For the record, Mr. Chairman, this  
10 application has been before the Board from March  
11 12, May 21st, and more recently, July 23rd and  
12 September 24th.

13 BZA CHAIR JORDAN: Introduce  
14 yourselves, please.

15 MR. PETERSEN: Yes. My name's Eric  
16 Petersen. I'm the architect for the client.

17 MR. DALY: And I'm Andrew Daly.

18 BZA CHAIR JORDAN: Make sure you're  
19 turned on.

20 MR. DALY: Andrew Daly. Owner, 1120  
21 Park.

22 BZA CHAIR JORDAN: And you

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1 submitted your cards to the court reporter?

2 MR. DALY: Yes. Correct.

3 BZA CHAIR JORDAN: I don't want to  
4 get you in trouble.

5 Let me see. You just handed Mr.  
6 Moy--

7 MR. PETERSEN: Yes. We had received  
8 further support from the neighbors, that  
9 particularly identified the deck element on the  
10 garage.

11 BZA CHAIR JORDAN: So you do have  
12 letters of support now from the neighbors, that  
13 weren't presented to the ANC?

14 MR. DALY: Yes.

15 MR. MOY: Correct.

16 BZA CHAIR JORDAN: Okay. So that's  
17 where I was going--that's what I needed to get  
18 from you, because we give great weight to  
19 determinations of a ANC, and the ANC here was  
20 kind of--were very supportive, understood that  
21 the relief ought to be granted. However, you  
22 didn't follow their process and procedures, so

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1 they recommended denial, unless you brought in  
2 support letters.

3 So Mr. Moy, can we see those letters.  
4 And so we take very seriously, and that's why I  
5 was calling you up. Because I think outside of  
6 that, I think the conditions, as even recognized  
7 by the ANC, should be granted--the relief should  
8 be granted based upon the conditions in which  
9 it's submitted.

10 I like this. "Better late than  
11 never." Now where are these neighbors in  
12 conjunction to the property?

13 MR. PETERSEN: Other side.  
14 Directly--

15 BZA CHAIR JORDAN: Both sides?  
16 Okay.

17 MR. PETERSEN: Correct.

18 BZA CHAIR JORDAN: All right. Okay.  
19 Then we would--okay. All right. So it's better.  
20 Based upon what's in this particular file--well,  
21 first, let me ask:

22 Is there anyone in opposition on

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1 18514? 18514?

2 [No response]

3 BZA CHAIR JORDAN: Based upon  
4 what's in the record, and now with the  
5 submission, and we will receive in to our record  
6 the support letters, which now puts us in  
7 compliance with the request of the ANC in this  
8 matter, thus reversing their denial, which now  
9 will make this their recommendation for  
10 approval. I think that--

11 MR. MOY: I'm sorry to interrupt,  
12 Mr. Chairman. I just want to remind you that we  
13 do have an affidavit of posting from the  
14 Applicants. They submitted it today, so it quite  
15 obviously is a little bit late; but we do have  
16 that posting.

17 BZA CHAIR JORDAN: All right. Okay.  
18 Then we'll accept that. So unless you want to  
19 put on some evidence, I think we're already at  
20 the point where you need to be, and so anything  
21 in Planning we need to change?

22 MR. GYER: Good morning, Mr.

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1 Chairman, members of the Board. Stephen Gyer  
2 with the Office of Planning. We support the  
3 Applicant's request for relief, and based on the  
4 record. Thanks.

5 BZA CHAIR JORDAN: All right. And  
6 the Department of Transportation didn't "weigh  
7 in," and now we have the support letters, and  
8 there not being any opposition, so then we would  
9 turn back, and it would be my recommendation to  
10 the Board, well, one, that we close the record  
11 based upon what we've received, and that we would  
12 grant the requested relief in 18514. That'll be  
13 my motion.

14 VICE CHAIR ALLEN: Second.

15 BZA CHAIR JORDAN: All right.  
16 Motion made and seconded. Any unreadiness?

17 [No response]

18 BZA CHAIR JORDAN: All those in  
19 favor, signify by saying aye.

20 (Chorus of ayes)

21 BZA CHAIR JORDAN: Opposed, nay.

22 The motion carries.

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1 Mr. Moy.

2 MR. MOY: The staff would record the  
3 vote, three to zero, based on the motion of  
4 Chairman Jordan to approve the application per  
5 the relief requested, seconded motion, Vice  
6 Chairperson Allen, also in support Mr. Anthony  
7 Hood. We have a Board member not present today  
8 and a Board seat vacant. The motion carries,  
9 three to zero.

10 BZA CHAIR JORDAN: Thank you.

11 MS. GLAZER: Mr. Chair.

12 BZA CHAIR JORDAN: Ye?

13 MS. GLAZER: This is just my own  
14 thought--

15 BZA CHAIR JORDAN: Yes?

16 MS. GLAZER: --on this matter. It has  
17 to do with the ANC.

18 BZA CHAIR JORDAN: Please.

19 (Ms. Glazer confers off-mike with  
20 Chairman Jordan)

21 BZA CHAIR JORDAN: All right.

22 Thanks. Mr. Moy, let's just make sure. I thought

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1 it was said substantially. Let's make sure the  
2 summary order indicates that the letters of  
3 support that were requested by the ANC, thus  
4 making their denial reverse to a support,  
5 approval, was done. Okay? Let's just add that to  
6 the summary order.

7 MR. MOY: Okay. We'll have that  
8 taken care of. Thank you. Staff will have that  
9 taken care of, Mr. Chairman.

10 BZA CHAIR JORDAN: For  
11 instance--and this is what I'm talking about. It  
12 says: "Should the Applicant  
13 provide those letters to the Board, we ask that  
14 you grant the exception and variances."

15 So that would be consistent.

16 MS. GLAZER: Now I agree, Mr. Chair.  
17 Just for clarification, this is the first line  
18 of the denial.

19 BZA CHAIR JORDAN: Okay.  
20 It's--that's top of the order.

21 MR. MOY: Okay. That takes us back  
22 to Mr. Green. So that would be Application No.

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1 18628, Application of William P. Green, pursuant  
2 to 11 DCMR 3103.2. This is a variance from the  
3 lot occupancy requirements under section 403,  
4 the rear yard requirements under section  
5 403--404--and the non-conforming structure  
6 requirements under section 2001.3, to construct  
7 a roofed deck addition to an existing one-family  
8 row dwelling in the R-3 District at premises 461  
9 Delafield Place, N.W., Square 3251, Lot 212.

10 BZA CHAIR JORDAN: All right. Thank  
11 you, Mr. Moy. Would you please identify  
12 yourself. Make sure your microphone's on,  
13 please. There should be a bright--the  
14 microphone's in front of you. There should be a  
15 bright--no; no. Straight ahead. That's the  
16 microphone right there. But your left hand was  
17 on the microphone. Push the button. There  
18 should be a bright green glow for you. Now say  
19 something. Try that.

20 MR. GREEN: Yes.

21 BZA CHAIR JORDAN: Pushing it.

22 MR. GREEN: I see.

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1                   BZA CHAIR JORDAN:   There you go.  
2    Would you state your name.

3                   MR. GREEN:     My name is William  
4    Green.

5                   BZA CHAIR JORDAN:   Okay.

6                   MR. GREEN:     I'm the home owner of  
7    461 Delafield Place, Washington, D.C.

8                   BZA CHAIR JORDAN:   Mr. Green, this  
9    file, I don't know if it's necessarily ready to  
10   move forward, and it's certainly your option to  
11   do so.  I just want to give it to you, straight  
12   off.  One.  We don't have an affidavit of  
13   posting.  Have you filed an affidavit of posting  
14   with this office?

15                  MR. GREEN:     Yes.  Yes, I did.  It was  
16   late, though.

17                  MR. MOY:     Mr. Chairman, I neglected  
18   to mention.  The Applicant filed this morning,  
19   his affidavit.

20                  BZA CHAIR JORDAN:   Okay.  If there's  
21   no objection, we'll accept it.  But those things  
22   should be turned in timely.  Also, did you

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1 present to the ANC, ANC 4D?

2 MR. GREEN: Yeah. Well, I have a  
3 hard time communicating with the AN--ANC, but I  
4 finally got in touch with them. Ms. Parkington.  
5 I met her about three weeks ago, and she informed  
6 me that she will get on the case and submit all  
7 the information here to the BZA. But I haven't  
8 heard from her since then.

9 BZA CHAIR JORDAN: How have you  
10 tried to contact them?

11 MR. GREEN: Yes, I have. She got a  
12 new number. She had a problem with her cell  
13 phone, which was the communication I had with  
14 her.

15 BZA CHAIR JORDAN: Have you had a  
16 chance to meet with the Office of Planning on  
17 this?

18 MR. GREEN: Say it again, sir.

19 BZA CHAIR JORDAN: Have you met with  
20 the Office of Planning cause they're  
21 recommending opposition to this. And I think  
22 you might need to get some additional

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1 consultation, meet with the Office of Planning,  
2 and others, before you go forward with this.

3 MR. GREEN: Mr.--Mr. Goldberg?

4 Yeah. I met Mr. Goldberg.

5 BZA CHAIR JORDAN: Cause I don't  
6 think this is really prime and right. I don't  
7 think your application meets all the standards.  
8 But you can go forward during this hearing, if  
9 you want. I'm just giving you some advice. At  
10 this time, you can ask us to continue this, so  
11 you can dot your i's and cross your t's, or we  
12 can go forward with it as it is, and suffer the  
13 consequences.

14 So I'm just--what do you prefer to  
15 do? You'd rather--do you want to request a  
16 continuance, and then seek some other help, by  
17 talking to Office of Planning or Office of  
18 Zoning, or somebody else?

19 MR. GREEN: I feel as though that  
20 the ANC should be more involved.

21 BZA CHAIR JORDAN: It's not just the  
22 ANC.

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1 MR. GREEN: Not just the ANC?

2 BZA CHAIR JORDAN: This is your  
3 application. I'm just--it's up to you. You can  
4 go forward, or we can continue; whatever you want  
5 to do. I'm going to give you that option.

6 MR. GREEN: Let's continue.

7 BZA CHAIR JORDAN: I think that's  
8 smart. Let's go ahead and set this on another  
9 date, and I would advise you to get some help with  
10 this application, and certainly find out the  
11 concerns of Office of Planning, and make sure  
12 that you work with them, or whoever, or seek some  
13 third party help.

14 There are certain requirements that  
15 we have, that are very technical in nature, that  
16 we cannot waive, and you've got to dot the i's  
17 and cross the t's. We can't--and for others,  
18 cause we also have some other cases where, where  
19 people, Applicants are just saying, well, this  
20 is what I want to do and it should happen.

21 But there are certain  
22 technicalities that have to be there, have to be

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1 stated, and evidence has to be supportive of it,  
2 and we don't just do it because people want it.

3 So I wanted to give you that  
4 opportunity, so that you don't waste your money,  
5 give you a chance to clean it up before you come  
6 back to this Board.

7 Mr. Moy.

8 MR. MOY: Yes, sir. I'm  
9 giving--what I've heard, staff would suggest  
10 either November 19th, or December 3rd; but I'm  
11 looking at December 3rd.

12 BZA CHAIR JORDAN: Okay. That makes  
13 sense for me.

14 ZC CHAIR HOOD: Mr. Chairman, may I  
15 just add. Mr. Green, Mr. Nero from the Office of  
16 Zoning sent you correspondence on July the 9th.  
17 You really want to look at that, and if you have  
18 questions you might want to ask him. That's a  
19 helpful resource.

20 Right. That's it. So that's a very  
21 helpful resource in moving forward, as the  
22 chairman has mentioned.

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1 MR. GREEN: Okay.

2 BZA CHAIR JORDAN: And is  
3 there--are you here in opposition to? Oh,  
4 you're here in opposition? There's some people  
5 in the back in opposition. You should be sure to  
6 meet with them and discuss. They'll probably  
7 help you in moving forward.

8 MR. GREEN: Yeah. I've been talking  
9 to--

10 BZA CHAIR JORDAN: Okay. I  
11 just--well, we don't need to hear it now, but  
12 it's always something that--we encourage people  
13 to meet with opposition, especially those who  
14 seek party status, to try to work it out before  
15 we work it out, cause sometimes people are not  
16 happy. But always, it's important for neighbors  
17 to try to--to meet, for neighbors to work with  
18 neighbors. It's not necessarily required by the  
19 regulations per se, but for me, I like to see  
20 neighbors try to work with neighbors. Okay.

21 MR. GREEN: Okay.

22 BZA CHAIR JORDAN: So with that,

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1 we're going to move this to December 3rd?

2 MR. MOY: Yes, sir.

3 BZA CHAIR JORDAN: Then that would  
4 be the order. Thank you, Mr. Green.

5 COURT REPORTER: Would Mr. Green  
6 please give me his card.

7 BZA CHAIR JORDAN: Mr. Green, would  
8 you--

9 MR. GREEN: I never got it.

10 BZA CHAIR JORDAN: Go over and get  
11 witness cards from the court reporter, fill out  
12 two, and turn them in.

13 MR. MOY: There's one right in front  
14 of you, Mr. Green, on the tabletop.

15 MR. GREEN: Okay.

16 BZA CHAIR JORDAN: You don't need a  
17 card unless you're testifying in another matter.

18 But you don't need--you didn't give  
19 testimony, so that's--we appreciate you coming,  
20 but this matter's being continued, and I'm  
21 encouraging Mr. Green to meet with you, to  
22 discuss your issues and concerns. It's being

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1 continued to December 3rd. But we really  
2 appreciate you coming.

3 And then when you testify, you'll  
4 bring cards.

5 Would you come forward, please, and  
6 take the microphone, please. This is really kind  
7 of out of order, but because you took the time  
8 to come down, let's make sure that you--we do our  
9 best to try to work with people. Thank you. Thank  
10 you for the card, for helping us.

11 MS. GRAHAM: Thank you. Thank you  
12 very much.

13 BZA CHAIR JORDAN: Sit a little  
14 closer to the--scoop forward, and we'll complete  
15 the card--be sure to complete the card after you  
16 give this testimony.

17 MS. GRAHAM: Yes, sir. And tell us  
18 your name, please.

19 MS. GRAHAM: Leila-Monique Graham.  
20 And I reside at 459 Delafield Place, N.W.

21 BZA CHAIR JORDAN: Okay.

22 MS. GRAHAM: And Mr. Green mentioned

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1 some issues of--

2 BZA CHAIR JORDAN: No, no, no, no,  
3 no. Let me--I wanted you to come forward so we  
4 can talk, so you understand. We're not going  
5 forward with the hearing at this time. It's  
6 continued to December 3rd.

7 We've asked Mr. Green to look at his  
8 application and to make sure all the things that  
9 are required are in his application. But we've  
10 also requested him to meet with neighbors, and  
11 I indicated to him that you were sitting in the  
12 back, for him to meet with you to discuss any  
13 issues, any concerns you have.

14 And if you can't work it out before  
15 December 3rd, you're certainly welcome to come  
16 back December 3rd, and participate either as--as  
17 just providing testimony or as a person in  
18 opposition, a party in opposition, and present  
19 your testimony and evidence then.

20 MS. GRAHAM: Well, as a resident of  
21 D.C., this has been a very difficult process, and  
22 then with my illness. But as Mr. Green mentioned,

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1 trying to contact the ANC, that was a  
2 recommendation when I called down, and that has  
3 been impossible. I don't know how he got in touch  
4 with--with the ANC. But the--I got--I got  
5 another number, and the individual, there were  
6 phone, problems with her phone, and she never  
7 called back. But the support--that's what you  
8 all recommended in order to file party status.

9 BZA CHAIR JORDAN: No. You don't  
10 need ANC to file party status. That's simply on  
11 your own. I think it's a Form 140. It's our party  
12 status form. You can go--I tell you what. When  
13 you leave here, go across the hall to the Office  
14 of Zoning, and they will step through it with  
15 you, to fill out a form. You can do it before  
16 you leave here today, if you want to seek party  
17 status.

18 I'm going to also ask, in your  
19 conversation with Mr. Green, and Mr. Green gives  
20 you that number that he found, that is now  
21 working for whoever the person is in the ANC, to  
22 give it to you also. So you don't have to keep

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1 on--

2 MS. GRAHAM: That would be great, if  
3 he could give that. That'd be wonderful.

4 BZA CHAIR JORDAN: Yes. But also go  
5 across the hall to the Office of Zoning. They  
6 will help you with the application for party  
7 status. But even file an application for party  
8 status, I'm asking that Mr. Green meet with you,  
9 and others, who may be in opposition, as well as  
10 the ANC, and have discussion about the relief  
11 that he's requesting. Yes. I see. And for the  
12 record, he's nodded his head. So if you would  
13 do that, that would be helpful, and it would help  
14 you, and help everybody.

15 MS. GRAHAM: And so we have to come  
16 back again for this process.

17 BZA CHAIR JORDAN: December 3rd.  
18 Correct. Yes.

19 ZC CHAIR HOOD: Mr. Chairman, could  
20 I just add: If you're having a major problem  
21 getting in touch with your local ANC, you can  
22 always call Mr. Gottlieb Simon who's over the ANC

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1 office. He'll put you in touch with either the  
2 chairperson or the single member district.  
3 That's just--I know it's more work; but that's  
4 just something I'm suggesting.

5 MS. GRAHAM: No; not more work. Can  
6 I get that information?

7 ZC CHAIR HOOD: I actually don't  
8 have his number, right off, but if you call the  
9 Wilson Building, they'll give you the ANC's--

10 MR. GREEN: Say the name again.

11 ZC CHAIR HOOD: Gotlief Simon. Guy  
12 Lee--Guy Lee Simon.

13 MS. GRAHAM: Gotlief Simon.

14 ZC CHAIR HOOD: Gotlief Simon. Yes.  
15 He's over all ANCs throughout the city. He's the  
16 one who helps them along the way, and I'm sure  
17 he'll be able to put you in touch with the chair  
18 of that ANC, or in Mr. Green's case, that single  
19 member district person. That's if you all have  
20 problems; if you can't make contact. Okay? Okay.  
21 Thank you, Mr. Chair.

22 BZA CHAIR JORDAN: Thank you for

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1 taking the time and coming down, and so hopefully  
2 we'll get you closer to where you need to be in  
3 regard to this matter.

4 MS. GRAHAM: All righty. Thank you.

5 BZA CHAIR JORDAN: Thank you. Thank  
6 you. And on your way out, let's--you're going to  
7 have to get witness cards from the court reporter  
8 and complete it for us, please. Thank you.

9 ZC CHAIR HOOD: Mr. Chairman, Ms.  
10 Booth will be--is waiting to help assist the  
11 young lady there.

12 BZA CHAIR JORDAN: Okay.

13 ZC CHAIR HOOD: I think she's  
14 waiting on her; yes.

15 BZA CHAIR JORDAN: She's going to  
16 come around, and while you have a pen out, if you  
17 can just--I'm going to do something for you. The  
18 ANC office is 727-99--the ANC office is  
19 727-9945. And they will help you get in touch  
20 with the ANC. And Ms. Booth, from the Office of  
21 Zoning, is standing to your left, and she's going  
22 to help you with everything else that you need

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1 to do.

2 MS. GRAHAM: Okay.

3 BZA CHAIR JORDAN: Okay.

4 MS. GRAHAM: The gentleman, Mr.  
5 Gotlief--

6 BZA CHAIR JORDAN: What's the--

7 MS. GRAHAM: Gotlief...?

8 ZC CHAIR HOOD: Gotlief Simon.  
9 They'll help you.

10 BZA CHAIR JORDAN: Gotlief Simon.

11 ZC CHAIR HOOD: Everybody knows  
12 him, so I'm sure--

13 MS. GRAHAM: And that's at the Wilson  
14 Building?

15 BZA CHAIR JORDAN: Yes. Okay. Thank  
16 you. All right. Mr. Moy, let's "rock 'n roll."

17 MR. MOY: Mr. Chairman, I'm just  
18 recalling, unless the Board already addressed  
19 and it went over my head, but with that, do you  
20 want to take up the motion for a postponement on  
21 Approximately 18633. This is the National  
22 Community Church.

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1 BZA CHAIR JORDAN: I thought that  
2 was--

3 MR. MOY: Have we already covered  
4 that?

5 MR. MOY: Okay.

6 BZA CHAIR JORDAN: That was already  
7 granted.

8 MR. MOY: Okay. All right. Okay. I  
9 just want to be sure. Okay.

10 Okay. With that, then, we have  
11 Application No. 18629. This is the application  
12 of Leticia Long, pursuant to 11 DCMR 3103.2, for  
13 a variance to establish an indoor cycling  
14 fitness center under subsection 330.5, in the  
15 R-4 District, at premises 2028 4th Street, N.E.,  
16 Square 3563, Lot 94.

17 BZA CHAIR JORDAN: Okay. Please  
18 state your name.

19 MS. LONG: Leticia Long.

20 BZA CHAIR JORDAN: And your name,  
21 please.

22 MR. LONG: Leonard Long.

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1                   BZA CHAIR JORDAN:   Okay.  I think  
2                   there's some other issues with this matter, too.  
3                   Did we get the ANC filing?

4                   MS. LONG:    Yes.  They just got the  
5                   letter.  Day before yesterday, I sent it.  I have  
6                   a copy, if you need it.  We got the Eckington  
7                   Civic Association letters last night, as well as  
8                   the letter of support from ANC chair.

9                   BZA CHAIR JORDAN:   Give us one  
10                  second.

11                  MS. LONG:    Okay.  They were filed  
12                  late because I just got them.  Today is Tuesday.  
13                  Saturday.  Alex Marco Underwood.

14                  BZA CHAIR JORDAN:   Yes.  Wait a  
15                  minute.  Let me see.  Let me see.  Let me say this.  
16                  I want to make sure we're clear.

17                  MS. LONG:    Okay.

18                  BZA CHAIR JORDAN:   You submitted a  
19                  transmittal letter saying it was a letter from  
20                  the ANC that--and I didn't see a letter from the  
21                  ANC.  But what I did see was a letter  
22                  from a single member district member of the ANC,

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1 and not the ANC.

2 MS. LONG: No, ac--oh, okay. So  
3 this is from ANC 5. He's the chair of our--

4 BZA CHAIR JORDAN: Single member  
5 district.

6 MS. LONG: Yes; yes.

7 BZA CHAIR JORDAN: So we don't have  
8 a report from the ANC--

9 MS. LONG: No. I spoke with the  
10 commissioner yesterday at the Eckington  
11 meeting, because I'd been trying to get on their  
12 schedule. If need--if needed, if that's needed,  
13 I can meet with them.

14 BZA CHAIR JORDAN: Yes. I  
15 would--well, I can't necessarily--let me tell  
16 you. I think you have some other issues, that you  
17 need to talk to people regarding your  
18 application. As i said earlier--let's see  
19 where the ANC--you need to meet with the ANC. I  
20 would offer that to you.

21 I don't know how the Board feels.  
22 We can go forward, or we can continue this for

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1 30 days. But I would like to see where the ANC  
2 is on this. You've tried to contact the ANC, and  
3 they have not--

4 MS. LONG: And they're full for  
5 their schedule. I could probably get on in  
6 December--their agenda. So that's why we  
7 provided the letters of support from the  
8 immediate neighbors, and actually  
9 everybody--there's 11 people like in that  
10 proximity, on the street, where we would be  
11 opening.

12 BZA CHAIR JORDAN: You're seeking a  
13 change of use, a use variance.

14 MS. LONG: Right. Cause it's  
15 currently zoned as a day care.

16 BZA CHAIR JORDAN: I understand  
17 that, and I understand the argument about the  
18 configuration of the structure. I see nothing  
19 supporting the undue hardship requirement test  
20 in your file. I see OP has recommended and said  
21 there's some--that you may some subsequent  
22 documentation about the financial cost, and

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1 ability to do this, and we don't have any of that.

2 Do you have that today?

3 MS. LONG: No. I don't have that.  
4 But the rough estimate our contractor gave was  
5 going to exceed 175, cause there's no--the first  
6 floors are quite--I think we sent you  
7 pictures--are just open spaces. So they'd have  
8 to configure the whole first floor with  
9 significant architectural work.

10 BZA CHAIR JORDAN: I'm going to  
11 recommend that we set this down in 30 days. I'm  
12 going to continue this for 30 days. You need to  
13 provide us--support the documentation to  
14 support that--

15 MS. LONG: Okay.

16 BZA CHAIR JORDAN: --the estimates,  
17 and etcetera.

18 MS. LONG: Just from the  
19 contractor, the estimate that--

20 BZA CHAIR JORDAN: Whichever way  
21 you want to try to support your undue hardship  
22 argument. We could go forward. But if you don't

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1 have these things, then you're just going to take  
2 a risk with the Board, whether or not the Board  
3 is going to approve it or not, and there's only  
4 three of us on this particular hearing. That  
5 means you're going to have to have everybody's  
6 vote.

7 MS. LONG: On the--

8 BZA CHAIR JORDAN: Right now.  
9 Today.

10 MS. LONG: Oh, I see.

11 BZA CHAIR JORDAN: Yes. Cause the  
12 full Board is not sitting because of the federal  
13 thing-a-mig-jib or bobber, that's shut down all  
14 kinds a stuff. You know, one of the ramifications  
15 is that we don't have a full Board.

16 MS. LONG: A full Board.

17 BZA CHAIR JORDAN: So you would have  
18 to have a vote of three to nothing to get through  
19 this Board.

20 And I'm saying to you that all the  
21 evidence that you need to submit is not here.

22 MS. LONG: Okay.

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1                   BZA CHAIR JORDAN: So I would say we  
2 continue it for 30 days. I mean, you don't have  
3 to. You can go forward. This is your right.

