

DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY,

MAY 29, 2001

+ + + + +

The above entitled matters came on for hearing at 441 4th Street, N.W., Room 210-S, Washington, D.C., at 9:30 a.m., Chairperson Sheila Cross Reid, Presiding.

PRESENT:

SHEILA CROSS REID	Chairperson
ANNE M. RENSHAW	Vice Chairperson
SUSAN MORGAN HINTON	Board Member
GEOFFREY GRIFFIS	Board Member
JOHN G. PARSONS	Zoning Commissioner

COMMISSION STAFF PRESENT:

Sheri Pruitt	Secretary, BZA
Paul Hart	Office of Zoning
John Nyarku	Office of Zoning

OTHER AGENCY STAFF PRESENT:

Steven Cochran	Office of Planning
Arthur Jackson	Office of Planning
John Moore	Office of Planning
Maxine Brown-Roberts	Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

<u>Agenda Item</u>	<u>Page</u>
APPLICATION 16704: JEFFREY GARDENS.....	8
ASSOCIATES LIMITED PARTNERSHIP, ANC-8E and ANC-8D	
Paul Tummonds, Esq. ....	8
Shaw, Pittman, Potts and Trowbridge, LLP	
Don Hauge .....	10
Osborne George .....	15
Rosalyn Styles .....	23
Robert Yedell .....	35
APPLICATION 16705: STANTON ROAD HOUSING.....	56
ANC-8A, ANC-8D	
George Keyes, Esq. ....	57
Jordan, Keyes, LLP	
Christopher LoPiano .....	60
Ray Norris .....	79
APPLICATION 16706: MASSOUD HEIDARY.....	137
ANC-1E	
Massoud Heidary .....	138
Stephen Mabley .....	143
Katherine Sucher .....	183
Kerri Culhane .....	190
Lucy Palanqua .....	198
Alex Hederas .....	199
APPLICATION 16707: FREDERICK AND JULIA H. WADE, ANC-7C and ANC-7D.....	204
Raymond Kelly .....	205
APPLICATION 16712: BARBARA K. AND DONALD P.....	229
HEFFERNAN, ANC-6	
Don Heffernan .....	230

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

CHAIRPERSON REID: The Chair will please come to order. Ladies and gentlemen, this is the May 29th Public Hearing of the Board of Zoning Adjustment, District of Columbia. My name is Sheila Cross Reid, Chairperson.

Joining me today is Anne Renshaw, Vice Chair, and Susan Hinton representing the National Capital Planning Commission. The Zoning Commission Member is John Parsons, who's just joining us. And I'd like to welcome our newest member, Mr. Jeff Griffis. This is his first day of sitting on the Board so join me in welcoming him.

Copies of today's hearing agenda I mailed to you. They're located to my left and at the door. All persons planning to testify either in favor or in opposition are to fill out two witness cards. These cards are located on each end of the table in front of us. In coming forward to speak to the Board, please give both cards to the reporter who's sitting to my right.

The way to proceed for a special exception and variances is one, statement of witnesses of the applicant. Two, Government people including the Office of Planning, Department of Public Works, et cetera. Three, Value Neighbor Commission. Four, parties or persons in support. Five, parties or persons in opposition. Six, closing remarks by the applicant.

1                   Cross examination of the witnesses is permitted  
2 by the applicable parties. The entity within which the  
3 property is located is automatically a party in the case. The  
4 record will be closed at the conclusion of each case, a  
5 separating tool specifically requested by the Board, and the  
6 Staff will specify at the end of the hearing exactly what is  
7 expected.

8                   The Sunshine Act requires that the public hearing  
9 in each case be held in the open for the public. The Board may  
10 consistent with its rules or procedure in the Sunshine Act  
11 enter executive session during or after the public hearing on a  
12 case for purposes of reviewing the record or deliberate on the  
13 case.

14                   Decisions of the Board in these contested cases  
15 must be based exclusively on the public record. To avoid any  
16 appearance to the contrary, the Board requests that persons not  
17 engaged in this avoid conversation. Please turn off all  
18 beepers and cell phones at this time so as not to disrupt these  
19 proceedings.

20                   The Board will now consider any preliminary  
21 matters. Preliminary matters are those which relate to whether  
22 a case will or should be heard today. Such as request for  
23 postponement and whether proper and adequate notice of the  
24 hearing has been given. If you are not prepared to go forward  
25 with the case today, or if you believe that the Board should

1 not proceed, now is the time to raise such a matter.

2 Does the staff have any preliminary matters? If  
3 not, let's proceed with the first case.

4 MR. HART: Good morning, Madam Chair and Members  
5 of the Board. The first case is Application 16704, Jeffrey  
6 Gardens Associates Limited Partnership. Pursuant to 11 DCMR,  
7 Subsections 3104.1 and 3103.2, for a special exception to  
8 establish an accessory parking lot under Sections 214 and 2116,  
9 and a variance from the double parking spaces under Section  
10 2101 to lower rehabilitation to the five garden apartment  
11 buildings in the R-5-A district at premises 4201 to 4237 and  
12 4252 to 4386 Seventh Street, Southeast. 4233 to 4374 Barbados  
13 (phonetic) Southeast. That's clear 6208, Lots 59 to 63, 65 to  
14 69, 809 to 811, 817, 827, and 829.

15 This application was correctly posted and the  
16 affidavit was timely filed, and there are no requests for party  
17 status.

18 CHAIRPERSON REID: Okay.

19 MR. HART: Those persons planning to testify  
20 please stand and raise your right hand for the Board.

21 WITNESSES SWORN

22 MR. TUMMONDS: Madam Chair, I think there may be  
23 some people in the audience who plan on testifying, and I'm not  
24 sure they understood that they were too also stand.

25 CHAIRPERSON REID: Okay. First of all, you need

1 to give your name, please.

2 MR. TUMMONDS: I'm sorry. Paul Tummonds of the  
3 law firm of Shawn Pitman on behalf of the Applicant.

4 CHAIRPERSON REID: Okay. And Mr. Hart, could you  
5 re-clarify it for them, please.

6 MR. HART: The persons who are going to testify,  
7 who intend to testify in this case, you need to stand and be  
8 sworn in; the case I just read. Is everybody -- yes, please  
9 stand. Raise your right hand.

10 (WITNESS SWORN)

11 CHAIRPERSON REID: Okay. Is there anyone here in  
12 opposition to this case? Okay. Mr. Tummonds, basically your  
13 case is a straight forward case, and I think that -- I'm sure  
14 that all the Board Members have read thoroughly your  
15 submission, and there is no opposition; so therefore, just give  
16 us basically the salient points, and we could probably get  
17 through this case fairly quickly.

18 MR. TUMMONDS: Good morning. My name is Paul  
19 Tummonds from the law firm Shawn Pitman. We are here today on  
20 behalf of KSI Services, Inc., the contract purchaser of the  
21 Jeffrey Gardens Apartment Complex. As is previously stated, we  
22 are here seeking special exception approval for the  
23 establishment of a centrally located parking lot in the Jeffrey  
24 Gardens Apartment Complex, and a variance to allow a 100 space  
25 parking lot.

1 Don Hague of KSI will give a brief background  
2 with regards to KSI's relationship with the Jeffrey Gardens  
3 Residents Association, the Greater Community, and the support  
4 which we have received in this project.

5 In addition, Osborne George is here. We've  
6 submitted Mr. George's resume. We would ask that Mr. George be  
7 granted status as an expert witness in this case. Mr. George's  
8 report was submitted in a pre-hearing application and I think,  
9 if it pleases the Board, we will have Mr. George available for  
10 questions only, and he would not necessarily need to reiterate  
11 the materials that are in this statement.

12 CHAIRPERSON REID: Okay. In regard to Mr. George  
13 being accepted as an expert witness; Mr. George -- we're  
14 familiar with Mr. George because he has appeared before us many  
15 times before. Unless there's any objection by any of the Board  
16 Members, then we'll also have him as an expert witness today.

17 MR. TUMMONDS: All right. Thank you.

18 The applicant is pleased that this application  
19 has received the support of the Office of Planning, the  
20 Department of Public Works, NCAD, the Jeffrey Gardens Residents  
21 Association, and the Ward Eight Council Member Sandy Allen, in  
22 addition to numerous other organizations and individuals in the  
23 community. Letters of support from these agencies,  
24 organizations and individuals have been submitted into the  
25 record in this case.

1           The applicant, the Jeffrey Gardens Residents  
2 Association and ANC 8-E have also entered a memorandum of  
3 agreement which will first create a plan so that the applicant  
4 will undertake an extensive effort to recruit and hire  
5 applicants from the community for employment opportunities  
6 associated with this development.

7           In addition, this memorandum agreement will  
8 create a sub-committee of ANC 8-E, the Jeffrey Gardens  
9 Residents -- I'm sorry, the Jeffrey Gardens Committee which  
10 will include members of Jeffrey Gardens, members of the  
11 surrounding community, and also representatives from the ANC  
12 that will address present community concerns, but also concerns  
13 that may arise in the future. A copy of this fully executed  
14 agreement was attached to the Office of Planning report  
15 submitted last week.

16           With that brief introduction, I will now ask our  
17 first witness, Don Hague of KSI, to briefly discuss KSI's role  
18 in this project.

19           MR. HAGUE: Good morning, Madam Chair and Members  
20 of the Board. Thank you for the opportunity to appear before  
21 you to discuss the Jeffrey Gardens project.

22           KSI Services, my employer and the contract  
23 purchaser of this property is one of the largest land  
24 development and apartment development community companies in  
25 the region. We have many planned unit developments located

1 around the District of Columbia. We own approximately 6,000  
2 apartments, of which approximately 4,000 are low to moderate  
3 income. We are the contract purchaser of Jeffrey Gardens and  
4 have had the property under contract for about a year.

5 KSI has appeared before this body about a year  
6 and a half ago with respect to a project known as the Homes of  
7 Woodmont which was brand new construction in Southeast D.C. At  
8 that time, we promised the Board that we would get involved in  
9 the revitalization of the east of the river community by  
10 seeking out opportunities to work with existing housing  
11 projects.

12 Jeffrey Gardens is the first one of these, and we  
13 look forward to the opportunity to revitalize and rehabilitate  
14 other existing housing stock and Southeast D.C., and be part of  
15 the revitalization efforts that are ongoing down there.

16 The Jeffrey Gardens Community is 275 apartments  
17 in 25 buildings, 11 apartments per building. They are all one  
18 and two bedroom apartments. At the present time the property  
19 is only about 20 percent occupied. This reflects a decision by  
20 the current owner not to lease units as they became vacant.

21 As I said, we've had it under contract for a  
22 year. We expect to close before the end of this year. One of  
23 the important aspects of this effort is that no residents will  
24 be displaced. The property will continue to be operated for  
25 low to moderate income residents. We expect to retain as

1 employees of KSI all the current staff, and as Paul Tummonds  
2 indicate, we'll have an aggressive Community Outreach Program  
3 to identify qualified sub-contractors and others who would want  
4 to be involved in the construction efforts.

5 The property as it currently sits has no off-  
6 street parking. At various times beginning when it was first  
7 constructed 50 years ago, there were various off-street parking  
8 schemes. We are seeking to provide -- we have analyzed the  
9 property and have decided that the best way to provide off-  
10 street parking is with a central parking lot area which Osborne  
11 is outlining with his pointer in between apartments on Barnaby  
12 Road and Seventh Street. This will provide about 100 spaces.  
13 It will be a gated entrance off of Barnaby and gated entrance  
14 off of Seventh Street.

15 In addition, we will provide pedestrian access  
16 gates in the -- what amounts to the lower right-hand corner of  
17 the site, and then over on the left-hand side so that residents  
18 who park there and live at one extreme or another within the  
19 community can easily walk to their cars, or walk back to their  
20 cars as they may need them.

21 We also plan lighting for the parking lot with a  
22 design that illuminates the parking lot, while at the same time  
23 not streaming light into the windows of the buildings that  
24 surround the parking lot.

25 One of the things we will do here is we will

1 provide extensive landscaping on the site. There is a  
2 community center and some other amenities within the site that  
3 are currently unused or in poor repair. These we plan to  
4 restore. We will have as much green space as we can, which of  
5 course is important for -- to have a vibrant community as well  
6 as a substantial tot lot behind the community center. These --  
7 all of this will be available as additional amenities for the  
8 residents.

9 We have worked with the residents throughout this  
10 process and will continue to work with the residents, some of  
11 whom are here today. It's very important to us that as many of  
12 them stay as possible. As you could imagine when only 20  
13 percent of a community is occupied one of your primary concerns  
14 is making sure that people stay so that you'll have residents  
15 to make the thing work going forward. And we think we have  
16 very good support from our residents, some of whom who've lived  
17 there for a long time, and have given us some valuable advice  
18 and input into how this revitalization ought to proceed.

19 Thank you again for the opportunity to speak  
20 before you.

21 CHAIRPERSON REID: Thank you.

22 MR. TUMMONDS: As I previously mentioned, Osborne  
23 George is here to answer any questions with regards to the  
24 traffic and parking report.

25 In addition, the final member of our team is

1 Rosalyn Styles of Capital City Associates, Inc. who serves as  
2 KSI's Community Outreach Coordinator. If there are any  
3 questions with regards to KSI's Community Outreach in this  
4 project, she is also available to answer any questions that you  
5 may have.

6 CHAIRPERSON REID: Okay.

7 MR. TUMMONDS: With that we're available for any  
8 questions, and then we will conclude at the end with a brief  
9 closing statement. Thank you.

10 CHAIRPERSON REID: All right. Thank you very  
11 much. Board Members, questions?

12 MS. RENSHAW: Yes, good morning.

13 CHAIRPERSON REID: Ms. Renshaw.

14 MS. RENSHAW: I just wanted to clarify for the  
15 record the number of spaces, parking spaces you are requesting  
16 because in the report -- the DPW report it speaks of 94. Your  
17 application speaks of 100, and Mr. George, you say -- you come  
18 in at 98. I think that's what you -- and would you please  
19 clarify these numbers for us.

20 MR. GEORGE: Commissioner Renshaw, Osborne George  
21 for the record. At the time our report was written, the design  
22 of the parking lot or the conceptual layout of the parking lot  
23 was in progress and that was the number we had. It has since  
24 been updated and the correct number is 100 spaces.

25 MS. RENSHAW: I believe that Ms. Hinton counted

1 96, and we are wondering which plan shows 100 spaces, just for  
2 the record please.

3 MR. TUMMONDS: For the record, the -- I apologize  
4 for that. We should have 100 spaces. I believe that the  
5 Exhibit D to the applicant's pre-hearing statement -- what we  
6 can do is we can check and make sure that you have the most up-  
7 to-date depiction of the parking lot with 100 spaces clearly  
8 delineated on the plan.

9 MS. RENSCHAW: Thank you.

10 CHAIRPERSON REID: All right. Mr. Griffis.

11 MR. GRIFFIS: Madam Chair, a brief question. I'm  
12 wondering can you discuss briefly the -- how parkers would  
13 actually walk from the lot to the Project North Apartments that  
14 would be across Seventh Street?

15 MR. HAGUE: There are no fences in between the  
16 Seventh Street buildings and the parking lot so they would --

17 CHAIRPERSON REID: Probably what you need to do  
18 is either go up to the exhibit and point to it, or do you have  
19 a pointer? Do you have a lighted pointer?

20 MR. GEORGE: We do. It's not quite visible.

21 CHAIRPERSON REID: Okay.

22 MR. GEORGE: The two access points for vehicular  
23 access are this single location off Barnaby Road and this  
24 location off Seventh Street. The space between the individual  
25 buildings are not gated; they're open walkways, and parkers

1 would be able to access either through this roadway which would  
2 not be gated as I indicated, or through the buildings - between  
3 the buildings.

4 MR. GRIFFIS: And I noted in your application  
5 there is mention that there are some landscaping and amenities.

6 What is the surface that would be provided for the pedestrian  
7 access from between the apartment buildings to the parking lot?

8 MR. HAGUE: The -- at the moment there are some  
9 concrete driveways between the buildings that extent about to  
10 the rear of the building from the street front, so those would  
11 remain.

12 MR. GRIFFIS: So it's hard-scape.

13 MR. HAGUE: It would be hard-scape; yes.

14 MR. GRIFFIS: Sure. Sure. And I notice we were  
15 just given fixtures -- lighting fixtures that you are proposing  
16 to install. Are those locations going to be appropriate for  
17 the pedestrian traffic to and from the street and to the  
18 parking lot?

19 MR. HAGUE: Yes. Our primary measure -- our  
20 primary way of lighting is with wall packs mounted on the back  
21 of the buildings, and so we would mount those on the sides as  
22 needed where the pedestrians were. And of course, once they  
23 get to the street then there's street lights on the street.

24 MR. GRIFFIS: Sure. Okay. That's it. Thank  
25 you.

1 CHAIRPERSON REID: Okay. Let's see. Now on this  
2 exhibit - this is the Sanborn Map, I didn't -- I was a little  
3 confused about you show the various buildings, 1-30, but where  
4 is one? What is that? You have a circle with an X in it; what  
5 is that depicting?

6 MR. TUMMONDS: If you could show that up so we  
7 can see; which is building one?

8 CHAIRPERSON REID: We have one here, and then see  
9 this? You can come up if you can't see it.

10 MR. TUMMONDS: All right. That is the plan that  
11 we attach to our posting, our affidavit of posting, so that was  
12 just building one to show that -- when you look at the  
13 affidavit of posting there are pictures to show that we in fact  
14 posted that building. You're supposed to post every building  
15 included in the application, so that is merely for reference  
16 sake. When you look at the pictures attached to the affidavit  
17 of posting, if there is picture number one; that was the  
18 placard that was posted in front of that building, two, three.

19 CHAIRPERSON REID: But I don't see a building;  
20 that's my question. I mean, I see a number attached --

21 MR. TUMMONDS: It could be for street frontage as  
22 well.

23 CHAIRPERSON REID: Oh, okay.

24 MR. TUMMONDS: Maybe that is the posting for the  
25 Chesapeake Street street frontage.

1 CHAIRPERSON REID: Okay. All right. Now the  
2 relief that you're requesting today is for a special exception  
3 and also for a variance. Can you demonstrate for us how you  
4 meet the test for both the special exception and the variance?

5 I think that you're coming for the -- under Section 214 and  
6 Section 2116. I mean, 2116 and the variance under just 3103.2.

7 MR. TUMMONDS: Yeah. 31; right.

8 CHAIRPERSON REID: You need to demonstrate that  
9 for us.

10 MR. TUMMONDS: Sure. As supplied in our pre-  
11 hearing statement, pages 5 through 11 outline in greater detail  
12 how we satisfy those requirements.

13 CHAIRPERSON REID: Basically just --

14 MR. TUMMONDS: In general -- yeah, in general.

15 CHAIRPERSON REID: Summarize it.

16 MR. TUMMONDS: Yes.

17 CHAIRPERSON REID: Section 214 requires that we  
18 show why it would be economically impractical and unsafe to  
19 locate these parking spaces on the individual lots to which --  
20 for the use where those parking spaces are required.

21 As Don noted, we have 25 apartment buildings that  
22 were constructed in 1952 and 1953. The proposed renovation of  
23 those buildings does not -- is not going to include any  
24 alterations to the footprint of those buildings. When the  
25 building permits were issued one, we believe 149 parking spaces

1 were included on the plats shown in there, so that it is  
2 economically impractical to recreate those parking spaces on  
3 those -- where those buildings exist now in that those original  
4 parking spaces would not satisfy today's codes. They're not  
5 long enough. The drive-out widths are not appropriate, so with  
6 not touching the footprint of those buildings, it would be not  
7 practical to locate those spaces as they previously existed.

8 In addition current DPW access and management  
9 standards would request that applicants seek to minimize the  
10 number of means of ingress and egress which would be included  
11 in such a project. Here we have two means of ingress and  
12 egress vehicular traffic for this lot as opposed to using each  
13 of those where they're now concrete footprints to access those  
14 parking spaces behind.

15 We think it is safer to include one centrally  
16 located parking lot to void pedestrian and vehicular conflict.

17 So I guess with regards to the variance standards, we believe  
18 that the condition of the property which necessitates this  
19 variance application is the fact that we have 25 apartment  
20 building built in 1942, 1953 prior to the 1958 zoning  
21 regulations. We're not going to touch the footprint of those  
22 buildings. With regards to the practical difficulty of abiding  
23 by the zoning regulations, I think as we stressed before those  
24 parking spaces could not constructed today with the drive out  
25 widths, length of the spaces, area allowed for parking spaces.

1           And then with regard to the third prong, we believe that the  
2           intent of the zoning regulations will not be adversely impacted  
3           by this request for one centrally located parking lot.

4                       CHAIRPERSON REID:   Also in regard to the adverse  
5           impact aspect of it --

6                       MR. TUMMONDS:   And I think based on the large  
7           degree of community support we have for this project, the  
8           support from the Jeffrey Gardens Residents Association; in your  
9           package there should be a letter of support signed by 46  
10          residents of Jeffrey Gardens, and we believe that the strong  
11          community support we have is evidence of the fact that there  
12          will not be adverse impacts on the community as a result of  
13          this application.

14                      CHAIRPERSON REID:   Thank you.   And under Section  
15          2116.7 in regard to the location that the parking space is on  
16          the same lot -- this section states that parking space in the  
17          same lot is the use that are intended to serve are preferred to  
18          located in the lot, or adjacent lot separated only by an alley  
19          from the lot in which the building is located.   And in your  
20          submission that wasn't clear to me how you met that particular  
21          --

22                      MR. TUMMONDS:   I think what we tried to note  
23          there, that it is preferred rather than required.

24                      CHAIRPERSON REID:   Preferred was underlined.

25                      MR. TUMMONDS:   Right.   With emphasis added I

1 believe I noted.

2 CHAIRPERSON REID: Uh-huh.

3 MR. TUMMONDS: I think that that is how we  
4 believe that we satisfied that. For all of the discussions --

5 CHAIRPERSON REID: All the other things --

6 MR. TUMMONDS: -- we had before, and that it's  
7 just preferred and not an outright prohibition, we believe that  
8 we satisfied that section.

9 CHAIRPERSON REID: Okay. And my final question,  
10 Ms. Styles, I'd like to direct to her regarding the Community  
11 Outreach.

12 You know, this -- Mr. Hague, I must say that this  
13 particular project you're bringing today is very impressive  
14 compared to the last time you were before us. As you remember,  
15 there was considerable community opposition, and we were here  
16 for like hours, upon hours, upon hours; so it appears to me  
17 that it was a lesson well learned in that this time you come  
18 with not one scintilla of opposition. I think that that is  
19 commendable within itself. And my question to Mrs. Style is  
20 what is it that -- how is it that this particular project now  
21 comes forth like this. What was it that made a difference in  
22 there not being that type of friction and that, you know,  
23 animosity and hostility with the way that it comes before us  
24 today?

25 MS. STYLES: Thank you for the question,

1 Commissioner Reid. I do have to admit that the last time that  
2 this Agency appeared before you, it was a very controversial  
3 case. And I also have to admit that this -- it was because of  
4 this Commission that this company has learned a hard and well  
5 learned lesson terms of doing Community Outreach. And the  
6 difference has been based on your precedent setting decision on  
7 that case, this company has instilled in its efforts an  
8 aggressive outreach program going into the neighborhood as  
9 opposed to coming out of the neighborhood.

10 And what we -- what they were able to do -- what  
11 we were able to do as a team in the beginning is to establish a  
12 rapport with the community stakeholders working effectively  
13 with the Advisory Neighborhood Commission to conduct public  
14 hearings to really get an output and input from the adjacent  
15 property owners, from the stakeholders, from businesses, from  
16 schools. And to be able to have everybody to look at a project  
17 that's coming into neighborhoods so that you can have a  
18 consensus of -- a consensus-building process. And so they were  
19 very effective to doing that in working with. The ANC and the  
20 Commissioner is here today from that single member district;  
21 and establishing some milestones that they have put in writing  
22 and are able to articulate as some guarantees that can be  
23 enforced by the Resident Association.

24 Most of the time, as you know, developers will  
25 make commitments and promises; and once they've got their

1       approvals they can walk away and those commitments will never  
2       come to fruition. Well, KSI now enters into written agreements  
3       and not only their company, but other companies that are coming  
4       into our neighborhoods are writing written agreements, and are  
5       putting in caveats where the residents or community  
6       organizations can hold them legally accountable for the work  
7       that they do. And to me, those are precedent setting things;  
8       so that's why we're successful in this project.

