The hearing came to order at 9:30 a.m. in Suite 220-5, 441 4th Street, N.W., Washington, D.C. 20001, Geoffrey H. Griffis, Chairperson, presiding.

PRESENT:

GEOFFREY GRIFFIS Chairperson
ANNE MOHNKERN RENSHAW Vice Chairperson
CURTIS ETHERLY, JR. Member
ANTHONY HOOD Member
Sheri Pruitt Secretary to the Board
Beverley Bailey Zoning Specialist
Clifford Moy Deputy Secretary to the Board
John Nyarku Zoning Specialist
Marie Sansone, Esq. Office of Corporation Counsel
Steve Cochran Office of Planning
Steven Mordfin Office of Planning
Karen Thomas Office of Planning
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CHAIRPERSON GRIFFIS: Good morning, ladies and gentlemen. I will call this hearing to order. This is the July 30 public hearing of the Board of Zoning Adjustment for the District of Columbia. My name is Geoff Griffis, Chairperson.

Joining me today is Vice Chairperson Ms. Anne Renshaw, also Board Members Curtis Etherly and representing the Zoning Commission with us today is Mr. Anthony Hood.

We have an illness on our National Capital Planning Commission Member Mr. Zaidain. So, we wish him well.

Also with us today representing the Office of Zoning Ms. Bailey. Ms. Pruitt will be out and we have a new staff member and why don't you just introduce yourself, your name, for us this morning.

MR. MOY: I'm name is Cliff Moy.

CHAIRPERSON GRIFFIS: Like this.

MR. MOY: Oh, I'm sorry.

CHAIRPERSON GRIFFIS: There it is.

MR. MOY: My name is Clifford Moy.

CHAIRPERSON GRIFFIS: Very good. Thank you and welcome this morning.

Also representing the Corporation Counsel is Ms. Sansone.

Copies of today's hearing are available to you.

They are located at the table next to the door where you did
enter into the hearing room.

A couple of quick things, please be aware that these proceedings are being recorded. So, we have several things to go through. First of all, we ask that we not have any disruptive noises or actions in the hearing room and also when coming forward to present information to the Board, you will need to introduce yourself, your name, your address, and will need to speak into a microphone and that microphone should be on.

All persons planning to testify either in favor or in opposition for any of the cases today will need to fill out two witness cards. Witness cards are available in two locations, one at the table where you came into the hearing room and also at the table in front of us where you will be giving testimony.

Upon coming forward to speak to Board, please hand those witness cards to the recorder who is sitting to my right.

The order of proceedings for today for the special exceptions on variances will be first. We'll have statement and witnesses of the applicant second and we'll have government reports, Office of Planning, and then the other tendered reports. Third, we will hear from the ANC member if they are here or we will review the report as submitted into the application. Fourth, we will have parties or persons in support. Fifth, we'll have parties or persons in opposition and sixth, finally, we will have closing remarks by the applicant.

Cross examination of witnesses is permitted by the
applicant or parties. The ANC within which the property is located is automatically a party in the case.

The record will be closed at the conclusion of each case except for any material specifically requested by the Board and we will be very clear on what is intended to be submitted, when it should be submitted into the Office of Zoning. After all of that information is submitted, clearly, the record will then be closed and, therefore, no other information will be accepted by the Board.

The Sunshine Act requires that public hearings on each case be held in the open and before the public. The Board may, consistent with it's rules and procedures and the Sunshine Act, enter executive session during or after the public hearing on a case for purposes of reviewing a case and for deliberation on that case.

The decision of the Board in these contested cases must be based exclusively on the record. So, we ask in order to not give the appearance to the contrary that you not engage Board members in conversation today while hearings are in session.

Let me note also that I'd ask everyone to turn off their beepers and cell phones at this time so we also don't have any other disruptions to the proceedings and I think we can move quickly to preliminary matters.

Preliminary matters are those which relate to whether a case will or should be heard today, such as, request
for postponements, continuance or withdrawal where the proper and adequate notice of a hearing has been given.

If you are not prepared to go forward with a case today or if you believe the Board should not proceed, now is the time to raise such a matter.

I do know that we have several preliminary matters in each of the cases. I want to ask staff first if they have additional ones that the Board is unaware of.

MS. BAILEY: No additional ones, Mr. Chairman.

Well, good morning.

CHAIRPERSON GRIFFIS: And good morning to you.

MS. BAILEY: Just the switching of the cases if you still intend to do that.

CHAIRPERSON GRIFFIS: Oh.

MS. BAILEY: But, that's -- that's the only preliminary matter that I'm aware of at this time.

CHAIRPERSON GRIFFIS: Indeed. Thank you very much and that is an excellent point.

I would like to --

MS. BAILEY: Are they here?

CHAIRPERSON GRIFFIS: -- switch the -- the schedule this morning for the cases and if application 16980 of Howard University is here, I'm prepared to go forward immediately. I would like to call that case first. I anticipate that that will not take as much time as the next two cases. The next two cases
I think we will also look to combining the hearing and hearing all the information at once with that.

So, if that is appropriate and Howard University is ready to go ahead, I think we can call that case unless there are other preliminary matters that others have to bring up at this time or we can bring them up clearly at the beginning of the case when it's called. Very good. Let's move on then.

MS. BAILEY: Application Number 16908 of Howard University, pursuant to 11 DCMR 3103.2 for a variance from the use provisions to allow a parking lot for the general public including the patrons of a club located at 815 V Street, N.W. under subsection 602.1(j). The project is located in a CR District at premises 2129 9th Street, N.W. Square 2875, Lot 203.

Please stand to take the oath. Raise your right hand, sir.

Do you solemnly -- do you solemnly swear or affirm that the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth?

MR. BIEL AND MR. DUBUC: Yes, ma'am.

MS. BAILEY: Thank you.

CHAIRPERSON GRIFFIS: Thank you very much, gentlemen and good morning to you.

MR. BIEL AND MR. DUBUC: Good morning, Mr. Chairman.

CHAIRPERSON GRIFFIS: I'm going to have you turn on
your mike when you speak and I will turn it over to you. You can introduce yourself and -- and begin.

MR. BIEL: All right. My name -- good morning, Mr. Chairman, ladies and gentlemen. My name is Michael Biel. I'm an attorney. The spelling of my last name is B-I-E-L. I'm of the firm O'Toole, Rothwell, Nassau & Steinbach, 1700 K Street, N.W., Suite 700, Washington, D.C. 20006.

I originally and am still the representative of the 930 Club or that is more precisely Sledge Inc. trading as the 930 Club. Hopefully, you are all aware of the existence of the club. I just add as a proud aside that it is the winner of two of the four awards created by the industry to honor the top nightclub in the United States and my belief is that we would have won three out of four but for politics.

Howard University, however, is --

CHAIRPERSON GRIFFIS: Are you saying there's politics in entertainment?

MR. BIEL: Yes, sir, I'm sorry to say there is.

CHAIRPERSON GRIFFIS: It's hard to believe, sir.

MR. BIEL: Well, the House of Blues is a formidable -- formidable promoter and I think in this -- in the case when they won, they had to -- they had to recognize them.

CHAIRPERSON GRIFFIS: Okay.

MR. BIEL: Howard University has graciously allowed me to proceed with this application on their behalf so that we
may -- and we are seeking a -- a variance from CR District requirements to allow the use of a parking lot at 2129 9th Street, N.W.

Now, historically, that property has always been a parking lot. My understanding -- well, it was a parking lot that was used primarily by Howard University Hospital employees. It was in existence to my knowledge many years before Sledge Inc. moved from 930 F Street, N.W. to 815 V Street, N.W. in 1994.

At the end of 1994/'95, we approached Howard University for -- to seek use of their parking lot primarily for our patrons, but it certainly is public and open to everyone.

We believe that there was a perception amongst our patrons that the area was high crime. I don't share that perception, but I live in the city and so, perhaps, you know, my perceptions have been tempered. There's still -- I would note and this was a footnote in one of my introductory remarks that when we moved there, there was a fairly active and open drug market there at the corner of -- of 8th and V Streets, N.W. and with the presence of our construction workers and -- and whatnot, the gentlemen who were running the market moved. Where they went, I don't know. I hope it didn't become some other neighborhood's problem.

We finally were able to get a reception from Howard University on our numerous requests for using their parking lot and in April of 1999, we entered into a lease agreement with
Howard University for use of that particular property as a parking lot. Again, our understanding was -- is that historically it had always been a parking lot.

My belief and you ladies and gentlemen probably have more knowledge about this than I do, but my belief was when it was created as a parking lot by Howard University on its property, I believe there was a belief in the city that anything Howard did was beyond their jurisdiction or beyond the jurisdictional reach of the city. I don't know if that extended to police and fire protection as well, but they pretty much seemed to be able to determine uses of their property without consultation perhaps and whether or not that use conformed with the particular uses of the neighborhood.

I was while we were operating the facility as a parking lot, we learned that it was not licensed as a parking lot. There was no permit for it and indeed zoning -- zoning requirements prohibited its use except upon application for a variance.

My understanding is and again, you ladies and gentlemen will know this better than I that area used to be zoned I believe CM3 before it was changed to a CR District which I believe was in 1989, but I could very well be wrong on that. If it were a CM3 specifically, parking lots are specifically allowed as you all know in a CM3 District. I say only by way of inferring that its requested use as a parking lot now is not in
my judgment inconsistent with prior uses allowed there and is not presently inconsistent with the purpose of -- of a district being labeled CR.

CHAIRPERSON GRIFFIS: Let me make some clarification --

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: -- because I tend to agree with some of what you're saying.

Within the CR, certainly an accessory parking or rather a parking lot that is attendant to a function is allowed in a CR zone and that -- that is the case we have here.

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: It is a university parking lot and used by them. However, what we're -- what you're proposing today is actually an accessory use to the club for that parking lot and that is what actually comes --

MR. BIEL: Right.

CHAIRPERSON GRIFFIS: -- in for a use variance. I think what you're stating though is it is true and I think the Board is very well aware this is although a use variance, it is - - I don't believe that it's such a high threshold because it's not actually changing a use and what you're trying to do is -- for us is create the idea that it's a parking lot, will be used as a parking lot.

MR. BIEL: And --
CHAIRPERSON GRIFFIS: Why should it not be used when it's not being used for its primary use?

Now, what I want to do is direct you -- you've talked a lot about the history which I think is very important. Tell us what's the current situation of the parking lot in terms of the university is. Is there a current C of O for the parking lot?

MR. BIEL: My understanding, sir, is that there is not and we are in the process of obtaining one and this process is part of that.

CHAIRPERSON GRIFFIS: Okay and so, the university will be applying for a C of O for the current parking lot?

MR. BIEL: Yes, sir.

CHAIRPERSON GRIFFIS: Okay. That's something clearly that we'll need submitted into the record.

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: Then, do you want to just talk to us about the -- the test for the variance, the use variance, and some of the issues that go to it? Clearly, I think the -- the one that should be spoken to is the hardship.

MR. BIEL: Yes. Well, I believe first of all, Mr. Chairman, that the use as a parking lot is accessory to an allowable use in the CR zone which is an entertainment -- it is a parking lot that might be incidental to a theater or a -- or a -- a public hall that brings cultural events to it.
Just for the Board's and other ladies and gentlemen's information, Sledge Inc. as the 930 Club rents that facility from 6:00 p.m. to 6:00 a.m. only. From 6:00 a.m. to 6:00 p.m., it is operated by Howard University and again parking for its employees and some of its students I understand.

CHAIRPERSON GRIFFIS: And when you lease, you do it directly since then the club charges a fee for parking there for its patrons?

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: And then that fee is recouped by the club. Is that correct?

MR. BIEL: Yes, sir.

CHAIRPERSON GRIFFIS: So, you have a -- a straight leasing relationship with the university?

MR. BIEL: Yes. Yes, sir, where we operate essentially our independent operation during those hours from 6:00 p.m. to 6:00 a.m. We have certain obligations under our lease to maintain the property for the benefit of both ourselves and Howard University.

CHAIRPERSON GRIFFIS: Are you aware of any objections in the community, any complaints about the use of the parking lot either from 6:00 p.m. to 6:00 a.m. or any other time?

MR. BIEL: I'm aware of no complaint, sir. None have ever been brought forward to our attention and that is the attention of the 930 Club and we -- and we regularly have people
in the neighborhood to make sure that our use is not infringing
upon others' use or infringing upon others' property and maintain
a certain sense of order.

I think what's most important here perhaps in terms
of the analysis is that, and certainly Third Precinct or Third
District police can give us a better idea what the crime
statistics are, but my impression is -- is that the primary crime
there is -- is auto break-ins.

Before we had the lot, I would say on two or three
different occasions every week we would have a report of a car
window having been busted -- a car window of a patron having been
busted. Let's say they had parked on -- on Vermont Avenue right
as it comes into Sherman and -- and out of view of 930 Club and
930 Club personnel and if people were foolish enough to leave
something in their car, they probably wouldn't have it when they
-- when they walked out.

CHAIRPERSON GRIFFIS: And are you submitting any
police reports?

MR. BIEL: No, sir, we're not.

CHAIRPERSON GRIFFIS: Okay.

MR. BIEL: I do -- it is my belief and judgment
that those particular crimes have decreased since -- since we've
had the availability of the parking lot.

CHAIRPERSON GRIFFIS: Well, and this is what I've
said to everybody that testifies. How do we judge your --
MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: -- knowledge of whether it has decreased or not?

MR. BIEL: I would be happy to as a supplement to obtain those statistics from --

CHAIRPERSON GRIFFIS: Okay.

MR. BIEL: -- Third Precinct if you would like.

CHAIRPERSON GRIFFIS: We'll keep that under advisement.

MR. BIEL: Right.

CHAIRPERSON GRIFFIS: And we'll see if we need it, but I think clearly what you're indicating is that if -- if you have the cars that are in one parking lot, certainly they can be easily monitored and -- with the --

MR. BIEL: Very much so.

CHAIRPERSON GRIFFIS: -- grouping that's there.

MR. BIEL: We have -- we have at least -- I'm sorry I didn't introduce the gentleman on my left. This is Stephano Dubuc. He runs E Park which is our parking agent in effect and we -- he has -- will have one if not two employees on site at all times and we will have one if not two employees on site at all times. So, the -- the lot is -- is -- is during it's proposed uses from 6:00 p.m. to 6:00 a.m. is -- is well regulated, well supervised, well lighted, and well peopled discouraging, we think and we hope, anyone with any nefarious intentions.
CHAIRPERSON GRIFFIS: Good. I would like to if it's appropriate --

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: -- with you just to ask some questions about the program. I think Ms. Renshaw has a question right now though. Let's take that and then I want to go to that.

VICE CHAIRPERSON RENSHAW: I'd just like to say that were given two pages of photographs of the parking lot. My question goes to who erected the fence and did you -- did whoever erected the fence have permission to do so?

MR. BIEL: Ma'am, my understanding is no. The fence and the lot were prepared by Howard University under their authority. We had no connection with that.

As I say, it had been in use for many years as a parking lot, but the actual physical ground was -- was broken and not well maintained.

In approximately, let me just check this a minute here. In -- at a -- in approximately March -- February or March of 2000 and I was in error when I said our relationship began with Howard in 1999. It actually began officially in the year 2000 in April. But -- for the two or three or four months prior to our lease with Howard, Howard University had re-fenced the area, repaved the area, and remarked the area.

Now, my understanding is it was without any
authority and I think it was --- it had been consistent as I understand it with the way business had been done in the past with Howard University. That is it was a separate entity and kind of left alone. That was my judgment, ma'am, and I may certainly be wrong on that, but I do know for a fact that Howard University did not obtain the appropriate permits to put up a fence, to maintain the parking lot, and to do the construction that they did do.

I would say that they markedly improved the site. It's much cleaner. It's much neater and it looks a lot better, but my understanding was -- is that this was done on their own without appropriate permit or -- or agreement with the District of Columbia.

VICE CHAIRPERSON RENSHAW: In your lease agreement with Howard University, who has the responsibility to maintain the fence? Is that addressed in your lease agreement?

MR. BIEL: Yes, ma'am, it is. We have responsibility obviously during 6:00 p.m. to 6:00 a.m. to maintain all the grounds, but in our lease, we have undertaken the obligation to essentially maintain the property throughout a 24-hour period.

Now, I say maintain. That is we pick up the trash. We -- we, you know, cut down the weeds and whatnot.

If any repair has to be done to any light stanchion for example or fence, that would be done by Howard University.
VICE CHAIRPERSON RENSHAW: Yes. Thank you.

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: Good. I think just in terms
of the program for the parking, do you -- do you want to just
walk us very quickly through how it is going to be accomplished?
For instance, do you take a fee as the cars come in? Is it self
park? You know, all of that and just give us the rundown. You
can turn on the mike and fire away.

MR. DUBUC: Good morning. Again, my name is
Stephano Dubuc. I'm with E Park and we hope to -- to -- a
license to operate the parking lot.

The process is simple. We have attendant
physically in front of the club. When someone drop in going to
the club, we will direct him to the parking lot. In turn there,
someone will give him a ticket and charge him for parking which
is all self park. So, we do not touch any car. Everybody get to
lock and parking like their cars and walk on the sidewalk
directly into the club without walking or parking in the
neighborhood.

And we have someone on duty until everybody leave
the lot because we are to close the fence -- the gate after the
fact for the use of Howard in the morning when there are people
coming and park there.

CHAIRPERSON GRIFFIS: What would you do if someone
conceivably hypothetically left with someone else in the club and
left their car in the parking lot?

MR. DUBUC: Oh, is not -- because we -- the club is -- in about the morning, the gates is reopened by the Howard police.

CHAIRPERSON GRIFFIS: I see. But, you wouldn't tow that out.

MR. DUBUC: Oh, no. No. No.

CHAIRPERSON GRIFFIS: So, it would just sit there, but it could conceivably if it was the last car get locked in?

MR. DUBUC: Yes, if it is, but that hasn't happened yet. Because everybody is -- is --

CHAIRPERSON GRIFFIS: Yes, that's -- okay.

Any other questions? You have -- I'm sorry. Ms. Renshaw.

VICE CHAIRPERSON RENSHAW: Just to ask, what are the hours of the club? Do they match the hours of the lot?

MR. DUBUC: No.

CHAIRPERSON GRIFFIS: Be careful with that.

MR. DUBUC: No.

MR. BIEL: Yes.

MR. DUBUC: Basically, it's concert at the club. Some shows may last two hours. Some may last four hours depending on who is playing. But, we do have responsibilities to man the lot between those hours for --

CHAIRPERSON GRIFFIS: But, the club doesn't run
until 6:00 a.m.?

MR. BIEL: No. No.

MR. DUBUC: No. No.

MR. BIEL: As a matter of fact, ladies and gentlemen, we often try to make the schedule especially during the weeks events and we're open perhaps on average four to five nights per week. Many of the weekly events are scheduled to end by 11:30 so that our patrons who use the subway can make the last subway before -- before it is no more.

I would say from Monday to -- and this may change if Dolly Pardon were to be a performer there, but generally, doors open at 7:30 p.m. and the -- the house is probably cleared right around midnight. So, those are -- are primary hours of use of the lot.

Now, of course, there would be some time hangover from everyone vacating the club to everyone getting their automobile and getting out, but generally, that lot is -- except on weekends when our shows may go to 2:00 or a little bit later, again consistent with the subway schedule. So many of our patrons actually use the subway.

CHAIRPERSON GRIFFIS: But, issued for the club itself, this is a nightclub that there, you know, you can go anytime. It's actually based on a booking of a show --

MR. BIEL: That's so.

CHAIRPERSON GRIFFIS: -- that's in the club itself.
MR. BIEL: It's a live -- we're not open if there is no live performance that evening.

CHAIRPERSON GRIFFIS: Got you.

MR. BIEL: For example --

CHAIRPERSON GRIFFIS: Okay.

MR. BIEL: -- we're not a -- we're not a bar restaurant. No way.

CHAIRPERSON GRIFFIS: Right. Right.

MEMBER HOOD: Mr. Chairman.

CHAIRPERSON GRIFFIS: Yes.

MEMBER HOOD: I have a question.

I noticed in the aerial picture a number of parking lots. While this is not before us, I'm just curious. If -- if you get approval for what you're asking for today, will we see you back trying to get the other parking lots? Because from the aerial picture, there are a number of parking lots. For example, I believe one of them is called a North Banacker Lot which is off of Sherman Avenue which is not here before us today.

MR. BIEL: Correct.

MEMBER HOOD: I -- I just see --

MR. BIEL: And there is also -- I don't mean to interrupt, sir, but there is also a small lot on 9th Street about -- about four doors up from 2129. I would say it would probably be 2133 or 35. It's a small lot, fenced with a gate, and an attendant used by Howard exclusively generally during daytime.
hours.

MEMBER HOOD: So there are other lots with the exception of the one that's -- manned and you just can't arbitrarily go in and use those lots.

MR. BIEL: No, sir.

MEMBER HOOD: Okay.

MR. BIEL: No, sir.

MEMBER HOOD: Okay.

MR. BIEL: There is also a small lot between the Howard lot I just spoke of and the lot that is the subject of this variance and that is part of a -- it's a small parking lot that is a part of a business of an elevator company the building of which you see at the top left of that picture.

MEMBER HOOD: So, this lot is not, for example -- this is not the North Banacker Lot? I'm --

MR. BIEL: No, sir. No, sir.

MEMBER HOOD: Okay.

MR. DUBUC: The North Banacker Lot is on Sherman.

MEMBER HOOD: Sherman Avenue.

MR. DUBUC: Yes.

MEMBER HOOD: Okay.

MR. DUBUC: This is directly beyond the -- the club itself. Attached to --

MR. BIEL: Now, that's a rather large lot, the one I think you're speaking of.
MEMBER HOOD: Right. Adjoining a couple of dormitories.

MR. BIEL: Right.

MEMBER HOOD: And the reason -- my reasoning for asking is I just see that -- that maybe it's a possible chance that we may see you later on and trying --

MR. BIEL: Sir, on that one, no. That -- clearly what plans Howard has for that particular property, I don't know. But, it is -- I have some indication and it is, I believe, part of a -- a plan of Howard to expand their -- expand their physical base a little bit.

There would be no possibility of us leasing that lot as far as I'm concerned. There would probably be no desire to lease that lot either because it's so large.

There may be, however, a desire to come to some arrangement vis-a-vis Howard with that second smaller lot just beyond that elevator company building.

MEMBER HOOD: Okay.

MR. BIEL: It'll probably -- be probably -- it's only 20 to 30 spaces large.

MEMBER HOOD: In your agreement with Howard, how many years is it?

MR. BIEL: Three years.

MEMBER HOOD: Three years.

MR. BIEL: It's expires this year. We hope that
our relationship with them is such that it will be renewed.

MEMBER HOOD: So -- so, you'll probably renew it for another three years?

MR. BIEL: Yes, sir.

MEMBER HOOD: Okay.


MEMBER HOOD: Right. And one other point I just wanted to make as far as jurisdiction. That falls -- the parking lot and that area also falls within the Howard University Campus Plan.

MR. BIEL: Yes, sir.

MEMBER HOOD: Which is notated in our reports. So, this Board did have jurisdiction or --

MR. BIEL: Yes.

MEMBER HOOD: -- well, did have jurisdiction over that. Now, it's in front of the Zoning Commission.

MR. BIEL: Yes, I have no doubts of that personally, sir, that the -- that the city would have jurisdiction over any area within its -- its actual physical, geographical boundaries.

MEMBER HOOD: Right.

MR. BIEL: Whether or not, you know, to what extent their jurisdiction runs, I would leave that for the particular issue and particular agency, but it seems to me that anyone in
this city would have to get appropriate permission to -- to build or to operate any sort of facility for any use.

MEMBER HOOD: I just wanted to put it on the record it did fall within the Howard University Campus Plan.

MR. BIEL: Yes, sir. Yes, it does.

MEMBER HOOD: Thank you.

MR. BIEL: You're welcome.

CHAIRPERSON GRIFFIS: Thank you, Mr. Hood. All right.

There you gave an indication that there was lighting or adequate lighting in the parking lot. The pictures are a little dark that we have. Do you know offhand, first of all, that there are light fixtures on the parking lot site and two, do you know how many?

MR. BIEL: There are -- I know that there are the four corners that are new lighting. That is, Howard had put in when they were redoing that lot prior to our leasing of it and I don't believe they were doing it for that purpose, but it was just coincidental.

They did replace all their lighting and as far as -- I know that there is a tall light stanchion on either corner and I think there is one in the middle on both sides. One on 9th Street.

CHAIRPERSON GRIFFIS: This will be five.

MR. BIEL: Five. I'm sorry.
CHAIRPERSON GRIFFIS: Five.

MR. BIEL: The --

CHAIRPERSON GRIFFIS: Okay.

MR. BIEL: If you would like, sir, I can give you this drawing by the District of Columbia.

CHAIRPERSON GRIFFIS: I have that and I -- I note that there were only two unless there are three beyond the fence. Is that what you're saying that they're on the sidewalk, but actually illuminate into the parking lot?

MR. BIEL: Well, yes, the drawing is probably not -- although I don't want to take any issue with the Office of the Surveyor, but those light if they're not part of the fence, they're immediately outside of that fenced area.

CHAIRPERSON GRIFFIS: Okay. And those three actually are -- are evidenced photographs two and three --

MR. BIEL: Right.

CHAIRPERSON GRIFFIS: -- in your submission.

MR. BIEL: So, we have three in that -- on the west side and two it appears on the east side.

CHAIRPERSON GRIFFIS: Okay. Do you want to summarize some of the hardships issues of why you wanted to use this? I think a lot has been indicated in this submission. So, if you wanted to just point a few for clarification to the Board.