4                   MS. LONG: So let's say we go  
5 forward and I get one "no." What's the process?  
6 An appeal from that point?

7                   BZA CHAIR JORDAN: Then  
8 you're--what's the term? Then you lose. I'll  
9 just say that.

10                  MS. LONG: All right. I mean, I'm  
11 comfortable with getting the supporting  
12 document. Like I said, I had--we've talked to the  
13 contractor, and if you need the written proof,  
14 I guess--

15                  ZC CHAIR HOOD: I think, Mr.  
16 Chairman, you're--he's exactly correct. You  
17 want to make sure you have a complete record.

18                  MS. LONG: Okay.

19                  ZC CHAIR HOOD: Even if you file  
20 later on down the line.

21                  MS. LONG: Right; right; right.

22                  BZA CHAIR JORDAN: Okay.

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1 MS. LONG: Okay. So will we set a  
2 schedule, then? A date from this point?

3 BZA CHAIR JORDAN: Yes. Mr. Moy will  
4 give us a date, please.

5 MR. MOY: Yes, Mr. Chairman. I'm  
6 looking at November the 5th. That's the closest  
7 to your 30 day, so--

8 BZA CHAIR JORDAN: And really try to  
9 follow up with the ANC, and see if you can get  
10 on--

11 MS. LONG: Oh,  
12 that's--that's--yeah.board

13 BZA CHAIR JORDAN: So November the  
14 5th we'll move this one to. And again, I think  
15 you've had a conversation with Office of  
16 Planning and others, and Office of Zoning ,if you  
17 need some help. But you've got to--you know,  
18 you're asking for the Board to--you're seeking  
19 relief from--based upon the highest standard  
20 that we have, and that's for a use variance, and  
21 undue hardship has to be shown. MS.

22 LONG: Okay.

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1                   BZA CHAIR JORDAN: Okay. So we'll  
2 do that. November 5th. We'll move that to  
3 November 5th. Thank you.

4                   MS. LONG: Thank you.

5                   BZA CHAIR JORDAN: And we're going  
6 to take a 10 minute break for the Board. 10  
7 minutes. Just 10 minutes.

8                   MS. LONG: All right. Thank you.

9                   BZA CHAIR JORDAN: Thank you. Thank  
10 you very much.

11                   [Whereupon, the above-entitled  
12 matter went off the record at 10:33 a.m. and  
13 resumed at 10:43 a.m.]

14                   BZA CHAIR JORDAN: Mr. Moy, you had  
15 some announcements.

16                   MR. MOY: Yes, sir. A little  
17 housekeeping for the record. The Application  
18 No. 18613, this is the application of  
19 Continental Mortgage and Investment  
20 Corporation. The Board had granted the request  
21 to continue this case to December the 3rd, and  
22 I believe there's an attorney here for that

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1 application, that the Board wanted to entertain  
2 a quick discussion, and also for the record, that  
3 Application No. 18633 of National Community  
4 Church, as I had mentioned earlier, that is also  
5 continued to November the 5th.

6 BZA CHAIR JORDAN: Okay. You want  
7 to call our--

8 MR. MOY: Yes. there's an attorney  
9 for 18613, on Continental, Mr. Chairman, who I  
10 believe wanted to say a few words, if you  
11 wanted--

12 BZA CHAIR JORDAN: About what?

13 MR. MOY: With regards to the ANC,  
14 I believe. You had moved that to December the  
15 3rd.

16 BZA CHAIR JORDAN: Okay. So there's  
17 nothing that needs to be said. All right.

18 MR. CRAWFORD: And I'm not asking to  
19 say anything, Your Honor. I'm, if I may, Mark  
20 Crawford.

21 BZA CHAIR JORDAN: The matter's  
22 continued; right?

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1                   MR. CRAWFORD: Yes; it is. I'm only  
2 here--and good morning, Mr. Chairman, members of  
3 the Board. I'm only here because I've had similar  
4 difficulty in connecting with the ANC for this  
5 neighborhood, and I had written to them. One of  
6 the commissioners signed for the letter, I got  
7 the green card back, and they did not know--I  
8 didn't have any way to reach them, to let them  
9 know that this was continued. So just in case  
10 somebody showed up, and also to interact with  
11 them, and be able to--

12                   BZA CHAIR JORDAN: Okay.

13                   MR. CRAWFORD: --speak with a live  
14 person. That's the only reason I'm here. I don't  
15 have anything to put on the record.

16                   BZA CHAIR JORDAN: Okay. Well, do  
17 your best, and, you know, we can't make the ANC  
18 respond, nor can the Applicant. But we want to  
19 make sure that the Applicants are diligent in  
20 trying to contact the ANCs, and then when you  
21 come to our hearings, and if we don't have  
22 things, we ask, What have you done? and the Board

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1 can accept that and move. Just so that you know.

2 MR. CRAWFORD: I understand. Thank  
3 you.

4 BZA CHAIR JORDAN: Thank you.

5 MR. MOY: Okay, Mr. Chairman. What  
6 we have is 18632. Right?

7 BZA CHAIR JORDAN: Yes. Thank you.

8 MR. MOY: This is the Application of  
9 14th and U Residential LLC, pursuant to 11 DCMR  
10 3104.1, 31-3.2, and 1906.1. These are variances  
11 from the public space at ground level  
12 requirements under section 633, a lot occupancy  
13 under 634, and rear yard setback under 636, and  
14 a special exception from the setback requirement  
15 under 1902.2, and parking for historic  
16 structures under 2120.6, in the ARTS/CR District  
17 at premises 1921 through 1923 14th Street, N.W.,  
18 1925 14th Street, N.W., and 1351 Wallach Place,  
19 N.W., Square 237, Lots 180, 196 and 806.

20 BZA CHAIR JORDAN: Okay. Please  
21 introduce yourselves.

22 MS. MOLDENHAUER: Good morning. My

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1 name is Meredith Moldenhauer from Griffin,  
2 Murphy, Moldenhauer & Wiggins on behalf of the  
3 Applicant, and here with me today--we'll just go  
4 down the row and will introduce themselves.

5 MR. MADANI: I am the Applicant, Sia  
6 Madani from Madison Investments.

7 MR. GOINS: I'm Jeff Goins from PGN  
8 Architects.

9 MS. EIG: Emily Eig from EHT  
10 Traceries.

11 MR. ANDRES: Good morning. I'm  
12 Erwin Andres with Gorove/Slade Associates.

13 MS. MOLDENHAUER: We have just a few  
14 housekeeping items before we begin. We had  
15 issued a package. We'll be providing you with a  
16 full copy of all letters of support. There were  
17 some additional letters of support that were  
18 received between filing our prehearing  
19 statement and today, and so what the Applicant  
20 has done is just bound all of those in one  
21 package, so that you have you one copy of all of  
22 the letters of support.

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1           In addition to that, there was a  
2 letter of support from Council Member Graham,  
3 and we have copies of that as well for Mr. Moy  
4 to--

5           MR. MOY: We just received it.

6           MS. MOLDENHAUER: Okay. Thank you.  
7 And then I wanted to confirm that the Board  
8 received the ANC's unanimous letter of support.  
9 We understand it was filed late. But we just had  
10 the ANC meeting on October 3rd.

11          BZA CHAIR JORDAN: We did receive  
12 it.

13          MS. MOLDENHAUER: Okay.

14          BZA CHAIR JORDAN: And we will  
15 accept that in the record.

16          MS. MOLDENHAUER: Thank you very  
17 much. We also will be putting forward Ms. Eig as  
18 an expert witness. She has testified before the  
19 Board and has been certified as an expert for  
20 this Board in the past.

21          BZA CHAIR JORDAN: Who's that?

22          MS. MOLDENHAUER: Ms. Eig from

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1 Traceries. She is a expert and has testified  
2 before the Zoning Commission on numerous times,  
3 and before this Board in regards to historical  
4 preservation.

5 BZA CHAIR JORDAN: Give me one  
6 second, because I did not have that in my notes,  
7 and I just want to--

8 MS. MOLDENHAUER: Her testimony is  
9 in response, really, to Office of Planning's  
10 report.

11 BZA CHAIR JORDAN: Okay. All right.  
12 Wait a minute. Who are you offering? What's her  
13 name?

14 MS. MOLDENHAUER: Emily Eig.

15 BZA CHAIR JORDAN: And it wasn't  
16 presubmitted, was it?

17 MS. MOLDENHAUER: No. As I  
18 indicated, it's a response to the Office of  
19 Planning's report, and we obviously did not get  
20 the Office of Planning's report until--I'll look  
21 at the date that we got it on.

22 BZA CHAIR JORDAN: Would you spell

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1 her name for us, please.

2 MS. MOLDENHAUER: Sure. We actually  
3 have a printed-out transcript of our testimony  
4 for transit, that might also help, so we'll  
5 submit that.

6 BZA CHAIR JORDAN: Yes. I need to  
7 see that.

8 MS. MOLDENHAUER: Yes. We'll hand  
9 that to Mr. Moy right now.

10 BZA CHAIR JORDAN: We don't have--I  
11 don't find it in any of the records, but  
12 let's--give me a second.

13 MS. MOLDENHAUER: She testified  
14 before the Board and was certified as an expert,  
15 June 19, 2001, July 20, 2004, March 16, 2010, and  
16 March 8, 2011.

17 BZA CHAIR JORDAN: Okay. Then--

18 MS. MOLDENHAUER: I can read you the  
19 BZA case numbers, if you like.

20 BZA CHAIR JORDAN: Then, as you  
21 know, sometimes our book is not up.

22 MS. MOLDENHAUER: That's why I had

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1 these dates, just in case.

2 BZA CHAIR JORDAN: All right.  
3 Moving along. We'll accept her.

4 Mr. Moy, let's make sure we add her  
5 to the book.

6 MR. MOY: It's on my list, sir.

7 BZA CHAIR JORDAN: Thanks.

8 MS. MOLDENHAUER: Okay. And just  
9 as another housekeeping matter, you did receive  
10 Mr. Andrews--I'm sorry-Andres' CV for expert in  
11 traffic?

12 BZA CHAIR JORDAN: He's in the book  
13 too.

14 MS. MOLDENHAUER: Yes. I just was  
15 making sure.

16 BZA CHAIR JORDAN: He's in.

17 MS. MOLDENHAUER: Okay.

18 ZC CHAIR HOOD: We know he's in the  
19 book. Some people, we automatic--you know, we  
20 see him all the time.

21 BZA CHAIR JORDAN: Okay. Anything  
22 else?

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1 MS. MOLDENHAUER: Just one or two  
2 final comments. We believe that the application  
3 that we've submitted in regards to the initial  
4 application, the supplemental, and then the  
5 prehearing statement, indicate how the  
6 Applicant satisfies both the area variance and  
7 the special exception standards that we're  
8 seeking to--

9 BZA CHAIR JORDAN: I think that  
10 we're real clear about its uniqueness, and  
11 difficulties. I think what--and I'm just  
12 speaking for myself, you can focus your  
13 presentation--I wouldn't do a lot about--except  
14 if it rolls in to why you can't do the parking  
15 and etcetera, because I think that's the hardest  
16 press aspect, and how it may roll in to providing  
17 a detriment to the neighborhood. I think  
18 the--from what you've already submitted, from  
19 what I've read and what I've seen, is that  
20 clearly, you would make the test in regards for  
21 the special exception relief, and although  
22 there's some question from the Office of

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1 Planning regarding, you know, their concern  
2 regarding the--is it the roof structure  
3 issues?--roof tops. So you might want to drill  
4 in to that.

5 But parking is something, I think is  
6 going to be an issue for the Board.

7 MS. MOLDENHAUER: Okay. Well, then  
8 we'll focus in our presentation on some of those  
9 issues. Just then to address one issue before we  
10 get started--

11 BZA CHAIR JORDAN: Excuse me one  
12 second. Would the Board agree with my  
13 assessment, or you've got some other issues, or  
14 you think there's --

15 ZC CHAIR HOOD: No, I think you've  
16 got it.

17 MS. MOLDENHAUER: Okay . Then  
18 before we get started, obviously, in addition,  
19 some of the minor opposition that we have heard  
20 is about parking, and we understand that but we  
21 do have an overwhelming number of letters of  
22 support, that understand the parking situation

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1 as well, and we'd just like to focus the Board  
2 on that, that this is a special exception relief  
3 for the parking. It's not a variance relief for  
4 the parking.

5 And under the Glenbrook Road  
6 Association case, the Court of Appeals confirmed  
7 that when Applicant meets all the requirements  
8 for special exception standard, the Board  
9 ordinarily must grant the application.

10 So that being said, we'll jump right  
11 in to a briefer presentation, and I'll just let  
12 Mr. Madani indicate a little bit about the  
13 development and the company.

14 MR. MADANI: Sia Madani, again,  
15 Madison Investments. We have basically--our  
16 approach to this has been to renovate, restore  
17 the historic structure there, which is very  
18 dilapidated, and to put a new--

19 BZA CHAIR JORDAN: Excuse me one  
20 second.

21 MR. MADANI: Yes.

22 BZA CHAIR JORDAN: But you said

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1 about the parking relief was a variance relief  
2 from parking. You said a special exception  
3 relief?

4 MS. MOLDENHAUER: Just a special  
5 exception relief. Yes. The parking is only a  
6 special exception cause it comes under the fact  
7 that it's parking for historic resource.

8 BZA CHAIR JORDAN: For 2120. Okay. Got it.

9 MS. MOLDENHAUER: Yes. So that's  
10 one of the reasons why I was reading the  
11 Glenbrook case.

12 BZA CHAIR JORDAN: Okay. Got it. I'm  
13 sorry. Yes.

14 MR. MADANI: Basically, our design  
15 is to restore the two historic structures on the  
16 corner of Wallach and 14th Street, and to put a  
17 new building on the empty lot, which the mass of  
18 it falls on to 14th Street. Jeff will talk more  
19 about that next.

20 We have been very active with  
21 community support, and have to date received  
22 unanimous ANC 1B support. We have 70 letters of

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1 support from local businesses and restaurants,  
2 in addition to other supportive e-mails.  
3 Sorry. 70 letters also include residents.  
4 There's specifically in addition to the 70, 11  
5 letters of support from Wallach residents.

6 We have met with Wallach residents  
7 on Wallach Place. We have met with a number of  
8 neighborhood associations, and we have also  
9 hand-delivered fliers to a four block radius and  
10 held a community meeting for feedback.

11 BZA CHAIR JORDAN: How many  
12 residential letters do you have?

13 MR. MADANI: We have 11 letters of  
14 support from residents on Wallach.

15 MS. MOLDENHAUER: We have more than  
16 that.

17 MR. MADANI: Is it increased from  
18 eleven?

19 MR. ANDRES: We have a couple that are  
20 coming in that didn't make the deadline.

21 MR. MADANI: Total residential letters in  
22 the National Guard is seventy.

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1 BZA CHAIR JORDAN: Seventy?

2 MR. MADANI: Seven zero.

3 BZA CHAIR JORDAN: Seven--

4 MR. MADANI: Seventy.

5 BZA CHAIR JORDAN: Seven  
6 from--seven letters in the neighborhood, from  
7 neighbors?

8 MR. MADANI: Elev--11 letters--11  
9 letters from actual Wallach residents, and seven  
10 zero, seventy--

11 BZA CHAIR JORDAN: Seventy.

12 MR. MADANI: Yes.

13 BZA CHAIR JORDAN: Got it.

14 MR. MADANI: In addition to the 11  
15 from the neighborhood.

16 ZC CHAIR HOOD: And that's what's in  
17 the book here; right? In this book?

18 MR. MADANI: Yes.

19 ZC CHAIR HOOD: That's the seventy?  
20 Okay.

21 MR. MADANI: That's a total of 81 in  
22 that book.

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1                   ZC CHAIR HOOD: Oh, 81. Oh, okay. I  
2 know it was more than eleven. Okay.

3                   MR. MADANI: Yes.

4                   MS. MOLDENHAUER: And you can look  
5 through that book and see just the different  
6 addresses. A majority of those are residents.  
7 Obviously, as we indicate, eleven on Wallach  
8 Place, and then a lot of residences right within  
9 the, you know, local community area on 13th, and  
10 so on. They all provide their addresses.

11                  MR. MADANI: We also attended two  
12 ANC Design Review Committee meetings, and two  
13 full ANC 1B meetings. The first meetings used  
14 to inform the committee, and the second to seek  
15 their vote, and we concluded with the full ANC  
16 meeting on Thursday, which resulted in the  
17 unanimous support.

18                  What we have done in response to  
19 community feedback, one has been parking, and  
20 we've taken on a very aggressive transportation  
21 management plan. We are offering--or, rather,  
22 we are restricting tenants from obtaining

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1 residential parking permits in connection with  
2 the relief requested.

3 Another thing we have done is that  
4 in response to that we are reducing the number  
5 of units. We have reduced the number of units in  
6 the building from what was originally 78 to 56,  
7 which is a 22 unit reduction. We are putting a  
8 Bikeshare, Carshare--

9 BZA CHAIR JORDAN: You're going  
10 from 78 units to 52 units?

11 MR. MADANI: 56 units.

12 BZA CHAIR JORDAN: 56. I'm sorry.  
13 Okay.

14 MR. MADANI: Yes. Yes. We've gone  
15 from 78 to 56. We have a Bikeshare, Carshare,  
16 and a smart card incentive in place with  
17 newly-moving in residents, and we're also  
18 offering 36 covered bike spaces, and an  
19 electronic display board in the lobby, notifying  
20 residents of the next Metro arriving, or the next  
21 bus with the 11 routes that are available on  
22 their doorstep.

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1                   Another response was that  
2 originally we were seeking to do all loading from  
3 14th Street. In response to that, where they  
4 were concerned about congestion and blocking  
5 bike paths, we have, though we're not required  
6 to have a loading zone because of the historic  
7 structure, we will in fact now provide a loading  
8 dock in the rear.

9                   Not enough--another concern was  
10 that there is not enough neighborhood serving  
11 retail, that it was mostly bars and restaurants.  
12 What we have done is we will be--we are going to  
13 be putting retail in the basement as a result of  
14 the fact that we have to dig under to remove  
15 contaminated soil, and we are eagerly pursuing  
16 a service-oriented tenant for that location, and  
17 providing a discounted rent.

18                   We have LOIs, to date, from two pet  
19 stores, a Pilates studio and a yoga studio,  
20 though we're here interested in a hardware  
21 store, which we think hits, you know, the  
22 community-serving aspect on the head.

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1           Other things we have done in  
2 response to community feedback is we will be  
3 doing, every Monday, a cleanup of the street,  
4 removing any construction debris, and the  
5 cleanup of any weekend litter that may have been  
6 left behind.

7           As well as that, we're providing a  
8 comprehensive construction schedule to all  
9 Wallach residents, which will be updated  
10 periodically, and the Web site dedicated to that  
11 schedule.

12           We will also--we've also made some  
13 adjustments to the glass structure, the infill,  
14 and modified the glass to reduce the prominence  
15 of it, when we received some feedback as far as  
16 design.

17           MS. MOLDENHAUER: Now we'll turn to  
18 Mr. Goins, who's going to just kind of very  
19 quickly walk through the plan focusing on the  
20 parking and the loading, and those issues.

21           MR. GOINS: Good morning, chairman  
22 of the Board, and members of the Board.

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1           When we approach this site, in  
2           essence, you're dealing with along 14th Street,  
3           you're dealing with a 60-foot-wide lot adjacent  
4           to two historic structures. There's actually a  
5           slope along the site.

6           BZA CHAIR JORDAN: Mr. Moy, can we  
7           have the lights, please.

8           [Slide presentation begins]

9           MR. GOINS: There's actually a  
10          slope along the site. To get the garage to work  
11          with the site plan, as you can see there, we only  
12          have 60 feet. We've pushed--because of the  
13          historic nature of the site, preserving the two  
14          historic structures along Wallach Street, we  
15          have, in essence, a 35- and a 45-foot setback  
16          along Wallach Street, with the building  
17          basically being placed along 14th Street. To  
18          attempt to do the parking garage, we studied many  
19          scenarios. With the slope, which is actually  
20          only a two and a half, three foot slope, it  
21          actually makes the garage ramp very difficult,  
22          if not impossible, to go on the north side.

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1           So it forces it to be along the south  
2 side of the zone. So I'll point here. You can  
3 kind of see. We looked at putting the ramp right  
4 here, and as you come down, that ramp was  
5 exceeding 50 feet in length to get to the garage  
6 level. It was also 19 to 20 percent speed ramp.  
7 So it was a very steep slope.

8           Once we got down there, what we  
9 really determined, that you could--while you  
10 could place seven to eight parking spaces, the  
11 maneuverability--there were three to four foot  
12 turns just to arrive in to the parking space, and  
13 I think economically, efficiently, a speed ramp,  
14 we kind of abandoned the parking scenario. The  
15 second thing is the historic structures,  
16 underpinning the historic structures, and using  
17 that space would have been ideal, but I think,  
18 once again, it's one of those situations where,  
19 economically, it wasn't feasible, and  
20 structurally, I don't think, for a building like  
21 this, it wasn't feasible.

22           You can kind of see here where we

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1 also put a parallel loading space back here,  
2 which goes the entire length of the building,  
3 minus the trash room, which you can kind of see  
4 here. The other thing that we've done. Here's  
5 one of the historic structures on the east side  
6 of Wallach, and there's the other one on 14th and  
7 Wallach.

8 We did provide a three-story infill  
9 here, which we thought was maintaining the edge  
10 along Wallach Street. And if you want, I can  
11 address the penthouse issue.

12 I think in our original plans, when  
13 we submitted several months ago, we did have  
14 larger penthouses, and I think as you can see  
15 here, we've reduced them to access-only  
16 penthouse. There will not be a common roof  
17 deck. These will be private penthouses. They all  
18 exceed the one to one setback, and then they're  
19 access-only penthouses.

20 You can see here. As you can see,  
21 these maintain the three foot access-only.  
22 There is mechanical closets which will serve the

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1 units below. But this is the penthouse, the  
2 structure, and I think we're 9 feet here, 11,  
3 seven, here. We exceed the one to one in all  
4 scenarios along the roof structure.

5 BZA CHAIR JORDAN: We've got a  
6 question.

7 MR. GOINS: Okay. Sure.

8 VICE CHAIR ALLEN: Thanks. Could  
9 you just, for my information, and edification I  
10 guess, explain what you mean by "access only."

11 MR. GOINS: Well, to have a common  
12 roof deck, it would have been--can you go back  
13 to the penthouse slide. To have a common roof  
14 deck, that allowed all the residents to use, we  
15 would have been--we would have had to bring the  
16 elevator and both stairs up as well, as have a  
17 common area for them.

18 I think when we went with historic,  
19 the idea of bringing that along the party wall,  
20 the two stairs and the elevator, they weren't  
21 very keen on that, and neither were we, quite  
22 frankly, cause it would have added height there.

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1           So what we've done is we still wanted  
2           to take--I mean, the entire building facts  
3           south, so the views are really quite  
4           spectacular. So we wanted to capture those,  
5           even if it was just for those five units on the  
6           top floor.

7           So they're "access only," and to  
8           meet the penthouse standard, where it's not  
9           considered a floor, it must be reduced to where  
10          it's access to the outdoor area only for the  
11          private residents, and not--meaning you can't  
12          put a desk or kitchen up there. So it was must  
13          "access only."

14                 VICE CHAIR ALLEN: So the two things  
15                 that you're saying to me is that the only people  
16                 that can get to it are the ones who actually own  
17                 that particular penthouse. And then access  
18                 only meaning you can go out there and look around  
19                 but you can't put anything out there? Is that  
20                 what you're saying?

21                 MR. GOINS: No, no. You're allowed  
22                 to place furniture on your roof deck. The access

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1 is the structure of the penthouse itself. There  
2 cannot be livable rooms in that penthouse.

3 VICE CHAIR ALLEN: Okay. That's  
4 what I was trying to understand. Thank you.

5 BZA CHAIRMAN JORDAN: Yes. Go  
6 ahead. Please.

7 ZC CHAIR HOOD: And as you know, the  
8 Office of Planning I believe still has an issue  
9 with the rooftop enclosure, the size of it.

10 MS. MOLDENHAUER: I believe that  
11 was part of the prior prehearing statement  
12 submission. I think this--

13 ZC CHAIR HOOD: Okay. So they--

14 MS. MOLDENHAUER: --is a revised  
15 portion of the plan.

16 BZA CHAIRMAN JORDAN: And I'm  
17 hearing you saying that, in this testimony, that  
18 it has been reduced.

19 MR. GOINS: Oh, it's been reduced  
20 considerably.

21 BZA CHAIRMAN JORDAN: Yes.

22 MR. GOINS: 40 percent.

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1 MS. MOLDENHAUER: And we have  
2 copies--

3 ZC CHAIR HOOD: So what rendering am  
4 I looking at?

5 BZA CHAIRMAN JORDAN: Reduced by 40  
6 percent.

7 MR. MOY: We've got copies of  
8 the--can we hand out the copies of the newer plan  
9 that show this. This may not have been in the  
10 prehearing statement. Just to make sure.

11 ZC CHAIR HOOD: Okay; okay. That'd  
12 be good. I'd like to see that also, cause what  
13 I'm looking at--if it was reduced by 40 percent,  
14 then--but anyway. We can get that? You don't  
15 mind, Mr. Chair?