9                   CHAIRPERSON REID: Well, that is very, very  
10       commendable, and it just goes to show what can be done when the  
11       right approach is taken, and you cover all your bases when you  
12       come before us. And in regard to the jobs that are being  
13       promised, I understand that there's some construction jobs, but  
14       what other types of jobs are going to be included in the mix?  
15       Are they all just construction, or do you have any other types  
16       of jobs that are being offered to the community residents?

17                   MR. HAGUE: Well, there will be a full range of  
18       construction jobs associated with the rehab of the units. The  
19       -- fortunately the building is in reasonably good shape from an  
20       exterior stand point, so it will be a lot of things like  
21       carpentry, HVAC, electrical, plumbing, some roofing and things  
22       like that ongoing. I believe that when fully staffed, we'll  
23       have either six or seven full time employees who will be KSI  
24       employees.

25                   We have spoken with the current employees and we

1 hope that they'll decide to come with us when the times comes  
2 because we've been very impressed with the job that they have  
3 done there without much in the way of support quite candidly.  
4 There will also be other sorts of contracts, like maintenance  
5 contracts, landscaping contracts, things like that that we will  
6 -- that we hope to let to organizations, companies and  
7 businesses in the immediate vicinity.

8 CHAIRPERSON REID: And it includes training?

9 MR. HAGUE: Yes, that would include training in  
10 some of those; particularly with the construction workers  
11 training is clearly important there.

12 CHAIRPERSON REID: Excellent. Thank you very  
13 much.

14 MS. RENSHAW: I was looking in the file for a  
15 letter from Advisory Neighborhood Commission A-E, and I don't  
16 seem to see it in the file. Do you have a copy? Has it been  
17 submitted? Do we have a representative from --

18 MR. GEORGE: I have one in the folder I will  
19 submit to you all this morning.

20 MS. RENSHAW: Very good. Thank you very much;  
21 because I want to ask about the memorandum of agreement that is  
22 Tab G in your submission.

23 CHAIRPERSON REID: Mr. Parsons.

24 MR. PARSONS: Yes. Maybe Ms. Styles could help  
25 me with this. This parking lot of course is taking a vast

1 amount of open space from the community, and I see that a new  
2 community center will be built, and I was curious as to why the  
3 swimming pool was not a -- apparently a desired amenity of the  
4 citizens -- residents?

5 MS. STYLES: Well the residents are here, and the  
6 resident representatives are here; and what we did again is  
7 having forums with the local stakeholders in terms of what  
8 impact this parking lot would have on the surrounding  
9 community, and then what kinds -- in talking to the residents,  
10 doing an assessment of what kinds of amenities they wanted to  
11 see on the property, and the amenities -- and again, they will  
12 be able to respond to that in greater detail if you wish, but  
13 their concern is to be able to have things that they will be  
14 able to support that would not draw from the neighborhood. And  
15 they want to have a Multi-Purpose Center -- a larger Multi-  
16 Purpose Facility that will allow them to have senior citizens  
17 programs, community meetings, receptions and those kinds of  
18 things. And then they wanted some green space where they're  
19 able to do flower -- they can do flower boxes, maintaining  
20 flower boxes, barbecue and things like that.

21 And working with -- again I don't want to be able  
22 to speak for them, but working with the developer in terms of  
23 making the final decision about to have or not to have a  
24 swimming pool; I don't think I was involved in that particular  
25 conversation, but I do know that this again was a consensus

1 building. And I would really like to be able to have them to  
2 respond to that specifically.

3 MR. PARSONS: Nobody else on the team can --  
4 well, why are we filing in the swimming pool?

5 MR. HAGUE: The pool is filled in. The pool has  
6 been filled in for a number of years. It doesn't --

7 MR. PARSONS: Oh, I see. On the photograph it  
8 looks swimmable, but I --

9 MR. HAGUE: It may be after this weekend.

10 MR. PARSONS: So the swimming pool has not been  
11 an amenity for this community for some time. They don't want  
12 it.

13 MR. HAGUE: Exactly. That's exactly right, and  
14 we're planning a substantial tot lot behind the community  
15 center, and the community center without it having to serve as  
16 a bath house then we can save a lot of -- we can use a lot of  
17 space in a variety of other ways to offer other kinds of  
18 programs.

19 MR. PARSONS: So the space shown on this plan  
20 around the community center appears to be fenced, and is that  
21 place where people can picnic and those kinds of things that  
22 you mentioned, Ms. Styles.

23 MS. STYLES: Yes, there are two -- there are  
24 actually two open spaces; one around the community center and  
25 one behind -- if I may --

1 CHAIRPERSON REID: Could you use the pointer.

2 MS. STYLES: And there's one here. That's an  
3 open space that they'll also be able to do outdoor barbecuing  
4 activities; so they prefer to have those kinds of activities on  
5 the site.

6 MR. PARSONS: Thank you.

7 CHAIRPERSON REID: Are the opportunities for  
8 swimming pools in the community, if people want -- in other  
9 words alternatives there in the community --

10 MS. STYLES: Oh, yes.

11 CHAIRPERSON REID: -- is a swimming --

12 MS. STYLES: Yes.

13 CHAIRPERSON REID: -- either public or --

14 MS. STYLES: Yeah, through the Department of  
15 Recreation and the D.C. Public Schools.

16 CHAIRPERSON REID: Recreation Department; yes.

17 MS. STYLES: Yes.

18 CHAIRPERSON REID: But they are basically -- when  
19 you talk to the community, I garner that for their personal  
20 preferences, they preferred to have this open space to be able  
21 to entertain, or to barbecue or --

22 MS. STYLES: Yes, when we talked to the residents  
23 on the property. The majority of the community, their concerns  
24 was about the impact again of cars outside of the parameter,  
25 and the actual -- and creating this parking lot brings those

1 cars out of their neighborhoods and off of their public streets  
2 back onto the private property lot, which gives them a greater  
3 opportunity to park in front of their doors and all. So it  
4 really ended up being a plus for them --

5 CHAIRPERSON REID: Okay.

6 MS. STYLES: -- to have this parking lot created,  
7 because it gave them some on-street parking in front of their  
8 homes.

9 CHAIRPERSON REID: Okay. Any further questions  
10 of Board Members? Okay. All right. Thank you very much.  
11 We'll go now to the Office of Government Reports, Office of  
12 Planning.

13 MR. HART: Excuse me, Madam Chair, before you  
14 proceed. The Office of Planning's report was submitted late so  
15 it needs to be waived into the record.

16 CHAIRPERSON REID: Okay. All right. What -- if  
17 there's no objection, we'll waive the rules to offer the  
18 report.

19 MR. COCHRAN: Thank you, Madam Chair. My name is  
20 Steven Cochran with the Office of Planning. The Office  
21 supports this application. We generally concur with the  
22 changes that the applicant has shown to the pedestrian gates.  
23 At the end of my testimony, I will make one comment on one  
24 change we would recommend from the submission this morning.

25 We feel that the applicant meets the test both

1 for special exceptions and for variances. It's been supported  
2 by the Department of Public Works. We concur with the  
3 Commissioner's question about whether the application has been  
4 officially to the extent of carrying great weight supported by  
5 the ANC. Clearly it does have the at least informal support of  
6 the ANC, and there is an MOA. And I would be very happy to go  
7 into both the arguments for why it meets the test for special  
8 exceptions and for variances. What the authority the  
9 Commission has especially with respect to the location across a  
10 street rather than an alley, if you so desire; otherwise, I  
11 feel that our report is fairly straight forward, and I would  
12 simply be happy to answer any questions that you may have.

13 CHAIRPERSON REID: Your report was very succinct,  
14 and I think that the applicant has addressed the issue in  
15 regard to the three prong test for both tests, for the special  
16 exception and the three prong test for the variance. And  
17 unless Board Members have questions --

18 MR. COCHRAN: The if I might point out where I  
19 feel that an additional pedestrian -- where the office feels  
20 that an additional pedestrian gate would be appropriate.

21 Actually I think the easiest thing is simply to  
22 look at the submission that the applicant made this morning.  
23 We have the two areas indicated in yellow.

24 CHAIRPERSON REID: Uh-huh.

25 MR. COCHRAN: If you go down three more

1 buildings, you have the southern-most yellow area where the  
2 pedestrian gate is in conjunction with the vehicular entrance  
3 and exit. Then there is a first -- going to the south, there's  
4 a first separation between buildings, a second separation  
5 between buildings, and then the third separation where you also  
6 see the sewer line coming off of this infiltration area.

7 CHAIRPERSON REID: Uh-huh.

8 MR. COCHRAN: It seems like it would be safer for  
9 people to have a gate there also. That would give all of the  
10 residents on the Barnaby Street side about the same distance to  
11 travel from the parking lot to the front doors of their  
12 residences.

13 CHAIRPERSON REID: And this is what you're  
14 recommending as a condition --

15 MR. COCHRAN: Yes, we are.

16 CHAIRPERSON REID: -- to the special exception?

17 MR. COCHRAN: Yes, we are.

18 CHAIRPERSON REID: Okay. That's been discussed  
19 with the applicant; correct?

20 MR. COCHRAN: Yes, Madam Chair; we have.

21 CHAIRPERSON REID: Okay. There was -- they're in  
22 agreement with it. Okay. Questions, Board Members? Ms.  
23 Renshaw.

24 MS. RENSHAW: Just a question as to did you go  
25 into how the residents are going to get a parking space? In

1 other words --

2 MR. COCHRAN: Did the Office --

3 MS. RENSHAW: Did the Office of Planning  
4 investigate?

5 MR. COCHRAN: No, we did not, Ms. Renshaw.

6 MS. RENSHAW: If they get a parking --

7 MR. COCHRAN: Yes. Who will have the parking  
8 spaces as opposed to who will park on the street; no, I cannot  
9 answer that question.

10 CHAIRPERSON REID: Uh-huh. Did you want to ask  
11 that question of the applicant?

12 MS. RENSHAW: Yes.

13 CHAIRPERSON REID: He's going to come back up for  
14 closing remarks.

15 MS. RENSHAW: Uh-huh.

16 CHAIRPERSON REID: Okay. Let's see. All right.  
17 Is there any cross examination? Okay. All right. Then the  
18 ANC Report

19 MR. HART: Excuse me, Madam Chair.

20 CHAIRPERSON REID: Yes.

21 MR. HART: We need to waive this into the record  
22 also; the ANC Report.

23 CHAIRPERSON REID: Yes. Thank you very much, Mr.  
24 Hart. The ANC Report has to be waived in, Board Members.  
25 Unless there's an objection, I'll so waive the record and

1 receive it untimely. Okay.

2 MR. YELDELL: Good morning, ladies and gentlemen  
3 of the Zoning Commission and all others in attendance. My name  
4 is Robert L. Yeldell. I'm the ANC Commissioner for ANC ADO-6.  
5 This property, Jeffrey Gardens, is in my SMD District.  
6 Therefore, it is my pleasure with the approval of my Advisory  
7 Neighborhood Commission, 8-E, to address you this morning on  
8 KSI Services, Inc., Association, BZA Special Exception and  
9 Variance Application of Jeffrey Gardens Association Limited  
10 Partnership.

11 The information I have given you consists of ANC  
12 8-E's acceptance letter, eleven letters of approval from  
13 property managers, business organizations and churches in our  
14 ward. When you read the memorandum of agreement, we would like  
15 for you -- all of you to pay special attention to Article 9 and  
16 10 on page 4.

17 I would also like to thank Ms. Rosalyn Styles for  
18 being the facilitator in bringing on a relationship between ANC  
19 and the community on this project. She did a wonderful job.  
20 Ms. Sheila Cross Reid, Chairperson, Board of Zoning Adjustment.  
21 BZA Special Exception and Variance Application of Jeffrey  
22 Gardens Associates Limited Partnership, Square 6208, Lots 59  
23 through 63, 809 to 811, and 827 to 829.

24 "Dear Ms. Reid: Advisory Neighborhood Commission 8-E  
25 voted at its executive committee meeting of May 22nd,

1 2001 to support the application of KSI Services, Inc.,  
2 Jeffrey Gardens Associated Limited Partnership.

3 Pursuant to Section 3104.1 and 3103.2 of the  
4 Zoning Regulations of the District of Columbia, to the  
5 Board of Zoning Adjustment for Special Exception and  
6 Variance to establish an accessory parking lot on the  
7 property consisting of at least 96 parking spaces,  
8 rather than require the 149 parking spaces which is  
9 provided for by Section 214 and 2116 of the zoning  
10 regulations, subject to the terms of the memorandum of  
11 agreement between KSI Services, Inc. and ANC 8-E  
12 attached to this letter.

13 As required by Section 3115.1 of the zoning  
14 regulations, 11 DCMR 3115.1, proper notice was given of  
15 ANC 8-E's Public Meeting of May 15th, 2001. Four  
16 members of ANC 8-E constitute a quorum for the  
17 transaction of businesses. Three members of ANC 8-E  
18 were present at the May 15th, 2001 meeting and a vote  
19 could not be taken. However, four members were at the  
20 Executive Committee Meeting on May the 22nd, 2001 and  
21 their vote to adopt the memorandum of agreement was  
22 approved by a majority of votes cast.

23 ANC authorizes the Chairman to submit this letter  
24 and attached memorandum of agreement to the Board of  
25 Zoning Adjustment. I would like to note that Mr.

1 Michael Johnson, who is our Chairman, was not present at  
2 that time, and Ms. Wanda Lockridge (phonetic) as our  
3 Vice Chair signed off for him."

4 This is the memorandum of agreement.

5 "This Memorandum of Agreement made the 23rd day  
6 of May 2001 for the benefit of the residents of the  
7 areas within Advisory Neighborhood Commission 8-E is  
8 entered into by and between KSI Services, Inc.,  
9 hereinafter referred to as KSI, and Advisory  
10 Neighborhood Commission 8-E hereinafter referred to ANC  
11 8-E." Recitals.

12 CHAIRPERSON REID: No, no. That's -- basically,  
13 we've already read this.

14 MR. YELDELL: You know this? Okay.

15 CHAIRPERSON REID: It's all --

16 MR. YELDELL: Then we don't need to deal with it.

17 CHAIRPERSON REID: No, just basically --

18 MR. YELDELL: Okay.

19 CHAIRPERSON REID: -- you gave us the salient  
20 points, and the fact that the memorandum of agreement was  
21 signed off on by both ANC and also KSI.

22 MR. YELDELL: Yes.

23 CHAIRPERSON REID: And we have the pertinent  
24 parts of it; unless there was anything in particular that you  
25 wanted to mention. And I heard you say earlier, and I didn't

1 understand completely what you had been referring to; it's just  
2 that you wanted to draw our attention to Number Four.

3 MR. YELDELL: Yes. Page four.

4 CHAIRPERSON REID: Page four.

5 MR. YELDELL: Page four.

6 CHAIRPERSON REID: Which number?

7 MR. YELDELL: In the Memorandum of Understanding.

8 CHAIRPERSON REID: Page four; and what on page --

9 MR. YELDELL: Items nine and ten. Do you want me  
10 to read them? I'm sorry. Page 3.

11 CHAIRPERSON REID: Page 3; okay.

12 MR. YELDELL: Article 9 and 10.

13 CHAIRPERSON REID: And what was it on this page,  
14 sir, that you wanted to bring to our attention?

15 MR. YELDELL: To bring your attention to the fact  
16 that should KSI fail to perform as agreed, ANC 8-E with an  
17 affirmative vote of its members may authorize JGRA, that's the  
18 Jeffrey Gardens Resident Association, representative of the  
19 committee to seek enforcement of this agreement, and if  
20 successful, the JGRA Committee representatives shall be  
21 entitled to attorney's fees and costs that must be immediately  
22 forwarded by KSI to the community to be used for the purposes  
23 the Committee deems appropriate."

24 CHAIRPERSON REID: Okay.

25 MR. YELDELL: And Item 10 says:

1 "Should ANC 8-E fail to perform any of the  
2 conditions as agreed upon in this agreement, KSI may  
3 deem that any and all provisions of this agreement are  
4 void and no effect."

5 And I think that's very important because as Ms.  
6 Styles has stated, a lot of times you come into the community;  
7 you say you're going to do things, and you don't do them after  
8 you get the approval of the Committee -- the citizens to do  
9 that.

10 Another thing I would like to say; my apartment  
11 complex is right behind Jeffrey Gardens, and at first we heard  
12 that halfway housing was going to be built there. It was going  
13 to be used -- that property would be used for halfway housing,  
14 so therefore -- and it being in my District, I'm particularly  
15 interested in KSI rehabbing those places so we will have good,  
16 decent, affordable living around there, and keeping them  
17 affordable for the people that's going to be in there and move  
18 in there.

19 As far as that swimming pool is concerned, when  
20 they first rehabbed it oh a few -- about five or six years ago  
21 they built that swimming pool. And in less than a year's time  
22 it was closed, so I can understand why the residents would  
23 prefer having open space rather than that pool.

24 Another thing that's happening is my complex has  
25 a swimming pool, and we go through the neighborhood to the

1 different organizations and invite them and their children over  
2 once -- sometimes during the week to use our pool for those  
3 that don't have a pool.

4 CHAIRPERSON REID: Okay. Thank you.

5 MR. YELDELL: Thank you.

6 MS. RENSHAW: Madam Chair, I have a few questions  
7 for Mr. Yeldell. Thank you very much, and we're glad to see  
8 you here this morning.

9 MR. YELDELL: Thank you.

10 MS. RENSHAW: In the letter that you read that  
11 was signed by Ms. Lockridge for Michael Johnson, the Chair.

12 MR. YELDELL: Yes, ma'am.

13 MS. RENSHAW: I wanted to have you look at the  
14 second paragraph. And you talk about the fact that at the  
15 public meeting on May 15, four members constitute a quorum, but  
16 only three members were present; so therefore, you could not  
17 vote.

18 MR. YELDELL: Yes, ma'am.

19 MS. RENSHAW: Now when you had the Executive  
20 Committee Meeting on May 22nd; first of all, was that a public  
21 meeting?

22 MR. YELDELL: Yes, it was. All of our Executive  
23 Committee Meetings -- all our meetings are public.

24 MS. RENSHAW: Very good. And you had four  
25 members there?

1 MR. YELDELL: Yes, ma'am.

2 MS. RENSHAW: And you said the agreement was  
3 approved by a majority of the votes cast. You would still need  
4 four; and how many of the four members of the Executive  
5 Committee voted for the memorandum?

6 MR. YELDELL: At the time that we took that vote  
7 it was three members that voted for it, and one that was  
8 against it; however which is not included in this letter, we  
9 did have a member to come later, and she approved of it, but we  
10 couldn't say that she approved of it in the meeting because  
11 that vote had already been taken.

12 MS. RENSHAW: Did she sign a letter that -- did  
13 she send in a proxy?

14 MR. YELDELL: No, she did not.

15 MS. RENSHAW: She just did it verbally.

16 MR. YELDELL: Yes, ma'am. However, if that's  
17 necessary, I can get her to do that.

18 CHAIRPERSON REID: Well I think that in order for  
19 your ANC to get -- to obtain the great weight to which you are  
20 entitled, you have to have your quorum which is four members.

21 MR. YELDELL: Yes, ma'am.

22 CHAIRPERSON REID: And in this instant you fell  
23 short one. But nonetheless, even without the quorum, that does  
24 not mean that we would not take into consideration what you  
25 have submitted here today.

1 Ms. Renshaw, do you think that that would be  
2 adequate, or do you think we would need to get -- they would  
3 have to have a whole other vote.

4 MS. RENSHAW: I would recommend that your ANC  
5 Commissioner who voted would put it in written form, and if you  
6 would submit that with a letter from your Chair, just  
7 transmitting the proxy vote.

8 MR. YELDELL: Yes, ma'am.

9 MS. RENSHAW: And then I would recommend that it  
10 would be given great weight.

11 CHAIRPERSON REID: Yeah. Because this is -- this  
12 particular document is an extremely important document.

13 MR. YELDELL: Yes.

14 CHAIRPERSON REID: And this is basically what's  
15 going to set the format for the way in which -- the rules by  
16 which you'd like to have the project operated. And as such, it  
17 would be instructive if you could get that additional proxy.  
18 But nonetheless, there's no doubt in my mind; and I don't think  
19 it is of the board members that you are very much in favor --  
20 the majority are very much in favor of this particular project.

21 MR. YELDELL: Very much so.

22 CHAIRPERSON REID: And have set forth the  
23 conditions under which you would like to see it employed.

24 MR. YELDELL: Yes. I fully understand you and I  
25 will have that done, because even in our community meetings;

1 we've had about three or four of them in regards to this  
2 proposal. And there was only one member that was against it at  
3 any time, so I'll get that letter for you. Shall I fax it  
4 down, bring it down or what, Ms. Renshaw?

5 MS. RENSHAW: I would suggest you fax it down if  
6 that would be convenient for you?

7 MR. YELDELL: Yes, ma'am.

8 MS. RENSHAW: And if you would check with staff.

9 MR. YELDELL: All right.

10 MS. RENSHAW: And I did want to ask about your  
11 memorandum of agreement.

12 MR. YELDELL: Yes, ma'am.

13 MS. RENSHAW: It seems to be very, very complete;  
14 but I wanted to make sure that the first source agreement that  
15 KSI is entering into with the Department of Employment Services  
16 in order to publicize the positions created by the  
17 redevelopment of this complex. Will the ANC be getting those  
18 numbers; in other words, of jobs that are open and jobs that  
19 are filled so that you could be -- you could keep your -- keep  
20 tabs on the kinds of positions that are available to hopefully  
21 community people?

22 MR. YELDELL: Yes, we are going to do that. In  
23 fact, that's why the Minority Contractors Associations is  
24 involved in this. They are community-based, and we will make  
25 sure that 35 percent -- at least 35 percent of the new hires

1 will be from the area. And we will keep track of all jobs, and  
2 hirees.

3 Ms. Styles just brought something to my  
4 attention; that 35 percent of the contractors, the new hires  
5 will be 51 percent.

6 MS. RENSHAW: Okay. 35 percent contractors, and  
7 51 percent new hires.

8 MR. YELDELL: Yes, ma'am.

9 MS. RENSHAW: Thank you.

10 CHAIRPERSON REID: Okay. And Mr. Yeldell, the  
11 staff was just bringing to my attention, if there was any  
12 confusion regarding whether or not the memorandum -- the  
13 understanding will be attached to the order; it will be.

14 MR. YELDELL: Yes, ma'am.

15 CHAIRPERSON REID: Okay.

16 MR. YELDELL: And she has also been signed by the  
17 Jeffrey Gardens.

18 CHAIRPERSON REID: Right. Thank you very much.

19 MR. YELDELL: My pleasure. You all have a good  
20 day.

21 CHAIRPERSON REID: Excuse me. Are there any  
22 questions; any cross examination of Mr. Yeldell. Okay.

23 MS. RENSHAW: I just have one further question.

24 MR. YELDELL: Yes, ma'am.

25 MS. RENSHAW: On the signature page of your

1 agreement, the Jeffrey Gardens Resident Association is signed  
2 by, is it Estelle Taboron? But what is her title?

3 MR. YELDELL: I would have to ask the --

4 CHAIRPERSON REID: Whoever that is, you have to  
5 come up, ma'am. Speak into the mike. Give your name.

6 MS. TABORON: Hello. I'm the President of the  
7 Tenant's Association.

8 CHAIRPERSON REID: Thank you. Okay. Now we do  
9 have a report from DPW. Is there a representative from DPW  
10 here? Basically the DPW report states that it has no objection  
11 to this particular project and it -- I think Mrs. Renshaw had  
12 pointed out that there was a discrepancy in the number of  
13 parking spaces that had been reflected by DPW and the ones that  
14 were reflected by the ANC, and also the applicant. I think  
15 that's been reconciled. I think we're all on the same page  
16 with it being 100. Other than that, I didn't have any  
17 questions regarding it, and unless there's anything that any of  
18 the other Board Members want to bring up, I think that it's  
19 pretty succinct as to its position that for the most part it  
20 does not have any objections to the -- this particular project  
21 whatsoever. And just let me just read in pertinent part. It  
22 says:

23 "The proposed lot will not satisfy the parking demands  
24 of the apartment units. However, sufficient on-street  
25 parking is currently available and used almost

1 exclusively by the tenants. The on-street parking  
2 spaces must remain available for the complex to ensure  
3 sufficient parking supply. The proposed use will not  
4 create dangerous or otherwise objectionable traffic  
5 conditions, or cause a large increase in the traffic  
6 volume on neighboring streets."