MR. BIEL: Well, I think it -- obviously, with -- as is called I guess the east end is -- an you can see it almost
daily becoming more and more a commercially viable area especially with the subways fully operating there.

One, I think there's a general need for a facility for the general public to be available there.

Two, I believe that it is a crime deterrent at least and again, if the Board would like, I would -- I would be happy to get the crime statistics from the Third District that I believe will support my position that the crime has decreased since the lot has been in operation and again, the primary crime there seems to be the petty theft, the car break-ins rather than anything more serious and I think this would go a long way toward -- toward obviating that problem.

CHAIRPERSON GRIFFIS: Okay. Thank you.

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: A quick clarification then. You've indicated that the general public could use parking in that area. Are you -- is it -- do you understand in the least that that would be open 6:00 to 6:00 for general or is it just for the patrons of the club use?

MR. BIEL: It is open to anyone.

MR. DUBUC: Yes, it is open. But, there hasn't been any need for anyone to really use the parking lot now.

CHAIRPERSON GRIFFIS: Especially -- but, if a need was created, you would be there in order to facilitate that?

MR. DUBUC: Would have been -- would
been --

CHAIRPERSON GRIFFIS: Okay. Then what I've heard clearly is that there is some -- there is some community benefit for -- or let's put it in a -- in as you've stated in the hardship note that the community is negatively affected if this parking lot does not function on off hours, meaning that residential parking in this area would be filled. The streets would be filled. Conceivably, we can also use our common sense in looking at that as the club would empty these patrons would be walking through residential streets --

MR. DUBUC: Right.

CHAIRPERSON GRIFFIS: -- and getting into cars and getting out.

MR. BIEL: And this way pretty much they're limited to the club property itself, the streets around it, and then the parking lot which is pretty much immediately adjacent to the club -- adjoining the club separated by two -- separated by a slot of land owned by Atlantic Plumbing of about 40 feet. There's a 40-foot distance between that south end of the lot in the picture and the 930 Club and that 40-foot slot is owned by Atlantic Plumbing.

CHAIRPERSON GRIFFIS: Right.

MR. BIEL: But other than that --

CHAIRPERSON GRIFFIS: Which is a good plumbing store if anyone's in the area.
MR. BIEL: Yes, other than that, that's probably the only ones affected.

CHAIRPERSON GRIFFIS: Okay.

MR. BIEL: Now, over on 9th Street, they are mostly commercial users although there are some young apartment dwellers on -- in some of the --

CHAIRPERSON GRIFFIS: Okay. The other point that you made is that it is clearly a parking lot and it will continue as a parking lot and as it goes to a hardship, it is, in fact, what I -- I understand you saying is it's a lose of an asset or an asset part of this parking lot. Meaning why let it sit vacant and not used when it actually could be used.

Also, in the written submission, you haven't really touched on it, but it is attendant to the community if you don't have all those cars on the street and parked and driving in and out and it is -- it is a -- I'm sure there's a traffic word for this, but it is -- it is a one-time entrance which is a heavy traffic volume --

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: -- at the beginning and a heavy traffic at the end. Yet, the hospital that's adjacent, the emergency vehicles, that could conceivably create congestion problems in an emergency situation in getting those vehicles in and out on the streets by monitoring and keeping them in one area and therefore, streaming them out in a more controlled way.
MR. BIEL: This is my first time before the Board, sir, and -- and --

CHAIRPERSON GRIFFIS: So, you know, what at this point, you probably sit back and I'm summarizing for you and -- and you can --

MR. BIEL: Yes. Thank you and next time I will be able to do that.

CHAIRPERSON GRIFFIS: Good.

MR. BIEL: -- for you.

CHAIRPERSON GRIFFIS: Okay. And then the last thing that I have in my notes from the submission and the hearing today is the auto break-ins and that is clearly mitigating an adverse impact in the neighborhood but also for the patrons for the use and it goes to a larger piece of the -- of the city that we are able to bring people in and -- from other neighborhoods in the city and enjoy entertainment in other areas and not have to worry about having cars broken into or increasing crime in an area which then increases the environment for crime which then, in fact, negatively impacts the residential area and I think that's everything that I have.

If you want to add or correct me on anything, I would take that as your summary and we can move on quickly --

MR. BIEL: Yes, sir.

CHAIRPERSON GRIFFIS: -- to other government reports.
Any other questions from the Board members at this time?

VICE CHAIRPERSON RENSHAW: Just one. We have a photograph of the view of the 930 Club along 9th Street at V and we note that there are quite a few orange cones in front of what must be the entrance to the 930 Club?

MR. BIEL: Yes, ma'am.

VICE CHAIRPERSON RENSHAW: All right. Do you have an arrangement with the city, with the police department to put up those orange cones?

CHAIRPERSON GRIFFIS: Actually, if I'm not mistaken --

VICE CHAIRPERSON RENSHAW: Is this --

CHAIRPERSON GRIFFIS: -- we're looking at photograph three. That's actually the side. That's the street going to the parking lot.

VICE CHAIRPERSON RENSHAW: It's along 9th Street. It is the corner right here.

CHAIRPERSON GRIFFIS: Right. But, the entrance if I'm not mistaken is around the corner.

MR. BIEL: Yes.

VICE CHAIRPERSON RENSHAW: The entrance is on V Street?

MR. BIEL: The entrance is on V Street. Yes, ma'am.
VICE CHAIRPERSON RENSHAW: And this is 9th Street.

But, could you just explain why the orange cones?

MR. BIEL: Well, the cones are -- are generally there to protect buses carrying the talent and their associate work forces will come in. They will often park on that side of the street. They'll often park their buses or trucks there. They're not generally running by the way when they do so that there's no additional noise consideration.

But, that's generally why they're there. To protect that vehicle when it is parked there both for unloading and waiting to take the talent back in and going to their next --

VICE CHAIRPERSON RENSHAW: So, you have an arrangement with the city to do that?

MR. BIEL: Well, no, and we have had -- we have been cited in the past for having those cones outside in the roadway and we have corrected that.

The cones are now only in use when there is a truck or a bus that's being unloaded that -- and that is, you know, legitimately parked at curb and really more to alert people that this is not -- the you should really stay away from vehicles. The acts don't want to be bothered really, you know, by fans and/or there are -- you know, people are working out of the vehicles either unloading the equipment or reloading equipment.

CHAIRPERSON GRIFFIS: How is that street, 9th Street, signed for parking?
VICE CHAIRPERSON RENSHAW: Yes, signed.

CHAIRPERSON GRIFFIS: Is there allowable parking on 9th Street?

MR. BIEL: There is.

MR. DUBUC: Along -- along the parking lot fence.

MR. BIEL: Along --

MR. DUBUC: Just along the fence.

MR. BIEL: Yes, parking lot fence is -- is.

CHAIRPERSON GRIFFIS: Okay. Adjacent to the club right in that area that we're looking at in photograph three with the cones, is that signed no parking?

MR. DUBUC: I'm not sure what --

CHAIRPERSON GRIFFIS: Have you talked about --

MR. BIEL: Well, we don't -- if there's no vehicle there associated with the act, people are allowed to park there as --

CHAIRPERSON GRIFFIS: Are you certain?

MR. BIEL: Yes, sir.

VICE CHAIRPERSON RENSHAW: And yet we have a photograph with a lot of orange cones keeping vehicles away from that area.

CHAIRPERSON GRIFFIS: Right.

MR. DUBUC: Is it -- is the entrance of the club.

CHAIRPERSON GRIFFIS: Not on V Street. On 9th
Street as you come up.

MR. BIEL: Yes. Right.

CHAIRPERSON GRIFFIS: And as an anecdote to that photograph --

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: -- you also captured a police car in it.

MR. BIEL: Yes.

VICE CHAIRPERSON RENSHAW: Through --

CHAIRPERSON GRIFFIS: Which lends itself some great legitimacy of what's going on I think.

MR. BIEL: Doesn't it though.

CHAIRPERSON GRIFFIS: All right. This is -- this is --

MR. BIEL: Ma'am, all I can say is that probably was --

MR. DUBUC: That's the entrance to your basement for the loading.

MR. BIEL: Oh, yes, we do have a side entrance there where most of our --

CHAIRPERSON GRIFFIS: Where you do loading and unloading.

MR. BIEL: -- comes in.

CHAIRPERSON GRIFFIS: This is what I would suggest.

MR. BIEL: Right.
CHAIRPERSON GRIFFIS: First in the public street, it goes beyond our jurisdiction, but I think Ms. Renshaw is pointing out an excellent point and that is we look at how every attended --

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: -- and how it paints a picture for us. I would suggest that you engage in the city in conversation of how to properly sign that area, as it is close to the corner, as you do have the vehicles going into those huge sea of parking in Howard University which seems to be a tragedy, but nonetheless, that street going up and you do do loading and unloading. You may want to have that as a commercial --

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: -- loading and unloading spot. It doesn't seem like it's detracting from the larger area.

MR. BIEL: No, that's our next task.

CHAIRPERSON GRIFFIS: And then you could legitimately put buses there and equipment and -- and then do your own crowd control for the groupies that might descend on the vans.

So, that being said, any other questions?

Great. Let us go to --

MR. BIEL: Thank you.

CHAIRPERSON GRIFFIS: Certainly. Don't go anywhere.
MR. BIEL: All right.

CHAIRPERSON GRIFFIS: We've got other things to do.

Let's go to Office of Planning though and have them run through their report.

MR. MORDFIN: Good morning, Chairman and Members of the Board. I'm Steven Mordfin with the Office of Planning.

This is BZA Application Number 16908. This applicant is for a use variance to permit the use of an existing Howard University accessory parking lot as the primary use at 2129 9th Street, N.W. Subject property is located within the CR Zoning District.

Parking lots as the primary use are specifically prohibited within the CR District under Section 602.1(j). Accessory lots are permitted within the CR District and this parking lot is contained within the Howard University Campus Plan as a parking lot for the hospital.

The applicant proposes to use the parking lot as a paid parking lot from 6:00 p.m. to 6:00 a.m., seven days a week. From 6:00 a.m. to 6:00 p.m., it will continue to be used as an accessory parking lot for the hospital.

A use variance may be granted by the Board pursuant to Section 3101.2. The subject application is in compliance with that provision as follows. The extraordinary or exceptional situation is that the parking lot already exists as an accessory use of the Howard University Hospital even if it is not used by
the hospital after hours. The exceptional or -- under hardship is that the lot already exists and the same existing lot that may be used as an accessory parking lot during the day may not be used as a principal parking lot in the evenings.

The parking lot is also required to be in conformance with the provisions of 2303.1 parking lots. The subject application is in conformance with those provisions as follows. The parking lot is covered with four-inch asphalt paving. The lot is designed so that no vehicle or part of a vehicle can project over a lot or building line. The subject property will be used for parking only. The entrance and exit are located more than 40 feet from a street intersection. The parking lot is kept free of refuse and debris and the lot is lit by free-standing poles that confine the light to the surface of the lot.

However, five percent of the lot is not landscaped and there are no shrubs or trees. The Board is empowered to reduce the percent landscaped. An area consisting of approximately 3.2 percent of the site is at the southern end of the property and is not asphalt paved.

OP recommends that the Board approve a 3.2 percent landscape area for the property subject to the area being planted with trees and shrubs and receiving approval from the Department of Public Works.

The Office of Planning recommends approval of the
request for the variance subject to the following conditions:

(1) that the approval shall be for a period of five years; (2) that the existing grassy area shall be planted with trees and shrubs subject to the approval of the Department of Public Works and that the landscaping shall be maintained in a healthy growing condition in a neat and orderly appearance as required by Section 2303.1(f); and (3) that the Board reduce the percentage of landscaping required from five percent to approximately 3.2 percent pursuant to Section 2303.1(f).

And that concludes the Office of Planning's report.

CHAIRPERSON GRIFFIS: Thank you very much. Do you have the Office of Planning Report?

MR. BIEL: No, sir.

CHAIRPERSON GRIFFIS: Well, we'll get you a copy of it before you leave then.

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: Do you have questions of the Office of Planning?

MR. BIEL: No, sir, but I do -- would add that I had spoken to Mr. Mordfin on occasions in the past. So, we have had a dialogue.

CHAIRPERSON GRIFFIS: Okay. Is it clear the conditions that they are recommending if we move ahead with an affirmative motion?

MR. BIEL: Yes, sir.
CHAIRPERSON GRIFFIS: And you're prepared to do landscaping as outlined by the Office of Planning?

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: Okay. Do you have a feel of what the purpose of the landscaping parking lots is?

MR. MORDFIN: I think the purpose of landscaping parking lots is to break up the monotony of the asphalt paving and it also can provide some cooling for the amount that those trees can grow within a parking lot and some shade.

CHAIRPERSON GRIFFIS: Okay. And also for drainage and --

MR. MORDFIN: Right.

CHAIRPERSON GRIFFIS: Okay. It just -- anyway, I think first of all in lots of applications that it makes a lot of sense, but let's hear others on this.

Clearly, I think the fence is of great help. I mean I think what you always balance is do you cover it and then create an environment where it's easily -- well, where an unsafe environment would -- might be made in terms of sea of parking and you walk in and it totally screened. So, you don't really have the eyes on the street being able to see in there, but nonetheless, that's a lot of discussion we won't get into today.

Any other questions of the Office of Planning by the Board members?

VICE CHAIRPERSON RENSHAW: Yes, Mr. Chairman. Just
to ask two things. One, how did you come up with 3.2 percent down from 5 percent and also, who's going to be responsible for maintaining the landscaping?

MR. MORDFIN: The 3.2 percent is our estimate of the size of that existing area that's not part of the parking lot now within the fenced area. So, we estimated it to be approximately 800 square feet which is 3.2 percent of the total size of the subject property.

The -- we assumed that the maintenance of the lot would be by the applicant.

MR. BIEL: That is correct.

CHAIRPERSON GRIFFIS: You're prepared to do that then?

MR. BIEL: Oh, absolutely.

CHAIRPERSON GRIFFIS: You're prepared to put the -- the landscaping in and maintain it?

MR. BIEL: Oh, absolutely.

CHAIRPERSON GRIFFIS: Okay.

MR. BIEL: We're already maintaining the alley back there --

CHAIRPERSON GRIFFIS: Okay.

MR. BIEL: -- that runs along the side, on the east side, north to south.

CHAIRPERSON GRIFFIS: Oh, I should say -- I should clarify for the record. Ms. Renshaw has pointed out an excellent
point. I -- I am referring to you as the applicant, but I should refer to you as the lessee and as the lessee, you're prepared to --

MR. BIEL: Yes, sir absolutely.

CHAIRPERSON GRIFFIS: -- implement the landscaping and also -- is it lessee or lessor? Anyway, as the person holding the lease to use that on off hours for total clarification. Any other questions then attended to this?

MR. BIEL: And Howard has been extremely supportive and cooperative in this endeavor specifically and in our endeavor generally. I anticipate absolutely no problem there.

CHAIRPERSON GRIFFIS: Okay. Even though you've let it out of the bag that they do things without permits in the city.

MR. BIEL: Well --

CHAIRPERSON GRIFFIS: No, I don't need any comment on that. That was a joke for the record.

MR. BIEL: I thought that was common knowledge.

CHAIRPERSON GRIFFIS: Let me go to Office of Planning and just to ask a quick question.

MEMBER HOOD: Mr. Chair. Okay. I'm sorry.

CHAIRPERSON GRIFFIS: Did you have discussions through the hospital, the University Hospital, that actually clarified the fact that there is no demand for them to use the parking lot in off hours and also, did they charge a fee for that
parking when you go to the hospital?

MR. MORFIN: I -- we did not discuss this with Howard University --

CHAIRPERSON GRIFFIS: I see.

MR. MORFIN: -- Hospital. So, I don't -- I don't know if they charge a fee for the use of that lot during the day or not.

CHAIRPERSON GRIFFIS: Okay. Mr. Hood.

MEMBER HOOD: I was commenting on your question or your comment, Mr. Chair, about the landscaping. From the photograph, and I'm glad the lessors, they agree to do the landscaping, but I was trying to -- from looking at the picture I have, maybe there's some other area where the landscaping will work.

I was thinking more inclined of keeping it trimmed. I don't know how the landscape will actually work here. I -- from the looks of the picture, they may be trees, but they look like weeds to me. So, I was just trying to figure out how this -- this whole piece would work.

CHAIRPERSON GRIFFIS: Right.

MEMBER HOOD: But --

CHAIRPERSON GRIFFIS: I think that --

MEMBER HOOD: -- I think I'll leave that alone since they agreed to do it.

CHAIRPERSON GRIFFIS: I think the direction is an
important one, Mr. Hood, and that is you don't just throw shrubs
and let it grow or -- or ivy that grows around and then it makes
it looks even worse than what it was intended to do. So, I think
clearly your point is that if landscaping goes in, if we decide
to require that, that it is actually maintained and what we'll do
is maintain it in an orderly trimmed fashion.

I think that also helps. You know, you've -- the
hearing today, we've heard that crime is an issue and I think
that also helps in terms of the environment and reducing crime if
things look like they're in an orderly and clean manner.

So, do you know off -- do you have any -- any idea
of what you're intending to put in that area?

MR. BIEL: Well, just having -- just come out no.
CHAIRPERSON GRIFFIS: Okay.

MR. BIEL: But, it would certainly be in
consultation with Howard. It's a relatively small area --

CHAIRPERSON GRIFFIS: Right.

MR. BIEL: -- affected.
CHAIRPERSON GRIFFIS: Correct.

MR. BIEL: And it is on the southeast section of
the lot. Further away from the street and there's no adjacent
traffic through the alley. I would suspect that it should be
small, not blocking any sort of -- although even if there were
trees there, it would not block any view of the -- of the lot.
It should be small, should be maintained, and should be able to,
you know, absorb some of the runoff.

CHAIRPERSON GRIFFIS: Okay.

MEMBER ETHERLY: Mr. Chair.

CHAIRPERSON GRIFFIS: Thank you. Yes.

MEMBER ETHERLY: Two quick questions just to follow up. I'm trying to think where to -- where to start. Very, very short.

Perhaps Mr. Dubuc --

MR. DUBUC: Yes, sir.

MEMBER ETHERLY: -- could answer. Following up on the question regarding parking, as you transition from staff use of the parking lot to use of the parking lot by your patrons, what happens if you have staff cars that are on-site when you -- when you take possession of the -- of the property for use by the club patrons?

MR. DUBUC: Yesterday, I went out.

MEMBER ETHERLY: Did you --

MR. DUBUC: Really went over. Yes.

MEMBER ETHERLY: Okay.

MR. DUBUC: Is no penalty or anything.

MEMBER ETHERLY: Okay. And we note by virtue of the Office of Planning report that it's a 56-space lot. Are you typically at full occupancy on performance nights?

MR. DUBUC: If it is sold-out show, yes.

MEMBER ETHERLY: Okay.
MR. DUBUC: But, the capacity is sold-out show.

MEMBER ETHERLY: Okay. Terrific. Final question and this relates to the percent -- the landscaping requirement of 5 percent. I note from one of the overheads and I apologize for not having -- well, you can actually see it on -- on Exhibit Number 3, that you do have a couple of the parking spots that are denoted as not for parking use, some of those odd shaped spots there. Was any consideration given, maybe this is perhaps directed to the Office of Planning, for the development of any type of landscaping islands so to speak perhaps in -- in those areas of the parking lot where vehicles are not parking? The placement of, you know, perhaps green-space islands as a way of -- and the reason I ask as a way of potentially getting closer. I mean I -- I doubt there's enough space to get you significantly closer to 5 percent but just as -- just as a thought. I mean I think the -- the 800 square feet parcel I think is sufficient, but just -- just out of curiosity.

MR. BIEL: My only concern there, sir, would be that if you did have landscaping, you'd probably have to do some sort of curb affect to prevent it from --

MEMBER ETHERLY: Exactly. Exactly.

MR. BIEL: And I would -- the way people drive in this city --

MEMBER ETHERLY: Yes, there would be some --
MR. BIÉL: -- I'm a little bit concerned about liability.

MEMBER ETHERLY: It would impact your travel pattern in the lot. No doubt about that. But, I just wanted to see if Office of Planning had given some consideration to that.

MR. MORDFIN: We had determined that that probably wouldn't be feasible. It would be difficult. You'd have to cut through the asphalt and then --

MEMBER ETHERLY: Okay.

MR. MORDFIN: -- typically, the soil has been compacted under there and you might have -- and it could be contaminated. You'd have to remove it and place other soil in there in which --

MEMBER ETHERLY: Got ya. Okay.

MR. MORDFIN: -- the trees and shrubs could grow.

MEMBER ETHERLY: Okay. Perfect. Thank you. Thank you, Mr. Chair.

VICE CHAIRPERSON RENSHAW: Mr. Chairman, I'm looking at Exhibit Number 3 the photographs of the lot itself and how many of these spaces are set aside for handicapped parking and where are these spaces just to get a --

MR. DUBUC: It's right on -- may I approach? It's in the top section here.

VICE CHAIRPERSON RENSHAW: Just hold up your picture.
MR. DUBUC: You kind of can see the shadow of --

VICE CHAIRPERSON RENSHAW: So, in the

back --

MR. BIEL: It's on the top. Yes, ma'am.

MR. DUBUC: Yes. Yes, close to the -- the center.

At the top of the center.

CHAIRPERSON GRIFFIS: It's in a center area and

it's two spaces up top that have striped areas adjacent to the

parking.

VICE CHAIRPERSON RENSHAW: All right. And that's

close to an exit where they could --

MR. DUBUC: Yes, this is where the entrance is,

ma'am.

VICE CHAIRPERSON RENSHAW: Very good.

CHAIRPERSON GRIFFIS: Okay. Anything else? I
don't have note of an ANC report on file. I do have in the file

that the ANC was notified.

MR. BIEL: Yes, and we took care --

VICE CHAIRPERSON RENSHAW: And this is ANC-1B --

MR. BIEL: Yes, ma'am.

VICE CHAIRPERSON RENSHAW: -- for the record.

MR. BIEL: And we did appear before them.

MR. DUBUC: June 6th.

CHAIRPERSON GRIFFIS: Oh, you did.

MR. BIEL: On June 6th, yes.
CHAIRPERSON GRIFFIS: On June 6th.

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: Okay.

MR. BIEL: Our understanding was -- is that it was approved.

MR. DUBUC: No objection. I believe nine -- eight to one I believe for the project.

CHAIRPERSON GRIFFIS: One against?

MR. DUBUC: Yes.

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: Okay. Anything else? I don't have any other tendered reports. Anyone else here? I do not denote that anyone else is here to give testimony in this application. Now would be the time either in support or in opposition.

Very well, then. I will give you an opportunity to make closing remarks if needed and if not needed, we can move ahead.

MR. BIEL: Sir, I will pass on closing remarks.

CHAIRPERSON GRIFFIS: Thank you very much. The Board --

MR. BIEL: Acceptable to the Board of course.

CHAIRPERSON GRIFFIS: Any final questions? Board prepared to move forward today?

VICE CHAIRPERSON RENSHAW: Mr. Chairman.
CHAIRPERSON GRIFFIS: Yes.

VICE CHAIRPERSON RENSHAW: Do you want to discuss the term?

CHAIRPERSON GRIFFIS: I think we ought to move quickly into motion if we're prepared to move ahead and -- and have the discussion under the motion and I would move approval of Application 16908 of Howard University which is a variance for -- in order to have a use of an off hours of an existing parking lot and that would be for the general public and this comes under Subsection 602.1(j) at premises on 2129 9th Street, N.W. and I would include the conditions as outlined by the Office of Planning with several amendments and, that is, I would have an approval for a period of six years. It seems as if we have a three year lease and that's a little bit more symmetrical if they were to up that and, therefore, timing could be consistent.

I would also include that -- the existing area that is available for planting be done so as outlined by the Board and their concerns. That is kept in a neat orderly fashion.

And -- and I'm not sure -- well, I think in the motion and in the approval, we can incorporate condition number three and that is for the approval also of a variance of the 5 percent requirement to accommodate an approximately 3 percent, as indicated, available area in the existing parking lot for landscaping.

And I'd ask for a second. We can have discussions.
MEMBER HOOD: Second.

CHAIRPERSON GRIFFIS: Thank you, Mr. Hood.

I think it was clearly outlined both in the testimony and in the written submissions and the Office of Planning which was an excellent report that was very helpful in this application. There were numerous things.

Clearly, we have an indication that this is -- the use variance, however, it's a strange hybrid of a use because we have a viable consistent use and the use is not changing, but we are actually able to see a benefit to the community in terms of having an off hours parking lot use or rather the parking lot use for 24 hours.

And several issues clearly come up and I don't need to reiterate all of those, but it -- it is a current parking lot. It will have a benefit to the community. It may reduce or affect the crime and certainly the vehicle break-ins.

The emerging of vehicle traffic is an important point and also in terms of we -- summarizing it all, it seems to be an unused asset if it sits locked and vacant all night long.

Others? Comments on the conditions?

VICE CHAIRPERSON RENSHAW: On condition number two --

CHAIRPERSON GRIFFIS: Yes, ma'am.

VICE CHAIRPERSON RENSHAW: -- of OP that the landscaping shall be maintained by the lesser.
CHAIRPERSON GRIFFIS: Excellent.

VICE CHAIRPERSON RENSHAW: So, it's clear and then also the approval shall be for and your recommending six years. Is that retroactive?

CHAIRPERSON GRIFFIS: Well, that's an interesting point. Because the lease has already started. Is that your point?

VICE CHAIRPERSON RENSHAW: Yes. Yes.

CHAIRPERSON GRIFFIS: Yes. Yes. Well, we -- I don't know if we can do that.

MS. PRUITT: Usually, it's from issuance of the day of the award.

CHAIRPERSON GRIFFIS: Yes. Yes. Yes, but it's a good point because it kind of flies in the face of why I went up to six years.