16 BZA CHAIRMAN JORDAN: No; no.

17 ZC CHAIR HOOD: Okay. It's all  
18 right. We can get it later, when the lights are  
19 on. If you have it.

20 BZA CHAIRMAN JORDAN: Well, he's  
21 talking from it now. Do you have it?

22 ZC CHAIR HOOD: Oh, okay. Do you

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1 have it?

2 BZA CHAIRMAN JORDAN: We understand  
3 it's on the screen. However, you know--

4 ZC CHAIR HOOD: I'd like to see it.  
5 I always look at it, side by side.

6 MR. MADANI: It's open to the  
7 relevant page.

8 BZA CHAIRMAN JORDAN: Is this just  
9 one copy?

10 MS. MOLDENHAUER: Yes. I'm sorry.  
11 We only have one copy. But we have smaller  
12 versions of the full set, if you like. Or  
13 Chairman Jordan, I could electronically "zap it"  
14 to him, if you like.

15 VICE CHAIR ALLEN: We're going to  
16 just take about a 30 minute--30 second--he's  
17 already got it. Good.

18 ZC CHAIR HOOD: Has Office of  
19 Planning seen your reduction?

20 MS. MOLDENHAUER: I'm sorry?

21 ZC CHAIR HOOD: Have they seen your  
22 reduction?

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1 MS. MOLDENHAUER: I don't believe  
2 they have. No. Office of Planning.

3 Actually, that was in the prehearing  
4 statement. Okay. Well, OP obviously  
5 addressed that. They may--

6 BZA CHAIRMAN JORDAN: Okay. Let's  
7 anyway get to Planning and let's find out where  
8 we are, and show the difference here. So what  
9 was--so what you're showing on the screen is  
10 where it's been reduced. That's the reduced  
11 plan?

12 MS. MOLDENHAUER: Yes. That is--

13 BZA CHAIRMAN JORDAN: And you said  
14 it's part of your prehearing submission?

15 MS. MOLDENHAUER: It actually is. I  
16 just looked at my--the copy that I had filed, and  
17 it was part of the prehearing submission. And  
18 if you go to your file with the original  
19 application, and you go to the roof plan A1.10,  
20 you can then do--compare the original size of the  
21 roof structures--

22 BZA CHAIRMAN JORDAN: Which exhibit

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1 now?

2 MS. MOLDENHAUER: I'm talking--I'm  
3 trying to do a comparison between the  
4 application, the original application.

5 ZC CHAIR HOOD: You said A1.10?

6 MS. MOLDENHAUER: Yes. A1.10 on the  
7 original application, and then you can compare  
8 that with the prehearing statement, Exhibit B,  
9 same page, A1.10.

10 BZA CHAIRMAN JORDAN: See, if  
11 you're using a computer, you could just do a  
12 search and it'll take you right to where you need  
13 to be.

14 ZC CHAIR HOOD: Yes. Well, I've been  
15 there. By the time you mention it, I'm already  
16 looking at it.

17 BZA CHAIRMAN JORDAN: All right.  
18 I'm just letting you know, just trying to let you  
19 know. We have this ongoing banter, computer  
20 versus paper, so--

21 [Laughter]

22 BZA CHAIRMAN JORDAN: Okay. I see

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1 it.

2 MR. GOINS: I think the overall  
3 reduction can be summarized quickly. We have  
4 obviously a stair from the unit below. So  
5 you'll see a spiral stair, and then we're  
6 maintaining a three foot area that is the access  
7 to the outdoor space, and to maintain a  
8 continuous structure up there, a couple of them  
9 are a little longer and skinnier, but I think  
10 overall, the reduction is around 30 to 40  
11 percent. And there are some mechanical closets  
12 that abut the stair, just because, you know, once  
13 again, to have a simple continuous structure up  
14 there.

15 ZC CHAIR HOOD: Again, is that the  
16 best view that I can see on the PowerPoint  
17 presentation of the structure, enclosed rooftop  
18 structure?

19 BZA CHAIRMAN JORDAN: I wonder if  
20 you'd show the--

21 ZC CHAIR HOOD: I'd actually like to  
22 see--

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1                   BZA CHAIRMAN JORDAN:       --back  
2                   portion, the back side portion I think is a  
3                   better shot. I don't know.

4                   MS. MOLDENHAUER:   Right now, this  
5                   is the actual roof structure plan.

6                   ZC CHAIR HOOD:    Okay. I have that.  
7                   I understand that.

8                   MS. MOLDENHAUER:   You'd like to see  
9                   a rendering?

10                  ZC CHAIR HOOD:       A rendering  
11                  from--as though I'm looking from the street. Is  
12                  that it?

13                  MR. ANDRES:        I think that's the  
14                  front.

15                  MR. GOINS:         I think--go back to the  
16                  elevation. I think the elevation--I mean, it's  
17                  set back--I think in this case, I mean we're set  
18                  back--

19                  BZA CHAIRMAN JORDAN:   I tell you  
20                  what. Let's do this. Let's move on in your  
21                  presentation. We will have OP opine to it, and  
22                  then we'll come back and we'll have some

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1 discussion on it. I think that would help.

2 ZC CHAIR HOOD: Yes. That's fine.

3 MR. GOINS: Okay, and I think I'll  
4 summarize here, kind of our main design here,  
5 cause I think this is a good elevation that kind  
6 of describes our attempt here. I think this  
7 obviously is the historic structure. I mean,  
8 when we approached this project here, it really  
9 was about the preservation of those two  
10 buildings, and highlighting them within the  
11 design. And our goal was to maintain this edge  
12 along Wallach Street. This is the other  
13 historic structure here. We are infilling  
14 this. There's been vacant land right there. So  
15 we're infilling that with a three-story  
16 structure, which will be two stories of  
17 residential here.

18 This will be restored back to  
19 residential use. This, on the upper floor, will  
20 be residential, with the ground floor being  
21 retail. You can kind of see what we really  
22 wanted to do was a simple--I mean, 60 feet of

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1 street frontage along 14th. We really wanted to  
2 do a simple, well-detailed elegant building.

3 And so by pushing this bay 35 feet  
4 off of Wallach Street gave us a nice opportunity.  
5 As you can see, the south-facing views will be  
6 quite dramatic for these units.

7 This infill piece here, it's a  
8 courtyard shape facing south, is 45 feet set back  
9 from Wallach Street, and once again, this goes  
10 back to 35, so it's a C-shaped courtyard there.

11 At the rear of the property which  
12 abuts this residential district, the CR requires  
13 a one-to-one setback, once you reach 65 feet. So  
14 once again, this is 35 feet setback, and then we  
15 are going one to one. There's a small little  
16 triangle there, that we don't meet that  
17 one-to-one requirement. I think we have a  
18 diagram in the exhibit that kind of showed that.

19 But overall, that was--that's the  
20 main design idea there of the project.

21 MS. MOLDENHAUER: Are there any  
22 more questions of Mr. Goins?

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1 BZA CHAIRMAN JORDAN: I think not.

2 MS. EIG: My name is Emily Hoteling  
3 Eig, and I have been here before. I am an  
4 architectural historian and historic  
5 preservation consultant with EHT Traceries.

6 I'm here this morning to speak  
7 regarding the historic preservation issues  
8 associated with the project. As you are aware,  
9 there are these two historic buildings. The one  
10 that is on 14th Street, faces 14th Street, was  
11 built in 1904 to the design of Harding & Upman.  
12 They were very prominent architects of their  
13 time and built a number of buildings along 14th  
14 Street, and the building was built as stores and  
15 flats. In other words, apartments above the  
16 first floor retail.

17 And interestingly enough, the first  
18 floor retail, which had large plate glass  
19 windows, 1904, but there was a barber shop and  
20 a coffee shop.

21 In 1897, a local contractor built  
22 1351 Wallach Place, which is the single-family

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1 house that is facing Wallach. It was designed by  
2 Washington architect, Julius Germuiller, and he  
3 designed many, many residences, many on Capitol  
4 Hill, but also in the inner part of down--you  
5 know, of Washington, downtown. And they are  
6 both in very poor condition and in very much need  
7 of being rehabilitated, which this project  
8 proposes.

9 I have not participated in the  
10 design development of the project, and I've only  
11 been asked to come here to help resolve the issue  
12 that Office of Planning puts forward, that there  
13 has been no HPRB formal review yet.

14 And while I am not the HPRB, I do  
15 present in front of them regularly, and invite  
16 my clients on what we think are important issues.  
17 And we look to D.C. Law 2-144, the Historic  
18 Preservation and Landmark Historic District  
19 Projection Act, as well the secretary of  
20 interior's standards for historic preservation.

21 The preservation law, which calls  
22 for retaining and enhancing those properties

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1 which contribute to the character of the  
2 historic district, and encourage their  
3 adaptation for adaptive use, they seek to assure  
4 that alterations are compatible with the  
5 character of the historic district and that new  
6 construction is compatible.

7 And while we have a large addition  
8 to these historic buildings, it is new  
9 construction for the more basic view of it.

10 And in assisting to meet the law, the  
11 HPRB has identified 12 design principles that  
12 they use to evaluate compatibility for new  
13 construction.

14 They include setback, orientation,  
15 scale, portion, rhythm, massing, height,  
16 materials, color, roof shape--

17 BZA CHAIRMAN JORDAN: Yes. You  
18 know, I--we're not HPRB.

19 MS. EIG: Sure.

20 BZA CHAIRMAN JORDAN: And I think  
21 that's a battle, what you've got to deal with,  
22 or not a battle. All right?

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1 MS. MOLDENHAUER: Yes. What we're  
2 just trying to do, we're trying to provide some  
3 expert testimony, and I think Ms. Eig is going  
4 to get to the issue in regard to how the historic  
5 buildings limit or restrict the site--

6 BZA CHAIRMAN JORDAN: Okay.  
7 That's--

8 [Simultaneous speaking]

9 MS. MOLDENHAUER: She'll come to  
10 that.

11 MS. EIG: Okay. First, is that the  
12 new construction engages the property as opposed  
13 to being built in to it, and the fact that it does  
14 not encroach upon that is a really important  
15 thing. The Review Board has discouraged any  
16 rooftop additions that are visible, and in this  
17 situation you have small-scale buildings that  
18 are visible on a corner, and therefore by pushing  
19 the new construction completely off, as in not  
20 making it encroach, that is really important in  
21 meeting historic preservation guidelines.

22 And that of course means that you're

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1 keeping these historic buildings intact, which  
2 is exactly what the Preservation Review Board  
3 seeks in all cases, when that is possible.

4 And the Applicant did an excellent  
5 job in pushing that massing away. But that also  
6 has consequences on the new construction. But it  
7 does a very positive thing, in that it minimizes  
8 the view of new construction from Wallach Place,  
9 where the residential buildings, the smaller  
10 buildings are, as opposed to 14th Street, where  
11 taller buildings exist with some smaller. But  
12 that's where the taller building--14th and U,  
13 have the majority of the tall buildings.

14 The infill structure is a very  
15 positive aspect, and I--Steve Colcott, who said  
16 he encouraged--from the preservation  
17 staff--that he encouraged that to be  
18 constructed. It's designed to fill what would  
19 be--is a vacant lot that's used as an entrance  
20 to a parking lot. It looks like an alley, but  
21 it is--I don't believe public alley--his private  
22 space. Just looks like one. And this will bring

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1 the streetscape back, which is a very strong  
2 preservation goal.

3 And that the proposed  
4 rehabilitation, which has a cost, will bring the  
5 building back with--bringing these buildings in  
6 poor condition back to being, in fact,  
7 attractive elements to the streetscape and also  
8 obviously to the city, being useable.

9 You know, it's my professional  
10 opinion that these goals of preservation, which  
11 this project meets so well, do cause some of the  
12 reasons why we're here for relief, most  
13 particularly, obviously, the lot line to lot  
14 line along the alley cannot be met, if the  
15 historic building that faces Wallach Place  
16 remain sin place, which it should. It's a  
17 contributing resource. It would have to go to the  
18 mayor's agent for special merit, to be  
19 demolished. So therefore, obviously, that is not  
20 something that is desirable, nor something that  
21 probably could be met as a test.

22 And pushing off, completely off of

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1 the buildings, as I said, the particular  
2 location on the corner makes it very difficult  
3 for any kind of rooftop addition that would not  
4 be visible, be very small. And this, by pushing  
5 off entirely, that maintains the integrity of  
6 the buildings in their entirety.

7 VICE CHAIR ALLEN: Can you just talk about  
8 excavation under historic resources and--

9 MS. EIG: Excavation can take  
10 place. People have underpinned buildings. It's  
11 very costly, and it can potentially cause harm,  
12 if it is not done completely the way it's  
13 supposed to be.

14 And when there's excavation under a  
15 building, that money, to be very honest, is  
16 usually not then spent on the rehabilitation of  
17 the historic buildings. But when you're  
18 building a large structure next to historic  
19 buildings, it also--it causes--it's something  
20 of great interest to historic preservationists,  
21 to make sure that it is done to the highest degree  
22 possible, and which is very costly. Very costly.

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1                   BZA CHAIRMAN JORDAN:       So the  
2 historic buildings doesn't forbid you from  
3 putting parking there. You're saying it's a cost  
4 issue.

5                   MS. EIG:    Right. And you're aware  
6 that there's a waiver for historic buildings, to  
7 not have to dig underneath them to provide  
8 parking, and if you had just a small  
9 building--historically, the city actually  
10 provided a very simple way for if there was any  
11 historic building, parking could be waived.

12                   Now it's more complicated, if you  
13 have a large addition to it. But it is not a  
14 desirable thing, and often, the size of the  
15 historic buildings--the parking's very tight  
16 and therefore it's not very--it's not  
17 cost-effective or even reasonable, at all, to  
18 expect that parking could be placed under it.

19                   So you can do it. It's not advisable  
20 for a historic building, and it's not desirable  
21 for a historic building.

22                   BZA CHAIRMAN JORDAN:       Yes. You

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1 know, I spent some time as being the mayor's  
2 agent--

3 MS. EIG: So--

4 BZA CHAIRMAN JORDAN: So--all  
5 right. I'm sorry. Go ahead. Board, any other  
6 questions, or--go ahead. Proceed. I'm sorry.

7 ZC CHAIR HOOD: Can I just ask. So how many  
8 spaces are required? I know what you're asking.  
9 How many, under normal circumstance--and I will  
10 say that I do like the way that the--from a design  
11 standpoint, I do like the way the historic blend  
12 is, and I looked at the ANC support, and I know  
13 that wasn't--well, I'm not sure how it went. But  
14 I know Tony Norman and those guys down there,  
15 that they really scrutinize in that area. So I  
16 have to commend you on that. And I do like the  
17 way--I like what I see.

18 But how many parking spaces are  
19 required under this historic--

20 MS. EIG: Ms. Moldenhauer can  
21 answer that.

22 MS. MOLDENHAUER: For this project?

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1 ZC CHAIR HOOD: Right.

2 MS. MOLDENHAUER: Twenty-two would  
3 be required.

4 ZC CHAIR HOOD: Is it 22 or--I'm  
5 confused. I'm seeing some places, twenty-six--

6 MS. MOLDENHAUER: For the historic  
7 buildings, none would be required. Is that what  
8 you're--I mean if it was--

9 BZA CHAIRMAN JORDAN: For a  
10 project, overall, I think he's saying that,  
11 and--

12 ZC CHAIR HOOD: Right. Well, in this  
13 case, for historic, I know it's exempt. But I'm  
14 just saying; How many would normally be required  
15 for the project? For this project.

16 MS. MOLDENHAUER: Twenty-two.

17 ZC CHAIR HOOD: Twenty-two. Now  
18 some places, there's twenty-six--26, 22, 21, 30,  
19 whichever number you want to--

20 MS. MOLDENHAUER: It was originally  
21 26, Mr.--originally, it was 26, but as we  
22 indicated, we've modified the number of units

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1 ,and when we reduced the number of units, the  
2 required parking spaces changed from 26 parking  
3 spaces to 22 parking spaces.

4 ZC CHAIR HOOD: Twenty-two. Okay.  
5 All right. Thank you.

6 BZA CHAIRMAN JORDAN: Okay. Go  
7 ahead.

8 MS. MOLDENHAUER: We'll  
9 just--we'll turn back to Mr.--

10 BZA CHAIRMAN JORDAN: One second,  
11 please.

12 MS. MOLDENHAUER: Oh, sure. I'm  
13 sorry.

14 VICE CHAIR ALLEN: So I'm  
15 forgetting whichever you talked about, the  
16 egress and ingress, and how it was very  
17 complicated and difficult. But is that  
18 because--is that the only place that you could  
19 potentially have an entrance there? And is that  
20 because of the historic site? Or is it just that  
21 was--

22 MR. GOINS: Well, yes. I mean,

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1 there's actually a slope on the site. So to put  
2 it on the north side of the property actually  
3 makes the ramp longer, which makes the garage  
4 even more--so the only location that we could put  
5 it was on the south side, and when we did it, to  
6 get down there, cause we're not going underneath  
7 the structure, historic structures, we're  
8 adjacent to them--so yeah--well, here you go,  
9 you can see on the diagram here.

10 So to get this ramp down, it's a ramp  
11 of 18 to 19 percent. It's what's called a speed  
12 ramp. And then when you get down to the lower  
13 level--do we have the slide showing that? You  
14 can kind of see the practical difficulty, just  
15 to maneuver down in this garage. While I think  
16 in this plan we have nine spaces, you can kind  
17 of see the practical difficulty, once we got down  
18 there.

19 MS. MOLDENHAUER: And Mr. Goins, if  
20 you'd just talk a little bit about the pedestrian  
21 aspect as well ,and the concern about  
22 pedestrians with the bicycle storage, and the

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1 parking maneuverability, and the ramps.

2 MR. GOINS: Well, I'm not sure that  
3 the 18 percent ramp is--will work at the end of  
4 the day, once we get to the engineering side of  
5 this. I think that from a pedestrian  
6 standpoint, anyone coming out or walking down  
7 that alley--I mean, the cars would be coming up  
8 at a pretty good pace to make the 18 percent ramp.

9 I mean, you see some speed ramps in  
10 D.C. It's not uncommon. But they're normally in  
11 a very large garage or office buildings you see  
12 downtown. This is certainly a difficult ramp  
13 condition, especially considering we have 36  
14 bicycle spaces that we've provided now in the  
15 lower level.

16 So the lower level now has become  
17 bicycle spaces, and we're putting most of the  
18 utilities down there now.

19 So we kind of gave up on the whole  
20 idea of nine parking spaces.

21 BZA CHAIRMAN JORDAN: Are we buying  
22 the tenants bicycles? No. That's okay.

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1 [Laughter]

2 MS. MOLDENHAUER: I'd just ask you  
3 to elaborate on the issue of since the ramp is  
4 so sloped, are you talking about a speed ramp in  
5 order to accelerate your car up the ramp, and to  
6 be able to get it--can you describe how that  
7 might also create some damage, or have some  
8 challenging situations with the property owner  
9 on the other side of the alley.

10 MR. GOINS: Well, I think it's a  
11 very--I mean, anything, next to a very small car  
12 is just not going to make it without the  
13 potential damage here. As you can kind of see,  
14 turning in, they're more than likely going to  
15 have to stop, multiple times, just to get in the  
16 ramp. This is a 10-foot-wide alley.

17 So I mean, there's two things.  
18 There's a 10-foot-wide alley--or excuse me--a  
19 15-foot-wide alley. The 15-foot-wide alley, a  
20 narrow condition off of Wallach, and then, you  
21 know, coming from U Street, actually, it's a  
22 little--I mean, coming from the--and going in

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1 the south direction, would actually make this  
2 turn almost impossible.

3 So coming in off Wallach is the only  
4 way to get into the ramp that works. And then as  
5 you can kind of see here--I think Gorove/Slade  
6 did this--but this is a midsize car, and as you  
7 can see, it has a lot of difficulty turning in  
8 there.

9 So leaving an 18 percent speed ramp  
10 to get out of the garage, the car would need to  
11 be going at a pretty good pace, and then probably  
12 have to slam on the brakes at the top.

13 VICE CHAIR ALLEN: Thank you.

14 MS. MOLDENHAUER: At this point in  
15 time I'll turn to Gorove/Slade.

16 MR. ANDRES: Good morning, Chairman  
17 Jordan, members of the Board, my name is Erwin  
18 Andres of Gorove/Slade Associates.

19 We worked with the planning  
20 development team to identify some of the  
21 measures associated with the proposed  
22 development, to mitigate the parking condition.

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1 As you may well know, the site is well-served by  
2 transit, bike facilities, and pedestrian  
3 facilities. Within a two block radius, there's  
4 actually 13 bus lines, a D.C. Circulator, and the  
5 potential of the 14th Street streetcar line,  
6 that serves the site.

7 In addition to that, there are two  
8 Capital Bikeshare stations within a block and a  
9 half of the site. There's one at 14th and V, and  
10 one--and another one at 13th and U.

11 In addition to that, there are cycle  
12 and bike lanes, both on 15th Street as well as  
13 14th Street, and we are a block away from the  
14 Green and Yellow lines being served at the U  
15 Street/Cardozo Station.

16 BZA CHAIRMAN JORDAN: A block away?

17 MR. ANDRES: It's a block,  
18 diagonally. So one and one. Excuse me. Yes.  
19 It's at 13th Street. So if you--it's one and a  
20 half blocks away, I guess.

21 BZA CHAIRMAN JORDAN: Okay.

22 MR. ANDRES: It's not a full two

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1 blocks. But it's slightly more than one block  
2 away. In addition to that, we've coordinated  
3 with the District Department of Transportation,  
4 and in their review letter of October 3rd, they  
5 have concurred with our findings, that we have  
6 provided enough evidence to show that the  
7 parking relief that we're seeking through the  
8 special exception is mitigated by the fact that  
9 we are incorporating an extensive  
10 transportation demand management program.

11 BZA CHAIRMAN JORDAN: Do you know if  
12 DDOT did their own study? Or did they just accept  
13 your study?

14 MR. ANDRES: Well, they looked at  
15 our study, reviewed it, and again, this is a  
16 study that's not inconsistent with some of the  
17 other studies done in the neighborhood. As a  
18 matter of record, I personally worked on the  
19 Wallach Place BZA application just south of the  
20 site, just basically across the street, on the  
21 other side of Wallach Place.

22 BZA CHAIRMAN JORDAN: So let me ask

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1 you: With--was it 52 units?

2 MR. ANDRES: 56.

3 BZA CHAIRMAN JORDAN: 56 units.

4 What is the projection for people who have cars?

5 MR. ANDRES: Well, 56 units, the  
6 projection, typically, in a suburban condition,  
7 is probably in the range of about 20 to 25 spaces.

8 BZA CHAIRMAN JORDAN: What do you  
9 mean by "suburban condition"?

10 MR. ANDRES: Typically, when you go  
11 to--if this were located away from Metro, away  
12 from areas where there's extensive bike and  
13 pedestrian access, the zoning standard or the  
14 zoning requirement would be in the 20 to 25  
15 range. But in the District, given that you have  
16 all of these other--given you have all of these  
17 other access to the--to alternative transit, and  
18 alternative commuting modes, our determination  
19 is that you won't need any parking, and--

20 BZA CHAIRMAN JORDAN: So for 56  
21 units, your projection is that nobody's going to  
22 have a car?

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1           MR. ANDRES: Well, that's given--if  
2 we don't do any--if we build the facility and  
3 incorporate all the transportation demand  
4 management measures, then, yes, we are saying  
5 that you will not require parking, for several  
6 reasons. One. All of those people who are looking  
7 for parking will either shift to these modes, or,  
8 you know, in most cases, in neighborhoods like  
9 this, choose not to live here.

10           BZA CHAIRMAN JORDAN: I want to make  
11 sure we're clear. So based upon your research,  
12 and your knowledge of transportation, parking,  
13 etcetera, so in an area similarly situated, the  
14 research shows that with 56 units, zero people  
15 have cars?

16           MR. ANDRES: No. With 56 units,  
17 it--typically, it's in the 20 range, 20 to 25  
18 range, which is actually backed up by the fact  
19 that the zoning requirement is 22 spaces.

20           BZA CHAIRMAN JORDAN: Got it.

21           MR. ANDRES: So that's consistent.  
22 That if we didn't do anything, potentially, you

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1 would have about 22 residents that would need  
2 cars.

3 BZA CHAIRMAN JORDAN: Correct. That  
4 was kind of my question.

5 MR. ANDRES: Yes.

6 BZA CHAIRMAN JORDAN: All right.

7 MR. ANDRES: But given where we're  
8 located, and given the fact that there are all  
9 these other measures--

10 BZA CHAIRMAN JORDAN: See now,  
11 you're backstepping on me. I'm saying based upon  
12 similar conditions, and what you're projecting  
13 and proposing here, with 56 units, what would be  
14 the projected, or the guesstimation of people  
15 who have cars?

16 So I was including all of the factors  
17 that you're talking about--the bicycle racks,  
18 being within a block and a half of Metro, being  
19 near a--what's the thing? What's the other  
20 transit? Not near the bus lines but the  
21 other--the Circulator. Yes. Thank you. The  
22 Circulator.

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1                   What is the guesstimation of the  
2 number of people who would have cars in this  
3 building?

4                   MR. ANDRES: Right now, it's zero,  
5 and because of the fact that there are--you know,  
6 if you were looking--

7                   BZA CHAIRMAN JORDAN: Based upon  
8 comparable properties, and others, your history  
9 shows that it would be zero?

10                  MR. ANDRES: Yes. We've actually  
11 worked on a project just south of here at--that's  
12 14th and I believe New Hampshire, which also went  
13 through BZA without--and there was zero parking  
14 provided. Just north of that.

