

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC HEARING

+ + + + +

TUESDAY

JUNE 26, 2012

+ + + + +

The Regular Public Hearing convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4<sup>th</sup> Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:51 a.m., Lloyd Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson  
NICOLE SORG, Vice-Chairperson  
RASHIDA MacMURRAY, Board Member  
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Chairperson  
MARCIE COHEN, Vice-Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

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MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON  
STEPHEN MORDFIN  
KAREN THOMAS  
STEVEN COCHRAN  
ARTHUR JACKSON

The transcript constitutes the minutes from the Public Hearing held on June 26, 2012.

C-O-N-T-E-N-T-S

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

2 9:49 a.m.

3 CHAIRPERSON JORDAN: We're now  
4 moving to the public hearing for today, June  
5 26. The time is 9:49 a.m.

6 And now joining us is Zoning  
7 Commission Member Marcie Cohen.

8 Thank you. Go ahead and proceed.

9 MR. MOY: Yes. Before I call the  
10 first case for the public hearing session,  
11 anyone in the audience who is submitting any  
12 documents, please if you can reproduce 12 copies  
13 -- one for the record and one for the Board.  
14 The reproduction machine is across the hall if  
15 you need that.

16 The first case is Application No.  
17 18359. This is the Application of Essie M.  
18 Clark, pursuant to 11 DCMR 3014.1. This is for  
19 a special exception to allow a one-story rear  
20 addition to an existing two-family,  
21 semi-detached dwelling under Section 223, not  
22 meeting the side yard requirements under Section

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1 405, and lot occupancy requirements under  
2 Section 403, in the R-4 District at Premises  
3 5422 8<sup>th</sup> Street, NW, property located in Square  
4 2994, Lot 40.

5 Okay. I stand corrected.  
6 Single-family.

7 Mr. Chairman?

8 CHAIRPERSON JORDAN: Yes.

9 MR. MOY: I wanted to remind you to  
10 swear parties.

11 CHAIRPERSON JORDAN: Oh, yes.  
12 That's one part we've missed, isn't it?

13 All right. Let's do this. All  
14 those who are planning to be a witness or give  
15 testimony in any other cases on today's docket,  
16 please stand and take the oath or affirmation  
17 from Mr. Moy, the Secretary of the Board.

18 (Witnesses sworn.)

19 CHAIRPERSON JORDAN: Okay. Did we  
20 make notes of everybody who did and didn't?

21 MR. MOY: Absolutely.

22 CHAIRPERSON JORDAN: Good. We're

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1 glad to see you back and that there's been some  
2 corrections to this particular file. And we're  
3 just trying all to get to the same place and  
4 try to help you there.

5 And since the time this case was last  
6 set for hearing, we've received an affidavit  
7 of posting. We've also received a  
8 representation letter.

9 And I think the file is pretty much  
10 complete except we have another issue that we  
11 need to get your consent for. And we would take  
12 that in the form of you asking us to amend your  
13 application and that relief is also necessary  
14 from Section 401, the lot area. This particular  
15 requirement -- Section 401 requires that you  
16 have a minimum of 3,000 square feet for the  
17 property, and you have 2700. So we would  
18 include that if its your wish for us to include  
19 that relief for you in any order that if we do  
20 grant an order.

21 I find that the record here is pretty  
22 complete and that there's nothing that I need

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1 to hear in addition to what's already in the  
2 record. The record is pretty full. I think  
3 all the documents now are up to date and will  
4 provide enough guidance for us to render a  
5 decision in this matter.

6 I'm going to ask any of the Board  
7 Members if there's something that they may want  
8 to add or that we need to hear from the Applicant.

9 VICE-CHAIRPERSON SORG: Mr.  
10 Chairman, I would just ask one question of the  
11 Applicant.

12 I also note in addition to our  
13 record, we did receive a letter of support from  
14 the adjacent neighbor. So thank you for that.

15 And then we also have a letter here  
16 from Ms. Clark to the ANC. Now we still notice  
17 that we don't have a report from the ANC. Maybe  
18 you can talk a little bit about what your  
19 communication was or your efforts there for the  
20 record in talking to the ANC.

21 MR. CLARK: Yes, I attended the ANC  
22 meeting on June 19, and I did have

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1 correspondences with Ms. Green and other members  
2 of Ward 4 Commission.

3 After talking with her, she said she  
4 was in full support of what we were trying to  
5 do. I have an email. Don't -- do not know if  
6 you have this or not because it was just printed  
7 out not too long ago -- showing that she support  
8 -- she give full support of her --

9 CHAIRPERSON JORDAN: Sir, that's a  
10 letter from?

11 MR. CLARK: It's an email  
12 correspondence. She did not write a letter,  
13 but this is what she provided.

14 VICE-CHAIRPERSON SORG: No, we  
15 don't have that. And it would be useful to make  
16 copies to submit that.

17 So did you make a presentation?

18 MR. CLARK: Can you repeat that,  
19 please?

20 VICE-CHAIRPERSON SORG: Did you  
21 make a presentation?

22 MR. CLARK: Yes, yes.

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1 VICE-CHAIRPERSON SORG: You did?  
2 And did the ANC take a vote?

3 MR. CLARK: It wasn't so much of a  
4 -- of a vote, but everybody that was there  
5 present, they just said that they did not have  
6 a problem as far as the project.

7 VICE-CHAIRPERSON SORG: Okay.

8 MR. CLARK: So everyone provided  
9 their support. So it wasn't like a five, four  
10 vote.

11 VICE-CHAIRPERSON SORG: Okay.

12 MR. CLARK: It was just --

13 VICE-CHAIRPERSON SORG: Okay.

14 MR. CLARK: -- a letter of support.

15 VICE-CHAIRPERSON SORG: Thank you.

16 CHAIRPERSON JORDAN: Let's go down  
17 the table. We're remiss in getting us to  
18 identify the people who are here to testify or  
19 are sitting at the table.

20 Yes?

21 MR. SHEPPARD: I'm Les Sheppard,  
22 architect who designed the addition for the

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1 house.

2 MR. CLARK: Major Clark,  
3 co-property owner.

4 MS. CLARK: Essie Clark, owner.

5 MR. JACKSON: David Jackson,  
6 Barratt Construction.

7 CHAIRPERSON JORDAN: Any other  
8 questions of the Applicant?

9 (No response.)

10 CHAIRPERSON JORDAN: Let's turn to  
11 the Office of Planning and see if they have  
12 anything to add to their report.

13 MR. LAWSON: Thank you, Mr. Chair.

14 I'm Joel Lawson of the Office of Planning.

15 I want to just introduce a new staff  
16 member of the Office of Planning for the making  
17 of the Office of Planning report. It's nice  
18 to be here. It's been a couple of years actually  
19 since I've been to the BZA. So it's nice to  
20 be here. So good morning to everybody.

21 Stephen Gyor has joined the Office  
22 of Planning and started doing BZA cases. We're

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1 very pleased to have him on our staff now. And  
2 so you're going to be seeing a lot of Stephen.

3 Thank you.

4 MR. GYOR: Good morning. The  
5 Office of Planning supports the Applicant's  
6 request for relief and rests on the record.

7 CHAIRPERSON JORDAN: Good. Does  
8 any Board Member have any questions for the  
9 Office of Planning?

10 MR. GOINS: Could I ask one thing,  
11 please?

12 I'd mentioned to Clifford. In the  
13 write-up, it says that it's a two-story addition  
14 to a one-story house, and it's a one-story  
15 addition to a two-story house.

16 CHAIRPERSON JORDAN: All right.  
17 Any other Board Member?

18 (No response.)

19 CHAIRPERSON JORDAN: No.

20 Does the Applicant have any  
21 questions for the Office of Planning?

22 MR. GOINS: No, sir.

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1 CHAIRPERSON JORDAN: And do we have  
2 DOT or any other governmental agency that's  
3 here? No.

4 Any parties in the audience in  
5 support of this application?

6 (No response.)

7 CHAIRPERSON JORDAN: Anyone in  
8 opposition to this application?

9 (No response.)

10 CHAIRPERSON JORDAN: And now we  
11 turn back to the Applicant. If there's anything  
12 that you feel that you need to say to the Board  
13 -- you don't have to say anything -- but if you  
14 feel like you have say something, you can say  
15 it.

16 MR. CLARK: Well, I would just like  
17 to say thank you very much to you, Mr. Chairman  
18 and the rest of the Board Members for approving  
19 this application.

20 CHAIRPERSON JORDAN: It's not  
21 approved yet but we're getting there.

22 (Laughter.)

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1 CHAIRPERSON JORDAN: Thank you.

2 Then I will close this hearing and  
3 move into deliberation if the Board is ready  
4 for deliberation.

5 Anyone? Ms. Cohen, did you --

6 ZC COMMISSIONER COHEN: No.

7 CHAIRPERSON JORDAN: Well, I'll  
8 just flip it over to you then.

9 ZC COMMISSIONER COHEN: Mr.  
10 Chairman, I move that the Commission approve  
11 BZA Case 18359, a request for special exception  
12 relief under 223 to construction an addition  
13 to an existing single-family dwelling at 5422  
14 8<sup>th</sup> Street, NW.

15 CHAIRPERSON JORDAN: Second?

16 VICE-CHAIRPERSON SORG: Seconded.

17 CHAIRPERSON JORDAN: Second. I'll  
18 second.

19 Good. Motion made and seconded  
20 that we approve Application 18359 for the  
21 special exception noted with the additional  
22 relief from the lot area requirement.

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1 Any further unreadiness?

2 (No response.)

3 CHAIRPERSON JORDAN: All those in  
4 favor signify by saying aye.

5 (Chorus of ayes.)

6 CHAIRPERSON JORDAN: Those opposed  
7 nay.

8 (No response.)

9 CHAIRPERSON JORDAN: The motion  
10 carries.

11 Mr. Moy?

12 MR. MOY: Yes. Staff would record  
13 the vote as five to zero to zero on the motion  
14 of Ms. Cohen to approve the application with  
15 the relief as amended. Also second motion  
16 Vice-Chairperson Sorg. Also in support of the  
17 motion, Chairman Jordan, Ms. MacMurray and Mr.  
18 Hinkle.

19 Again, the final vote is five to zero  
20 to zero.

21 CHAIRPERSON JORDAN: And again,  
22 this would be prime for summary order since there

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1 is no one in opposition and it's a decision in  
2 favor of the Applicant, Mr. Moy.

3 MR. MOY: Yes, sir. Thank you, Mr.  
4 Chairman.

5 CHAIRPERSON JORDAN: Thank you.

6 MR. CLARK: Now you've approved it.

7 MR. MOY: The next application for  
8 the Board is Application No. 18366.

9 This is the application of Clifford  
10 S. Reese pursuant to 11 DCMR 3104.1 for a special  
11 exception under Subsection 203.4(b) to  
12 establish a home occupation, a one-barber chair  
13 in the basement level, and a one-family dwelling  
14 in the R-5-A district at premises 51831 Colorado  
15 Avenue, NW, property located at Square 2937,  
16 Lot 837.

17 CHAIRPERSON JORDAN: Okay. If you  
18 would identify yourselves, please.

19 And push the button. Make sure the  
20 green button is showing. Okay.

21 MR. REESE: My name is Clifford  
22 Reese.

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1                   MR. DeBORGER: I'm Paul DeBorger,  
2 settlement lawyer for the Applicant.

3                   CHAIRPERSON JORDAN: Let me find  
4 out where we are before we get started further  
5 in this matter.

6                   Mr. Jackson, have you had  
7 conversations with the Zoning Administrator  
8 about this case?

9                   MR. JACKSON: No.

10                  CHAIRPERSON JORDAN: Okay. I'm  
11 just trying to figure out why this case is before  
12 us and how come it hasn't been resolved earlier  
13 since it appears that there's not a need for  
14 this case to be in front of the BZA. And I think  
15 you would agree with that also?

16                  MR. JACKSON: Well, based on our  
17 review with the Applicant and going over the  
18 requirements, once all the information is  
19 compiled, my report reflects that it meets the  
20 standard for approval. However, based on the  
21 Zoning Administrator's referral letter,  
22 apparently they may not have had full

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1 information about the application at the time  
2 and that's why it was referred.

3 CHAIRPERSON JORDAN: Let me say  
4 this for the record. At some point, somebody  
5 should have had communication and the Zoning  
6 Administrator should have at least put down in  
7 his issue what he found in opposition or what  
8 the problem was so that we wouldn't have to guess  
9 what that is. Or for anybody else -- and I don't  
10 know if you've had conversation with the Zoning  
11 Administrator and what he found was the problem,  
12 but we don't see it in the record.

13 Does any of the Board Members have  
14 any thoughts about this matter, please?

15 ZC CHAIRMAN HOOD: I would agree,  
16 Mr. Chairman. When I first looked at this  
17 application, I personally didn't know why it  
18 was before us, not understanding what the  
19 magnitude is and I thought that even if it was  
20 before us, I'm not sure -- but I think this is  
21 just a waste of time coming from the Commission  
22 -- I mean, the Board. Excuse me. We're only

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1 talking about one chair, one barber. I mean,  
2 at least this Applicant was nice enough to come  
3 in front of us. So I mean, I can tell you, I  
4 already know it exists everywhere else. But  
5 I appreciate this Applicant.

6 I would encourage us to move full  
7 speed ahead and don't spend a whole lot of time.

8 CHAIRPERSON JORDAN: Yes. I agree  
9 with that.

10 Ms. Sorg?

11 VICE-CHAIRPERSON SORG: Thank you,  
12 Mr. Chairman.

13 I agree with Mr. Hood and yourself  
14 as well. I think it's unfortunate that we  
15 haven't been able to get the correct information  
16 or corroboration from the ZA of what their issue  
17 is here. And it seems like this is a small  
18 business person who could be doing their trade,  
19 but instead he's gone through these channels  
20 perhaps for no reason. And I wonder whether  
21 or not it would be most expedient for us to go  
22 forward with this even if we don't think that

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1 relief is required just so that we can give the  
2 Applicant some practical relief.

3 Thank you.

4 CHAIRPERSON JORDAN: It's time for  
5 your hearing. You have a right to have a  
6 hearing. Or we can go forward and act, unless  
7 you think that there's something you need to  
8 add to the record, something you want to talk  
9 about.

10 MR. DeBORGER: Nothing in  
11 particular. I kind of had the same questions  
12 that you guys are bringing up now. But we  
13 believe that the formal letter saying that we  
14 need to move forward and come in front of the  
15 BZA. So we did what we were supposed to do and  
16 tried to provide all the information.

17 CHAIRPERSON JORDAN: And we really  
18 appreciate that.

19 Anyone have any questions of the  
20 Applicant?

21 (No response.)

22 CHAIRPERSON JORDAN: Office of

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1 Planning, is there anything that you think you  
2 need to add?

3 MR. JACKSON: No. The Office of  
4 Planning stands on the record.

5 CHAIRPERSON JORDAN: Is there any  
6 other governmental agency here? I don't  
7 believe so.

8 Are there any parties in the  
9 audience in support?

10 (No response.)

11 CHAIRPERSON JORDAN: Anybody in  
12 opposition?

13 (No response.)

14 CHAIRPERSON JORDAN: We'll flip  
15 back to the Applicant. And the Applicant  
16 doesn't want to say anything, I don't think.  
17 Yes. Gave me the head shake for the record.

18 Let's close this hearing and move  
19 to deliberations.

20 The floor is open for the Board for  
21 anybody who has anything they want in  
22 deliberation.

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1                   Any motion you want to make? Ms.  
2                   Sorg?

3                   VICE-CHAIRPERSON SORG: I just have  
4                   a question with regard to procedure. Clearly,  
5                   I'm in support of this. I don't think these  
6                   people should even be here necessarily. It  
7                   seems fairly clear from what OP and what our  
8                   legal counsel has said that we don't need to  
9                   see them here.