But, nonetheless, I mean I'm -- if you want to change the years on it, I think that's doable.

VICE CHAIRPERSON RENSHAW: Well, I -- I would recommend the five years.

CHAIRPERSON GRIFFIS: Okay. That's seems to be -- it makes perfect sense.

VICE CHAIRPERSON RENSHAW: Yes.

CHAIRPERSON GRIFFIS: Five years. We'll accept that, Mr. Hood? As a seconder, is that okay with you?

MEMBER HOOD: Yes, that's fine.
CHAIRPERSON GRIFFIS: Excellent.

MR. BIEL: Now, a point of information for my purposes, sir.

CHAIRPERSON GRIFFIS: Yes, sir.

MR. BIEL: If at the end of five years we come in again and -- and request a variance if the use is to continue and is that the process?

CHAIRPERSON GRIFFIS: That's what would be required.

MR. BIEL: Yes. Okay.

CHAIRPERSON GRIFFIS: Yes.

MR. BIEL: Thank you.

CHAIRPERSON GRIFFIS: In effect, we'd see you before the end of five years.

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: I mean your current order wouldn't expire.

MR. BIEL: Yes, sir.

CHAIRPERSON GRIFFIS: And you'd come in with a great clean slate and --

MR. BIEL: Right.

MEMBER HOOD: Mr. Chairman, I don't necessarily agree with five year.

CHAIRPERSON GRIFFIS: Okay.

MEMBER HOOD: I may have been reading something
that I wanted incorporated in the order when we were -- Ms. Renshaw was discussing. I think you changed it to five and you said six.

CHAIRPERSON GRIFFIS: I did say six because I was saying if they were on three-year leases.

MEMBER HOOD: Right. I'm in tangent with six. I don't know why we're changing it to five.

CHAIRPERSON GRIFFIS: Her point was that the least has already started. So, in fact, is it retroactive the time that it starts, the lease?

How long are you in the lease now?

MEMBER HOOD: But, to renew the lease I thought.

MR. BIEL: We're getting ready to renew April -- come April of the following year for another three.

CHAIRPERSON GRIFFIS: Oh. All right.

MEMBER HOOD: So, it needs to be in tangent.

CHAIRPERSON GRIFFIS: Now, I'm even -- now, I'm further clear. So, it would make sense if we had -- if you're renewing for a three-year lease, it would be fairly close in line, a matter of months, as a new lease would be signed and so, then six years does make sense.

Ms. Renshaw, is that fair?

VICE CHAIRPERSON RENSHAW: That's fine.

CHAIRPERSON GRIFFIS: Okay. Boy, we really take on the big issues. Don't we?
MEMBER HOOD: Yes.

CHAIRPERSON GRIFFIS: Okay. Anything else?

MEMBER HOOD: Only thing, Mr. Chair.

CHAIRPERSON GRIFFIS: Yes.

MEMBER HOOD: I think the Office of Planning report was good and I would just like for us to incorporate some of the discussion on page five of the report in the order and there's no need for me to reiterate. It's on page five.

CHAIRPERSON GRIFFIS: Good. In terms of this summation of the case.

MEMBER HOOD: Right.

CHAIRPERSON GRIFFIS: I think that's excellent point. Very good.

Then if there are not any other discussion on the motion, I can ask Board Members to signify by saying aye. All those in favor?

(Ayes.)

CHAIRPERSON GRIFFIS: And opposed? Excellent.

One point that we will have submitted for the record although we have done -- is Certificate of Occupancy.

MR. BIEL: I'm sorry, sir.

CHAIRPERSON GRIFFIS: A C of O for the parking lot.

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: Good and I will ask staff when they are ready to record the vote.
MS. BAILEY: Mr. Chairman --

CHAIRPERSON GRIFFIS: Yes.

MS. BAILEY: -- just so that I can be clear, there is not an existing C of O, but you're asking the applicant when he does make application to submit that documentation to the -- oh. Okay.

CHAIRPERSON GRIFFIS: Yes.

MS. BAILEY: All right.

CHAIRPERSON GRIFFIS: All right.

MS. BAILEY: The vote is recorded as 4-0-1 to approve the application. Mr. Griffis made the motion. Mr. Hood second. Ms. Renshaw and Mr. Etherly in agreement. Mr. Zaidain is not present today.

The application is approved for 60 years.

MEMBER HOOD: Six.

MS. BAILEY: Six years with the conditions outlined in the Office of Planning's Report. In addition, the order should incorporate the statements supporting the application as contained in the Office of Planning Report on page five and the applicant -- lastly, the applicant shall -- the lessor shall plant and maintain the landscaping.

I hope I've covered all bases, Mr. Chairman.

CHAIRPERSON GRIFFIS: I think so. I think that sounded excellent. Is that clear to you?

MR. BIEL: Yes, sir.
CHAIRPERSON GRIFFIS: Clear to the Board?

MR. BIEL: Yes.

CHAIRPERSON GRIFFIS: Very well. Now, are we doing a full order on this or are you requesting a summary order?

MR. BIEL: I think we could request a summary order, sir.

CHAIRPERSON GRIFFIS: Very well. That will be fine.

I would be inclined to agree with you and do a summary order on this and I think we can proceed.

Anything else? Excellent.

Then we wish you a great day and we'll see you.

MR. BIEL: Thank you.

CHAIRPERSON GRIFFIS: We'll see you in five and a half years.

MR. BIEL: Yes, sir. Thank you very much, ladies and gentlemen.

CHAIRPERSON GRIFFIS: And if we are ready, we can proceed directly into the next and call the next two cases together.

MS. BAILEY: Application Number 16904 of Capitol Apartment Property Associates LP, pursuant to 11 DCMR 3104.1 with special exception for a new residential development under Section 353, a special exception to allow a group of buildings to be erected and deemed a single building under Section 410, and a
special exception to allow two or more principal buildings on a
single subdivided lot under Section 2516 for the construction of
96 apartment units in an R-5-A District at premises 3701-23 4th
Street, S.E., 3708-22 2nd Street, S.E., and 200-208 Wilmington
Place, S.E., Square 6092, Lots 25-29.

Secondly, Application Number 16905 of Capitol
Apartment Property Associates LP, pursuant to 11 DCMR 3104.1 for
a special exception for a new residential development under
Section 353 and a special exception to allow a group of buildings
to be erected and deemed a single building under Section 410 for
the construction of 30 apartment units in an R-5-A District at
premises 3817-3819 2nd Street, S.E., and 172-174 Mississippi
Avenue, S.E., Square 6118, Lot 41.

Please stand to take the oath.

Do you solemnly swear or affirm that the testimony
you are about to give in this proceeding will be the truth, the
whole truth, and nothing but the truth?

MR. KEYS, MR. TUCKER, MR. MITCHELL: I do.

MS. BAILEY: Thank you.

Mr. Chairman, only a reminder that there are
several submissions that have been made and hopefully the Board
has all of them.

CHAIRPERSON GRIFFIS: Yes, and I believe we were
just handed an additional report memo from the police commander.

Is that the last that you know of?
MS. BAILEY: Mr. Chairman --

CHAIRPERSON GRIFFIS: Okay.

MS. BAILEY: -- the police commander, DPW, and city
council, Sandy Allen, are the last three today.

CHAIRPERSON GRIFFIS: Okay. And the applicant has
copies of these submissions?

MR. KEYS: He does now.

CHAIRPERSON GRIFFIS: Now, they do.

Okay. We have two preliminary matters in this,
Board Members, I want to take up.

First of all, the ANC has requested to postpone or
continue this case for them to meet and that would -- they
request a rescheduling in September.

Is there an ANC member or representative here
today? Not seeing any, I would take it as not.

Board Members, I think we've -- we -- we have had
this in the past and clearly what this Board looks at is whether
our procedures were properly and adequately taken and that is for
notification and also for assigning of this applicant. I have no
note that that was not done meaning the ANC was, in fact,
notified. I also have indication that the single member was met
with.

Clearly, although we empathize with the ANC in
terms of scheduling, we are beholden to our own schedule and
rigorous as it is and I do not see any reason that we would
reschedule this and not move ahead today and hear this. But, I will take differences of opinions.

MEMBER ETHERLY: Mr. Chair, I'll -- I'll echo your concern. We have as part of the record a number of exhibits.

Exhibit 26 is a letter dated July 19th to the Board from Virginia Major who is ANC Commission 8C -- for 8C07 which details an April 30th community meeting that was attended by representatives of the applicant and other parties to discuss the application in some detail.

Once again, to the request for a continuance which is Exhibit Number 24 dated July 16th from Mary J. Cuthburth is the Chair of ANC-8C essentially references simply to the inability to schedule the meeting due to summer vacation and while I can understand the challenge, clearly there was an opportunity for the community and the ANC to hold some substantial discussion on the project and so, I would -- I would be in agreement with -- with I believe the tenet of your remarks that it would be appropriate for us to move forward and to deny the request for a continuance.

Thank you, Mr. Chair.

CHAIRPERSON GRIFFIS: Very well. Others?

VICE CHAIRPERSON RENSHAW: I'm in agreement, Mr. Chairman. The April 30th meeting from the description of Virginia Major, the Commissioner for 8C07, sounded like a very full and complete meeting with the residents from the streets
surrounding the subject properties.

CHAIRPERSON GRIFFIS: Okay.

VICE CHAIRPERSON RENSHAW: Unfortunately, no vote was taken and she does cite in her letter that the full ANC recessed after the June 5th ANC meeting and there was no special meeting called.

CHAIRPERSON GRIFFIS: Good.

VICE CHAIRPERSON RENSHAW: So, I think there was every opportunity. The ANC just decided not to take this up.

CHAIRPERSON GRIFFIS: Excellent. Let me take it as a consensus then that we will not accept or move ahead on reschedule this and hear this today. I -- I do want to just have the abbreviated ANC because clearly we will include that letter as part of the record and the testimony.

Very well. Unless there is any objections from the applicant? I can't imagine so.

Secondly, we have a request for a fee waiver from the applicant and submitted by Mr. Keys.

I am frankly not convinced of the argument that's outlined in the written submission. We have also reviewed our regulations and our actual jurisdiction and how -- if we were inclined to move in that direction, how we might do it. I have not been able to evidence any jurisdiction that we could, in fact, waive our fees in this particular application or on a case-by-case basis and additionally, I do not feel that there is a
reasoning that would compel us --the strongest piece in the written submission seems to me to be somehow waiving of our fees would offset development costs for the project. That is clearly not the reasoning behind a waiver of fees before the BZA.

So, unless others have other comments on that which I can hear, then I would take that as a consensus also that we will reject the request to waive a fee.

MR. KEYS: Mr. Chair, I'd like to offer a little bit of context to the request. That it's not a waiver. It's a request for a reduction and I think that that -- authority for that arises under the general authority of the Board to waive its rules.

CHAIRPERSON GRIFFIS: Under what?

MR. KEYS: For good cause shown.

CHAIRPERSON GRIFFIS: Where do you see that we have the authority to reduce or set our fees for this particular application?

MR. KEYS: I will find it in a moment, but I'm referring to the -- to the general provision. In the regulations, it gives the authority -- the Board the authority to waive any of its rules.

CHAIRPERSON GRIFFIS: Correct.

MR. KEYS: And I'm construing waiver -- waiving its rules to be consistent with modifying and I'm looking for that in connection with a reduction and my reasoning, Mr. Chair and
Members of Board, is as follows.

It comes from a prior experience in dealing with housing particularly in Ward 8. Development of -- of new housing is difficult enough and I recently took part in a project a few years ago involving the construction of 210 townhomes in Oxen Creek. This was also an R-5-A zone and this project was one that was going to have a tremendous affect on the -- on the community in terms of revitalization. It was a difficult site to work with because it's in the old Park Lands community.

As a consequence of the fee structure of the Board to get the 210 townhomes approved, the applicant would have been required to have paid over $400,000 in fees because of the rigid application of the rules. In this instance, we needed R-5-A review and there's a general $400 a unit price for that. There were also two different types of variances required because of the topographical features of the property that were applicable to many of the sites and all of these were cumulative.

CHAIRPERSON GRIFFIS: Are you talking about the previous experience you had or this application?

MR. KEYS: Well, I'm talking about a previous experience.

CHAIRPERSON GRIFFIS: Okay.

MR. KEYS: Now, as a consequence, we had to concoct a PUD --

CHAIRPERSON GRIFFIS: Okay.
MR. KEYS: -- as a way of getting out of the fees because the Board's position or at least the position of the Board's then executive director was that they weren't going to waive the fees because we weren't a nonprofit community-based organization that was proceeding with the development.

Now, my appreciation then as it is now is that the fee structure is rigid and that to the extent that the -- the fee structure represents an effort to compensate the District of Columbia for its effort in analyzing and assessing and processing the application, I think it's appropriate that there be some level of recovery of those costs, but when the application is -- is one in which it involves a very basic principal that is simply repeated 126 times as it is in the case of this application, the fact that the fees are based on a per unit basis means that the cost bears no relation to the effort involved and that the marginal cost of adding additional units it makes no -- it makes no sense.

If I can do it -- if I can -- I mean I'm not going to repeat this because I think the Board may want to consider this as part of a process of looking at its own rules and regulations, but I think that the -- in the case of a project such as this one in which we've got a distressed property that's a high profile target to be improved and renovated and the difficulty in matching the financing to make this project work paying $50,000 for the purposes of this assessment is excessive
and I would encourage the Board to look at the possibility of reducing the fees that were paid by the applicant in this case.

MEMBER ETHERLY: Mr. Chair.

CHAIRPERSON GRIFFIS: Yes.

MEMBER ETHERLY: If I may, I think Mr. Keys makes -- makes an interesting argument. I know interest is not necessarily what you're after in this case. I think we've gotten, however, some very clear guidance from Corporation Counsel in a number of instances that very clearly lays out what our authority here in this area is and I believe that guidance has been very specific as to the concern about exposure to litigation regarding the issue of case-by-case labors or reductions of filing fees in the absence of articulated guidelines or criteria which this Board would look at.

I will note that there -- there has been some case law on this point regarding challenges to certain administrative decisions regarding fee waivers at the Supreme Court level in the absence of strict guidelines and criteria and I believe as Mr. Keys notes, we could conceivably look at that issue as a -- as an amendment to our rules of procedure.

But, I think Corporation Counsel has been very clear that to do that in this context and not in a rules amendment context would be inappropriate.

CHAIRPERSON GRIFFIS: Good and I would agree and it may -- and it may be looking at -- our Board looking at reviewing
its rules and doing a rule making and that would then, of course, go to the Zoning Commission.

It's also been brought to my attention and, Mr. Keys, you indicated that you did the PUD process, that the Zoning Commission does have a provision and it is under Section 304 that allows for a reduction of waiver of fees for low and moderate income housing. The BZA, however, does not.

MR. KEYS: I understand, Mr. Chair. But, what it forces an applicant into is trying to concoct a PUD.

Now, I was able to because I could find in the scale of the project -- this townhome project --

CHAIRPERSON GRIFFIS: Right.

MR. KEYS: -- a public amenity that would justify and support a PUD construction.

CHAIRPERSON GRIFFIS: Yes.

MR. KEYS: I can't in this case and I think it's -- it's incongruous that -- that a project like this is put in a position of having no recourse to looking at some consideration of the impact of the fees.

CHAIRPERSON GRIFFIS: Good and I think we'll take that under advisement and I think it is time that this Board should look at and consultation with the Commission. In fact, that's why we have a Zoning Commission member that sits on this Board. I think we'll do that.

At this point, however, there are two things. One,
I do not want to open up the doors without any -- as Mr. Etherly has pointed out, without any guidelines.

I do also not want to incur before we have those guidelines hardship arguments coming in. Because we can't, in fact, even look in the downtown development some of which may be looking to put amenities that are good for the city in there for they want to offset their costs in order to provide that by having their fees waived. I do not want to encourage or engage in -- in that type of discussion on all applications as they come in until we have the proper guidance.

Secondly, we do not have the ability at this point today to -- to move ahead in a deliberative manner on this and so, I would put that to rest and let the Board Members make last comments if needed and then I would suggest that we move on.

VICE CHAIRPERSON RENSHAW: Just I support your stand, Mr. Chairman, and the reasoning articulated by Mr. Etherly.

CHAIRPERSON GRIFFIS: Good.

MEMBER HOOD: I would also concur, Mr. Chair.

CHAIRPERSON GRIFFIS: Okay. Thank you. Then let us move on. Mr. Keys, you are welcome to introduce your panel and present your case.

MR. KEYS: Thank you, Mr. Chairman. My name is George Keys. I'm with the firm of Jordan, Keys, and Gesame. We are representing the applicant.
CHAIRPERSON GRIFFIS: Slow. I'm sorry. It's been brought to my attention that you haven't been sworn in. Is that correct?

MS. BAILEY: No, the witnesses were sworn in, Mr. Chairman.

CHAIRPERSON GRIFFIS: Good. Then we were mistaken. So, I will try not to interrupt you again.

Do you want to swear Mr. Cochran in from the Office of Planning? I do not believe he was sworn in.

MS. BAILEY: Did you arrive late, Mr. Cochran?

Do you solemnly swear or affirm that the testimony you're about to give in this proceeding will be the truth, the whole truth, and nothing but the truth?

MR. COCHRAN: I do.

MS. BAILEY: Thank you.

CHAIRPERSON GRIFFIS: Okay.

MR. KEYS: And I shall continue. My address is 1400 16th Street, Suite 700, Washington, D.C. 20036.

This is an application -- actually, I'm going -- I'm going to attempt to use the Board's time more effectively by combining Application 16904 and 16905. I think much of the testimony relating to the architectural features and the philosophy that's animating this development can be compressed and consolidated and I would make every effort to try and help the Board distinguish between the two properties involved.
For the purposes of the exhibits, many of the exhibits refer to parcel A. Parcel A refers to the 96-unit property. The large triangular piece of land bounded by 2nd, 4th, and Wilmington as parcel A or perhaps the 96-unit property or the larger property and then references to parcel B would be to the 30-unit property at 2nd and Mississippi Avenue and that is Case Number 16905.

For parcel A, the applicant is requesting R-5-A review and also consideration of relief from the building lot controls under 2516 to allow multiple buildings to be erected on a single subdivided lot.

Additionally, having just read the Office of Planning report in this case, I would note that the Office of Planning concludes and this is something that has come to us for the first time.

Their interpretation of the parking regulations is not my interpretation, but they conceive that the applicant would also require relief from the parking requirements because of the inclusion of a community building on the property and I mean I'll take issue with that in the course of our testimony. I think that's a unnecessary and incorrect reading of the parking requirements.

CHAIRPERSON GRIFFIS: What's your quick understanding of how we're to look at the community center?

MR. KEYS: I think the community center functions
in as an accessory use and I think it's contemplated in R-5-A developments that there are outbuilding and there are additional easies combined in a residential community and again, I'm going to refer back I've developed or been responsible for getting relief in other applications in other cases in R-5-A areas. I would reference again, the Park Lands property. We developed a -- a swimming that was an accessory use --

CHAIRPERSON GRIFFIS: Okay. Before we get too far afield in -- in --

MR. KEYS: -- in connection with a --

CHAIRPERSON GRIFFIS: Let me just point out when you get to the appropriate time, I think you're going to need to walk us through --

MR. KEYS: Of course.

CHAIRPERSON GRIFFIS: -- how you do -- how you define that, what kind of size it is, and why you think that there us actually no relief needed.

MR. KEYS: Yes.

CHAIRPERSON GRIFFIS: Because I think -- anyway, the Board will need a little bit more information on it.

MR. KEYS: Well, we'll -- we'll certainly get to that.

CHAIRPERSON GRIFFIS: Okay.

MR. KEYS: With respect to the parcel B, the
smaller property, we need R-5-A review for that site. It is a single lot in itself. So, we're not going to require additional 2516 relief, but I would also note and direct the Board to the fact that because of the unusual configuration of these buildings and the use of separate entrances for each dwelling unit, you've got buildings that face in both directions and because of that, since it is our R-5-A review, the standards of Section 410 of the regulations are appropriate and I would point the Board to Section 410.12 which gives the Board the ability to approve an R-5-A project even though it doesn't comply with each of the Section 410 requirements so long as it complies with Section 410.4 and 410.5 and does not adversely affect the character of the neighborhood or the future development of the neighborhood and again, I'll highlight those points as we get to that -- that particular property.

The applicant is listed as Capitol Apartment Property Associates Limited Partnership. They are, in fact, the owner of the property. The -- the applicant, the real party interest is AHD, Inc. which is the managing member of an entity that has a contract to purpose this property and will acquire this property by the end of the year of the purposes of pursuing this development.

CHAIRPERSON GRIFFIS: Before you get too far along, Mr. Keys, you've told us about parcel A and parcel B, but I'm looking at in the submissions site plans --
MR. KEYS: Yes, I'm going to have to --

CHAIRPERSON GRIFFIS: -- to parcel C.

MR. KEYS: Yes, I have to ask you your indulgence.

Parcel C is -- this is all a single development in terms of the financing structure and these plans were prepared for multiple uses.

Parcel C will have a building very similar -- I'm sorry. Parcel C is an existing apartment building which is simply going to be renovated. There's no need for relief. They're simply building the same number of units inside. So, I'm going -- I'll cover with a piece of paper if I have to --

CHAIRPERSON GRIFFIS: Perhaps.

MR. KEYS: -- to keep you from looking at it. But --

CHAIRPERSON GRIFFIS: It's a large risk to throw that out in front of us and clearly I don't want to digress into questions on it or anything else as that may evidence issues that should be before us, but nonetheless, if it -- if it's our understanding that parcel C is not part of this application, I think we should take it as such and hopefully not have any issues with that.

MR. KEYS: No, and, Mr. Chair, you are seeing this particular exhibit of the site plans for the first time.

As I --

CHAIRPERSON GRIFFIS: That's not true.
MR. KEYS: Yes, it is true.

CHAIRPERSON GRIFFIS: We're seeing -- then repeat it. We're seeing parcel C --

MR. KEYS: No. No. No.

CHAIRPERSON GRIFFIS: -- the site plan --

MR. KEYS: No, you're seeing this site plan for parcels A and B --

CHAIRPERSON GRIFFIS: Yes.

MR. KEYS: -- for the first time in a sense that we have made some changes --

CHAIRPERSON GRIFFIS: Right. Okay.

MR. KEYS: -- to the site plan as we described in our supplemental information that was filed on July 15th that from our discussions with the Office of Planning, they suggested and we've incorporated a couple of modifications and as we get to it, we'll try to point out --

CHAIRPERSON GRIFFIS: Right.

MR. KEYS: -- the major differences between that which you have before you in the file and the this plan. So, when I provide more copies of this plan for inclusion in the record, perhaps what we can do is we can eliminate parcel C and -- and cover it in the reproduction.

CHAIRPERSON GRIFFIS: I think that will make some sense.

MR. KEYS: We believe that this case is going to be
susceptible as appropriate for both the summary order and -- and
I would encourage your consideration of a rapid decision if not a
bench decision in this case for the -- for the following reason.

The project is under contract from the owner
through the end of the year.

CHAIRPERSON GRIFFIS: Why don't we hear the case
first and then take up how in order or what our process might be
today? In fact, I think that might be a stronger position for
you to do also.

MR. KEYS: I will accept your judgment. I'd like
to introduce Mr. Donald Tucker who is the project architect and
he is also a principal of AHD Incorporated which is going to be
the -- the management of the development entity for this project.

Mr. Tucker as the project architect, we do not have
his résumé. I'd like to question him or interrogate him as to
his background and professional credentials for the Board's
consideration and we will submit his written CV tomorrow.

Mr. Tucker, would you please identify yourself,
indicate your -- your employer, your address for the record?

MR. TUCKER: My name's Donald -- my name's Donald
Tucker. I am a principal of Environmental Design Group
Architects and also a principal of AHD, Inc. We're located at
the same offices at 2 Bethesda Metro Center in Bethesda,
Maryland.
MR. KEYS: All right. Mr. Tucker, would you describe your professional qualifications and experience for the Board?

MR. TUCKER: First of all, I'm a registered architect in the District of Columbia as well as the surrounding jurisdictions. I have been since I believe it was 1978. I have a Bachelor's degree in architecture from the University of New Mexico that I received in 1968. In 1970, I received a Master's degree in architecture from the University of California at Berkeley.

I've practiced with a number of firms in the Bay area as well as Philadelphia before coming to Washington and starting my own practice in 1974 as an architect as well as a developer. I've been wearing both hats pretty much for more than 25 years now doing both architecture and development and my focus has been in the area of multi-family housing and especially affordable housing. We've done a lot of senior housing, a lot of multi-family affordable housing.

CHAIRPERSON GRIFFIS: You say you're a principal at AHD and EDG?

MR. TUCKER: Yes.

CHAIRPERSON GRIFFIS: Okay. And that's -- it's a development firm and an architectural stand-alone firm or is it almost like a design/build type relationship?

MR. TUCKER: No, it's a -- it's an architectural
firm. About 70 percent of the work that Environmental Design Group does is for third-party clients.

CHAIRPERSON GRIFFIS: Okay.

MR. TUCKER: The balance for AHD.

CHAIRPERSON GRIFFIS: I see. Okay. I think what we're going to need to know specifically to take on -- if you just want to evidence a few of the residential projects that you've done in the District of Columbia and also in terms of the comparable size to this and -- and I think we can move on.

MR. TUCKER: Most recently in the District we developed and designed a project called Tacoma Village which is a co-housing project. It's in Tacoma, the D.C. part of Tacoma Park.

CHAIRPERSON GRIFFIS: How many units are in that?

MR. TUCKER: That's a 43-unit new construction in-fill condominium project.

CHAIRPERSON GRIFFIS: Right. And it's -- it is part of the co-housing movement or definition?