15                  BZA CHAIRMAN JORDAN: But do we know  
16 if people in that building have parking? that's  
17 kind of what I'm asking.

18                  I'm not talking about our guess and  
19 what we've done our presentations on. I'm saying  
20 have we then subsequently--and I hope I'm making  
21 sense--have we gone back to verify, based  
22 upon--to verify our previous research and I

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1 guess--no. To verify our guesstimations and  
2 projections--are they correct?

3 Here you're saying in the other  
4 building on 14th Street, that we did the kind a  
5 same proposals, and say, okay, no people are  
6 going to have parking, and pass BZA. But I'm  
7 saying did you then subsequently go back for that  
8 building and, say, knock on the door, or go to  
9 the building owner, and say, well, how many  
10 people in here actually have cars?

11 MR. ANDRES: Chairman, we did not.

12 BZA CHAIRMAN JORDAN: Okay. Do you  
13 understand what I'm trying to get at?

14 MR. ANDRES: Yes. Oh, absolutely,  
15 and then part of the fact is because a lot of  
16 these new developments are just coming on board.  
17 You know, they're--

18 BZA CHAIRMAN JORDAN: Because  
19 basically, the proffer says that you've got to  
20 at some point prove it up to show that it actually  
21 had some validity; right?

22 MR. ANDRES: Oh. absolutely.

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1                   BZA CHAIRMAN JORDAN:   And that's  
2   what I'm kind of asking.

3                   MS. MOLDENHAUER:   Let me just  
4   provide a fact that we have obtained from JBG,  
5   which developed The District, which is that  
6   large structure a little bit farther away from  
7   the Metro, which is going to house the Harris  
8   Teeter, I believe it is, they have 125 units, and  
9   they've already leased over ninety-one. I  
10   believe the number is a little higher, now,  
11   potentially. And they have only leased, out of--

12                   MR. ANDRES:   91 percent.

13                   MS. MOLDENHAUER:   91 percent. I'm  
14   sorry. 91 percent of the total units. And they  
15   only leased less than 15 percent of their  
16   parking. So--

17                   BZA CHAIRMAN JORDAN:   Okay. So what  
18   was projected for that, based upon the testimony  
19   that was given at the time, whatever?

20                   MS. MOLDENHAUER:   I have not looked  
21   at that. But I think it shows the--out of 91  
22   percent of the units that have leased, less than

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1 15 percent have actually asked for parking, and  
2 that project is, from what we've understood, the  
3 Applicant has spoken with JBG, is right now going  
4 to actually have an excess number of parking  
5 based on the parking that they've actually  
6 provided on site. They're not going to be able  
7 to sell or lease all of their parking.

8 ZC CHAIR HOOD: Does that building  
9 also have the same--Mr. Chairman, can I ask one--

10 BZA CHAIRMAN JORDAN: Yes. Surely.

11 ZC CHAIR HOOD: Does that building  
12 also have the same recommendation or the  
13 proposal that you all are proposing in this case  
14 about no RPP?

15 MS. MOLDENHAUER: I don't believe  
16 it has no RPP in that building.

17 ZC CHAIR HOOD: Okay. What about  
18 the one you mentioned, Mr. Andres, up the street  
19 and around the corner. Something you said--

20 MR. ANDRES: Well, the one directly  
21 across the street has that similar condition.

22 ZC CHAIR HOOD: Do we know whether

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1 or not that works?

2 MR. ANDRES: Well, it's under  
3 construction, so--

4 ZC CHAIR HOOD: Okay. So, really, we  
5 don't even know if no RPP works. And this is  
6 something I've been dealing with on the  
7 Commission, the other night, and I'm kind of  
8 going down, I guess a similar line with the  
9 chairman. One of the issues is we hear this in  
10 presentations about no RPP, and when we put the  
11 test--when we try to test it, nobody really  
12 knows.

13 It sounds good, because the issue is  
14 actually, even under your proposals, in a couple  
15 a years people are going to come and ask for RPP,  
16 and I don't know if DDOT has a mechanism to treat  
17 that, and I understand--I don't know--I don't  
18 see in this where maybe, in the leases, or on the  
19 agreements, that you cannot apply. I just know  
20 that you're asking now this building be taken off  
21 of that.

22 What else do we have that give this

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1 neighborhood assurances, Chairman Norman, and  
2 all the rest of the ANC commissioners down there  
3 in Ward One, and even the Council member, those  
4 assurances--this is actually going to take  
5 place, other than what I see here about no RPP?

6 MS. MOLDENHAUER: Well, let me  
7 address that in two points. One, I'm handing out  
8 currently--and it's obviously not legislation  
9 yet, but I'm sure the Board members are aware of  
10 the Tommy Wells bill, which will solidify, in  
11 this building, you know, if approved, will not  
12 be constructed for another 18 or 24 months, and,  
13 you know, hopefully legislation like this will  
14 have been finalized, and I'm passing out copies,  
15 and this actually--

16 BZA CHAIRMAN JORDAN: What is it?  
17 What is this?

18 MS. MOLDENHAUER: This is  
19 legislation that was submitted by Tommy Wells,  
20 actually put in place--a protocol to ensure that  
21 when an Applicant indicates that they will  
22 restrict RPP, it will actually then be able to

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1 be followed through on a government side, not  
2 just leases, and obviously our client here, the  
3 Applicant here has agreed to put it in the lease,  
4 so that tenants who are under the RPP restriction  
5 would be aware that they would not be able to  
6 obtain parking permits.

7 ZC CHAIR HOOD: Yes. I'm aware of  
8 this legislation but that's been an issue, and  
9 I'm glad to hear that he's actually--and I may  
10 have missed that. I'm glad to hear that there's  
11 been another lease--

12 BZA CHAIRMAN JORDAN: But we've  
13 also talked about these things running with  
14 land--running with the land. So there's change  
15 of ownership, et cetera, that they follow  
16 through, because, you know, these buildings  
17 flip, these buildings sell, but the neighborhood  
18 is still the neighborhood, and they still are  
19 existing with these same issues.

20 And so I understand with a landlord  
21 placing a lease, it becomes optional as the  
22 property gets sold. You know, we have sat here,

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1 and this Board has asked certain things to be  
2 running with the Lands Act. Some things to be  
3 placed in a condo declaration. Some things to  
4 be--to other instruments.

5 So I understand, and I appreciate  
6 this. But as we go further, that'd be some a the  
7 things I'm probably going to be--would be  
8 cautious about.

9 But going back to where I am, so I  
10 don't get sidetracked. Parking's an issue.  
11 It's an issue in the District of Columbia. We  
12 have it, probably our number one issue that comes  
13 before us in this area, as you've seen by those  
14 who've been in opposition, just by everything  
15 that's happened.

16 Parking is hard here. And so my  
17 question was going beyond all the other  
18 presentations--and people sit in front of us all  
19 day long, all the time, and they give us a  
20 hypothesis of what the research is. But where's  
21 the validation, is all I'm asking? And I'm not  
22 saying, one way or the other, right or wrong. I

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1 would like to have heard that, yeah, we've gone  
2 back, whether--maybe Department of  
3 Transportation has done it. I don't know.

4 Maybe Planning's done it. I don't  
5 know. We can get to them. From your research,  
6 you're in front of us all the time. And so you  
7 know the kind of stuff I'm going to be looking  
8 for in the future as we move on.

9 MR. ANDRES: Absolutely.

10 BZA CHAIRMAN JORDAN: What's the  
11 validation of those various hypotheses that have  
12 been placed forward, and saying, okay, now this  
13 is what we said, and we look back a year later  
14 and these buildings are filled out. We said this  
15 project is going to be--our estimate is going to  
16 be five cars, five people are going to have cars,  
17 and we found out it was twenty-seven.

18 Or we said five and it was zero.  
19 That's kind a what my question was going to, and  
20 I'm taking it you really don't have that answer.  
21 Or do you?

22 MR. ANDRES: Well, my answer is

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1 that, you know, within the past three to five  
2 years, we've come before you, and actually the  
3 Zoning Commission in some instances, for these  
4 projects, and the issue that comes across is that  
5 they aren't delivering until now, in some cases.

6 We actually worked the case that Ms.  
7 Moldenhauer talked about, the JBG project across  
8 the street. We worked on that, and we worked on  
9 it, and you're right--it got flipped. The  
10 original owner was Georgetown Strategic  
11 Capital, and then they sold it to JBG.

12 And so, you know, we're in an  
13 instance now, where 14th Street, and a lot of  
14 other neighborhoods that we work in, are in  
15 the--at the time are going through sort of a  
16 revival. Basically, these neighborhoods where  
17 a significant amount of infill development has  
18 taken place. And it's only happened fairly  
19 recently, to a point where a lot of these  
20 developments that we've worked on are, like I  
21 said, within the past three to five years.

22 So they're coming online right about

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1 now, Chairman Jordan. So, you know, in essence,  
2 you know, you're right--we haven't done any  
3 studies to see if they were effective. But the  
4 reasoning behind them are--you know--make  
5 sense. You know, if you're restricting them  
6 from RPP, then they're either risking either  
7 parking on the street, and getting a ticket,  
8 cause they can't park any longer than the two  
9 hours under RPP, or they're finding alternative  
10 means to store their car some place else.

11 BZA CHAIRMAN JORDAN: And I'm not  
12 just talking about RPP. I talked about the  
13 aspect of what your projections are, not just  
14 RPP, but the other things, the concessions, has  
15 gone on for years. I think Ms. Allen has a  
16 question.

17 VICE CHAIR ALLEN: Yes. Thank you.  
18 Thank you, Mr. Chairman. I was just reviewing  
19 your proposal, and there's a section, it's not  
20 numbered but it specifically addresses what the  
21 existing versus proposed is, and one of the  
22 existing, I guess that you're taking for this

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1 project, is actually a parking lot.

2 Do you have any idea, how many cars  
3 actually park there now? Do any? Do twenty? Do  
4 we know? And then sort of what the plan is.

5 MR. MADANI: I'm going to estimate  
6 around 15 cars, and, you know, they also deal  
7 with a lot of the day visitors who are  
8 coming--just, you know, work there during the  
9 day. So it's not specific to the residential.

10 MR. ANDRES: And they're actually  
11 being used and occupied by the uses that are  
12 there. So once the uses go away, it'll start from  
13 scratch, from zero again. So that parking lot,  
14 that 15 space lot, is associated with existing  
15 uses.

16 BZA CHAIRMAN JORDAN: I thought  
17 that was a vacant lot. There's a vacant lot where  
18 this building's going; right? No? Wrong?

19 MR. MADANI: Yes.

20 BZA CHAIRMAN JORDAN: So you're  
21 saying the 15 people that are using--the 15  
22 people, give or take, are only there for what is

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1 happening in the area where this project is  
2 going?

3 MR. ANDRES: Yes. That's correct.

4 BZA CHAIRMAN JORDAN: So you know  
5 everybody's using--who's using that parking  
6 lot's associated with this property. Is that  
7 what you're telling me?

8 MS. MOLDENHAUER: The 14th Street  
9 commercial uses? Is that what you're saying?

10 MR. ANDRES: Yes.

11 MS. MOLDENHAUER: The property's  
12 all owned by a family. So I don't know if the  
13 family is using it. And the family also operates  
14 the two retail establishments, the dental office  
15 and the barber shop. So I don't know--

16 BZA CHAIRMAN JORDAN: You don't  
17 know who parks there, and what's going to happen.

18 MS. MOLDENHAUER: I'm just  
19 confirming a fact that I know, that is based on  
20 what Mr. Erwin just said.

21 BZA CHAIRMAN JORDAN: You know the  
22 people who park in that parking lot are

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1 associated with this property--

2 MR. MADANI: We do know that there's  
3 a number of construction workers parking their  
4 cars there, because there's a lot of  
5 construction happening across the street with  
6 the JBG building, and the Level 2  
7 adjacent--adjacent building.

8 Can I--I'd like to, if I have--if I  
9 can have a moment, to go back to the numbers we  
10 have received. As a developer looking at this  
11 area, and taking everything in to consideration,  
12 and, you know, before committing ourselves to a  
13 project like this, we've been keeping our finger  
14 on the pulse of what's happening at that  
15 junction, and that area, which is becoming more  
16 and more densely urban.

17 I think one of the most important  
18 numbers that, you know, brought--you know, there  
19 was a very important number that we relied on--is  
20 that going back to the numbers that Ms.  
21 Moldenhauer provided, and The District, which is  
22 on the corner of 14th and S, which is a further

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1 distance from the Metro than us, in numbers, they  
2 have leased, to date, 110 of their units, but  
3 only ten parking spaces out of seventy-five.

4 They have 65 available parking  
5 spaces which have not been rented out. Now one  
6 question might be that those--you know--those  
7 parking spaces, the price of those. But I think  
8 the rents that those units are fetching, I don't  
9 think, from my understanding with the concierge,  
10 is that that stopped people from renting parking  
11 space.

12 BZA CHAIRMAN JORDAN: How much are  
13 they?

14 MR. MADANI: I believe they were in  
15 the \$150 mark to 200, depending on level; but I  
16 don't have that exact number. But the response  
17 that I received was that it is not a financial  
18 consideration. I know you're smiling, saying I'm  
19 not sure.

20 BZA CHAIRMAN JORDAN: Also doesn't  
21 mean that I--cause I know plenty of people who  
22 use parking--there's parking in buildings and

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1 they say, oh, but I can get on the street, I just  
2 have to do the juggling act.

3 MR. MADANI: But I think another  
4 consideration for us is that there's enough  
5 buildings that are able to put parking, and don't  
6 face the restrictions that we have coming  
7 online.

8 BZA CHAIRMAN JORDAN: So what's the  
9 available parking around your building?  
10 Available public parking around this project?

11 MR. ANDRES: Realistically, it's  
12 fully--there--there aren't any available  
13 spaces. When we did a parking occupancy on a  
14 weekday evening, basically in the area a block  
15 to the west, a block to the north, and a block  
16 to the east, and a block to the south, in essence,  
17 we are at 99 percent occupancy.

18 So there is, with respect to  
19 on-street spaces there's--you know, when we  
20 found out, it wasn't a surprise. You know, in the  
21 evenings, there's a large competition for  
22 available spaces.

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1                   ZC CHAIR HOOD: Mr. Chairman. Mr.  
2                   Andres, let's go back to the not having a track  
3                   record about RPP, and the different mechanisms  
4                   that we've been talking about. And 2009 was the  
5                   first time--I think it was 2009, 2008. I do know  
6                   that another counsel has presented the Zoning  
7                   Commission with some facts.

8                   It's getting to the point  
9                   now--starting to come--we're getting to the  
10                  point--you're saying we're just entering now.  
11                  But there are some tests out there, that we can  
12                  start looking at. And there's more than one.

13                  There are quite a few. Actually, I  
14                  had asked an Applicant to bring some down a  
15                  couple weeks ago. But now it's starting--I'm not  
16                  sure with the Board--but I know the  
17                  Commission--I know this is not a Zoning  
18                  Commission hearing--but when you start seeing  
19                  those kind a things, when you come here, let's  
20                  see what's going on, what's actually happened.  
21                  Sounds good down here; sounds great.

22                  But let's start seeing--is RPP

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1 really working, and are people able to go back,  
2 later on, regardless of what Council Member  
3 Wells, and everybody's putting in place, and  
4 still get RPP? Is this affecting the  
5 neighborhood? Because I can tell you, in Ward 1,  
6 you're right, and one thing I really agree with  
7 you is 99 percent occupied.

8 I definitely agree with that. So  
9 okay. Thank you, Mr. Chairman.

10 BZA CHAIRMAN JORDAN: What's 99  
11 percent occupied?

12 ZC CHAIR HOOD: The street. I want  
13 to say a 100 percent but I'm going to leave that  
14 other one percent.

15 BZA CHAIRMAN JORDAN: Well, look at  
16 the study one here. You had a high demand for  
17 street already, so--okay. These are just  
18 thoughts of a random mind, you know, just  
19 questions just coming in. So it may not be the  
20 answer; but anyway.

21 Is there anything else that you need  
22 to--I didn't want to step on you, but those

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1 questions came to mind, and you're--you  
2 know--and I know we sit here, and we absorb these  
3 things, and the reality of life has been hitting  
4 in for a lot of people in the District.

5 MR. ANDRES: And we completely  
6 agree with you. You know, these are measures  
7 that, you know, look to address the issue, and  
8 you're right, Commissioner Hood. We're at a  
9 point now, where some of these projects are  
10 delivering, and are occupied. But it's like I  
11 said, you know, the 14th and U project we worked  
12 on, that got approved about four or five years  
13 ago and is being built now. So it's going to take  
14 time for some of these developments to get built  
15 and occupied, to a point where we can take a look  
16 at what those--what the effectiveness of those  
17 measures are.

18 BZA CHAIRMAN JORDAN: Okay. Sorry.  
19 Didn't mean to step on your presentation. Go  
20 ahead.

21 MR. ANDRES: Just one last thing I'd  
22 like to add is that in our submissions, we have

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1 identified that as--in the District, overall,  
2 the levels of car ownership per population, per  
3 person, are actually decreasing, and that's been  
4 identified in the Post and in some public  
5 outlets.

6 So we just want to confirm that this  
7 is one of the corridors where it's pretty clear.  
8 You can see that with the increased population  
9 along the 14th Street Corridor. There's been  
10 more competition for those spaces, but, you  
11 know, in terms of the number of vehicles per  
12 person, added in to that corridor, is  
13 decreasing.

14 BZA CHAIRMAN JORDAN: Yes. Cause  
15 looking at the parking inventory report and  
16 occupancy summary that's been presented, I mean  
17 you're hitting right up at 99 percent, 100  
18 percent, from peak time, from RPP area, metered  
19 area, unrestricted. You know, all streets--all  
20 other--all on-street spaces, 99 percent  
21 utilization. So that's why I ask, to try to  
22 verify. You're saying that with all the "bells

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1 and whistles" that you're going to put there, and  
2 the wish list, and the guess list, are we  
3 going--only like five people are going to try to  
4 get--actually going to have parking on the  
5 street, that's going to then affect the other  
6 neighbors?

7 Or is there going to be ten or  
8 twenty, based upon what the actual track and  
9 history is, verifying your formula, so--

10 MR. ANDRES: That's--that's--

11 BZA CHAIRMAN JORDAN: Because I'm  
12 looking at these utilization numbers. I'm going  
13 "Whoa."

14 MR. ANDRES: Uh-huh.

15 ZC CHAIR HOOD: Can I just say--and  
16 I understand--

17 BZA CHAIRMAN JORDAN: You can say  
18 anything you want to say, when you want to say  
19 it.

20 ZC CHAIR HOOD: Okay. Well, some  
21 time--okay. I'm glad to hear that. That's on the  
22 record. I just want to go back to what you said

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1 about the Washington Post and all that, about  
2 cars going down. I've been hearing that argument  
3 on the Commission. But, you know, there's some  
4 other factors. There's the economy. There's  
5 certain neighborhoods.

6           Everybody who may not be buying a car  
7 now, may be other reasons, or driving a  
8 car--everybody doesn't ride a bicycle. I don't  
9 want to get in to that whole argument, cause I'm  
10 going to do that next month. So we just have to  
11 balance this thing.

12           You know, it's not cars going down,  
13 we don't need parking space, we don't need this,  
14 everybody's riding a bike. Cause that's not  
15 actually true. And I'll say it again. Cause  
16 some people, when they get around 70, 75, they're  
17 not going to be riding a bicycle.

18           I've had people, right now, who are  
19 seniors, when we did this whole bicycle  
20 argument, come to me, and say, Anthony Hood, I  
21 don't know what you're talking about down there.  
22 I'm not going to ride no bicycle. I'm going to

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1 drive my car.

2 So it's a balancing issue. So  
3 anyway. You'll hear more of that next month.  
4 Thanks.

5 BZA CHAIRMAN JORDAN: Don't take  
6 this personally. It's just questions we're  
7 asking. That's all. We appreciate the work that  
8 you do. Really do.

9 MR. ANDRES: Thank you.

10 MS. MOLDENHAUER: Well, let me  
11 redirect just a little bit more, cause I know  
12 we're talking about the global issue here of  
13 parking, but let's talk a little more, that this  
14 site--

15 BZA CHAIRMAN JORDAN: No, no, no,  
16 no. Let's not get this crossed. I'm talking about  
17 this project. It became global because you  
18 haven't had the opportunity, and you guys opened  
19 the door for it. So we're talking about this  
20 project--trust me--and if you haven't given me  
21 the number about what I just asked--and we're  
22 certainly talking about it.

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1           So I want to make sure you're clear  
2 where I am. So you don't need to redirect it.  
3 We are there.

4           MS. MOLDENHAUER: Perfect. Well,  
5 then let me just--let me just focus more on a  
6 couple of the challenges with physically putting  
7 any spaces on this site. I'll rephrase that,  
8 Chairman Jordan, and I'll turn to Mr. Goins, to  
9 make sure that we point out one or two other  
10 issues.

11           MR. GOINS: So once again, to kind  
12 of reiterate the challenges with parking. The  
13 ingress/egress out of the garage is extremely  
14 difficult. There's a likely scenario. You're  
15 going to be very close to the adjacent property.

16           The second thing I really wanted to  
17 stress is it's impossible to do a second level  
18 here. To do a second level would be another 60  
19 to 80 foot ramp. We would actually lose parking  
20 spaces on that existing floor.

21           To actually do a whole other level,  
22 you would actually end up with the same number

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1 of parking spaces, thereabouts, give or minus  
2 maybe two. And also there's a water table there.  
3 So I think the ability to do a second level below  
4 this is not--doesn't exist in this case.

5 And I guess the last thing to say is,  
6 just to kind a reiterate the ingress and egress,  
7 and the maneuverability of this parking garage,  
8 is extremely difficult.

9 BZA CHAIRMAN JORDAN: Okay.

10 MR. MADANI: May I add specific to  
11 this project, Mr. Chairman, Commissioners, as a  
12 developer we are taking--we realize that we're  
13 in a very unique site, and because of the  
14 preservation of the historic, we simply can't  
15 put parking.

16 We originally wanted to put nine  
17 parking spots, but when we got in to the actual  
18 practical study of it, and carefully analyzing  
19 it, it turned out to be impractical and dangerous  
20 to accomplish that.

21 So we're actually between a rock and  
22 a hard place, in that we're having to preserve.

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1 If we're allowed to demo, if we're allowed to get  
2 rid of the historic, then we'll put the required  
3 parking in place, and ask for relief of just  
4 maybe a few.

5 BZA CHAIRMAN JORDAN: That's  
6 another note I kind of scribbled here, that you  
7 hit right on the head, it becomes--it is--what  
8 is most important to the District? And I just  
9 scribbled that note. It's like, is it the  
10 preservation of the historic aspect? Or is  
11 providing the service to citizens of  
12 parking--and I'm not--don't say that just to  
13 answer. I'm just--I'm just kind--

14 MR. MADANI: I'm thankfully not  
15 left with having to resolve--

16 BZA CHAIRMAN JORDAN: Right. I  
17 understand. And I'm just kind of sitting here  
18 going--that's exactly the note I just scribbled,  
19 because that's what it comes down to. And I  
20 think it--somebody else--I don't know--I was  
21 going to say somebody else get--the big buck  
22 area, these would make that kind of balancing,

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1 and that's what it presents. That's what it  
2 presents. I understand where you are.

3 MR. MADANI: And then as the  
4 developer, our response is, okay, we have this,  
5 so in this column we can't do this. Well, what  
6 can we do with the other, you know, in the other  
7 column. And we did a development at 1020  
8 Monroe, where it was a matter of right, it was  
9 a restoration, 28 units. It came with five  
10 parking spots.

11 We attached the four parking spots  
12 to the four largest units. We couldn't sell that  
13 last parking spot for more than--we couldn't  
14 sell it. We even offered it at \$2,000.

15 Eventually, we gifted it to the  
16 association. Everyone in a far less dense area,  
17 at 11th and Monroe, wanted an assigned parking  
18 spot, because they were--you  
19 know--sorry--bicycle spot. So they were, you  
20 know, much more active, and finding that a very  
21 useful means of transportation.

22 Here, as well, I think, you know,

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1 obviously we, in mitigation, we've said  
2 restrictive parking, giving public  
3 transportation credits to the tenants moving in,  
4 having a transportation board telling them  
5 conveniently when the next Metro is coming.

6 But I think also from a choice and  
7 a competition standard, you know, with this, you  
8 know, area that is becoming, you know, truly  
9 urban, and a pedestrian lifestyle, with the  
10 retail really growing, and more people living  
11 there, they're also going to have a choice of  
12 living in a building that has parking, if they  
13 are car-centric, and they are determined to have  
14 cars and keep those cars.

15 From our approach, from a leasing  
16 aspect, is if you have a car, you know, we don't  
17 provide parking, okay, and you're not allowed to  
18 park on the street.

19 Across the street you'll find  
20 comparable rents, and you're going to be able to  
21 rent across the street. Two blocks down, you  
22 know, 110 units have rented. Only ten parking

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1 spaces have rented.

2 So these are the numbers we're  
3 seeing, and, if, you know, they want to have the  
4 choice of parking in an underground space and  
5 rent it from across the street, that's an option  
6 that's going to be available to them. Though I  
7 can't say that today because I don't have that  
8 in hand.

9 BZA CHAIRMAN JORDAN: So you have  
10 not received any order, or request, from HPRB,  
11 that said that you had to do certain things at  
12 this point?