10                  But I'm wondering about if there's  
11                  something we can do about the filing fee that  
12                  was made here. And that's my only concern about  
13                  voting on this today.

14                  These folks paid like 1500 bucks to  
15                  come here. And if we think it's not necessary,  
16                  I mean, I would be very pleased to vote in favor  
17                  of this case. But I'm wondering what that would  
18                  mean with regard to the monies that they paid.

19                  CHAIRPERSON JORDAN: That opened  
20                  the door.

21                  No, I understand that. That would  
22                  be my issue.

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1 All right. We'll give it a shot.

2 All right. Thank you. We just had  
3 our little chalkboard and the Xs and the Os and  
4 who's going to run left, who's going to run right  
5 and break for the pass.

6 Let me say this for the record. I'm  
7 going to ask the Secretary, if he would, if we  
8 can send a letter to DCRA letting them know about  
9 the concern we have about this and this  
10 particular matter. I think this has been a  
11 waste of everybody's time. And we can  
12 individually write and talk about it  
13 additionally.

14 But what we've come up with in the  
15 way of trying to get you back your money because  
16 we think that that should never have been paid.

17 You paid serious money to be in front of this  
18 Board for something that we don't believe relief  
19 is necessary. And so, we will rule this to be  
20 dismissed with strong indication in the record  
21 and in our dismissal -- and let's do a dismissal  
22 order -- that says we do not believe that relief

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1 is necessary from the Board for the relief that  
2 you need, that it already speaks for itself.  
3 And I think there's enough in the file.

4 Everyone in agreement with that?

5 VICE-CHAIRPERSON SORG: Yes.

6 Thank you.

7 CHAIRPERSON JORDAN: And we can do  
8 that by consensus of the Board?

9 ZC CHAIRMAN HOOD: Should we do that  
10 in a motion?

11 CHAIRPERSON JORDAN: Okay. Well,  
12 actually you could do by consent of a body if  
13 the body's all in agreement unless someone's  
14 opposed. Then the record would reflect that  
15 it's done by consent.

16 MR. JACKSON: Mr. Chairman? Mr.  
17 Chairman? Over here.

18 CHAIRPERSON JORDAN: Okay. Let's  
19 do this. We'll do a vote. But the law is clear  
20 about we could do it by consensus. But let's  
21 make everybody happy.

22 I move that we dismiss this with

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1 direction that an order actually be issued that  
2 we do not believe that relief is necessary from  
3 the Board of Zoning Adjustment in this matter.

4 ZC CHAIRMAN HOOD: Second.

5 CHAIRPERSON JORDAN: Motion made  
6 and seconded.

7 All those in favor signify by saying  
8 aye.

9 (Chorus of ayes.)

10 CHAIRPERSON JORDAN: Those opposed  
11 nay.

12 (No response.)

13 CHAIRPERSON JORDAN: The motion  
14 carries.

15 Mr. Jackson?

16 MR. JACKSON: Yes, I just want to  
17 just for clarification.

18 So the Applicant's next step then  
19 would be to take the order and then go back and  
20 make application for his home occupation permit?

21 CHAIRPERSON JORDAN: Yes. Go back  
22 to the ZA. Yes.

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1 MR. JACKSON: Okay. Just wanted to  
2 clarify what his next steps would be.

3 CHAIRPERSON JORDAN: Okay.

4 ZC CHAIRMAN HOOD: Because I think  
5 that filing fee used to be \$25. It probably  
6 has been raised now. Okay. That's a big  
7 difference between \$1500.

8 ZC CHAIRMAN HOOD: Mr. Moy?

9 MR. MOY: Mr. Chairman, would you  
10 like the staff to set a priority on issuing this  
11 dismissal order?

12 CHAIRPERSON JORDAN: Yes, please.

13 MR. MOY: Thank you, sir.

14 MR. DEBORGER: So I just wanted to  
15 be clear that our next step would be to go back  
16 to DCRA with the Board's decision and re-do our  
17 application and go through that process?

18 CHAIRPERSON JORDAN: Yes.

19 MR. DEBORGER: Okay. Okay.

20 MR. CLARK: Thank you very much.

21 MR. MOY: The next application  
22 before the Board is Application No. 18365.

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1           This is the application of CAS -- C-A-S  
2           -- Riegler Real Estate Development pursuant to  
3           11 DCMR 3103.2. This is for a variance from  
4           the height requirements under Subsection 770.1,  
5           variance in floor area ratio requirements under  
6           Subsection 2604.1, variance from the lot  
7           occupancy requirements under Subsection 2604.2,  
8           and a variance from the off street parking  
9           requirements under Subsection 2101.1.

10           This is for an addition to an  
11           existing building for a mixed-use residential  
12           building with ground-floor retail and the  
13           construction of a separate row dwelling in the  
14           C-2-A District. This is at premises 1250 9<sup>th</sup>  
15           Street, NW and 902 N Street, NW, property located  
16           in Square 368, Lot 912 and Lot 891.

17           CHAIRPERSON JORDAN:        Would the  
18           people at the table please introduce themselves.

19           MR. KADLECEK:    Good morning. I'm  
20           Cary Kadlecek from Goulston & Storrs on behalf  
21           of the Applicant.

22           If we could please have a minute to

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1 set up our PowerPoint presentation.

2 CHAIRPERSON JORDAN: Let's hold off  
3 on that a second to see where we are.

4 Continue to introduce yourself at  
5 the table for us, please.

6 MR. GOINS: I'm Jeff Goins with PG&E  
7 Architects.

8 CHAIRPERSON JORDAN: Your last name  
9 again?

10 MR. GOINS: Goins.

11 MR. RIEGLER: I'm Kevin Riegler  
12 with CAS Riegler Development.

13 CHAIRPERSON JORDAN: Okay. Now if  
14 you need some time to set up.

15 You just passed us something. Is  
16 it something we already have in the file?

17 MR. KADLECEK: That's just a copy  
18 of the PowerPoint presentation.

19 CHAIRPERSON JORDAN: Okay.

20 Let's proceed. The Applicant can  
21 do a presentation although I'm not jumped up  
22 and down about a presentation. I'd rather to

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1 go there might be some issues with the record  
2 and that Board Members need to have supplemented  
3 so we can get right to the issues that will help  
4 us with the determination.

5 But it's certainly your right to do  
6 a presentation if you want to.

7 MR. KADLECEK: Yes. I think  
8 there's a few pieces of the presentation that  
9 go to the issues that seem to be relating to  
10 --

11 CHAIRPERSON JORDAN: I think we  
12 need to find out what the issues are for the  
13 Board.

14 MR. KADLECEK: Yes.

15 CHAIRPERSON JORDAN: So those are  
16 the real issues, right?

17 MR. KADLECEK: Yes, yes. Exactly.

18 But a lot of our presentation actually goes  
19 to help explain that. So there's some diagrams  
20 in there I think will help the Board understand  
21 exactly what the practical difficult is with  
22 respect to the FAR.

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1 CHAIRPERSON JORDAN: Let me ask the  
2 Board specifically of any particular issues that  
3 they have that need to be addressed.

4 Ms. Sorg?

5 VICE-CHAIRPERSON SORG: Yes.  
6 That's pretty much what I was looking for is  
7 talking about the practical difficulty related  
8 to the FAR issue, obviously coming from the OP  
9 report also. I think a little bit of  
10 explanation of the economic information that  
11 was submitted into the file. I don't have an  
12 exhibit number, but this thing. And I mean,  
13 everything else is pretty clear to me.

14 MR. KADLECEK: Okay. That's what  
15 the premise of our presentation will be.

16 CHAIRPERSON JORDAN: All right.  
17 Very good.

18 MR. KADLECEK: So hopefully we can  
19 get this running in a second. I apologize for  
20 the delay.

21 CHAIRPERSON JORDAN: We can talk  
22 from the diagram that you submitted to us and

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1 you can take us to the page. We're not going  
2 to wait for this to be up and running.

3 MR. KADLECEK: Okay.

4 CHAIRPERSON JORDAN: We're not  
5 going to do it.

6 MR. KADLECEK: Okay.

7 CHAIRPERSON JORDAN: So let's go  
8 ahead. If necessary, we can use the hand out.  
9 You have a copy yourselves, don't you? You  
10 gave it to the Board. You can talk us through  
11 this.

12 MR. KADLECEK: Yes. We can just  
13 talk it through.

14 CHAIRPERSON JORDAN: Okay.  
15 Appreciate it. Thank you.

16 MR. KADLECEK: I'll give a brief  
17 opening statement and then Jeff will begin with  
18 his presentation.

19 Good morning again, Members of the  
20 Board. As I stated before, my name is Cary  
21 Kadlecek of the law firm of Goulston & Storrs  
22 on behalf of the Applicant.

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1                   With me this morning is John Epting  
2                   also of Goulston & Storrs, Kevin Riegler, Adam  
3                   Stifel and Robin Bettarel from CAS Riegler, the  
4                   Applicant, and Jeff Goins of PGN Architects.

5                   In this case, the Applicant proposes  
6                   to construct a five-story, mixed-use  
7                   residential and retail building in a separate  
8                   flat while extensively incorporating an  
9                   historic structure. In order for the project  
10                  to be feasible, the Applicant requests area  
11                  variance relief for height, FAR and off street  
12                  parking. The original application also  
13                  requested relief for lot occupancy, but the  
14                  Applicant no longer requests this relief.

15                  The need for variance relief in this  
16                  case arises out of the necessity to accommodate  
17                  the extensive preservation of the historic  
18                  building and the building design that results  
19                  from such accommodations. As Jeff and Kevin  
20                  will testify, a more typical design for such  
21                  a large property would not be what is proposed,  
22                  but the presence of an historic building

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1 resulted in several design challenges that  
2 created a loss of productive space and many  
3 inefficiencies. These challenges meant that  
4 the design could be a conforming four-story  
5 structure that would not be viable or the  
6 proposed five-story structure that requires FAR  
7 and height relief.

8 Since the requested FAR and height  
9 relief are inexplicably connected, we  
10 respectfully disagree with the Office of  
11 Planning's position that the request for FAR  
12 relief cannot be supported at this time. In  
13 addition, the requested parking relief for one  
14 space is negligible. Simply put, the required  
15 parking space for the separate flat cannot be  
16 accommodated since there would be no way to  
17 access this required space.

18 The project before you is one that  
19 is appropriate for the neighborhood and the  
20 emerging vibrant mixed-use corridor of 9<sup>th</sup>  
21 Street, NW. And the Applicant is hoping to help  
22 create that.

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1           The project also reflects the zoning  
2           and planning standards for other successful  
3           mixed-use corridors such as 14<sup>th</sup> Street, NW and  
4           8<sup>th</sup> Street, NE.

5           The Applicant has gone to  
6           extraordinary lengths to be a good neighbor in  
7           planning for this project. And as a result,  
8           they have received nothing but support. They  
9           reached out to and consulted with neighbors and  
10          community association representatives on  
11          multiple occasions, and they incorporated  
12          community feedback the best that they could.  
13          Accordingly, ANC-2F and the Blagden Alley Naylor  
14          Court Association both support this project and  
15          have submitted letters into the record.

16          With that, Jeff will begin his  
17          presentation.

18          I'm sorry. Kevin will begin his  
19          presentation, and then Jeff.

20          MR. RIEGLER: Good morning. I'll  
21          be brief because obviously we know the brunt  
22          of the presentation relates to the technical

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1 aspects of the design. But I did want to give  
2 everyone a brief overview of our involvement  
3 with the project and also the history of our  
4 neighbor outreach -- neighborhood outreach.

5 I was just going to try to find a  
6 quick slide. But as we all know, 9<sup>th</sup> Street is  
7 a growing neighborhood with City Center, O  
8 Street Market, the Convention Center, et cetera.

9 And we strongly believe it's the next 14<sup>th</sup>  
10 Street, the next H Street, et cetera. The point  
11 being, as you'll see in the design in both the  
12 Arts and H Street overlay zones, the variance  
13 that we're requesting would actually be by right  
14 in those circumstances because we feel that OP  
15 has actually thought through the growth pattern,  
16 et cetera, of those parts of the City.

17 Main and Main location, it's  
18 obviously 9<sup>th</sup> and N, literally across the street  
19 from the Convention Center, a block away from  
20 O Street Market. There's a handful of other  
21 projects doing the work. So the point being  
22 there's context to create a really great, great

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1 project. And we strive to do that.

2 The modern design, obviously every  
3 developer and architect wants to create  
4 something that differentiates their project  
5 from the rest working within the confines of  
6 historic and planning requirements. But in  
7 particular on the height issue, the retail in  
8 the C-2-A zone, it's a 50-foot height limit.  
9 So actually achieving a five-story building with  
10 providing 13-, 14-foot clear heights for retail  
11 and the nine-foot clear heights for residential  
12 is a challenge. So the brunt of the height issue  
13 relates to just simply trying to adhere to modern  
14 expectations as far as the market goes.

15 Lastly, this site was a former gas  
16 station. So this is a certified registered  
17 brown field site within DDoE. It is 90 percent  
18 dirty as far as the containment in petroleum  
19 soil. There's four underground storage tanks.

20 The existing building has been used for the  
21 last ten years as a road skate park. The point  
22 being is this is a re-vitalization effort to

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1 not only re-position a fairly important corner  
2 of real estate property but also remediate a  
3 fairly substantial environmental issue.

4           And quickly from a community average  
5 standpoint, it took us a while to kind of work  
6 through the mechanics to getting the property  
7 under control. But over the last eight months,  
8 we've been working very diligently with the  
9 neighborhood groups -- anything from kitchen  
10 tables and coffee shops to ANC meetings. And  
11 as a Cary outlined, we have nothing but unanimous  
12 support. We had interim uses, we had art walks,  
13 community art events. As you know or may not  
14 know, 9<sup>th</sup> Street and that little stretch is a  
15 fairly prominent art corridor. There's a  
16 couple of existing galleries, so we played off  
17 that.

18           Again, just wanted to reiterate our  
19 efforts to gain support.

20           MR. GOINS: Good morning.

21           I guess I'll jump right into kind  
22 of the unique features and not go through the

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1 entire presentation and address the FAR.

2           The site is very unique in the fact  
3 that it's across the street from the Convention  
4 Center. So you have a commercial aspect to the  
5 site. You have a rectangular site that abuts  
6 a historic -- the historic structure is  
7 off-center into the site. And then you end up  
8 adjacent to the historic structure to the south,  
9 you have a small narrow or sliver site. So the  
10 way we approached the design was to kind of  
11 book-end the historic building and to kind of  
12 make the historic building a feature. So we're  
13 saving the T-shape of the historic building  
14 which is unique in a lot of ways. And through  
15 the process -- there's a good picture of the  
16 historic building. And there's the narrow  
17 sliver -- the adjacent site. And adjacent here  
18 to the north, you actually have a more typical  
19 rectangular site. But when you put all three  
20 of these together, it creates a lot of unique  
21 conditions that to try to maximum the property  
22 and come up with a design that worked.

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1           So here you can kind of see our  
2 proposed site plan which is in essence -- this  
3 is the ground floor, where you see a narrow  
4 double-loaded corridor where we pushed a lot  
5 of the density separate by a courtyard and a  
6 single-loaded bar.

7           As I was mentioning, you have 9<sup>th</sup>  
8 Street which is kind of a commercial corridor  
9 there with the Convention Center adjacent, and  
10 then down N Street, it's much more of a  
11 residential corridor. So we had to work with  
12 a lot of these designs.

13           And I thought I would show a couple  
14 of just quick diagrams to kind of show like if  
15 we were looking at this site without the historic  
16 structure, we would probably end up with a  
17 typical residential bar with a setback on the  
18 fifth floor. Kind of where we are and we have  
19 approved concept with HPO, this is kind of what  
20 the net result is. We're preserving the  
21 historic building here. And to actually make  
22 it like the bookend feature that we were trying

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1 to do and actually use that and make that part  
2 of the design feature of this project, we have  
3 in essence 30 feet of setbacks on the -- there's  
4 two setbacks here on the fourth floor and then  
5 on the fifth floor.