MR. TUCKER: The first -- it's the first co-housing project to be developed in -- in the district.

CHAIRPERSON GRIFFIS: Right.

MR. TUCKER: And it also is the recipient of a Vision Award recently.

CHAIRPERSON GRIFFIS: Okay. And the Board Members, you can -- everyone understand what co-housing is? Actually, I'm
not going to because it's not going to be pertinent, but I will --
- I will -- we'll have a lunch discussion on that so not to take
the time on this.

Mr. Hood, did you have --

MEMBER HOOD: I'll wait for the definition of it.

CHAIRPERSON GRIFFIS: Okay. Good. It's not
pertinent, but clearly it is analogous I think to this situation.
Okay.

MR. TUCKER: Also -- also in the District, we both
designed and developed a project called Terrace Manner on
Savannah Street, S.E. a number of years ago. We were the
architects for the Hunter Pines portion of Park Lands many years
ago. That was a Section 8 project, a very substantial
renovation.

CHAIRPERSON GRIFFIS: Outside of the affordability
level residential commissions. I mean the affordability doesn't
lend itself to architecturally, I don't directly -- I mean, but
other --

MR. TUCKER: Statton Glen which is currently under
-- just nearly complete now in southeast. Statton Road off
Suitland Parkway. Is another one of our projects.

The Observatory which is a luxury condominium --
project in upper Georgetown.

Those are a number of the projects that we've done.

So, they -- they vary quite a bit in scope and type, but the
focus of our endeavors for the last 25 plus years has been housing, indeed, primarily affordable housing.

CHAIRPERSON GRIFFIS: When in -- 80 percent of your commission at EDG is residential?

MR. TUCKER: I would say about 90 percent of our work is -- is residential.

CHAIRPERSON GRIFFIS: Okay. Board Members, other questions? Any concerns? Can I take it as a consensus or let me hear opposition for accepting the expert witness offered to us today. Any objections?

MEMBER HOOD: Mr. Chair.

CHAIRPERSON GRIFFIS: Yes.

MEMBER HOOD: I don't have an objection, but I'm -- I'm not sure whether he's testified in front of this Board. Has he ever been made an expert witness?

CHAIRPERSON GRIFFIS: Have you ever testified before?

MR. TUCKER: Not in front of this Board --

CHAIRPERSON GRIFFIS: Okay.

MR. TUCKER: -- as an expert witness.

MEMBER HOOD: What about any boards in the local jurisdiction, the local areas?

MR. TUCKER: I've testified before a number of boards but not as an expert -- expert witness. I think I have been qualified and some of that testimony has been qualified as -
- as expert witness in various cases that we've had. For example, in Prince George's County.

CHAIRPERSON GRIFFIS: Okay. Any opposition? Let me hear of any concerns or opposition. If not, we can take it as a consensus to accept expert witness today and I would also just caution clearly it takes a heck of a lot more time if we have to go through oral questions on this and in the future clearly a submission of a résumé expedites things.

Ms. Renshaw.

VICE CHAIRPERSON RENSHAW: Yes, Mr. Chairman, we do need to have Mr. Tucker's résumé for the file though and I would say in the future, Mr. Keys, if you would have the résumés of your participants in hand for the hearing, that would be appreciated.

MR. KEYS: Oh, it's our usual practice to do so and we will make sure we have it.

CHAIRPERSON GRIFFIS: Okay. And I do take it as the consensus of the Board and I think it's fairly clear first of all the amount of time. So we would accept as an architectural expert in residential design. So, let us move on.

MR. KEYS: Should I wait for Mr. Etherly, Mr. Chairman?

CHAIRPERSON GRIFFIS: No.

MR. KEYS: Oh, I'm sorry. I thought he had left the room.
Mr. Tucker, would you briefly give the Board the context of this property in relation to the neighborhood and then I think it might be effective to describe the properties at the Board, you know, with reference to the surrounding area and we can try and touch both properties in the course of your remarks.

MR. TUCKER: Yes, and before I do that, I just want to say in defense of my attorney that he did ask me to bring a résumé today. Mia culpa.

CHAIRPERSON GRIFFIS: I understand, but he gets all the grief. It doesn't matter what happens today. He gets it.

MR. TUCKER: We started negotiations, that is, AHD started negotiations to acquire this property from the current owners about two years ago and it was a long protracted negotiation and it was about six months ago that we finally reached agreement with them to enter into a purchase agreement for these properties.

These properties had been neglected. When we first started looking at these properties, we were thinking of rehab. It would have been a substantial rehab and as we -- as we were able to achieve a contract -- a purchase agreement and start doing our homework, were able to get into the properties which had been left really unattended and open to the elements beyond that two-year period and started looking at the scope of the renovations required, it became clear that it was not feasible. It wasn't the way to go. We would have ended up restoring a
property that had kind of small one-bedroom units to begin with and it would have been limited in its market potential for rents and we were -- we were starting to spend close to $60,000 a unit to -- to bring it up to current standards.

So, we took another look and decided that the way to go was to tear the buildings down on these parcels and build new -- new apartments.

The -- we got a call shortly after we entered into contract from an Officer Paul --

CHAIRPERSON GRIFFIS: Let me interrupt you and ask you quickly. Even in the shells itself, you couldn't reconfigure for larger units? Is that what you're saying?

I mean if you did a full gut and kept the buildings, could you have done a new layout?

MR. TUCKER: It -- it may have been possible. The -- we would have lost units in doing that and the -- the -- the configuration of the existing buildings because of the -- the depth of them ended up in -- with -- with small -- inherently pretty small units unless -- unless we --

CHAIRPERSON GRIFFIS: Okay. So, clearly the footprint itself didn't work for the program that you were trying to provide and you --

MR. TUCKER: Our initial thoughts were rehab and we determined that to really be economically feasible.

CHAIRPERSON GRIFFIS: Okay and you said you
currently -- or that estimation was about 60,000 a unit and
that's a one-bedroom. What's -- what is your current cost?

MR. TUCKER: We're probably in the 65 to 70 a unit
in hard cost for new construction, but for a larger units that
allow us, you know, more modern amenities and enable us to charge
what we consider the market rent potential for that area.

This is -- this is a -- an affordable housing
project in the sense that we're using low-income housing tax
credits as one of the sources of funds to make the project
feasible.

CHAIRPERSON GRIFFIS: And how do you talk about
charging market rent?

MR. TUCKER: Well, because the affordable housing
program that we're dealing with, tax credits, is targeted at
renters that are at or below 60 percent of the median area
income. Median area income for the D.C. metropolitan area is
about $94,000 for a family of four and that's adjusted by family
size.

CHAIRPERSON GRIFFIS: So, you're saying that --

MR. TUCKER: So --

CHAIRPERSON GRIFFIS: -- 60 percent of the median
income that would be the ceiling for the rent. It actually fits
into the market rent for that area.

MR. TUCKER: Our market rents as determined by the
top of the market for that area is the property that's directly
next door to us which is Oxen Run Manor and those rents are below the ceiling established under the tax credit program.

CHAIRPERSON GRIFFIS: So, in some respects, you look at this and naturally, this is an affordable development, but locally, it isn't. It's actually a market rent development.

MR. TUCKER: Well, it's -- it's affordable in that it's new -- new apartments in an area that hasn't had many new apartments for quite a few years at a -- a rent level that's substantially below --

CHAIRPERSON GRIFFIS: Okay.

MR. TUCKER: -- the rents that we would have to charge if we didn't have the tax credits as a source.

So, the tax credits allow us to build -- to be able to afford to build the new housing and keep the rents affordable in that market. Otherwise, we wouldn't --

CHAIRPERSON GRIFFIS: In some respects that definition that you've just given me for affordable is if any unit that you could find someone that will pay it. It is therefore affordable because someone is going to pay it, but I don't want to -- I don't want to bicker. My point is going direct -- we hear a lot of -- of defining affordability and it is -- it is difficult for us because we -- we want to believe what's said, but most of the time, we start scratching the surface and then the fact becomes unveiled that it's a self-created definition.
Clearly, there is an affordability component with this because you have an income ceiling.

MR. TUCKER: Yes.

CHAIRPERSON GRIFFIS: And I think that's what we need to look at and -- however, that is going -- and that is set because of the financing for the development of this. Other than that for my clarification, my understanding is that there is no other rental subsidy that is being provided as a program for the development. Is that correct?

MR. TUCKER: There -- there is no rent subsidy involved here. Though we would accept Section 8 vouchers.

CHAIRPERSON GRIFFIS: Right. I understand that, but programmatically -- and Section 8 vouchers work as if people are on the market anyway and they can bring that to that, but just for clarity's sake, we're looking at development funding but not program rental funding. Okay. I'm clear on that.

MR. TUCKER: That's correct.

The -- not long after we entered into the purchase agreement for the property, we received a call from the D.C. Police Department, Officer Paul Kergan is with the Environmental Division and he -- he was basically trying to find out who currently owned the property and -- and I explained our position that we recently became contractor purchasers.

He explained that the mayor was extremely concerned about this property because of long-standing complaints in the
neighborhood that it was blight. He informed me that the police
rundown on this particular site showed that there had been nine
bodies found on the property in the previous ten years. This
property had been left open unboarded until shortly after Mr.
Kergan did get a hold of the current owners and threatened them
with action and so, it is fenced in and boarded at this point.

MR. KEYS: Mr. Tucker, are you speaking generally
about both parcel A and parcel B? Because if there's different
conditions at the two sites, I'd like you to try and specifically
identify them so that we can separate them in the record.

MR. TUCKER: He -- he didn't specify which of the
two parcels it was, but the two parcels were half a block from
one another and both were in similar condition.

The site's also directly across from a playground
for Balou. So, it lent itself to hanging out after school, drug
trafficking, and other things and I think clearly with a property
like Oxen Run Manor which is a very well renovated and well-
managed property directly next door, there are some good things
happening in the neighborhood. This is a property that's --
that's held that neighborhood down for quite some time on a true
-- a true blight condition.

So, it wasn't surprising when we talked to
Virginia Major who's the single district ANC member and she -- we
had a meeting with her at J.R. Lynch's office. They're also a --
have an interest in -- in the development entity here.
CHAIRPERSON GRIFFIS: What interest did they have?

MR. TUCKER: They have a 20 percent interest in the general partnership. AHD has a 60 percent. J.R. Lynch 20 percent and the Franklin Development Group has a 20 percent interest in the general partnership interest.

CHAIRPERSON GRIFFIS: I see. So, all those groups together are going to be the general partner and owners. Is that correct?

MR. TUCKER: That's right. We're the managing general partner, but the three of us are the -- form the general partnership owner interest.

I might add that one of the provisions of this program is it's a long term. It's not a short-term investment. It's a long-term investment with the tax credits. There's an extended compliance period. Then this property will go out to 40 years with stiff penalties for -- there -- there are management oversight provisions including making sure that the -- the residents comply with the income requirements of the program and we -- we own and management.

We're long-term players not short-term players. AHD management, my associate Jim Mitchell will tell you or answer any questions that you have about management policies, but we're -- we're long term investors and owners in these type of properties.

So, basically, that's -- that's the history. We
did -- we did have a number of meetings with the -- we met with Virginia Major first at J.R. Lynch's office and then she was kind enough to organize a community meeting at Oxen Run Manor and the community around. I think 33 people from the surrounding community turned out. It was full house. We met for several hours. They had lots of good questions to ask and the -- the general consensus of that meeting was that the neighborhood was very anxious to see this property taken down and new housing put up on this site. Security being a major concern for the neighborhood.

We've also met with Council Member Sandy Allen and received support from her office for this -- for this endeavor.

We've since also made application to both the Department of Housing and Community Development for Block Grant financing and to the D.C. Housing Finance Agency and to FHA for mortgage insurance, the Housing Finance Agency for tax exempt bond financing.

We've received an application from FHA to submit for a firm application which requires final plans which is going to require your approval before we can go ahead with those final plans and the HFA, two weeks ago passed a bond inducement resolution in favor of this project. DHCD is going to enter into a memorandum of understanding with the Housing Finance Agency to provide secondary financing.

So, there's a lot of pieces involved including the
-- the bond financing, the secondary financing, and the tax credit to make this project affordable in the sense of being able to charge rents that people will be able to afford in this neighborhood.

And we are as George mentioned earlier under the gun to try to get this done by the end of the year. We think we're on track to do that. If we're successful today, we intend to move immediately into final plans and we need a permit in order to close with our financing. Trying to get that done by the end of the year.

CHAIRPERSON GRIFFIS: You mean get your permit submission by the end of the year?

MR. TUCKER: We're hoping to actually have our permit submission done by late September and have a permit by the end of the year. That's our goal.

CHAIRPERSON GRIFFIS: And -- okay.

MR. TUCKER: We know that's an ambitious goal. We will be using an expedited or we're going to ask to be on the mayor's ambassador program to help move things along.

CHAIRPERSON GRIFFIS: Good luck. Okay.

MR. TUCKER: Thank you.

CHAIRPERSON GRIFFIS: But, clearly we are on an expedited schedule. You want to start this probably at the beginning -- end of this year or beginning of next year. That puts us into some idea of schedule. Okay.
MR. KEYS: Mr. Tucker, let's shift to site specifics and I'm going to ask you if you can to go to the board and start talking about the location of parcel A and B and start describing the essential features of the site plan.

Should he try to carry that microphone?

CHAIRPERSON GRIFFIS: Yes, he's going to need a mike. Either we can put one up on the -- yes, the -- that had -- yes, that.

MR. TUCKER: Does this work?

CHAIRPERSON GRIFFIS: Pick it up. There that works.

MR. TUCKER: Okay. I hope you can all see our site plan. I don't know if this is the best place to put it, but basically, parcel A is a three-acre site, a triangular shaped piece of land. The original apartments were configured around the perimeter of the site with some parking in the center.

It slopes fairly steeply from 2nd Street back toward 4th Street. There's more than a full story's difference from 2nd Street to the parking lot for example. It's quite -- quite steep from 2nd down to the parking lot and then more gentle as it goes towards 4th Street.

So, it was a challenging piece of topography and it was also challenging to accommodate the one-to-one parking on site.

When we first met with the staff, we had located...
the buildings pretty much the way they are now. But, this
building group here has been shifted a little bit up a little
more space between them. However, the community building was
located in -- in the center part of the site and we had a -- an
ingress and egress just for the community building with some
parking related to that along 4th Street.

The staff felt that that took up too much of the
site to have that second means of in and out. We already had two
curb cuts and -- and after looking at it, they also felt -- can
you hear me now? Does this work? Okay. After --

CHAIRPERSON GRIFFIS: No, it's not working.

MR. TUCKER: It's not working.

CHAIRPERSON GRIFFIS: The recorder's not picking
up. That's the problem.

MR. TUCKER: Well, we -- as I said, we worked with
the -- with the planning staff and one of the -- one of the
thoughts that they had was -- one of the wishes that they had was
to also have one of the buildings address 4th Street and by
moving the community building from where it was located in the
initial site plan submission which we have to 4th Street
eliminating that turnaround and parking, we were able to have a
more efficient use of the interior parking and -- and have more
open space at the center part of the site.

So, we -- we concurred with -- with the staff
because this was a better direction to go and that's what's
reflected in this plan.

We do have one-to-one parking. The darker shaded areas, however, we are proposing to use grass pavers in those areas which effectively -- because of the configuration of the -- of the site and the fact that the -- the building prototype that we're using that we selected has entrances on both the front and the back, we feel that the front entrance -- the buildings with the fronts on Wilmington Place and 2nd Street will in some cases choose to park their cars on the street.

We've gone out and observed. Mr. Mitchell can fill you in on this. But, we've been out there several times in the evening and did -- done parking counts for on-street parking and found there to be more than ample -- there's very -- there are very few cars parked on the streets right now and so, there would -- there would be an opportunity for cars to park there.

The reason that -- one of the reasons that we selected the back-to-back prototype and this is -- it's unusual in -- in two respects. We -- we call this approach the un-garden apartment. These are three-story flat, but what we've done is we've gotten rid of the central breezeway which especially in affordable housing or in areas where there are concerns about security from a defensible space standpoint, those breezeways tend to be no man's lands that are not maintained. They don't belong to any one apartment owner. There's no sense of territory about them and they become security problems.
So, as is in the case of all of our affordable family housing, we don't do garden apartments in the traditional fashion.

So, what we do is provide a configuration where we have direct entrance into all three floors from the front. The lower floors, you may see this best on the building elevations.

MR. KEYS: Don, let -- before we shift to -- to the building appearance, let's finish with the description of the site and I'd like you to point out where -- where Balou High School is in relation to this property.

MR. TUCKER: Yes, the Balou playing fields are directly across 4th Street and Balou High School is located directly across the street from the property.

There's a kind of a steep bank along here now. One of the things that we thought as part of our improvements here would be to, you know, clean up that bank a little bit in terms of pruning and just clearing basically.

But -- and then Oxen Run Manor is over here. So, we have -- we have a good -- a good foundation to go off from in Oxen Run. It's a -- a very well managed and nicely renovated property that kind of establishes the -- the potential for this -- for this market from our perspective.

MR. KEYS: And, Don, on the community center, can you -- can you give me or mention for the record the -- the approximate floor area in that center?
MR. TUCKER: It's approximately a little under 3,000 square feet and it will include our management, rental office, leasing office, a small maintenance area. It'll also have a multi-purpose room for use by the residents.

We typically encourage and form resident associations for the rental properties that we manage as a way of maintaining communication between the residents and -- and management and also for the residents who are involved in community affairs as well working with the police or with the ANC. So, that's where they would meet. It would also be available for social functions, classes. We typically have computer learning classes and various after-school programs at the residence.

MR. KEYS: Now, will there also be a laundry facility?

MR. TUCKER: There will be small. All -- all the apartments will have their own stacked washer/dryers in them and we will have a small laundry facility here for larger loads just as a convenience to the residents.

MR. KEYS: Now, Don, I know this is a new -- a new way of looking at this community center for you, but I'm trying to get a sense of the floor area approximately that's devoted to the laundry, the community meeting room, the management, and the maintenance facilities associated with that community center.

MR. TUCKER: The --
MR. KEYS: I mean if it's 50 percent, 75 percent.

MR. TUCKER: The meeting -- the meeting room will be about 50 percent. Maybe a little less than 50 percent of the facility.

MR. KEYS: Okay.

CHAIRPERSON GRIFFIS: And how is programmed for only residential use?

MR. TUCKER: It's -- it's a facility -- it's an amenity for these residents.

CHAIRPERSON GRIFFIS: Yes, I guess more directly how are -- how are you going to differentiate that there are residents using it or nonresidents using it?

MR. TUCKER: Well, that's also where our management office is going to be. So, the resident manager's office will be located and our leasing office in that same building. So, it'll be -- its use and access will be controlled by -- by the property manager.

CHAIRPERSON GRIFFIS: I see. And how many staff members do you think will be in that 3,000 square feet?

MR. TUCKER: There will be for the 150 units that includes the 26 units of rehab -- 26 rehabbed unit that are three blocks away. We would have a resident manager, an assistant resident manager. We'd have a -- a maintenance supervisor and an assistant. So, probably four. Possibly -- possibly five --

CHAIRPERSON GRIFFIS: Okay.
MR. KEYS: Now, if the meeting room is 50 percent of the community center, could you aggregate management functions, maintenance, storage, and laundry as a -- as a percentage of the community center?

MR. TUCKER: That's pretty much the balance of it.

I was mentioning the use of grass pavers. I meant his parking through the center is pretty much where the parking was in the original plan and by having a double-loaded lot through the center, it's the most efficient way to get the -- the parking requirement on the site.

What we would like to do though is we feel because of the ample off-street parking as some of those parking spots, the ones that we designated grass pavers, those would be more or less -- they'd be available to park on. You could park on them if needed. Our feeling is typically they wouldn't be. I guess a little relief to the -- the extent of the -- the paving also allows water to drain through the -- the paving at those locations.

We're trying to create a -- a pedestrian way at these points that open into the -- there's a children's play area. There would be a -- a small picnic and sitting area outside of the community room.

In terms of -- in terms of landscaping, the existing street trees are substantial. We would, of course, involve an arborist in -- in evaluating them and -- and a certain
amount of pruning would have to be done, but it's our intent to
keep and reinforce the -- the street trees. What we'd like to do
on the interior is in a sense create an interior street with some
plantings along and also with lighting that would reinforce the --
the courtyard or the court side of the -- of the buildings in
the same way that the street trees and the lighting along the
street do on -- on the street fronts.

The two ends of the property -- of the triangle
especially the one at 2nd and 4th are because of the various
intersecting streets and -- and being able to observe those
corners from each of those streets as you cross the property here
important from a visual standpoint. We would intend to have
signage and special plaques at those locations.

We also at the request of the planning staff
developed end elevations which show, you know, what would be
seen, what the buildings would look like except these top two
elevations.

CHAIRPERSON GRIFFIS: All right. I think -- I
think that -- since we're still dealing with parcel A, I think it
might be useful to show those end elevations for parcel A and
then we'll move to parcel B and just talk about the general --

MR. TUCKER: Plan.

MR. KEYS: -- plan. Okay.

MR. TUCKER: Okay.

MR. KEYS: But, let's raise that.
CHAIRPERSON GRIFFIS: Yes, but first -- now -- but, first should we -- before we even go to the site, let's take some quick questions.

First of all, I would agree that I think the Office of Planning's recommendation to move the community building out into the street to hold that street line as limited as it is is an excellent position. It also gives a lot more exterior recreation space.

You've mentioned the fact that these are double loaded and people may park on the street in order to go into the front. If you parked on the -- in the parking lot, how are you anticipating that people would get to the front of the units?

MR. TUCKER: The -- from the parking lot, there are walks at these --

CHAIRPERSON GRIFFIS: Okay. In those separation areas. I think running along that -- that idea and also with what OP was saying about creating that street line, it seems like there's a missed opportunity of holding that top corner on 2nd Street and that you could have actually attached two of the units and separated another and had your even more convenient walkways through, but not redesigning the site plan. I would just indicate that I think we want to look clearly at how it will be used in many different ways and how it will be convenient not only for the residents but also for the importance of the siting on this and I bring this up for many reasons.
One, there is an incredible amount of written submission on the high design, the design quality of this which in some respects puts you open to great criticism of that design because you're putting it forward as such.

But, secondly, under 410.12, it is clearly within our jurisdiction to look at that issue and that does go to interest of the future development and then how it fits within the site within the neighborhood and we can reiterate that if you need specific siting.

That brings me to the next question. Is there -- do you -- I didn't see it in this submission. Are you prepared to show us what the other buildings in the area look like in terms of context of the architecture of this development?

MR. TUCKER: I believe we've submitted photographs of the surrounding area. I can describe some of that to you.

MR. KEYS: I think the only -- we did not focus on the surrounding area. I think, Don, you should probably speak now to that -- that architectural context.

MR. TUCKER: You know, Oxen -- Oxen Run is a typically two and three-story garden apartments that were renovated about ten years ago. It was a substantial renovation. They put new pitched roofs on, a strong roof line, somewhat of an overhang, some hip roof ends. It's predominately brick building and, you know, it was actually fairly typical product of for that area, but renovated in a very tasteful way and it's been
very well maintained.

It does have a six-foot to seven-foot wrought iron fence around the perimeter, but one of our thoughts was to be a little more -- we're equally concerned about security, but we want to be quite a bit more subtle in the way that we establish it. We've really looked at this more from a defensible space -- one of the things is having the front -- the front entrance is much like a townhouse front entrance with no fencing along the streets where we've had fence. We have fencing between the buildings and we're doing some fencing on the parking side.

MEMBER ETHERLY: And, Mr. Tucker, just from an orientation standpoint, Oxen Run is right at the triangle right there.

MR. TUCKER: Correct.

MEMBER ETHERLY: Okay. Along what appears to be I guess Wilmington Place, the rear of Oxen Run, what is -- what's along that street frontage there? Is that just wrought iron fence and green space? So, if you're looking from the subject parcel A into the rear of Oxen Run, what's along that streetscape there?

MR. TUCKER: That's wrought iron fence, parking, and --

MEMBER ETHERLY: It's green.

MR. TUCKER: -- some green space.

MEMBER ETHERLY: Okay. And then along 2nd Street
to kind of exactly -- three buildings there.

MR. TUCKER: Those three identical buildings are three-story walk-up apartments. Unfortunately, they're not very well maintained at this point. One of them's owned by a nonprofit who I think has the intention of doing a renovation and the other two we've talked to the owner possibly about doing something in the future as far as renovating them.

CHAIRPERSON GRIFFIS: What materials of that building?

MR. TUCKER: These three buildings are probably the last three, you know, immediately affecting this site. Needs some help.

CHAIRPERSON GRIFFIS: Materials of those?

MR. TUCKER: Brick.

CHAIRPERSON GRIFFIS: All brick?

MR. TUCKER: Pretty much all brick.

CHAIRPERSON GRIFFIS: And the -- you indicated was all brick also.

MR. TUCKER: These are more -- these are I would say built in the '50s.

CHAIRPERSON GRIFFIS: Right.

MR. TUCKER: They've got a more contemporary --

CHAIRPERSON GRIFFIS: Yes.

MR. TUCKER: -- '50s kind of look to it. Actually, one was I think built in the -- in the '40s or even the '30s and
has, you know, more detail to

it --

CHAIRPERSON GRIFFIS: Okay. And I will concur in
terms of the -- in terms of the animation of the street which
lends itself to a -- that the front entrances work very well. I
think it's catastrophic or very detriment that we've had so many
developments all over this country and especially in this city
that has only courtyard openings and people are focused in.
There's no street presence.

However, running on that, two points. You keep
talking about defensible space. What are some of the elements
that you see in this design that create defensible spaces as you
have four units accessing each of the fronts of those building
and -- and I don't see how you're defining that those areas are
defensible because there won't be any sort of ownership as you've
talked about ownership or specific ownership of the front spaces
and secondly, then -- well, there it is. I'll let you -- let you
go with that.