13 MS. MOLDENHAUER: We have not gone  
14 before HPRB; no.

15 BZA CHAIRMAN JORDAN: You know, and  
16 I'm certainly one who not--believes in saying,  
17 well, you know, this is not HPRB, so we should  
18 push forth our issues and let them deal with that  
19 on the back side, because I think we have a lot  
20 of that in the District already, and that's just  
21 not fair. But I just wanted to ask that.

22 MS. MOLDENHAUER: And that's one of

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1 the reasons why--and I guess we're going to  
2 get--we're pretty much ready to wrap up now, and  
3 then we'll hold any additional time for  
4 potentially responding to what OP says, or what  
5 anybody else in the community says.

6 But that's one of the reasons why,  
7 in OP's report, they reference that, and we  
8 brought Ms. Eig as an expert to indicate that the  
9 standards that--you know, in her expert opinion,  
10 they would not allow you to build over the  
11 structure. They would not--they are  
12 recommending this infill, so--

13 BZA CHAIRMAN JORDAN: So what  
14 happens is we deny allowing for any relief from  
15 the special exception. Just put it out there.

16 MS. MOLDENHAUER: For the special  
17 exception--

18 BZA CHAIRMAN JORDAN: For the  
19 parking relief that you're seeking.

20 BZA CHAIRMAN JORDAN: That's okay.  
21 Don't worry. I'm saying because--nothing.  
22 That's all right. Because it becomes a rock and

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1 a hard place. I understand.

2 MS. MOLDENHAUER: Yes, I mean,  
3 because physically, you--as we just said, like  
4 you would have to put--and Mr. Goins can go  
5 through this in order--if you deny the special  
6 exception, you're talking about 22 spaces, you'd  
7 have to put like six levels of underground  
8 parking in the building, in order to  
9 satisfy--because of how narrow that is, in order  
10 to satisfy the standard.

11 MR. MADANI: And then we're also  
12 limited by water table as well--

13 BZA CHAIRMAN JORDAN: I understand.

14 MR. MADANI: But I see your point.

15 BZA CHAIRMAN JORDAN: Yes. That's  
16 all. From word go, I understand the  
17 difficulties. I said that before you sat down.  
18 I said that about an hour and a half ago--I  
19 understand there are difficulties. I'm just  
20 talking about the effect upon the neighborhood.  
21 That's where we are. And I think comes  
22 right--circles right back around to that. I

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1 understood all the difficulties that you're  
2 going to have in doing that, so--all right. So  
3 I think you just punted. So we're going to turn  
4 to Office of Planning; is that correct?

5 MS. MOLDENHAUER: Well, I was  
6 just--we have a meeting with HPRB through the  
7 whole process, we've had five meetings with  
8 them, and they've seen the application. While  
9 they have not provided anything formal nor can  
10 I represent that they have. You know, they have  
11 understood the process, I mean have gotten ANC  
12 support for the HPRB design, and that's a  
13 unanimous letter of support for HPRB.

14 BZA CHAIRMAN JORDAN: All right.  
15 Then let's turn to the Office of Planning,  
16 please.

17 MS. VITALE: I guess it's afternoon  
18 now. Good afternoon, Mr. Chairman, members of  
19 the Board. Elisa Vitale with the Office of  
20 Planning. The Office of Planning is not opposed  
21 to the Board granting the requested special  
22 exception and variance relief. OP is certainly

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1 not debating the merits of the case from a  
2 historic preservation perspective.

3 We were merely noting in our report,  
4 that the Applicant, you know, although they have  
5 worked with Historic Preservation office staff,  
6 they had not had their hearing yet before the  
7 HPRB, and obviously that hearing, and those  
8 discussions, can sometimes result in design  
9 modifications that, you know, could potentially  
10 lead to, you know, additional relief required  
11 from the Board.

12 It does appear that the Applicant  
13 has refined the roof structure, and it does look  
14 like that has decreased slightly in size.

15 I mean, it even looks like the plan  
16 that was shown today is maybe slightly  
17 different, and even maybe reduced further from  
18 what was submitted in your prehearing statement.

19 So with that, I'm available to  
20 answer any questions.

21 BZA CHAIRMAN JORDAN: And so your  
22 pause in your report then, you're withdrawing

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1 the pause regarding the roof, the penthouse  
2 size?

3 MS. VITALE: I think, you know,  
4 again, if--I think it is shrinking. I think  
5 that's a positive step. So yes, I will withdraw  
6 that concern that was highlighted in the report.

7 BZA CHAIRMAN JORDAN: Okay. That's  
8 what I was getting to. Okay. Good.

9 I'm not going back to all the  
10 questions we asked here, because I don't think  
11 you have the answer. But does the Board have any  
12 questions of Planning?

13 Questions of Planning?

14 [No response]

15 BZA CHAIRMAN JORDAN: I think you  
16 got your answer.

17 MS. VITALE: No questions for  
18 Planning.

19 BZA CHAIRMAN JORDAN: Their support  
20 of the application.

21 MS. VITALE: Their support. Yes.

22 BZA CHAIRMAN JORDAN: Department of

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1 Transportation, please.

2 MS. ISRAEL: Good afternoon,  
3 Chairman, and members of the Board. My name is  
4 Evelyn Israel, and I'm here representing DDOT.  
5 Let it stand on the record, our report. We're in  
6 support of the special exception and variances  
7 requested. But I'm here for further questions or  
8 comments.

9 BZA CHAIRMAN JORDAN: Okay. Did  
10 DDOT do its own study?

11 MS. ISRAEL: No. We relied on the  
12 study that Gorove/Slade provided, and reviewed  
13 it at length, and concurred with the study, with  
14 some minor modifications.

15 BZA CHAIRMAN JORDAN: You heard our  
16 earlier dialogue about whether or not there's  
17 been any verification of these projections,  
18 these similar type of projections, or the  
19 formulas that's used.

20 Has DDOT done any kind of  
21 verification?

22 MS. ISRAEL: As far as I'm aware;

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1 no.

2 BZA CHAIRMAN JORDAN: Okay. Do you  
3 know if any--well that's the same question.

4 ZC CHAIR HOOD: Do you work in the  
5 same office with Jamie Henson?

6 MS. ISRAEL: Yes. I do.

7 ZC CHAIR HOOD: Okay. You're  
8 already starting some. Thank you.

9 BZA CHAIRMAN JORDAN: Okay. And so  
10 you can--all right. You already said that you  
11 accept their study. So all the utilization  
12 numbers, you "buy into" and all that?

13 MS. ISRAEL: Yes.

14 BZA CHAIRMAN JORDAN: And how do you  
15 verify their information?

16 MS. ISRAEL: Just a thorough  
17 review.

18 BZA CHAIRMAN JORDAN: What does  
19 that consist of?

20 MS. ISRAEL: Sometimes a site  
21 visit, looking over it through--

22 BZA CHAIRMAN JORDAN: Did you do a

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1 site visit here?

2 MS. ISRAEL: On the site; no. But  
3 I'm generally familiar with the area.

4 BZA CHAIRMAN JORDAN: Okay. What  
5 else did you do to verify the information?

6 MS. ISRAEL: Through GIS, and  
7 Google Maps, and a variety of other programs, and  
8 Internet data, to see what the numbers were for  
9 parking utilization, and so on, so--well, not so  
10 much parking utilization, but parking spaces. We  
11 have a variety of resources available to us.

12 BZA CHAIRMAN JORDAN: Did you find  
13 out who's using the parking lot that's already  
14 existing?

15 MS. ISRAEL: No. I did not.

16 BZA CHAIRMAN JORDAN: Board, any  
17 other questions?

18 [No response]

19 BZA CHAIRMAN JORDAN: No. Okay.  
20 Well, I guess there's nothing--a second. I'm  
21 trying to--we can--I can always come back.

22 Does the Applicant have any

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1 questions, or Department of Transportation?

2 MS. MOLDENHAUER: No.

3 BZA CHAIRMAN JORDAN: Is there  
4 anyone here from ANC 1B? ANC 1B?

5 [No response]

6 BZA CHAIRMAN JORDAN: We do have a  
7 letter in support of this project, by a vote of  
8 seven to zero, from ANC 1B, recommending  
9 approval, which qualifies for great weight.

10 Additionally, we have a letter from  
11 Council Member Jim Graham, I believe that we got  
12 today, who supports this project.

13 Is there anyone in the audience  
14 wishing to testify in support of this project?

15 And I want to note, for the record,  
16 we have 57 letters of support.

17 MR. MADANI: 81.

18 BZA CHAIRMAN JORDAN: 81?

19 MR. MADANI: 81 letters of support.

20 Eleven are from Wallach residents.

21 BZA CHAIRMAN JORDAN: Okay. Thank  
22 you. Yes?

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1                   VICE CHAIR ALLEN: I did want to  
2 just ask, cause I did look through those letters,  
3 and there were several different addresses.  
4 How far away from the actual site did you get  
5 responses? If you can answer that for me.

6                   BZA CHAIRMAN JORDAN: I guess the  
7 reverse of that--they got eleven from the people  
8 in the block.

9                   VICE CHAIR ALLEN: Right. Eleven  
10 from the block. But I mean how far away do they  
11 go?

12                  MR. MADANI: Mostly within two  
13 blocks, but we extended as far as five.

14                  VICE CHAIR ALLEN: Okay. I just  
15 wondered--

16                  MR. MADANI: Four to five. And there  
17 might be one or two random.

18                  BZA CHAIRMAN JORDAN: That's good.

19                  VICE CHAIR ALLEN: Thank you.

20                  BZA CHAIRMAN JORDAN: Is there  
21 anyone here wishing to testify in support of this  
22 application? Anyone wishing to testify in

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1 support of this application?

2 [No response]

3 BZA CHAIRMAN JORDAN: Anyone  
4 wishing to testify in opposition to this  
5 application?

6 Yes. Please come forward and take a  
7 seat, please.

8 Were you all here this morning to  
9 take the oath, and all that? And you've  
10 prepared your witness cards, and gave them to the  
11 court reporter? Have we done that? Please.

12 Starting with the gentleman in the  
13 orange tie, would you give us your name.

14 MR. HOCHMAN: Yeah. My name is  
15 Michael Hochman, and I'm a resident of Wallach  
16 Place.

17 BZA CHAIRMAN JORDAN: Yes.

18 MR. WITTELS: My name's Dan  
19 Wittels, and I'm also a resident of Wallach  
20 Place.

21 MR. PODGORNIK: Guy Podgornik and a  
22 resident of Wallach Place.

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1                   BZA CHAIRMAN JORDAN: Spell your  
2 last name for me.

3                   MR. PODGORNIK: I knew that was  
4 coming. P-o-d-g-o-r-n-i-k.

5                   BZA CHAIRMAN JORDAN: Thank you.  
6 Thank you all for coming. Then we will start  
7 with Mr. Hochman. I think we have a statement  
8 from you in the record; do we not?

9                   MR. HOCHMAN: Yeah. I provided a  
10 letter, I think on November 23rd.

11                   BZA CHAIRMAN JORDAN: But you all  
12 have, individually have three minutes to provide  
13 testimony. So would you begin, please.

14                   MR. HOCHMAN: Sure, and I'll keep  
15 this actually fairly short, just to follow up on  
16 the letter that I provided. I would like to say,  
17 just off the start, that I am happy that a  
18 developer is coming in to work with this  
19 property. It's been long neglected, and I think  
20 the parking lot could certainly be revitalized  
21 into something more useful for the neighborhood.  
22 And I think, from the interactions that I've had

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1 with them, I think that they'll be beneficial  
2 stewards for this project, to make sure that it  
3 does go forward in a responsible manner.

4 That being said, I am concerned, the  
5 fact there is no parking. As you can imagine,  
6 as we've heard ad nauseam, this is an issue in  
7 the area. That parking lot is currently used. I  
8 can tell you--I actually live in the property  
9 immediately adjacent to the development.

10 So I know that a valet uses it at  
11 night, on the weekends, so it is not just for the  
12 current use of the project, of the property.

13 And we talked a little bit today  
14 about the "rock and a hard place." I sort of feel  
15 like I'm in that position as well, because I'm  
16 the property next to it. It sounds like, I mean,  
17 they're going to get a ramp where cars are going  
18 30 miles an hour in to my house. Or there's no  
19 parking for the neighborhood. And it doesn't  
20 seem like there was a lot of thought put in to  
21 how that would affect the neighbor immediately  
22 next to the property.

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1           So I would just request that the  
2 Board think about that, in great detail, about  
3 parking for the area. Again, I am supportive of  
4 having a development there. I'm not saying no.  
5 I just would like the Board to consider the  
6 parking issue.

7           BZA CHAIRMAN JORDAN: Okay. Thank  
8 you.

9           MR. PODGORNIK: Okay. I'll go  
10 first. The people from Madison talked about  
11 meeting with the community.

12          BZA CHAIRMAN JORDAN: State your  
13 name, so we can make sure--

14          MR. PODGORNIK: Guy Podgornik. They  
15 met with the residents of Wallach Place once,  
16 over a month and a half ago. This is in contrast  
17 to other developments where we met with  
18 developers three or four times.

19                 Since we met with them, there have  
20 been major changes. For instance, they first  
21 said nine spaces, and then we were informed by  
22 letter that there would now be zero spaces.

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1                   They have not met with us again. I'm  
2 also a member of the ANC 1B Design Review  
3 Committee, working for Mr. Norman there. We  
4 voted. It was a two to two tie against supporting  
5 this project in a Design Review Committee  
6 meeting, and at that time the issues were the  
7 loading and parking.

8                   I noticed in their presentation  
9 today, now they have a loading area which they  
10 did not have during that meeting.

11                   So one problem we're having, as  
12 residents, is their plan changes daily. It's not  
13 posted anywhere. We don't--you know, how can  
14 you oppose something when it's changing every  
15 day? So this schedule they have is going  
16 through very quickly. They really aren't meeting  
17 as much with the community as other developers  
18 have. I'd also like to say that the U Street  
19 Neighborhood Association, and the Shaw/Dupont  
20 Circle Association--Citizens Alliance, I'm  
21 sorry--both voted against this project. I'd  
22 also like to state--

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1 BZA CHAIRMAN JORDAN: Say that  
2 again.

3 MR. PODGORNIK: They voted against  
4 supporting--

5 BZA CHAIRMAN JORDAN: Shaw and who  
6 else?

7 MR. PODGORNIK: Shaw/Dupont  
8 Citizens Alliance, which represents residents  
9 in the neighborhood, and the U Street  
10 Neighborhood Association which represents  
11 residents and businesses in the neighborhood.

12 BZA CHAIRMAN JORDAN: We didn't  
13 receive anything from them, formally, so--but  
14 you're a member of that organization?

15 MR. PODGORNIK: Yes, and both  
16 organizations voted against--

17 BZA CHAIRMAN JORDAN: I have  
18 Shaw/Dupont. What is the other one?

19 MR. PODGORNIK: U Street  
20 Neighborhood Association.

21 I would also like to say that the  
22 Design Review Committee, when we voted, we voted

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1       only on the BZA variances and special  
2       exemptions. There was no vote on HPRB. So I  
3       don't know if the ANC as a whole included the  
4       historic issues in there, but I know that the  
5       Design Review Committee did not discuss those.

6               And further, I appreciate you  
7       bringing up all the parking issues. We keep  
8       hearing from developers that nobody has a car any  
9       more. But I can tell you, all the new people who  
10      live on--who move on to Wallach have cars. If you  
11      have a child, you have a car cause you're  
12      ferrying them about.

13             Two years ago, when they were  
14      starting the project across the street of  
15      Wallach, again, they asked for a variance of  
16      parking but not zero parking. At that time, the  
17      residents of Wallach went around to apartment  
18      buildings new and old in the neighborhood, and  
19      they found that there was no available parking  
20      at the Ellington, which is much closer to the  
21      Metro, which never gets mentioned. They always  
22      talk about these new developments, which there's

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1 no data on them yet.

2 So parking is a big issue, and again,  
3 I think there was a legislation pending to deal  
4 with RPP issue. I have to say that a year or so  
5 ago, there was similar legislation before the  
6 Council. It got extremely "watered down" by  
7 developers, and Association of Apartment  
8 Building owners, and was eventually not passed  
9 by the City Council.

10 So you cannot rely on that as a  
11 relief to--for RPP stickers. And as you brought  
12 up, this exemption will be permanent, if  
13 granted. There will never be any parking there.  
14 Whereas if their restriction is in the lease,  
15 whenever the building changes hands, which they  
16 assure it won't--but they're a business, and if  
17 they're a smart business, whenever it's  
18 economically in their interest to sell, they  
19 will sell.

20 And that's happened throughout the  
21 neighborhood. So their assurances are all  
22 temporary, whereas this exemption will be

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1 permanent, and it's something that the  
2 neighborhood will have to live with in  
3 perpetuity.

4 BZA CHAIRMAN JORDAN: Thank you.  
5 Mr. Wedel?

6 MR. WITTELS: Wittels.

7 BZA CHAIRMAN JORDAN: Wittels.

8 MR. WITTELS: Good afternoon, Mr.  
9 Chairman, and people on the Board. I'd like to  
10 speak in opposition to this project, primarily  
11 because of the parking, and also some of the  
12 environmental aspects, that people don't really  
13 think about when you remove this parking lot.  
14 When you remove this parking lot, which is  
15 heavily used by the valets and people for the  
16 evening, people travel from all over the place  
17 to come in. We're now a destination  
18 neighborhood. We have more and more bars and  
19 restaurants. We have various entertainment  
20 venues. These people drive and park.

21 And they get to use that lot for the  
22 valet parking. When you remove that parking, you

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1 bring more people on the street. You force the  
2 residents to then park in their backyards, which  
3 would usually be green space, would absorb  
4 rainwater and drainage, etcetera.

5           These areas then get paved over, so  
6 the neighbors can then park in their back yard.  
7 This further contributes to the problem of  
8 overloading Blue Plains, which they can tell you  
9 is already overloaded.

10           So is this a big factor in that whole  
11 overall scheme? No. But it sets precedent.

12           The whole bike issue. Lots of people  
13 may ride bikes and use public transportation,  
14 but they also have cars. When I moved in to the  
15 neighborhood 15 years ago, a big draw for me was  
16 the Metro. I Metro'ed back and forth to work. But  
17 when I had to go get groceries, etcetera,  
18 etcetera, I got in my car. So that's what a lot  
19 of people do.

20           I would--and also this whole--I  
21 would actually--one thing. If you--some of  
22 these buildings that do have parking, perhaps

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1 you should consider not allowing them to issue  
2 parking on the street, so maybe more of the  
3 parking that they do put in gets utilized, and  
4 then there'll be more parking available for the  
5 guest parkers. The city does seem to be very  
6 interested in making and keeping this a  
7 destination neighborhood, and those people need  
8 to park. They're not riding their bikes in in  
9 their cocktail dresses on Friday nights. Thank  
10 you.

11 BZA CHAIRMAN JORDAN: Thank you.  
12 Has the Board any questions of the witnesses?

13 ZC CHAIR HOOD: Yes. You said  
14 Mr.--I'm sorry. I didn't write your last name  
15 down.

16 MR. PODGORNIK: Podgornik.

17 ZC CHAIR HOOD: Podgornik. You  
18 mentioned that it was a two-two tie, I guess for  
19 the Design Review Committee. So the ANC just  
20 took--okay.

21 MR. PODGORNIK: The motion was to  
22 recommend to the full ANC to support all the

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1 variances and exceptions that they were asking  
2 for, and since it was a tie, due to parking and  
3 loading issues they could not recommend to the  
4 board. So it did not pass. So there was not a  
5 recommendation from the Design Review  
6 Committee.

7 ZC CHAIR HOOD: So the Design Review  
8 Committee nor the ANC saw the new loading--what  
9 was presented here today--you all have not seen  
10 that?

11 MS. MOLDENHAUER: No. That's not  
12 true.

13 BZA CHAIRMAN JORDAN: Wait.

14 MR. PODGORNIK: Not the--the Design  
15 Review Committee meeting, they did not have a  
16 loading zone then.

17 ZC CHAIR HOOD: But the ANC did see  
18 it?

19 MR. PODGORNIK: I was not at the  
20 full ANC meeting. So it--so I don't know what  
21 was discussed or shown at the time.

22 ZC CHAIR HOOD: Okay.

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1 MR. PODGORNIK: But the residents  
2 of Wallach Place have not seen that, and at the  
3 Design Review Committee meeting, Commissioner  
4 Norman strongly suggested that they meet again  
5 with the Wallach Place residents, and that did  
6 not happen.

7 ZC CHAIR HOOD: Okay. I know  
8 Chairman Normal very well, and I would take his  
9 recommendation, Mr. Chairman, depending on how  
10 we move.

11 BZA CHAIRMAN JORDAN: Thank you.  
12 Do you have any questions,  
13 Commissioner Allen?

14 VICE CHAIR ALLEN: I'm just  
15 interested. So did any of the three of you sign  
16 the letters?

17 MR. PODGORNIK: No.

18 MR. WITTELS: I did not.

19 VICE CHAIR ALLEN: Originally.

20 MR. HOCHMAN: I provided my own  
21 letter, so--

22 VICE CHAIR ALLEN: Right. I just was

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1 wondering, cause there were several--and then  
2 you guys live there. So how many folks do you  
3 think actually live in Wallach? Is it a block  
4 or something? You keep saying on Wallach Place.

5 MR. WITTELS: Wallach has 48  
6 houses. And I would add to that, some of those  
7 people may well be renters. I've been on the  
8 block for 16 years, and I'm only familiar with  
9 a couple of the names. So for whatever weight  
10 that's worth.

11 And if I can add one other thing too.  
12 I know that you must give the ANC great weight,  
13 but I would ask you, with the exception of Mr.  
14 Norman, these people are all generally pretty  
15 new to the area, and the one key person,  
16 especially, is--I'm not trying to make this  
17 personal--but she lives on the other side of the  
18 area, and she rents, and she's in her twenties.

19 So I would just--you know--think  
20 about it.

21 MR. PODGORNIK: But to get back, I  
22 did recognize some of the names, and I can tell

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1 you two of the names. The people who own the house  
2 are opposed to the project. The people living in  
3 it, who have been here just a short time, have  
4 signed it; but the owners have not.

5 VICE CHAIR ALLEN: Thank you.

6 BZA CHAIRMAN JORDAN: Any more from  
7 the Board?

8 [No response]

9 BZA CHAIRMAN JORDAN:  
10 Cross-examination for any of the three witnesses  
11 to the Applicant, please.

12 CROSS-EXAMINATION

13 MS. MOLDENHAUER: Mr. Guy, you  
14 indicated that there was a two to two vote at the  
15 Design Review Committee. Who actually presented  
16 the motion at that meeting? Was it Mr. Norman?

17 MR. PODGORNIK: No. Joel--I can't  
18 remember his last name.

19 MS. MOLDENHAUER: But how--did Mr.  
20 Norman vote in favor of supporting this  
21 application?

22 MR. PODGORNIK: Yes. He did.

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1 MS. MOLDENHAUER: So Mr. Norman,  
2 while we're making representations about him,  
3 actually was in support, one of the two  
4 individuals in support of the application at the  
5 Design Review Committee meeting?

6 MR. PODGORNIK: That's correct. But  
7 the full committee did not support it.

8 ZC CHAIR HOOD: I'm familiar with  
9 Mr. Norman cause he's the chairman, and I've  
10 known him in the past. The vote still was two to  
11 two, regardless of Mr. Norman.

12 MS. MOLDENHAUER: But that was for  
13 the Design Review Committee.

14 ZC CHAIR HOOD: Right. Design  
15 Review. Right.

16 MS. MOLDENHAUER: And yes, that was  
17 Mr. Norman voted supporting of that, and then the  
18 entire ANC, in full, voted unanimously. There  
19 was no one in opposition from ANC 1B.

20 ZC CHAIR HOOD: Can you answer the  
21 question about the loading, which Design Review  
22 said they're having sent to you. Can you answer

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1 that question?

2 MS. MOLDENHAUER: Well, Design  
3 Review actually asked--it wasn't one of the  
4 concerns at that meeting to put voting in, and  
5 then then recommend that we do that before the  
6 ANC meeting at large, which is what the Applicant  
7 then did, directly in response to the Design  
8 Review discussion.

9 MR. PODGORNIK: I believe we were  
10 concerned about the loading. We didn't see--I  
11 didn't see what your plan to address that was.  
12 That was one of the suggestions, that that be  
13 considered, perhaps; but then we never saw  
14 anything. I don't know--I wasn't at the full ANC  
15 meeting.

16 I don't know how much time they  
17 devoted, but I can tell that--tell you that the  
18 committee devoted a substantial amount of time  
19 to reviewing your project, and we did not see the  
20 final whatever--what you presented here today is  
21 not what we saw.

22 MS. MOLDENHAUER: I have no other

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1 questions but I would like to respond back and  
2 provide--

3 BZA CHAIRMAN JORDAN: And get  
4 rebuttal time?

5 MS. MOLDENHAUER: Yes; exactly. I  
6 have no other questions, though, for the  
7 individuals.

8 BZA CHAIRMAN JORDAN: But you're  
9 finished with your questions?

10 MS. MOLDENHAUER: I'm finished with  
11 my questions, yes. I mean, my client--

12 (Simultaneous speaking)

13 BZA CHAIRMAN JORDAN: Wallach  
14 Place. There's about what? 40-50 homes in there?

15 MR. PODGORNIK: That's correct,  
16 sir. 48 houses.

17 MR. WITTELS: 48 houses.

18 BZA CHAIRMAN JORDAN: Okay. All  
19 right. And Yum's is going away too; right?

20 MR. WITTELS: I know I'm in the  
21 minority here. Unfortunately, Yum's is gone.

22 BZA CHAIRMAN JORDAN: Okay.

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1 Expansion here. All right. So then let's turn  
2 back to the--

3 MR. PODGORNIK: Can I also point  
4 out, cause you asked about Wallach Place.  
5 Wallach Place is--you know, part of the project  
6 is on Wallach Place. It is the closest street,  
7 but is not metered. So that part, where their  
8 project is, is metered, but the rest is not  
9 metered, although it does have RPP. So that's a  
10 special concern to us because that's the likely  
11 place for people to try to park first.