7 And accordingly they then -- it goes into as they  
8 have no objection.

9 All right. Other government reports? I think  
10 that was the only other one. All right. Thank you very much,  
11 Mrs. -- are you here to testify in support? You might as well  
12 stay right there. Most of the parties in support of the  
13 application -- there are no parties. The persons in support  
14 please come forward.

15 MR. COCHRAN: Madam Chair, could I --

16 CHAIRPERSON REID: Yes.

17 MR. COCHRAN: This is Mr. Cochran from Office of  
18 Planning.

19 CHAIRPERSON REID: Oh.

20 MR. COCHRAN: Just for the record, could I just  
21 add one additional thing; that the Office of Planning was very  
22 pleased that this application which had originally contemplated  
23 the closing of Seventh Street wound up not closing Seventh  
24 Street. I'm saying that only say that -- we note that for the  
25 record.

1 CHAIRPERSON REID: Okay. Thank you very much.

2 Okay. Are these the only persons in support who  
3 are testifying? All right. Thank you very much. Give your  
4 name and your address please, ma'am.

5 MS. WILLIAMS: Yes. My name is Ms. Sorilee  
6 Williams, and I reside at 4237 Seventh Street Southeast.

7 CHAIRPERSON REID: Okay. And I should also tell  
8 you that typically we give three minutes. Everyone is  
9 allocated three minutes. All right. Go ahead.

10 MS. WILLIAMS: Okay. I'm here in support of KSI.  
11 I've been a tenant and an employee of Jeffrey Gardens since  
12 1991. I've seen Jeffrey Gardens in the best condition, and now  
13 I'm seeing it in the worst condition.

14 KSI came in and really helped us out. We had  
15 buildings that people were breaking into. The glass and  
16 everything were down, and they came in and boarded up the  
17 buildings. Everything that we've asked of them, they have done  
18 it. They've been very supportive of the tenants.

19 We are very much in support of the parking lot  
20 because we've had a lot of cars from other areas parking, and  
21 our tenants there were unable to park; so the elderly tenants  
22 had to park far away from their homes. And so therefore, this  
23 opening of the back for the parking lot, we're all in agreement  
24 with it. That's pretty much what I have to say.

25 CHAIRPERSON REID: Thank you.

1 MS. TABORON: My name is Estelle Taboron. I've  
2 been in Jeffrey Gardens for 42 years. We have never used the  
3 swimming pool. No water have never been in that swimming pool.  
4 They made a big sandbox out of it. We never rent the party  
5 room. It was -- cost too much, more than we was paying for  
6 rent to rent it. And the parking space -- it been a parking  
7 space all the time. It's still a parking space because the  
8 only thing they did was put a little dirt down, grass. If you  
9 walk it you can see, it's still a parking lot. And I think  
10 that this company coming in will do a good job, because we have  
11 some many drug addicts, and they was breaking in. And they  
12 nailed it up, and now it's nice and peaceful.

13 But we need the parking lot because most of the  
14 people in the houses, they park down Jeffrey Gardens -- most of  
15 the time. All the years that I've been living there they been  
16 parking in Jeffrey Gardens. And you park on their side, they  
17 call the police on you; but they have always parked in Jeffrey  
18 Gardens, and we need more parking space. We used to have  
19 parking space back then. Thank you.

20 CHAIRPERSON REID: Thank you.

21 MS. KING: My name is Mary King. I'm a tenant at  
22 4233 Seventh Street. I've been there for maybe four years now.

23 I wanted to I guess basically say that I support  
24 KSI, because KSI came in and our apartments were going down.  
25 There were people sleeping in apartments. They boarded up the

1 apartments and -- so they boarded it up and they brought in  
2 more security. And they have been working with us.

3 The parking lot -- I hear that there was a  
4 parking lot there before. I don't know if it was legal or not,  
5 but I basically just support the fact that we need a parking  
6 lot there. There are elderly people, and they have to walk all  
7 the way up the street sometimes coming -- you know, after they  
8 park to get to their apartment which is unfair.

9 CHAIRPERSON REID: Thank you.

10 MS. KING: Thank you.

11 CHAIRPERSON REID: Okay. All right. Any  
12 questions, Board Members? Okay. Thank you very much.

13 Persons in opposition? All right. Closing  
14 remarks by the applicant.

15 MR. TUMMONDS: Real briefly in closing in  
16 rebuttal, the applicant will agree to install the third  
17 pedestrian gate as the Office of Planning has requested. In  
18 reviewing our pre-hearing statement, I believe that the first  
19 page to Exhibit D, which would be the BZA Plan. I've done the  
20 math and I've tried to actually count them out. I think there  
21 are 100 parking spaces as shown on that submission; and I would  
22 now ask Don Hague from KSI to discuss the process whereby  
23 parking stickers would be issued for the use of the parking  
24 lot.

25 CHAIRPERSON REID: Okay.

1                   MR. HAGUE: Our procedure would be basically to  
2 do it on a first come, first serve kind of basis. There would  
3 be the two gates, one for each way of ingress and egress. We  
4 imagine that the Barnaby Road gate will be a control gate, as  
5 well as for security; whereas the one off of Seventh Street we  
6 envision as being sort of just a one arm toll booth kind of  
7 gate that's just out on the road. And we would not charge for  
8 the parking, and we would issue basically through the  
9 management office, you know, 100 stickers or 105, or whatever  
10 the right mathematics are, without over-booking like the  
11 airlines seem to do, along with their security pass for ingress  
12 and egress through the gate.

13                   MR. TUMMONDS: Thank you. Due to the unanimous  
14 support for this project, the applicant asks that the Board  
15 approve this application by bench decision, and issue a summary  
16 order to that effect. Thank you.

17                   CHAIRPERSON REID: Just one other question. In  
18 regard to the parking -- the lighting of the parking lot, was  
19 that something that was basically proffered by you all as a  
20 part of it, or was that a condition?

21                   MR. TUMMONDS: In discussions that we had with  
22 Office of Planning, Office of Planning had mentioned that they  
23 thought it would be beneficial for the applicant to submit a  
24 lighting plan; so I think with the documentation that we have  
25 submitted today with regard to that lighting plan, we would

1 agree to attach that as a condition of the order, basically  
2 saying the applicant will agree to install lighting as shown as  
3 Exhibit Blank of the record.

4 CHAIRPERSON REID: Mr. Cochran, were you  
5 recommending that?

6 MR. COCHRAN: Yes, we were.

7 CHAIRPERSON REID: Two conditions then.

8 MR. COCHRAN: That's correct, Madam Chair.

9 CHAIRPERSON REID: Okay. All right. Thank you  
10 very much. All right. Board Members.

11 MS. HINTON: I have one question, Madam Chair.  
12 Could the applicant respond to OP's comment about the not  
13 closing Seventh Street; and are you in a position to say that -  
14 - make a commitment that Seventh Street would not be closed,  
15 and you would not be taking action in the future to try to  
16 close it?

17 MR. HAGUE: We would agree to that. The Seventh  
18 Street closure has become very controversial. To be quite  
19 frank -- candid with you, that the residents are in substantial  
20 support. I think if you were to poll them, that it seems to be  
21 sort of a lightening rod within the community so we'll take it  
22 off the table. We had an application in, and as you know, we  
23 have formally withdrawn it.

24 CHAIRPERSON REID: All right. Any other  
25 questions, Board Members? Okay. I would move to approve this

1 application. I think that the applicant has demonstrated that  
2 they are -- have met their burden of proof with regard to the  
3 variance. The property certainly is exceptional and unique;  
4 and there is a practical difficulty in regards to the parking  
5 on those -- on that particular location, and that does not  
6 create any adverse impact with regard to parking, traffic,  
7 noise, light or the like. And just the inverse actually; this  
8 project appears to be one that is going to be instrumental and  
9 contributing to the revitalization of that particular Ward and  
10 that neighborhood, which is in dire need of assistance.

11 I don't think that it would impair the intent or  
12 integrity of the Zoning Plan or the Zoning Map. Is there a  
13 second?

14 MS. HINTON: A second.

15 CHAIRPERSON REID: This would be with conditions,  
16 two conditions recommended by the Office of Planning; and that  
17 is that the lighting plan as well as the pedestrian parking  
18 access be incorporated. And that the ANC's memorandum of  
19 agreement, although they -- we've got to get that proxy in,  
20 basically will be attached thereto to the order. Is there  
21 anything else?

22 MS. HINTON: That the applicant would not attempt  
23 in the future to close Seventh Street.

24 CHAIRPERSON REID: All right.

25 MS. HINTON: And that the pedestrian access

1 drawings would be amended to include a third entrance as  
2 discussed in the hearing today.

3 CHAIRPERSON REID: Okay.

4 MS. HINTON: And if I could just say, could we  
5 reference the exhibit that's attached to the applicant's pre-  
6 hearing statement; the plan that's called BAZ Plan, because we  
7 have a lot of different drawings in the record that show  
8 different things.

9 CHAIRPERSON REID: Okay.

10 MS. HINTON: This is the one that I think that  
11 does show the -- it's Tab D in their -- in the applicant's pre-  
12 hearing statement, and it does include 100 parking spaces.

13 CHAIRPERSON REID: Yes. Definitely. All in  
14 favor.

15 (Vote)

16 CHAIRPERSON REID: Opposed.

17 MR. HART: The Staff would record the vote as 5-  
18 0. Mrs. Reid made the motion, seconded by Mrs. Hinton and with  
19 the conditions to be attached as laid out by the Chair.

20 CHAIRPERSON REID: Thank you. Good luck. It  
21 sounds like a wonderful project.

22 (Off the record.)

23 CHAIRPERSON REID: Will you go ahead and call the

24 --

25 MR. HART: Certainly.

1 CHAIRPERSON REID: -- second case of the morning.

2 MR. HART: Yes. The second case of the morning  
3 is application 16705 of Stanton Road Housing, LLC, pursuant to  
4 11 DCMR 3103.2 and 3104.1, for special exceptions under Section  
5 353 and Sub-section 2516.3 for a new residential development  
6 having theoretical lots and variances under Section 402 from  
7 the floor area ratio requirements, and under Section 403 from  
8 the lot occupancy requirements for the construction of 25  
9 townhouses in the R-5-A and R-4 Districts at Stanton and  
10 Douglas Roads, S.E.; Square 5870, Lot 65, part of lots 64, 66,  
11 67, 811, 818, 869 and 860.

12 CHAIRPERSON REID: Thank you.

13 MR. HART: Let me swear in. Those persons  
14 intending to testify please stand. Raise your right hand.

15 (Witness sworn.)

16 CHAIRPERSON REID: Are you ready?

17 MR. KEYS: Yes, Madam Chair.

18 Madam Chair, my name and Commission Member -- my  
19 name is George Keys. I'm with the firm of Jordan, Keys and  
20 Jessamie (phonetic) LLP, and I'm here on behalf of the  
21 applicant, Stanton Road Housing LLC; which is a limited  
22 liability company composed of Bank of America Community  
23 Development Corporation and East of the River Community  
24 Development Corporation.

25 Madam Chair, I was actually hoping you were going

1 to begin by introducing us and saying that we could reduce our  
2 testimony because the merits of this case were so manifest on  
3 the record that we barely needed to speak.

4 CHAIRPERSON REID: After you had given your  
5 opening remarks out, I was going then going to say this is  
6 another situation where there does not appear to be any  
7 opposition. There's no one here for this case at all; right?  
8 So that's even better; so that means then that the Board has  
9 read your submission, and your case also is a very clear-cut  
10 situation. I don't see where it would require a great deal of  
11 time. Give us your salient points, and basically we should be  
12 able to dispose of this case in short order as well.

13 MR. KEYS: Well not to belabor the description of  
14 the case, but on the surface I think the case was complex, and  
15 I think it's the difficulty of that site that we want to make  
16 clear to you as the basis for a lot of the decisions that were  
17 made about how this site would lay out.

18 We have a situation in which we're really dealing  
19 with a three zone site; and it's not something that I've worked  
20 with before in the District of Columbia. The G-1 zone has  
21 already been built out into the Phase I Section. That was done  
22 matter of right. The applicant was anxious to get a product on  
23 the market and I think he can report on the status of that.

24 The second phase is one which deals with the R-5-  
25 A portion, and because of that we need the R-5-A review, which

1 basically requires us to satisfy the conditions of 410 in the  
2 regulations.

3 The site also compelled the decision to create  
4 some theoretical lots along a private street which gives us the  
5 requirement for another special exception dealing with those  
6 lots. And I think we can demonstrate the satisfaction of the  
7 conditions that are applicable to those lots. And I think  
8 we'll also take issue with a couple of the conclusions of the  
9 Office of Planning report regarding the theoretical lots.

10 Finally the site also compelled some hard  
11 decisions about site lay out and site size, and this requires  
12 both FAR and lot occupancy variances attached to a particular  
13 component of the site. And I think as you see how the site  
14 plan -- the logic of the site plan, you'll see how the ends of  
15 the site compress this whole process, and it's the middle of  
16 the site that gave us the greatest difficulty.

17 I have as witness today two persons, and perhaps  
18 a third; Christopher LoPiano who is Senior Vice President at  
19 Bank of America Community Development Corporation, who has been  
20 the initiator of this project from the very beginning in 1995  
21 when Bank of America CDC acquired this project out of  
22 bankruptcy. I also have Ray Norris with Manix Engineering  
23 (phonetic), who is a civil engineer, who is responsible for  
24 many of the decisions that we made on this site.

25 I'd like to introduce Mr. LoPiano and ask him to

1 give you a quick review of the site planning that was involved  
2 in this particular project. Chris. Good morning.

3 MR. LoPIANO: Good morning, Madam Chair, and  
4 other members of the Board.

5 As George has said, my name is Christopher  
6 LoPiano. I work for one of the members of the development,  
7 Limited Liability Company, Stanton Road Housing, LLC. Bank of  
8 America's Community Development Corporation is a subsidiary of  
9 Bank of America that is directed to make community development  
10 investments, to partner with communities to help them realize  
11 their vision of redevelopment. We are an active real estate  
12 developer, an owner of real estate, and do most of our work in  
13 economic partnerships with the community.

14 I want to very quickly give you some context to  
15 this project because I think it's -- the process is as  
16 important as a result of the process. Back in '95 we put a  
17 contract to purchase an apartment complex, the Washington View  
18 Apartments. They were 509 units. About half of them were  
19 vacant and boarded. Shortly after putting it under contract, I  
20 received a call from the Washington Area Housing Partnership  
21 which was --- facilitated a dialogue between the community and  
22 the owners of a number of problem properties in the community.

23 And by having Washington View under contract, we became one of  
24 those problem owners.

25 We got involved in the master planning process

1 that culminated in November of 1995 with a weekend long  
2 shurette (phonetic) at Frederick Douglas Junior High School in  
3 a neighborhood that was attended by over 200 members of the  
4 community. It was facilitated by the Washington Area Housing  
5 Partnership and by the Howard University School of  
6 Architecture. Basically students were there drawing for the  
7 neighborhood.

8 It started at 6 p.m. on Friday and ended about 1  
9 a.m. in the morning on Monday, and the master plan was  
10 presented to the community Monday morning at 9. As a result of  
11 that master plan, our vision for Washington View changed  
12 considerably. We had planned on renovating the 237 vacant  
13 units and operating a 509 unit apartment complex. But the  
14 master plan had a number of underlying principles, and those  
15 principles are the same principles that brought about the Towns  
16 at Hillsdale, and that was the community wanted less physical  
17 density. It was a very densely built community. They wanted  
18 less rental; 70 percent of the units were rental housing. They  
19 wanted more home ownership opportunities, more green space and  
20 recreation.

21 Those were the principles that infused this  
22 master plan document. As a result we are now operating in an  
23 apartment complex at Washington View that's 353 units. That's  
24 30 percent lower, fewer rental units than where there  
25 originally. We achieved this reduction in two ways. We

1 demolished three buildings containing 78 units and replaced  
2 those units with an outdoor recreational facility, a basketball  
3 court, tot lot, playground, play field and a barbecue picnic  
4 area. And then we held off 109 units which we are now  
5 currently converting to condominiums, to 77 condominiums; so we  
6 eliminated the density, the physical density and the rental  
7 density by meeting two other goals; providing home ownership  
8 opportunities and more green space and recreational facilities.

9 The project is doing great.

10 Directly across the street from that project was  
11 a project known as Howard Gardens, one of the other problem  
12 properties; 98 units completely abandoned and known best around  
13 the neighborhood as the Crack/Cocaine Market for that  
14 neighborhood back in '95 and '96. We had no intention as we  
15 went through the planning process, and the planning process was  
16 complete of doing anything to Howard Gardens. Somebody else  
17 owned it.

18 The master plan, it's interesting; if you look at  
19 the Master Plan it called for the demolition of Howard Gardens,  
20 again to reduce density, to reduce rental, to be replaced with  
21 36 town homes and the Howard University student sketched a site  
22 plan if you will; and it bears remarkable resemblance to the  
23 site plan you see there, although a good portion of that land  
24 was not part of Howard Gardens, and I'll explain that to you  
25 all.

1                   In late -- or I think it was August of '95, East  
2 of the River Community Development Corporation, a non-profit  
3 community based developer in that area came to us to say that  
4 the owner had put it into bankruptcy, and that a speculator was  
5 attempting to buy Howard Gardens out of the bankruptcy court.  
6 We went in, got in a bidding war and bought Howard Gardens  
7 Apartments with the notion of implementing the master plan  
8 recommendation for that site, to build 36 town homes on that  
9 site.

10                   In early '96 we scraped the building and began  
11 the planning process. The planning process was a collaborative  
12 planning process. We hired a civil engineer. We hired an  
13 architect and we began to do site planning, but every month we  
14 bring that site plan back to the Hillsdale Collaborative which  
15 was an outgrowth of the master plan. The Collaborative was  
16 made up of 15 organizations, civil associations, a resident  
17 association, churches, so forth in the community; and early on  
18 we had a plan that showed two sticks facing Howard Road and two  
19 sticks facing Stanton Road on what is the C-1 and the R-5-A,  
20 because Howard Gardens was in fact -- the and the R-5-A --

21                   MR. HART: Please hold it. Just a minute please.

22                   Give him that microphone. Is there a hand mike that we can  
23 get?

24                   MR. KEYS: Leave it there or pick it up?

25                   MR. HART: That's okay.

1 MR. LoPIANO: The master planning process and the  
2 community wanted to maintain the traditional urban grid and  
3 appearance of the neighborhood. The master plan as well as the  
4 residents in the Collaborative wanted these houses to face the  
5 street, small front yards, be up on the street as the houses  
6 along Howard Road are brick row houses facing Howard Road with  
7 small front yards. They wanted that traditional urban product.

8 They wanted us to maintain the street grid that was there.  
9 They didn't want the units facing inward or away from the  
10 street. They wanted to integrate into the community; so the  
11 plan I brought them showed 34, not 36, because we couldn't fit  
12 36; 34 town homes, two sticks facing Howard and two sticks  
13 facing Stanton.

14 Under the category of you never -- you know less  
15 than you think you know, they pointed out to us quite  
16 forcefully that along Pomeroy Road were four abandoned single  
17 family houses that have been abandoned for two decades, and a  
18 lot of abandoned lots with weeds over our heads; and that how  
19 we were going to one, revitalize this community and two, sell  
20 houses next to that. And urged us strongly to buy the  
21 remainder of the block with is the R-4 portion facing Pomeroy  
22 Road.

23 We studied that and realized quite early that it  
24 wouldn't be economically feasible just to put two strings  
25 totally 15 houses on the site given the cost of what it was

1 going to cost to settle that site; but if we could double load  
2 it, we could get 22 homes.

3 To do that we did something the community also  
4 urged us to, and that is to continue 15th Place, which  
5 continues as I said at Howard through the site to Stanton,  
6 again maintaining the street grid; and that would allow us then  
7 to build another string of seven to increase that number of  
8 houses from 15 to 22 and make it feasible. That drives the  
9 need for the theoretical lots as a private street.

10 Our market study which consisted of a market  
11 study by Deborah Rosenstein and Associates, as well as Focus  
12 Groups run for us by Builder's First Choice, validated much of  
13 what we thought about the market; the price points which at the  
14 time, which is four years ago, were -- we were told that the  
15 price points were in the 120's, and that we could not exceed  
16 that. But more importantly, that we needed to produce a three  
17 bedroom product with at least two baths.

18 Much of the housing in this neighborhood,  
19 including the ones across the street are two bedroom town homes  
20 with one bath, and that's a very typical product for this  
21 neighborhood. And it's one of the reasons that this  
22 neighborhood has suffered a population loss over the years;  
23 it's not a product that is competitive. People don't want that  
24 product any more; so they were very insistent that we produce a  
25 product that was competitive with the county, what people could

1 find out in the county so that this project would begin to not  
2 only meet the housing needs of those folks in this  
3 neighborhood, but would begin to bring people back into this  
4 neighborhood; a neighborhood that was almost 70 percent vacant  
5 at the time that we began the Washington View Project.

6 So what we have here is a product that is three  
7 bedrooms, two and a half baths. It's got a walk-in closet in  
8 the master bedroom. It is very competitive with what's in the  
9 county. It's 20 feet wide and 32 feet deep, giving you on the  
10 living areas, the two top floors, about 1280 square feet which  
11 is just about where you want to be cost-wise in terms of  
12 hitting those price points.

13 The other thing the market study said that was  
14 that looking at the impact of the market, particularly relative  
15 to other markets inside the beltway in the county, and outside  
16 the beltway for that matter, was that the negative perception  
17 of personal safety in this community. And one of the ways the  
18 market study suggested that we meet this was to provide  
19 integral garages, so that folks could drive into their home,  
20 basically open a garage door, drive in and close the door  
21 behind them. We agreed with that.

22 The community further reinforced that by saying  
23 we -- you know, you need to build garages with these units  
24 primarily for the parking, but also for the safety concerns.  
25 And we don't want those garages in the front of the houses, and

1 we agreed with that. That's not a typical product in the  
2 district and would disrupt this neighborhood from an aesthetic  
3 and planning point of view, so we did rear parking.

4 Those design elements when combined with some of  
5 the exceptional characteristics of this site is what brings us  
6 here today. This site has an exceptional shape. It is 156  
7 feet wide at its western edge, and it is 560 feet wide at its  
8 eastern edge. It is a wedge-shape, and once you make a  
9 decision to maintain the urban traditional plan for this site,  
10 you create interior space that is unusable in terms of  
11 development, developing units.

12 It also has exceptional topography. It drops 35  
13 feet east to west. The northeast corner is at 189 and the  
14 southeast corner is at 145. There's also a 10 to 15 foot drop  
15 north to south, so you've got a tilted site that tilts in two  
16 directions, that creates an exceptional topography which we  
17 spent more time land planning and site planning because of  
18 topography than any other thing on this project. We ended up  
19 exporting a great deal of dirt.

20 That exceptional topography creates a dilemma  
21 when trying to provide integral garages because you need to  
22 have the rear of this house at grade; and so that drives some  
23 of the FAR issues. Providing an at-grade entrance in the rear  
24 means that some of that third story counts against the FAR, and  
25 it counts in the FAR calculation.

1                   Finally, the three zones were an exceptional  
2 situation. We had to create three phases, and had to design  
3 the product, do an affordable product like this. In this  
4 market you can't have four or five different houses across 56  
5 houses. We have two houses each with two floor plans, a 20  
6 foot wide and a 22 foot wide; each with two floor plans, a  
7 center kitchen versus a rear kitchen. That's about all you can  
8 do in terms of the variety you provide.

9                   We're trying to have that plan meet the  
10 requirements of three different zones, and it presents a  
11 challenge. So with the topography that we have, and a rear  
12 entrance garage, we have an FAR situation on some of those  
13 units. We also have two strings of 24 to 29, and 42 to 48 that  
14 don't have rear garages because in fact they -- the grade works  
15 against those. Rather than facing uphill they face downhill.  
16 And in order to have a rear entry garage, your first story  
17 would be many feet out of the ground in the front, and you'd  
18 need to have 20 steps leading up to the front door; and so  
19 those two sticks, one facing Stanton and one on the stick in  
20 the theoretical facing westward, the theoretical lots facing  
21 westward have rear parking pads but do not have garages because  
22 of the topography working against them. Everywhere else we  
23 provided the rear garages.