MR. TUCKER: Well, the -- the defensible space
approach here was to give everybody direct access to their
apartment from the -- from the front of the building and the way
that works is that the lower floor units enter directly from
grade under a covered porch. The second-story units go up a --
an exterior covered porch and enter directly at that same level.
The third-floor units enter through a private stair.
So, instead of having a common stair that gets you -- typically in a garden apartment, too, with a back-to-back unit would be to 12 units, we give everybody their own front door from the street side.

And in defensible space, the -- the fewer residents that share an entrance generally the better. So, you know if we had four units instead of --

CHAIRPERSON GRIFFIS: How do you -- how do you -- I don't understand that.

MR. TUCKER: -- six, that would even -- even be better than the -- supposing a two-story configuration.

CHAIRPERSON GRIFFIS: How is it safer to have fewer residents use fewer entrance? Are you saying that the large apartments and the luxury units that have one entrance in a lobby and 100 to 200 units is less safe than what you're defining here?

MR. TUCKER: Well, in a -- in a high-rise configuration where you have a secured entrance, that's one way of getting security in the building. They have 24-hour person there. Somebody guarding that entrance.

The experience of public housing with families living in high rises has been that they're -- they're very unsecured because the ability for families to monitor the activities of children in the hallways, in the elevators, and all those common areas that they have to go through to get into those units has not been very good and also monitoring play on the
ground from -- from those units. So, in the fact, the current --
this is a policy established back in the -- in the late '60s and
it's since been picked up again by -- that they -- they will not
allow putting families into high-rise elevator buildings for
affordable housing.

Other elements of defensible space -- and the
reason that --

CHAIRPERSON GRIFFIS: But, if I understand your
point and I'm just trying to get clarification on these things,
your point is that it actually matters that the -- the -- the
tenants that you'll have in this building that will then impact
the design. So, you're saying there is a difference because your
analogy was in public housing you don't put them in high rise.

MR. TUCKER: Well, let me -- let me take that even
further. The -- the -- really the intent of defensible space
design is to get rid of ambiguous spaces that don't belong to
anybody and these front entrances, that's my front door. You're
sitting on my front porch, sir. Do you live here?

CHAIRPERSON GRIFFIS: Right.

MR. TUCKER: I know you don't because I know my
four neighbors that do live here. In an garden apartment where
you have that breezeway --

CHAIRPERSON GRIFFIS: Right.

MR. TUCKER: -- and a shared stair, a common stair
to as many as 12 units, people are less able to defend the space
and have a territorial sense about the space directly in front of their units.

CHAIRPERSON GRIFFIS: And I absolutely agree.

MR. TUCKER: We kind of make these look like stoops.

CHAIRPERSON GRIFFIS: Right and I absolutely agree and I think that there is some success in that.

So, does that spill off into the entire site though?

MR. TUCKER: Yes, there -- I mean that's one aspect of the -- the -- the selection of this prototype. First of all, not doing a common stairway, doing the individual entrances, but also the back-to-back aspect of this prototype.

Another concept of defensible space is getting as many eyes from the living units out into the public spaces as possible. So, eyes on the street and if we had a typical building with just front entrances, there would be no eyes on the back part of the street here. So, we want eyes on both sides of the site and that's what this back-to-back configuration with entrances on both sides achieves for us.

So, visual sight lines not only from the street from the police standpoint and for patrolling the neighborhood either on foot or by car being able to have good sight line to the -- to the entrances and into the site, but from the units, the apartments themselves out onto the site to be able to -- to
self-police by oversight. That's a very important part of it.

Not having in the areas on the site that are kind of -- don't belong to anybody. Everything wants to be -- we try to make very defined, you know, play area, public walkway, community use outside of the community building. We try to have unambiguous use of the area spaces on site.

Lighting, landscaping, those are all still elements of -- of defensible space that we would consider here. It's to be well lit and the -- the landscaping needs to be able to reinforce the individual aspect of the entrances, but it also needs to block surveillance either into the site or from the site.

CHAIRPERSON GRIFFIS: Do you have site lighting along the -- the pathways then? Do you have actual lampposts and fixtures?

MR. TUCKER: Yes, we'll have -- we'll have interior site lighting as well as --

CHAIRPERSON GRIFFIS: But, along the --

MR. TUCKER: -- site -- site lighting at some --

CHAIRPERSON GRIFFIS: -- off the buildings on the site on -- in those --

MR. TUCKER: On the interior locations.

CHAIRPERSON GRIFFIS: Just the interiors?

MR. TUCKER: Yes, there will be site lighting on both sides of the --
CHAIRPERSON GRIFFIS: And is there lighting from -- between the buildings as you go from the parking on the streets?

MR. TUCKER: Will be building mounted lighting in these locations and then, of course, street lighting on the periphery.

MEMBER ETHERLY: Mr. Chair.

CHAIRPERSON GRIFFIS: Yes.

MEMBER HOOD: A quick question. I just -- I have this thread in my head. I want to be sure not to lose it.

You may have addressed it in -- in kind of your opening remark regarding parcel A, but with the reconfiguration and bringing the community center closer to the 4th Street frontage, the original plan did have some parking that was in front of that building.

Are you recouping any of the -- well, first of all, what were the number of spaces that was in that -- that original front parking portion?

MR. TUCKER: I think originally we had either 11 or 12 spaces in the front and -- and we did recoup all of that on the interior. Those are the -- basically the spaces that we're proposing to be grass pavers.

MEMBER ETHERLY: Okay.

MR. KEYS: I think we -- it's just a reorganization of the site. There were 96 spaces in the original site plan. One per unit. There are still 96 spaces in the revised plan.
MEMBER ETHERLY: Got ya.

MR. KEYS: We just reorganized.

MEMBER ETHERLY: Got ya. Okay. And just coming back to -- to the Chair's question. I mean interestingly enough, obviously not being an architect myself, but just as a reaction to it, the design elements and some of the cues that you're picking up on almost to me seem very reminiscent of a lot of extended state properties that you -- that you see.

By that I mean, I do a lot of business travel in my other life and I often choose to go to an extended stay property because of some of the things that you're talking about. It's less of a hotel feel and more of a residential feel because you have a little bit of an ownership more so over the -- over the personal space of your rooms. I found that to be -- to be a very welcomed change.

I'll just note for the record I'm a graduate of Balou Senior High School. So, always looking forward to -- to give kudos to the Blue Knights, but there is some familiarity with that -- with that neighborhood and especially that parcel behind the athletic field. So, I think it will be a very -- a very welcomed addition.

Thank you. Thank you, Mr. --

CHAIRPERSON GRIFFIS: Thank you, Mr. Etherly. But, you know, it's an interesting thing you bring up because you make the analogy more towards temporary and extended stay. How do you
view this as -- as -- in terms of -- and it's been -- it's being
presented to us as a high design.

MEMBER ETHERLY: Right.

CHAIRPERSON GRIFFIS: Is it your feeling that it is
appropriately done? It is actually --

MEMBER ETHERLY: Well --

CHAIRPERSON GRIFFIS: When you say that to me that
it invokes actually a negative for a residential area?

MEMBER ETHERLY: Well, I think, you know, let's --
let's for a moment put it -- digress and put it in the context of
a business traveler. I think oftentimes business travelers are --
are starting to gravitate more towards a home or residential-
type feel in terms of their -- in terms of their decisions.
That's one of the reasons why I look at an extended stay property
as opposed to perhaps a conventional, you know, business traveler
hotel because you have that almost independent unit kind of
aspect to it. So, if I look -- if I got to an extended stay
property as Mr. Tucker has laid out, I'm walking up -- you know,
they're typically divided into six or seven buildings. I'm
walking up a central stair that has direct access externally
outside to three or four separate units and I take a key and I
walk into my own unit.

But, there is -- there is comradery in terms of
that common space in front of those three or four units. As
opposed to, I think, a large scale hotel where you just have a
central hallway onto which 50 or 60 rooms enter and you know that you got cleaning staff that's going to come and take care of those rooms.

But, in an extended-stay facility, there -- you know, there's -- there's a little more -- I mean there's a little more ownership I sense as a tenant in that kind of building. So, I hear where you're coming from, but I think it is a more -- I think it's a -- a more positive step and I find compelling Mr. Tucker's and Mr. Keys' contention that -- that I -- I mean perhaps defensible space isn't necessarily the best term for it because that has --

CHAIRPERSON GRIFFIS: Well --

MEMBER ETHERLY: -- that has a more negative connotation to it, but I think the idea of encouraging greater ownership over the space that fronts your particular door and the overall stoop, I think is a -- is a very -- is going to be a very helpful concept here.

CHAIRPERSON GRIFFIS: Good. Well, I think Mr. Tucker's using defensible space appropriately in terms of his design profession and how it's --

MEMBER ETHERLY: Right.

CHAIRPERSON GRIFFIS: -- actually, but your -- your point is excellent.

Well, I think we can explore it a little further if need be.
Ms. Renshaw.

VICE CHAIRPERSON RENSHAW: Yes, I -- I wanted to comment that I like very much the -- the movement of the community building down to the street because it seems I'm looking at the drawings that you had submitted, but it seems that you are protecting the area where the children might be playing or picnicking in a much better fashion than in the older drawing which would have just been an area around a parking space -- around parking spaces and closer to the street.

But, in your new drawing, are you going to fence in the children's area to protect the little ones from running into the parking lot?

MR. TUCKER: Yes, there will be fencing around the tot lot.

VICE CHAIRPERSON RENSHAW: All right. My second question has to go to landscaping. Is up on the board now a final landscape design or is it just a preliminary design? It looks as if you have far less trees on your new submission than you had on the preliminary design submitted for the record.

MR. TUCKER: The -- this is preliminary. This rendering was done perhaps without looking at the original landscape designs as carefully as they should have. But, even if you look at the landscape plan that we submitted initially, it still needs work. I mean we're -- we're going to paying a lot of attention to landscaping.
One of the things that we want to do better than is done perhaps in that plan is to reinforce this as an interior street. I want to make yet a streetscape. So.

VICE CHAIRPERSON RENSHAW: That will be very much of an improvement, but I just want to make a -- a small comment here that when I took a look at your original preliminary landscape plan, I was struck with how many shade trees you had on the design and how few evergreen trees and if you are trying to give a feeling of, what shall I say, community, it might be good to look at more evergreen trees that would be a 12-month type of greenery around this development rather than shade trees which then lose their leaves and you have, of course, the annual pickup of the leaves and then you have more shall we say vacant spaces for six months out of the year.

MR. TUCKER: Yes, I think the use of trees like hollies is something that we'd -- we'd like. First of all, they're -- they are evergreen, but they also stand their ground pretty well which, you know, we will have a fair number of children on this site and so, we've learned from management side over time that our plantings have to be able to defend their own space as well in order to survive.

VICE CHAIRPERSON RENSHAW: And I would look for both parcels A and B that you speak to at perhaps a later point in your testimony how you're going to have the maintenance of these plants and the guarantee of the plantings so that you never
lose the -- the greenery that you have invested in this -- in these two properties.

MR. TUCKER: The -- when we -- when we build, you will get a one-year warranty from the contractor -- from the general contractor and in turn, generally from his subcontractor. We through our on-site management program will be responsible for the long-term maintenance and we also supplement planting over the years. We have annual budgets for replanting. You always lose a certain amount of plant materials annually. So, you need to supplement that as you go along.

VICE CHAIRPERSON RENSHAW: And with your landscaper, you have a -- something in the -- in the contract with them that they would have to water. I'm just thinking of the -- the heatwave that we've had this year and how many plants -- new plants are not surviving because contractors don't water.

MR. TUCKER: We have done the -- once it's turned over to us, we're responsible for watering. We have our own watering programs on site.

This year was especially challenging. At a number of our properties we had extra people brought on to -- to help with that -- that responsibility.

CHAIRPERSON GRIFFIS: Okay. And I think Ms. Renshaw's point is -- is very clear. You know, as we look at a great plant, we want to make sure that it actually lasts with the property. So, conceivably if we move in the affirmative, we will
have no worry in the condition that it would be maintained in a
similar level as submitted.

But, I think we need to -- to pick up speed a
little bit on this. I think it's important for Board Members to
have questions and that will save us time on what we need to
delve into, but let me move and I am assuming that we're looking
at -- at issues that we're bringing up in parcel A are clear in
parcel B, too, and I didn't see anything specific that we needed
just to deal with at that point except the fact of corners.
Corners especially on these sites are so important and how you
define those is an important design aspect.

But, Mr. Keys, do you instruct in the next
direction?

MR. KEYS: Yes, can we take a look at the
elevations for the ends on parcel B and I would move
-- I would, you know, drop the -- that exhibit and replace it
with the other one so that it's -- it's --

MR. TUCKER: These are elevation sketches for the
two ends. The elevation to the right here is the -- the view
from 2nd and -- at the corner of 2nd and 4th Streets. You can
see there's quite an elevation change at that point.

CHAIRPERSON GRIFFIS: Yes.

MR. TUCKER: Really a full level. Along 2nd Street
by the way, the top floor of the units will be loft units. We'll
have a -- we're going to take advantage of the elevation change
and the high ceilings to have lofts. We did this at Statton Glen. Those will be very popular units there. So, there's a market for them and -- and we're going -- we're going to do that.

This is the other tip of the triangle at Wilmington and 4th. Also, a highly visible corner. It's -- it happens at this point that there is no elevation change. So --

CHAIRPERSON GRIFFIS: Is there anything like this topology in the area?

MR. TUCKER: With the -- this --

CHAIRPERSON GRIFFIS: Yes.

MR. TUCKER: Probably the closest thing to it are the new -- some new townhouses that are being built about a block and a half or two blocks from the site.

CHAIRPERSON GRIFFIS: Okay. And they're single-family?

MR. TUCKER: So, we're trying -- we're trying to give this more of a townhouse look than -- than an apartment.

CHAIRPERSON GRIFFIS: Right.

MR. TUCKER: That's really our goal is to emphasize the individual entrances and, you know, through varying types of -- of brick and we're using cementitious siding with several different textures basically and colors. Changing with some bay elements. You know, some of the things that -- that would have been in an urban townhouse we're trying to make happen.

CHAIRPERSON GRIFFIS: Did you say you're doing
cementitious siding? So, you're replaced your vinyl siding?

MR. TUCKER: We -- we hate vinyl siding.

CHAIRPERSON GRIFFIS: Well, it was noted on some of your documents.

MR. TUCKER: That's -- this is to be cementitious siding.

CHAIRPERSON GRIFFIS: Excellent. Okay.

MR. TUCKER: If -- if you're -- if you're familiar Tacoma Village, that's also kind of a material mix.

MR. KEYS: Don, I want to ask you. We've talked about the garden apartment buildings in the vicinity opposite on Wilmington, the Oxen Manor. We've talked about the garden apartment buildings that -- that exist across 2nd Street, but there are other housing types in the area.

MR. TUCKER: Yes, there are a number of single-family houses as you can see in the neighborhood and they're typically a mix of siding and brick.

MR. KEYS: And are those row houses or are those detached homes?

MR. TUCKER: Both.

MR. KEYS: Okay.

MR. TUCKER: There's a variety of housing types in the vicinity.

CHAIRPERSON GRIFFIS: Okay.

MR. KEYS: Don, since the elevations are common and
you've got an elevation treatment there, could you -- could you
begin to, you know, describe the front elevation and perhaps
point out how the units work as far access?

MR. TUCKER: There's some -- in this typical front
elevation, this is a three-bedroom end unit. This is a two-
bedroom. These six -- there's six units in this module. One --
one, two, three, four, five, six.

The two ground-floor units, the two-bedroom here
and the three here, enter directly at grade from their own front
doors. Kind of went in this covered porch. Then they go up a
covered exterior porch.

The second-floor units directly enter here and then
these are the doors to three or four units that go private stairs
to the upstairs units.

We have a version of this that's also four stories
where the top -- the top unit's actually a townhouse unit with --
with this same stair configuration. That's -- that's not
included in this application.

MR. KEYS: Now, if this elevation -- now, you've
talked about loft units. There were going to be loft units on
the third floor, but is that true for all the units in the parcel
A?

MR. TUCKER: No, it's only the -- the two-bedroom
units on 2nd Street. They're the only --

CHAIRPERSON GRIFFIS: Well, the loft aspect is just
the high -- the higher ceiling in the bedrooms. Is that correct?

Or is it actually an open plan loft?

MR. TUCKER: It's actually over the living, dining --

CHAIRPERSON GRIFFIS: Oh.

MR. TUCKER: -- kitchen area, you have a loft that's accessible. You just run the stair -- the interior stair up another level.

CHAIRPERSON GRIFFIS: I see.

MR. TUCKER: And it's a small -- it could be used as an office or --

CHAIRPERSON GRIFFIS: Right.

MR. TUCKER: -- if you have, you know, guests, they could sleep.

CHAIRPERSON GRIFFIS: I see.

MR. TUCKER: That was also a suggestion of Planning staff.

CHAIRPERSON GRIFFIS: Great. They're on top of this one. Aren't they?

MR. KEYS: Don, I think we -- we probably could usefully spent a few moments looking at parcel B site plan and pointing out to the Board what changes were made to that plan from the one they have in front of them.

CHAIRPERSON GRIFFIS: The site plan?

MR. KEYS: The site plan.
CHAIRPERSON GRIFFIS: Okay.

MR. KEYS: Again in response to Office of Planning.

CHAIRPERSON GRIFFIS: Well, I think we've covered that. Haven't we today? But, anyway, walk us through that.

Let me just -- and that board that went down with the elevations, I would -- I would agree and I think you do, too, that you've done some very nice end elevations and that was another concern. When you look at these oftentimes, I don't care what neighborhood, affordable, non-affordable, you get the ends -- the butt end of a building and it's blank --

MR. TUCKER: Blank walls.

CHAIRPERSON GRIFFIS: -- and a -- it's -- it's tragic because that's what we live with when you're walking around the area. So, that -- that I think is well done.

Okay. Change the site plan.

MR. TUCKER: On parcel B, there's this issue in 5A of building's facing -- the front entrance facing the street and we've got front entrances on both sides of the building. So, initially, we submitted this with breezeways going between -- we changed the configuration and had a breezeway that -- that took you from the front to the entrance at the rear. It was a bit of a -- I mean it's possible to do that physically, but it's a bit of a contrivance and it also gets us back to what we're trying to get away from in a way which is that breezeway from a security standpoint.
So, we are asking for relief on the interpretation of that aspect of the -- of the zoning code. We in the resubmission eliminated the breezeways.

And, you know, we got parking again. We expect there will be parking -- street parking as well as the parking lot parking. With this configuration, however, we would expect on this block -- it's not shown here actually. But, on the block around to the -- to the street. So, we got access on both sides from the parking lot.

MR. KEYS: How many units on parcel B?

MR. TUCKER: Thirty units.

MR. KEYS: And how many parking spaces are provided in parcel B?

MR. TUCKER: Thirty.

MR. KEYS: Wasn't there one other change made to the site?

MR. TUCKER: Yes, staff recommended -- we had stepped the second building back and a transition from this to this to this. Architecturally, we sort of liked that, but staff pointed that we in doing so, you know, shrunk our backyard down to a less than usable size and we agreed with staff. We pulled it forward. We liked -- we liked the change.

MEMBER ETHERLY: Quick question on the pulling forward. A small point, but the two trees or the two landscape elements that I noted on the front there, are the -- do you
recall if those are existing trees that will be relocated or that
-- that would just be part of your landscape?

MR. TUCKER: Those -- those would be new. Probably
-- there are street trees here that are existing.

MEMBER ETHERLY: Got ya.

MR. TUCKER: I don't know that -- again

I --

MEMBER ETHERLY: That's probably part of
-- trees are really --

MR. TUCKER: -- landscaping efforts especially with
that.

MEMBER ETHERLY: Okay. Okay. Thank you.

CHAIRPERSON GRIFFIS: On each of these site plans,
did you look -- I know you've talked about not going into a high
rise, but did you look at going higher on any of these and, in
fact, accumulating some of the density out of sight in certain
areas?

MR. TUCKER: In terms of -- it was our goal to --
to come back in with basically the same number of units that we
were taking out of the site plus or minus. This prototype is a
very economic prototype for this site because it can also -- it's
light-frame construction.

CHAIRPERSON GRIFFIS: Right.

MR. TUCKER: And has the advantages of that, but it
also has the flexibility of stepping. We can step it here, here
or at the -- at the center wall as we're doing from the 2nd Street down to the parking lot and in some cases, we're stepping a full story.

So, we thought this was a -- a good economic prototype for what we're trying to achieve here and typically, we try to keep -- you know, high density low-rise is the concept that we're working towards.

CHAIRPERSON GRIFFIS: Right. Okay.

MR. KEYS: Don, if you can, I think we probably could briefly show the board dealing with the floor plan -- typical floor plans and if you could just briefly describe the features of the typical units? I think that it's on the -- it's behind you.

CHAIRPERSON GRIFFIS: I don't think -- in fact, the perimeters -- unless there's anything else we need to see. Everyone understands circulation. That's a big point with us. As far as special exception, amenities, all that goes beyond our jurisdiction. Although we're very interested in getting in that and giving our opinions, we're going to hold them to ourselves unless there -- there are direct questions.

MEMBER HOOD: I just wanted to ask. I don't know if he's exactly finished with his presentation. I don't know where we are because I -- I was -- and I'm not sure. I believe this was the case the other day -- when we had a case last month.

I wanted to hear a little talk of -- speaking of trees, I wanted
to hear about the arborists. I think this -- wasn't there made
mention that there was an arborist?

MR. TUCKER: We mentioned that we -- we have a
landscape architect that we'll be working with to develop the
final plan and part of what we'll do in starting construction is
to go through the site and there would be a pruning and, you
know, a cleaning up. We want to preserve the street trees, the
ones that are in good shape.

MEMBER HOOD: My concern is I know sometimes when
you are looking to see whether you've done damage to existing
trees, it doesn't present itself early. It usually takes
five/six years and I was more interested in hearing how that was
going to be dealt, but maybe we can do a little later submission
or how do you want actually observe? Because the first two
years, you don't know if you've done any damage to the existing
trees or not. It may take up to five or more years.

MR. KEYS: I think that the applicant's testimony
and the Board's concerns have really gone in two different
directions.

I think Mr. Tucker has been speaking about street
trees which -- which are in public space and I think the Board's
cconcern is been focused on trees that are existing within the
site.

Could you, I mean, describe, you know, to your
knowledge, are -- are there trees within either one of these
sites that are either preservable or significant?

MR. TUCKER: There may be -- there may be some trees on both of these sites that we can preserve. We'll go through and actually mark, you know, what they're grading and establish the limits of the construction around those trees that we want to preserve. If we -- if you want us to work with your arborist or our arborist, however you want to do that, we're interested in preserving trees that can preserve.

CHAIRPERSON GRIFFIS: Good.

MR. TUCKER: There's not going to be a lot of trees preserved.

CHAIRPERSON GRIFFIS: I can't get to -- I can't get to the heart of the matter of all the issues that are coming out here. First of all, we don't have an arborist. So, you're going to have to get your own. No, I understand. He does and that may be what he meant, but we're not, you know, in the business.

The point being you submitted a landscape plan. What we're looking at now in this site plan is this what we're looking at what you're suggesting to be your landscape plans?

MR. TUCKER: This is a preliminary --

CHAIRPERSON GRIFFIS: Okay.

MR. TUCKER: -- landscape plan.

CHAIRPERSON GRIFFIS: So, what we need to do clearly is have that in addition which is part of the requirements for the submission.
Then it goes to -- and I think where Mr. Hood is actually looking to is well, how do we insure, Ms. Renshaw was bringing it up also, how do we insure that even though when you walk out of here that five/ten years from now in the life this project that this is maintained and I think we will cover that in -- in terms of conditions of an affirmative order if we move in that direction that we would have that be clear. In fact, analogous to what we just did in the previous application is maintaining and having a condition that it be maintain.

We will not and I don't think it's appropriate for us to lock them into a landscape design that is presented today because five years from now, they might want to change that landscape and we don't need a modification of an order.

However, the intent and the direction of what will be submitted for us to review will be important and I think that's what we should look at.

So, with that -- if that covers, Mr. Hood, your concerns? Excellent.

Let us then continue on. I think we've done away with everything we need to on the site plan. Why don't we move on?

I don't think we need to walk through units and amenities. I think it's fairly clear and actually it is part of the submission. I don't anticipate that they've changed dramatically. Is that correct? Okay.
MR. KEYS: But, I'd like to ask Mr. Mitchell to make a few remarks regarding the -- the management proposal for these properties. He can probably give you a little sense of how AHD Management would operate these properties and -- and also, I'd like him to talk about his observations on the parking situation in the vicinity and when you -- when you observed that.

MR. MITCHELL: My name is Jim Mitchell and I am Senior Vice President of AHD Management located at Number 2 Bethesda Metro Center, Bethesda, Maryland, Suite 707.

AHD Management is a subsidiary of AHD Inc. which is the development arm of this project.

We currently own and manage over 1500 units both senior citizen housing and family housing.

We usually finance under the tax credit financing program where there's an income ceiling, but that's not usually an income floor. Currently, for this project, the -- since we're building two and three-bedroom apartments, we expect families to live there between two-member families up to six-member families and that income ceiling range from $41,000 all the way up to $60,000 a year and our rents are pegged at that at the market which we expect to house government employees, school teachers, young professionals, and even single-parent households at that market range and for that community.

And our rents are quite -- our projected rents are quite compatible with the area. They range from $840 a month
for a two-bedroom, two-bath apartment to $850 a month for a two-bedroom, two-bath with a loft apartment and $960 a month for a three-bedroom, three-bath apartment.