12 BZA CHAIRMAN JORDAN: And is your  
13 RPP one side, two hours for anybody and then the  
14 other side is restricted completely within a  
15 zone?

16 MR. PODGORNIK: Correct. But I have  
17 complained to the ANC Parking and Transportation  
18 chair. He approached the appropriate agency  
19 about not enforcing that. The response was since  
20 they had over 4,000 RPP parking blocks, they feel  
21 they are successful if they visit three-quarters  
22 of them once a day.

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1 BZA CHAIRMAN JORDAN: Okay.

2 MR. PODGORNIK: So enforcement is  
3 not what it should be.

4 BZA CHAIRMAN JORDAN: Okay. Thank  
5 you.

6 Rebuttal, please. Let's use five  
7 minutes worth of rebuttal. We don't need a whole  
8 bunch of--

9 MS. MOLDENHAUER: Okay. I'm going  
10 to ask Mr. Madani if he can answer just a couple  
11 questions.

12 Do the majority, or do some of the  
13 Wallach Place residents have parking on their  
14 property or on site?

15 MR. MADANI: I believe they do; yes.

16 MS. MOLDENHAUER: And Mr. Goins,  
17 the size of the units are--they're typically  
18 around 650 to 800. Is that the size of a unit  
19 where you're going to have a large family? We  
20 heard some concerns and individual opposition.  
21 What are the size of the units that you're--that  
22 this project has?

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1           MR. GOINS:    Those are--well, we  
2           would consider in the market, as we're doing  
3           about 400 units, probably singles living in  
4           those units.

5           BZA CHAIRMAN JORDAN:   He have up his  
6           chair so he could have it. We appreciate that.  
7           Make sure your mike's on.

8           MS. MOLDENHAUER:   In regards to  
9           valet,    there    were    some    comments    that  
10          potentially, you know, valet--that obviously,  
11          we can't confirm that, but that the parking lot  
12          might be used for valet at times. In your expert  
13          opinion, if a valet was relocated off of that  
14          site, would they find another location in the  
15          area, in your expert opinion?

16          MR. GOINS:    Typically, yes. As new  
17          developments have either retail or commercial  
18          parking, typically, the valet companies tend to  
19          take advantage of that, just like the new retail  
20          parking across the street.

21          BZA CHAIRMAN JORDAN:   What was the  
22          question again? They do what?

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1 MS. MOLDENHAUER: There was a  
2 question about valet parking and I was just  
3 asking if that valet would be--find another  
4 space, another parking garage to use, or  
5 utilize, if this was taken off the market.

6 BZA CHAIRMAN JORDAN: Yes. A lot of  
7 them use the street.

8 MS. MOLDENHAUER: But this is if  
9 they're already using it, they're already paying  
10 for parking--

11 BZA CHAIRMAN JORDAN: Oh, they are  
12 using it. They are--okay.

13 MS. MOLDENHAUER: --would they most  
14 likely in--in his expert opinion, would they  
15 most likely find another parking garage to use?

16 MR. GOINS: Yes. Typically, with  
17 the redevelopment of some of the lots, up and  
18 down 14th Street, if there's commercial or  
19 retail parking associated with that, that's an  
20 opportunity for that parking to be made up.

21 MS. MOLDENHAUER: And then I'm just  
22 going to turn to Mr. Madani to provide some

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1 comments as well.

2 MR. MADANI: Yeah. In response to  
3 the gentleman's comment about the reach-out to  
4 the Wallach residents, we took it upon ourselves  
5 to reach out to every single Wallach resident,  
6 as in to knock on every single door, make a  
7 presentation of our project to get feedback, and  
8 if they were in support of what we were doing,  
9 or they were comfortable with supporting it with  
10 a signature, then they submitted that to us. A  
11 lot abstained. But we got a lot of support. But  
12 that's one.

13 The second thing is we did meet--the  
14 gentleman's referring to a Wallach residents'  
15 meeting. There's a group of Wallach residents  
16 that congregated, and we were invited to their  
17 house, two gentlemen, Doug and Craig, I believe,  
18 and they hosted an evening at their house, which  
19 we attended, and we made a presentation of the  
20 project, and we received a lot of feedback, and  
21 it was, you know, a cordial evening and ended  
22 very nicely.

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1                   We then stayed in contact with the  
2 two home owners and said that we're happy to come  
3 back and meet again, and we were contacted again  
4 for a question of what variance we're seeking,  
5 you know, what specifically are we seeking, to  
6 which I responded exactly what we were seeking,  
7 and asked that, you know, I'd be very happy to  
8 come, present the information again, give a  
9 progress report, and, you know, to get more  
10 feedback.

11                   I was never contacted again. And  
12 those were my points of contact.

13                   Furthermore, when we did write that  
14 letter, it was upon realizing that those nine  
15 parking spaces could not be achieved.

16                   So immediately we wrote a letter and  
17 hand-delivered it to every single Wallach  
18 resident, and at the end of it, if there were any  
19 questions, I signed and I left my telephone  
20 number, to be contacted personally.

21                   One person called me, and they had  
22 questions, and I answered them. So, you know,

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1 we've been very active and made a very concerted  
2 effort to keep people informed.

3 We also have the tools and resources  
4 available in the form of the ANC, of anybody  
5 wishing to come in, to comment and to hear  
6 updates of what we're actually trying to do at  
7 that point. They would hear an update.  
8 Furthermore, everyone has my personal cell phone  
9 number to contact me, to ask any questions they  
10 need to.

11 So this was that stage. Moving  
12 forward with construction, and that, we're going  
13 to dedicate a Web site to our progress. We're  
14 going to have a newsletter going out  
15 periodically addressing what we're doing, and  
16 having a person dedicated to answering any  
17 questions or concerns that people have.

18 BZA CHAIRMAN JORDAN: No; you  
19 can't. I'm sorry. Any additional?

20 MS. MOLDENHAUER: I think that  
21 that's--I think that we've gone through all of  
22 the different information. I will just, you

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1 know, summarize that, you know, this property  
2 has, you know, two existing historic resources,  
3 that the Applicant is going above and beyond to  
4 preserve and to bring these back to life, and to  
5 maintain the Wallach apartment building as  
6 residential, which directly relates to some of  
7 the relief, I know there's a lot of occupancy.

8 The high water table that we've  
9 identified, and the environmental excavation  
10 that would be required, you know, along with the  
11 existence of these historic sites, fits directly  
12 in to the special exceptions standard for  
13 parking relief.

14 And the special exception standard  
15 for historic buildings has to do with what can  
16 you physically put on the site, and then the  
17 Board is able to evaluate what can physically be  
18 located on the site, based on what then the  
19 requirement would be, and how that is an offset  
20 by the local community needs, and also the local  
21 community services, and other non--you know,  
22 parking requirements in the area, such as the

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1 Metro, such as the parking, such as the  
2 Circulator, and all those other things that are  
3 located, and as you've heard from Gorove/Slade,  
4 that this is a extraordinary transit-rich  
5 neighborhood.

6 And we've heard from DDOT, which is  
7 an agency that the Board must give great weight  
8 to, that they have no opposition in regard to  
9 that concern.

10 We're talking not about physically  
11 being able to satisfy the twenty-two, we're  
12 talking about, you know, physically, there was  
13 a question of whether nine could be put on the  
14 site. And we've gone through and we've provided  
15 in our testimony, and in our documentation from  
16 Walker Parking Consultants, and from  
17 Gorove/Slade, and from the architect here, that  
18 because of the historic site, and then the  
19 location of the site, there's no way to move the  
20 ramp in any location.

21 And based on the slope that  
22 that--the only location for that ramp creates a

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1 speed ramp. The speed ramp then creates a  
2 maneuverability challenge, where you saw the  
3 diagram, where it takes a six-point turn to try  
4 to get in to one of those spaces.

5 In addition to that, you know, there  
6 are factors where you're creating an unsafe  
7 environment for the pedestrians, and also for  
8 the neighboring property owner in that regard.

9 I think that the Applicant has been  
10 clear in regards to the testimony today, some of  
11 the conduct that you've heard, even from Mr.  
12 Hochman, that, you know, they're a great group  
13 in regards to trying to get out there to the  
14 community. They've attended six or more  
15 different community meetings.

16 They've knocked on doors. They've  
17 gone out. They've gotten over 81 letters of  
18 support, and received not just ANC support, but  
19 unanimous ANC support.

20 At a second ANC meeting at large,  
21 they attended an ANC meeting, both in September  
22 and then also in October, just simply get the

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1 word out and present. And I think that based on  
2 all of those factors, that they satisfy both the  
3 variance standard and, most importantly, the  
4 special exceptions standard, under 2001.20.6,  
5 especially considering the mitigating factors  
6 that they're willing to provide.

7 I know there's been a lot of  
8 discussion about RPP. But right now, an  
9 Applicant only has the resources that are  
10 available to them, and that they are trying to  
11 obviously provide those. They're providing a  
12 transit video in the lobby to show what current  
13 options they have. There will be, you know,  
14 incentives to provide, to people that may want  
15 to use a car, where they can get a SmarTrip card  
16 or a Go-Go car, or things of that effect, if they  
17 need to use cars. They will strict RPP. Based on  
18 the requirements, they will have a transit  
19 coordinator, and they're going above and beyond  
20 in regards to secure bicycle parking.

21 I think all of those factors  
22 directly satisfy the special exception standard

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1 for parking, and we would at that point rest the  
2 record, unless the Board has any other  
3 questions.

4 BZA CHAIRMAN JORDAN: I wanted to  
5 make sure we're clear. I mean, the special  
6 exceptions under 21--was it 2120--

7 MS. MOLDENHAUER: 2120.6.

8 BZA CHAIRMAN JORDAN: Point six.  
9 But it also refers to under 3104. So you've got  
10 to meet the standards, and both standards then  
11 carry with it not having an adverse effect upon  
12 the neighborhood; right?

13 MS. MOLDENHAUER: Yes.

14 BZA CHAIRMAN JORDAN: Okay. I want  
15 to make sure we're clear, that you've got to meet  
16 both standards. But they kind a have the same,  
17 interlocking, at some point.

18 MS. MOLDENHAUER: Yes, and I think  
19 that here you have the three agencies that the  
20 Board is supposed to give great weight to. You  
21 have Office of Planning, which indicated in  
22 their report, that they don't believe that any

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1 of the relief that we requested is going to have  
2 an adverse effect on the community or the zone  
3 plan.

4 You have DDOT, who agency should  
5 give great weight to, that said that they don't  
6 have any objection to the relief.

7 And you also have the ANC, who, while  
8 we are hearing, I understand, from three  
9 neighbors who have--you know, are directly  
10 concerned. But you have the ANC, which is a body  
11 that held four different meetings. We have a  
12 chairman who was on the Design Review Committee,  
13 that attended those other, you know, Design  
14 Review Committee meetings as well. An  
15 opportunity for community discussion, back and  
16 forth, and they voted, unanimously, to support  
17 the project.

18 I think that that should go in to the  
19 fact that this is not going to substantially  
20 impact the community in regards to the special  
21 exception standard, because that is the  
22 community, that is the association which is

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1 supposed to represent the at-large perspective  
2 of this community.

3 ZC CHAIR HOOD: Mr. Chairman.

4 BZA CHAIRMAN JORDAN: Well, let's  
5 let me then close this particular part of the  
6 hearing as far as testimony, and let me have some  
7 comments from the Board about they may feel they  
8 want to do, or--

9 ZC CHAIR HOOD: Mr. Chairman, I  
10 really appreciate Ms. Moldenhauer's comments  
11 about great weight, and that's what it's about.  
12 We're giving great weight. Doesn't mean we have  
13 to agree or do what they tell us to do. But we  
14 do take into consideration.

15 But we also look at the merits of the  
16 case. Well, I can tell you, as far as  
17 design--we're not really all in to design--I  
18 really like the way this building is basically  
19 done. So you did a good job with the  
20 preservation. I really like this building.

21 But what brings me pause is the  
22 adjacent neighbor just testified, while I know

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1 Mr. Norman, I know the ANC commission down there,  
2 I've been there myself. I know them, for the most  
3 part.

4 Sometimes what's left out are the  
5 folks who don't attend those meetings. I'm not  
6 saying you don't attend. I don't know if you  
7 attend or don't attend.

8 But the people who are directly  
9 impacted sometimes do not have the say-so. And  
10 then I heard that while the Design Review  
11 Committee voted two to two, and I know Chairman  
12 Norman, and others on there, and the gentleman  
13 here--I don't want to mess your name up. That's  
14 why I didn't say it again.

15 [Laughter]

16 ZC CHAIR HOOD: But even at that, I  
17 just think that it would give me confidence in  
18 moving forward, if we try to go back and take care  
19 of those two issues. I think loading was not  
20 presented, and I also think the gentleman's  
21 issue here, because at the end of the day, I'm  
22 across town. I'm not sure where you live. The

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1 impact is going to be, and the adverse impacts  
2 are going to be on those who live in that  
3 neighborhood, and we need to try to resolve those  
4 as soon as possible.

5           Again, I like this, I like what I  
6 see, but I just have those two outstanding  
7 issues. The gentleman who, as you say, in the  
8 orange tie, and also my friend down here to my  
9 far right--to my far right--the loading issue  
10 which was not presented. I don't know if they go  
11 back and do it, or I was told that Chairman Norman  
12 also recommended that you go back and do. I know  
13 you've been out there 200 times. Okay. But  
14 it--okay. Well, that's what was mentioned to  
15 us. But anyway, that's my recommendation.  
16 Okay. Mr. Chair

17           BZA CHAIRMAN JORDAN: Ms. Allen, do  
18 you have any input?

19           VICE CHAIR ALLEN: I want to really  
20 commend the developer, the Applicant, for the  
21 completeness of your proposal, of the efforts  
22 that you've taken, the options that you have put

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1 on the table, given your belief that you cannot  
2 provide the parking. And I really mean that,  
3 sincerely. We sit here a lot, and we don't  
4 always get your level, or apparently your level  
5 of trying to deal with these issues.

6 But I really have to agree with my  
7 colleague, Mr. Hood, that at the end of the day,  
8 we go home, and aren't necessarily affected by  
9 what the adjacent neighbors, the neighbors on  
10 the street are going to be. And I really do need  
11 to--I need some time to just think through all  
12 that's been presented here today. There's been  
13 quite a bit, and I really need some time to think  
14 about it, and deliberate it.

15 But I appreciate the neighbors  
16 coming down, and I appreciate what you have  
17 presented. I really--I mean that.

18 BZA CHAIRMAN JORDAN: Okay. And so  
19 you guys didn't really make any definitive  
20 statement here.

21 ZC CHAIR HOOD: Well--

22 BZA CHAIRMAN JORDAN: No; no. I'm

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1 just joking.

2 ZC CHAIR HOOD: Okay. I can make a--

3 BZA CHAIRMAN JORDAN: No; no. Let me  
4 kind of be--do a little Solomon here. Let's do  
5 this, because we want to--and also it's three of  
6 us, and it's going to have to be a three/zero vote  
7 here that, you know, it could be a tie, tie and  
8 go to the runner on this one, cause there's only  
9 three of us here.

10 So let's do this. I'm going to ask  
11 the Applicant to present a finding of fact and  
12 conclusions of law, particularly "hitting hard"  
13 about the parking issue and why it cannot happen.  
14 And present that, and we'll put this on for  
15 decision.

16 But I also would like to have an  
17 update. I would like to ask the Applicant to meet  
18 with the Wallach block, at least attempt to, and  
19 "shoot us" an update notice, let us know if  
20 there--where folks are, that a meeting was held,  
21 or attempted meeting was held, and at least give  
22 that aspect of trying to have another

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1 conversation, and then send that to the Board.

2 So let's put this on for decision,  
3 Mr. Moy, for--I'm looking--November? Or is it  
4 December? Where are we at?

5 MR. MOY: Well, we--

6 BZA CHAIRMAN JORDAN: Because I have  
7 to get up earlier, putting everything in  
8 November.

9 MR. MOY: We have settings  
10 for--placement for decision, for both the 22nd  
11 and 29th. But hearing what you're asking of the  
12 Applicant, I would go maybe a little bit more  
13 toward the back end, which would take me to  
14 October 29th. Unless you want to put this in to  
15 November.

16 BZA CHAIRMAN JORDAN: October 29th?  
17 Would you have enough time to meet?

18 MS. MOLDENHAUER: That would be  
19 fine. Yes. We'll--

20 BZA CHAIRMAN JORDAN: That'll be  
21 enough time. So then let's get--I want the  
22 finding of facts in by the 22nd, and you should

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1 have the letter in regarding the meeting,  
2 etcetera, by that period of time too. And so  
3 that's the way we would do it. And the only thing  
4 that's going to be allowed in this record will  
5 be the proposed finding of facts, conclusions of  
6 law, and the update regarding the meeting with  
7 the community, particularly the Wallach block.

8 MS. MOLDENHAUER: And seeing that  
9 there's no party in opposition, the only person  
10 that would be able to file anything--

11 BZA CHAIRMAN JORDAN: I just said  
12 the--that's what I was just saying. The record's  
13 only--it's being closed except for two things to  
14 come in. The letter with the update, and the  
15 proposed finding of facts and conclusions of  
16 law.

17 MS. MOLDENHAUER: Which would both  
18 come from me.

19 BZA CHAIRMAN JORDAN: Yes. Unless,  
20 you know, if you don't--well, they need to get  
21 a copy of the letter. If it's a lot, you let me  
22 know, somebody's putting something in a letter

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1 this long. But I trust that we would not have  
2 that, Ms. Moldenhauer, at all, but we want you  
3 to at least get back, have conversation, and see  
4 where we are. And the Board, honestly, has not  
5 made a decision here, and I think the Board is  
6 really conflicted.

7 I'm telling you, that's one reason  
8 why I'm saying, because you need three and zero,  
9 and the Board's really conflicted at this point.  
10 And so we give some time for maybe somebody else  
11 will read--

12 ZC CHAIR HOOD: You say afflicted or  
13 conflicted?

14 BZA CHAIRMAN JORDAN: Well,  
15 whichever way you want to take it. And it gives  
16 a time for maybe somebody else to read the  
17 record, and something else, and what have you,  
18 so that we don't get to where we are.

19 Okay? So we really appreciate  
20 everybody taking the time, and everybody's  
21 effort here. I wasn't try to give anybody a hard  
22 time, but I gotta do what I gotta do, to make sure

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1 we dot our I's and cross our T's. Okay. So with  
2 that, then, we'll close this particular hearing,  
3 and the Board's going to take, because I got beat  
4 up last week by trying to push us through the  
5 docket, and once we went through 12:00 o'clock,  
6 that people have to eat because of a lot of  
7 different reasons, because of health reasons and  
8 etcetera. Me? You know, I just keep going. I  
9 don't eat. But I have to be conscious of other  
10 people.

11 So is a half-hour, 45 minutes--what  
12 time is it? 12:42. What do you say? 1:30? 1:30.  
13 Then we're back in session at 1:30, if that's  
14 okay. All right. Thank you.

15 [Whereupon, the above-entitled  
16 matter went off the record at 12:42 p.m. and  
17 resumed at 1:30 p.m.]

18

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1 turn your microphone on.

2 BZA CHAIRMAN JORDAN: Push the  
3 button. It should glow for you.

4 MR. MAHONE: Okay. My name is  
5 Othello Mahone. I'm the consultant to Trinity  
6 AME Zion Church. I am here representing the  
7 church.

8 BZA CHAIRMAN JORDAN: Okay. Thank  
9 you for coming. Do we have an affidavit of  
10 posting, Mr. Moy? I thought--

11 MR. MAHONE: You do not, you do not,  
12 and I take full responsibility for that. I  
13 thought the applications had to be posted two  
14 weeks ahead of time. Two weeks ago, I was in North  
15 Carolina at a funeral, family funeral, and so I  
16 didn't know you could post them late, or anything  
17 like that, so--

18 BZA CHAIRMAN JORDAN: So we've got  
19 an issue then. Was it posted? When did the  
20 posting take place?

21 MR. MAHONE: The posting was  
22 supposed to take place two weeks ago, you know,

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1 and I did not--I did not file a posting.

2 BZA CHAIRMAN JORDAN: So it has not  
3 been posted?

4 MR. MAHONE: Has not been posted;  
5 but the community has been notified, though, as  
6 evidenced by, you know, residents here today,  
7 and we had the support of the ANC.

8 BZA CHAIRMAN JORDAN: Has been from  
9 the ANC. We do have some letters in opposition.  
10 Some letters in support--do we have letters in  
11 support?

12 MR. MAHONE: The ANC letter in  
13 support.

14 BZA CHAIRMAN JORDAN: But it has not  
15 been posted at all.

16 MR. MAHONE: Has not been posted.

17 BZA CHAIRMAN JORDAN: The letters  
18 of mailing--the mailings have gone out. Does our  
19 record indicate that, Mr. Moy?

20 MR. MOY: Yes, sir.

21 BZA CHAIRMAN JORDAN: I take it  
22 you're asking the Board to waive the requirement

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1 for posting?

2 MR. MAHONE: Yes.

3 BZA CHAIRMAN JORDAN: And the  
4 reason why it wasn't posted? Because of what?

5 MR. MAHONE: Well, the reason--it  
6 was a personal matter, and like I said, I take  
7 full responsibility for it, and I did not know  
8 that you could post late. This is the first time  
9 I've appeared before the BZA, so I've, you know,  
10 have a--

11 BZA CHAIRMAN JORDAN: Did you hold  
12 any--

13 MR. MAHONE: We've had  
14 plenty--we've had community meetings. We've had  
15 community meetings. We've met with the ANC, and,  
16 indeed, we went before the ANC, and the ANC  
17 approved the application. And we've met, you  
18 know, with community folks, and will continue to  
19 meet with them.

20 BZA CHAIRMAN JORDAN: And I do know  
21 there's a lot of letters that we've received,  
22 with mixed content, from people who attended the

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1 meetings. What's the Board's pleasure? Do you  
2 want to--yes?

3 ZC CHAIR HOOD: Mr. Chairman, I  
4 would think--I think the record obviously is  
5 reflective of the outreach to the neighborhood.  
6 Also the community meetings held on June 18th,  
7 2013, and July 1st, 2013, and other meetings on  
8 July 20, 2013.

9 In this circumstance--typically, we  
10 don't like to do it, but in this circumstance,  
11 we're looking at the record, and seeing those in  
12 support, and the opposition letters. Obviously  
13 it's been vetted. Mr. Mahone has already put on  
14 the record that he did not realize he could have  
15 posted late, and then we would have had to weigh  
16 that.

17 But I think that the information is  
18 out there, everybody knows what's going on, for  
19 the most part, and especially with the ANC,  
20 dealing with this issue. I wouldn't have any  
21 problems waiving the rule.

22 BZA CHAIRMAN JORDAN: Okay. All

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1 right.

2 We will, in this case, waive the  
3 affidavit of posting. All right. This is a  
4 request for a extension of a previously-granted  
5 special exception for the parking lot, and for  
6 a continuation thereof.

7 I think that there's been support  
8 from--Office of Planning recommends continuing  
9 with some conditions. ANC 1A, by a closed vote  
10 of seven to five, recommends approval, with  
11 conditions, and DDOT registers no opposition.

12 I don't generally know if there's  
13 any whole list of questions. But let me ask you.  
14 You can do a presentation, if you want. We can  
15 ask you questions, and one of them is that some  
16 of the pictures that I've seen of this  
17 location--it's not very well kept.

18 MR. MAHONE: It has not been, and  
19 it's readily admitted, and that's one of the  
20 things that we discussed, you know, with the  
21 community. There have been some improvements,  
22 of late, in terms of making sure that the lot is

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1 clean, and that there are proper trash  
2 receptacles. That has been an issue. But, you  
3 know, what we are recommending is more  
4 involvement with community, so that we can have  
5 a program that identifies who's on the lot, who  
6 parks on the lot, because currently people just  
7 park there, and get on the bus, and come  
8 downtown, or wherever.

9 And so we have a lot of out-of-state  
10 cars on the lot at any time during the day.

11 We would like to have better  
12 enforcement. And the problem is strictly  
13 internal. These are small problems. But the  
14 person who maintained the lots for the church  
15 passed away a year ago, and nobody's been  
16 appointed to do that, and no one's stepped  
17 forward to do it, and that is--that's the crux  
18 of the problem.

19 But we have stepped up, you know,  
20 just making sure the lots are clean, and there's  
21 not trash overflowing from the trash cans.

22 BZA CHAIRMAN JORDAN: So what's the

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1 safeguards that's been put in place, because,  
2 you know, once we go forward, you know, people  
3 have the tendency to do stuff while they're here,  
4 instead of doing things there. So what's the  
5 assurances of--what programs put in place--

6 MR. MAHONE: What we want to do, we  
7 want a closer--we want to form a community  
8 advisory board, and so that, you know, we work  
9 strictly on, you know, maintaining the lot. You  
10 know, we want to put in place a system where there  
11 are stickers for people who live in the  
12 community, so they can park there.