24                   We made a decision early on that given the wedge  
25 shape of this site, to collect the green open space and put it

1 in the center of the site in a usable piece, and you see that  
2 at the end of the -- in the middle of the site you see that  
3 large green area that is the landscaped area. That will be a  
4 common area of long narrow, rear yards. Some of the rear yards  
5 as you moved off the site where it widens became ridiculously  
6 long, and with the rear garages you had to provide a ten foot  
7 wide driveway to get to those garages, so you end up with a ten  
8 foot wide backyard that runs in some cases over 100 feet deep,  
9 which just didn't make any sense; so we decided to collect that  
10 green space and put it in a useable area in the center of the  
11 site that could be used for recreational purposes.

12 I guess, you know, rather than talking some more;  
13 I'd rather answer your questions, but the one point I want to  
14 make for the site that we have --

15 MR. KEYS: Chris, why don't you turn that so it's  
16 in the same orientation as the other. One more turn.

17 MR. LOPIANO: It's a vertical -- that's simply an  
18 enlargement, Members of the Board; an enlargement of the  
19 previous site plan. What is outlined in gray is the subject of  
20 this hearing; and if you look at the site as a whole, the  
21 overall FAR for the site is .48, and the overall -- versus the  
22 40 -- versus the 90 percent required. And the overall lot  
23 occupancy is 25 percent versus the 40 percent that's allowed,  
24 so we don't think this is a dense development when you look at  
25 it overall. And we think we've made planning decisions that

1 were the correct decisions in terms of maintaining the  
2 alignment along the street, the rear entry off of alleys, the -  
3 - that creates some of the variances we need from a lot  
4 perspective.

5 I'll close out by saying that we've been very  
6 successful in Phase I. We have 16 units in Phase I; one is a  
7 model so we have 15 for sale, 14 are sold, a half a dozen I  
8 think are settled. We've put another string out for sales  
9 along Howard Road, seven units. They are completely sold out.

10 As we thought, this product has high acceptance in the market,  
11 and we're looking forward to proceeding with the remaining 25  
12 units.

13 MR. KEYS: Thank you, Chris. I'm going to ask --  
14 I'm going to turn to Mr. Norris, but before that happens I'd  
15 like to ask the Board's indulgence. I have Mr. Norris'  
16 professional resume with me.

17 Mr. Norris is a civil engineer in the District of  
18 Columbia, Maryland and Virginia. And I note from his resume he  
19 has not testified before, before the Board of Zoning Adjustment  
20 or the Zoning Commission of the District of Columbia; and I'd  
21 like to request, Madam Chair, permission to distribute the  
22 resume and ask the Board to consider it, because I'd like to  
23 have Mr. Norris' testimony accepted as an expert witness in the  
24 area of civil engineering.

25 CHAIRPERSON REID: Thank you very much. You can

1 submit it. In the meantime, let us see whether or not there  
2 are questions for Mr. LoPiano of our board members. No  
3 questions?

4 MS. HINTON: Yes.

5 CHAIRPERSON REID: Okay.

6 MS. HINTON: I have a couple of questions. Maybe  
7 I didn't understand what you said. How can some of these units  
8 be sold if you don't have approval to build them yet?

9 MR. LoPIANO: Well both the units in the C-1 and  
10 the units in the R-4 Zone we're building as a matter of right.  
11 They -- we required no variances for them whatsoever.

12 MS. HINTON: Could you show where those zone  
13 lines are on here? Are they like the gray lines that come  
14 through the site?

15 MR. LoPIANO: They are --

16 MR. KEYS: If you look at Exhibit 5 in the  
17 booklets that we assembled for you, you'll see the site with  
18 the zone boundary lines indicated with the dash lines. You'll  
19 see both the C-1 zone and the R-5-A, R-4 zone. They're dash  
20 lines.

21 MR. LoPIANO: The light gray line merely defines  
22 the subject -- the units that are subject to this hearing,  
23 which is all -- everything in R-5-A, plus the theoretical lots  
24 that are in R-4.

25 MS. HINTON: And that -- so in the middle there,

1 in the center of your site between the two gray lines. Oh,  
2 okay.

3 MR. LoPIANO: These are a matter of right.

4 MS. HINTON: Okay.

5 MR. KEYS: And while we're there, I mean let's  
6 delineate specifically which lots are in question here. Lots  
7 30 to 34 -- I'm sorry, 31 to 33 are lots which require  
8 theoretical lot approval.

9 MS. HINTON: Okay.

10 MR. KEYS: Also will require FAR variances and  
11 lot occupancy variances. And then lots 25 through 48 --

12 CHAIRPERSON REID: Mr. Keys, repeat that again.

13 MR. LoPIANO: No, George; you're losing the end  
14 units when you do that.

15 MR. KEYS: Oh.

16 CHAIRPERSON REID: Okay.

17 MR. KEYS: All right. Well, 30 through 24  
18 require theoretical lots.

19 CHAIRPERSON REID: Okay.

20 MR. KEYS: Inside of that, 31 through 33 will  
21 also require variances for both FAR and lot occupancy. On the  
22 other side on Stanton Road, Lots 25 through 28, these are lots  
23 that we spoke of that do not have garages because of the grade.  
24 These lots will also require FAR and lot occupancy variance.

25 Finally, 42 through 48 are otherwise conforming

1 lots but because they face the private street, they are  
2 theoretical lots and require special exception approval. And  
3 17 through 23 are fine. They are just R-5-A lots and will  
4 require R-5-A review.

5 CHAIRPERSON REID: Okay.

6 MS. HINTON: And one other question that I had,  
7 especially on the lots where you're already exceeding lot  
8 occupancy, very frequently we get requests from individual home  
9 owners who will bring us a lot and they'll say, you know, we've  
10 got a garage. We've got a driveway in the back yard. Our  
11 front yard is too small. We need outdoor space. We can't  
12 build a deck because we're already over lot occupancy or we're  
13 already at the limit requiring a variance.

14 Have you given thought to that because it seems  
15 to  
16 me like the product that you're providing is the same product  
17 that we've been looking at where we get requests that people  
18 are telling us if you've got a small front yard and a driveway  
19 in the back yard, you don't have any outdoor recreation area  
20 unless you have a deck. And the deck that further encroaches  
21 or increases your lot occupancy.

22 MR. KEYS: I mean I think that the only -- the  
23 response that I would make to that is simply that there are a  
24 variety of unit types being offered in different lots. And I  
25 think that's simply a marketing issue. People are going to

1 have to choose lots that are going to meet the lifestyle they  
2 expect to have.

3 MR. LOPIANO: A number of the houses within the  
4 project can take decks. There is enough lot occupancy left to  
5 erect a deck within zoning regulations, so it's only these few  
6 that have the restriction.

7 MS. HINTON: It that something you will make  
8 people aware of as they're purchasing these lots; because it  
9 seems like a lot of times people don't understand that.

10 MR. KEYS: Chris, you'll have to speak to that.

11 MS. HINTON: And I just think that you would be  
12 doing everyone a favor to make sure they understand which lots  
13 could have a deck by right, and would need some sort of zoning  
14 approval to have one.

15 MR. LOPIANO: We have not as far as I know, but  
16 we will -- as we move forward, we haven't had these units for  
17 sale, but as we move forward we'll make sure the people  
18 understand which can have decks as a matter of right.

19 MS. HINTON: Great.

20 MR. KEYS: I believe the C-1 lots because there  
21 is a greater FAR don't have a problem.

22 MS. HINTON: Right.

23 MR. KEYS: But it's going to be these lots --  
24 these theoretical lots that will present the problem that you  
25 suggest, Ms. Hinton.

1 MS. HINTON: Now the -- and the other thing that  
2 would help, on some of these townhouses that you have that  
3 front on the private street, I guess lots 30 through 34, and 42  
4 through 48; if you had the front load garage rather than the  
5 back; and I'm not sure if the grading would work out, but if  
6 you did that then what happens is the driveway is in the front  
7 yard which people tend not to use for recreation anyway, but  
8 that gives them some private open space in their backyard  
9 that's not taken up with the driveway. And I appreciate and  
10 understand your point about Howard Road and Stanton Road; that  
11 really you want the front of the house on that street, and you  
12 don't want a whole lot of curb cuts there. But had you thought  
13 about, or is that even a possibility to do front load garages?

14 The other thing that that would do; that would  
15 eliminate the alley that's behind Lots 30 to 24, and then those  
16 lots would not be separated by an alley from all that  
17 recreation space that you're providing, and you actually would  
18 have more recreation space.

19 MR. LOPIANO: I do not believe -- well first in  
20 Lots 42 to 48 we are -- that's one of the strings that we're  
21 not providing garages because it works against the grade. Now  
22 if we put it in the front, we probably could provide a garage  
23 to the front; but I point it out because 30 through 34 would  
24 have the same problem in reverse that 42 to 48 does, if you try  
25 to put front loaded garages there. It's working against the

1 grade, so you're back -- you're -- the back wall of the house  
2 would be way out of the ground in order to accommodate that  
3 grade.

4 MR. KEYS: I think at this point I'd like --

5 MS. HINTON: Okay. Yes.

6 MR. KEYS: -- to get Mr. Norris in.

7 CHAIRPERSON REID: Oh, sure.

8 MR. KEYS: So if I could ask whether you would  
9 make a decision with respect to his credentials.

10 CHAIRPERSON REID: Well basically, Mr. Keys is  
11 saying that you think that he could be helpful in answering  
12 some of the questions that are being proffered at --

13 MR. KEYS: I think he could tie the topography a  
14 little more closely --

15 CHAIRPERSON REID: Okay. Well, we were listening  
16 to Mr. LoPiano, so let us just take a second to go over his  
17 resume.

18 MR. KEYS: Of course.

19 CHAIRPERSON REID: Okay. I have no objection to  
20 allowing Mr. Norris to become an expert witness for the Board.

21 Any objections, Board Members? If not, all right. Mr. Keys  
22 will be giving --

23 MR. KEYS: Thank you, Madam Chair. I'd like to  
24 then to ask Mr. Norris if you would introduce yourself for the  
25 record, identify your employer; and you might explain your

1 views on the issue of how topography works in the interior of  
2 this site.

3 MR. NORRIS: Thank you, Mr. Keys. For the  
4 record, my name is Raymond Norris. I'm a registered  
5 professional engineer here in the District of Columbia, and I'm  
6 a principal with Mattocks Engineers and Surveyors, Incorporated  
7 (phonetic) in Rockville, Maryland, and we've been involved in  
8 this project from the time that Chris LoPiano and East of the  
9 River came to us. Unlike most of the development projects  
10 we're involved here in the District of Columbia and the  
11 outlying suburbs where a developer comes to us as the beginning  
12 where they have a real piece of property, and we're told to  
13 develop it and use our engineering wits and land planning  
14 smarts to create a development.

15 We were handed a development that the land  
16 planning was already basically done for us through this process  
17 with the community, and the ideas that we were given at that  
18 time before the third phase or the southeast portion abutting  
19 Pomeroy Road had been added to the project. This idea of  
20 having the townhomes fronting the existing streets might have  
21 run contrary to some of the thoughts that might have been used  
22 to develop the property.

23 To begin with, we're excited about the idea of  
24 being involved in the project from that point forward. I'm  
25 here basically to try to help answer some of these technical

1 questions that it sounds like we've gotten to now. And as  
2 Chris pointed out, there were some constraints with this  
3 property involved with the topography. You have to live with  
4 what you've got with the adjacent existing streets around the  
5 development. And as Chris pointed out, there's a lot of grade  
6 change from one end of the site to the other.

7 Pomeroy Road has 30 feet of elevation change, and  
8 that's the street along the southeast end of the development or  
9 the right hand part of the Exhibit Number 5 that you have in  
10 your information packet there.

11 As you work your way across the site, the -- that  
12 grade change -- you typically try to make up where you can't  
13 through the site itself, you try to make up that grade change  
14 through the townhome unit. So if you have a walk-out through a  
15 basement, you could make up the grade -- that grade change.  
16 And in this case, the main architectural design that was used  
17 is one where you walk in a foyer, and then you go down half a  
18 flight of steps to the basement level, and that's where the  
19 garage is; so you're make -- using that grade change to make up  
20 the difference in elevation.

21 So where that doesn't work is where we had to  
22 eliminate some garages. And in this size development, and in  
23 this -- and I'm not a marketing expert, but you can't use a lot  
24 of different types of townhomes. The preference, of course,  
25 when we started was just to use one type of townhome

1 everywhere, and this -- that design and having that rear  
2 townhome, if we could have got that same unit to work  
3 everywhere, that would have been the ideal. But we found that  
4 in this central area of the site, once we worked our way toward  
5 the middle, that's where we ran into problems. And so those  
6 units 42 through 48, we had basically a choice of either adding  
7 a bunch of steps in the front of the units and walking yourself  
8 up, and then you could walk inside the unit down at the garage,  
9 but it wasn't attractive, and it makes it difficult just to  
10 make it work that way; so we eliminated all the steps out  
11 front, so you just have straight walks from that private street  
12 in the front of those units through and took the garage out, so  
13 those units don't have a garage in them.

14 The ones on the other side of the street, 30  
15 through 34, they still have the garage without the risers in  
16 the front of the units also; so I guess to answer part of your  
17 question there is I think if you try to -- one, tried to flip  
18 the units around, that might be a marketing question whether  
19 that just works, and whether this whole idea of having the  
20 garages in the rear, or the access to the units in the rear of  
21 the units, whether that still applies to this private street as  
22 well as the periphery streets to the development. And if you  
23 were successful in making that marketing decision to go that, I  
24 think that you still have that same basic problem; that if you  
25 put the garages on the front side, I think it's going to work

1 against the grade - if that answers that question.

2 MS. HINTON: It does; thank you.

3 MR. KEYS: Let me ask you one question, Ray.  
4 We've got a private street; why is it not a public street?

5 MR. NORRIS: Well the main question -- actually  
6 there's a lot of background in that, and Chris might be able to  
7 answer some of the questions; but one of the main reasons is  
8 that a public street has a minimum amount of width that you  
9 need for a public right-of-way that is 70 feet or something, or  
10 55 feet is it Chris? And we just didn't have, again because of  
11 the site constraints in order to work your way from Pomeroy  
12 Road to get to the lot depth that we needed to meet that --  
13 those zoning requirements. We just didn't have the width that  
14 we needed to meet a public street requirement, so we gave  
15 enough room there to put in the amount of pavement. There's  
16 some sidewalk; and to give -- the width that we give a private  
17 street in there would work, and then --

18 MR. KEYS: And Chris, let me ask you; what  
19 determined the location of that private street?

20 MR. LOPIANO: 15th Place. I mean, we just  
21 continued 15th Place through to maintain the existing grid.  
22 You know, we have a street that's wide enough but a right-of-  
23 way that lacks about eight feet is what it comes down to.

24 MR. NORRIS: In fact, just to kind of echo that  
25 idea, George. This is also a one-way street and that was part

1 of the concern from the neighborhood, with traffic circulation  
2 and the way the headlights were going to shine is to only have  
3 that street. In fact, I think there are arrows on that plan  
4 that are pointing up towards --

5 MR. LoPIANO: Howard.

6 MR. NORRIS: -- the top of the street toward  
7 Howard, so that the traffic isn't heading down towards the  
8 bottom where there's a church down at the bottom where people  
9 tend to congregate; and so there are some land planning issues  
10 with the street, and so we could provide enough width to put a  
11 one way street in there, a private one way street. That also  
12 was part of the land plan.

13 MS. RENSRAW: Madam Chair.

14 CHAIRPERSON REID: Yes.

15 MS. RENSRAW: Is it appropriate at this time to  
16 ask a question?

17 CHAIRPERSON REID: Sure.

18 MS. RENSRAW: Just -- since we're talking about  
19 the private road, and the width of the private road, the police  
20 department has recommended that the private road be widened to  
21 75 feet, to increase the parking capacity on-site and make  
22 emergency access easier; and that's on page 12 of OP's report,  
23 and we'll hear from OP in a moment, but could you address that  
24 recommendation for 75 feet of width?

25 MR. NORRIS: I'm not sure what that 75 feet is;

1 is an amount of right-of-way they're talking about. And  
2 without doing a great deal of analysis; frankly, I'm not really  
3 sure where the 75 feet comes from. It sounds like they're  
4 talking about --

5 CHAIRPERSON REID: Maybe the Office of Planning -  
6 -

7 MS. RENSHAW: After Office of Planning, perhaps  
8 you could enter into a --

9 MR. NORRIS: Okay.

10 MS. RENSHAW: -- discussion about that at that  
11 time.

12 MR. NORRIS: Yes. My knee-jerk reaction is that  
13 it sounds like a pretty wide public boulevard.

14 MS. RENSHAW: Had you been notified about this 75  
15 feet?

16 MR. LoPIANO: No. We've not seen that comment.

17 MS. RENSHAW: All right.

18 MR. LoPIANO: But I would say that right off the  
19 top we lose seven -- no. Let's see, seven and five; we lose 12  
20 houses. I mean, that's 12 houses we can't build, and our  
21 reaction to that would be to put an alley in rather than a  
22 street. It does -- we couldn't build any of the interior  
23 units. It would be a great hardship for --

24 MR. NORRIS: It sounds like someone's reacted to  
25 seeing a street and saying well why don't you put in a

1 completely -- a public street. Put in a boulevard if you're  
2 going to put in anything, is kind of just my knee-jerk reaction  
3 to that comment.

4 MR. LOPIANO: The site has -- it's very  
5 accessible. It has we think very good interior circulation;  
6 plenty of places to turn, plenty of ways in and out.

7 MR. KEYS: And I believe the street is designed -  
8 - you might talk to that. It's a one way street. The road bed  
9 if you relate that in width and what your parking plans are for  
10 that street.

11 MR. NORRIS: Yeah. There's a 20 foot road bed  
12 there with parking that's off-line, if you will. It's off to  
13 the side with the parking spaces, so more than adequate for a  
14 fire truck or any other type of vehicle with turning radiuses  
15 at the ends that we discussed with Public Works when we were  
16 designing this. More than adequate space as far as vehicular  
17 access or emergency access goes.

18 CHAIRPERSON REID: Mr. Griffis.

19 MR. GRIFFIS: A brief question. On the proposed  
20 units, 30 through 34, what is the front yard dimension at this  
21 point?

22 MR. NORRIS: That's set back and from the private  
23 -- where the private street ends, so I'm not sure if this is  
24 really a definition of a front yard because I'm not sure how  
25 this is defined in the zone; but I believe it's about seven

1 feet that the unit is set back from the front property line.

2 MR. GRIFFIS: And the provision of the street  
3 parking there, I believe it's seven or eight spaces that are  
4 part of the curb cut on the private --

5 MR. NORRIS: Yes, it's on spaces.

6 MR. GRIFFIS: Does that impact the size of the  
7 front yard?

8 MR. NORRIS: No, because that -- well into such  
9 as the -- that the width of the street affected the overall  
10 space that was consumed across the site; yes. But it's not  
11 part of that front yard.

12 MR. GRIFFIS: And I believe you just stated that  
13 that is the only parking that is allowed on that private  
14 street; correct?

15 MR. NORRIS: Correct. That's right. Yeah,  
16 because that is -- that's set aside from the 20 foot through  
17 width.

18 MR. LOPIANO: And with the parking; what's the  
19 width with the parking?

20 MR. NORRIS: And then there's 28 feet of width  
21 with eight foot parallel parking spaces.

22 MR. GRIFFIS: Right.

23 MR. KEYS: I would note, Mr. Griffis, that none  
24 of those parking spaces on the street are required in any  
25 sense.

1 MR. GRIFFIS: Right.

2 MR. KEYS: All of the parking required for the  
3 units is being provided on their lots.

4 MR. GRIFFIS: Which is actually another question  
5 I have, but I'll get to that in a moment. The same units, 30  
6 through 34, I note that the -- well can you say -- the  
7 footprint, the square footage is similar to 17 through 23; is  
8 that correct?

9 MR. NORRIS: That's correct.

10 MR. GRIFFIS: Okay. And then lastly, I believe  
11 in the R-4 zone you have a large parking lot. And I believe in  
12 your application it was stated that that was for guest parking?

13 MR. NORRIS: No.

14 MR. KEYS: No, that -- the intent of that lot  
15 would not be our land.

16 MR. GRIFFIS: Okay.

17 MR. KEYS: That's for the church.

18 MR. GRIFFIS: Okay.

19 MR. KEYS: They are intending to build a parking  
20 lot, accessory parking for their property.

21 MR. GRIFFIS: Good.

22 MR. KEYS: And we've engaged in a transaction  
23 with the church to create contiguous land for that parking lot.

24 That in fact will not be our land, and it was really just  
25 showed as an illustrative feature to show what the entire

1 square would look like at the end of development.

2 MR. GRIFFIS: Right. That's helpful. Thank you.

3

4 MR. LOPIANO: I would make one point about the  
5 units 30 to 34. I had mentioned early in my comments that the  
6 Howard Gardens site yielded 34 units before we bought the land  
7 on Pomeroy. Those units were all contained facing Howard.  
8 They were all facing Howard, and Stanton strings were long; but  
9 when we bought the Pomeroy land and had to provide the private  
10 street in order to get the double loading to make the  
11 acquisition feasible, we lost units on those strings facing  
12 Stanton and Pomeroy. You'll see that there's only 29 total now  
13 that face -- and the way we made it up was -- is those units 30  
14 to 34.

15 As you attempt to push those units back, you lose  
16 the end units because of the width of the site, because of the  
17 way the site narrows.

18 MR. GRIFFIS: Right.

19 MR. NORRIS: Yeah, that actually is -- that's the  
20 crux of the matter, I guess, is what it boils down to -- is  
21 that those units are tucked up close to the private street  
22 because as you -- as Chris says, as you slide them back you  
23 lose the end units. And for the other result is that the  
24 connecting road that's behind them which is their access from  
25 their driveways, as you would move that road further away from

1       them in order to make their lots larger, if you're following  
2       that.

3                       MR. GRIFFIS:  Uh-huh.

4                       MR. NORRIS:  That chain of logic, if you're just  
5       moving that road further away or to the west and north, you're  
6       just adding to the length of their driveways, and you're  
7       stealing from the green space that's in that triangular area in  
8       the center.  And so that's why we just basically left their  
9       back yards 20 feet long, and they have short front yards.  And  
10      they have the 20 foot rear yards the same as the rest of the  
11      lots, because why have longer driveways and more impervious  
12      area when you can have a larger triangular green space in  
13      there; so that's where we stopped and said okay, well we're  
14      going to BZA.  Let's ask for these variances to -- because it  
15      just made for a better plan, we felt.

16                      MR. NORRIS:  Well I think also the private street  
17      location as you've stated lining up with 15th Street places an  
18      excellent urban design idea, and that continuation through is  
19      good.  I also think the alley system that's been created is a  
20      positive urban design plan.  More specifically, for trash  
21      pickup and any sort of servicing of the residential units, as  
22      opposed to having it on the front of the house, or on the  
23      actual street way.

24                      MR. KEYS:  Yeah.  No, I think that that -- that's  
25      right.  I could comment more but I think that was well put.

1 CHAIRPERSON REID: Okay. Other questions, Board  
2 Members? Okay. Office of Planning report please.

3 MR. JACKSON: Madam Chair, I believe we have a  
4 letter in the file for this application.

5 CHAIRPERSON REID: Uh-huh.

6 MR. JACKSON: This report.

7 CHAIRPERSON REID: We need a waiver.

8 MR. JACKSON: Yes.

9 CHAIRPERSON REID: I have no problem with waiving  
10 the rules to allow the late submission of the Office of  
11 Planning report, unless any Board Member has any objection.

12 MR. JACKSON: Madam Chair, the Office of Planning  
13 would approve the application 16705, and we concur with most of  
14 the comments made by the applicant. We do have some particular  
15 comments about the site plan as proposed. If you will turn to  
16 Exhibit Number 1, we can identify most of the conditions that -  
17 - we can reinforce most of the conditions there the applicant  
18 said existed.