All the units will have washer and dryer hookups and wall-to-wall carpeting, the other additional amenities that come along with new construction.

As a management company, tenant selection is paramount to maintaining a good product and I've listened to you talk a lot about landscaping and another word that we use in the management business is curb appeal. If they don't like it, they don't rent it and it's a very simply process.

You maintain curb appeal, you bring up your tenancy and you get a good tenant selection, you maintain a tenancy. This whole business is about building it, renting it, keeping it rented. It's as simply as that and if you don't keep it rented, you don't make any money and, therefore, your creditors and et cetera don't -- you know, it begins to become what it is now a blight in the neighborhood.

Just like the gentleman there, I am too a product of southeast and I've spent several years doing just that, building affordable housing, managing affordable housing.

Our tenant selection is just like any other management company's tenant selection. First of all, we review your credit history.

CHAIRPERSON GRIFFIS: Actually, let me -- I'm going
to speed you through this.

MR. MITCHELL: Yes.

CHAIRPERSON GRIFFIS: Because it doesn't go
directly to make your special exception argument for us and
although we'd love to hear it, I don't think you need to spend
the time on it.

MR. KEYS: Mr. Mitchell, why don't you just talk
briefly about the -- the parking circumstances in the immediate
vicinity?

MR. MITCHELL: Oh, I visited the site on two
occasions both after work hours between the hours of 6:00 and
7:00 when most persons would be home. Along 4th Street, there
are never any cars parked because that's the part of the site
that's abandoned.

Along Wilmington on each occasion, I observed on
each side of the street two cars on the right, three cars on the
left. The same cars. So, they must be tenants of the -- or
ownership.

Along Wilmington -- not Wilmington, 2nd Street
where the two buildings are -- the three buildings are where the
maximum number of cars. The maximum cars I've ever seen on both
sides of the street combined were nine.

It's not that the -- the parking is being used
quite a bit over there.

MR. KEYS: Thank you, Mr. Mitchell.
I think that's all that we'll have from witnesses.

I'd like to probably close, but I don't want to respond to the Office of Planning. So, I --

CHAIRPERSON GRIFFIS: Your closing will come after everything. So, we'll get -- we'll refer back to you.

In a minute, we will go to Office of Planning. However, I want to take just a ten-minute break to stretch legs and get back and then we will pick up the speed, get through Office of Planning.

MEMBER ETHERLY: Mr. Chair.

CHAIRPERSON GRIFFIS: Yes.

MEMBER ETHERLY: Just a quick question for Mr. Mitchell so we don't --

CHAIRPERSON GRIFFIS: Yes, excellent. Excellent.

MEMBER ETHERLY: -- have to come back to it.

CHAIRPERSON GRIFFIS: I'm sorry that I didn't --

MEMBER ETHERLY: No, that's okay. Just a real quick question.

In terms of the informal kind of parking assessment that you did, do you recall if along any of the street, 2nd Street, Wilmington Place or 4th Street, I can't recall myself just in general travels, is that signed in anyway for residential permit parking? Do you have the kind of enforcement over in that neck of the woods?
MR. MITCHELL: No.

MEMBER ETHERLY: No. So, it's just all open parking?

MR. MITCHELL: Open.

MEMBER ETHERLY: Fine. Okay. Thank you. Thank you, Mr. Chair.

CHAIRPERSON GRIFFIS: Sure. Yes.

VICE CHAIRPERSON RENSHAW: A question.

Mr. Mitchell, the streets that we're looking at on the A1 before us, are those all one-way or two-way streets?

MR. MITCHELL: All streets are two-way streets.

VICE CHAIRPERSON RENSHAW: All streets are two-ways.

When the cars exit the parking areas and I take it from property A that you are going to have two exits or is it one in, one out?

MR. TUCKER: I should probably take that.

VICE CHAIRPERSON RENSHAW: Mr. Tucker.

MR. TUCKER: Yes, it's a one-way situation.

VICE CHAIRPERSON RENSHAW: So --

MR. TUCKER: It's one way in, one way out.

VICE CHAIRPERSON RENSHAW: All right. And on parcel B, it's just one way in, one way out. You only have one entrance/exit?
MR. TUCKER: That's correct. It's in and out at parcel B. It's in here and out here at parcel A.

VICE CHAIRPERSON RENSHAW: And how heavy is the traffic along those streets? In other words, will there be any difficulty accessing?

MR. TUCKER: On 4th Street, there's very little traffic. This is not the real 4th Street. This is the diagonal 4th Street that goes for like one block and it's -- it's really very little traffic.

MR. KEYS: Don, isn't there a stop sign on both ends of the intersection?

MR. TUCKER: Yes.

MR. KEYS: And the affect of that stop sign would be that the traffic, you know, would obviously come to a stop on both ends as it approaches the site. So, there isn't high speed through traffic. Is that the --

VICE CHAIRPERSON RENSHAW: Are there any traffic lights?

MR. TUCKER: Yes.

VICE CHAIRPERSON RENSHAW: Would you point out on the map where the traffic lights would be?

MR. MITCHELL: There's a -- there's a -- Don, there's a traffic light right at the corner of 4th and Mississippi -- excuse me. There's a traffic light at the corner of the 4th and Mississippi Avenue at the base of Balou High
School and also there's a -- and that's mainly because of the elementary school directly across the street from the site. There's ample traffic control in that area.

CHAIRPERSON GRIFFIS: Well, and I think the point being -- what Ms. Renshaw is trying to gauge obviously the -- the traffic volume on this streets and I think some of the aerial photographs that are submitted, but also the testimony that we have, these aren't -- these aren't big thoroughfare streets and you can look even on that site plan the density. You can realize that there probably is not the demand.

When we talk about street parking around the site, I can imagine there isn't because you're project picks up the entire site and so, clearly that would be giving the demand onto the street.

VICE CHAIRPERSON RENSHAW: So, all in all you do not foresee any difficulty with cars exiting and entering your properties?

MR. MITCHELL: No, ma'am, I don't.

VICE CHAIRPERSON RENSHAW: Thank you.

CHAIRPERSON GRIFFIS: Is there any other questions?

Okay. Let's resume in ten minutes.

(Whereupon, at 12:35 p.m. a recess until 12:57 p.m.)

CHAIRPERSON GRIFFIS: Okay. Why don't we move on and go right to the Office of Planning report and ask them to
walk us through and, of course, we're going to be taking both reports.

Yes, Mr. Etherly.

MEMBER ETHERLY: Mr. Chair, do we have a waiver issue for either or are we taking both reports simultaneously? I think we might have a waiver issue with respect to one report not to put Office of Planning on the spot.

CHAIRPERSON GRIFFIS: Oh, they did respectfully request to waive the rules to accept their report on 16905 if I'm not mistaken. Unless there's any objections to that.

MEMBER ETHERLY: No objection, Mr. Chair.

CHAIRPERSON GRIFFIS: Okay. The waiver is accepted for --

MR. COCHRAN: Excuse me, Mr. Chair.

CHAIRPERSON GRIFFIS: Yes.

MR. COCHRAN: As part of the good-natured jousting, that OZ and BZA and Office of Planning regularly engage in to further the legislatively mandated independence of the two organizations, I'd like to point out that the Office of Planning submitted reports with numbers that have turned out to be well consistent with what was sent to us. Incorrect in the long run.

Therefore, the report that is late is actually 16904.

CHAIRPERSON GRIFFIS: Indeed I forgot
to --

MR. COCHRAN: 16905 is correct.

CHAIRPERSON GRIFFIS: -- do my switching and the Board was aware although -- well, there it is. We were aware and switched the reports for our own reading.

MR. COCHRAN: Thank you very much.

CHAIRPERSON GRIFFIS: But, it's a --

MS. BAILEY: Mr. Chairman.

CHAIRPERSON GRIFFIS: Yes.

MS. BAILEY: I don't believe they have been switched in the file as yet. So, we're going to technically switch them in the file as well, too. Correct, Mr. Chairman?

CHAIRPERSON GRIFFIS: Yes.

MS. BAILEY: Okay.

MEMBER ETHERLY: But, Mr. Chair, just for the matter of the record, we will continue to applaud the excellent work that the Office of Planning is doing in providing their wonderful reports with photos and other such illustrations.

CHAIRPERSON GRIFFIS: Okay.

MEMBER ETHERLY: From one Board Member to our colleagues in the Office of Planning.

CHAIRPERSON GRIFFIS: Good.

MR. COCHRAN: We're going to be reporting directly. So, for the record, my name is Steven Cochran in the Office of Planning.
MS. THOMAS: My name is Karen Thomas, Office of Planning.

MR. COCHRAN: Oh, if you look, it's a Board game.

The applicant is requesting a special exception for a construction of 30 apartments at 2nd and Mississippi; 96 apartments at 2nd and Wilmington. The 2nd and Mississippi is the square 618. The 2nd and Wilmington is square 6092.

We're recommending approval subject to certain reports from other government agencies.

We've gotten the report from the Department of Transportation. They recommended approval or they said they had no problem with it.

A report from the Zoning Administrator, that has not come in and there actually are a couple of questions that we have about that later.

The Department of Health, they're going to be mandated to review certain things before a building permit is issued but there are other requirements because of the subdivision that the Department of Health should be commenting on now and we would hope that you'll be able to keep the record open awhile to give them a chance to comment.

The Fire Department did wind up filing a report and then there's a new recommendation that we have to suggest today which is dealing with the landscaping and that has to do with the elimination of the breezeways and we will get into that later on.
Actually, I'll just say it now. The additional walkways from the parking lots to the front entrances of the -- of the apartment buildings should be in the landscaping plans.

Both of the --

CHAIRPERSON GRIFFIS: Did you illumination?

MR. COCHRAN: Elimination.

CHAIRPERSON GRIFFIS: Oh, elimination --

MR. COCHRAN: Yes.

CHAIRPERSON GRIFFIS: -- of the walkways, the breezeways. Okay.

MR. COCHRAN: I -- if we're willing to go to a free argument, I can be more articulate with my elocution.

CHAIRPERSON GRIFFIS: I'm not open to that at this point.

MR. COCHRAN: Okay. Then please excuse my vowels.

Both of these projects are in Ward 8 in the Washington Highlands neighborhood near Balou Senior High School. Square 618 is one acre. Square 6092 is approximately three acres. As the applicant noted, there are steep slopes mostly from north to south.

Both of them as the applicants noted involve demolition.

The new apartments are kind of a hybrid design, a mix between garden apartments and townhouses. They have the appearance from the street of being townhouses and functions
somewhat like townhouses, but are apartment buildings for the purposes of R-5-A. They differ from apartment buildings in -- in that they do not have any interior halls.

It should be noted that both of these both parcel A and parcel B are gated and fenced. I don't believe that that came out earlier. Office of Planning has evaluated this with respect to the comprehensive plan. We feel that it meets the housing and environmental goals and objectives both for the city and for Ward 8. We've had to look at environmental goals because of the steep slopes and some of the requirements for storm water management on site.

Now, when it comes to the requested relief, under Section 353 which requires that the Office of Planning review these types of development almost as if they're planned unit development, the public school system has said fine. It won't have a negative impact on the -- on the school population. Department of Transportation said okay. The Department of Housing and Community Development has given it's implicit approval in that it is a participant in helping to finance the project although there is not a separate letter on that.

With respect to Section 353.4 and the environmental considerations, we recommended pervious pavers and certain drainage and other retention measures that the Department of Health may require.

The applicant has met with Office of Planning a
couple of times and as they noted, they responded to some of our comments by pulling the buildings closer to the streets to create a somewhat stronger urban presence and also to create larger play areas behind the fronts of the buildings. They also removed a somewhat suburban like parking area that's in front of the community center that also would function as a sales center and they have added windows on the staggered ends of the individual modules of the individual buildings.

With respect to Section 410, the 30-unit parcels -- the 30-unit building at parcel B, I believe it is, at 2nd and -- excuse at A -- at B at 2nd and Mississippi meets all of the requirements of Section 410.3 except now for the -- the requirements about where you can have entrances. They're required to have entrances abutting a street or a front yard, but you're allowed to waive those requirements under 410.12 if 410.1 through 410.5 are met and you find that there's no negative impact on the community.

My colleague and I have caucused today and feel that, in fact, the -- this does not have a negative affect on the community. So, we feel that it does meet the requirements of Section 410. However, we do recommend that walkways be put in because there is going to be a little bit of a hike to get to the front entrance for some of these units since they won't be able to pass through the buildings anymore.

For the 96-unit project at 2nd and Wilmington, it
meets again all of the requirements except 410.8 which as we just
noted can be met by Section 410.12 and if you have any questions
on that, I think that Ms. Brown will be able to explain some of
the other particular aspects of the project that she evaluated.
It meets the sections of Section 350.4 with respect to occupancy
which basically tries to prevent these from becoming hotels by
requiring of the 30-day minimum lease and the Section 401, the
minimum lot area, lot width, they're both met.

For parcel A, you also need to look, of course, at
Section 2516 because parcel A requires subdivisions. It is
asking for a subdivision of the parcel and this requires even
more BZA review of environmental considerations and other storm
water retention considerations, et cetera.

Section 2516 in particular this has been evaluated
by OP. Ms. Brown in particular who will be able to answer any
questions on how she feels that the applicant has met the
environmental considerations with respect to storm water erosion,
tree retention, et cetera.

The ANC, well, there was the recommendation of the
single member district rep. There was presentation to the single
member districts constituents. There was not, however, a full
meeting of the ANC. So, there is no recommendation from the full
ANC.

In short, the Office of Planning recommends
approval of the project with the following contingencies: that
the applicant retain an arborist and present a proposal acceptable to Department of Health Storm Water Management, Erosion, and Sediment Control Division certainly prior to obtaining a building permit on how best to ensure that on-site trees and off-site street trees are protected during construction and in the future; that the applicant adhere to DOH's Storm Water Management guidelines for a parking lot over 5,000 square feet. We realize that were this not in an R-5-A zone that we would -- excuse me -- and R-4-A zone that this would just be a matter, of course, through the building permit process, but OP is required to look at these kinds of consideration in this particular kind of a project.

And did I miss anything -- and that's it.

CHAIRPERSON GRIFFIS: Did you want to talk -- first of all, the environmental clearly I think you're referring to 1911.1 in your report of 13 of 13. It is good that that was evidenced. I think in terms of our own environmental screening forms and the DCRA permitting review as -- as you've indicated that that will be covered and I think it was important to -- to evidence that. Did you not also talk about parking and did you get into further things about the community center?

MR. COCHRAN: Okay.

CHAIRPERSON GRIFFIS: Are there other issues involved in that?
MR. COCHRAN: On the smaller parcel, the 30-unit, there is no even question to be raised about parking. They have a one-to-one parking.

CHAIRPERSON GRIFFIS: Right. Oh, I'm sorry. Were you not doing both?

MR. COCHRAN: I'm doing both.

CHAIRPERSON GRIFFIS: Okay.

MR. COCHRAN: On the other parcel, there is a question about whether the community center would be considered an accessory use or not. OP believes that were it just a community center, it would be an accessory use. The question comes since it is also a sales center, does it have to meet any kind of additional parking requirements? We have recommended that you consider this.

CHAIRPERSON GRIFFIS: Okay. We will get to that.

Let me also just clarify for the record when I indicated 1911.1, I was referring to -- in your report. That actually is part of the comprehensive plan. They've talked a lot about the environmental not the zoning regulations.

MR. COCHRAN: That's correct.

CHAIRPERSON GRIFFIS: And -- and in 2516 as you evidenced that it does come up again in terms of the environmental and soil erosion and --

MR. COCHRAN: That's right.

CHAIRPERSON GRIFFIS: -- which is an important...
aspect.

MR. COCHRAN: Particularly in Ward 8 where there was a history of environmental abuse more so than in most other wards.

CHAIRPERSON GRIFFIS: Illegal dumping and such.

MR. COCHRAN: That's correct.

CHAIRPERSON GRIFFIS: Okay.

MEMBER HOOD: Mr. Chairman.

CHAIRPERSON GRIFFIS: Yes.

MEMBER HOOD: While -- and this may have been mentioned. While I understand the concern of the erosion and everything, but is it within our purview?

CHAIRPERSON GRIFFIS: No.

MEMBER HOOD: Okay. Thank you.

CHAIRPERSON GRIFFIS: No, and I think that's pretty clear now even with our new -- our -- our -- well, with the -- the DCRA process and the environmental screening that goes on. It -- it will get picked up.

Ms. Renshaw, did you have something?

VICE CHAIRPERSON RENSHAW: Yes, Mr. Cochran, you mentioned the -- the word demolition and I wanted to ask if you had discussions with the applicant about the construction aspect of this application and if you could give us any detail about how demolition is going to be handled and is there a construction agreement through the ANC or with the single member district...
about how that will be handled?

MR. COCHRAN: We had no discussions about the demolition.

CHAIRPERSON GRIFFIS: Did you have an indications that might be a problem or something that needs to be addressed specifically?

VICE CHAIRPERSON RENSHAW: Well, I'd like to know how extensive is the demolition going to be and how the trucking is going to be -- is going to be handled.

CHAIRPERSON GRIFFIS: Why don't we have Mr. Tucker answer that one?

MR. COCHRAN: Yes, Mr. Chair, but before you go completely off on the environmental considerations, while the BZA may not need to include in its order things with respect to storm water management, erosion, et cetera, it is mandated that the Office of Planning give you a report that includes consideration of those things by Section, for instance, 2516.10.

So, you may think we're giving you superfluous information, but it's what we're required to do.

CHAIRPERSON GRIFFIS: Yes, I understand that.

MR. COCHRAN: Okay.

CHAIRPERSON GRIFFIS: And, in fact, what you're indicating is that we would, in fact, have submitted the agency report on that. Is that -- isn't that correct? You indicated Department of Health which would address some of those issues.
MR. COCHRAN: That's correct, but I don't know the Department of Health is going to be addressing things like the hiring or arborist. In which case, we would ask you to consider that as one of your recommendations.

CHAIRPERSON GRIFFIS: Right and I think that's appropriate. There's a discussion that's come up with the landscaping plan and maintenance. Okay.

MR. TUCKER: Did you want me to respond about the -

CHAIRPERSON GRIFFIS: Yes. Thank you.

MR. TUCKER: -- demolition issue?

It's our plan to file for a demolition permit. It may be filed for slightly in advance of the building permit application, but we would start demolition when we close on the financing and at the beginning of the project essentially. Our general contractor will have hired a demolition subcontractor. In fact, we've already taken bids for that and it's really the complete demolition of the buildings and the paved foundations and the paved surfaces that are on the site at this point. They will be demolished and removed from the site. That's the intent.

VICE CHAIRPERSON RENSHAW: How many weeks is it going to take to clear the -- the site for building?

MR. TUCKER: Approximately a month.

VICE CHAIRPERSON RENSHAW: One month.

MR. TUCKER: For the two sites.
VICE CHAIRPERSON RENSHAW: And do you intend to work out with the community a truck routing plan? Because -- have you determined how many round trips of truck traffic you're going to have?

MR. TUCKER: We haven't. Although my -- my assumption is that the demolition subcontractor will have -- have that information and, you know, we can certainly -- we're certainly open to working with -- we have a good line of communication with the single member ANC for that area and also other contacts in the community, Oxen Run Manor, et cetera. So, we'll be -- we'll be working closely with the community in all aspects of this.

CHAIRPERSON GRIFFIS: Any other questions of Office of Planning and their report?

Does the applicant have any questions of Office of Planning?

MR. KEYS: No, Mr. Chair.

CHAIRPERSON GRIFFIS: You also requested, Mr. Cochran, that we keep the record open to have a submission of a memo from the ZA. Is that correct?

MR. COCHRAN: That's correct, but with the elimination of the breezeways, I'm not sure that -- that that's required anymore.

CHAIRPERSON GRIFFIS: Would the ZA not have an opinion on the community center?
MR. COCHRAN: I can't answer that.

MR. KEYS: Mr. Chairman.

CHAIRPERSON GRIFFIS: Yes.

MR. KEYS: I should say that before we prepared this application, we met with the Zoning Administrator to get his assessment of how this site worked and its compliance with the regulations and the only issue that we collectively came up with was the issue of the compliance with the front -- front entrance requirements and the breezeway was a -- was a -- a clever way to try and finesse that issue. Because we didn't want to come in requesting variances and -- and we realized that we would be able to take advantage of some of the flexibility that 410 gives the Board.

So, I can say that the Zoning Administrator certainly looked at the entire site plan and there was no question with regard to the community center.

CHAIRPERSON GRIFFIS: He looked -- he looked specifically at the community center?

MR. KEYS: Yes.

CHAIRPERSON GRIFFIS: You asked him the direct question is parking required for the community center?

MR. KEYS: No, I did not.

CHAIRPERSON GRIFFIS: You want to turn your mike on and say that?

MR. KEYS: No, I did not ask him that.
CHAIRPERSON GRIFFIS: Okay.

MR. KEYS: But -- but, I think that --

CHAIRPERSON GRIFFIS: Is it your experience when you meet with the Zoning Administrator to get his evaluation that he goes in the directions that you don't ask questions of?

MR. KEYS: Yes, I think he looks at the entire site, looks at all the buildings on the site and asks you are you meeting your parking requirements and we count parking spaces. So, it is my -- although there was no specific mention of that, I think the community center issue was clearly on the table.


VICE CHAIRPERSON RENSHAW: Yes, I'd like to ask the applicant what kind of a time frame from demolition to finished construction is this going to take?

MR. TUCKER: We're expecting construction to take 14 months including demolition.

VICE CHAIRPERSON RENSHAW: Okay. And you would like to start when?

MR. TUCKER: Like to start the first of the year.

VICE CHAIRPERSON RENSHAW: Okay. And are you going to be working on both sites at once?

MR. TUCKER: Yes.

VICE CHAIRPERSON RENSHAW: So, back to the demolition, you would be in one month's period demolishing two sites, those two areas?
MR. TUCKER: Correct.

VICE CHAIRPERSON RENSHAW: And both sites will be handled by the same demolition contractor?

MR. TUCKER: That's correct. We'll have one construction contractor the whole project and one -- under the general contractor's supervision, one demolition sub.

VICE CHAIRPERSON RENSHAW: Well, I just want to express here the need for a truck management plan, a construction management plan to be worked out with the community and perhaps the Board would like to entertain having that document submitted into the record. Can we do that?

CHAIRPERSON GRIFFIS: I don't have any -- I think that would be perfectly appropriate to do. However, let me get a gauge on timing.

Do you have a general contractor on board?

MR. TUCKER: Yes, this will be a negotiated contract. We're working with Hammel Builders who we've had extensive experience with in the past.

CHAIRPERSON GRIFFIS: Okay. And so, that's something conceivably you could do fairly quickly? Get an understanding of how they anticipate doing that. My point being if -- if we were -- it looks like we will keep the record open for several things, but if something like this couldn't be hammered out for another four months, it would frankly delay our deliberations. But, you tell me if you can get this in quickly.
MR. TUCKER: Well, the -- we could -- we could deliver a plan quickly, but the -- the notion of doing something that's coordinated with the community -- what I would recommend is if you want to make the creation of that plan a requirement, that would -- we'd certainly not object to that, but we -- we don't want to keep the record open. We want to move ahead.

CHAIRPERSON GRIFFIS: I think we should do this. Let us -- let us have you submit your draft of that and -- and we would request that that also be delivered to the ANC and then our direction would be that if there were concerns that communication and discussion would happen. We -- we put that burden on you to fulfill and our jurisdiction will end with our -- well, I won't say that.

MR. KEYS: Mr. Chairman.

CHAIRPERSON GRIFFIS: Yes.

MR. KEYS: I thought it's been the experience in the past that -- that the police are probably best able to determine appropriate routing for traffic.

VICE CHAIRPERSON RENSHAW: Communities get involved in this in a big way.

CHAIRPERSON GRIFFIS: I don't think that's -- I don't -- I think both are a valuable concern and -- and our own building codes will have some regulations on it, too, which the GC will be involved in. We're not asking you to go out of your way to do something that isn't appropriately or acceptable to
other agencies and again, we -- we weren't -- we're not going to 
wade too far into this because it goes a little bit beyond what 
we need to do with this particular application, but I think the 
point is well made by Ms. Renshaw that clearly you don't want to 
create any difficulties with your adjoining neighbors and so, if 
this is one way to make the communication possible, I think it's 
important to do.

The other piece of it in terms of parking, I think 
we bring it up because there's no reason for us not to have 
complete issues. So, the more we can flush out here it means the 
less you may have to come back for minor modifications or if the 
Zoning Administrator actually does look at this differently than 
we do. So, I think we can get to the bottom of it.

Any other things for Office of Planning at this 
time? Good.

Thank you very much and we do appreciate that 
completeness in the complexity of putting these both together and 
the reporting on it.

Let us move then to the other submitted reports and 
we have quite a few. So, I'm going to ask Mr. Etherly to run 
them down for us and I believe that most of the submissions 
actually spoke to the -- both projects and we'll make 
differentiations if that is appropriate.

But, Mr. Etherly, I'll turn to you.

MEMBER ETHERLY: Thank you very much, Mr. Chair,
and I don't know how I got this job, but I will follow your lead.

I'll take the lead from Ms. Renshaw with regard to the ANC report. We had substantial discussion regarding the request for a continuance which we disposed of earlier, but we did receive a letter from ANC commissioner for 8C07, Virginia Major, referencing in detail the community meeting held on Tuesday, April the 30th.

The letter does speak to Ms. Major's support for the requested relief regarding this project and once again, that's a letter dated July 19, 2002 to the Board.

Mr. Chair, we've also been provided with a Department of Transportation report which was alluded to by the - - by Mr. Cochran and his colleague for the Office of Planning. Once again, the Department of Transportation does not find any adverse traffic or parking impact upon the neighboring residential area as a result of the proposed project and, therefore, has no objection to the project.