13 We have met with the Metropolitan  
14 Police to talk about the parking problem, and  
15 talk about ticketing, and, indeed, there has  
16 been some towing of late, and we want to  
17 formalize all of these programs. And working in  
18 close cooperation with community members, so  
19 that there is enforcement.

20 BZA CHAIRMAN JORDAN: Are the trash  
21 receptacles out there now?

22 MR. MAHONE: Yes, they are. The

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1 problem before was that they did not have a lid  
2 on them, they were just open cans, and so that  
3 problem's been rectified.

4 BZA CHAIRMAN JORDAN: Does the  
5 Board have any other questions of the Applicant?

6 MR. MAHONE: Just one comment, is  
7 that we have met with--well, we've talked  
8 with--I've talked with Mr. Gyor from the Office  
9 of Planning, not only in terms of approval. The  
10 ANC has recommended seven years from the 15 years  
11 of Mr. Gyor, and Office of Planning has  
12 recommended three years. We would like to  
13 institute the ANC recommendation of seven years,  
14 if Office of Planning is not opposed to that.  
15 And so that there would be--

16 BZA CHAIRMAN JORDAN: I don't know  
17 if you're going to get seven years from this  
18 Board, because the community has--there's some  
19 community concerns about this.

20 MR. MAHONE: I understand.

21 BZA CHAIRMAN JORDAN: Just looking  
22 at the pictures of this gives me concern.

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1 MR. MAHONE: Okay.

2 BZA CHAIRMAN JORDAN: You're  
3 talking about putting in place some type of  
4 mechanism to better manage this. I don't know  
5 what that is, or how it's going to operate, and  
6 it's going to be better. I think we're "pushing  
7 it," looking for seven years--a seven year type  
8 of term.

9 Yes, please.

10 COMMISSIONER ALLEN: Mr. Mahone, it  
11 appears that you--not you--but the church has  
12 had difficulty in adhering to the conditions  
13 that were listed, I guess from the last order,  
14 based on financial hardship?

15 MR. MAHONE: Right. Well, it's not  
16 a--it's a--it's not a rich church, you know, is  
17 not destitute, by any means; but is not rich.  
18 Just the cost of doing something--an expensive  
19 proposition like lighting and paving. Those  
20 are the two most-expensive things that are  
21 stated in there.

22 The church would have difficulty

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1 doing that, but, you know, part of the agenda the  
2 church wants to bring forward, in terms of  
3 working with the community, is exploring means  
4 of how you could raise funds to do that. Because  
5 presently, we can't charge the community. And  
6 so that, you know, it's a free lot, and the church  
7 is now being expected to make an investment in  
8 that lot, you know, and there's no return because  
9 we can't charge for parking.

10 And, indeed, the church does not  
11 want to charge for parking. They want this as a  
12 community service. So we want to be able to, you  
13 know, to have a "united front," so to speak, to  
14 approach any potential funder in terms of how we  
15 could improve the lot.

16 BZA CHAIRMAN JORDAN: So what's the  
17 lot used for now.

18 MR. MAHONE: Parking.

19 BZA CHAIRMAN JORDAN: Parking for  
20 who?

21 MR. MAHONE: Parking. And the  
22 church holds some, you know, community

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1 festivals, events on the lots.

2 BZA CHAIRMAN JORDAN: So the church  
3 is using it for when they have church services?

4 MR. MAHONE: The church uses it for  
5 church services, and during the week--well, six  
6 days a week, the community can park there free  
7 of charge. And it's a very congested  
8 neighborhood. That's the other thing about it.  
9 It's a very congested neighborhood.

10 BZA CHAIRMAN JORDAN: And so is  
11 there some kind of agreement with the community  
12 to park there?

13 MR. MAHONE: The agreement came  
14 from the ORLA. That's how the original agreement  
15 came about. And, you know, I've been in touch  
16 with the deputy mayor's office who assumed  
17 responsibility for ORLA, as you well know, and  
18 they don't have an answer for me as of yet, but  
19 I'm sure they'll propose something. You know.  
20 So our agreement was with RLA, and confirmed by  
21 the BZA, and all a that took place 15 years ago,  
22 and now we're, you know, we're seeking a renewal.

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1 We'll accept the chairman's recommendation,  
2 that he wants further oversight, and in a shorter  
3 period of time. We'll live with that.

4 BZA CHAIRMAN JORDAN: What type of  
5 crime has been taking place on the parking lot?

6 MR. MAHONE: It's been--there  
7 have--there have been some--some---some--one  
8 really horrific incident there. I mean, you  
9 know, the--most of the crime is cars being broke  
10 into and items being stolen out of a car, which  
11 will--

12 BZA CHAIRMAN JORDAN: But you're  
13 not required to guarantee that?

14 MR. MAHONE: No; we aren't; we  
15 aren't. We aren't. You know, that's the--you  
16 know--you know, most a the crime, that's--that's  
17 what happens there. There have--there--you  
18 know, it was a terrible incident that happened  
19 about four months ago, where a couple met on the  
20 lot like at 1:30 in the morning, and they were  
21 accosted, robbed, and--and the female victim--

22 BZA CHAIRMAN JORDAN: It's an open

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1 lot?

2 MR. MOY: It's open lot.

3 COMMISSIONER ALLEN: What happened  
4 to the female?

5 MR. MAHONE: She was raped.

6 COMMISSIONER ALLEN: Oh, dear God.

7 BZA CHAIRMAN JORDAN: What I'm  
8 concerned about are the things that's really in  
9 the control of the church, who manage this  
10 parking lot. As I said, you know, parking over  
11 the boundary lines, it's just not being--

12 MR. MAHONE: No. Those things have been  
13 cured. I think that the real--the, you know, the  
14 real thing is maintenance. That's--that's the  
15 real thing, I mean, is--is maintenance; you  
16 know.

17 COMMISSIONER ALLEN: Mr. Mahone, is  
18 there any lighting there now?

19 MR. MAHONE: There's no lighting  
20 there. I mean, there's no lighting. That's one  
21 a the things that would--it's expensive,  
22 basically.

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1                   BZA CHAIRMAN JORDAN:    But that's  
2                   one of the requirements, proposed conditions. So  
3                   how and when would that come into play?

4                   MR. MAHONE:    It--it--not--I don't  
5                   think--I think that if there is to be lighting,  
6                   you know, it should not shine in anyone's window,  
7                   or things like--I don't know--

8                   BZA CHAIRMAN JORDAN:    Let me tell  
9                   you. If we move forward, we're going to--I think  
10                  that's going to be a requirement. And so I'm  
11                  hearing you say there's no money to do some of  
12                  the things that you're going to be required to  
13                  do. And I don't want to stretch what you're  
14                  saying, but--and misparaphrase what you're  
15                  saying, but I understand that money is an issue.  
16                  I mean, right now, the requirement, the proposed  
17                  condition says: Any lighting used to eliminate  
18                  the accessory parking spaces shall be arranged  
19                  so that they don't--we'll come back to Planning  
20                  with that, and ask is there a need for that type  
21                  of lighting.

22                  Okay. Is there anything else you

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1 want to say to the Board before we--you can have  
2 a chance to rebut.

3 MR. MAHONE: I just want to say  
4 that, you know, the church wants to continue to  
5 provide parking in the community. The church  
6 wants to be a good neighbor, and it wants to do  
7 what it can to accommodate community needs. As  
8 I said, the church does not charge for this, and  
9 it readily admits that in the past, it has not  
10 been maintained as well as it should have been.

11 You know, but like I've said, we are  
12 taking steps, and specifically to meet with the  
13 community, have them more involved, and I think  
14 that that is the path out of this thing, is to  
15 meet with the community, and solicit, you know,  
16 their input to maintain the lots and manage the  
17 lots. That's what's needed at this time.

18 BZA CHAIRMAN JORDAN: Okay. Any  
19 further questions from the Board to the  
20 Applicant?

21 [No response]

22 BZA CHAIRMAN JORDAN: Then let's

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1 turn to the Office of Planning.

2 MR. GYOR: Good afternoon, Mr.  
3 Chairman, and members of the Board. Stephen Gyor  
4 with the Office of Planning.

5 We support the extension of the  
6 Board's prior order, with the conditions in our  
7 report, and we understand the financial burden  
8 on the Applicant, that appearing before the  
9 Board in a relatively short time period of three  
10 years would entail. But we are looking for some  
11 assurance for the Board, that the conditions of  
12 the order have been adhered to.

13 In regard to the lighting, that  
14 condition is part of section 2303 of the code,  
15 and I think that the intent there is that, you  
16 know, the lighting wouldn't create a undue  
17 impact on the neighboring properties, you know,  
18 an intense light rays--of intense light rays. So  
19 I think that's the intent.

20 BZA CHAIRMAN JORDAN: But are you  
21 requiring that they have lighting?

22 MR. GYOR: Yes. I think for safety.

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1 I think that was one of the concerns of some of  
2 the community members.

3 BZA CHAIRMAN JORDAN: Does the  
4 Board have any other questions of Office of  
5 Planning?

6 [No response]

7 BZA CHAIRMAN JORDAN: Does the  
8 Applicant have any questions of Office of  
9 Planning?

10 MR. MAHONE: No.

11 BZA CHAIRMAN JORDAN: Okay. All  
12 right. Let's then move to--I guess we don't have  
13 Department of Transportation. Do we have any  
14 Department of Transportation here? I don't think  
15 so. Do we? Yes, we have no objection from  
16 Department of Transportation.

17 Is there a representative here from  
18 ANC 1A. Please come forward. Please get those  
19 cards over there.

20 MS. WRIGHT-SMITH: Good afternoon.

21 BZA CHAIRMAN JORDAN: Wait till you  
22 take a seat. We can wait on you. Just take your

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1 time. Make sure that the microphone's on.

2 MS. WRIGHT-SMITH: I've been here all day.

3 BZA CHAIRMAN JORDAN: All right.

4 Thank you for staying. Is the mike on?

5 MS. WRIGHT-SMITH: It's on now.

6 BZA CHAIRMAN JORDAN: Okay. Thank  
7 you.

8 MS. WRIGHT-SMITH: Good afternoon.  
9 My name is Vickey Wright-Smith. I'm the ANC  
10 commissioner for the single-member district  
11 where this parking lot is located, and I am in  
12 a unique position because I also live on that  
13 block as well.

14 BZA CHAIRMAN JORDAN: Okay.

15 MS. WRIGHT-SMITH: So I'll proceed,  
16 however you want me to.

17 BZA CHAIRMAN JORDAN: Well, we have  
18 your report, and with the recommendations, and  
19 I understand was a vote of the full ANC, by seven  
20 to five, and that he also took comment from the  
21 community, and there was some up and some down.  
22 So it was really a weird situation there.

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1 MS. WRIGHT-SMITH: Right.

2 BZA CHAIRMAN JORDAN: But the  
3 bottom line is that the ANC believes that, with  
4 some conditions, that this parking lot should go  
5 forward; is that correct?

6 MS. WRIGHT-SMITH: That is correct.  
7 I was actually the one that conducted all of the  
8 meetings in conjunction with the church.

9 BZA CHAIRMAN JORDAN: You did some  
10 real refereeing, didn't you?

11 MS. WRIGHT-SMITH: Whew! And so  
12 I'm--if I could, at some point, I'd like to  
13 address some of the questions and concerns that  
14 you raised.

15 BZA CHAIRMAN JORDAN: Go ahead.  
16 Please.

17 MS. WRIGHT-SMITH: This issue is  
18 really--I mean, of course you're going to hear  
19 from other members, and you've seen the letters  
20 from the community that you've received. I've  
21 not received some of them. But I've had the  
22 benefit of meeting with a number of community

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1 members. I've had folks begging me not to let  
2 this parking lot get closed because they don't  
3 have anywhere else to park.

4 I've heard the concerns of the folks  
5 on Center Street, that they don't believe that  
6 it's, you know, well-maintained.

7 The biggest issue that the ANC has  
8 with the parking lot is that it's basically a  
9 commuter parking lot, and of all the hardships  
10 that the church is raising, there's no reason why  
11 they can't have a parking pass system. If they  
12 get this parking pass system in place, that will  
13 cut down on a lot of the problems that they're  
14 having, because at that point they will know  
15 who's parking in the lot.

16 And they had a system in place  
17 before, there was a community member that lived  
18 on Center Street, that designed a program for  
19 them, printed up the parking passes, passed them  
20 out to folks in the neighborhood, and there was  
21 some sort of breakdown in communication between  
22 her and the church, and it just stopped.

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1           She's already forwarded that same  
2 system to the church, about how they can get this  
3 thing going again. So it's really up to them to  
4 get that part going.

5           All it is is what? they have to go  
6 get some construction paper, some laminating  
7 plastic, go around to the neighborhoods and see  
8 who's interested in parking there, get the  
9 names, addresses, telephone numbers of the folks  
10 that park there, and in that way, you know, like  
11 she did in the past, if the church was having a  
12 function, then she would call those folks and  
13 say, look, you need to move your car, the church  
14 is having a funeral, blah, blah, blah.

15           And so I think they can do that,  
16 regardless of whatever other arguments they make  
17 here today, and I think they can do that  
18 immediately, and I don't really know why they  
19 haven't done that. I mean, you can walk down to  
20 that parking lot any day of the week, and of the  
21 30-something parking spaces there, twenty of  
22 them will be out-of-state tags. Virginia,

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1 Maryland, Texas, Alabama, wherever.

2 And so it's really not benefiting  
3 the community in that regard.

4 Now, on the other hand, there are  
5 some community members that do park there, and  
6 they value that space dearly, and if it's take  
7 away from them, they're not sure where they would  
8 park.

9 And so when you talked about the  
10 trash, let me just say this--and Ms. Berger can  
11 disagree with me if she wants. But that--our  
12 whole block, it is not unusual for people to walk  
13 down that street with some chicken or shrimp that  
14 they got from the carry-out, or pizza boxes, and  
15 just eat it, and just throw it down on the street,  
16 and just continue to walk.

17 That's the same thing they do down  
18 at that parking lot. Now I've seen Mr. Talbert,  
19 who's the man that cleans that parking lot. He  
20 comes out there twice a week, and sometimes he  
21 just can't keep up. You just can't keep up with  
22 the amount a trash that these people are dumping

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1 on the street, and in that parking lot.

2 And so I feel for them a little bit  
3 in that regards. But they did listen to the  
4 concerns of the community ,and they put the trash  
5 cans out there with the lids on them. But you  
6 might go down there tomorrow, and those people  
7 still put more trash over top of what's in there,  
8 and it comes out around the lid.

9 When we had the three meetings that  
10 we had, there were community members that  
11 indicated that they would be willing to help the  
12 church clean the parking lot, if they wanted to  
13 come up with like community clean days, maybe  
14 once a month or something like that. That's  
15 something that they would do, because again,  
16 they value the parking there, and they  
17 appreciate the church making it available to  
18 them.

19 The community advisory board. I'm  
20 "on the fence" about that, cause you got to be  
21 really careful about who you're putting on that  
22 board, so--but if that's something that the

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1 church wants to do, I wouldn't oppose it, and I'd  
2 probably volunteer to serve on it.

3 You also talked about lighting.  
4 Again, it depends on who you talk to, cause  
5 you--I talked to people who said that they think  
6 that there's plenty lighting on that parking  
7 lot, and I've talked to people that said that  
8 they don't think there's enough parking on that  
9 parking lot.

10 And that's why one a the suggestions  
11 that we made, which is part of the ten separate  
12 recommendations, which were the real issues with  
13 the parking lot--we suggested that the church  
14 have a light study done. So let the government  
15 tell us whether or not, you know, they need  
16 additional lighting out there, because again,  
17 depending on who you talk to, some people want  
18 to say it's fine, some people want to say it's  
19 not fine.

20 So with respect to the crime, the  
21 very first meeting that I had, I invited the  
22 Metropolitan Police Department to come, and

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1 talk, and they spoke about the crime that's going  
2 on all in that area. It's not unusual for people  
3 to be robbed. There were robberies that took  
4 place right at St. Stephen's Church, which is a  
5 block over, and those robberies were occurring  
6 in broad daylight.

7           So like the chairman said, some  
8 things you can't control. We all agree that, you  
9 know, the rape and robbery that occurred was  
10 horrific, and we don't--and one is never  
11 acceptable and it shouldn't be, but the reality  
12 of it is sometimes things happen and you can't  
13 control it.

14           And so I think I addressed your  
15 concerns, but I mean, the real issue is just the  
16 commuter parking. The commuter parking--it just  
17 doesn't make sense to me why you don't have a  
18 parking system in place. I think the original  
19 intention was that the parking would be made  
20 available to the residents--said residents. It  
21 didn't say to home owners. It said to the  
22 residents in the 1400 block of--the 14- and 1500

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1 block of Meridian Place, and the residents that  
2 live on Center Street.

3           So if someone comes to the church and  
4 asks for a parking pass, and they live in those  
5 areas, they should be able to get the parking  
6 pass, and yes, we already know there's only 32  
7 spaces, so, you know, it's basically first come,  
8 first served. But at least you'll have some  
9 control over who's parking there, and, you know,  
10 it's going to require some work on the part of  
11 the church.

12           They're going to have to find  
13 somebody that's going to do it. You're going to  
14 have to come out there every day. You're going  
15 to have to monitor the parking lot. You're going  
16 to have to see who's parking there, and PD said  
17 that they're willing to work with them if they  
18 call them, and they got people parked out there  
19 that are not supposed to be there, they need to  
20 get in touch with a tow truck, and they'll issue  
21 tickets and get the cars towed away.

22           So those are things that the church

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1 can do, and that they can do immediately, and,  
2 frankly, I don't know why they haven't had it  
3 done.

4 So paving--they say it's a hardship,  
5 but I mean, I think one of the conditions is that,  
6 you know, they were supposed to pave it. Why all  
7 those conditions were imposed on the church 15  
8 years ago, I don't know. Why they agreed to it,  
9 I don't know. But somebody thought that they were  
10 important enough to put in there, and so the ANC  
11 said that maybe we should leave them there.

12 If the Board wants to review each one  
13 of them, and strike some away, I'll defer to you  
14 on that. But in terms of the parking system, I  
15 don't think they--there's no excuse for them not  
16 to have that in place. And so I'm available to  
17 answer any other questions that you might have  
18 at this point.

19 BZA CHAIRMAN JORDAN: And I thank  
20 you. You did a very, very thorough job with your  
21 presentation. Does the Board have any  
22 questions?

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1 COMMISSIONER ALLEN: I have a  
2 couple.

3 BZA CHAIRMAN JORDAN: Yes.

4 COMMISSIONER ALLEN: Thank you  
5 again for coming down to testify. So you said  
6 there was some lighting, and I thought Mr. Mahone  
7 said that there wasn't, although I do see a  
8 street lamp.

9 MS. WRIGHT-SMITH: It's just a  
10 street lamp.

11 COMMISSIONER ALLEN: That one  
12 street lamp--

13 MR. MAHONE: And there's no  
14 lighting indigenous to the parking lot itself.

15 MS. WRIGHT-SMITH: Right.

16 COMMISSIONER ALLEN: Itself. Okay.  
17 And then is it locked, or not? I couldn't tell  
18 from the picture.

19 MS. WRIGHT-SMITH: It's not locked.

20 MR. MAHONE: Not locked.

21 COMMISSIONER ALLEN: So then, in  
22 order to do the pass thing, somebody would

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1 actually have to be there all day?

2 MS. WRIGHT-SMITH: They wouldn't  
3 have--

4 COMMISSIONER ALLEN: Or until it  
5 got filled? I guess filled--

6 MS. WRIGHT-SMITH: Well, I mean, I  
7 would just suggest--I'm not saying you'd have to  
8 be there all day. But I think you may have to  
9 go out, at least in the morning.

10 BZA CHAIRMAN JORDAN: They just  
11 have to check. If there's like maintenance, or  
12 somebody in the church, that they walk out to the  
13 lot, they don't see the parking pass in the  
14 window, they call MPD, get them ticketed, and  
15 then get them towed.

16 MS. WRIGHT-SMITH: And I think from  
17 my understanding, when they had this system in  
18 place before, after about two weeks of the people  
19 getting ticketed and towed, you won't have this  
20 problem any more. But folks in the neighborhood  
21 just need to see that there's some consistency.

22 BZA CHAIRMAN JORDAN: Right.

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1 MS. WRIGHT-SMITH: And so if you're  
2 only going to come out and do it one time in one  
3 month, and you ain't going to come back till five  
4 more months, then yeah, you're going to have the  
5 same problem.

6 But if they see that this is  
7 something that you're willing to do, at least 30  
8 days straight, then they'll say, oh, maybe the  
9 church is serious now but--

10 BZA CHAIRMAN JORDAN: Right.

11 MS. WRIGHT-SMITH: --nobody thinks  
12 that the church is serious about this right now,  
13 so they just, like he said--and I've seen them,  
14 cause when this case came up, I went down in the  
15 morning and I parked outside there, and I've seen  
16 the folks get out of their cars, go right down  
17 to 16th Street, get on the bus and go to work.

18 COMMISSIONER ALLEN: Okay.

19 BZA CHAIRMAN JORDAN: Okay. Oh, I'm  
20 sorry.

21 BZA CHAIRMAN JORDAN: And just--I'm  
22 sorry. Just one other question. Which you just

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1 made go out of my head. Wait.

2 BZA CHAIRMAN JORDAN: I'm sorry.

3 COMMISSIONER ALLEN: Where--I'm  
4 trying to figure out, where do people park now?  
5 So is it--cause I see cars on the outside. Is it  
6 just that there is no additional parking on the  
7 street?

8 MS. WRIGHT-SMITH: Where do the  
9 residents park?

10 COMMISSIONER ALLEN: Yes.

11 MS. WRIGHT-SMITH: Well, the  
12 residents park on Meridian Place, which runs  
13 from, like they said, the 1400 to the 1500 block,  
14 in between 14th Street and 16th Street. So we're  
15 parking there, if we can find a spot.

16 We park on Center Street. If you have  
17 the zone-enhanced residential parking sticker,  
18 RPP, you can park there, cause that's just for  
19 Zone 1 residents.

20 But honestly, I mean just this  
21 weekend, I had to park way over on the other side  
22 of Meridian. Or I might have to go park way over

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1 on Oak Street, or on Otis Street, or on Ogden  
2 Street. And so I just try to be home by a certain  
3 time, 6:30.

4 BZA CHAIRMAN JORDAN: Right.

5 MS. WRIGHT-SMITH: So I can get a  
6 park on the block.

7 BZA CHAIRMAN JORDAN: That's right.

8 MS. WRIGHT-SMITH: Otherwise, I  
9 gotta go to those surrounding streets, or the  
10 folks will go down to the church's parking lot  
11 and park there.

12 BZA CHAIRMAN JORDAN: And make a  
13 real decision whether or not you want to take  
14 your car to go to the store. Do I really need  
15 to go?

16 MS. WRIGHT-SMITH: Right.

17 BZA CHAIRMAN JORDAN: Do I want to  
18 leave my space?

19 MS. WRIGHT-SMITH: Can I walk and  
20 get this? You know, it's real. So--and then,  
21 you know, one a the things that happened 15 years  
22 ago, we had the Giant that was par--that was

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1 behind the houses in the 1400 block of Meridian,  
2 which is where I live. But Giant has since moved  
3 to Park Road, and so now they have a 300 unit  
4 condo back there.

5 And so now you have the residents in  
6 the 1400 block of Meridian not only fighting with  
7 their neighbors to get parking, but you got to  
8 battle the folks that live in the con--the 300  
9 people that live in the condos behind you, and  
10 so, you know, it can be--it can make for a very  
11 difficult time.

12 BZA CHAIRMAN JORDAN: So you really  
13 appreciate our case earlier, and our questions.

14 MS. WRIGHT-SMITH: Oh, yeah; yeah.  
15 That's what I was telling him. I said "See."  
16 Yeah. So I--you know, we definitely know the  
17 problems, and that's why I said at the very  
18 beginning, I have folks that are, you know,  
19 literally begging me to make sure that this  
20 parking lot does not get closed. They understand  
21 that the church does not adhere to a lot of the  
22 conditions that they agreed to. And again, I

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1 don't even know why they agreed to some of 'em,  
2 if they didn't think that they could live up to  
3 that expectation, so--

4 BZA CHAIRMAN JORDAN: That's where  
5 we get a lot of folks sit in front of us, and say  
6 yes, yes, yes, yes, yes, and some people--most  
7 folks are sincere but, you know, some really  
8 believe they can do it, and then they can't do  
9 it. We get a lot of that. Okay.

10 Does the Board have any other  
11 questions?

12 ZC CHAIR HOOD: Yes. I just wanted  
13 to ask: Is there any signage up there? Anything?  
14 I'm basically talking about--and I didn't see it  
15 in the conditions--basically talking about the  
16 residents who come--who commute to the parking  
17 lot and then come downtown. Because if you put  
18 something up that says Authorized Parking Only,  
19 that may help get rid of some of those folks who  
20 come from Virginia.

21 MS. WRIGHT-SMITH: I don't believe  
22 there is a sign up there, that just says that the

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1 parking lot is open to the community from like  
2 10:00--for whatever that time period is.

3 ZC CHAIR HOOD: So that sign is--that sign  
4 is--

5 MS. WRIGHT-SMITH: But I'm not sure  
6 if it says--

7 BZA CHAIRMAN JORDAN: Part of the  
8 recommendations and proposed conditions will  
9 have one of those as a requirement, Mr. Hood--

10 ZC CHAIR HOOD: Yes.

11 BZA CHAIRMAN JORDAN: --that they  
12 have better signage and etcetera.

13 ZC CHAIR HOOD: And the  
14 reason--cause my church does that now in  
15 Northwest, and we have little placards that we  
16 use, and we put--we use the Carlos Rosario a lot,  
17 and we put them in there on Sundays, and if you  
18 don't have it, you may risk the fact that your  
19 car may be gone when you come back out. Let me  
20 just ask you this, though. This is a side note.