6 And also with the sliver, we wanted  
7 to step this building down to kind of be in  
8 contextual relationship with the rest of the  
9 buildings along the 9<sup>th</sup> Street corridor. So  
10 what this kind of does is it pushes the density  
11 towards the corner which is the more rectangular  
12 site. And since that becomes as you move west  
13 along N Street, it becomes a typical residential  
14 corridor. So we stepped the building down.  
15 So what we really end up doing here in essence  
16 is having three buildings that inside function  
17 as one design -- actually four because the  
18 building on the end, we've actually made it a  
19 townhouse that's not actually related on the  
20 inside to the rest of the building.

21 This slide I think is kind of an  
22 important slide, but it kind of shows the nature

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1 of what we were working with and why we pushed  
2 the density back and separated through the  
3 courtyard.

4           And then I think one other thing to  
5 kind of note, inside the historic structure,  
6 we're raising the first floor to accommodate  
7 modern retail. And two things have happened  
8 also from doing that. We could really only get  
9 three units inside the historic structure. So  
10 if that was a typical site, you would be getting  
11 12 or 14 inside that building. It has to do  
12 with the second floor. But inside the historic  
13 structure, those three units are duplexes  
14 because the second floor would be lining up  
15 inside the window of the third floor. So that  
16 floor, to make sure all the floors are on the  
17 same plane, we actually just made three duplex  
18 units -- yes, ADA-compliant and building code  
19 compliant. So inside the historic structure  
20 on the second and third floor, there's only three  
21 units which I think is another thing that we  
22 were trying to re-capture some of that.

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1           And I think here kind of outlines  
2           the setbacks and the FAR issue. You can kind  
3           of see stepping the building down along N Street  
4           here. It amounts to 716 square feet. This is  
5           1500 square foot with the setbacks there along  
6           the fifth floor. And then the fourth floor is  
7           roughly 1,000 square feet.

8           The setbacks and working with the historic  
9           structure amounts to about 2800 square feet in  
10          setbacks alone.

11          And then I think the second thing  
12          to kind of talk about is we've got an inefficient  
13          design because we're pushing corridors, we're  
14          having to create bridges that are over top of  
15          each other which count toward FAR. So I think  
16          that this slide kind of does a good job  
17          explaining the lost FAR. The total FAR with  
18          the bridges and the setbacks is 9,800 square  
19          feet.

20          And I'll quickly go through the  
21          elevations. But you can kind of see here the  
22          bookend idea where this building steps down as

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1 it tries to relate along 9<sup>th</sup> Street -- the  
2 feature, the historic building and then the  
3 density along N Street and 9<sup>th</sup>. Here's an  
4 enlarged elevation. You can see the setbacks  
5 here, here and here.

6 And this is the N Street elevation.

7 And what happens here is you can see this  
8 building steps down and tries to be much more  
9 in scale as the residential block starts there.

10 So we're about ten to 11 feet taller than the  
11 adjacent property there at the residential block  
12 start.

13 And we had to design this as  
14 basically a three-story walk-up. So this is  
15 not actually within the same circulation pattern  
16 of the existing design.

17 Here's kind of some blow-up sections  
18 that kind of just explain the setbacks.  
19 Twenty-three setback total on top of the  
20 historic building. And this also explains kind  
21 of our dilemma there with the duplex unit where  
22 this floor would line up hitting the window.

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1 I think this section kind of does  
2 a good job kind of explaining the overall  
3 concept. The shaded blue here -- this is the  
4 part of the building that we're saving. There  
5 is an addition to the historic building that  
6 is nonconforming that will be removed.

7 MR. RIEGLER: I do just want to  
8 point out as far as the parking variance, as  
9 you can see on kind of the bottom right corner  
10 of that, that site plan -- you show the existing  
11 structure. So while we're attempting to  
12 maximum parking, we would have built all the  
13 way under that and under that unexcavated area  
14 on the far bottom right. But because of the  
15 historic building that we're preserving, we  
16 can't park under that obviously. So we're  
17 shoring up going around all the edges, and  
18 there's a huge cost with that and everything.

19 But I just wanted to clearly show  
20 that the main reason for not having a full  
21 floorplate, single-level garage which would  
22 have easily been conforming was pertaining to

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1 that design and structural issue.

2 CHAIRPERSON JORDAN: Before you  
3 move off of that, about costs, I see nothing  
4 in the record indicating about the costs.  
5 What's the costs of what that excavation would  
6 have been, the additional costs?

7 MR. RIEGLER: I believe -- I don't  
8 have an exact estimate -- the structural  
9 engineers and construction team basically said  
10 it's almost unfeasible to be able to essentially  
11 support a three-story building and spatially  
12 scrape excavators, et cetera, underneath the  
13 building -- scrape all that out and create a  
14 new structure that not only supports the old  
15 existing building and have temporary shoring  
16 involved but also create enough structure to  
17 support a five-story building. So to be honest,  
18 we never put a number to it because it was just  
19 one of those premiums that wouldn't have been  
20 even remotely feasible.

21 MR. GOINS: This would be the ground  
22 floor showing the retail -- the existing

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1 structure of the T that we are preserving.  
2 Separated by the courtyard, this is the rowhouse  
3 that's part of the project. This would be the  
4 second floor separated by the courtyard. And  
5 you can see the bridges and corridors here and  
6 here. Yes, and the FAR. I mean, we had to count  
7 all of the bridges that are covered as FAR.  
8 So it was a lot of square footage lost.

9 VICE-CHAIRPERSON SORG: Can I jump  
10 in for one second just while you're on this  
11 topic?

12 You said before -- and I didn't make  
13 a note -- what is the square foot related to  
14 the setbacks that you're talking about -- and  
15 I'll have further questions about that -- and  
16 the bridges?

17 MR. GOINS: Yes. The total is --  
18 let me go back to that slide. It's 2700 square  
19 feet that we're setting back --

20 VICE-CHAIRPERSON SORG: On these  
21 setbacks?

22 MR. GOINS: Yes. Along the

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1 historic structure.

2 VICE-CHAIRPERSON SORG: And then?

3 MR. GOINS: And then it's 7,000  
4 square feet with the bridges and --

5 VICE-CHAIRPERSON SORG: For the  
6 circulation areas and so on. Okay. Okay.

7 MR. GOINS: And I think what I was  
8 showing in the early diagram was like if we did  
9 -- if we weren't trying to use this -- preserve  
10 the historic building, which we want to do and  
11 is part of the design features of this project,  
12 I think you would have a typical normal  
13 residential bar that would be an L-shape. And  
14 it would be a very efficient design. And you  
15 wouldn't have bridges crossing over a courtyard.

16 And I think that's kind of one of the  
17 constraints that ended up as through the design  
18 process preserving the building with setbacks.

19 We had to push the density somewhere, and what  
20 we've in essence done is we've separated the  
21 courtyard.

22 And the fifth floor here, you can

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1 kind of see the setbacks here -- this rectangular  
2 shape here. The setback's here. And then the  
3 elaborate corridors. What we're still ending  
4 up with some corridors in the units that aren't  
5 ideal through this design process. I think  
6 we're having these 15-foot entry corridors to  
7 some of the units. Not great space, but there  
8 was really -- I mean, that's kind of where we  
9 are. And that's the end result through some  
10 of the decisions that kind of through the design  
11 process have made and through the historic  
12 preservation process as well.

13 MR. KADLECEK: Jeff, can you  
14 explain whether you could build a partial fifth  
15 floor that would be able to conform with FAR  
16 limits?

17 MR. GOINS: I think through this  
18 design process, what we've kind of done, if we  
19 did build a partial fifth floor along the N  
20 Street side, for example, you're still going  
21 to have to bring -- the way that the two stairs  
22 are working, the building code and egress

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1 conditions -- you're still going to have to bring  
2 the bridge up, you're still going to have the  
3 stair up. Even if you built a partial fifth  
4 floor, those items would still have to come up  
5 to accommodate the building code.

6 MR. KADLECEK: So if you were to  
7 build a partial fifth floor that conformed with  
8 FAR, how much of that partial fifth floor would  
9 ultimately end up being dedicated to corridors,  
10 bridges, et cetera? Just a rough idea.

11 MR. GOINS: It would probably be  
12 around 30 percent or more. It would be north  
13 of 30 percent.

14 MR. RIEGLER: I'll get into that in  
15 a second, Mr. Jordan, when you asked about the  
16 financial viability supplements that we gave  
17 you. We have some more detailed information  
18 relating to exactly how that analysis worked  
19 out.

20 We'll jump to it.

21 So as you can appreciate, for a  
22 project of this scale, there's a 25-page

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1 pro-forma and analysis that goes along, so  
2 trying to simplify it enough to put it on one  
3 slide.

4 So basically, you're going to see  
5 the first one is analyzing the viability of a  
6 partial fifth floor. And this is from a  
7 financial perspective taking into account the  
8 design that would be necessary. So I tried to  
9 highlight a few of the key metrics that I would  
10 look for as far as whether it's "viable."

11 The first one you can see, we have  
12 a core factor of 14 percent. We have 14 units  
13 on that top floor. The ratio of costs to value  
14 is positive. So we have a market rate return  
15 -- as you can see, the \$642,000. And again you  
16 can probably imagine it's difficult to  
17 specifically quantify the value of a floor  
18 because you have this larger project with  
19 amenities and the like. But square foot for  
20 square foot, dollar for dollar, it's a positive  
21 outcome that's by no means egregious.

22 If you build a partial fifth floor,

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1 to Jeff's point, just to get to our 3.0 bonus  
2 density with the MIZ and all that, you'd jump  
3 up the core factor to 40 percent. Maybe there's  
4 a design that gets us down to 30, but the bottom  
5 line is it's more than double of what a normal  
6 13, 14, 15 percent core factor would be in a  
7 project of this size. And then as you can see,  
8 it's a net loss.

9 And so, in that scenario, you would  
10 just simply not build the partial fifth floor.

11 And with land prices, the other premiums  
12 associated with the historic building, the  
13 environmental, et cetera, we're obviously as  
14 developers banking on at least being able to  
15 achieve the FAR that would be by right. So in  
16 this particular case, with all the other  
17 complications of design, we just simply wouldn't  
18 do that.

19 So the last slot there at the bottom  
20 simply shows that it's a \$690,000 swing to not  
21 build it. And more importantly, you just simply  
22 wouldn't build that fifth floor because it

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1 doesn't make financial sense.

2 The next one.

3 And so then -- and this is obviously  
4 working with the Office of Planning on kind of  
5 coming up with a framing of the situation here  
6 -- we have on the left the four story. So okay,  
7 we already vetted the fact that it's not worth  
8 anyone to build that partial fifth.

9 So what if we just went down to floor  
10 which "maximized," we'd end up with about a 2.8  
11 FAR. And just walking through the basic numbers  
12 on how that pro-forma would work, you have \$18  
13 million of costs. You have a market value with  
14 no MIZ deductive value because we all know that  
15 has a cost of \$21 million which is at 16.82  
16 percent, that's a marginal project in today's  
17 financing and lending environment. Then you  
18 take the value out, and you have a net profit  
19 of \$1.5 million or more importantly an 8.5  
20 percent margin.

21 So again, in today's lending environment and  
22 investor environment, that's not enough of a

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1 cushion to take on the market fluctuations and  
2 all the other risks associated with a project  
3 of this scale.

4 The right side is simply our  
5 pro-forma today, again in round numbers of where  
6 we are. We have a \$21.5 million project. If  
7 it was all market rate, we'd have a margin of  
8 28 percent or the \$27 million as a value. But  
9 that's not market rate because it doesn't take  
10 into account MIZ. You'll see the deductive  
11 value for the right column is different from  
12 the left because with the five-story building,  
13 we have additional units therefore have an  
14 additional MIZ unit. So that valuation is  
15 slightly higher. And then we have a 20 percent  
16 margin.

17 Again, in a 25-page financial  
18 analysis, there's 15 different scenarios and  
19 15 different metrics that people are looking  
20 for as far as what a healthy deal consists of.

21 But in the simplest form, today's lenders and  
22 investors, et cetera, are looking for right

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1 around the 20. And that's simply talking about  
2 the net value upon completion of the project  
3 to the overall costs to deliver the project.  
4 And that 20 percent provides everyone enough  
5 comfort that if another 2007, 2008, 2009  
6 happens, then there's enough downward  
7 protection on the project to make it viable.  
8 If we can't hit those numbers and that kind of  
9 healthy margin with all the stress testing and  
10 risks of environmental and other things that  
11 go into a project like this, then the deal's  
12 simply not viable.

13 MR. KADLECEK: Can you give us a  
14 little bit of background on your experience with  
15 real estate finance?

16 MR. RIEGLER: Sure. I've been in  
17 the D.C. market for about 12 years. Before  
18 starting our company about two and a half years  
19 ago, I was with a couple other local developers.  
20 Probably done \$600,000, \$700,000 million of  
21 real estate financing and development in town  
22 all in Washington, D.C. Obviously lived

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1 through the last down turn and all the  
2 complications that go into getting a deal done  
3 which is no deals got done. And obviously the  
4 last year or two has been strong and the market's  
5 coming back, and multi-family in particular is  
6 coming back. But given all the -- I know that's  
7 not all background but just to give a background  
8 because I can talk about this for hours -- all  
9 the other macro-economic pressures that get put  
10 on real estate development with issues in Europe  
11 and all the other things that affect these  
12 things, there's a lot that goes into making this  
13 work. And I guess the point being, I've seen  
14 it all, at least in a relatively short career.

15 And that's my --

16 MR. KADLECEK: In your experience,  
17 is there any lender or bank that would be  
18 interested in a project that has only an 8.5  
19 percent return?

20 MR. RIEGLER: No.

21 MR. KADLECEK: And then, is it your  
22 opinion that every bit of bonus density that

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1 you would get in being able to accommodate  
2 inclusionary zoning is really critical for  
3 making this project viable?

4 MR. RIEGLER: Yes.

5 MR. KADLECEK: That concludes our  
6 presentation. We're open for questions.

7 CHAIRPERSON JORDAN: Does anyone on  
8 the Board have any questions for the Applicant?

9 Yes, Ms. Sorg?

10 VICE-CHAIRPERSON SORG: Thank you,  
11 Mr. Chairman.

12 I have a few unrelated questions in  
13 different areas.

14 You guys are right across the street  
15 from the Convention Center. How tall is the  
16 Convention Center?

17 MR. RIEGLER: It's on one of the  
18 slides. Let's find it.

19 Over our height.

20 VICE-CHAIRPERSON SORG: I know.

21 MR. RIEGLER: Go back to that one.

22 It gives you at least a perspective.

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1 VICE-CHAIRPERSON SORG: Is it 90  
2 feet?

3 MR. RIEGLER: I think it's 90 feet  
4 at its highest point. But you have the dome  
5 setback area and then you've got the retail area.  
6 So I don't want to be cavalier with what's right  
7 across the street.

8 VICE-CHAIRPERSON SORG: Roughly I  
9 know but I didn't know if you guys had a specific  
10 number. All right. Well, that's fine.

11 Can you tell me in your proposal with  
12 the 3.4 FAR, what's the breakdown in terms of  
13 FAR of commercial and residential?

14 MR. RIEGLER: The retail is  
15 approximately 7,000 square feet.

16 VICE-CHAIRPERSON SORG: Okay. So  
17 that's like --

18 MR. RIEGLER: So in the total up  
19 there, I was --

20 MR. GOINS: It's 7,049 as the total  
21 retail.

22 MR. RIEGLER: Retail? So

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1 whatever's left obviously is -- there's a couple  
2 of shared service corridors and things like that  
3 for trash. But other than that, the rest is  
4 residential.