We are in receipt of a July 22nd letter from Commander Winston Robinson of the Metropolitan Police Department Regional Operations Command East for the 7th District and that report does not express any concerns regarding safety or adverse law enforcement impacts. The letter does note, however, that a homeowners' association or resident council should be established to ensure that there's participation on the part of residents with PSA and/or PPS meetings. PSA being police service areas.
We are in receipt of a June 25th letter from the Department of Housing and Community Development, Office of the Director Stan Jackson, noting that department's support for the project in pertinent part because of the moderate density focus of the proposed development and also because of the location on Ward 8 and portion of the city where the comprehensive plan designates a need -- significant need for moderate density development. That is once again dated June 25th.

We are through the Office of Planning in receipt of two communications that are appended to their report. One from the District of Columbia Public Schools dated July 16th which endeavored to highlight any impacts on neighboring schools in the vicinity of the proposed project, Simon Elementary School, Hart Junior High School, and Balou Junior High School. The letter once again dated July 16th from Alberto Treves, Planning Manager with DCPS does not note any concerns outstanding regarding the ability of any of those three schools to accommodate any students that may -- may seek to enroll as a result of residents at the proposed facility.

Also included in the Office of Planning report was a July 8th letter from the Fire Marshal's Office, Bruce Cowan, noting that Fire and EMS has reviewed the above application and determined that there -- that it would be appropriate for them to support approval of this request. They do encourage the applicant to consider the installation of a fire sprinkle system.
in each building and, of course, residential sprinklers inside of each dwelling unit. That letter once again is dated July 8th, 2002.

We are finally in receipt of a communication dated July 19th from Council Member Sandy Allen for Ward 8 expressing her support for the application and in particular, the ability of this much needed redevelopment to "not only remove an eyesore in the neighbor but also provide decent and affordable housing for the community.

Mr. Chair, unless I have missed anything, that covers most of the government's submissions that we received pursuant to both of these applications.

CHAIRPERSON GRIFFIS: Thank you very much.

Ms. Renshaw.

VICE CHAIRPERSON RENSHAW: Just one small correction. I believe you said, Mr. Etherly, Balou Junior High School and I think it's a Senior High School.

MEMBER ETHERLY: Thank you for making that correction, Ms. Renshaw. How dare I mispronounce the name of my own alma mater. Balou -- Frank W. Balou Senior High School.

Thank you, Mr. Chair.

CHAIRPERSON GRIFFIS: Thank you all very much.

Okay. Is there --

MS. PRUITT: Excuse me.

CHAIRPERSON GRIFFIS: Yes.
MS. PRUITT: Mr. Chair, prior to going on, there are two reports, the DHCD and the one from the police department, need to be waived in because they have -- they've --

CHAIRPERSON GRIFFIS: Oh, indeed.

MS. PRUITT: Sorry.

CHAIRPERSON GRIFFIS: Are there any objections to moving in those reports? Oh, good. We have obtained a consensus. Waived in. And we are appreciative of their submission, in fact.

Does the applicant have any comments on any of the government reports that were submitted? You have -- do you have them all in your possession and have seen them? Yes or no?

MR. KEYS: Yes, we have.

CHAIRPERSON GRIFFIS: Good. Okay. Very well. Not seeing anyone else here that I would imagine is attended to this application, I assume. But, I would give the opportunity if anyone's giving testimony to this -- to this case either in support or in opposition can come forward at this time and not seeing a response to that, I think we can go to final questions by the Board at this time.

I had one quick question for the -- the architect on this. Was is the program for trash storage and pickup?

MR. TUCKER: On the -- on parcel A, we have two dumpsters that will be fenced -- screened basically that'll -- and there will be trash pick up probably twice weekly at each of
those two locations and on parcel B, there's one trash dumpster location in the parking -- that will be located in the parking area.

CHAIRPERSON GRIFFIS: Okay. And in parcel A, it's -- it's within the parking area?

MR. TUCKER: Yes, one --

CHAIRPERSON GRIFFIS: And so --

MR. TUCKER: -- one in either end of it.

CHAIRPERSON GRIFFIS: Okay. Conceivably the front loaded units have the longest walk, so they'll have to walk their trash around to the back into the parking area?

MR. TUCKER: Yes.

CHAIRPERSON GRIFFIS: Okay. And this is a commercial trash pickup?

MR. TUCKER: That's correct.

CHAIRPERSON GRIFFIS: Hum.

VICE CHAIRPERSON RENSHAW: Do you think that two units is going to be enough for 96 -- two dumpsters enough for 96 units?

MR. TUCKER: Based on our experience, that should be sufficient. Yes. During move in, we usually have a -- a roll-away dumpster. There's a lot of crating and that type of thing that happens, but once we get through initial rent up and the two with twice a week should be sufficient.
CHAIRPERSON GRIFFIS: Have you ever done -- are you aware of -- programmatically of -- of a complex of this nature where they had smaller, but separate areas of -- of trash storage that was then picked up and I would say it's more a burden to the -- the commercial trash pickup, but have you ever done anything of that nature?

MR. TUCKER: There are sites where we've had separate trash rooms. Typically, those haven't worked so well. They tend to, you know, give off odor and that type of thing. So, we've gone to the central -- to this type of collection.

CHAIRPERSON GRIFFIS: Okay.

MR. TUCKER: This is found to be more successful.

CHAIRPERSON GRIFFIS: And -- and you run this scenario in other projects that you manage and it works fairly successfully? Okay.

MR. TUCKER: We can always address the number of pickups if -- if necessary.

CHAIRPERSON GRIFFIS: Right.

MR. TUCKER: Typically, for this, the -- the -- the twice -- twice a week.

CHAIRPERSON GRIFFIS: I'm -- yes, I'm not so concerned about the receptacle for the trash because I think that's easily monitored. I mean if they're overflowing, you're going to -- you're going to increase the dumpster or the pickups and that's easy enough to accommodate.
MR. TUCKER: Right.

CHAIRPERSON GRIFFIS: I am just initially concerned just having -- if I was in one of the front units I wish my income would make me able to afford these, that you would have to come out the front and walk all the way around and then hit the -- the trash receptacle and, you know, in an urban area, you're used to being able to go out your back door, go out your front door and put the trash on the street and so, was -- somewhat -- quite a little concern. It's not astronomical, but a little concern in terms of how it's actually going to work.

Okay. Other questions, Board Members?

MEMBER ETHERLY: Just very quickly, Mr. Chair. We had a little bit of conversation about this during the Office of Planning report. The applicant heard some of the discussion regarding storm water management and we don't have a, you know, great deal of authority to weigh heavily in that, but could you speak a little bit to perhaps some of the things that you -- that you're already implementing or planning to implement with regard to I guess in particular given the slope, the elevation of the property and then also the -- the parking that you're going to be introducing to the site. Any -- any plans in the works to deal with some of those issues?

MR. TUCKER: Our -- our civil engineer in this case Servanos & Associates has had a meeting with Storm Water Management to discuss requirements for this area. There are
separate storm drains in this area that have capacity. However, there's a quality control issue. So, grid separators and, you know, quality control at the -- at the inlets from the storm drain is to be required. But, after development, hard surface in this site is about what it was, you know, when it was originally developed. So, we're not -- we're not adding a lot of additional hard surface here.

It also argues in favor of the grass pavers. Even doing more of that, you know, beyond the 12 spaces that we've identified.

You know, we'd be willing to consider, but yes, we have -- we have looked into it and it appears that, you know -- we know quality control is going to be required and we -- we have several approaches to that that we can take.

MEMBER ETHERLY: Thank you.

CHAIRPERSON GRIFFIS: And the city's attention to this is becoming more and more focused. So, clearly they'll be a management plan that will be developed and -- and required to be submitted on this site.

Okay. Other Board Members, questions? Last concerns?

Then let us --

MR. COCHRAN: Mr. Chair.

CHAIRPERSON GRIFFIS: Yes, sir.

MR. COCHRAN: Did you want to address the walkways?
CHAIRPERSON GRIFFIS: The walkways? In what respect?

MR. COCHRAN: OP amended its recommendations to include so that the applicant would be including in its landscaping plans --

CHAIRPERSON GRIFFIS: Oh, indeed and you were concerned in parcel B. Correct?

MR. COCHRAN: Both actually.

CHAIRPERSON GRIFFIS: Both.

MR. COCHRAN: Maybe I don't just see them in -- parcel A has it. Parcel B, I'm not seeing them.

CHAIRPERSON GRIFFIS: Okay. Indeed and -- and I believe the architect indicated that they were anticipating bringing a walkway out along the alley that would parallel the alley to the street.

MR. COCHRAN: But, what about the other way? Because we're -- we're talking about fenced areas. So, it's not like the front -- that the units that face the streets would be able to use the sidewalks.

CHAIRPERSON GRIFFIS: Okay. Let me get clarification because you mentioned fencing and I thought the architect mentioned there was no fencing.

What's actually happening?

MR. TUCKER: There is fencing. Not in front of the units where we have the individual entrances.
CHAIRPERSON GRIFFIS: I see.

MR. TUCKER: Because those are like townhouses, but between the buildings.

MR. COCHRAN: Okay.

MR. TUCKER: And at the parking side up to the community building which will have a wall that kind of extends its presence on 4th Street. So, it will be fenced and it's also true in parcel B that there will be fencing.

CHAIRPERSON GRIFFIS: Okay.

MR. TUCKER: So, it is our intent to do walkways on both sides of the building in parcel B out to the street sidewalk.

CHAIRPERSON GRIFFIS: Let me interrupt you.

MR. TUCKER: The existing sidewalk.

CHAIRPERSON GRIFFIS: Being a more visual person, I'm going to ask you just to go up to the plan and if you wouldn't mind, pointing out where on both parcels you anticipating fencing and then also where you're anticipating walkways that are not illustrated on these current plans.

MR. TUCKER: On parcel A, there will be a fence between the buildings at this location and this location.

CHAIRPERSON GRIFFIS: Yes.

MR. TUCKER: And then there will also be a fence that comes out to this area that we've indicated where we'd like to do our project sign and the special landscape features to the
property line. There will be a gated entrance to the parking here. Fencing will continue to the point where we have a -- a sight wall that extends out from the community building at this point which also becomes one of the fences for the top line.

CHAIRPERSON GRIFFIS: I see.

MR. TUCKER: It continues again to the -- the gate for the parking lot and in similar fashion to this point.

CHAIRPERSON GRIFFIS: Excellent. I had no understanding that that was actually happening. In fact, that -- that then lends itself much more to what you were talking about in terms of the common areas with the defensible areas. You've -- you've clearly set a border and a defined line. I think that goes also strongly to reinforcing the street edge.

How are the gates operated going into the parking?

MR. TUCKER: It will be card access at this point and, you know --

CHAIRPERSON GRIFFIS: Right. For entrance.

MR. TUCKER: -- out there.

CHAIRPERSON GRIFFIS: Okay. So, the residents will have a card that will obviously limit. That -- that is even more important information for our understanding of how that works.

Okay.

MR. TUCKER: And that's similar to what is being currently used at --

CHAIRPERSON GRIFFIS: Exactly. And I misunderstood
because I heard you say that it was fenced in the Manor and it
was not fenced on your parcel.

MR. TUCKER: We just want to make ours a little --
we're not fencing the entire perimeter of the site.

CHAIRPERSON GRIFFIS: Exactly.

MR. TUCKER: Just buildings --

CHAIRPERSON GRIFFIS: Exactly, but that's an
appropriate way to do it. Okay.

VICE CHAIRPERSON RENSHAW: Question. If you're
fencing between the buildings as you have pointed to A1, how are
the tenants who face -- is it 4th Street, how are they --

MR. TUCKER: 2nd Street.

VICE CHAIRPERSON RENSHAW: No, 2nd Street. How are
they going to get their garbage to the dumpster?

MR. TUCKER: There will be gates at both of these
locations.

CHAIRPERSON GRIFFIS: Do those also have a card
access?

MR. TUCKER: Yes, those will have card access.

CHAIRPERSON GRIFFIS: And what's the material on
the fencing?

MR. TUCKER: It will be either aluminum or wrought
iron. We're not sure at this point.

CHAIRPERSON GRIFFIS: All right. But, it will --
it will --
MR. TUCKER: It will be a substantial fence.

CHAIRPERSON GRIFFIS: The image will be more of a wrought iron picket not a chain link or anything of that nature?

MR. TUCKER: Exactly. It definitely won't be chain link. No, it's got to be the wrought iron picket type fence.

CHAIRPERSON GRIFFIS: Right. Okay.

MR. TUCKER: You know, we've learned that chain link, in fact, doesn't look good.

Here the same thing. The parking lot side will be fenced. We will -- we are proposing to extend a walk from the parking lot adjacent to the alley. A sidewalk here and there will be a fence probably at this location. We would extend -- this parking -- this sidewalk does extend to the street. So, we're already doing it on this side. But, we want to provide a walk on the other side eliminating the breezeways.

CHAIRPERSON GRIFFIS: And the fence goes parallel to the alley. On your drawing, it's actually -- I would say the --

MR. TUCKER: Yes, the fence will start -- it will be from the building over to the property line and the alley.

CHAIRPERSON GRIFFIS: All the way out along alleys.

Both alleys behind the parking lot?

MR. TUCKER: Yes, we're going to fence --

CHAIRPERSON GRIFFIS: Exactly.

MR. TUCKER: -- fence the parking lot.
CHAIRPERSON GRIFFIS: Okay. I think it would be strong to move that fence out to the -- the primary face of the building so it runs -- exactly so it runs that but not getting too far into all the details.

But, it also doesn't -- it doesn't lend itself to have -- an area where people could go and -- and be which -- not necessarily have access to the property.

MR. TUCKER: Exactly.

CHAIRPERSON GRIFFIS: Okay. Any other questions?

Is that clear to everybody?

VICE CHAIRPERSON RENSHAW: Yes.

CHAIRPERSON GRIFFIS: Good. Okay. Does Office of Planning have a comment on that? Is that understandable in terms of the provisions of the walkways?

MR. COCHRAN: Yes, Mr. Chair, it is. It raises a couple of questions about safety given that some people who have looked at the project have expressed a feeling that they -- they don't like gated communities yet if there's going to be a neighborhood where there -- where it might be justified this might be one of those neighborhoods.

So, I'm just wondering about the different perception of safety between the -- the units that would be able to access their units directly from the parking lot without going out of the gated area to the street and those which will have to walk a somewhat fair distance having parked in the lot, gone out
the gate, and then back out to the public street to get to their units and then the whole thing about double parking and talking your groceries up three floors and then coming back to your car which you'll hope is still there and taking it into the parking lot.

MR. TUCKER: I think what you're going to find based on Mr. Mitchell's observations on street parking is that some people that are living on the street front of these buildings will park their cars in the street and some people will choose to take the lot, take -- make the hike and park it in the secured parking lot.

So, it's going to give people a choice. There will be a certain amount of tenant selection based on that. Some -- some people are going to like these, you know, because these loft units have certain amenities. You do have some stairs involved in that. So, it's not going to be everybody's -- everybody's cup of tea.

CHAIRPERSON GRIFFIS: And I think it's a strong -- a strong addition or element of the project that you do have that different variety, Mr. Cochran, in terms of circulation and access. I think having the -- the people whether they decide to park in the courtyard and walk out or decide to park on the street and walk into the front units. With the amount of units that are there, one could anticipate they won't be lonely walking around out there which is an important factor for street safety.
You want to see your neighbors coming and going and not be lone
on that street. So, I think -- I think this is an important
aspect.

Your point of bringing up a gated community or
image of gated community I think is successfully balanced by
holding the fence line at the building line so that the buildings
become part of the defining area and where the buildings are not,
the fence defines the area and so, I think in terms of the image
of walking by, you couldn't get a feel for a gated community, but
rather you have a gated area that is actually private property
and -- and should well be controlled in terms of its access, but
again, then you have the buildings that access directly out on
the street which I think is a very successful move.

MR. TUCKER: This is kind of a small scale, but
from the community building, staff has indicated they wanted a --
the presence of a building on 4th Street. We tried to extend
that by extending site walls that becomes part of the --

CHAIRPERSON GRIFFIS: All right.

MR. TUCKER: -- fence in a sense and we've held
those back enough from the property line, preplanning, and funded
them as well. So, it'll -- it should be -- it's not going to
look like just a -- a big fence.

VICE CHAIRPERSON RENSHAW: Mr. Chairman, with the
dumpsters at both ends of the parking lot in the project A, is
that going to provide enough space on the entrance for cars to --
cars that want to drive their garbage around the block? Because I foresee some of those units fronting on the street, the owners or the renters rather are going to put the garbage in the car, drive it around to the dumpster. Is there going to be enough room at the entrance for cars to pause and dispose of the garbage without blocking the access to the parking lot?

MR. TUCKER: At the --

VICE CHAIRPERSON RENSHAW: Right there.

MR. TUCKER: -- at this location here?

VICE CHAIRPERSON RENSHAW: Yes.

MR. TUCKER: The gates going to be here. So, I suppose if you -- if you did take that approach, you could come in the gate, park, and then dispose of your garbage, but I don't think the intent would be to have people parking even on a temporary basis at this location and be blocking the entrance to -- to the --

VICE CHAIRPERSON RENSHAW: Well, you might look into that a little bit further because human nature as it is, it's going to be the shortest distance between two points and if they have a load of garbage, they're going to pull up right beside the dumpster and off load and it's just to make sure that that access is clear for traffic going in and again, on the other side traffic going out.

MR. TUCKER: We can certainly -- we can certainly look at that. I think, you know, one approach would be to create
maybe more of the -- the grass paver spaces adjacent to those areas which, you know, wouldn't typically be used. That's a way of ensuring that we're not going to be blocking cars.

CHAIRPERSON GRIFFIS: Yes.

MR. TUCKER: At least enhancing the possibility of that happening.

CHAIRPERSON GRIFFIS: Yes, we might want to look at the larger parking space for the car wash after you've dropped your trash off from driving it around.

But, again, I think Ms. Renshaw brings up good points in terms of the program that hopefully helps a little bit in terms of looking at the realities of -- of that issue.

Okay. If -- any other issues? Office of Planning, any other issues that we have not covered.

MR. COCHRAN: I think this was -- the fencing was very well addressed today.

CHAIRPERSON GRIFFIS: Indeed and I'm glad it come out because that was important for our understanding and I think it's going to be very successful.

Other questions, Board Members? If not, why don't we go to summation and closing remarks.

MR. KEYS: Thank you, Mr. Chairman. I've got two task with respect to this property. I think the first is to address the parking issue as it relates to the community and the second is just to summarize the broad compliance of this project
with the requirements set forth in the zoning regulations that outline the relief we've requested.

First, with respect to the community center and the parking, I think that there is a -- there is a -- the Office of Planning I think has -- has structured the argument or the case on this incorrectly in two instances.

They've imported a parking requirement from the section of 21.01 or 2101 in the regulations in a table that describes other uses for all of the districts and come up with a 600 square foot requirement for each parking space. As applied to our situation would create a requirement for four perhaps five additional parking spaces and the problem with that is that the functions that are inside the community center are residential functions. They are resident functions. The community room, the laundry room, the management functions would be there in any event. They are not related to outsiders.

The fact that the resident manager, the assistant manager would handle leasing functions, it's not that we're bringing outside functions into it -- into the property. These are all internal functions. They're limited to residents.

CHAIRPERSON GRIFFIS: But, I disagree because if you put it all within the same building, it would have taken -- it could conceivably take the place of a unit or it would be counted and would go to the parking. I think the point --

MR. KEYS: But, in the -- but, in the R-5-A zone,
there is no calculation based square footage anything else.

CHAIRPERSON GRIFFIS: Exactly.

MR. KEYS: If I put these functions in the building, there would be no additional requirement for them. If I put the functions -- if I put the community center in the building, you would look at it as an R-5-A building, residential building, and the parking requirement would be exactly the same.

CHAIRPERSON GRIFFIS: Yes, it would be. However, you will have been removing a residential unit and -- and adding a management unit, a leasing office. So, within the envelope, the parking would be similar, but now you're taking it outside.

I think what we need to get to is these four or five staff members. Are they adding an additional burden that we need to look at for parking?

MR. KEYS: They are not creating -- these are -- the -- the two personnel we're talking about are resident people. They are resident managers.

CHAIRPERSON GRIFFIS: Oh, so, they actually have units within the complex but also work in the office for the leasing?

MR. KEYS: You want to correct me if I'm incorrect in that?

MR. TUCKER: Yes, that -- it's -- at least one of -- it's likely we're going to have either four or five staff people on this -- at this location and at least one of them, it
may be the resident manager, it may be the maintenance supervisor, one of the maintenance people will live on site. Typically, one of those staff people will be an on-site situation. But --

MR. KEYS: And I -- I still don't understand the Chair's response to my statement.

CHAIRPERSON GRIFFIS: Let me get clarification from --

MR. KEYS: This property -- this property based on its FAR is underbuilt.

CHAIRPERSON GRIFFIS: Okay.

MR. KEYS: You could have more FAR --

CHAIRPERSON GRIFFIS: Sure.

MR. KEYS: -- on this site. If the FAR contained meeting room functions, contained an exercise room, contained an enlarged laundry room which were above grade --

CHAIRPERSON GRIFFIS: Right.

MR. KEYS: -- added to FAR, when you look at the parking requirement for this building, you would look only at the residential unit count.

CHAIRPERSON GRIFFIS: I'm not -- I'm not concerned about the open areas or the meeting rooms or areas that will be for, you know, even training that was brought up and classes and things like that.

MR. KEYS: But, a building --
CHAIRPERSON GRIFFIS: That's a temporary issue. My issue did come up that was -- in the testimony that was given was additional staff that might be on site.

So, my only point is and correct me if I'm wrong, Corporation Counsel, if we look at a 96-unit building although one -- first of all, if -- if one of the -- on the plans on the first floor a unit was used as a leasing agent or a leasing office, would it not count as a unit to go to parking? That's the first question.

MS. THOMAS: Mr. Chairman, I believe that for an apartment building you would simply look at the dwelling units not the number -- that is the parking schedule, but another way of looking at this case is that the applicant is requesting special exception approval which requires the Board to consider whether there are any adverse --

CHAIRPERSON GRIFFIS: Right.

MS. THOMAS: -- impacts on the public.

If the community building is intensifying the use of the site in terms of parking, demand for parking, then it would be appropriate to consider perhaps additional parking spaces beyond that which is required by the parking schedule, but I think that's how you would have to analyze it as an aspect of the special exception approval and any detrimental impacts on the public in terms of parking.

CHAIRPERSON GRIFFIS: Okay. Right. And I think
that is. I think first of all we just needed an understanding of that threshold of what magnitude we were looking at and I think it's absolutely appropriate to look at it in the special exception and look at adverse impact and all I'm trying to do is get all the information out.

So, is there additional you want to add to that?

MR. KEYS: Yes, the -- all the functions that he described that take place within the building are all building related functions. They don't relate to inviting a public participation from the outside. The community center is intended for residential use.

Now, we indicated to Virginia Major, the ANC single member district representative, that we would make the community center available for neighborhood meetings, but presumably, that isn't an automobile event. That's a neighborhood event. They'll be accessing it as pedestrians.

And the other thing that I would ask the -- the Board to take recognition of is that for Ward 8, the automobile ownership is less than one-to-one.

In a case I had recently, the census information indicated that it was about .79 ownership per household for automobiles. So, your parking requirement is generous at one-to-one and I think that that's intended to subsume other functions that may come into an apartment building as an additional kind of use.
The fact that this is gated parking, I think also further limits the likelihood that anything that happens on the site is going to demand more parking requirement for the site.

CHAIRPERSON GRIFFIS: Okay. And I tend to agree with you. I disagree only in looking at census because it's old information and in your testimony and application, this is going to spur great things and changes in the neighborhood. So, who knows what changes. Maybe the ownership of cars will drop totally and it'll be totally walking or everyone will own five cars which would be a detriment to the entire city.

However, your point is well taken and that is first of all, we have a controlled parking. Secondly, it is conceivable that not every unit will have a single car, but then some units may have two.

But, is it adequate? It seems to me in the face that it's adequate parking being provided and additionally, the fact of the matter is the density and then the potential density in the area still does not seem to overwhelm the availability of street parking which would be utilized by the entire community.

So, that being said, I do think it is appropriate for us to look at this within the special exception that's before us and look at this as impact and what impact it might be and if there is adverse, then we would need to obviously address it in terms of provision of additional parking or not.

Mr. Cochran, a comment on that.
MR. COCHRAN: Mr. Chair, I don't want to address the -- whether or not this community center would require additional parking. But, I would note that Office of Planning worked with the applicant on variations on the site plans and just to get the community center moved to establish a building line and to increase play place, it was very difficult even to get the one-to-one.

So, for your consideration, you would be giving up something if you did have to go to more parking.

CHAIRPERSON GRIFFIS: And believe me I -- and I totally agree. In looking at the site plan, I think it's fair to say it has to go on the larger of elements that needed to go down there and I will say also I'm not a big proponent for surface parking.

So, that being all balanced, I think it is certainly something that the Board will take into deliberation.

And Ms. Renshaw.

VICE CHAIRPERSON RENSHAW: Yes, I wondered if there could be a cutaway in front of the community center to allow persons with handicaps or persons with very young children to off load and be out of the way of traffic and move --

CHAIRPERSON GRIFFIS: Actually, that's something that they did away with. Correct?

I mean one of the concerns probably which I tend to agree with was they were minimizing the curb cuts on that
VICE CHAIRPERSON RENSHAW: Yes.

CHAIRPERSON GRIFFIS: Which also allows for more street parking if you don't have the curb cuts.

You know, it's interesting, Ms. Renshaw, in your point, could they not access it coming into the parking lot itself?