21 Do you all like--the neighborhood  
22 community likes the new Giant, and all that down

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1 there? Or what do you think about that?

2 MS. WRIGHT-SMITH: Yeah. I like it.

3 ZC CHAIR HOOD: Oh, you like it?

4 Okay.

5 MS. WRIGHT-SMITH: Yeah.

6 ZC CHAIR HOOD: Good to know.

7 MS. WRIGHT-SMITH: I like it. I  
8 preferred it when it was in my back door, I could  
9 just walk to the back and go to it, but, you know,  
10 at least I get some exercise now walking down  
11 to--

12 ZC CHAIR HOOD: Oh, okay. So the  
13 community really likes all that development  
14 that's going--that part?

15 MS. WRIGHT-SMITH: I do. I do. And  
16 my family members that come and visit like it as  
17 well.

18 ZC CHAIR HOOD: The new Giant that  
19 the Zoning Commission approved some years ago.  
20 I was just--

21 MS. WRIGHT-SMITH: And DCUSA. I  
22 like--I like having all those things within

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1 walking distance. I'm not going to lie.

2 ZC CHAIR HOOD: That's good to know.  
3 That's part of what the chairman was talking  
4 about. I'm doing my follow-up now.

5 MS. WRIGHT-SMITH: Okay.

6 [Laughter]

7 ZC CHAIR HOOD: Okay.

8 BZA CHAIRMAN JORDAN: I'm serious.  
9 We have to--you know, we sit and talk to these--

10 [Simultaneous speaking]

11 BZA CHAIRMAN JORDAN: --but we  
12 never do follow-up--

13 MS. WRIGHT-SMITH: In fact we are  
14 amazed at the change in that area from what it  
15 once was, and what it is now, so--

16 BZA CHAIRMAN JORDAN: Okay. Does  
17 the Applicant have any questions of Ms.  
18 Wright-Smith?

19 MR. MAHONE: Well, just--just-

20 BZA CHAIRMAN JORDAN: Questions?

21 MR. MAHONE: I don't have any--I  
22 don't have any questions.

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1                   BZA CHAIRMAN JORDAN:    Okay.  Then  
2   we're not there yet.  Okay.  Then let us turn  
3   to--is there anyone in the audience wishing to  
4   testify in support of the application?  Anyone  
5   wishing to testify in support?

6                   [No response]

7                   BZA CHAIRMAN JORDAN:        Anyone  
8   wishing to testify in opposition?  Yes.  Please  
9   come forward.  Didn't you already give your  
10  report?

11                   [Laughter]

12                   BZA CHAIRMAN JORDAN:    Thank you.  
13  Would you please give us your name, and you  
14  turned in your cards, your witness cards?

15                   MS. BERGER:    Yes.  I did.

16                   BZA CHAIRMAN JORDAN:    Thank you.

17                   MS. BERGER:    Thank you very much.

18                   BZA CHAIRMAN JORDAN:    And thank you  
19  for being with us all day here.  Go ahead.

20                   MS. BERGER:    Good afternoon, Mr.  
21  Chairman and members of the Board.  My name is  
22  Sherrill Berger and I own the property that abuts

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1 to the Trinity AME Church. I have lived in the  
2 neighborhood for 25 years, and I'm also a member  
3 of the Center Street and Meridian Street  
4 Association, which initially was, in 1991,  
5 started by myself, and other neighbors on Center  
6 and Meridian Street, and we testified at that  
7 time before the BZA. We had questions about the  
8 use of the property.

9 Now the church received the  
10 property, or purchased the property at a minimum  
11 cost, for \$102,000, in 1992, or '93. And at that  
12 time, the community was in agreement for the  
13 parking, as they are now.

14 They want to park on these lots.  
15 That's not the question. We do not want to  
16 deprive the church of its own valuable property,  
17 which probably at this time costs--is probably  
18 a market rate of about a million dollars. It was  
19 \$304,000 in 1991.

20 BZA CHAIRMAN JORDAN: Let me be  
21 clear, that you're only going to have three  
22 minutes. So I would hit the very salient points

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1 of--and you already submitted documents. So you  
2 might want to hit what you-- MS.

3 BERGER: Certainly. My point is that it is--the  
4 issue is about enforcement and trust. How is it  
5 going to be maintained, and why--and they should  
6 live up to the important stipulations, that is,  
7 lighting, pavement, marking, fencing,  
8 landscape. Those five things.

9 We understand that the church is not  
10 able to probably have these resources; but it's  
11 been 15 years. 15 years is a long time. We're  
12 recommending that the church come in to  
13 compliance within two years. I don't know how  
14 else to say that. If the lots are not maintained,  
15 it's just every church, which is a business--I  
16 have a business, I'm required to have my permits.  
17 I am charged. I have property. I keep it cleaned.  
18 So I think, you know, it isn't that we don't want  
19 the parking. There are people who want parking.

20 It is the way in which it is not being  
21 maintained, and that the parking spaces, the  
22 land is being misused. It's being used by out of

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1 state, out-of-neighborhood people. Thank you.  
2 That's my testimony.

3 BZA CHAIRMAN JORDAN: We appreciate  
4 it, and especially the detailed statement and  
5 report that you provided us, and one, the  
6 commitment for being here.

7 It's just important that people step  
8 up, so that we understand what's going on,  
9 whether or not we agree or not; but at least we  
10 have the input.

11 Does the Board have any questions of  
12 Ms. Berger?

13 ZC CHAIR HOOD: I just want to echo.  
14 I want to thank Ms. Berger for putting the time  
15 into this, and this submission. And I  
16 agree--it's all about enforcement. In 1998,  
17 apparently the BZA approved something, and  
18 that's what you expect. It needs to be  
19 predictable. And I'm saying that so Mr. Mahone  
20 and the church, when they play this tape back  
21 later on, they will understand, depending upon  
22 what this Board does, is that, you know, we're

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1 expecting things to happen. Not just because  
2 you come down to the Board, just to show up and  
3 make it sound good for us that particular day.

4 And Mr. Mahone has been here a long  
5 time. He knows his stuff better than I do. Thank  
6 you.

7 BZA CHAIRMAN JORDAN: Does the  
8 Applicant have any questions of Ms. Berger?

9 MR. MAHONE: I don't have any  
10 questions, but just a statement. One of the  
11 reasons why we want to form an advisory board is  
12 so that, you know, it can be better managed. I  
13 mean, when the community managed the parking, as  
14 Mrs. Wright has said, it was managed well. And  
15 that's what we're going--that's where we have to  
16 move to, because there's no one at the church,  
17 in any position of authority, that was there 15  
18 years ago.

19 BZA CHAIRMAN JORDAN: Let me add  
20 this, and I think this is the "rock and the hard  
21 place." Not the rock and hard place. I think this  
22 is the real situation.

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1           The church, in my view--and help me  
2           if I'm wrong--owns the property. Has parking.  
3           They only need to use the parking on Sunday. They  
4           can lock it, fence it, and keep everybody else  
5           off of it.

6           MR. MAHONE: That's correct.

7           BZA CHAIRMAN JORDAN: And the  
8           community wouldn't have use of it. The church  
9           can do that. It appears at the time when there's  
10          problems is when the public is allowed to use it,  
11          and the church, some kind a way, is taking the  
12          burden of financing this for the public.

13          Now the public can't have it both  
14          ways. Either the public's going to support this  
15          parking lot and use it, or the church should be  
16          allowed to lock it up, close it up, take their  
17          toys and go home when they don't need to use it.  
18          So you follow me?

19          MR. MAHONE: I do. I do.

20          BZA CHAIRMAN JORDAN: So I hear  
21          everything about--I've read all the letters.  
22          I've seen everything. I hear the testimony about

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1 what the church should do. It's a small church,  
2 and the church is doing this out of community  
3 service.

4 MR. MAHONE: Correct.

5 BZA CHAIRMAN JORDAN: But a lot of  
6 other areas in the city, they lock their lots up,  
7 and take their marbles and go home, and nobody  
8 has a use. So this should be a community effort  
9 at maintaining, taking care of it, and everybody  
10 putting their two cent in. And if I'm parking my  
11 car there, maybe I'll volunteer my time to come  
12 cut the grass in front, because I've been parking  
13 my car there for free. I'm just throwing that  
14 out.

15 MR. MAHONE: Well, that is why we  
16 want the advisory board piece, so it can be--

17 BZA CHAIRMAN JORDAN: Well, I think  
18 it's more than that. I think advisory board is  
19 advisory board, but it may not be the management  
20 aspect. And I think that's what's missing.

21 MR. MAHONE: Well, I mean, that's  
22 how we get to the management--

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1                   BZA CHAIRMAN JORDAN: But let me ask  
2 another question. Where did this issue about  
3 free parking come from? Is there a issue about  
4 not being allowed to charge for a parking pass?

5                   MS. BERGER: It was a requirement in  
6 1991.

7                   BZA CHAIRMAN JORDAN: I understand  
8 that. But I'm talking about today, it's a new  
9 day, and we know the reality of this church going  
10 in, in 1991, whatever it was, that said they were  
11 going to maintain it, and evidently they can't  
12 do it. And like a lot of churches--and we've had  
13 a lot of churches here, and we know that--we've  
14 had a lot of evidence about the dwindling  
15 constituencies or congregations of these  
16 churches. We have it all the time.

17                   So where they might have been in  
18 1991, to where they are today, can be a  
19 completely different ball game. They could  
20 have--you know, the membership could have been  
21 different. But we're dealing with where we are  
22 right now. This is the renewal period.

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1           So whatever we do as a Board, I think  
2 we ought to be doing it from more of an  
3 intelligent standpoint, or the fact, where we  
4 are today. So I don't know--anyone can respond  
5 to this. In 1991, it came up, but--so--

6           MS. BERGER: May I please speak to  
7 today?

8           BZA CHAIRMAN JORDAN: Yes.

9           MS. BERGER: As a member of the  
10 Center and Meridian Street Association, we  
11 actually created, and managed, and implemented,  
12 the parking registration system. Our neighbor,  
13 on Center Street, managed it for six months,  
14 without compensation, out of volunteering.  
15 There are folks who live in, on Center Street and  
16 Meridian Street who see the trash and they go  
17 pick it up. Or whatever.

18           But anyway, there is, and has always  
19 been community input. At our last meeting, at the  
20 good direction of the ANC commissioner, it seems  
21 as though the church feels that they're giving  
22 away parking, which it was a requirement and part

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1 of their conditions of getting the property.  
2 That's fine.

3 But shall we be put in a position  
4 where the parking lot is not maintained well  
5 enough, that it is dangerous, that it can be  
6 dangerous, it has been dangerous, it's  
7 unsightly, it's not green space--

8 BZA CHAIRMAN JORDAN: Okay. You've  
9 already testified to your point, and I just want  
10 you to respond back, if you would, because we're  
11 going beyond what our normal protocol is. I was  
12 just asking--

13 MS. BERGER: Thank you.

14 BZA CHAIRMAN JORDAN: --a question.

15 MS. BERGER: I won't say--

16 BZA CHAIRMAN JORDAN: And that  
17 question was where the financial issue--I'm  
18 sorry? So is the ANC amenable that--what if  
19 they charge for a parking pass? Something  
20 reasonable?

21 MS. WRIGHT-SMITH: Frankly, I think  
22 some community members indicated that they would

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1 be willing to pay to park. They would be willing  
2 to clean the parking lot in exchange to park  
3 there. So, you know, it's up to the church. I  
4 mean, the church, they said that they can't  
5 charge, but I mean, at all the  
6 meetings--every--every meeting--three--three  
7 meetings--well, two meetings, two to three,  
8 community members stepped up and said that they  
9 would be willing to help the church maintain that  
10 parking lot.

11 BZA CHAIRMAN JORDAN: I didn't see  
12 in the previous order, where it said you couldn't  
13 charge.

14 MR. MAHONE: That's always been the  
15 protocol, and--

16 BZA CHAIRMAN JORDAN: That's just  
17 out of--that is out of the benevolent nature of  
18 what you've been trying to do.

19 MR. MAHONE: Right.

20 BZA CHAIRMAN JORDAN: I looked over  
21 the order, and I haven't seen it? Did anybody  
22 else see it, that said in the order that they

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1 could not charge?

2 [No response]

3 MR. GYOR: Mr. Chairman.

4 BZA CHAIRMAN JORDAN: So all I'm  
5 saying here--hmm?

6 MR. GYOR: Mr. Chairman, I believe  
7 Mr. Mahone stated it was part of the RLA  
8 agreement at some point.

9 BZA CHAIRMAN JORDAN: Is it part of  
10 the RLA agreement?

11 MR. MAHONE: I believe so. Ii have  
12 to review it again, but I think when I reviewed  
13 it initially, you know, that's why--you  
14 know--and plus, that's always been a protocol,  
15 that we could not charge--

16 BZA CHAIRMAN JORDAN: Well, that's  
17 important to know--

18 MS. WRIGHT-SMITH: But there's  
19 nothing that says that folks can't donate.

20 BZA CHAIRMAN JORDAN: Well, yes,  
21 that too. That's true too. So--

22 MS. WRIGHT-SMITH: And so that came

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1 up at our community meetings, too, that, you  
2 know--

3 BZA CHAIRMAN JORDAN: And I'm  
4 saying people--

5 MS. WRIGHT-SMITH: --want them to  
6 do all these things, then make a donation.

7 BZA CHAIRMAN JORDAN: And we don't  
8 have the RLA agreement here, because that would  
9 be definitive--

10 MR. MAHONE: I can provide you with  
11 it.

12 BZA CHAIRMAN JORDAN: Yes. Let's--I  
13 want to see that--

14 MR. MAHONE: Okay.

15 BZA CHAIRMAN JORDAN: --before we  
16 do some things here. But let me talk about,  
17 potentially, what the conditions are, and for  
18 you to respond back to us. Yes, go ahead, Mr.  
19 Hood.

20 ZC CHAIR HOOD: I just want to say,  
21 you know, I've never agreed with the chairman  
22 more in his comments. He and I don't always

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1 agree. But his comments--now I agree with him a  
2 100 percent, of what he just said. Things have  
3 changed. There are some other options here. I  
4 do go back to what Mr. Mahone said about the RL--I  
5 mean, the community advisory.

6           Maybe that may be the impetus to  
7 start this back where it as, because as the  
8 chairman said, you know, the church is--  
9 actually, you know, I look at my church. We paid  
10 \$60. A couple years later, now we're paying 300  
11 and something. But we come from another  
12 neighborhood. That just shows you dynamics. I  
13 know it's "apples and oranges." But still, that  
14 just shows you the dynamics of the importance of  
15 parking in that area.

16           But what I'm saying--it's both  
17 sides. We can get--the ANC commissioner,  
18 obviously, is well-versed, so the community can  
19 put some time--even if you have three or four  
20 members on that board, to help do that. And  
21 everybody needs to give back a little bit. Even  
22 if you can't charge.

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1           It's a two-way street. The church is  
2 open--a lot of neighborhoods would love that.  
3 And it takes a few minutes to cut the grass. But  
4 here's the biggest issue that you said. The  
5 person who was taking care of it passed, and it's  
6 hard, sometime, nowadays, to get those positions  
7 back-filled. Nobody's looking for work--free  
8 work. Okay. But I agree with you, Mr. Chairman,  
9 a 100 percent on that.

10           BZA CHAIRMAN JORDAN: Well, we're  
11 usually, Mr. Hood, on the same page. But  
12 because we--and subject to if RLA doesn't have  
13 it in there, you know, we could simply issue an  
14 order that says the church can use it for  
15 parking, and it must be fenced off, closed off  
16 from everybody else's use.

17           But this is what I want to suggest  
18 to the Board. One. I want to close this record.  
19 But I want to keep the record open, subject to  
20 this. And I want for the community and the  
21 Applicant to do a little work. I want you to come  
22 up with a plan of management of how this

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1 project--this lot will be managed.

2 MR. MAHONE: Okay.

3 BZA CHAIRMAN JORDAN: So that, I  
4 mean, something that's viable right now. Even if  
5 we issue these conditions, we don't know how it's  
6 going to be managed. And by management, it  
7 means your sources and uses of funds, and  
8 revenues, to make sure it's going to be done.

9 So somebody's taking care  
10 of the maintenance, whatnot. There's a community  
11 volunteer who's going to say they're going to do  
12 it. Whether or not you "pass the hat" or know that  
13 the community, whichever way is going to do it.

14 And you need to submit the RLA, so  
15 we also know the boundaries, and you need to look  
16 at that. And then what I want to do is set this  
17 back on the agenda. I know we're stacking these  
18 things, but by, say, on December 3rd, or the  
19 other date, I would like to take a look at it.  
20 And we need a real management plan. This "pie  
21 in the sky" stuff, when it gets down to the nitty  
22 and the gritty, somebody's got to enforce it.

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1           We got to be able to know that when  
2 you walk out of here, it's going to be real.  
3 That we know that the trash is going to be picked  
4 up, and the grass is going to be cut, cause I  
5 don't like the way it looks. I mean, it just looks  
6 horrible. Looks run-down.

7           But the other side of it is, you  
8 could lock it up, fence it off, and the community  
9 don't have use.

10           MR. MAHONE: Right.

11           BZA CHAIRMAN JORDAN: So unless  
12 there's an RLA, which I need to see before we go  
13 forward and issue an order, issue a condition,  
14 because part of that might be that our order  
15 would be that you're allowed to do whatever--you  
16 know--or not do, depending on RLA. But I just  
17 think--let's come up with that the church should  
18 have their--should be willing--and I hear  
19 you--to work with the community, to come up with  
20 a viable plan on how to use this lot.

21           MR. MAHONE: I agree.

22           BZA CHAIRMAN JORDAN: Does that

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1 make sense, Board?

2 MS. WRIGHT-SMITH: Now this--and  
3 I'm just going to say this. Mr. Mahone, don't  
4 take personal. Now what the church needs to--I  
5 hear what you're saying. But when we met at our  
6 ANC meeting, we were supposed to get together  
7 because all these same questions that you're  
8 raising came up from the fellow commissioners.  
9 And so we said we were going to get together, and  
10 we were going to try to "hammer out" an  
11 agreement, so we could present one here to you  
12 today.

13 I never heard back from the church.  
14 And so I can't negotiate with myself. And I don't  
15 want, from this point until December 3rd, I'm  
16 still waiting to hear from the church.

17 BZA CHAIRMAN JORDAN: Let me say  
18 this.

19 And if you've ever watched our  
20 hearings--you need to resolve it.

21 MR. MAHONE: I will--

22 BZA CHAIRMAN JORDAN: You don't

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1 want us to resolve it.

2 MR. MAHONE: I will--

3 BZA CHAIRMAN JORDAN: So that means  
4 that you need to work with the community to do  
5 what's necessary, because otherwise, we just  
6 have a lot that you won't be using.

7 MR. MAHONE: Well, I understand  
8 that, and we will work to resolve it. You know,  
9 I--

10 BZA CHAIRMAN JORDAN: It's always  
11 best that way.

12 MS. WRIGHT-SMITH: We said that  
13 from the beginning. Settlements are always  
14 better.

15 BZA CHAIRMAN JORDAN: And that's  
16 why we, Mr. Hood, we talk about, as we go through  
17 in this zoning rewrite, that there should be  
18 requirements that there's at least--the parties  
19 at least attempted to have a discussion, a real  
20 reasonable discussion about resolving issues.

21 And it just--we've had some matters  
22 in here, that we've had ten to fifteen--

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1 ZC CHAIR HOOD: Can I comment on it?

2 BZA CHAIRMAN JORDAN: Yes.

3 ZC CHAIR HOOD: Can I comment?

4 That's always been the unstated rule.

5 BZA CHAIRMAN JORDAN: We've  
6 had--anyway, we've had ten to fifteen people be  
7 in opposition, and if you didn't think they're  
8 going to resolve it, go outside, we have them  
9 confer, and they come back and they've had it  
10 resolved.

11 But it's important that the  
12 Applicant understand that we don't have to grant  
13 you relief.

14 MR. MAHONE: I do understand that.  
15 I do understand.

16 BZA CHAIRMAN JORDAN: And the  
17 community's reaching out, which is a very--it's  
18 an important factor, of our factors and  
19 requirements, to-- whether or not we grant  
20 relief or not.

21 So December 3rd. Is that okay? Or  
22 have I loaded up December 3rd?

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1                   MR. MOY: Well, we can do that.  
2 From my understanding, whether or not you want  
3 wanted to actually make that a decision date or  
4 a hearing date.

5                   BZA CHAIRMAN JORDAN: I don't think  
6 we need a hearing. We've got enough in the  
7 record. So a decision date.

8                   MR. MOY: Well, just from what I  
9 heard from the ANC, but--

10                  BZA CHAIRMAN JORDAN: Just  
11 decision. And whatever date is comfortable  
12 for--so Mr. Hood is with us?

13                  MR. MOY: Yes. Mr. Hood's here  
14 December 3rd.

15                  BZA CHAIRMAN JORDAN: Oh. Well,  
16 then that's our date. And so we need to have a  
17 submission from you--

18                  MR. MOY: At least a week ahead.

19                  BZA CHAIRMAN JORDAN: November 26  
20 or--

21                  MR. MOY: November 26.

22                  MR. MAHONE: Okay.

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1 BZA CHAIRMAN JORDAN: Okay.

2 MS. BERGER: I have a question. Is  
3 the community allowed to see these decisions?

4 BZA CHAIRMAN JORDAN: Well, the  
5 community's supposed to be involved in this  
6 process. So I'd recommend that the ANC, that the  
7 Meridian community--I mean, just have them meet.  
8 Let's get it done.

9 MR. MAHONE: Okay.

10 MS. WRIGHT-SMITH: Now let me just  
11 say one other thing too. When Ms. Berger  
12 indicated that there was this Center Street,  
13 slash, Meridian Place Association, one of my  
14 colleagues asked for the formal documentation to  
15 show that such an organization exists. Haven't  
16 seen it yet. But nevertheless, it's still a  
17 group of individuals that live on Center Street  
18 and Meridian Place that have concerns.

19 But I'm just saying I live on  
20 Meridian Place, so I don't want to be lumped in  
21 to no organization like that, because I don't  
22 really--

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1 BZA CHAIRMAN JORDAN: You don't--

2 MS. WRIGHT-SMITH: --agree with all  
3 that. I'm happy to meet with them and work it out.

4 BZA CHAIRMAN JORDAN: What I would  
5 probably do is sit and talk with the ANC first,  
6 and then open it up to community, and say this  
7 is our plan, this is it, let's get some input,  
8 and then you formalize your final one.

9 MS. WRIGHT-SMITH: Which we've  
10 tried. So I'm going to stay on Mr. Mahone,  
11 because I've been trying to meet with him--

12 BZA CHAIRMAN JORDAN: Oh, he's  
13 going to do it now. He's going to do it now.

14 MS. WRIGHT-SMITH: --since July  
15 13th.

16 BZA CHAIRMAN JORDAN: He's going to  
17 do it now. I gave him "the eye."

18 [Laughter]

19 BZA CHAIRMAN JORDAN: But let me say  
20 this, I mean in all sincerity, this is how it's  
21 supposed to be done.

22 MR. MAHONE: I understand.

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1                   BZA CHAIRMAN JORDAN:   And really--I  
2                   mean, the opposition--you know, opposition is  
3                   good. Opposition. Everybody has the same idea  
4                   about something sometimes. Doesn't mean we've  
5                   got the right answer.

6                   We need to hear how it affects  
7                   everybody, so we can come up--at least try to  
8                   work on a solution. Maybe everybody's not going  
9                   to be happy, but at least we get closer to  
10                  something, and I do appreciate each and every one  
11                  of you staying all day for us, till 2:26 or so,  
12                  listening through all these other hearings.  
13                  Sometimes we draw blood in these things. So  
14                  this is a good day. But no, I really--and I  
15                  appreciate everybody's input here, and thanks a  
16                  lot, and we'll see you back--

17                  MS. WRIGHT-SMITH:   And even the  
18                  folks in opposition, their list is dwindling. So  
19                  I think it is something that we can work out, if  
20                  we all just, you know, sit down and really  
21                  seriously try it.

22                  BZA CHAIRMAN JORDAN:   Right. Okay.

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1 MR. MAHONE: I appreciate the Board  
2 hearing us, and I'm grateful to you for the city.  
3 One of the problems is that, you know, between  
4 us, and off the record, you gotta manage a  
5 client.

6 BZA CHAIRMAN JORDAN: We're on the  
7 record, and you just got yourself in trouble.

8 [Laughter]

9 BZA CHAIRMAN JORDAN: Anyway, with  
10 this, we'll close this hearing, and they can pull  
11 up the tape. But you can have them look at the  
12 tape and see how serious we are, though.

13 MR. MAHONE: I understand.

14 BZA CHAIRMAN JORDAN: Very good. Is  
15 there any other business coming before the Board  
16 at this time?

17 MR. MOY: Not today, sir.

18 BZA CHAIRMAN JORDAN: Not today. We  
19 appreciate Planning's work too, and the court  
20 reporter, and everybody else who's been here  
21 today, and we're just an appreciative group of  
22 people. So we really thank you, though. Then

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1 we'll adjourn.

2 [Whereupon, at 2:33 p.m., the Board  
3 of Zoning Adjustment regular meeting was  
4 adjourned.]

5

6

7

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