19 As you know on the aerial, the site is outlining  
20 and embodied red -- with the dotted red boundary and is in  
21 essence leaving an area -- approximate area where a proposed  
22 parking lot would be. You can note that the boundary of this  
23 site is rather irregular; and if you'll follow the yellow lines  
24 that identify the zoning categories that are around this site,  
25 you will note that the R-4 is a strong dog-leg shape along

1 Pomeroy Road. Then you have the -- what looks like a hammer  
2 coming in that is R-5-A, and the C-1 at the other end; so  
3 obviously the applicant had to work with two different zoning  
4 districts.

5 And then if you turn to the Exhibit 2 which is a  
6 duplicate of the plan that's before you on the easel, you'll  
7 note that the grading and how the site drifts away from the  
8 northeast corner to the west and to the east -- to the west and  
9 to the south. The applicant has presented a number of  
10 conditions, a number of circumstances with this application  
11 based -- and his proposal is essentially based on what he's  
12 indicated as being a master plan that was developed by the  
13 community in addition to marketing concerns. Given the  
14 existing conditions, however, we think that there's more of a  
15 justification for the -- this meeting the standards for a  
16 variance and for a special exception.

17 We would also note, however, that I think the  
18 applicant inadvertently indicated that the lots 18 through --  
19 17 through 23 did not need additional relief. However,  
20 according to the analysis done by the engineer that spoke, the  
21 18 through 22 requires -- it has an FAR -- it would have FAR if  
22 developed as proposed, in excess of .9, and would need FAR  
23 relief for the additional -- at least to 1.0 for the proposed  
24 development.

25 Essentially, our concerns are centered on the

1 proposed site plan, and I'm going to go back to Exhibit 2. We  
2 made a couple of -- a number of inquiries concerning this  
3 proposal. We sent a copy of the proposal to the Department of  
4 Public Works just to ask them in general if -- just to  
5 determine whether there would not be some benefits for this  
6 applicant coming back and asking for a public street in this  
7 location.

8 The Department of Public Works did some analysis;  
9 however the office that actually deals with alleys and streets  
10 did not come back with any response indicating what would have  
11 to happen for this applicant -- for this proposal to be deemed  
12 a public street. And in testimony, the applicant has indicated  
13 that they really don't it to be a public street because of the  
14 anticipated requirements, so that -- so we did investigate that  
15 possibility. However, we don't have any additional information  
16 to provide. I was glad to hear that this was a one way street  
17 because that's a question that we had, whether this was going  
18 to be a one-way or a two-way, but the arrow I guess tells the  
19 tale.

20 Our concern primarily is that the amount of  
21 relief being provided should be sufficient and not excessive.  
22 That is to say, I think one of the key points that was made  
23 throughout the presentations, and I think is probably  
24 reinforced by the master plan, is that there is a certain  
25 quality of a development that's expected -- that's anticipated

1 on this site and throughout the community. They are upgrading  
2 the current housing product to be more consistent with the  
3 current market for housing, and more able to support long-term  
4 development of individual families. And so as such, it should  
5 be considered on a -- although the overall site plan is very  
6 laudable, when I think when you get down to it, it's going to  
7 be how well each lot functions as to how well the development  
8 overall will succeed in the future.

9 We have particular concerns about lots 30 through  
10 31. I think the product overall again in the development is  
11 very adequate, and I think they've set a good standard for  
12 future developments in the future, in terms of providing a  
13 semblance of a entrance into a nice development as depicted by  
14 the pictures that are scattered around by the applicant, and a  
15 useable rear area for open space and use by the applicants, by  
16 the future tenants or residents.

17 Our concern would be that a 1.0 FAR which only  
18 would match the needs of all the other lots that are in the R-  
19 5-A, should be the maximum that is allowed in terms of a  
20 variance, because we feel that what this allows would be --  
21 what this would allow would be that the typical floor plate or  
22 site design on each lot should be continued through 30 to 34,  
23 which in our mind would simply require shifting of the  
24 connecting alley between the two legs around the open space to  
25 be moved further west.

1                   On visiting the site, we noted that the open  
2 space itself is rather unusual. It is triangular in shape, but  
3 it's also fairly steep. I really don't think it's going to be  
4 open space where people are going to be able to play on a  
5 regular basis. At best, it will be a tot lot, and actually it  
6 could be smaller, and allowing the individual lots to have more  
7 open space for their personal use. So with that in mind, the  
8 Office of Planning made a recommendation to support the request  
9 for variances; the variance from the FAR and the lot occupancy  
10 to a 1.0 and a .5 as noted for the noted lots that need that  
11 variance; that is to say, the corner lots that don't need the  
12 variance, we shouldn't get those. And to approve the --  
13 recommend approval of the proposed theoretical subdivision for  
14 the 12 lots that are redeveloped around the private street.

15                   We also noted that there was -- there appears to  
16 be a requirement for a front yard, an open space in front of  
17 the building of 20 feet. The attorney representing the  
18 applicant indicated that his interpretation that that space is  
19 really just a requirement for open space in front of the  
20 building which could be -- could extend into the right of way,  
21 I checked with the Office of Zoning, and the Zoning  
22 Administrator, and they are -- they indicated that this -- that  
23 they are in -- in practice that open space is treated as a  
24 front yard requirement, so it has to be on the particular lot.

25                   In any case, the Office of Planning would hope

1 that any adjustments made to those lots would provide the 20  
2 feet which would be consistent with all the other lots in the  
3 property, and therefore, it would provide a sufficient and  
4 equivalent product for all future purchasers in this  
5 subdivision.

6 With that, I'll close by remarks and ask if you  
7 have any questions.

8 CHAIRPERSON REID: Board Members, questions for  
9 Office of Planning? Okay. Ms. Renshaw.

10 MS. RENSHAW: Yes. On page 11, you said:

11 "In summary, the Office of Planning staff  
12 determined that the proposed front yard of  
13 several lots would not meet the required depth of  
14 20 feet, and that final approval of this  
15 application should be deferred until receipt of a  
16 final plan reflecting the recommended changes."

17 Do you still stand by --

18 MR. JACKSON: Well, this is all, of course,  
19 contingent on what the Board of Adjustment decides. If the  
20 Board decides to approve the proposal as submitted, of course,  
21 no plans would have to come back. But if you wanted to approve  
22 it with a condition that certain conditions are met, I think  
23 the record should be at least left open so the revised plan  
24 could be added to the record.

25 MS. RENSHAW: Okay.

1 MR. JACKSON: So that those could be two other  
2 options, of course.

3 CHAIRPERSON REID: Okay. Questions?

4 MR. GRIFFIS: I'm not sure if I missed this, but  
5 a quick question. You are also recommending that the maximum  
6 allowable FAR be increased to 1.0; correct?

7 MR. JACKSON: That is correct.

8 MR. GRIFFIS: Which would mean the proposed lots  
9 or units 30 through 34 -- actually it would be proposed lots  
10 31, 32, and 33 would need to be reduced.

11 MR. JACKSON: They need to be enlarged.

12 MR. GRIFFIS: I'm sorry. The building FAR would  
13 need to be -- as proposed by the applicant would need to be  
14 reduced to meet 1. As I'm reading their application, they are  
15 -- the FAR would be 1.183.

16 MR. JACKSON: Right. The lot would have to be  
17 enlarged or the building could be reduced.

18 MR. GRIFFIS: Okay.

19 MR. JACKSON: We were anticipating the lot would  
20 be enlarged by relocation of -- by some method, possibly the  
21 relocation of the service alley immediately behind those units  
22 -- I'm sorry -- those dwellings.

23 CHAIRPERSON REID: Okay.

24 MS. RENSRAW: I have another question. This is  
25 in regard to Exhibit Number 8, the Department of Public Works

1 report, where it states that:

2 "The project will generate approximately seven to  
3 nine vehicle trips during the a.m. and p.m. peak  
4 hours."

5 And I would like to know if the Office of  
6 Planning has any thoughts as to how that calculation came  
7 about; Exhibit 8?

8 MR. JACKSON: My assumption is that the -- they  
9 went to the recognized standard for traffic generation, took  
10 the number of units that are in the property, and determined  
11 what the annual -- the daily peak would be for such a  
12 residential development; so it was -- this would assumingly be  
13 the result of a typical mathematical calculation, based on the  
14 proposed site plan, which I've provided a reduced copy of.

15 MS. RENSHAW: And this is based on the 25  
16 townhomes.

17 MR. JACKSON: Yes. Well -- yes.

18 MS. RENSHAW: All right. Well, in any case, I  
19 just wish that DPW had indicated how it arrived at those  
20 figures, because I would think that that's low; but that's just  
21 my guess.

22 MR. JACKSON: The -- this -- I've seen a number  
23 of these calculations, and generally for a residential --  
24 single family residential development, the numbers are not as  
25 surprising as you would see it as an apartment situation.

1 I would also note that the response from the  
2 Department of -- the police department I believe, concerning  
3 the 75 feet; I would have to check with them, but I believe  
4 they may have been thinking this was a two-way street, and had  
5 been -- and looking at the possibility of having parking on  
6 both sides of the street. I'm not sure if they were clear that  
7 this was a one-way street and that it would have parking on one  
8 side, but I would have to verify that.

9 MS. RENSHAW: Well the captain who responded in a  
10 letter dated May 16 cited DC Code Title 7-444; that:

11 "Pursuant to this Section, in any one block  
12 length a minor street shall be 75 feet wide."

13 And then goes on to say:

14 "This requirement would ease parking problems in  
15 the area, and accommodate access of public safety  
16 vehicles."

17 MR. JACKSON: I guess the only thing I could  
18 compare that to is the surrounding streets are not nearly that  
19 wide, although they are fairly old. And unfortunately since I  
20 did not get a response back from the Department of Public Works  
21 to my particular request for information about whether or not -  
22 - what would be required for this to become a public street; I  
23 would hazard a guess that a private road may not be required to  
24 meet as stringent a standard as a public street. But again, I  
25 have no additional information to add to what was submitted by

1 the fire department.

2 CHAIRPERSON REID: Ms. Pruitt, make that  
3 acknowledgement on the record to basically coincide with what  
4 Mrs. Renshaw had just said.

5 MS. PRUITT: I just wanted to note for the record  
6 if you look at your site plan, the surrounding streets such as  
7 Stanton Road, Douglas Road have a 50 foot right-of-way and  
8 Howard Street.

9 CHAIRPERSON REID: And those are major streets.

10 MS. PRUITT: And those are the perimeter streets.  
11 I don't see one on Pomeroy Road but -- just for the record.

12 CHAIRPERSON REID: So we still don't understand  
13 this request from the Department of -- the police department  
14 which we'll -- let us go through the various segments and then  
15 we can try to address it. Now for Mr. -- I'm sorry. For the  
16 Office of Planning --

17 MS. PRUITT: Jackson.

18 CHAIRPERSON REID: Mr. Jackson, basically the  
19 questions that are coming at you are those that have been  
20 submitted by other departments; and I guess when we get -- we  
21 could kind of like go over the submissions by the other  
22 departments and see if we can make some sense out of it.

23 Okay. For example, the Office of -- I mean, the  
24 Department of Public Works' submission which they basically  
25 approve of the application; but they also raise -- just one

1 second. Let me get my report.

2 Okay. The Office of Planning, the report by Mr.  
3 Layden (phonetic) cited that they have no objection to the  
4 overall project. And it said that it had -- that the applicant  
5 will at least provide one parking garage in the rear lot for  
6 each townhome as required by the zoning regulations. Now that  
7 kind of throws me a little bit, because my understanding was  
8 that some -- you were going to provide the parking garages in  
9 the rear, but some were not.

10 MR. LOPIANO: Parking pads rather than parking  
11 garages.

12 CHAIRPERSON REID: Okay.

13 MR. LOPIANO: Every house meets the requirement  
14 for an off-street parking space.

15 CHAIRPERSON REID: So where he's saying garage,  
16 some of them will just have the pad.

17 MR. LOPIANO: Right.

18 CHAIRPERSON REID: I suppose.

19 MR. LOPIANO: Yes, that's --

20 CHAIRPERSON REID: So basically I think that --  
21 the objective here was look at the impact as far as traffic and  
22 parking was concerned, and pad or garage, I would assume that  
23 would meet that concern.

24 Okay. And then getting to the police report;  
25 this issue about the road being 75 feet wide for a minor

1 street, perhaps someone else here -- one of my colleagues can  
2 help throw some light on this, because as Ms. Pruitt pointed  
3 out, the major roads are 50 feet, and -- 50 feet wide, and I  
4 don't know -- I don't understand why the police department is  
5 stating that there's a requirement that they be -- for the  
6 minor street be 75 feet wide. Does anyone know or understand  
7 what that -- how that came about?

8 MR. KEYS: I'm not sure where the comment came  
9 from. I understand --

10 CHAIRPERSON REID: Are there assumptions that we  
11 can make here? Ms. Sansone, what do you think?

12 MS. SANSONE: Madam Chair, it's not clear to me.  
13 The Board could request clarification from the police  
14 department if you think that's appropriate.

15 CHAIRPERSON REID: It seems to be a  
16 contradiction. All right.

17 MR. KEYS: I think the issue is it's not a public  
18 street.

19 CHAIRPERSON REID: Right. My --

20 MR. KEYS: And I think the specification he's  
21 referring to, if anything is a city requirement for a  
22 particular kind of street, a public street. We're not there.  
23 This is a private street. It's got a 46 foot road bed --

24 MR. LoPIANO: No, right-of-way.

25 MR. KEYS: Right-of-way which allows for --

1 MR. LoPIANO: At least when we were --

2 CHAIRPERSON REID: It said -- that's right.

3 Excuse me one second.

4 MR. LoPIANO: Sure.

5 CHAIRPERSON REID: It states here that:

6 "However, additional parking requirements for the  
7 proposed townhomes would be severely restricted  
8 by a 46 foot roadway."

9 That is what we're bringing out, because of the  
10 fact that these applications are referred to various  
11 governmental entities to give us some feed back. And when we  
12 get things back we can't just overlook them and just, you know,  
13 not take into account what's being proffered to us. And this  
14 is what we're just trying to get clarification of. But I think  
15 that in the interest of time and the fact that there is not  
16 going to be any closure on it today, I don't think; we could  
17 ask for some further clarification from the police department  
18 and see how that -- see if it can be reconciled. Okay.

19 MR. JACKSON: Madam Chair.

20 CHAIRPERSON REID: Yes.

21 MR. JACKSON: Just as a point of clarification;  
22 this is probably a question that's better answered by the  
23 Department of Public Works since they have the actual  
24 responsibility for roads and improvement.

25 CHAIRPERSON REID: Okay. All right.

1 MR. JACKSON: And I can attempt to call -- well  
2 it would probably be difficult to get in touch with anybody on  
3 a moment's notice to clarify that. I think the Office's  
4 representative is correct in that the -- they appear to be  
5 referring to a section dealing with -- well it just needs to be  
6 clarified, and the body that actually should look at this would  
7 be DPW.

8 CHAIRPERSON REID: All right. You know, I kind  
9 of wondered why the police department was getting into this,  
10 because basically the things that we want to hear, and they did  
11 say that based on my review the area that the addition of 12  
12 townhouses will not significantly increase the demand for  
13 police services, and that's signed by Jerry O'Brien as the  
14 captain, and which is the type of things we wanted from them.  
15 But they got a little deeper into this other area, and that's  
16 what's kind of thrown us, so we will seek and get a  
17 clarification.

18 MR. KEYS: I'm not suggesting you disregard the  
19 report, but if you're seeking clarification of the police  
20 report from DPW, you have a DPW report.

21 CHAIRPERSON REID: It doesn't speak to this. We  
22 know that, Mr. Keys. Thank you, but it doesn't speak to this  
23 issue. Okay. Thank you.

24 MR. KEYS: I'd like to respond to the Office of  
25 Planning report.

1 CHAIRPERSON REID: Okay. Well, no. No, not at  
2 this time. You can do that in closing remarks. If you have  
3 any questions of the Office of Planning you may do so.

4 MR. KEYS: No, I don't.

5 CHAIRPERSON REID: No questions. Okay. All  
6 right. Then is that all the government reports except for ANC.  
7 All right. We did not receive a report from the ANC, however  
8 is there anyone here representing ANC? Then the assumption is  
9 that if in fact we don't hear from the ANC, that they don't  
10 have any objection because if they did, they certainly would  
11 let us know about it.

12 MR. LoPIANO: I think we could at least report to  
13 you on our contact with the --

14 CHAIRPERSON REID: Okay.

15 MR. LoPIANO: Advisory Neighborhood Commission  
16 that we made a presentation to the ANC 8-A --

17 CHAIRPERSON REID: Uh-huh.

18 MR. LoPIANO: -- Thursday.

19 MS. RENSHAW: May 17th?

20 MR. LoPIANO: Yes, that would be correct.  
21 Thursday, May 17th. Thank you. And we made a presentation,  
22 and they did take a vote, and the vote was four in support and  
23 one abstention.

24 CHAIRPERSON REID: Okay.

25 MR. LoPIANO: They told us they would be getting

1 a letter to you but clearly they --

2 CHAIRPERSON REID: They just haven't probably  
3 haven't gotten it in yet being the holiday and everything.  
4 Nonetheless, I will make note of what you said, and again we  
5 don't have anything opposing the application, so obviously the  
6 assumption is that they don't have a problem with it.

7 Okay. Persons in support of the application.

8 MS. JOHNSON: Lendia Johnson.

9 CHAIRPERSON REID: All right. You want to come  
10 forward. Give your name and address please, ma'am.

11 MS. JOHNSON: Good morning. My name is Lendia  
12 Johnson.

13 MR. HART: Just so her testimony is official, I  
14 don't think she was sworn in.

15 CHAIRPERSON REID: Oh, you were not here when  
16 they were swearing in?

17 MS. JOHNSON: No, ma'am.

18 CHAIRPERSON REID: Thank you very much, Mr. Hart.

19 MS. JOHNSON: Do you want me to come up there?

20 MR. HART: No, please raise --

21 MS. JOHNSON: Okay.

22 (Witness sworn.)

23 CHAIRPERSON REID: Go ahead.

24 MS. JOHNSON: Good morning. My name is Lendia  
25 Johnson. I live at 1512 Howard Road, Southeast. I've been

1 there for 26 years.

2 CHAIRPERSON REID: Okay.

3 MS. JOHNSON: Okay. I come to support the  
4 application for the townhomes on Howard Road because I've been  
5 an integral part of the planning --

6 CHAIRPERSON REID: Uh-huh.

7 MS. JOHNSON: -- for these townhomes since 1995.  
8 We had a shurette at the Douglas Junior High School where  
9 about 15 agencies came together to pull the community together  
10 to talk about how we develop a master plan for our community to  
11 get rid of the -- you know, some of the apartments that was  
12 there, and had a lot of blight.

13 There was no recreation centers. There were no -  
14 - the homeowners -- where I live is the homeowner's side, and  
15 then you have this large apartment complex side, so we voted to  
16 have these townhouses added, to do something about the shopping  
17 center next door to the townhouses, to do something about  
18 Sheraton Terrace which had a lot of -- well they were just  
19 abandoned buildings and there was no residents living there.  
20 And they also did something about Washington View that had a  
21 lot of buildings to be completed. So in our neighborhood plan  
22 -- master plan, we decided on things like what type of  
23 education programs we wanted to see at our Junior High School  
24 which was there at the time. How we wanted these townhouses to  
25 look. How we wanted the shopping center to be because we

1 wanted entrance off of Stanton Road instead of off of Howard  
2 Road; so the community was involved from the beginning. We  
3 formed a collaborative with the agencies, with the developers  
4 and the residents so that we had a continuous stake in how  
5 things were going to work.

6 I also participated in focus groups when it came  
7 down to the -- how the garages are going to be back in the  
8 rear, because I was very concerned about that because on Howard  
9 Road -- Howard Road is a two-way street, and traffic is  
10 notorious for coming back and forth, and parking is limited on  
11 those streets; so we wanted the garages to be in the back so  
12 that it wouldn't have to be any trash collections in the front,  
13 any -- you know, so that they could have alleys the way we have  
14 alleys on the other side of the street. So we want -- and we  
15 wanted to make sure that there was brick facades so that they  
16 wouldn't have wood and we would have brick, you know, aluminum  
17 siding, that kind of thing. So we participated in all aspects  
18 of the plan for these townhomes, and we -- and in fact after we  
19 had the shurette we developed -- the folks on the residents  
20 side -- I mean the homeowner's side decided to form an  
21 organization called Neighborhood Club 81 so that we would have  
22 input into all the aspects of the development. And there was  
23 about -- there's about at least 20 to 25 members that  
24 participated in the shurette and in the other activities that -  
25 - from like '85 up until -- I guess we haven't met in about

1 eight months or so, so that's where I'm at. Is there any  
2 questions?

3 CHAIRPERSON REID: Thank you, Mrs. Johnson.  
4 Board Members, do you have questions of this witness? Okay.  
5 Thank you very much.

6 MS. JOHNSON: Thank you.

7 CHAIRPERSON REID: Also, we did have a letter  
8 from the Department of Housing Community Development in support  
9 of this application. Basically in pertinent part, it's letter  
10 from Milton Bailey, Director, and it's dated March 28th, and it  
11 says basically that the ACD supports the issuance of special  
12 exceptions to allow the construction of 18 townhomes in the R-  
13 5-A area lot occupancy. Variances for 12 lots -- for 12  
14 theoretical lots in the R-4 and R-5-A zoning districts.

15 I don't think there's anyone here in opposition.  
16 We have no letters of opposition so we could move now to  
17 closing remarks by the applicant.

18 MR. KEYS: Thank you, Madam Chair. I think I'd  
19 like to divide my closing remarks into a couple of sections.  
20 The first section I'd like to respond to one issue raised by  
21 the Office of Planning. Actually both issues apply to the  
22 Office of Planning.

23 The first -- the Office of Planning appears to  
24 come to a conclusion that there's somehow a front yard  
25 requirement established by the theoretical lot requirements set

1       forth in 2516.5. And I would simply have to ask the Board if  
2       you would -- you know, refer to the regulation in question.  
3       And I think it's very clear that there is no front yard  
4       requirement in R-5-A first. Secondly, that what this says is  
5       you provide open space. And I think the intent is in the  
6       context of a theoretical lot where you have no street frontage  
7       by definition, the concern is that an entrance to a building  
8       could be placed facing a brick wall that would not provide  
9       light and air.

10                       It's an aesthetic issue. It's a design issue.  
11       In this case, the applicant has located the front entrance for  
12       these townhomes, 30 through 34, with an eight foot front yard,  
13       a 46 foot right-of-way, and the 20 foot yards of the properties  
14       across, there's a 74 foot open space at the front entrances of  
15       these homes. And to emphasize the fact that the regulation  
16       doesn't speak of front yard, if they wanted to, it could have.

17       And it's clear because if you turn the page on 2516.5 and look  
18       at number C, the regulation says very clearly; "And a rear yard  
19       shall be required."

20                       If it had wanted to impose a front yard  
21       requirement, the regulation could clearly have done so. And I  
22       haven't spoken to the zoning administrator. I don't know his  
23       interpretation but I think the regulations are plain and speak  
24       for themselves. There is no front yard requirement in R-5-A.  
25       The applicant has met the intent of these regulations, the

1 letter of the regulations for theoretical lots.

2 With regard to the other issues by the Office of  
3 Planning, the suggestion is that what the applicant should do  
4 is stretch the rear yards of 35 -- 30 through 34 in an effort  
5 to make the FAR meet the standard that they have decided is  
6 appropriate of 1.0. The consequence of doing that -- it can be  
7 done. The consequence of doing that is you create an elongated  
8 narrow yard with a stretched concrete driving pad. That would  
9 come at the detriment of the open space, because the only way  
10 you could do that is to shrink the open space that we've  
11 provided, the landscape space and create a longer yard. How  
12 much longer? We calculate 10.88 feet -- call it 11 feet.  
13 You're adding 11 feet to the rear yards, half of which would be  
14 occupied by a parking pad and the drive for the parking pad.

15 I'm not sure that that achieves anything if the  
16 consequence of that is you're reducing the open space available  
17 to the community. It can be done but I'm not sure that meeting  
18 that rather arbitrary 1.0 accomplishes anything. The Office of  
19 Planning concedes that we're entitled to the variance relief.  
20 We have satisfied the criteria for variance relief, but yet  
21 wants to narrow the variance. And I think we've made the case  
22 that these particular units are designed under the constraints  
23 of the entire site, and I think the applicant is willing to  
24 accept either suggestion. I just can't see the reason for  
25 elongated -- further elongation of the yards.