5 VICE-CHAIRPERSON SORG: Okay.  
6 What's the total square feet? And I just had  
7 my hands on it.

8 MR. RIEGLER: Fifty-seven.

9 VICE-CHAIRPERSON SORG: Okay.

10 MR. RIEGLER: So 50,000 of  
11 residential.

12 VICE-CHAIRPERSON SORG: And then,  
13 can you describe or characterize how the hard  
14 costs related to the project are or are not  
15 impacted by some of the unique factors like the  
16 remediation and the historic building over a  
17 --

18 MR. RIEGLER: A normal.

19 VICE-CHAIRPERSON SORG: A normal  
20 --

21 MR. RIEGLER: Sure. The estimates  
22 that we've received -- obviously at this point

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1 it's a range on the environmental. We've done  
2 all of our phase two testing. And like I said,  
3 90 percent of the soil samples that were pulled  
4 up were heavily petroleum. Like I said, there's  
5 four tanks that did leak -- were not closed  
6 properly.

7 The estimate we have for all that  
8 I believe was \$400,000 on the low end and  
9 \$650,000 on the high end, the range being not  
10 knowing how far it leaked. We don't believe  
11 it affected groundwater which is good because  
12 the project would have probably not happened  
13 if that was the case. And then like I said,  
14 the corner site is where the gas station was.

15 But ultimately, we have to do a vapor barrier  
16 under the entire site in order to protect any  
17 future leakage. So it's not like we can go into  
18 that one discreet area, clean out the soil and  
19 call it a day. We have to protect down the road  
20 which are DDoE requirements and obviously from  
21 an ownership perspective a liability.

22 The cost premiums with the historic

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1 building, to be honest I don't have a firm number  
2 but I'll give you the scope of what's above and  
3 beyond. So the building itself is not in great  
4 condition. So we'll essentially re-build,  
5 re-point, et cetera, the entire footprint of  
6 that historic building. Like I pointed out,  
7 in the garage, we have I think it's something  
8 about 350 lineal feet of underpinning that we'll  
9 have to do to create the footprint of this kind  
10 of awkward parking garage design.

11 In order to do that, we also had to  
12 push our garage all the way over to the southern  
13 end of the site in order to underpin that because  
14 otherwise we couldn't create an efficient garage  
15 that's still not very efficient with added costs  
16 associated with it.

17 And then as you can imagine on this  
18 kind of bookended concept, there's integrating  
19 an old building with what -- 70 percent new  
20 building from an ADA standpoint getting all the  
21 floor systems to line up to take an old  
22 wood-frame building and make it a steel and

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1 concrete building. I don't know if there's  
2 premium to it, but certainly complication and  
3 not clean design. So there's a pretty healthy  
4 construction contingency, I'll say, as far as  
5 the risk that we'll undercover undoubtedly once  
6 we get into building it.

7 CHAIRPERSON JORDAN: Ms.  
8 MacMurray?

9 MEMBER MacMURRAY: Just following  
10 up on that point about the design, from a  
11 construction standpoint, did you get an order  
12 that had to just use the facade of the facility  
13 or you had a choice about how much of the existing  
14 structure you could use?

15 MR. RIEGLER: No. Well, as Jeff  
16 pointed out on the one slide, there's two  
17 components. There's the original early 1900s  
18 T-shaped apartment building which we had to keep  
19 all of. We all know that when you get into  
20 entering it, you don't end up keeping all of  
21 it. But I'd say 70, 75 percent of the goal and  
22 directive from HPRB was to keep as much as

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1 humanly possible. So we've incorporated that  
2 in our unit layouts and elevator shafts and all  
3 that kind of stuff. But then that rear masonry  
4 you see in the new building gets torn down in  
5 entirety. It was built in the '50s or '60s or  
6 some time.

7 CHAIRPERSON JORDAN: Any other  
8 questions of the Applicant?

9 ZC CHAIRMAN HOOD: Yes.

10 CHAIRPERSON JORDAN: Mr. Hood?

11 ZC CHAIRMAN HOOD: I had a question,  
12 Mr. Chairman.

13 Mr. Kadlecek, did you all look at  
14 the DDOT letter?

15 MR. KADLECEK: I was waiting for  
16 that question.

17 ZC CHAIRMAN HOOD: Okay. So I  
18 don't have to say anything more. You've already  
19 responded. Okay.

20 MR. KADLECEK: As you probably can  
21 see, they filed it after the deadline.

22 That being said, we had a brief

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1 chance to look at it this morning. It seems  
2 that there's some miscommunications with DDOT  
3 in the letter. I believe that they claim in  
4 their report that we did not meet with them which  
5 is not true. We actually have meeting minutes  
6 that we can submit to the record if necessary  
7 that we did in fact have a PDRM with them, have  
8 talked about a lot of the issues that they  
9 addressed in their report. And we're willing  
10 to work with them on all the issues that deal  
11 with public space, pedestrian safety and all  
12 of that.

13 It appears from the brief time that  
14 we reviewed the DDOT report that most of it  
15 didn't go to the relief that we're requesting  
16 on the parking space. Most of it seemed to go  
17 to public space issues. And like I said, we're  
18 willing to work with them on resolving those  
19 public space concerns.

20 ZC CHAIRMAN HOOD: Okay. Even with  
21 that being said, we still have to -- well, I  
22 don't want to get into design. I'm just

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1 concerned about they said in the meeting it says,  
2 "TDM will inform the residents and retailers."

3 Did you read that part -- page --

4 MR. KADLECEK: Sorry. I don't have  
5 it front of me.

6 ZC CHAIRMAN HOOD: Okay. Well, it  
7 talks about some of the same things that they're  
8 encouraging you to do -- TDM measures. Are you  
9 all willing to do some of those?

10 MR. RIEGLER: Absolutely.

11 MR. KADLECEK: Yes. I mean, I had  
12 a conversation with Jeff Jennings who I believe  
13 wrote the report. And we talked about some of  
14 those. But to be candid, we are asking for  
15 relief for one parking space. And I think that  
16 the idea of TDM measures for one parking space  
17 in a transit-rich neighborhood might be a little  
18 bit of an aggressive request by DDOT.

19 Now that being said, we're certainly  
20 willing to work with them to --

21 MR. RIEGLER: Metro cards, you know  
22 the usual solution. We're literally across the

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1 street from the Metro and a stone's throw from  
2 downtown. So parking seemed to be the least  
3 of the concerns of most.

4 ZC CHAIRMAN HOOD: Okay.

5 MR. KADLECEK: We certainly didn't  
6 -- and correct me if I'm wrong, Kevin -- we  
7 certainly didn't hear any concerns about parking  
8 from the neighborhood.

9 MR. RIEGLER: Yes. The prior  
10 concerns of the PDRM mainly related to things  
11 like the PEPCO vault location, where the ramp  
12 starts and stops -- we had it originally starting  
13 slightly in public space -- stormwater  
14 management vaults, et cetera.

15 So in fact, I believe we have meeting  
16 minutes. I don't know if they're in the ones  
17 that Cary has. At least email confirmation from  
18 the team we met with that they're actually in  
19 agreement with all of the solutions to our  
20 project and where we're going to put our PEPCO  
21 vault and where we're going to -- certain areas  
22 of streetscape and their blessing on the café

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1 seating on the corner and those kinds of things.

2 ZC CHAIRMAN HOOD: Mr. Chairman --  
3 thank you.

4 Mr. Chairman, I would just be of  
5 concern of why would we receive a letter of this  
6 magnitude. So I'm not sure which way the  
7 Board's going to move. I would just like to  
8 get a clarification from Mr. Zimbabwe who it  
9 says this letter's from and find out why this  
10 almost looks like a PUD to me to some extent.

11 So I just wanted to know why.

12 Maybe Mr. Cochran can maybe help us  
13 why we have such a hard core letter. I don't  
14 want to say it's a standard form letter because  
15 I've seen some similar to this. But I'm just  
16 curious.

17 Okay. Thank you, Mr. Chairman.

18 CHAIRPERSON JORDAN: Ms. Sorg?

19 VICE-CHAIRPERSON SORG: Yes. I  
20 just want to weigh in a little bit on this.  
21 And I agree with Mr. Hood and his questioning.

22 This felt when I read it like a overreach, to

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1 say the least, from DDOT. I mean, obviously  
2 we respect our transportation as to our working  
3 and our agencies. But when it comes to this  
4 letter, I tend to agree with them. They're not  
5 asking for relief on voting. The two pieces  
6 of this letter that could potentially have to  
7 do with this project have to do with the  
8 recommendations regarding loading management  
9 and TDM. They have to go to public space. They  
10 have to go to HPRB. So that's not really our  
11 purview in that type of way, except as relates  
12 to the roof that's being requested and for one  
13 parking. I mean, we've seen people recently  
14 request 40 parking spaces. And I feel one  
15 parking space, it doesn't seem like something  
16 that we need to be dealing with.

17 CHAIRPERSON JORDAN: And I'll just  
18 add to that. At the end of the day though,  
19 throughout this document -- although they put  
20 all this other verbiage -- that they recommend  
21 and support the application. So let's move off  
22 of that point.

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1                   And anyone else have anything for  
2 the Applicant?

3                   (No response.)

4                   CHAIRPERSON JORDAN: Let's now turn  
5 to the Office of Planning.

6                   MR. COCHRAN: Thank you, Mr. Chair.

7                   It's taken until the testimony this  
8 morning, but at this point OP is comfortable  
9 finding that we recommend that you approve all  
10 of the requested relief, that the Applicant has  
11 demonstrated if you include all of the  
12 information today that they've met the  
13 three-part test.

14                   CHAIRPERSON JORDAN: And that was  
15 a good save because you must have seen the note  
16 I wrote where I questioned OP had not heard all  
17 this. Do you have enough information? That  
18 was a good save.

19                   MR. COCHRAN: I have an unusual  
20 field of vision.

21                   (Laughter.)

22                   MR. COCHRAN: It's been a

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1 complicated enough case that I'd like to not  
2 stand on the record if you would allow it.

3 CHAIRPERSON JORDAN: Sure.

4 MR. COCHRAN: Okay. Looking at the  
5 big picture, the kind of relief that the  
6 Applicant is asking for would result in a project  
7 that wouldn't be inconsistent with the  
8 comprehensive plan. The area as indicated on  
9 the plan as being for mixed use, medium  
10 high-density project which this would certainly  
11 fall within those boundaries. And there's no  
12 harm to the public.

13 The Blagden Alley Civic Association  
14 and various other ANCs around there have not  
15 been shy in the past about expressing when they  
16 feel that a project would be detrimental to the  
17 neighborhood. They've actually come out in  
18 support of this. So we're looking at it within  
19 that larger context.

20 Parking, it's okay with DDOT.  
21 There's no access problem. So we're certainly  
22 comfortable on recommending the parking.

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1           When it comes to the exceptional  
2 conditions, we agree that the historic  
3 considerations on this, the location of the  
4 building on the property, it's the centrality  
5 of it that makes you basically work around the  
6 building. The floor heights, they're higher  
7 for the first floor. And especially this  
8 morning, the Brownfields information that we  
9 had not heard anything about before today. They  
10 all add up to a number of exception conditions.

11           There are a couple of assumptions  
12 that the Applicant had made in some of its  
13 earlier writings that we would like to address  
14 briefly just to make sure that those assumptions  
15 -- nobody thinks that OP thinks that they're  
16 valid. An applicant isn't entitled to get the  
17 matter-of-right maximum on a floor area ratio  
18 or height. That's a maximum. It's not  
19 something that anybody should work with the  
20 assumption that they can get. And IZ is never  
21 a condition that leads to a practical  
22 difficulty. It may make it more difficult, but

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1 it's a zoning regulation, and it's very  
2 difficult to call a zoning regulation an  
3 exceptional condition.

4 But when it comes to practical  
5 difficulty with if you don't grant relief, it  
6 would be a bit. It would otherwise be entitled  
7 to four stories which would give you about a  
8 2.83 FAR. Now we're looking at a situation  
9 given the historic conditions, the designs that  
10 those require and the environmental  
11 difficulties where the Applicant needs at least  
12 their 3.0 to begin to make a project work. If  
13 you're going to go to 3.0, that means that you  
14 have to go more than four stories because of  
15 the space that's devoted to unproductive uses  
16 in this despite the Applicant's actually clever  
17 design on internal circulation. So that means  
18 you're going up to the fifth floor.

19 We think that the Applicant has done  
20 a good job of demonstrating that once you do  
21 go to that fifth floor to get a decent rate of  
22 return on this, then a partial fifth floor

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1 doesn't make any sense because if you're going  
2 with a partial fifth floor that would get you  
3 to the 3.0 FAR, then basically you've got a lost  
4 leader. You're putting more into that fifth  
5 floor than you're getting back which gets you  
6 back to the same point where you were before  
7 you added the fifth floor which means as the  
8 Applicant has demonstrated, you do then need  
9 that larger fifth floor -- as large as  
10 essentially historic preservation would permit.

11           There's also something else the  
12 Applicant did mention today. HPRB liked the  
13 Applicant's going to four floors rather than  
14 three floors on that portion of the building  
15 that's to the south on 9<sup>th</sup> Street. And they like  
16 that because it further blocked the view of the  
17 upper-story setbacks which meant more FAR than  
18 they otherwise might have done.

19           So when you consider all of that,  
20 it seems like the Applicant has demonstrated  
21 that the meet all of the three tests.

22           I would note that 15 percent was the

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1 typical rate on investment that we used to look  
2 at before the recession. At 20 percent, I'm  
3 not as familiar with rates of return on  
4 investment after the recession. But I think  
5 the Applicant has done a good job today at  
6 demonstrating that they're significantly higher  
7 than they were before investors became much more  
8 skittish about investing, even in downtown  
9 Washington.

10 And that concludes OP's testimony.

11 CHAIRPERSON JORDAN: Thank you.  
12 Any questions from the Board to the Office of  
13 Planning, please?

14 VICE-CHAIRPERSON SORG: I just want  
15 to make a comment that I think that was  
16 particularly well said.

17 CHAIRPERSON JORDAN: Yes. And  
18 ditto from me.

19 Any other questions for the Office  
20 of Planning from Board Members?

21 (No response.)

22 CHAIRPERSON JORDAN: Does the

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1 Applicant have questions for the Office of  
2 Planning especially in light of how they just  
3 pulled you through that?

4 (Laughter.)

5 MR. KADLECEK: And we appreciate  
6 it. No questions.

7 CHAIRPERSON JORDAN: Okay.

8 We have kind of went through DOT's  
9 report. I don't know if anyone is here from  
10 DOT. But the DOT has submitted a letter of June  
11 19th in support of this application if you look  
12 outside the verbiage. But they said it in two  
13 points, both in the beginning and the end that  
14 they were supporting this project.

15 Is there anyone here from the ANC?

16 (No response.)

17 CHAIRPERSON JORDAN: We do have a  
18 letter in support from the ANC supporting this  
19 application. And they had a vote of nine to  
20 nothing with a quorum. So we'll certainly  
21 deference to that and to the vote of the ANC  
22 in support of this application.

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1           Are there any parties here in  
2 support of the application -- any persons?

3 Excuse me. Any persons?

4           (No response.)

5           CHAIRPERSON JORDAN: Any persons  
6 here in opposition to the application?

7           (No response.)

8           CHAIRPERSON JORDAN: Let me go back  
9 a second.

10           We do have a support letter from the  
11 Blagden Alley Naylor Court Association in  
12 support of this application.

13           Anyone in opposition?

14           (No response.)

15           CHAIRPERSON JORDAN: We'll turn  
16 back to the Applicant to wrap up.

17           Oh, wait a minute. Yes?

18           Come to the microphone and identify  
19 yourself, please?

20           Thank you, Mr. Hood.

21           Yes. Please identify yourself.

22           MR. HART: Pastor Hart from Salem

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1 Baptist Church right across the street from  
2 where the construction site's going to be.