MR. TUCKER: The topography would work against that, but I think directly from the street -- I mean pulling the building forward to the street as we have, now perhaps we can get some -- a few reserve spots in front of the community building that would be for that use and it would be a very direct way of getting to the community building.

CHAIRPERSON GRIFFIS: Excellent point. To work with the deputy to try and get that signed appropriately for the parking in that area. I think that's --

VICE CHAIRPERSON RENSHAW: Especially for handicapped persons.

CHAIRPERSON GRIFFIS: Sure. I think that's very well said.

MR. TUCKER: Yes.

CHAIRPERSON GRIFFIS: Yes, and in terms of that -- that could exactly be it. It's just handicapped parking on that -- on that side. Okay. All right.

Anything else?
Mr. Keys, I think you had it.

MR. KEYS: Yes, and I'm going -- I think I'm going to rely on the record that we've submitted in our application with respect to the compliance with the more general standards for the R-5-A Zone and the -- the compatibility of this proposal with the comprehensive plan and with the zoning scheme for the area.

I do want to again focus on the 410.12 requirement that the Board can allow deviation or noncompliance with the strict requirements of Section 410 provided that the applicant demonstrates that it meets 410.4 and 410.5.

And in that, we -- we clearly based on the testimony and the site as revised have no rear or service entrance which impacts this plan at all and the only exterior stairway that we have is an exterior stairway connecting the -- up from the first level and so, it complies with the requirements of 410.5.

Otherwise, the Board has the authority then on the basis 410.12 to approve this application without -- without anything else.

With respect to the building lot control, I think it's a -- 2516 is a rather dense section, but it's applicable to residential districts. We are clearly within that requirement. We have submitted the plans that are required and it makes sense in this property as it's going to be in single ownership and will
work well in one piece on a subdivision.

I think there are probably going to be multiple building covenants that we're going to have to execute in connection with that subdivision, but that's a matter for the D.C. Surveyor.

And with that the applicant would rest and thank the commission's -- the Board's indulgence in trying to get us relief in this matter as quickly as possible. You're aware of the schedule. We are prepared to supplement the record with the materials that you have requested with plans that -- that show the -- the details that we discussed today.

I'd say within -- within two weeks we could complete the record if that's appropriate for the Board's consideration and we if we can get an order probably in the month of September I think the applicant would be able to proceed with his plans.

CHAIRPERSON GRIFFIS: Good. I think that -- I think that does in fact align itself with our schedule and we could set this for a decision making in the first of -- by September 4. Indeed and put it on the schedule then.

MEMBER ETHERLY: Mr. Chair.

CHAIRPERSON GRIFFIS: Yes.

MEMBER ETHERLY: As we're looking at dates, it may also be very helpful to see if any additional outreach can be made to the ANC. Of course, we have the letter from the SND on
file, but to the -- obviously, you know, we can't compel that they meet nor can you do that, but to the extent we can try to put a -- put a --

MR. KEYS: Mr. Etherly, I think that, you know, they probably will have a meeting in the first part of September. But, I -- you know, candidly, this ANC from my perspective there's a fracture. I mean there's -- they don't work well together.

MEMBER ETHERLY: They have a quorum problem. Is that it?

MR. KEYS: Well, I think there's a personality problem.

MEMBER ETHERLY: Okay. Okay.

MR. KEYS: The fact that, you know, one commissioner grabbed onto this project and sort of guarded it and --

MEMBER ETHERLY: Got ya.

MR. KEYS: -- you know it wasn't --

MEMBER ETHERLY: Understood. Understood. No problem and as the Chair reminded me that even if they were to hold a regularly scheduled meeting, that would be cutting it pretty close for our September decision-making process, but thank you.

CHAIRPERSON GRIFFIS: Good. Okay. First of all, we're going to run down everything and time that we're going to
have submissions submitted, but let's run down those reports that we are looking to have submitted and also let me just give an indication of where I am with this.

I think a lot of good information has come out that I -- and it was important to have this to walk through. I think in terms of the entrances that there -- there is a successful design endeavor to deal with that and I think it's important not to lose those street frontage and the rear frontage in terms of how it is coordinating with the size and layouts of these buildings.

So, with that, Ms. Bailey, if you're prepared, let's run down the list.

MS. BAILEY: Thank you, Mr. Chairman.

First of all on the plans that are on the Board, Mr. Chairman, those were discussed today and that would -- we would need to get those in the file in addition to the revised plans, but the plans that were discussed today would be very useful if someone would go back and review the record to know exactly what was presented today.

MR. KEYS: I'm concerned about that because you would have two essentially -- virtually identical drawings. We are -- we are --

CHAIRPERSON GRIFFIS: Don't be concerned. They're going to get dated and the record will show when -- when they're put in and we have to have them. So.
MR. KEYS: Well, all going to put in the same time.

CHAIRPERSON GRIFFIS: Pardon me.

MR. KEYS: They'll all be put in at the same time.

We -- we have not submitted this.

CHAIRPERSON GRIFFIS: That's what she's asking to be submitted.

MR. KEYS: All right. I'm just worried about confusion between the --

CHAIRPERSON GRIFFIS: Don't worry.

MR. KEYS: -- revised drawing and the --

CHAIRPERSON GRIFFIS: We'll worry about the confusion.

MR. KEYS: -- current drawing.

CHAIRPERSON GRIFFIS: We handle confusion incredibly well.

MS. BAILEY: The résumé of Mr. Donald Tucker, the architect.

CHAIRPERSON GRIFFIS: Good.

MS. BAILEY: Ms. Renshaw's particularly interested in the truck construction management plan that is to be developed, a draft copy.

VICE CHAIRPERSON RENSHAW: It would be -- Ms. Bailey, it would be a truck routing plan and a construction management plan.

MS. BAILEY: Okay. And a draft copy is to be
developed and also submitted to the ANC. If they choose to respond, that would be appropriate.

There is a discussion, Mr. Chairman, about the site plan showing parking close to the dumpster where residents can pull up, place their trash in the dumpster, and pull of if that's an appropriate thing to do. So, the site plan would be changed in that regard.

Mr. Keys, are you on board with me? Should I repeat that?

MR. KEYS: Well, I'm not sure. I think that was a concern, but I'm not sure that was --

MS. BAILEY: Is that something --

MR. KEYS: -- that resulted in a change in the site plan. I think that's a --

MS. BAILEY: Is that something the Board wants to see, Mr. Chairman, where the --

CHAIRPERSON GRIFFIS: I think it's important to -- to reemphasize that. I think we were looking more to giving direction in terms of analysis of the parking and the programming. I doubt that that would have a huge impact if it was decided to be redesigned. It would include a resubmission or redrawing of the site plan. So, it's an excellent point and I'm glad we reemphasized that.

MS. BAILEY: But, does not necessarily need to be --
CHAIRPERSON GRIFFIS: Does not.

MS. BAILEY: -- shown in the site plan?

CHAIRPERSON GRIFFIS: Correct.

MS. BAILEY: Okay. Additional outreach to the ANC if possible, but I would imagine that's left to the applicant's discretion, but if possible, to leave that as an option.

CHAIRPERSON GRIFFIS: Yes, I think we'll leave the record open for an ANC report memo and that's all we can do.

MS. BAILEY: Those are the things that I have Mr. Chairman. I'll be glad to add any additional ones that I may have missed.

CHAIRPERSON GRIFFIS: Good. I think we were going to add -- keep the record open for a report from the ZA. I think we also kept the record open for a report from the Department of Health if there is any addition. Again, we won't delay our scheduled if these don't come in.

And then most importantly, we were looking for submission of a landscape plan, also a narrative in terms of the maintenance and on the landscape plan, we were looking for an indication of the site lighting. Certainly the -- in the parking lot, but also the type of fixtures and placement for the pedestrian walkways and lightings and -- and I'm being inclusive. That's parcel A and parcel B and then in parcel B, we're -- that landscape or that site plan -- landscape plan, it could be one in the same, will have a good -- will indicate the new walkways that
were discussed today.

MR. TUCKER: I have a question about the landscape plan.

CHAIRPERSON GRIFFIS: Yes, there's a lot coming up now.

Mr. Cochran, did you have something on the landscape plan?

MR. COCHRAN: A CA order. I don't know whether you still need it given the changes that have occurred today.

CHAIRPERSON GRIFFIS: It's -- I'm -- there's no reason not to keep it.

MR. COCHRAN: Okay.

CHAIRPERSON GRIFFIS: I mean if it's done, it'll come in. If it isn't done, we don't have it.

MR. COCHRAN: Right.

CHAIRPERSON GRIFFIS: Okay. Ms. Bailey, I'm sorry. Did you --

MS. BAILEY: I was just going to go with the dates. I'm not sure if --

CHAIRPERSON GRIFFIS: Okay.

MS. BAILEY: -- of all the submissions.

CHAIRPERSON GRIFFIS: I think we're probably going to have to get a lot of clarification as I'm rattling off all this stuff.

There was something else. Don't lose that.
Did you -- was there a question on the landscape plan?

MR. TUCKER: Yes, I wasn't sure when -- I mean we did submit a preliminary landscape plan with this application.

CHAIRPERSON GRIFFIS: Right.

MR. TUCKER: We're going to continue to work on it.

Is that something that you needed back within this two-week time frame also? Any changes to that or do we have the -- do we have the ability to keep on working on that which is what we'd really like to do?

VICE CHAIRPERSON RENSHAW: I think we would like to see a more finished landscape design to these two projects, A and B, along with as the Chair said a narrative about maintenance and the site lighting.

CHAIRPERSON GRIFFIS: Yes, I think the way to handle this is -- is work -- is set -- obviously set a deadline for further submission and work to that level with the landscape plan and then within the narrative indicate the general direction that the plan is taking and we will -- we will look to that and -- and -- and then that will lend itself to some flexibility as -- as you continue the design of it.

Again, I think that an important feature is that landscapes change and we want to not lock -- lock it into today's plan, but enable you to redesign the landscape as appropriate as the use continues.
VICE CHAIRPERSON RENSHAW: Mr. Chairman.

CHAIRPERSON GRIFFIS: Yes.

VICE CHAIRPERSON RENSHAW: We were interested in the existing trees on the site and whether or not any of those existing trees and I would expect that those would be mature trees would be able to be incorporated in the landscape design.

CHAIRPERSON GRIFFIS: Okay. Clearly -- well, there it is. This is -- I think the point of that is if you can indicate the existing trees as opposed to new trees, that would be important for us to understand how -- how it's done.

Looking at the photograph -- well, all right. There it is.

Anything else on that piece, landscape plan?

There was one piece that came up in terms of the report from the MPD about the homeowners association. Board Members, I think we can take that under consideration in our deliberation and I don't know that that goes to -- unless --

MR. TUCKER: We -- we will encourage the development of a residents' association.

CHAIRPERSON GRIFFIS: Right. Because this isn't an ownership opportunity.

MR. TUCKER: Right.

CHAIRPERSON GRIFFIS: Which makes it -- a lot sense. So, and there's resident managers and there's an
infrastructure in there for the management.

VICE CHAIRPERSON RENSHAW: Yes.

CHAIRPERSON GRIFFIS: So, that's part and parcel of the rest of the application. Okay.

Anything else? Are we getting everything?

Then let us go to dates for submissions of this information.

MS. BAILEY: Mr. Chairman, there is no party. Of course, the ANC is automatically a party, but I need direction. Do you want the record to be left open? The applicant could file by August 19th and the letter -- the record left open for an responses by August 26th, but that's -- that's at the Board's discretion if you feel as if the record needs to be left open for a response.

Go over those dates again, Mr. Chairman. August 19th for submission. August 26th response and then with the decision September 4th. That's on a Wednesday as indicated.

CHAIRPERSON GRIFFIS: Okay. I'd suggest that we move the submissions to the 26th and give response open from the ANC until the day of the hearing or the special meeting or meeting.

MS. BAILEY: Okay. Sir, the -- the responses from the applicant will be due on August 26th and the ANC will have until the day of the hearing which is September 4th to respond. Mr. Chairman, is that what you said?
CHAIRPERSON GRIFFIS: Yes. Correct. Now, this is a bit out of our normal procedures, but I anticipate that we wouldn't have anything from the ANC or it will be limited and then -- therefore, if there is response, obviously we'll have to give you an opportunity to respond to the ANC which we can do on that Tuesday, the 4th and we can take that orally unless -- well, and we'll -- if this blows up and you want to do written submissions, then we'll re-continue our decision-making on the 4th.

Otherwise, if there's not a response from the ANC, I would not anticipate hearing any other oral testimony or descriptions on anything and we can go straight into our deliberation having all that information submitted.

Everyone clear on dates, deadlines, submissions, requirements? Very well.

Then that looks like we did unless there's anything else. Fabulous.

Gentlemen, I absolutely appreciate your patience staying, weeding through all our questions. I think there's evidence an awful lot of great things that came out of this and clarity.

So, with that, I bid you a great day and we will see you on the 4th of September and that will conclude our morning session of 30 July 2002.
CHAIRPERSON GRIFFIS: And with that, I am going to call the afternoon session to order, 30 July 2002. I am going to -- I am going to table my opening remarks for the afternoon session and ask that the first case in the afternoon be called unless Corporation Counsel sees a problem with that.

MS. SANSONE: Mr. Chairman --

CHAIRPERSON GRIFFIS: Yes.

MS. SANSONE: -- I believe two of the parties are here. I don't see if the appellant is represented.

CHAIRPERSON GRIFFIS: I see. We may not have a full breath of the afternoon case. Is that correct?

MS. SANSONE: But, perhaps -- perhaps they can alert us to any issues they might have. I think we're just here for something in the nature of a status report or request for a continuance or -- so, I don't think there would be a need to go through the opening statement. But --

CHAIRPERSON GRIFFIS: Good. Okay. Why don't we have -- would people that are here today for the afternoon case and then I'll have you introduce yourselves and then we can, in
fact, address what Ms. Sansone had just talked about.

MS. BAILEY: Mr. Chairman, just want to put on the record that this is Application Number 16239 Appeal of the USA Waste of D.C., Inc.

MR. PARKER: Good afternoon. For the record, my name is Arthur Parker. I'm Assistant Corporation Counsel. We are party in the matter. I'm representing the Zoning Administrator in this matter.

MR. LEVINE: For the record, I'm Lawrence Levine representing Near Northeast Neighborhood Task Force.

MR. PARKER: If I could go forward, I am in receipt of a letter dated July 19th from counsel for the appellant, USA Waste, at which time they requested that a -- a continuance of today's hearing.

As the Board recalls at the last hearing, we had advised I believe at that time it was the District that had requested a continuance based on the fact that there was ongoing negotiations between the appellant and us to resolve a number of solid waste transfer station issues. One of which being the U-Line Arena which is the subject of today's hearing.

I believe you received status reports that have indicated that since the time we were here last, we had been engaged in negotiations. There has been legislation that has been passed, temporary an emergency legislation passed by the counsel that authorizes the mayor and executive to enter into a
settlement agreement that would, in fact, deal with the U-Line Arena and other issues and also there was a -- as emergency act that postponed the impact of a June 11th closure date that was part of -- of what was -- what is called the Solid Waste Facility Permit Act and that closure date which was June 11th has been postponed until I believe it is January 22nd of 2003 at this point to allow these settlement negotiations to take place and to be -- and to have permanent legislation proposed and enacted.

That's my understanding of the two types of legislation that have been enacted and that the -- I spoke with Ms. Brown yesterday, the attorney for the appellant, regarding the status of the continuance request and she indicated that her last meeting with members of our office was last week and there had been some substantial progress on the final terms of the agreement and that things seemed to be proceeding along.

I checked with other members of my office and they concur in that. So, at this time, I'm prepared to -- obviously, the last continuance request was mine and I concur in this further continuance request.

Mr. Levine has already filed a response in that. I'll let him address whatever concerns he has.

CHAIRPERSON GRIFFIS: Okay. And before we move onto that though, my concern -- and what is -- what is your -- you -- you threw out January 2003 as a conceivable time. Do you look at --
MR. PARKER: I should -- maybe I should restate that. There is -- the terms of this current settlement agreement talk about the U-Line Arena ceasing operations by the end of -- August 31st.

CHAIRPERSON GRIFFIS: Okay.

MR. PARKER: Based on some conditions of the District. District's current solid waste facilities, the ones at Fort Tod and -- and Benning Road --

CHAIRPERSON GRIFFIS: Right. But, January 2003 is an indication of the legislation that's going through that may impact the general --

MR. PARKER: Right.

CHAIRPERSON GRIFFIS: -- and --

MR. PARKER: Right.

CHAIRPERSON GRIFFIS: -- I'll bring to your attention --

MR. PARKER: Right.

CHAIRPERSON GRIFFIS: -- the reason why I know --

MR. PARKER: Right.

CHAIRPERSON GRIFFIS: -- I know that it caused concern when you said that date.

MR. PARKER: Right. Right.

CHAIRPERSON GRIFFIS: Was the point that this Board takes very seriously --

MR. PARKER: Right.
CHAIRPERSON GRIFFIS: -- this specific case and the time and also the community's concern about it's continued operation. So --

MR. PARKER: Right.

CHAIRPERSON GRIFFIS: -- your anticipation right now with the negotiations that are going on that it is conceivable that -- that this particular facility would be closed by the end of August?

MR. PARKER: That -- that is the working premise.

CHAIRPERSON GRIFFIS: Yes.

MR. PARKER: There -- I want to be completely candid with the Board. That presupposes that the District's facilities which are in the process of being renovated temporarily and permanently are up to capacity to take the stream of waste that goes into the U-Line and take that over.

CHAIRPERSON GRIFFIS: Right.

MR. PARKER: And we think we're moving in that direction as far as my last indication is we're -- that's still the target date. But, and that's what's -- that's what we have in all the agreement papers that are going back and forth, but, you know, I don't want to say there's no possibility whatsoever that that date would be -- would slip in anyway. But, if it does, it -- we're not talking about it slipping to January.
CHAIRPERSON GRIFFIS: Right.

MR. PARKER: Because our interest is -- for the District is the primary benefit for us in the deal that we are negotiating with Waste Management is the closure of U-Line. Without that, there's really -- the other parts of the deal fall by the wayside and so, that's our primary interest to get that as close as fast as possible.

CHAIRPERSON GRIFFIS: Okay.

MR. LEVINE: As we noted in the letter sent to the Board last week, we'll -- we will consent to a continuance. We're dismayed I suppose that -- that this hearing date has come along and there's not yet a settlement despite the repeated representations and expectations of the other parties that they would be able to reach a settlement by this date.

But, nonetheless, it appears to us that -- that they -- there has been some actual progress made in -- in recent weeks and it seem to behoove anyone to go ahead with the hearing at this point from our perspective either on this date.

But, we would request that the hearing be rescheduled at the soonest available date which I expect will be in September and -- and it go ahead if there's not a settlement by that time. Given that the target date is August 31st, it would seem that -- that if September comes along and there's no settlement agreement, then -- then there may -- it may well be the case that something has gone haywire with these negotiations...
and we ought to -- I would suggest that the Board ought to call a stop to any further continuances or delays and get this on a fast track to a final adjudication, a decision by the Board.

CHAIRPERSON GRIFFIS: Good. Thank you very much and I think that's a very appropriate statement.

Let me ask you if my thinking, and I -- and I will look to my Board to concur with me, would be to set this for as we've done in the past on this but other cases also pick a date that we actually have a status report given to us. I would anticipate doing that. Well, conceivably we could do September 4th. I'd like to have it -- I'd like to have it mid-September just because the exactness of this does not seem to be a science and rather than making something more than we need to. Set it for maybe second or third week in September for a status report.

That would give us enough time to turnaround and set an immediate date for a case to be called and -- and believe me, this Board, although we hope not to have to wade further into this, we are perfectly prepared to do so and I think that would be a good balance on that.

My -- the only problem I have in setting aside an entire afternoon in September for it is that we -- we will need to be scheduling cases to continue our schedule.

So, if that -- is that acceptable to you?

MR. LEVINE: I guess I would just ask what -- when
you say that it would be possible at that time to -- to schedule
it for an immediate hearing how long a lag would you expect
beyond the date of the status report?

CHAIRPERSON GRIFFIS: I think we'd be looking at
early November.

MR. LEVINE: Well, if -- you know, frankly, we'd --
I think we would strongly prefer something sooner, but I think --
it's -- you know, it's been on this -- been on the calendar since
March originally and five years before that, but yes, I -- I
think it's fair to say that -- that by September and October
leading up to November that the patience of -- of folks in the
community would probably -- well, has already worn thin and would
be even more so if -- if
-- if this hasn't been resolved by then and -- and is also not
set for a hearing. But, at the same time, I'll obviously defer
to the judgment of --

CHAIRPERSON GRIFFIS: Well, you know, what's
interesting even looking at the schedule as it plans out, we
couldn't schedule anything until then now.

MR. LEVINE: Okay.

CHAIRPERSON GRIFFIS: That would be our earliest.
In fact, we have cases that we have said we will give a whole
afternoon or a day to and we're already adding cases on those
times. So, let us do that.

What we will do in the schedule is actually put a
note on the earliest available date that this is to be held for
that and I think that won't necessarily affect our schedule, but
I will check and make sure that we can do that in terms of our
own notification and we're going to keep our fingers cross that
our status report is what we want to hear.

So, let us do September status report due. I guess
it would be probably better off doing it closer towards the
beginning. Why don't we do it on September -- I'd say the 17th.
Well, the 10th is the second weekend. Seventeenth is the third.
You know, I'm open. I just -- I want to be able to get a status
report and I don't want to get the same one we just got today.

VICE CHAIRPERSON RENSHAW: September 10th?

MS. PRUITT: Mr. Chair, I think your -- your
original thought of going with the 17th because for the most part
everybody takes August off in, you know, Washington.

CHAIRPERSON GRIFFIS: Right. Right.

MS. PRUITT: And not a whole lot gets done and to
give people time to gear up and hopefully have as much --
hopefully it'll be resolved and completely resolved and no -- no
strings hanging out.

CHAIRPERSON GRIFFIS: I agree. Seventeenth. The
17th schedule. Seventeenth.

MR. PARKER: What? And you're saying you want an
oral status report to appear before you.

CHAIRPERSON GRIFFIS: I don't think so.
MR. PARKER: Oh, you want a written status.

CHAIRPERSON GRIFFIS: If it's -- if it's

-- yes.

MR. PARKER: Okay.

CHAIRPERSON GRIFFIS: I think that's perfectly

acceptable and I think you know what we want to see written. So.

MR. PARKER: Okay. Okay.

CHAIRPERSON GRIFFIS: We're hoping that can happen.

MR. PARKER: All right. So, between the appellant

and the District and -- and the -- the community party, we will

try to have something submitted.

CHAIRPERSON GRIFFIS: Right.

MR. PARKER: All right.

CHAIRPERSON GRIFFIS: And knowing -- conceivably

that's listed all the options. If we don't get a status report

submitted, that means we immediately set this for an afternoon

and at the earliest time available.

MR. PARKER: All right.

CHAIRPERSON GRIFFIS: But, clearly, it would

advantageous for everyone to update us on what's happening.

MR. PARKER: Okay.

MR. LEVINE: And just to clarify, is there -- is

there some future afternoon hearing date that's being held as of

this time or only -- or only in September?

CHAIRPERSON GRIFFIS: Could we -- can we
-- can we --


CHAIRPERSON GRIFFIS: Right.

MS. PRUITT: Because I believe this would probably be --

CHAIRPERSON GRIFFIS: Which is -- what's the date on that?

MS. PRUITT: Thirteenth I believe. Pull out my calendar here.

CHAIRPERSON GRIFFIS: Twelfth is it not.

MS. PRUITT: Twelfth.

CHAIRPERSON GRIFFIS: First is the 5th.

MS. PRUITT: Right.

CHAIRPERSON GRIFFIS: Second one would be the 12th.

Is that right?

MS. PRUITT: I'm getting there.

MR. PARKER: Okay. That would be starting at 1:00.

MS. PRUITT: No, we could do it in the morning because as of this moment I believe we have nothing scheduled.

MR. PARKER: Okay.

CHAIRPERSON GRIFFIS: No, it's --

MS. PRUITT: Oh, that's election --

CHAIRPERSON GRIFFIS: Be in the afternoon.

MS. PRUITT: Yes. You think that an afternoon's
going to be enough?

MR. PARKER: If -- we had -- we had --

CHAIRPERSON GRIFFIS: Well, you want the whole day?

MR. PARKER: -- proposed 1:00 to 6:00. If we had a

block between 1:00 and 6:00, we had thought the last time we

could get the hearing done.

CHAIRPERSON GRIFFIS: Right and I thought --

thought that's what we had established.

MR. PARKER: Right.

CHAIRPERSON GRIFFIS: Let's do that. We'll set it

from -- in the afternoon.

MS. PRUITT: Okay. On the --

CHAIRPERSON GRIFFIS: That way we can -- we can

fill up the morning and believe me our morning won't go until

2:00.

MS. PRUITT: Right. So, you're talking about now

on September 12th?

CHAIRPERSON GRIFFIS: No, November --

MR. PARKER: November 12th.

CHAIRPERSON GRIFFIS: -- 12th.

MS. PRUITT: Correct. I'm sorry. November 12th.

Okay. Great.

CHAIRPERSON GRIFFIS: November 12th, afternoon,

1:00.

MS. PRUITT: Afternoon.
MR. PARKER: Okay.

CHAIRPERSON GRIFFIS: Excellent. So, we're all clear?

MR. PARKER: Yes, sir.

CHAIRPERSON GRIFFIS: Anything else? Great. Then we can wish you a great day and we will look to hear from you in September and we can, in fact, adjourn the 30 July 2002 afternoon public hearing of the Board of Zoning Adjustment.

(Whereupon, the meeting was adjourned at 2:29 p.m.)