1                   And finally I'd like to try to sum up the  
2 application.    The application had a number of components,  
3 special exception relief, variance relief.  I'd like to touch  
4 on the variance relief first.

5                   In this situation we have talked about the zoning  
6 oddity of this site, the fact that we're dealing with three  
7 zones on the site overall, two zones in this application.  We  
8 also discussed the surrounding street geometry and the  
9 configuration of this site, it's wedge shape, which dictated  
10 certain kinds of planning decisions.

11                  Also, we discussed and described the topography  
12 of the site, which sloping in two directions made the provision  
13 of garage units, the location of garage units, how you design  
14 units and roadways more difficult.

15                  All of these factors we think combine together to  
16 create the exceptional condition in this land, inherent in this  
17 land that justifies the variances.  This variance can be  
18 accomplished without detriment to the zoning plan.  It is  
19 certainly consistent with the City's plans for the area since  
20 it is acknowledged for a long time that Ward Eight is over-  
21 built with garden apartments.

22                  We have succeeded in removing a blighted  
23 apartment dwelling.  We've replaced it with a lower density  
24 residential home ownership development.  Affordable housing is  
25 a key issue in this part of the area, and I think that Chris

1 LoPiano and Stanton Road Housing are providing exactly what the  
2 comprehensive plan and the city plan calls for.

3 With regards to the special exception relief; our  
4 special exception relief is derived under Section 410 for the  
5 R-5-A review, and the only standard that I would draw the  
6 Board's attention to is 410.12 which essentially provides that  
7 the Board has the authority to grant R-5-A approval for a group  
8 of one family dwellings, if compliance with Section 410.4 and  
9 410.5 are achieved.

10 410.4 says that there's no rear or service  
11 entrance abutting a street, front yard; and Section 410.5 is no  
12 exterior stairway located above the level of joists of the main  
13 floor. And I think neither of those is implicated in this  
14 design, and I think we've satisfied the requirements for R-5-A  
15 review for this project.

16 The final issue is the theoretical lots. And I  
17 think I discussed in my response to the Office of Planning that  
18 I think we're fully in compliance with 2516.5 in these  
19 theoretical lots. The front is the main entrance. It's  
20 oriented toward a private street. Open space is maintained,  
21 and we have provided rear yards in compliance with the  
22 regulation.

23 And that, Madam Chair, concludes my remarks. I  
24 would also have to ask -- I was going to request that this  
25 application seemed extremely appropriate for bench decision and

1 summary order; however, I realize that with the decision to  
2 refer this matter back to DPW for further reflection on the  
3 police department's report, that it may not be appropriate.

4 CHAIRPERSON REID: Well let's see what we can do.  
5 I wouldn't rule it out. I would not rule a decision today  
6 out, so I would -- if I were you, I would not --

7 MR. KEYS: I withdraw what I just said then.

8 CHAIRPERSON REID: Okay. All right. Let us try  
9 to work this out the best we can.

10 MR. KEYS: Please.

11 CHAIRPERSON REID: Since we have gotten some  
12 additional information since we were speaking from staff, and  
13 that may perhaps clarify things for us.

14 MR. KEYS: Okay. And I think Mr. LoPiano has  
15 something he wanted to add.

16 CHAIRPERSON REID: Sure.

17 MR. LOPIANO: If you would indulge me for a  
18 moment; we've spent a good deal of time on the site plan. It's  
19 a very difficult site, and one of the issues that we talked  
20 about a great deal was the location of that connected alley.  
21 Once it went to a two alley system, that connected alley. And  
22 I would point out a couple of things.

23 To meet either the police department's  
24 requirement, or suggestion, recommendation of a wider street or  
25 to make the front yards wider, the affect of that would be to

1 lose units 30 and 34. They are as tight as -- just about as  
2 tight as they can get. You push those houses back to  
3 accommodate a deeper front yard, and they conflict with the  
4 alley, and you lose them.

5 The other piece, where the location of that alley  
6 relative to the rear yards; we've provided a 20 foot rear yard  
7 which is what the standard is. And I think as Ray pointed out,  
8 if we move that alley back, we can meet the intent of the lot  
9 occupancy and FAR requirements. We can definitely meet the  
10 letter of the law, but I don't think we meet the intent.

11 We're not making the project less dense by doing  
12 that, and we're not increasing the green space. In fact, we're  
13 reducing the green space. As we make those back yards longer,  
14 we make the 10 foot wide drive longer, and we're actually  
15 reducing green space. We're not increasing open area, so we  
16 meet the letter of the requirement, but it seems to me to be a  
17 bad trade-off from a planning stand point.

18 We reduce the green space, the recreational green  
19 space, the common area. We increase the length of a rear yard,  
20 but we're increasing -- we're making a narrow rear yard longer.

21 CHAIRPERSON REID: Okay.

22 MR. LOPIANO: And finally, the issue about the  
23 steepness of the common area, I respectfully disagree with the  
24 Planning Office on this. It's an eight percent grade. I would  
25 not describe that as steep; and certainly in my development

1 experience, just directly across the street. If the  
2 homeowner's association said they wanted play equipment back  
3 there, for instance, that is not a grade that presents a  
4 problem for placing play equipment, or for picnic tables if you  
5 were willing to do just a slight bit of terracing; so I don't  
6 think it is -- an eight percent grade is not something that  
7 could be worked with from a recreational stand point.

8 CHAIRPERSON REID: Okay. Summarize for me the  
9 areas -- again the areas that you disagree with the Office of  
10 Planning report. Number one.

11 MR. KEYS: The first area is that we do not  
12 believe that there's a rear -- a front yard requirement imposed  
13 by 2516.5.

14 CHAIRPERSON REID: So that you --

15 MR. KEYS: That's an open space requirement and  
16 we meet that. In other words, the open space we're providing  
17 is at least as large as the rear yard requirement for the --

18 CHAIRPERSON REID: So you're saying that you  
19 comply with that.

20 MR. KEYS: We comply with that. That's a  
21 misreading of the regulation.

22 CHAIRPERSON REID: Okay. All right. And the  
23 second?

24 MR. KEYS: The second issues are the Office of  
25 Planning wants to limit the variance to a 1.0 FAR, and a 50

1 percent lot occupancy. Essentially, it's saying you have to do  
2 something with Lots 31, 32 and 33. The only practical thing  
3 that could be done in response to that is to move the rear lot  
4 line back at least 11 feet, which would give enough area to  
5 meet both the FAR and the lot occupancy requirement. Doing  
6 that we think represents, as Mr. LoPiano has stated; it's a bad  
7 trade-off.

8 CHAIRPERSON REID: And you recommend?

9 MR. KEYS: We recommend the site plan as is.

10 CHAIRPERSON REID: As presented.

11 MR. KEYS: Because it preserves the largest  
12 amount of the green space. We aren't improving the utility of  
13 the space for the residents of those houses by stretching them  
14 10 more feet.

15 CHAIRPERSON REID: Okay. And then there was a  
16 third one?

17 MR. KEYS: Well the two --

18 CHAIRPERSON REID: The third --

19 MR. KEYS: FAR and lot, I consider that both are  
20 together.

21 CHAIRPERSON REID: Okay. But then the other one  
22 was with regard to the police report.

23 MR. KEYS: Well, the police report; I mean, we  
24 think that the -- that as a private street we're providing an  
25 adequate means of access. We're providing off-street parking.

1 We're providing street parking.

2 CHAIRPERSON REID: Okay.

3 MR. KEYS: It's a plan that works for this site.

4 CHAIRPERSON REID: Okay. All right. Thank you  
5 very much. Now Board Members, discussion in regard to, number  
6 one, the area -- the issue regarding the front yard  
7 requirement. Is that or is that not required? Is that -- the  
8 question was whether or not the applicant does not?

9 MR. JACKSON: Madam Chairman, just a point of  
10 clarification. The applicant really hasn't requested a  
11 variance for that provision. That's something the Office of  
12 Planning mentioned, so really as per the application, that's  
13 not really on the table.

14 CHAIRPERSON REID: So that requires another  
15 variance?

16 MR. JACKSON: If it was to be applied, it would  
17 require a variance, but the applicant has indicated that they  
18 don't feel that that is the case; and they haven't requested  
19 it. The Office of Planning mentioned it as part of their  
20 analysis of the site, so that's not really on the table at this  
21 time.

22 CHAIRPERSON REID: Well, yeah; but the question,  
23 Mr. Jackson, is simply this; if the applicant feels that they  
24 don't need it, and you're saying that they do --

25 MS. PRUITT: Madam Chair.

1 CHAIRPERSON REID: Yes.

2 MS. PRUITT: This application was self-certified,  
3 so the applicant -- I'm assuming, and I've talked with Mr. Keys  
4 on this, and I know he's been in touch with both myself and  
5 Gerald Lee.

6 CHAIRPERSON REID: Uh-huh.

7 MS. PRUITT: They then have made a decision that  
8 it isn't necessary.

9 CHAIRPERSON REID: Uh-huh.

10 MS. PRUITT: They still have to get their  
11 building permits.

12 CHAIRPERSON REID: Okay.

13 MS. PRUITT: If for some reason the zoning  
14 administrator agrees with OP, they will just be back.

15 CHAIRPERSON REID: Okay.

16 MS. PRUITT: I mean that's --

17 CHAIRPERSON REID: So it's a moot point.

18 MR. JACKSON: Yes.

19 CHAIRPERSON REID: All right. Then in regard to  
20 the 1.0 FAR? Discussion.

21 MR. PARSONS: Madam Chair, I must say that in  
22 both of these instances, the police request and the Office of  
23 Planning, that I would concur with the applicant. I think that  
24 they're very persuasive here this morning, and I'm prepared to  
25 move for approval at the appropriate time.

1 CHAIRPERSON REID: Well, okay.

2 MR. PARSONS: I would move then approval of the  
3 application as submitted.

4 CHAIRPERSON REID: All right. Is there a second?

5 MS. HINTON: I'll second.

6 CHAIRPERSON REID: Discussion.

7 MS. RENSHAW: All right. I would still like to  
8 have in the record the information from DPW regarding the  
9 street matter. I think that this should be referred back since  
10 there is a question that was raised by the police; a suggestion  
11 to have the width of that private street be 75 feet. And for -  
12 - I just would like to have that clarified for the file, and  
13 our records.

14 CHAIRPERSON REID: All right. Also while we were  
15 in session, there was a -- the information that was given to us  
16 by the staff; Ms. Sansone, have you had a chance to look at it,  
17 because I think -- I haven't -- although it was given to us, I  
18 mean it's legalistic so therefore we really haven't had a  
19 chance to fully read it and digest it. But you know, as far as  
20 this then brings the closure to that issue?

21 MS. SANSONE: Madam Chair, I'm just looking at  
22 this now for the first time. It's a provision from D.C. Code.  
23 I think it's the provision the police cited; Title 7, Section  
24 44.

25 CHAIRPERSON REID: Uh-huh.

1 MS. SANSONE: Relating to minor streets; and I'm  
2 just not familiar with this section of the Code and how it's  
3 interpreted. I think it would certainly be appropriate to ask  
4 DPW and perhaps even the police to, you know, explain what  
5 their intent is and satisfy themselves. I'm not sure this is a  
6 minor street. Maybe a private street is not a minor street. I  
7 just don't know.

8 MR. PARSONS: This Code, 7:444, is if these  
9 gentlemen wanted to dedicate this street as a public street,  
10 these are the requirements. The case here is it's a one-way  
11 street, and very limited traffic on it.

12 CHAIRPERSON REID: And private.

13 MR. PARSONS: And private.

14 CHAIRPERSON REID: Uh-huh.

15 MR. PARSONS: And 20 feet seems adequate to me,  
16 so I don't see any need to --

17 CHAIRPERSON REID: I'm fine with it. My only  
18 concern was that is it a decision that we can make; and if we  
19 can make it, then we can just go ahead with it. I have no  
20 problem with that.

21 MR. PARSONS: I hope so.

22 CHAIRPERSON REID: As long as it's correct  
23 procedurally. All right. Any further discussion? We -- I  
24 concur with my colleague, Mr. Parsons, that the applicant has  
25 met its burden of proof in regards to the special exception and

1 to the variance; that there has definitely been demonstrated  
2 they meet -- that there is -- the property is unique and  
3 unusual in its shape and topography. That it also poses a  
4 practical difficulty in meeting the existing zoning  
5 regulations, that there is no adverse impact. That it enjoys  
6 the support of the community as well as the ANC, as well as  
7 Office of Planning, and Department of Housing Community  
8 Development.

9 As I said, there was no opposition to this  
10 project, and as in the previous application, appears to be just  
11 inverse where it is relieving some of the blight in Ward Eight.

12 And certainly we like to see a collaborative effort, where the  
13 community and developers are working together to try to bring  
14 about change, positive change. And it would be my  
15 recommendation as well that this application go forward. All  
16 in favor.

17 (Vote.)

18 MS. RENSHAW: I'm abstaining because I really do  
19 feel that this question of the street width should be addressed  
20 by DPW. I would feel much more comfortable having some  
21 information in the record about it from DPW and MPD. And  
22 unfortunately, I would like to get behind this project because  
23 it looks to be extremely worthwhile, but I don't feel that the  
24 record is complete, and I don't want to vote on it in the  
25 affirmative unless it were so.

1 CHAIRPERSON REID: Okay.

2 MR. HART: The staff would report the vote as  
3 four to zero to one. Motion made by Mr. Parsons, seconded by  
4 Ms. Hinton, Ms. Renshaw in opposition.

5 MS. RENSRAW: I'm abstaining.

6 MR. HART: Abstaining. I'm sorry.

7 CHAIRPERSON REID: She's not in opposition. The  
8 last part of that test I don't think I mentioned was -- the  
9 vote is already taken for this; as an aside, that it does not  
10 impair the integrity and intent of the zoning regulations or  
11 the map, and that certainly seems to be well in compliance with  
12 -- in agreement with the comprehensive plan; particularly as to  
13 the affordable housing and home ownership piece which I think  
14 it's great. It's a good project. Glad to see it come on  
15 board.

16 MR. KEYS: All right. Thank you very much.

17 MS. HINTON: Madam Chair, on behalf of the Board,  
18 I would just like to thank the Office of Planning for the very  
19 thorough report on this project. They went through all of the  
20 conditions very succinctly for us, and it was of great value to  
21 me in reviewing the project.

22 CHAIRPERSON REID: I agree with you. And Mr.  
23 Jackson, we also take note of the fact that this was not an  
24 easy -- although it was simplistically put here this morning,  
25 it was a very complicated project, and you did do a very good

1 job.

2 MR. JACKSON: Madam Chairman, I appreciate your  
3 comments, but I did have one question. The engineer for the  
4 applicant provided a summary of the FAR -- the variance -- the  
5 FAR that we needed for each lot. I was wondering how -- in  
6 what form did you want to make this approval; would that be an  
7 attachment, because I believe when it comes -- when they go lot  
8 by lot they're going to need to have that information as to  
9 what variance needs to be approved. So I didn't know how --  
10 because the variance varies from lot to lot, so I'm wondering  
11 in what form you would like to record this.

12 CHAIRPERSON REID: I'm not really sure. Ms.  
13 Pruitt, do you have any --

14 MS. PRUITT: No, not directly. I'd have to do  
15 some research.

16 CHAIRPERSON REID: All right. Go over to Ms.  
17 Sansone.

18 MR. JACKSON: One suggestion I might have would  
19 be to allow the attorney to work with the surveyor -- with the  
20 engineer to perform a table similar to what -- the one that I  
21 put --

22 CHAIRPERSON REID: A matrix?

23 MR. JACKSON: Yes.

24 CHAIRPERSON REID: Okay.

25 MR. JACKSON: That identified how much variance

1 would be required for each lot that you want a variance on, and  
2 that that be made an attachment and submitted when it's  
3 prepared.

4 CHAIRPERSON REID: Okay. All right. Mr.  
5 Griffis.

6 MR. GRIFFIS: Yeah. Just -- I had a  
7 recommendation; perhaps maybe that there's an approval of a  
8 variance to the FAR 21.0 for all of the units except for, and I  
9 don't have it in front of me but the ones that --

10 MR. KEYS: 30 through 33.

11 MR. GRIFFIS: Yeah, 30 through 33; and those  
12 could be done specifically on what the FAR actually is.

13 CHAIRPERSON REID: Okay. That's good.

14 MR. NORRIS: There actually is -- and these --  
15 the numbers that we put together in the form of that table were  
16 based on the lots and the architecture, or if there's -- as you  
17 suggest, if there's some FAR that all the lots meet, or the  
18 three that don't meet it, if we just round those up to some  
19 even number, or some --

20 CHAIRPERSON REID: If you could do that and  
21 submit it to us, give us a time frame now, in the next day or  
22 so because we want it to be --

23 MR. NORRIS: So you can get that and attach it to  
24 the approval document.

25 CHAIRPERSON REID: Absolutely.

1 MR. NORRIS: Yes.

2 CHAIRPERSON REID: Sure.

3 MS. RENSHAW: Madam Chair, could we keep the  
4 record open to receive the ANC report if it does come in to us?

5 CHAIRPERSON REID: Sure. Sure.

6 MS. PRUITT: No. I -- the staff would advise not  
7 keeping the record open. The ANC --

8 CHAIRPERSON REID: Oh, no, no, not -- no, not to  
9 keep the record open. You're right.

10 MS. RENSHAW: Just to --

11 CHAIRPERSON REID: We would close the record, but  
12 --

13 MS. PRUITT: Because if the ANC didn't support  
14 it, it could not come in today and file it, or there's been no  
15 indication that they are; we assume that they won't. There's  
16 no opposition. Leaving the record open like that causes a lot  
17 of problems procedurally.

18 CHAIRPERSON REID: Right. We can close it, and  
19 the fact that we don't -- there is no indication that they're  
20 in opposition to it. And I think the Office of Planning -- you  
21 did speak to them as well?

22 MR. JACKSON: I was able to speak to the Chair of  
23 the ANC, and he didn't vote for it at the time because he had  
24 not read the materials that were provided by the applicant. He  
25 said he did -- he had some other issues that he was going to

1 deal with the applicant directly on. But as per this, he  
2 didn't have any negative comments as per this application.

3 CHAIRPERSON REID: Okay. I think that we can  
4 assume that they're all right with this application. I'm sure  
5 that they want to see positive revitalization occurring in that  
6 community, so I don't think that they would have a problem with  
7 it. Okay. Then that would then conclude this morning's  
8 session. Mr. Keys, you should have the order within three  
9 weeks approximately. And I ask you not to call, but it should  
10 be out about that time frame. Okay. Thank you very much.

11 All right. That concludes the morning session.

12 (Whereupon, at 12:25 p.m. the above-entitled  
13 matter recessed, to reconvene the same day.)

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

CHAIRPERSON REID: Good afternoon, ladies and gentlemen. The hearing will please come to order. This is the May 29th hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Sheila Cross Reid, Chairperson. Joining me today is Anne Renshaw, Vice Chairperson and representing the National Capital Planning Commission is Susan Hinton, and representing the Zoning Commission is John Parsons. Also, this is the first day of our newest member, Mr. Jeff Griffis, and we would like to welcome him to our Board.

Copies of today's cases are available to you. They're located to my left near the door. All persons planning to testify either in favor or in opposition are to fill out two witness cards. These cards are located at each end of the table in front of us. When coming forward to speak to the Board, please give both of those cards to the reporter who is to my right.

The order of procedure for special exception and variances is one statement and emphasis of the applicant. Two, government reports, including Office of Planning, Department of Public Works, et cetera. Three, a report of the Advisory Neighborhood Commission. Four, parties or persons in support. Five, parties or persons in opposition. Six, closing remarks by the applicant.

1                   Cross examination of witnesses through either by  
2 the applicant or parties. The entity within which the project  
3 is located is automatically a party in the case. The record  
4 will be closed at the conclusion of each case, except where it  
5 is specifically requested by the Board, and staff will specify  
6 at the end of the hearing what is expected.

7                   The Sunshine Act requires that a public hearing  
8 in each case be held in the open before the public. The Board  
9 may consistent with this rule and procedure of the Sunshine  
10 Act, enter executive session during or after the public hearing  
11 on a case for purposes of reviewing the record, to deliberate  
12 on the case.

13                   The decision of the Board in these contested  
14 cases must be based exclusively on the public record. To avoid  
15 any appearance to the contrary, the Board requests that  
16 persons present not engage the Members of the Board in  
17 conversation. Please turn off beepers and cell phones at this  
18 time so as not to disrupt these proceedings and put them in  
19 vibrator. We will make every effort to conclude the public  
20 hearing as near as possible to 5 p.m. If the afternoon cases  
21 are not completed at 6:00 p.m., the Board will assess whether  
22 it can complete the pending case or cases remaining on the  
23 agenda.

24                   At this time, the Board will consider any  
25 preliminary matters. Preliminary matters are those related to

1 whether a case fully should be heard today, requests for  
2 postponement, continuance or withdrawal, or whether proper and  
3 adequate notice of the hearing has been given. If you're not  
4 ready to go forward with a case today, or if you believe that  
5 the Board should not proceed, now is the time to raise such a  
6 matter. Does the Board have any preliminary matters? Does the  
7 staff have any preliminary matters?

8 MR. HART: No, Madam Chair.

9 CHAIRPERSON REID: All right. Thank you very  
10 much. Then we'll proceed with the first case. Good afternoon.

11 MR. HART: Yes, there is a preliminary matter on  
12 the first case, case 16706, Massoud Heidary. His property was  
13 not posted. There was no sign or an affidavit of posting as of  
14 close of business on Friday.

15 CHAIRPERSON REID: Sir, could you please sit down  
16 and push the button in front of you, and state your name for  
17 the record, please.

18 MR. HEIDARY: Sure.

19 CHAIRPERSON REID: Thank you.

20 MR. HEIDARY: Good afternoon. My name is Massoud

21 --

22 CHAIRPERSON REID: I'm sorry, sir. You have to  
23 push the button on your --

24 MR. HEIDARY: Good afternoon. My name is Massoud  
25 Heidary. My address is 121 Center Avenue. I personally -- I

1 own the building in 1708 Newton Street, Washington, D.C.,  
2 Northwest with regard to the affidavit paper. Regarding the  
3 affidavit paper, I have a copy of one. I just renew it there.

4 I had the extra picture. I give it to her and she have it,  
5 and I have a copy of it.

6 CHAIRPERSON REID: Well, Mr. Massoud Heidary.

7 MR. HEIDARY: Yes.

8 CHAIRPERSON REID: Still I think what the staff  
9 is telling me is that it had to be posted on -- you had to post  
10 the signs on the property so many days before the actual  
11 hearing; 14 days, Ms. Pruitt?

12 MS. PRUITT: Yes.

13 CHAIRPERSON REID: Fourteen days before the  
14 hearing.

15 MR. HEIDARY: It is there almost 35 days.

16 CHAIRPERSON REID: All right.

17 MR. HART: Mr. Heidary.

18 MR. HEIDARY: Yes. Still paper is signed, posted  
19 there almost 30 days is it, and today we are speaking about now  
20 is there. It still continues there, and the picture I --

21 CHAIRPERSON REID: So you're saying that it is  
22 posted?

23 MR. HEIDARY: Yes, 30 days that it's posted.

24 CHAIRPERSON REID: Oh, okay. I misunderstood  
25 you. I'm sorry. Ms. Pruitt.

1 MS. PRUITT: Well, he may have posted it, but we  
2 don't have the filing of the affidavit, so if you accept that,  
3 you would have to waive the filing time.

4 CHAIRPERSON REID: Well you posted but you didn't  
5 file the affidavit that you had posted it.

6 MR. HEIDARY: Yes, Madam; I did. And I modified  
7 -- today I talking to staff, they say they couldn't find the  
8 paper. I re -- give them the new picture, three picture, the  
9 copy I have, only copy I have for it. They have it there, and  
10 they sign it, and I have one copy of one.

11 CHAIRPERSON REID: Mr. Heidary.

12 MR. HEIDARY: Yes, ma'am.

13 CHAIRPERSON REID: I'm sorry. When you brought  
14 in your original one a while ago that the office says they  
15 can't find, did you get a stamped copy?