3 CHAIRPERSON JORDAN: Pastor, if I  
4 may, were you here to swear in earlier this  
5 morning?

6 MR. HART: Yes. And -- and I had  
7 just come in and I wasn't sure --

8 CHAIRPERSON JORDAN: But you did  
9 raise and your hand. And did you prepare a  
10 witness card?

11 MR. HART: No, sir, I didn't.

12 CHAIRPERSON JORDAN: We need you to  
13 do that -- fill out two of those cards.

14 Let's let you proceed. And then  
15 give those cards to the court reporter, please.

16 MR. HART: Okay. Yes, sir.

17 But my concern, as -- as I might find  
18 -- they might be small in nature and futuristic  
19 --

20 CHAIRPERSON JORDAN: Are you  
21 talking in support or in opposition?

22 MR. HART: In support.

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1 CHAIRPERSON JORDAN: Okay.

2 MR. HART: In support. And just  
3 concern.

4 During the time of say like  
5 re-stocking your retail place and things of that  
6 nature there, N Street in itself is a very small  
7 street. And when they bring in the trucks and  
8 things of that nature there -- delivery trucks  
9 -- and will they be coming in through 9<sup>th</sup> Street  
10 or they'll be coming in through N Street?  
11 Because a lot of times, it's -- it's a log jam  
12 right there at 9<sup>th</sup> and N when it comes through  
13 there with different things. People just  
14 stopping and just talking. It's a log jam right  
15 in there.

16 The other thing of it is, it's sort  
17 of like I would say basically there is a -- a  
18 business that is there now that they're --  
19 they're handling let's say like support of the  
20 community beautification. It's a nursery.  
21 And in that, I -- I'm -- I'm questioning the  
22 fact of when you're going to talk the

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1 construction starting. And if so, if it would  
2 please you all if it would start after December,  
3 and let me tell you why. Because this nursery  
4 supports us as far as Christmas trees and things  
5 of this nature here. And that it -- it really  
6 helps the community. Nobody would have to go  
7 and so forth and so on.

8 So like I said, it might be small  
9 to some folks, but it's a concern to the  
10 community. And I like to buy things from the  
11 nursery for beautifications and things like  
12 that.

13 So that's my basic concern. But I'm  
14 in support of what you're trying to do there.

15 And I'll probably buy some coffee over there  
16 myself.

17 (Laughter.)

18 MR. HART: Alrighty? So that's my  
19 concern, Mr. Chairman.

20 CHAIRPERSON JORDAN: Pastor  
21 Harden?

22 MR. HART: Hart.

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1 CHAIRPERSON JORDAN: Hart.

2 MR. HART: H-A-R-T.

3 CHAIRPERSON JORDAN: Oh, Hart.

4 Hart. Okay.

5 Thank you.

6 I'm going to ask the Applicant to  
7 respond to the concern about the delivery.

8 MR. RIEGLER: Sure. We have not  
9 finalized our loading plan to be candid. But  
10 obviously DDOT will be heavily involved with  
11 that process.

12 And we've proposed it is going to  
13 be along N Street. But what we've talked to  
14 them about is creating a loading zone with  
15 certain hours that will be right by our service  
16 entry. As you can imagine, 9<sup>th</sup> Street being a  
17 major artery, going downtown for normal delivery  
18 hours, they seemed unlikely to want to close  
19 down any portion of 9<sup>th</sup> Street. But  
20 we're openminded. The retail frontage is along  
21 9<sup>th</sup>. Like most of these corridors, it's usually  
22 front loaded through the front of the building.

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1 But we have designed a service corridor on the  
2 N Street side because that was the only place  
3 for it.

4 CHAIRPERSON JORDAN: Thank you.  
5 Any questions for Pastor Hart from the Board?

6 ZC CHAIRMAN HOOD: Pastor, I'm just  
7 curious. You said Salem Baptist, right?

8 MR. HART: Yes, sir.

9 ZC CHAIRMAN HOOD: Two questions.  
10 Do you attend ANC meetings in the community?

11 MR. HART: Yes. We have a  
12 representative there.

13 ZC CHAIRMAN HOOD: Okay. Because  
14 that would have probably been a good venue to  
15 express your concern.

16 How was your officers' day? Did you  
17 have officers' day on Sunday.

18 MR. HART: Yes.

19 ZC CHAIRMAN HOOD: Okay. You never  
20 know who's sitting there. Okay. Thank you.

21 (Laughter.)

22 CHAIRPERSON JORDAN: Ms. Sorg?

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1                   VICE-CHAIRPERSON SORG: I'm just  
2 actually asking a question of the Applicant  
3 related to this. Do you have an idea what type  
4 of retail you anticipate?

5                   MR. RIEGLER: We think that the  
6 art-related food and beverage kind of synergy  
7 is what we'd like to find. We really want to  
8 leverage the existing infrastructure -- if you  
9 want to call it there -- with Longview Gallery  
10 -- and there's probably ten galleries within  
11 three blocks. We love that. It's a great sense  
12 of place.

13                   But then also we think that Main and  
14 Main, 9<sup>th</sup> and N corner is just ripe for a  
15 restaurant of some sort. And we believe that  
16 neighborhood is really in need -- there's a  
17 couple that have come online -- but in dire need  
18 of really, staple, bus boy and poetish kind of  
19 neighborhood launching restaurant. But it  
20 remains to be seen.

21                   VICE-CHAIRPERSON SORG: You may be  
22 part of the contingent who wants to widen the

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1 sidewalks on 9<sup>th</sup> Street and --

2 MR. RIEGLER: No comment.

3 CHAIRPERSON JORDAN: Okay. Moving  
4 right along. Thank you, Pastor Hart.

5 Anyone else? Any questions from  
6 the Board to Pastor Hart?

7 (No response.)

8 CHAIRPERSON JORDAN: And the Pastor  
9 had mentioned he's in support of the  
10 application.

11 Anyone in opposition?

12 (No response.)

13 CHAIRPERSON JORDAN: No one in  
14 opposition.

15 Let's now turn to the Applicant for  
16 a wrap-up, please.

17 MR. KADLECEK: Sure. I'm just  
18 going to make a couple brief concluding remarks.

19 I think through the testimony of  
20 both our team and with the help of the Office  
21 of Planning, it's become quite evident that  
22 because of the extensive preservation of the

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1 historic building as really resulted in an  
2 inefficient design with the bridges and the  
3 corridors that just don't make this project  
4 feasible without the relief we're requesting.

5 As we've discussed, a four-story  
6 building is possible and would be conforming.

7 But we would be under the FAR that we're allowed  
8 as a matter of right. And we disagree somewhat  
9 philosophically with the Office of Planning on  
10 that matter, but why it's important about that  
11 here in this project is that it really is  
12 important as Kevin demonstrated to achieve as  
13 much of the FARs that we can. And it just  
14 wouldn't be feasible to build a five-story  
15 project or a partial fifth story as we've  
16 discussed.

17 So given that, given the  
18 overwhelming support of the community, we  
19 believe that the case is ripe for a decision,  
20 and we request that the Board vote to approve  
21 it.

22 Thank you very much.

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1 And a bench decision, please.

2 CHAIRPERSON JORDAN: Anything  
3 else? Ice cream cake?

4 (Laughter.)

5 CHAIRPERSON JORDAN: Any further  
6 questions of the Applicant?

7 ZC CHAIRMAN HOOD: So we are trying  
8 to work with -- make some kind of way to  
9 accommodate the Pastor from Salem Baptist  
10 Church? Is that what's taking place then?

11 But taking his number, I see a lot  
12 of members taking the offers made. But we are  
13 trying to do something?

14 MR. RIEGLER: Absolutely.

15 ZC CHAIRMAN HOOD: Okay. Good.  
16 Thank you.

17 MR. KADLECEK: I will say Kevin's  
18 pretty good on his word. And in fact --

19 CHAIRPERSON JORDAN: Pretty good?

20 MR. KADLECEK: He's quite good. In  
21 fact, the ANC Commissioner wrote us an email  
22 and said that he's heard nothing but support

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1 for the project. So that was real encouraging  
2 for us to hear as well.

3 CHAIRPERSON JORDAN: Okay. Thank  
4 you.

5 Well, then I will close this hearing  
6 and ask the Board to deliberate in this matter.

7 Okay. The floor is now open for  
8 deliberation by the Board.

9 Anybody? Going once? Going  
10 twice?

11 MEMBER MacMURRAY: I'll start.

12 CHAIRPERSON JORDAN: Ms.  
13 MacMurray?

14 MEMBER MacMURRAY: Thank you, Mr.  
15 Chairman.

16 I'd like to say that coming in before  
17 the presentation, I did have a couple of concerns  
18 that you were able to address during your  
19 presentation and with supplement having the  
20 Office of Planning give a very eloquent  
21 description of the issues and the additional  
22 relief that initially they were not

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1 recommending.

2 So based on the information that  
3 I've heard today, I am in support of the Board  
4 approving this application.

5 CHAIRPERSON JORDAN: Anyone else?

6 VICE-CHAIRPERSON SORG: I would  
7 agree with Ms. MacMurray, especially with regard  
8 to incorporating the comments with regard to  
9 showing a practical difficulty in building a  
10 four-story building to incorporate the historic  
11 structure and subsequently the demonstration  
12 with regard to the feasibility or lack of  
13 economic feasibility of a partial fifth floor.

14 And therefore and understanding  
15 that a full fifth floor, with the setbacks of  
16 course that are discussed with HPRB, would be  
17 necessary for the viability of the project and  
18 taking into the consideration the practical  
19 difficulties that were demonstrated with regard  
20 to the site -- environmental concerns and so  
21 forth and historic preservation requirements.

22 Also with regard to the community,

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1 I do also see from the Applicant here -- and  
2 certainly we're not in an arts district here,  
3 but I think this is a burgeoning area and to  
4 have people who are coming to the community who  
5 are dedicated to this type of development that  
6 takes into consideration cultural aspects and  
7 things like that. And it's been rough for this  
8 part of 9<sup>th</sup> Street for a little while, and so  
9 I'm happy to see hopefully a good development  
10 there.

11 So I could make a motion if you like.

12 CHAIRPERSON JORDAN: Sure.

13 VICE-CHAIRPERSON SORG: I'll make  
14 a motion to approve Application No. 18365 with  
15 the relief as requested.

16 MEMBER HINKLE: I'll second that.

17 CHAIRPERSON JORDAN: And the motion  
18 being seconded, any additional unreadiness or  
19 any unreadiness?

20 (No response.)

21 CHAIRPERSON JORDAN: All those in  
22 favor of the motion signify by saying aye.

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1 (Chorus of ayes.)

2 CHAIRPERSON JORDAN: Those opposed  
3 nay.

4 (No response.)

5 CHAIRPERSON JORDAN: The motion  
6 carries.

7 Mr. Moy?

8 MR. MOY: Yes, sir. Staff would  
9 record the vote as five to zero to zero, this  
10 on the motion of Vice-Chairperson Ms. Sorg to  
11 approve the application with the relief  
12 requested as amended. Seconding the motion,  
13 Mr. Hinkle. Also in support of the motion, Mr.  
14 Hood, Chairman Jordan and Ms. MacMurray.

15 Again, the final vote is five to zero  
16 to zero.

17 CHAIRPERSON JORDAN: And I believe  
18 this is prime for a summary order, Mr. Moy, since  
19 there's no one in opposition and there's a  
20 decision in favor of the Applicant.

21 ZC CHAIRMAN HOOD: Mr. Chairman?  
22 I'm sorry. I just wanted to ask one quick

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1 question.

2 Those underground storage tanks,  
3 are they leaking? Did you say they were  
4 leaking?

5 MR. RIEGLER: We don't think  
6 there's anything left to leak out of them --

7 ZC CHAIRMAN HOOD: Okay.

8 MR. RIEGLER: -- at the moment.

9 ZC CHAIRMAN HOOD: So they've  
10 already leaked?

11 MR. RIEGLER: They've leaked.

12 ZC CHAIRMAN HOOD: Okay.

13 MR. RIEGLER: And so, it's just --

14 ZC CHAIRMAN HOOD: Okay. That's  
15 kind of what I meant. Were they left?

16 MR. RIEGLER: Yes. They are in the  
17 system.

18 ZC CHAIRMAN HOOD: Okay. Thanks.

19 CHAIRPERSON JORDAN: Thank you.  
20 We'll conclude this hearing.

21 MR. KADLECEK: Thank you very much.

22 MR. MOY: The next application for

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1 the Board is Application No. 18370.

2 This is the application of Omar  
3 Haques, pursuant to 11 DCMR 3104.1. This is  
4 for a special exception for a three-story rear  
5 addition to an existing one-family row dwelling  
6 under Section 223, not meeting lot occupancy  
7 requirements under Section 403, court  
8 requirements under Section 406 and  
9 nonconforming structure requirements under  
10 Section 2001.3. This is the R-4 District at  
11 premises 1537 5<sup>th</sup> Street, NW, property located  
12 in Square 510, Lot 820.

13 Other than that, Mr. Chairman, we  
14 do have an ANC-2C letter that was filed  
15 yesterday -- Monday, June the 26th.

16 CHAIRPERSON JORDAN: Please  
17 identify yourselves, please.

18 MR. HAQUES: I'm Omar Haques. I  
19 own the property.

20 MS. HAQUES: Megan Haques, spouse  
21 of the owner.

22 CHAIRPERSON JORDAN: You've got to

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1 make sure your microphone is on there. There's  
2 a button that you need to push and the light  
3 should turn green. Okay.

4 MR. HAQUES: Omar Haques, owner of  
5 the property.

6 MS. HAQUES: Megan Haques, spouse  
7 of the owner.

8 MR. WILSON: Paul Wilson. I'm  
9 architect for the owners.

10 CHAIRPERSON JORDAN: All right.  
11 Before we begin, we believe that there's some  
12 additional relief that needs to be added to your  
13 request that you're not conforming to lot area  
14 requirements of requirements of a minimum of  
15 1800 square feet. You're presently 1367 and  
16 what you propose is 1367. So we need you to  
17 amend your request for relief.

18 We can do it orally now and just  
19 follow up in writing, if that's acceptable to  
20 you.

21 MR. HAQUES: We're fine.

22 CHAIRPERSON JORDAN: It's a request

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1 for a special exception for an addition to a  
2 one-family dwelling under 223. I don't  
3 see any real issues here. Does the Board have  
4 any issues with this application? Any  
5 questions you want the Applicant to address?

6 (No response.)

7 CHAIRPERSON JORDAN: Seeing none,  
8 you can do a presentation if you want. The Board  
9 believes that the record is full. There's no  
10 questions in regards to the relief that you're  
11 asking. You have the right to make a statement  
12 or just to talk if you want to. However, we've  
13 had some history of people talking themselves  
14 into trouble. But certainly it's your option.

15 So I'm just going to ask you what do you want  
16 to do?

17 MR. HAQUES: We're fine.

18 CHAIRPERSON JORDAN: Oh, boy.  
19 Good man. That's what I would do.

20 Actually, you're right. We want  
21 you to have the opportunity to speak if you want  
22 to speak. And sometimes people just like to

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1 say stuff.

2 Okay. Let me turn to the Office of  
3 Planning to see if there's anything that the  
4 Office of Planning believes is necessary to be  
5 said at this hearing that they didn't say already  
6 in the record.

7 MR. GYOR: The Office of Planning  
8 supports the Applicant's request for relief and  
9 rests on the record.

10 CHAIRPERSON JORDAN: Since you're  
11 new, you've had two easy ones here and we just  
12 kind of let you go.

13 Anyone have questions for the Office  
14 of Planning?

15 (No response.)

16 CHAIRPERSON JORDAN: Applicant,  
17 questions of the Office of Planning?

18 MR. HAQUES: No.

19 CHAIRPERSON JORDAN: We have a DOT  
20 report in here? I don't think so.

21 Any other government agency? I  
22 don't think so.

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1                   Anyone here from ANC-2C?

2                   (No response.)

3                   CHAIRPERSON JORDAN: We do have a  
4 letter from ANC-2C in support which we'll give  
5 great weight to.

6                   We also have letters of support from  
7 Donna Brews and Scott Sampson, is it?

8                   MR. HAQUES: Simpson.

9                   CHAIRPERSON JORDAN: Simpson.

10                  And anyone here in opposition?

11                  (No response.)

12                  CHAIRPERSON JORDAN: We would  
13 normally turn it back to the Applicant but the  
14 Applicant said they'd rather keep their mouth  
15 shut.

16                  So then, I think in this matter we'll  
17 close this hearing. And we're ready for  
18 deliberation.

19                  Turning to the Board, anybody want  
20 to say anything?

21                  (No response.)

22                  CHAIRPERSON JORDAN: Then I would

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1 move that we grant the application for a special  
2 exception with the additional relief from  
3 Section 401, lot area.

4 Is there a second?

5 ZC CHAIRMAN HOOD: Seconded.

6 CHAIRPERSON JORDAN: Motion made  
7 and seconded that we approve the application  
8 with the additional relief as stated.

9 All those in favor signify by saying  
10 aye.

11 (Chorus of ayes.)

12 CHAIRPERSON JORDAN: Those opposed  
13 nay.

14 (No response.)

15 CHAIRPERSON JORDAN: The motion  
16 carries.

17 MR. MOY: Staff would record the  
18 vote as five to zero to zero. This is on the  
19 motion of Chairman Jordan to approve the  
20 application for the relief as amended.  
21 Seconding the motion, Mr. Hood. Also in support  
22 of the motion, Vice-Chairperson Sorg, Ms.

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1 MacMurray and Mr. Hinkle.

2 Again, the final vote is five to zero  
3 to zero. The motion carries.

4 CHAIRPERSON JORDAN: Thank you, Mr.  
5 Moy. We're applying for a summary order in this  
6 matter.

7 MR. MOY: Thank you.

8 CHAIRPERSON JORDAN: We just had a  
9 kill the mosquito.

10 MR. MOY: Right. I see it.

11 CHAIRPERSON JORDAN: Oh, you missed  
12 it? Watch it there. There's a deadly mosquito  
13 flying around the room.

14 All right. Thank you. Thank you  
15 for coming to the hearing.

16 MR. HAQUES: Thank you.

17 CHAIRPERSON JORDAN: Our next case,  
18 please?

19 MR. MOY: Yes, sir. The next  
20 application before the Board is Application No.  
21 18351.

22 This is the application of Elaias

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1 Boulew, I guess -- B-O-U-L-E-W -- pursuant to  
2 11 DCMR 3103.2 for a variance from the use  
3 provisions under Subsection 330.5 to permit the  
4 continued commercial use of the groundfloor as  
5 a fast-food establishment in the R-4 District  
6 at premises 715 Euclid Street, NW, property  
7 located at Square 2884, Lot 47.

8 CHAIRPERSON JORDAN: Okay. Would  
9 the persons at the table introduce themselves  
10 for us, please?

11 MR. KEYS: Good morning, Mr.  
12 Chairman. It's George Keys, Jordan & Keys,  
13 representing the Application, Elaias Boulew and  
14 Julius D. Bell who's the tenant in the property.

15 And Mr. Chairman, I would have to  
16 say that neither witness was available when you  
17 swore in.

18 CHAIRPERSON JORDAN: Very good.

19 MR. KEYS: So they'll need to take  
20 an oath.

21 CHAIRPERSON JORDAN: Would you  
22 identify yourselves so we know who? Yes. Make

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1 sure the green button --

2 MR. BELL: My name is Julius Bell.

3 CHAIRPERSON JORDAN: Bell?

4 MR. BELL: Yes. B-E-L-L.

5 CHAIRPERSON JORDAN: Very good.

6 Thank you.

7 MR. BOULEW: My name is Elaias

8 Boulew. I'm the owner of 715 Euclid Street,

9 NW.

10 CHAIRPERSON JORDAN: Okay.

11 Would the two of you please stand

12 and raise your right hand and be sworn in or

13 affirmed, please?

14 (Witnesses sworn.)

15 CHAIRPERSON JORDAN: Thank you.

16 We have before us a request for a

17 variance under 330.5 for allowing a commercial

18 restaurant use for fast-food establishment in

19 an R-4.

20 I think we kind of recognize and have

21 been through this whole process through the

22 record that for a long time this property has

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1 to some extent it's been a restaurant of some  
2 sort or fast food. And it may be back 20, 30  
3 years. However, the chain might have been  
4 broken in regards to the location of the  
5 documentation. I think that's kind of what  
6 happened. But we've kind of recognized that  
7 it's been used for this function for a long time.

8 And we also found records all the way back to  
9 what -- 2001?

10 MR. KEYS: I think we've got a chain  
11 of use as a food service going back to '49.

12 CHAIRPERSON JORDAN: Okay.

13 MR. KEYS: So it's over 60 years.

14 CHAIRPERSON JORDAN: I know it's  
15 been a while. I'm saying documentation kind  
16 of walked away somewhere. It's not unusual  
17 during the period of time -- transitions and  
18 governments and what have you and from paper  
19 to other stuff.

20 Let me check with the Board first  
21 before you begin, Mr. Keys.

22 Does the Board have any issues with

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1 this -- anything you need to dwell down into?

2 (No response.)

3 CHAIRPERSON JORDAN: Mr. Keys?

4 Office of Planning, any issues that  
5 you see that we need to discuss?

6 MS. THOMAS: Thank you. I'm Karen  
7 Thomas with the Office of Planning.

8 We fully support this request for  
9 variance relief. And we think there's  
10 substantial evidence to suggest that this type  
11 of use was established at this location for quite  
12 some time. And in the absence of records, I  
13 think it's just as a procedural request from  
14 the Zoning Administrator.

15 CHAIRPERSON JORDAN: Okay.

16 I think your report also recites  
17 some conditions. Have we discussed that with  
18 the Applicant?

19 MS. THOMAS: Yes. Just subject to  
20 the minor conditions. Just because it's a food  
21 establishment within a residential zone.

22 CHAIRPERSON JORDAN: You've had

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1 discussions with the Applicant?

2 MS. THOMAS: Mr. Keys expressed no  
3 concerns with the conditions. Just for a trash  
4 receptacle. We didn't want to see excessive  
5 signage just because it's another little street  
6 there.

7 MR. KEYS: Mr. Chairman, we have no  
8 problem with the conditions suggested by the  
9 Office of Planning.

10 CHAIRPERSON JORDAN: Very good.

11 Is there a DOT? A letter of no  
12 objection has been filed in this case.

13 And the ANC-1B at a meeting on June  
14 7th, I believe, voted unanimously in support  
15 of that? Is that correct, Mr. Keys?

16 MR. KEYS: That's correct, Mr.  
17 Chairman.

18 CHAIRPERSON JORDAN: All right. I  
19 don't believe we have a letter in the file, do  
20 we? But you actually attended the meeting?

21 MR. KEYS: I did not. Mr. Bell  
22 could testify.

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1           MR. BELL: I attended the design  
2 committee first meeting which was back in late  
3 May. And I went to the ANC meeting in June.  
4 It was June 6th or 7th. I had the unanimous  
5 approval of the ANC regarding this matter. And  
6 Mrs. Laurie McKenzie should have sent the letter  
7 because she told me as early -- as late as last  
8 week that the letter would come to the Board  
9 and it would be no problem.

10           CHAIRPERSON JORDAN: Is there  
11 anyone here in opposition to this application?

12           (No response.)

13           CHAIRPERSON JORDAN: All right.  
14 Let's turn back to the Applicant.

15           Is there anything that you think we  
16 need to hear from you, MR. Keys?

17           MR. KEYS: Well, yes. Just the  
18 context. When Mr. Bell came to me and said I  
19 need some help with this. I'm getting problems  
20 regarding my certificate of occupancy. I  
21 looked at it and my initial thought was this  
22 is a continuation with nonconforming use. I

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1 mean, this shouldn't be a problem. This should  
2 go as a normal administrative matter.

3 Two things happened. One, the  
4 records -- the official records were kind of  
5 incomplete. And then secondly, the zoning  
6 category has changed. And so this went from  
7 being the immediately prior certificate of  
8 occupancy, which was part of the first exhibits  
9 we submitted to the Board. That certificate  
10 of occupancy identified the property as a deli.

11 Well, when the zoning regulations were amended  
12 2008, 2009, to re-classify food service  
13 establishment, deli disappeared. The concept  
14 disappeared. And what became important for Mr.  
15 Lagrant in looking at this non-conformant use  
16 was whether the prior use had exhibited the same  
17 kind of cooking onsite that my applicant was  
18 conducting. And there was nothing in the record  
19 to prove that.

20 We went and we couldn't find the  
21 prior owner. And even though both Mr. Bell and  
22 the owner of the property could testify, that

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1 would be a self-serving declaration as to what  
2 existed.

3 I asked Mr. Moy to pass out to you  
4 something that we wanted to include in the record  
5 which is a letter that a food and health  
6 inspector -- Ronnie Taylor from the Department  
7 of Health -- sent to Mr. Lagrant just affirming  
8 to his knowledge that cooking equipment was used  
9 in the preparation of food on that site when  
10 it was operated as Sarah Seafood which is the  
11 prior holder of the C of O before Mr. Bell came  
12 to the site.

13 I don't think Mr. Lagrant found that  
14 to be a sufficient proof. And so, we decided  
15 to continue the pursuit of the use variance.  
16 And we have submitted an application. And I  
17 can quickly run through the basis for the use  
18 variance or I could elicit testimony as you --

19 CHAIRPERSON JORDAN: Mr. Keys, you  
20 had us when you said hello. Anyway, you had  
21 me at hello. You had me at hello.

22 I don't mean to cut you off. If you

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1 think that you really want to just talk, then  
2 we have until 1:00 o'clock.

3 MR. KEYS: Chairman, I think it's  
4 time to go to lunch.

5 CHAIRPERSON JORDAN: Let me cut you  
6 off. I'd just thought I'd help you out there.

7 Thank you.

8 Any questions or anybody want --  
9 yes, please, Ms. Sorg.

10 VICE-CHAIRPERSON SORG: Thank you,  
11 Mr. Chairman.

12 I just want to ask of the Applicant  
13 do you have any plans for renovating the  
14 restaurant or improving the streetscape and  
15 street frontage?

16 MR. BELL: We're going to -- the  
17 building's been yellow for three years since  
18 I've been there. I just wanted it to stand out.

19 I think we're going to put some paint --

20 VICE-CHAIRPERSON SORG: I have no  
21 problem with yellow. That's not my problem at  
22 all.

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1           MR. BELL: All right. I think  
2 we're going to just spruce up the outside.  
3 We've done a renovation inside the store. The  
4 store looks very nice. We did that in the  
5 earlier part of this year. December -- late  
6 part of last year, early part of this year, we  
7 did that in conjunction to my business going  
8 inside of Harris Teeter grocery store. So we  
9 had a big inspection inside of the building.

10           But as far as the upkeep and outside  
11 of the building, there's a school there that's  
12 Banneker High School that's in the middle of  
13 the block. We get a lot of debris and stuff  
14 there. We have -- the owner of the property  
15 has someone come out once a week, and I have  
16 a couple of my associates as well. We're taking  
17 care of debris and trash and stuff outside.

18           The city also just this week came  
19 by and they're taking care of all the graffiti  
20 and stuff that's on some of the commercial  
21 buildings on that block as well.

22           So I think overall, it is in pretty

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1 good condition. But it could be done a little  
2 bit better than what's being done currently.

3 VICE-CHAIRPERSON SORG: Good. I  
4 mean, I know that you have from what we've heard  
5 a good record with regard to keeping the street  
6 clean and the trash and so forth. But I do think  
7 that generally speaking, the streetscape  
8 improvement that the District is trying to  
9 achieve is like a collaborative effort between  
10 the agencies and the business owners. So that's  
11 good to hear.

12 CHAIRPERSON JORDAN: Okay. Anyone  
13 else have any questions for the Applicant?

14 (No response.)

15 CHAIRPERSON JORDAN: Anything  
16 else, we're good, Mr. Keys. So we'll close this  
17 hearing and move now to deliberations.

18 Board, what's your feeling?

19 (No response.)

20 CHAIRPERSON JORDAN: I would move  
21 that we grant the relief requested of the  
22 Applicant for the use variance based upon the

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1 record.

2 Is there a second?

3 MEMBER MacMURRAY: Seconded.

4 CHAIRPERSON JORDAN: Motion made  
5 and seconded that we approve this application.

6 Any unreadiness?

7 MEMBER HINKLE: Mr. Chair, does  
8 that include the conditions recommended by the  
9 Office of Planning?

10 CHAIRPERSON JORDAN: Yes. With  
11 the conditions. Thank you very much. Because  
12 they were accepted by the Applicant also.

13 Any unreadiness?

14 (No response.)

15 CHAIRPERSON JORDAN: All those in  
16 favor signify by saying aye.

17 (Chorus of ayes.)

18 CHAIRPERSON JORDAN: Those opposed  
19 nay.

20 (No response.)

21 CHAIRPERSON JORDAN: The motion  
22 carries.

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1           MR. MOY: Staff would record the  
2 vote as five to zero to zero, this on the motion  
3 of Chairman Jordan to approve the application  
4 with the three conditions as stated in the Office  
5 of Planning report. Second motion, Ms.  
6 MacMurray. Also in support of the motion, Mr.  
7 Hood, Vice-Chairperson Sorg and Mr. Hinkle.

8           Again, the final vote is five to zero  
9 to zero. And the motion carries, Mr. Chairman.

10           CHAIRPERSON JORDAN: Thank you.  
11 And we'll have a summary order, please.

12           Thank you. We'll conclude this  
13 morning's session and go into recess until this  
14 afternoon at 1:00 o'clock.

15           MR. KEYS: Thank you, Mr. Chairman.

16           (Whereupon, at 11:33 a.m., the  
17 above-entitled matter went off the record and  
18 resumed at 1:12 p.m.)

19

20

21

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A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

1:12 p.m.

CHAIRPERSON JORDAN: Okay. If we'll come to order, please.

Good afternoon, ladies and gentlemen. We're here located at the Jerrily R. Kress Memorial Hearing Room at 441 4<sup>th</sup> Street, NW.

1 Today's date is June 26. The time  
2 now is 1:10.

3 We're here for the public hearing  
4 of the Board of Zoning Adjustment of the District  
5 of Columbia.

6 My name is Lloyd Jordan,  
7 Chairperson. To my left is Nicole Sorg, Vice-  
8 Chair. And to her left is representative of  
9 the Zoning Commission, the Chairman, Mr. Anthony  
10 Hood. And to my right is Jeffrey Hinkle, Board  
11 Member.

12 Please be advised this proceeding  
13 is being recorded by a court reporter and is  
14 also being webcast live. Accordingly, we ask  
15 that you refrain from any disruptive noises in  
16 the hearing room and any actions that are  
17 disruptive.

18 The Board's hearing procedures are  
19 contained in a document by the door if you need  
20 to read that to find out how we process and how  
21 we go through hearings.

22 And today's hearing agenda, I don't

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1 know if we have any preliminary matters, but  
2 if we do we'll take them up with the cases.

3 Let me ask that all individuals who  
4 will testify or present evidence here today  
5 stand and take the oath or affirmation from the  
6 Secretary, if you would do that, please.

7 (Witnesses sworn.)

8 MR. MOY: Good afternoon, Mr.  
9 Chairman, Members of the Board.

10 We do have one major preliminary  
11 matter for the afternoon session cases. And  
12 that would go to the owner of Application No.  
13 18369. This is the D.C. Government c/o  
14 Paramount Development, LLC and Blue Sky Housing,  
15 LLC.

16 CHAIRPERSON JORDAN: Okay. And  
17 the preliminary matter is?

18 MR. MOY: A request for a  
19 postponement, Mr. Chairman.

20 CHAIRPERSON JORDAN: Okay. So  
21 call that case, would you please?

22 MR. MOY: Yes, sir.

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1                   That would be Application No. 18369.