16 MR. HEIDARY: That one I don't get the stamped  
17 copy. The reason that timing I came, they was busy. I just  
18 give the picture and that, and the only mistake I did, I did  
19 not notarize it that moment. Probably misplaced because it was  
20 not notarized. Anyway, the issue is not that; the issue is the  
21 neighborhood is here. They can testify that still the sign is  
22 there, so this is not something technically problem, because  
23 the paper is still there. The sign is still there.

24 CHAIRPERSON REID: No, we understand that you  
25 have your property posted.

1 MR. HEIDARY: Yes, ma'am.

2 CHAIRPERSON REID: There's a second part where  
3 you -- that should have been in into the record 14 days in  
4 advance. You're saying you did turn it in but it did not get -  
5 -

6 MR. HEIDARY: Yes, ma'am.

7 CHAIRPERSON REID: When things come in up front,  
8 if it wasn't signed, they probably wouldn't have accepted it.  
9 But if it does come in, it goes directly into the file right  
10 away.

11 MR. HEIDARY: Madam, I don't know your filing  
12 cabinet and what -- you know, anyway it was not there. I  
13 cracked it today. Before hearing is the picture you have, and  
14 the sign still is there; so there is nothing wrong with that.

15 MS. PRUITT: Well that's for the Board to  
16 determine if they'd like to waive the filing time for the  
17 affidavit.

18 MR. HEIDARY: Yes, ma'am.

19 CHAIRPERSON REID: Okay. Excuse me. Did you  
20 wish to say something in the back? You have to come up and  
21 speak into the mike. Give your name. Please give your name.

22 MS. PALANQUA: My name is Lucy --

23 CHAIRPERSON REID: Excuse me; ma'am. Speak into  
24 the mike, please.

25 MS. PALANQUA: Oh, excuse me. Yes. My name is

1 Lucy Minerva Joseph Palanqua. I do live in the property and  
2 the sign was not posted until approximately 18 days ago.

3 MR. HEIDARY: It was there 15 days, if you say 18  
4 days we get your --

5 MS. PALANQUA: You said 30.

6 MR. HEIDARY: No. No.

7 CHAIRPERSON REID: Okay.

8 MR. HEIDARY: No, you're mistaken.

9 CHAIRPERSON REID: All right. Thank you.

10 MR. HEIDARY: So that is one witness. You ask me  
11 about witness; sign is there.

12 CHAIRPERSON REID: Thank you.

13 MR. HEIDARY: Yes.

14 CHAIRPERSON REID: Okay. Now do you wish to  
15 waive the -- okay. Any objection? Are the Board Members okay  
16 then? We would --

17 MR. PARSONS: Only opposition we've got, it's  
18 obvious that the community is well aware of this proposal.

19 CHAIRPERSON REID: All right. Well we will waive  
20 the record to accept your affidavit and --

21 MR. HEIDARY: Thank you.

22 CHAIRPERSON REID: Even though it's late. Okay?

23 MR. HEIDARY: What you want I do? Come back with  
24 --

25 CHAIRPERSON REID: No, no. We will accept it, and

1 you're fine.

2 MR. HEIDARY: Good. Excellent.

3 CHAIRPERSON REID: Just stay right there. Stay  
4 right there. Okay. I'm sorry. Is there another preliminary  
5 matter?

6 MR. HART: Yes, Madam Chair. There are two  
7 requests, or one request from two persons. And maybe Brian  
8 Vertenezian --

9 CHAIRPERSON REID: Do we have that? I don't have  
10 that. Just a moment, please. Let me just see. Oh, yeah; the  
11 residents of the Mount Pleasant North Association; is that what  
12 that -- is this -- I'm sorry?

13 MR. MABLEY: This is the residents of Mount  
14 Pleasant North.

15 MS. PRUITT: I'm sorry, sir. Can you sit down  
16 and turn on your mike on so we get you on record.

17 CHAIRPERSON REID: All right. I do have that.  
18 Okay. Go ahead.

19 MR. MABLEY: Okay. What would you like; just my  
20 name or --

21 CHAIRPERSON REID: Your name. Give your name and  
22 give your address.

23 MR. MABLEY: Stephen Mabley, 3340-17th Street,  
24 N.W.; and I did file for party status with the group called  
25 Residents Mount Pleasant North which we assembled around this

1 issue.

2 CHAIRPERSON REID: Okay. And where are you in  
3 proximity to this particular property?

4 MR. MABLEY: I live two doors south of the  
5 property, approximately 40 feet from the property; 40 to 60  
6 feet, something like that. There's one house intervening  
7 between my property and the Casa Vista property.

8 CHAIRPERSON REID: Okay. And what is your role  
9 in this organization?

10 MR. MABLEY: I'm president of the group. I got  
11 together with my neighbor, Brian Peterkin (phonetic) and  
12 assembled a number of our neighbors who were in opposition to  
13 this, and to the proposed change in use. And so we filed for  
14 party status; and in that letter we delineated our objections,  
15 and I could go over them now.

16 CHAIRPERSON REID: No. We can go over them now.

17 MR. MABLEY: Okay. And we also -- with me I have  
18 Kerri Culhane who we had also in the party application to be  
19 with us here today.

20 CHAIRPERSON REID: So this is an ad hoc group --

21 MR. MABLEY: Yes.

22 CHAIRPERSON REID: -- assembled, and you were  
23 designated as president of the group?

24 MR. MABLEY: That's correct.

25 MR. HEIDARY: Madam, I objection to that. He can

1 just speak for himself because --

2 CHAIRPERSON REID: Okay. Just a moment.

3 MR. HEIDARY: -- it's not --

4 CHAIRPERSON REID: Thank you very much.

5 MR. HEIDARY: You're welcome.

6 CHAIRPERSON REID: Thank you. Do you have  
7 anything that authorizes you to represent the group?

8 MR. MABLEY: We have our -- well we have the  
9 letter which was signed by myself and the other person, and  
10 then we also got additional signature in the intervening time.

11 CHAIRPERSON REID: That basically this authorizes  
12 you to represent the group?

13 MR. MABLEY: It actually -- they signed -- these  
14 individuals signed an agreement to the substance of this  
15 letter; and in this letter I say that I will represent the  
16 group, so yes.

17 MR. HEIDARY: I objection to that, Madam.

18 CHAIRPERSON REID: Okay. Now go ahead.

19 MR. MABLEY: It's Item E; it says that I will  
20 represent the group.

21 MR. HEIDARY: Madam Chairman, I --

22 CHAIRPERSON REID: Just -- you will have an  
23 opportunity to speak; just one second.

24 MR. HEIDARY: Yes.

25 CHAIRPERSON REID: Now what it is that -- we

1 still have the criteria for party status, one of which is how  
2 you -- you've got to demonstrate to us how you feel that you  
3 are more effected or more aggrieved than anyone else in the  
4 community or the neighborhood by this particular application.

5 MR. MABLEY: That's right. Yeah. In the letter  
6 -- and we are a group of members who have -- the members of  
7 this group all live approximately within a block or slightly  
8 more of the property, so by proximity we would experience the  
9 adverse impacts of any changes, or any impacts from the change  
10 in use.

11 CHAIRPERSON REID: More so than anyone else?

12 MR. MABLEY: Well yes, because of proximity. We  
13 live closer to the property than most other people. Clearly  
14 the people in the property are also deserving of party status I  
15 would think in that same reasoning, but as stated in the  
16 directions in the Code allowing party status, it's other people  
17 in the general public. And by proximity, we are closer than  
18 most people of the general public of the District of Columbia.

19 CHAIRPERSON REID: No, but the test is most  
20 people in the community.

21 MR. MABLEY: Okay.

22 CHAIRPERSON REID: So therefore, the party status  
23 designation is for those persons who are more greatly aggrieved  
24 than anyone else in the community or in the neighborhood.

25 MR. MABLEY: Okay. Well I can speak to that as

1 well, because the members include people who are directly  
2 across the street on both sides, and directly adjacent to the  
3 property and myself being two door -- the next property over,  
4 so we are more impacted because if you measure even more  
5 closely, we are directly adjacent to this property. And our  
6 primary objec --

7 CHAIRPERSON REID: Don't.

8 MR. MABLEY: Oh, okay. Don't get into that.

9 CHAIRPERSON REID: No.

10 MR. MABLEY: Okay. Very good.

11 CHAIRPERSON REID: Thank you. Okay. You --  
12 ma'am.

13 MS. CULHANE: I'm a member of the group that has  
14 applied for party status, and I'm also a professional  
15 architectural historian. I live one block from the property in  
16 question, and the property is located within the Mount Pleasant  
17 Historic District, which is a National Register Historic  
18 District. And I have come today to discuss the potential impact  
19 to the Historic District --

20 CHAIRPERSON REID: Well, you'll have an  
21 opportunity to speak. I mean, no one will be denied an  
22 opportunity to testify. It's just getting the special  
23 designation for party status which will then allow you to be  
24 able to cross examine, and also to receive all of the notices  
25 and all of the information and materials that are submitted by

1 the applicant or any parties in the case.

2 MS. CULHANE: I would argue that we would be  
3 eligible for party status because we will be directly impacted  
4 by any alteration to the use of this property; particularly  
5 traffic in the neighborhood.

6 CHAIRPERSON REID: So the two of you are joined  
7 together as one party?

8 MS. CULHANE: Would that be considered our status  
9 under party status?

10 MR. MABLEY: I'm sorry. I was distracted by  
11 trying to fill out this form. What was the question?

12 MS. CULHANE: Are we considered one party?

13 MR. MABLEY: Yes. Yes. The Residents of Mount  
14 Pleasant, that we're trying to be one party.

15 CHAIRPERSON REID: Okay. Then there would be one  
16 person who would do the cross examination.

17 MR. MABLEY: Yeah.

18 CHAIRPERSON REID: Okay. Board Members;  
19 discussion.

20 MS. HINTON: Madam Chair, I think that this group  
21 meets our established criteria for granting party status. They  
22 represent a number of people that live in the -- within one  
23 block of the subject property, and a use variance as you know  
24 can have effects within the neighborhood that extend to a block  
25 or more.

1 CHAIRPERSON REID: Is there a second?

2 MS. RENSCHAW: I second the motion.

3 CHAIRPERSON REID: Any further discussion?

4 MR. PARSONS: Madam Chairman, I think we ought to  
5 be gratified, so should the applicant, that he's only got one  
6 person here to deal with today; but I notice the applicant is  
7 attempting to oppose this, so before we vote on it, we may want  
8 to hear from him.

9 CHAIRPERSON REID: Okay.

10 MR. HEIDARY: The purpose I opposing, the  
11 gentleman say he have a group of neighborhood. They going  
12 together and they have a -- what you call it -- they all  
13 together to this proposal not to do. I want to say first of  
14 all, they know me every day. They see me because I'm doing the  
15 construction there, so I'm from neighborhood too. I never  
16 heard about it. I never was involved in it, so I don't think  
17 that is the neighborhood. That is personal opinion; I'm glad  
18 to hear it, but I don't accept it as group of the neighborhood,  
19 they propose not. That is my objection. Was individual, you  
20 will come to -- I know both of them. They are my neighbor. I  
21 admire their opinion, and you know, no problem for -- no  
22 objection to that.

23 MS. CULHANE: You're welcome to join our group.

24 CHAIRPERSON REID: Okay. Then I think we'll --  
25 let's vote on this, and then I think that we'll request that we

1 get a formal letter designating Mr. Mabley.

2 MR. MABLEY: Mabley; yes.

3 CHAIRPERSON REID: Mr. Mabley as the designated  
4 representative of --

5 MS. CULHANE: Madam Chair, you already have that.

6 CHAIRPERSON REID: Where?

7 MS. CULHANE: In the letter, ROMP, on the very  
8 first page, Item E.

9 CHAIRPERSON REID: Okay. I have the ROMP letter.

10 MS. CULHANE: Stephen Mabley will speak as  
11 representative of ROMP members.

12 MR. MABLEY: Yeah; Item E.

13 CHAIRPERSON REID: But this -- no, no, no. Ms.  
14 Culhane, I thank you very much for that, but it's signed by Mr.  
15 Mabley and by Mrs. Peterkins. I think that in previous cases  
16 of this nature, we'd asked that a letter come from the  
17 organization.

18 MS. CULHANE: The list of signatures.

19 CHAIRPERSON REID: A letter designating him as  
20 the spokesperson for the organization.

21 MR. MABLEY: We didn't -- we never produced such  
22 a letter. We had no -- this letter we thought did that with  
23 the additional signatures that we got people signing on to this  
24 letter in addition.

25 MS. RENSHAW: Uh-huh. There are 24.

1 MR. MABLEY: We never had legal counsel.

2 MS. PRUITT: Madam Chair.

3 CHAIRPERSON REID: Yes.

4 MS. PRUITT: In the past, for example, with the  
5 Burke School were the United Neighborhood -- the Upton Street  
6 Residents when they made a group, they --

7 CHAIRPERSON REID: Uh-huh.

8 MS. PRUITT: You know, they didn't really have  
9 any officers because it's an ad hoc group to really deal with a  
10 specific problem; and this I assume is that same --

11 CHAIRPERSON REID: I thought that we did we ask  
12 them for a letter.

13 MS. PRUITT: No, not that I can remember.

14 CHAIRPERSON REID: All right. Okay.

15 MS. PRUITT: You may be right, but not that I can  
16 remember.

17 CHAIRPERSON REID: I just believe that --

18 MS. PRUITT: The criteria has been --

19 CHAIRPERSON REID: I thought that we had in the  
20 past asked that if there was an ad hoc group, we had the body  
21 designate the person who was going to be the president; who is  
22 the president as the spokesperson. However, if the Board  
23 Members have no objection, I'll concur with their decision and  
24 move forward.

25 MR. HEIDARY: Forgive me. If that case is it, on

1 the one of the representatives to all Washington, D.C., the  
2 people they wanted living for better to the Washington area, so  
3 they can count it as whatever people living to the Washington  
4 area. There used to be very bad neighborhood. Now every lady  
5 can walk in the street without being afraid of everything. I  
6 am representative of better being better city of District of  
7 Columbia. If you want to take them as the representative  
8 group, that we don't know who they are, what is it, what is  
9 they agenda, what they want; so I'm the representative  
10 everybody. That's --

11 CHAIRPERSON REID: Okay. Well thank you very  
12 much.

13 MR. HEIDARY: You're welcome.

14 CHAIRPERSON REID: What we'll do is we'll vote on  
15 giving them party status.

16 MR. HEIDARY: Yes, please.

17 CHAIRPERSON REID: And if they are given that  
18 designation, then we will be in the capacity of questioning the  
19 group. All in favor?

20 (Vote.)

21 CHAIRPERSON REID: Record the vote, please.

22 MS. PRUITT: Staff would record the vote as four  
23 to zero to one; motion made by Ms. Hinton, seconded by Ms.  
24 Renshaw, Ms. Reid abstaining.

25 CHAIRPERSON REID: All right. Thank you.

1 MS. PRUITT: Thank you.

2 CHAIRPERSON REID: All right. Now you all should  
3 go back to your seats.

4 MS. CULHANE: Okay.

5 CHAIRPERSON REID: And is it Mr. --

6 MR. HEIDARY: Massoud.

7 CHAIRPERSON REID: Massoud.

8 CHAIRPERSON REID: Is that your -- what's your  
9 first name?

10 MR. HEIDARY: Massoud, M-a-s-s-o-u-d.

11 CHAIRPERSON REID: And what's your last name?

12 MR. HEIDARY: Heidary, H-e-i-d-a-r-y.

13 CHAIRPERSON REID: So Mr. Heidary.

14 MR. HEIDARY: Yes.

15 CHAIRPERSON REID: Okay. Go ahead.

16 MR. HEIDARY: I buy -- I purchase almost year ago  
17 the building in Newton Street. The building was very bad,  
18 neighborhood was very upset. The trash was everywhere. I --

19 MS. PRUITT: Excuse me, Madam Chair. I'm sorry to  
20 cut you off but we didn't call the case. You just did  
21 preliminary issues.

22 CHAIRPERSON REID: Okay. I'm sorry. I thought  
23 that we did. Okay. Go ahead.

24 MR. HART: Application Number 16706 of Massoud  
25 Heidary pursuant to 11 DCMR 3103.2 for a use variance under

1 Subsection 330.5 to allow office space and a convenience store  
2 in an existing apartment building in the R-4 district at  
3 premises 1707 Newton Street, N.W., Square 2613, Lot 94.

4 Those persons intending to testify, please stand.

5 Raise your right hand. All persons intending to testify in  
6 this case which I just read please stand, raise your right hand  
7 and take the oath.

8 WITNESSES SWORN

9 MR. HART: Thank you very much. Take your seat.

10 CHAIRPERSON REID: Okay.

11 MR. HEIDARY: As I said, my name is Massoud  
12 Heidary. Over a year ago I purchased the building in  
13 Washington, D.C. I -- 25 years ago I came to this country, more  
14 than 25 years ago. I used to go to school here. I love the  
15 city. I love the neighborhood. As the professional now, I'm  
16 the, you know, electrician, construction. I'm investor. I  
17 love D.C., and I wanted this area grow up because is a very  
18 warm, very homey for me personally.

19 The place I buy, after two months the sign in the  
20 building because of the -- if you want to sell -- the law if  
21 somebody want to sell they have to -- so I purchase the  
22 building. The first I buy the building, it was very rough  
23 situation. They have the neighbor who even against this  
24 project probably testify I did writing. I have spent over  
25 \$200,000 to build, to fix it, to make it better for the

1 neighborhood.

2 But the building don't have that much benefit of  
3 profit so I can get somebody be there, so my purpose of when I  
4 apply for the office, to move my office. I have an office.  
5 I'm electrician. I have a construction, and we do a lot of the  
6 maintenance for the lot of building.

7 I'd like to move my office there so at least I  
8 have a staff there, because from the -- for example, three  
9 months ago -- or two months ago they broke both door. I  
10 changed it to -- I changed two time in matter of two weeks,  
11 they broken the lock, that cost for me each one four or five  
12 hundred dollar, so I can't control the building. I have to be  
13 there. The only way is it -- I have to make a living also, and  
14 I have to have a staff.

15 If I live there, that can provide them with the  
16 salary, and the income the building itself they have, no way I  
17 can do that because last month my income from building was  
18 \$4,000. The water bill was \$3,000, electricity was \$900.00, so  
19 you imagine how hard is it to control the building. So that is  
20 the purpose I decide -- that first thing convenience store, I  
21 waived that long time ago. I don't want a convenience store.  
22 I want just office there, and if you look at the paper, I wrote  
23 that the basement plus just 2,600 square feet. That is to be  
24 personal use for my business. And this could in here, is the  
25 person if they want to -- they have -- anyway, I don't want

1 something to rent to everywhere, to everybody, but I have to  
2 have an office there. But the office, it can be only for that  
3 building. That is the reason I'm in here, because they said if  
4 I want to open office for the building, I can do it; but if you  
5 want to maintain some other building from there, you have to  
6 get a different right from you. And that is the purpose of I  
7 want to have an office there. I want to move my staff from  
8 here.

9 Two purpose, one of them I say I love this city.  
10 I want to more invest in this city. I want to work more in  
11 this city. And second thing is it -- they -- if I want to just  
12 office for that building, I can't handle it. The reason, the  
13 income of building is not enough to cover one -- only one  
14 percent of work there. I don't think I can afford -- you know  
15 what I mean, part-time person there.

16 CHAIRPERSON REID: Uh-huh. You don't think you  
17 can afford to do what?

18 MR. HEIDARY: Pardon me?

19 CHAIRPERSON REID: What was the last thing you  
20 said? I'm sorry; I didn't hear.

21 MR. HEIDARY: The income of building \$4,000, the  
22 building, the income. How can I leave the one person, one  
23 office there for it. So I have to make the office for myself  
24 because I'm working other project. I'm working just to Newton,  
25 you know. I have a job in the D.C., two or three of them. I

1 have Virginia job. I have a Maryland job, and I have a staff;  
2 but I have to have it legally office. That is the reason I'm  
3 in here. Just small office; 2,600 square feet. I want to get  
4 a space for myself; and neighborhood can testify from the day I  
5 buy the building, I spend that money, and the building  
6 beautiful today. At first they don't like to look at me  
7 because the previous owner, they don't care for the building. I  
8 put the new carpet, change the door, paint the building,  
9 continue the working, the trash can. I cement the floor. I  
10 put a nice door. The trash can used to be one they moving but  
11 now is the three days the delivery. I'm doing good for  
12 neighborhood. They can testify to that.

13 CHAIRPERSON REID: Okay. Mr. Heidary, does that  
14 conclude your presentation?

15 MR. HEIDARY: I believe so. Is very simple and  
16 very short because I don't need a Taj Mahal building there. I  
17 just want an office for myself.

18 CHAIRPERSON REID: Right. And Mr. Heidary, while  
19 the Board understands the reasons that you have just proffered  
20 as to why you would like to have a use variance, the fact of  
21 the matter is -- your reason for being before us this morning  
22 is to demonstrate to us why you should be granted the relief  
23 that you're asking for based upon the zoning regulations, and  
24 as such --

25 MR. HEIDARY: I have a --

1 CHAIRPERSON REID: As such, there's a procedure -

2 -

3 MR. HEIDARY: Yes, ma'am.

4 CHAIRPERSON REID: -- that you have to go  
5 through.

6 MR. HEIDARY: Yes, ma'am.

7 CHAIRPERSON REID: And then there's a test for  
8 variance.

9 MR. HEIDARY: Yes.

10 CHAIRPERSON REID: And a use variance is the most  
11 difficult variance that can be granted. It's the most difficult  
12 test that you can try to meet. And the first -- there are  
13 three prongs. One is that -- I'll just go through it real  
14 quick; that the property has to -- you have to demonstrate the  
15 property is unique or unusual, or there's some unusual or  
16 unique circumstances. Wait a minute, Mr. -- just wait one  
17 second. Inherent in the land, in the property; something with  
18 regard to the shape, the slope, the topography of the property.

19 That there is something about it that makes it difficult --

20 MR. HEIDARY: Yes.

21 CHAIRPERSON REID: -- for you -- that causes you  
22 an undue hardship --

23 MR. HEIDARY: There is there.

24 CHAIRPERSON REID: -- to be able to comply with  
25 the existing zoning regulations.

1 MR. HEIDARY: There is there, two or three  
2 reason. You have a picture. I believe I give the three big  
3 size picture. You have it there. First unique from that  
4 building was that the building, the day they build them, they  
5 build individual. They don't build them as the office  
6 building. If you look at it -- and they don't build them as  
7 residential. If you look at the building they have a big door  
8 in center of the building, two center step that go in upstairs.  
9 A very wide hallway, almost seven feet hallway. Look at the  
10 building. Building built from first day for the office use,  
11 but I don't know what was the reason because I was not there.  
12 I just purchase a year and a half --

13 CHAIRPERSON REID: But --

14 MR. HEIDARY: Yes.

15 CHAIRPERSON REID: -- the zoning district in  
16 which the building is located in is R-4 --

17 MR. HEIDARY: Yes.

18 CHAIRPERSON REID: -- which is residential.

19 MR. HEIDARY: No. Matter of fact is -- there is  
20 other businesses there. For example they have one block from  
21 me the -- if you go on right side -- left side, one block is  
22 the I believe old people houses are there. One block right  
23 side is a school. There's a school there. Right side is --  
24 the right side one block is the convenient store. In one half  
25 block is office building, across the corner of 16th Street. If

1 you're going toward the Mount Pleasant is the first street --  
2 is last on -- one block is it. The office building is at the  
3 corner, so it's -- the neighborhood is mixed neighborhood easy.

4 And if you go toward the park is the office building is it; is  
5 a half a block with me. So is neighborhood is that mixed use,  
6 but I don't know for what reason -- obviously, I understand the  
7 people, why they afraid there be traffic. Matter of fact, to  
8 me there would be less traffic.

9 CHAIRPERSON REID: Okay. That's the next thing  
10 is the adverse impact.

11 MR. HEIDARY: Yes.

12 CHAIRPERSON REID: You have to demonstrate that  
13 there will not be any adverse impact to the community as a  
14 result of your application being granted.