2                   This is the application of D.C.  
3 Government c/o Paramount Development, LLC and  
4 Blue Sky Housing, LLC. This is pursuant to 11  
5 DCMR 3103.2 for a variance from the lot occupancy  
6 requirements under Section 772, variance from  
7 the rear yard requirements under Section 774,  
8 variance from the parking requirements under  
9 Subsection 2101.1. This is to construct a  
10 seven-story apartment building in the DD/C-2-C  
11 District at premises 1031 4<sup>th</sup> Street, NW,  
12 property located in Square 526, Lot 815.

13                   CHAIRPERSON JORDAN: Okay. All  
14 right. Are the parties here for 18369?

15                   MS. BATTIES: Good afternoon, Mr.  
16 Chair, Members of the Board. Leila Batties with  
17 the law firm of Holland & Knight. We were  
18 recently engaged as counsel for the Applicant.

19                   The Applicant has recently taken  
20 control of parcels that were adjacent to the  
21 original subject property. And as a result,  
22 the project being proposed has changed from a

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1 seven-unit project to an 88-unit project.

2 CHAIRPERSON JORDAN: Oh, just a  
3 minor thing then.

4 MS. BATTIES: So obviously, they'll  
5 need time to amend their drawings to reflect  
6 the proposed modification. And we'd ask that  
7 this item be postponed to a hearing date in  
8 October.

9 CHAIRPERSON JORDAN: Okay. Do we  
10 have your entry? Do we have an authorization  
11 on this?

12 MS. BATTIES: The attorney for the  
13 Applicant -- or the prior counsel for the  
14 Applicant -- has requested -- submitted the  
15 request for postponement. They asked me to come  
16 down here this afternoon to monitor this item.

17 CHAIRPERSON JORDAN: I didn't see  
18 anything that gave them the authorization  
19 either.

20 But anyway, let's move forward and  
21 take it as a request for a proposed postponement.

22 Board Members have any issues or

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1 questions regarding postponement?

2 VICE-CHAIRPERSON SORG: Mr.  
3 Chairman, it doesn't seem there's any prejudice  
4 in postponing. Also it seems like it's going  
5 to be big changes afoot.

6 CHAIRPERSON JORDAN: Sure.  
7 Certainly.

8 Anyone else? Any other Board  
9 Member?

10 (No response.)

11 CHAIRPERSON JORDAN: Well, let's  
12 postpone this to a date. What date do we have,  
13 Mr. Moy?

14 MR. MOY: Well, you have your choice  
15 of dates, Mr. Chairman. We have an October 30  
16 hearing date which can be placed in the morning  
17 of October 30, or in the morning of October 23.

18 CHAIRPERSON JORDAN: What do we  
19 have on that morning? You said October 30th?

20 MR. MOY: Yes. October 23, we have  
21 one, two, three, four cases in the morning and  
22 a decision session in the afternoon. And on

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1 October 30, we have one, two, three -- three  
2 cases in the morning, one appeal case in the  
3 afternoon.

4 CHAIRPERSON JORDAN: Okay. That  
5 morning, please.

6 MR. MOY: For which day?

7 CHAIRPERSON JORDAN: The 30th?

8 MR. MOY: The 30th. Perfect.

9 MS. BATTIES: Thank you.

10 CHAIRPERSON JORDAN: Very good.  
11 Thank you.

12 MR. MOY: The first case for the  
13 Board -- or rather the second would be  
14 Application No. 18227, Application of 1700 New  
15 York Avenue, LLC on behalf of the Corcoran  
16 Gallery of Art, pursuant to 11 DCMR 3103.2 for  
17 a modification to BZA Order No. 18277, granting  
18 a variance from the parking requirements of 11  
19 DCMR 2101.1. This is to provide 38 parking  
20 spaces in lieu of 44 parking spaces previously  
21 approved for the development of an office  
22 building as an addition to the existing building

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1 in the SP-2 District at premises 1700 New York  
2 Avenue, NW, property located in Square 171, Lot  
3 34.

4 CHAIRPERSON JORDAN: Good  
5 afternoon. Please identify yourselves for the  
6 record.

7 MS. SHIKER: Good afternoon, Mr.  
8 Chairman and Members of the Board.

9 My name is Christy Shiker with the  
10 law firm of Holland & Knight. I'm joined by  
11 Chip Glasgow of the law firm of Holland & Knight  
12 as well. And I can introduce our team for us  
13 if you'd like for me to.

14 CHAIRPERSON JORDAN: Whichever way  
15 you want to do it. If someone's going to be  
16 at the table and testify, then we need you to  
17 do that.

18 MS. SHIKER: So we are also joined  
19 today by Oliver Carr who's representing the  
20 Applicant. He is the President and CEO of Carr  
21 Properties. Austen Holderness is also here  
22 from Carr Properties. I have to my right Mr.

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1 Andrew Rollman from Smith Group Architects, the  
2 architect for the project. Chris Woody from  
3 Smith Group Architects is also in the audience.

4 And we have Erwin Andres, our traffic  
5 consultant from Grove Slade.

6 CHAIRPERSON JORDAN: So you want to  
7 modify the previous order by reducing by six  
8 parking spaces, is that correct?

9 MS. SHIKER: That is correct. It's  
10 five zoning parking spaces and five nonzoning  
11 parking spaces total.

12 CHAIRPERSON JORDAN: Okay. Let me  
13 defer to the Board for a second.

14 Does anyone have any questions? I  
15 think we've reviewed this application. Ms.  
16 Sorg?

17 VICE-CHAIRPERSON SORG: I would  
18 just add. So let's see, we've been talking  
19 about this case for a little over 18 months and  
20 the steam tunnel and the parking variance have  
21 been high on the list of things we've been  
22 talking about. So I think we've got a lot of

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1 history and a very full record with regard to  
2 the change -- the modification.

3 CHAIRPERSON JORDAN: Okay. Anyone  
4 else? Any other Board Member?

5 (No response.)

6 CHAIRPERSON JORDAN: Let me check.  
7 Is there anything that we need in addition from  
8 the Office of Planning?

9 MS. THOMAS: No, Mr. Chair. I'll  
10 just stand on the record. Thank you.

11 CHAIRPERSON JORDAN: And I'll get  
12 back to you. I'm just trying to see where we  
13 are doing the assessment.

14 Is there anyone in the audience  
15 that's here for opposition for this variance?

16 (No response.)

17 CHAIRPERSON JORDAN: Okay. And  
18 again, the ANC has supported it.

19 So I believe that it's up to you how  
20 you want to handle your portion of the agenda  
21 for a hearing. But I think the Board is  
22 comfortable enough that the record is full and

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1 there's a previous history in regards to the  
2 issue and the reason why you're asking for this  
3 variance. And so, the record is pretty  
4 complete.

5 I want to defer to you to give you  
6 the option of whether or not you think a  
7 presentation is necessary. But we ourselves  
8 are probably ready to deliberate.

9 MS. SHIKER: We'd be happy to rest  
10 on the record. Thank you.

11 CHAIRPERSON JORDAN: Okay. And  
12 excuse me. Anyone here from the ANC-2A? I know  
13 we do have a letter in support. That was three,  
14 zero to one to support.

15 (No response.)

16 CHAIRPERSON JORDAN: And I asked if  
17 there was anybody in opposition, anyone in  
18 support.

19 Well, good. I will close the record  
20 for this hearing and then ask the Board if  
21 they're ready to deliberate.

22 (No response.)

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1 CHAIRPERSON JORDAN: And hearing  
2 that we are, what's the wishes of the Board?  
3 Anyone?

4 (No response.)

5 CHAIRPERSON JORDAN: All right.  
6 I'll just move that we grant the relief requested  
7 under 18227-A for the variance as requested.

8 Anyone want to second it?

9 VICE-CHAIRPERSON SORG: Second.

10 CHAIRPERSON JORDAN: Motion made  
11 and seconded.

12 Any unreadiness?

13 (No response.)

14 CHAIRPERSON JORDAN: All those in  
15 favor signify by saying aye.

16 (Chorus of ayes.)

17 CHAIRPERSON JORDAN: Those opposed  
18 nay.

19 (No response.)

20 CHAIRPERSON JORDAN: The motion  
21 carries.

22 Mr. Moy?

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1 MR. MOY: Yes, sir. Staff would  
2 record the vote as four to zero to one, this  
3 on the motion of Chairperson Jordan to approve  
4 the request of the application for relief for  
5 modifications. Second the motion, Vice-  
6 Chairperson Sorg. Also in support of the motion  
7 are Chairman Hood and Mr. Hinkle. And we have  
8 one Board Member not present, not participating,  
9 not voting.

10 So again, the final vote is four to  
11 zero to one. The motion carries.

12 CHAIRPERSON JORDAN: Thank you. I  
13 believe we have a summary order.

14 MR. MOY: Yes, sir.

15 MS. SHIKER: Thank you very much.

16 CHAIRPERSON JORDAN: Thank you.

17 MR. MOY: The next application for  
18 the afternoon session is Application No. 18372.

19 This is an application of 2321 4<sup>th</sup>  
20 Street LLC on behalf of H Street Community  
21 Development Corporation. This is pursuant to  
22 11 DCMR 3103.2 for a variance from the lot

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1 occupancy requirements under Section 772,  
2 variance from the off street parking  
3 requirements under Subsection 2101.1, variances  
4 from the loading requirements under Subsection  
5 2201.1, and a variance from the loading berth  
6 minimum vertical clearance height requirements.

7 This is under Subsection 2201.6. All this is  
8 to allow the construction of a new residential  
9 apartment building with groundfloor retail and  
10 services and service uses in the C-3-A District  
11 at premises 2321 4<sup>th</sup> Street, NE, property located  
12 in Square 3629, Lot 808.

13 CHAIRPERSON JORDAN: Very good.  
14 Thank you, Mr. Moy.

15 Will the persons at the table  
16 introduce themselves, please?

17 MR. FREEMAN: Good afternoon,  
18 Members of the Board, Chairman Jordan. My name  
19 is Kyras Freeman. I'm a partner with the law  
20 firm of Holland & Knight here on behalf of the  
21 Applicant in this case.

22 I have a number of people here who

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1 I can proffer to testify as experts and answer  
2 any questions or we're otherwise willing to  
3 proceed as the Board determines proper.

4 CHAIRPERSON JORDAN: Let's see  
5 where we are before we do any of that.

6 ZC CHAIRMAN HOOD: Mr. Chairman?

7 CHAIRPERSON JORDAN: Yes?

8 ZC CHAIRMAN HOOD: I just wanted to  
9 acknowledge that I have done work with H Street  
10 over the years. I've been disconnected with  
11 them I think about ten years now, and I don't  
12 think that would have any rationale or reason  
13 for me not to participate in this case. And  
14 I just wanted to put that on the record and make  
15 sure everything stays clean.

16 CHAIRPERSON JORDAN: Okay. Not a  
17 problem. You don't have any --

18 ZC CHAIRMAN HOOD: I have no  
19 objections.

20 CHAIRPERSON JORDAN: You don't have  
21 any financial interests in it in the H Street  
22 Development, do you?

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1 ZC CHAIRMAN HOOD: No, I don't.

2 CHAIRPERSON JORDAN: Thank you, Mr.  
3 Hood.

4 Let's take a second. I'm scrolling  
5 through the record.

6 That's what I was looking for. I  
7 don't have an OP report.

8 MR. MORDFIN: The Office of  
9 Planning report was marked as Exhibit 28. And  
10 it was filed on 6/21/12. And it's recommending  
11 support.

12 CHAIRPERSON JORDAN: No, I'm just  
13 looking at the staff report. We're going to  
14 get copies and take a look at it to see if we  
15 have any issues.

16 Although the Office of Planning is  
17 here.

18 Let's do this. Let's have the  
19 Office of Planning report. If you'd give us  
20 an oral report, then we will then take a minute  
21 when we get your report to see if we have any  
22 issues.

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1 MR. MORDFIN: Okay.

2 Good afternoon.

3 CHAIRPERSON JORDAN: And I'm going  
4 to ask you to not summarize it. Just kind of  
5 give it to us because we have not seen the report.

6 MR. MORDFIN: Good afternoon,  
7 Chair, Members of the Board. I'm Stephen  
8 Mordfin with the Office of Planning.

9 And the Office of Planning did find  
10 the application to be in conformance with the  
11 criteria for the granting of the four variances.

12 This property is unique due to its  
13 triangular shape and the fill that is on site  
14 that resulted from the demolition of the  
15 previous improvements to the site. These  
16 result in difficulty in providing below-grade  
17 parking due to the soil conditions and also to  
18 the triangular shape of the property with the  
19 result that all onsite parking and loadings are  
20 proposed to be provided on the first level of  
21 the building.

22 The provision of parking on the

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1 first level also limits the amount of area  
2 available for parking and loading resulting in  
3 the request to reduce the size of the loading  
4 berth and the number of parking spaces that are  
5 proposed to be provided. The need to provide  
6 all onsite parking on the first level of the  
7 building also increases the lot occupancy of  
8 the building.

9 The Applicant is also unable to  
10 provide also a 14-foot high ceiling above the  
11 loading berth because it can only be provided  
12 on the groundfloor where the ceiling height will  
13 be 12 feet. Increasing the ceiling height to  
14 14 feet would result in reducing the ceiling  
15 heights of the floors above to seven and a half  
16 feet which would be an unusually low height for  
17 the apartment units on the upper floors.

18 The granting of a variance to the  
19 loading berth would not result in a detriment  
20 to the public good because of the small size  
21 of the proposed apartments and the retail spaces  
22 and so the smaller trucks that would be expected

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1 to utilize this site. Smaller trucks also do  
2 not require the additional ceiling height.

3 The granting of a variance to off  
4 street parking would not result in a detriment  
5 to the public good because of the multitude of  
6 transportation options available including bus,  
7 rail, bicycle and zip car.

8 And the granting of a variance to  
9 lot occupancy which would only be necessary  
10 should the retail spaces proposed for the  
11 groundfloor prove not to be successful to allow  
12 the Applicant the flexibility to utilize those  
13 spaces as residential. And the maximum lot  
14 occupancy for a building without residential  
15 on the groundfloor is 100 percent, but if they  
16 do put residential there, it reduces it to 80  
17 percent. Hence the need for the variance.

18 And there would be no substantial  
19 harm to the zoning regulations because the  
20 variances would allow for loading facilities  
21 adequate to serve the site, flexibility of use  
22 within this mixed-use zone district, and

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1 adequate parking as is concluded in the traffic  
2 study that was submitted as a part of the  
3 application.

4 And therefore, the Office of  
5 Planning recommends approval of the  
6 application.

7 Thank you.

8 CHAIRPERSON JORDAN: Thank you.  
9 Just give us one second to read through your  
10 report.

11 Has the Board had adequate time to  
12 read through the report? Do you need additional  
13 time?

14 Mr. Freeman, I think the record is  
15 pretty substantial. So you can do a  
16 presentation if you would like. However, if  
17 we can ask more pointed questions on any issue.

18 For instance, if you would just  
19 dwell just a bit about how the first four  
20 dwelling units impact the lot occupancy issue.

21 MR. FREEMAN: Right. Thank you,  
22 Mr. Jordan. And for that, I'll call Mr.

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1 Bonstra.

2 Bill Bonstra -- his résumé is  
3 included in our pre-hearing submission which  
4 is Exhibit 26 of the record. Mr. Bonstra has  
5 appeared the Board on a number of occasions.  
6 So we'd like to proffer him as an expert in  
7 architecture.

8 CHAIRPERSON JORDAN: It's  
9 accepted.

10 MR. BONSTRA: Thank you. Good  
11 afternoon. My name is Bill Bonstra with the  
12 firm Bonstra Haresign Architects. I'm excited  
13 to be working on this project and presenting  
14 to you today.

15 In regards to your question about  
16 the lot occupancy, as a commercial space, the  
17 lot occupancy on the ground level would be 100  
18 percent. But if the commercial areas are not  
19 successful and our needs are met to convert those  
20 to residential units, then the lot occupancy  
21 of 80 percent would govern for the first level  
22 of the building.

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1 CHAIRPERSON JORDAN: Okay.

2 MR. BONSTRA: And as such we would  
3 need relief for that.

4 CHAIRPERSON JORDAN: Any other  
5 questions anyone from the Board?

6 Mr. Hinkle?

7 MEMBER HINKLE: Yes. Thank you,  
8 Mr. Chair.

9 This gets to the issue of the height  
10 to the loading.

11 I'm looking at page 13 of the June  
12 12th plans for the two sections. And I see on  
13 the lower section, there's a height of the garage  
14 entry that's 13 feet. But if you looked in the  
15 upper section, it looks like the doorway. And  
16 correct me if I'm wrong. That's 11 feet tall?

17 So I guess my question is how tall  
18 would the garage door be to that loading area.

19 MR. BONSTRA: Right. I believe we  
20 discovered that after the submission was made  
21 as far as the door itself, our goal would be  
22 that the door would also allow 12 feet clear.

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1 MEMBER HINKLE: Okay. Thank you.

2 MR. BONSTRA: But this was  
3 incorrectly shown on that. But the elevations  
4 I believe clearly depict the 12-foot opening.

5 MEMBER HINKLE: The 12-foot  
6 opening. Great. Thank you.

7 ZC CHAIRMAN HOOD: Mr. Chairman?

8 CHAIRPERSON JORDAN: Yes, Mr. Hood?

9 ZC CHAIRMAN HOOD: Question. And  
10 maybe Mr. Jones and Mr. Brewer can answer this.

11 I'm just curious. In answer to the  
12 plan where the trucks that make deliveries or  
13 since we're asking for the loading berth  
14 reduction, are we looking at smaller trucks,  
15 or is that something that we're going to put  
16 in place to use smaller trucks to make  
17 deliveries?

18 Well, maybe Mr. --

19 MR. FREEMAN: I'll take a quick stab  
20 at it.

21 In response to the loading truck  
22 issue, we've done two things -- well, three.

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1 One is going to be a person or a site to  
2 coordinate loading and delivery. Two, they're  
3 going to provide no trucks larger than 30 feet  
4 can come to the site to load particularly given  
5 the size of the units. And three, they're going  
6 to have that height restriction how you often  
7 see on bridges. That will be in the documents  
8 and likely some signage on the site as well.

9 ZC CHAIRMAN HOOD: So, Mr. Brewer  
10 and Mr. Jones are in concurrence with that?  
11 Since I couldn't get them to the mic. Okay.  
12 Thank you.

13 Thank you, Mr. Chairman.

14 CHAIRPERSON JORDAN: Any other  
15 questions of the Applicant?

16 (No response.)

17 CHAIRPERSON JORDAN: Mr. Freeman,  
18 you have a right to do a presentation if you  
19 want but I thought we'd just kind of get to the  
20 heart of our questions if that would be helpful  
21 and if we didn't have any questions about  
22 something else, then you wouldn't have to go

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1 through anything else.

2 MR. FREEMAN: Very, very helpful.

3 I'd just like to point out two additional things  
4 for the record.

5 Marked as Exhibit 27, DDOT supports  
6 the parking and loading relief. Marked as  
7 Exhibit 24, there's a thorough letter from  
8 Advisory Neighborhood Commission 5C that notes  
9 the number of communications and the  
10 presentations the Applicant has made to the  
11 community. And they recommend approval of our  
12 application.

13 And finally, last but not least,  
14 dependent on what the Board does today, we would  
15 request that the record be left open. We  
16 literally just received the fax letter of  
17 support from our Councilmember McDuffie, also  
18 in support of the project. So we'd like to  
19 submit that for the record since their office  
20 took the time to prepare the letter.

21 CHAIRPERSON JORDAN: You don't want  
22 the record to stay open. You just wanted the

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1 opportunity to submit that.

2 MR. FREEMAN: Submission of this  
3 one item.

4 CHAIRPERSON JORDAN: Certainly.  
5 It'll be accepted.

6 MR. FREEMAN: Thank you.

7 CHAIRPERSON JORDAN: Any other  
8 questions of the Applicant, anyone?

9 (No response.)

10 CHAIRPERSON JORDAN: Okay. Let's  
11 take another minute. We just got the Office  
12 of Planning report and still kind of thumbing  
13 through it.

14 I don't see anything that's  
15 shocking. But we want to make sure that  
16 everyone has completed reviewed the record and  
17 are comfortable.

18 MR. FREEMAN: Thank you.

19 ZC CHAIRMAN HOOD: This is right on  
20 the old Maverick Room on the site? I'm just  
21 curious.

22 MR. FREEMAN: It was a hotel. I

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1 don't know if it was the Manor Home site.

2 ZC CHAIRMAN HOOD: I said Maverick  
3 Room -- Maverick Room. I'm just curious if  
4 anybody knows. Okay. That's okay.

5 MR. FREEMAN: It's a different  
6 name. I'd rather not say the name that it's  
7 gone by in the community. But it was a hotel  
8 at one point that was demolished about ten years  
9 ago.

10 ZC CHAIRMAN HOOD: Must have been  
11 oversight. Okay. Thank you.

12 CHAIRPERSON JORDAN: Yes, go ahead,  
13 Ms. Sorg.

14 VICE-CHAIRPERSON SORG: Thank you,  
15 Mr. Chairman.

16 Just taking a second look at the DDOT  
17 report here, I know that you've been working  
18 with them and have a significant transportation  
19 study included in your submission. And  
20 actually DDOT I think seems to think that you've  
21 crossed most of your ts and dotted your Is as  
22 far as they're concerned except for the proposal

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1 of backing in the delivery and trash trucks.  
2 That's been managed.

3 MR. FREEMAN: We can have Mr.  
4 Bonstra speak to that, or Nicole White, our  
5 expert in transportation planning. But they've  
6 moved some columns such that now trucks can  
7 actually make the maneuver that DDOT requested.  
8 So we're compliant with that condition.

9 MR. BONSTRA: Okay. That's fine.

10 MR. FREEMAN: And what we'll do for  
11 the record, if you like, we had a PowerPoint.  
12 And included in the PowerPoint is a turn diagram  
13 that shows that revised movement. So we can  
14 go ahead and submit that as well.

15 MR. BONSTRA: We have 15 copies of  
16 all those drawings if you'd like that now or  
17 --

18 CHAIRPERSON JORDAN: You can just  
19 submit it.

20 MR. BONSTRA: Do it later? Sure.

21 CHAIRPERSON JORDAN: Okay. Any  
22 other questions for the Applicant?

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1                   VICE-CHAIRPERSON SORG:  Sorry.  I  
2                   just have one more question.

3                   Just remind me of what's the unit  
4                   mix and the average unit size.  I was just  
5                   looking for it again.

6                   MR. BONSTRA:  I knew you were going  
7                   to ask me the tough questions.

8                   VICE-CHAIRPERSON SORG:  That's  
9                   hardly a tough question.

10                  MR. BONSTRA:  Okay.  Can we have  
11                  Kenton answer that?  I don't know exactly where  
12                  to find that.

13                  We have 160 units.  There are one-  
14                  and two-bedroom units.  And I don't know -- 60  
15                  percent one bedroom and 40 percent two bedroom.

16                  VICE-CHAIRPERSON SORG:  And do you  
17                  know roughly the sort of square foot average  
18                  size of those units?

19                  MR. DRURY:  I'm Kenton Drury with  
20                  the Applicant.  Project Manager.

21                  They are around 800 square feet --  
22                  750 and 800 square feet -- somewhere in that

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1 range -- total.

2 VICE-CHAIRPERSON SORG: Thank you.

3 MR. DRURY: On the smaller side --  
4 efficient side.

5 VICE-CHAIRPERSON SORG: Got you.

6 CHAIRPERSON JORDAN: Anyone else?

7 (No response.)

8 CHAIRPERSON JORDAN: Returning to  
9 the Office of Planning, we've already been  
10 there.

11 Any questions for the Office of  
12 Planning from the Board?

13 (No response.)

14 CHAIRPERSON JORDAN: Does the  
15 Applicant have any questions of the Office of  
16 Planning?

17 MR. FREEMAN: No, Mr. Chairman.

18 CHAIRPERSON JORDAN: Anyone here  
19 from the Department of Transportation?

20 (No response.)

21 CHAIRPERSON JORDAN: We do have a  
22 Department of Transportation report that has

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1 been referred to earlier. They have no  
2 objections, especially in light of this change  
3 that -- at least their concern -- in the plans.

4 Anyone here from ANC-5C?

5 (No response.)

6 CHAIRPERSON JORDAN: We do have a  
7 letter in support from ANC-5C who voted ten to  
8 one to one to support the project which we would  
9 give great weight to.

10 Is there any individual here in  
11 support of the application?

12 (No response.)

13 CHAIRPERSON JORDAN: Others who are  
14 not in support?

15 (No response.)

16 CHAIRPERSON JORDAN: Anyone in  
17 opposition?

18 (No response.)

19 CHAIRPERSON JORDAN: No.  
20 Anything, Mr. Freeman, you want to wrap up?

21 MR. FREEMAN: No. Just thank you  
22 for your time this afternoon. We believe the

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1 record is complete and demonstrates that we meet  
2 all of the applicable standards for relief.  
3 And therefore, we would ask that the Board grant  
4 our application as soon as possible.

5 Thank you.

6 CHAIRPERSON JORDAN: We will close  
7 the record and close this particular hearing.

8 Is the Board ready to deliberate or  
9 do they need something more?

10 (No response.)

11 CHAIRPERSON JORDAN: Board?  
12 Board, are we ready to deliberate?

13 (No response.)

14 CHAIRPERSON JORDAN: I think this  
15 is one where the record is very full. I think  
16 the record clearly shows that the site has  
17 dimensions and grading issues and subsurface  
18 conditions, and the street frontage provides  
19 some uniqueness to the situation. And also the  
20 topographical changes that we have with this  
21 land.

22 So it's something I can support.

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1 And I think that you've demonstrated that  
2 there's some difficulties in meeting the  
3 requirements without this variance.

4 Anybody else?

5 ZC CHAIRMAN HOOD: I would agree  
6 with you, Mr. Chairman. Also, the way they  
7 increased the lot occupancy would be necessary  
8 should the proposed retail space prove to be  
9 unsuccessful -- the way that's all worked out.

10 I think the Office of Planning's  
11 report is great and motion that we incorporate  
12 that. I think all the bases on the 772, 2101.1,  
13 2201.1 and 2201.2 will all be covered. And I  
14 think not be substantially harmful to the intent  
15 and integrity of the zoning plan.

16 CHAIRPERSON JORDAN: I think you  
17 just hit on something else.

18 We will accept the Office of  
19 Planning's report, unless there's some  
20 objections, and make it part of the record.

21 (No response.)

22 CHAIRPERSON JORDAN: Anyone else?

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1 Ms. Sorg?

2 VICE-CHAIRPERSON SORG: Mr.  
3 Chairman, I will agree with your comments and  
4 the comments of Chairman Hood.

5 And just also quickly note for the  
6 record with regard to the sort of third prong,  
7 I suppose, that a contributing factor which is  
8 the affordable nature of the units that are being  
9 constructed here and how that with regard to  
10 that problem plays into my thoughts regarding  
11 the variances that are being requested. So I  
12 can also be in support.

13 Thank you.

14 CHAIRPERSON JORDAN: And I would  
15 move that we approve the Applicant's request,  
16 the request made under 18372.

17 Is there a second?

18 MEMBER HINKLE: Second.

19 CHAIRPERSON JORDAN: Motion made  
20 and seconded that the application is approved  
21 with the requested relief.

22 Any additional deliberation?

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1 (No response.)

2 CHAIRPERSON JORDAN: All those in  
3 favor signify by saying aye.

4 (Chorus of ayes.)

5 CHAIRPERSON JORDAN: Those opposed  
6 nay.

7 (No response.)

8 CHAIRPERSON JORDAN: The motion  
9 carries.

10 Mr. Moy?

11 MR. MOY: Yes, sir. Staff would  
12 record the vote as four to zero to one, this  
13 on the motion of Chairman Jordan to approve the  
14 application for the relief requested.  
15 Seconding the motion, Chairman Hood. Also in  
16 support of the motion, Vice-Chairperson Sorg  
17 and Mr. Hinkle. And we have a Board Member not  
18 participating, not present, not voting.

19 So again, the count was four to zero  
20 to one.

21 CHAIRPERSON JORDAN: Very good.  
22 And seeing that this decision is in favor of

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1 the Applicant and there's no one in opposition,  
2 this is ripe for a summary order, please.

3 MR. MOY: Yes. Thank you, sir.

4 CHAIRPERSON JORDAN: We'll  
5 conclude this particular hearing.

6 MR. FREEMAN: Thank you.

7 CHAIRPERSON JORDAN: And thank you  
8 for coming. We're sorry we made it so  
9 difficult. But you do such a good job, Mr.  
10 Freeman. I mean, you dot all the Is and cross  
11 the Ts and understand your file. I need to say  
12 that.

13 MR. FREEMAN: Could you say that  
14 again? No.

15 (Laughter.)

16 CHAIRPERSON JORDAN: No, a lot of  
17 times people don't understand their files.

18 Is there any other business that  
19 needs to come before the Board this afternoon?

20 MR. MOY: Yes, sir. The  
21 announcement for a Board Closed Meeting.

22 CHAIRPERSON JORDAN: Yes, let's

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1 close the meeting. Why not?

2 Okay. As Chairperson of the Board  
3 of Zoning Adjustment for the District of  
4 Columbia and in accordance with Section 405 B4,  
5 B13 of the District of Columbia Administrative  
6 Procedure Act, I move that the BZA hold a closed  
7 meeting via telephone conference on July 9th,  
8 2012 -- 4:00 o'clock -- 4:00 p.m. for the  
9 purpose of seeking legal advice from our Counsel  
10 and deliberating upon the following cases  
11 scheduled to come before us: Case 18407, Case  
12 18064, Case 18330, Case 18272.

13 Is there a second?

14 MEMBER HINKLE: I'll second.

15 CHAIRPERSON JORDAN: Motion made  
16 and seconded.

17 Mr. Secretary, would you please take  
18 a roll call vote?

19 MR. MOY: Yes. When I call your  
20 name, if you could reply with a yes or no --  
21 yea or nay.

22 Chairman Hood?

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1 ZC CHAIRMAN HOOD: Yes.

2 MR. MOY: Vice-Chairperson Sorg?

3 VICE-CHAIRPERSON SORG: Yes.

4 MR. MOY: Chairman Jordan?

5 CHAIRPERSON JORDAN: Yea.

6 MR. MOY: Mr. Hinkle?

7 MEMBER HINKLE: Yes.

8 MR. MOY: And Ms. MacMurray is not  
9 present, not participating in this roll call  
10 vote.

11 CHAIRPERSON JORDAN: And so the  
12 motion passes?

13 MR. MOY: Yes, sir.

14 CHAIRPERSON JORDAN: Since the  
15 motion is passed, I hereby give notice that the  
16 BZA will hold aforementioned closed meeting via  
17 telephone conference pursuant to Section 406  
18 of the District of Columbia Administrative  
19 Procedure Act.

20 Notices also will be posted in the  
21 Office of Zoning electronic reading room, placed  
22 in the Office of Zoning's electronic calendar

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1 and its website and published in the *District*  
2 *of Columbia Register* in as timely manner as  
3 practicable.

4 Thank you.

5 If there's no other business coming  
6 before the Board, then we would stand adjourned,  
7 or be adjourned.

8 (Whereupon, at 1:50 p.m., the  
9 hearing was adjourned.)

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