15 MR. HEIDARY: Yes.

16 CHAIRPERSON REID: And that is in regard to  
17 traffic and --

18 MR. HEIDARY: Yes.

19 CHAIRPERSON REID: -- noise, or parking, litter.

20 MR. HEIDARY: Uh-huh.

21 CHAIRPERSON REID: And there have been some  
22 issues raised in regard to the property itself.

23 MR. HEIDARY: Okay. That is very simple. You  
24 see that the neighborhood is empty day time. Everybody  
25 working. Because nobody have parking, everybody park in the

1 street. Everybody go work the morning. They come after 4 or  
2 5:00 back. Office open morning to 4:00, so is the opposite. A  
3 matter if I -- to me first thing is not that big a space. Is  
4 just business for me and my staff. Is not businesses for the,  
5 you know, 2,000 people coming in. And the business that we  
6 have -- just we have two staff, and right now if you look at  
7 the apartment, I list two people living in the apartment.

8 I don't know. I just sign with one that I know  
9 20 people live each apartment people living, so my case there  
10 be less traffic as right now because is -- first thing is day  
11 time. Second time is the same space is a smaller space, 13 --  
12 I have to maintain -- I have to have office. If I want to go  
13 there, forgive me. If I go there, if I have to drink water or  
14 something, I have to knock the door of the neighbor to I go to  
15 their home to use the facility. That's ridiculous.

16 CHAIRPERSON REID: Okay. Just stay with the  
17 zoning regulations, which brings us to the third part; and that  
18 is is it in -- would granting the variance impair the integrity  
19 of the zoning plan or zoning map. Now remember, this is R-4.

20 MR. HEIDARY: Yes, ma'am. But the issue is it --  
21 if you look at it, one of thing is the they have in the  
22 District of Columbia, if you are the building owner and you  
23 want to work to the city, they welcome you. They don't send  
24 you out. That is the purpose. I am own the holding, so I want  
25 to come work into the city; and I have to -- one part of the

1 reason I want it there, because I have to maintain that  
2 building. The building is an old building. They need more  
3 care, and I did -- I spent \$200,000 to bring it to good shape,  
4 and everybody can testify for that, I spend the money there.

5 CHAIRPERSON REID: Okay. All right. Well thank  
6 you very much.

7 MR. HEIDARY: You're welcome.

8 CHAIRPERSON REID: All right. Any questions?  
9 Okay. Then we'll move now to --

10 MS. PRUITT: Excuse me, Madam Chair. You have  
11 to check if there's any cross examination by the party.

12 CHAIRPERSON REID: Okay.

13 MR. GRIFFIS: Could I ask a brief question right  
14 before he does.

15 CHAIRPERSON REID: All right.

16 MR. GRIFFIS: Could you very quickly just  
17 describe -- there's been a few allusions to the use of this  
18 office; and now you say it's 2,600 square feet in the basement.

19 MR. HEIDARY: No, 2,600 square feet right there I  
20 believe; 2,600 square foot office.

21 MR. GRIFFIS: Correct; in the basement. My quick  
22 question if you can be brief, is just what is the exact use,  
23 you're speaking about running your business.

24 MR. HEIDARY: My business is maintenance  
25 building. We maintain the all building if you -- for example,

1 you have apartment building. We are writing contract with you,  
2 if you have a problem we come there to fix it.

3 MR. GRIFFIS: So it's a real estate management  
4 company.

5 MR. HEIDARY: That is exactly purpose.

6 MR. GRIFFIS: I see. Okay. And what is the  
7 total square footage of the building?

8 MR. HEIDARY: I believe 27,000 square feet is  
9 complete building.

10 MR. GRIFFIS: Okay.

11 MR. HEIDARY: Three floor.

12 MR. GRIFFIS: Thank you.

13 MR. HEIDARY: You're welcome.

14 CHAIRPERSON REID: Okay.

15 MR. MABLEY: Okay. Yeah, I do have a couple of  
16 questions, Mr. Massoud.

17 MR. HEIDARY: Yes.

18 MR. MABLEY: You say you'll have two staff that  
19 will be working there; is that right?

20 MR. HEIDARY: Don't hold me to person how many,  
21 two or three staff. Yes, sir.

22 MR. MABLEY: Okay. So a few people.

23 MR. HEIDARY: Yes.

24 MR. MABLEY: And what types of activities would  
25 go on in this construction office? Would there be tools or

1 would it be paperwork?

2 MR. HEIDARY: Mostly is the telephone and paper  
3 work. I don't think it's the tools. We want to go work other  
4 places. The tools maybe to the truck as it going from job to  
5 job is not -- you know, maybe I have storage for some of the  
6 tools I'm leaving there, but is not there be mechanic shop  
7 there, they put a car up or, you know, or plumbing to be there  
8 in the street, or electrician. Not like that.

9 MR. MABLEY: What types of vehicles would be  
10 parked there or be a part of that use; or would be --

11 MR. HEIDARY: Eighty percent of the time regular  
12 car; 80 percent of time. If you see right now, you saw me  
13 every day. Sometime I come with pickup truck because I bring  
14 the, you know, stuff there. Some time you see me with a van,  
15 most time you see me with a regular car. So mostly the people  
16 work inside office, they're not people that work in the job, in  
17 the project, so mostly is regular car. Maybe occasionally  
18 somebody come there to get address or get something pick up,  
19 maybe they come with their pick up truck. They go -- we don't  
20 have a utility big car with trailer or, you know -- we don't  
21 have that stuff.

22 MR. MABLEY: So 80 percent of the time a regular  
23 car.

24 MR. HEIDARY: Exactly. Hundred percent almost we  
25 have to say.

1 MR. MABLEY: Occasionally a pick up truck,  
2 occasionally a van.

3 MR. HEIDARY: Exactly.

4 MR. MABLEY: What would be the nature of the  
5 changes to the exterior of the building to accommodate the use?

6 MR. HEIDARY: You're talking about inside the  
7 building?

8 MR. MABLEY: No, the outside.

9 MR. HEIDARY: No touch on the outside. If you  
10 look at it, I had a plan and I -- half of the plan I did. You  
11 look at your neighborhood. You are happy with me right now. I  
12 put the grass there. I fix the outside. You saw I fixed the  
13 trash can that you had a problem with the previous owner. I'm  
14 putting gate back side because I don't want, and that stuff you  
15 had before. And I believe to this year you are happy with me,  
16 or your committee. I don't know. You'll have to speak for  
17 yourself.

18 The structure building, nothing will be changed  
19 because that building is old building. I can't change it,  
20 nothing I can change outside the building. Just inside there  
21 be office. Outside there stay as is. Nobody touch it.

22 MR. MABLEY: Well I know there's been some  
23 changes already where you've put a window in the back that's  
24 now a door; is that correct?

25 MR. HEIDARY: Yes, because if you remember, you

1 have a problem; people they bringing trash can outside. They  
2 put them outside to the street. You're not happy. I have a  
3 big window back side. I take that window. I get a door. I  
4 put in gate to people going from back side to trash can so they  
5 don't bring it in the street. I did it for better -- for your.

6 That was the purpose of why putting that door back side.

7 MR. MABLEY: So you've already put a door in the  
8 back side.

9 MR. HEIDARY: Yes.

10 MR. MABLEY: You put in a deck that would make  
11 the back of the building --

12 MR. HEIDARY: Yeah, it's the kid that play in the  
13 street, I want that they play there sitting back side. Isn't it  
14 better for neighborhood.

15 MR. MABLEY: And now you say it's 2,600 square  
16 feet. Is that the whole footprint of the building, or is that  
17 half of the basement, or how big is the --

18 MR. HEIDARY: Half -- it be less than half. You  
19 have I believe -- Madam, you have a copy of the building. I  
20 don't have it in here to provide it to you. Is seven -- almost  
21 8,000 square feet is the base of the building, and three floor  
22 is it.

23 MR. MABLEY: So 2,600 out of 8,000 footprint of  
24 the building.

25 MR. HEIDARY: Yes.

1 MR. MABLEY: So you know, roughly a third or so,  
2 or roughly --

3 MR. HEIDARY: Yes, that is the -- normally the  
4 office is it -- you know --

5 MR. MABLEY: All right.

6 MR. HEIDARY: -- a two bedroom office to be that  
7 size.

8 MR. MABLEY: So -- and then I understand you  
9 correctly that you don't intend to have any retail like was  
10 originally in your --

11 MR. HEIDARY: No, I'm not -- not me -- they don't  
12 -- nobody want a retail. The reason that there was they want  
13 to change -- only purpose of was it because I was -- don't know  
14 what I have to do with this situation. Now I have it more  
15 control; I see is the best way is just I have an office the  
16 first floor, you know.

17 CHAIRPERSON REID: So you modified your --

18 MR. HEIDARY: Yes, I said --

19 CHAIRPERSON REID: -- application to just office  
20 space now.

21 MR. HEIDARY: Exactly.

22 CHAIRPERSON REID: Did you advertise for a  
23 convenience store?

24 MR. HEIDARY: No, no, no. I told the  
25 neighborhood. I told everybody --

1 CHAIRPERSON REID: No, did you advertise -- did  
2 you put on the --

3 MS. PRUITT: Madam Chair; yes, it was advertised  
4 for a convenience store, so he's asking -- he's reducing the  
5 amount of rent.

6 MR. HEIDARY: Waived the convenience store; just  
7 office. No convenience store. None of that is issue.

8 CHAIRPERSON REID: Let's -- Ms. Renshaw has just  
9 asked would he have to re-post.

10 MS. PRUITT: Correct; because the staff fills out  
11 the posters, the orange posters based on the public hearing  
12 notice. The public hearing notice talks about a convenience  
13 store and office space. Because he's reducing it, we don't re-  
14 advertise.

15 MR. HEIDARY: I don't -- I said from beginning  
16 waive the convenience store. I don't want a retail there; just  
17 office. That is it.

18 CHAIRPERSON REID: All right. Further questions?

19 MR. MABLEY: Do you currently have staff in the  
20 building?

21 MR. HEIDARY: Not to that building. Not -- I  
22 can't afford to have a staff to that building. I said before,  
23 the building -- you're talking with economy where you're  
24 talking what business. Building don't give that much to have a  
25 staff there; no. That is the purpose of I want to move my

1 office there so I have a staff there, so a staff working for  
2 other places to be there.

3 MR. MABLEY: How would the -- how would it  
4 benefit; you say you're not making enough money on the  
5 property, and that is the nature of your hardship. How would  
6 taking some of the income away by removing some rental units  
7 and putting in an office help you with the cash flow?

8 MR. HEIDARY: The funniest thing is you don't  
9 know what a business -- my business. My business have to have a  
10 place the people work; so the same way there will be right now  
11 land for the people living it; that time they getting rent from  
12 the company because this is a different part of the business.  
13 This is the building, that is the business. That business they  
14 give the income separate on the building, so it's like they're  
15 renting from myself. Anyway, the corporation is the three  
16 partners of this -- this part they do the job. Other part the  
17 office, the office staff. Maybe they don't do job outside, but  
18 because they work the paper work they're getting part of that  
19 money from the people working outside; you know what I mean.  
20 So then anyway, the money we take from outside that come to the  
21 office, so that naturally they have to pay for the space  
22 they're using.

23 MR. MABLEY: Oh, so you'd save rent at that other  
24 location.

25 MR. HEIDARY: Exactly. That is the -- because we

1 have office some place else. We have office in here, so we  
2 don't pay rent there, you know. They come break even.

3 MR. MABLEY: I had a question. You said there  
4 was another office building in the area between there and the  
5 park, and I was wondering if you could elaborate more on what  
6 building that was?

7 MR. HEIDARY: I believe the last building, going  
8 to the park last big building this side because I -- first day  
9 I come I introduce myself to every neighbor, including you and  
10 your wife, and everybody know I come introduce myself. I  
11 talked to the gentleman. I said I'm buying here. My name is  
12 Massoud. I'm -- he said, oh I'm working here to this building.

13 This is an office -- my office. That is the reason I say to  
14 you -- the last building before the park. Tall building. I  
15 don't know what is --

16 MR. MABLEY: Heading north on 17th down the hill?

17 MR. HEIDARY: Yes. The brick building; I don't  
18 know what is it. The brick building; they have a garage type  
19 parking for inside there.

20 MR. MABLEY: Oh, that's --

21 MR. HEIDARY: What is --

22 MR. MABLEY: I think that's --

23 CHAIRPERSON REID: Excuse me. If you either --  
24 you come up here if you want to ask him -- give him questions  
25 or whatnot. But don't keep coming back and forth.

1 MR. MABLEY: That would be desirable on our part,  
2 but I thought that it was -- the ability to ask questions might  
3 be limited.

4 CHAIRPERSON REID: But the fact of the matter is,  
5 it's obvious; I mean, she's telling you questions to ask which  
6 is okay. But that's -- it's less disruptive than for her to  
7 keep coming back and forth, up and down.

8 MR. MABLEY: Could we have permission for her to  
9 ask the questions as well, or should they still be funneled  
10 through me.

11 CHAIRPERSON REID: Okay. Are you finished?

12 MR. MABLEY: I just want -- well, no. I'm just  
13 questioning him. I'm not offering --

14 CHAIRPERSON REID: Why don't you finish your's,  
15 and then we'll let her ask a couple.

16 MR. MABLEY: And yes; yes, I am done. Thank you.

17 CHAIRPERSON REID: Okay. Thank you.

18 MS. CULHANE: My only other -- I just did want to  
19 clarify the issue of other commercial properties in the  
20 neighborhood.

21 CHAIRPERSON REID: Okay.

22 MS. CULHANE: And I think the property that  
23 you're referring to is someone's home office; it's not a  
24 commercially zoned --

25 MR. HEIDARY: Well, I don't know. Only I say -- I

1 ask the gentleman; say I working in here.

2 MS. CULHANE: Okay.

3 MR. HEIDARY: That is the office; so I assumed  
4 that is office. You don't see the building that change. I  
5 told you my building don't change either.

6 CHAIRPERSON REID: But still, you need to -- if  
7 you want to ask questions, ask him questions; don't testify.  
8 You will have an opportunity to testify.

9 MS. CULHANE: Well conveniently, I think we're  
10 out of questions.

11 CHAIRPERSON REID: Okay. All right. Thank you.  
12 All right. Now we'll go to the Office of Planning report,  
13 government reports.

14 MS. SANSONE: Madam Chair, did you wish to ask if  
15 the ANC wanted to cross examine; if they're here?

16 CHAIRPERSON REID: Sure. Come on.

17 MS. SUCHER: Actually, I think I'll just testify  
18 and not cross examine.

19 CHAIRPERSON REID: Okay. All right. If you  
20 don't have any questions, that's fine.

21 MS. SUCHER: Okay.

22 CHAIRPERSON REID: Okay. We'll bring the -- all  
23 right. Now --

24 MR. MOORE: Good afternoon, Madam Chair, Members  
25 of the Board. My name is John Moore, and I'm a development

1 review specialist with the Office of Planning.

2           When I first got this case it also said  
3 convenience store and office use. As a matter of fact I have  
4 two that says just that. Because of my confusion, I put in a  
5 formal call to the applicant on a conference line with a member  
6 of the officers on the staff, and asked exactly what his  
7 intention was. The applicant said that he wanted to use a two  
8 bedroom unit on the first floor in this building to operate  
9 from it a site by which he would manage the existing building,  
10 as well as other realty holdings he had in the city; and he  
11 wanted to operate an electrical business from that location.

12           After getting that, if you look at my report, it  
13 talks about office building only, but it was after the  
14 conversation with the applicant.

15           CHAIRPERSON REID: Uh-huh.

16           MR. MOORE: I made mention to you that in the  
17 conversation with the ANC, I was told that the applicant wanted  
18 to do a medical office building -- medical office in the  
19 building, which was quite contrary to what I've been told.

20           Anyway, the site is located at 1708 Newton, N.W.  
21 It's in an R-4 zone, and it is a restricted residential zone.  
22 The plan identifies it as being in the moderate density land  
23 use category. It's used predominantly by garden apartments and  
24 rural dwellings.

25           When I looked at the building, as a matter of

1 fact I didn't find the condition to be -- better than fair at  
2 best. As a matter of fact, the main door -- there was a major  
3 crack in the main door that looked like it had been there for a  
4 little while.

5 If it be your pleasure, I'd like to go directly  
6 to the relief requested by the applicant, and the test if you  
7 don't mind.

8 CHAIRPERSON REID: Okay.

9 MR. MOORE: On page 4 of the Office of Planning's  
10 report where we address the authority to grant the variance  
11 under 11 DCMR 3103.2, and then I raised the questions, is the  
12 property a narrow, shallow or shape of the -- exceptional  
13 topography, the condition of other. Is the property extremely  
14 narrow or shallow or any other unique situation that would call  
15 -- support the applicant.

16 The answer from my perspective is no, the subject  
17 property does not meet the test. And I mentioned the  
18 conference call that I just talked to you about and what the  
19 applicant expressed, and what to do with the property.

20 The property is developed for residential  
21 purposes. The building was built for residential purposes in  
22 1958. There is little significant support in the evidence  
23 provided by the owner, that support change of the use of space  
24 designated from residential to commercial or any other use.

25 Will this application to regulation result in

1 particular exceptional or practical difficulty? Again the  
2 answer is no. The subject building was constructed prior to  
3 zoning in '58 as a residential structure. It is an appropriate  
4 zone use for moderate density residential, and I may have  
5 mentioned also today there's a shortage of moderate density  
6 residential units, or modest income residential units in the  
7 Mount Pleasant community, as in many communities in the  
8 District.

9 Can the request -- the relief be granted without  
10 substantial detriment to the public good and without  
11 substantially impairing the intent of the zoning map and  
12 regulations? To allow office use of the subject building would  
13 violate the intent of restricting residential properties in R-4  
14 zones from including commercial uses.

15 The Office of Planning does not object to small  
16 buildings being used for accessory purposes in support of  
17 managing the building. In fact, the applicant could have  
18 accomplished this as a matter of right in R-4 zone. OP does  
19 object to permitting general office use in a restricted  
20 residential zone. We further believe that to permit the  
21 request would substantially impair the intent, purpose and  
22 integrity of the zone plan.

23 We also had conversation with the ANC, and the  
24 ANC also provided us an extensive support list. They said at  
25 their regular meeting held on April 2nd, they also mentioned it

1 was very well attended, and that many residents of the building  
2 also came to the hearing. They also mentioned that they had to  
3 get an interpreter because of the language barrier that some of  
4 the residents experienced. That the ANC voted unanimously to  
5 oppose the application, and some of their stated reasons was  
6 the inappropriate use in a primary residential area; the fact  
7 that the neighborhood already had adequate commercial services.

8 By the way, to my knowledge, the only close in  
9 commercial to the building is one block away to the east at  
10 Brown and Newton. Ralph's Big Market is on the corner there,  
11 and it is in a C-1 zone. The nearest commercial to that, of  
12 course, is the Mount Pleasant itself.

13 The ANC also mentioned the traffic that may be  
14 created by an office use in the residential area, as a part of  
15 their opposition. With that, the Office planned on going to  
16 our summary where we recommend that the Board of Zoning does  
17 not approve this application; and I'll address any questions  
18 that you may have.

19 CHAIRPERSON REID: Okay. Any cross examination  
20 of Office of Planning?

21 MR. HEIDARY: Yes. I talked to you I believe  
22 months ago. We talked together. You said you can have an  
23 office for the maintain that building; am I correct?

24 MR. MOORE: No you're not, sir. You talked to me  
25 two weeks ago.

1 MR. HEIDARY: Two weeks ago. I apologize for the  
2 timing; but we understand each other, the need to somebody take  
3 care of the building, or you know, maintain the building. I  
4 provide you -- I say I can't -- with the income the building  
5 have, I can't have a staff live there to take care of the  
6 building. Building needed a lot of care, and I did a lot of  
7 maintenance. You saw, and you have a picture; but I told you  
8 my business is to take care of the building for other people.  
9 And I don't want to --

10 CHAIRPERSON REID: Now do you have a question?

11 MR. HEIDARY: Pardon me?

12 CHAIRPERSON REID: Do you have a question in  
13 here?

14 MR. HEIDARY: Yes. I want to just see the reason  
15 they don't want to propose to this.

16 CHAIRPERSON REID: Okay. Ask him.

17 MR. HEIDARY: I don't understand why you don't  
18 propose to it; that it is okay.

19 MR. MOORE: In the conference conversation that I  
20 had with you that included a member from the staff, once you  
21 mentioned what you wanted to do in the building -- if you look  
22 at this report I just read from, it states that the Office of  
23 Planning does not object to your using a small space in the  
24 building for purposes of administrating or maintaining that  
25 building.

1 MR. HEIDARY: I apologize. I get it wrong.

2 MR. MOORE: The objection is that you want to use  
3 it for general office purpose to maintain something other than  
4 that building, and put a new business in it. That's the nature  
5 of our objection.

6 MR. HEIDARY: But you say me the other -- the  
7 apartment, they told me we have to get permission because I  
8 don't want to just work for that building. We -- since the  
9 other building involved, or other job involved I have to get  
10 the special permission from the Board. That was -- you send me  
11 to I believe the 41 Street. I go there and talk to them, and  
12 gentleman talked to you, and they said we have to get approval  
13 of the zone.

14 MR. MOORE: I referred you back to the Office of  
15 --

16 MR. HEIDARY: Yes.

17 MR. MOORE: And you did call from that office.

18 MR. HEIDARY: Yes, sir.

19 MR. MOORE: And at the time you called, I think  
20 you were told then --

21 MR. HEIDARY: Yes.

22 MR. MOORE: First of all, there was the issue of  
23 the two different pending C of O's --

24 MR. HEIDARY: Yes.

25 MR. MOORE: -- for convenience and for office,

1 and once we got that squared away with respect to you wanted an  
2 office; I think you were told at that time that you were in a  
3 residential zone, and that use wasn't permitted without some  
4 relief from this Board.

5 MR. HEIDARY: That's exact correct.

6 MR. MOORE: What you couldn't be told is this  
7 Board's position; what it's going to be. We don't know that  
8 yet until they vote on it.

9 MR. HEIDARY: Thank you, sir.

10 CHAIRPERSON REID: Okay. Board Members, any  
11 questions of Office of Planning? All right. I don't think we  
12 had any other government reports.

13 MS. PRUITT: ANC.

14 CHAIRPERSON REID: No, not the ANC. Any other;  
15 DPW or anything like that. I know we have an ANC report  
16 because we have an ANC representative here. All right thank  
17 you. All right. Now the ANC reports. MS. SUCHER:  
18 Hi. My name is Katherine Sucher and I'm here to represent the  
19 ANC. I'm on the Environment and Infra-structure Committee for  
20 the ANC of 1-E in the District.

21 As I said, I'm just going to testify. And  
22 basically, we have five objections to Mr. Heidary's proposal;  
23 and I will just read those. First is based on the non-  
24 compliance with the R-4 zoning, we feel that it's inappropriate  
25 for the proposed use within a primarily residential area.

1           The ANC wishes to maintain separation of  
2 residential and commercial/mixed uses. In Mount Pleasant Street  
3 as you may or may not know, it's very much a mixed use area.  
4 We'd like to concentrate those purposes on that street. The  
5 existing convenience store on Brown Street that Mr. Heidray  
6 made reference to actually pre-dates as we understand it the  
7 D.C. 1960 zoning implementation, so it's -- I'd have to check  
8 on this but I believe it's grandfathered in.

9           Our second point is that the neighborhood is  
10 already more than adequately served by retail and office space,  
11 as I mentioned primarily on Mount Pleasant Street. The  
12 addition of retail and/or retail office space would create  
13 additional traffic, and create strains on already limited  
14 parking as we mentioned earlier.

15           Number five, this does not follow the suit of  
16 historic preservation. And as we mentioned also earlier, Mount  
17 Pleasant is an historic district. Number five, most  
18 importantly we feel is the addition of proposed commercial  
19 space will eliminate already scarce affordable housing units in  
20 Mount Pleasant. And we feel that potentially this area could  
21 be used as a residential care area. In other words, a  
22 caretaker area within that building. And I believe that's  
23 pretty much it for me; if there's any questions.

24           CHAIRPERSON REID: Okay. And there was a quorum  
25 present, and a unanimous vote.

1 MS. SUCHER: Yes.

2 CHAIRPERSON REID: So therefore, your ANC --  
3 which is it, ANC what?

4 MS. PRUITT: 1-E.

5 CHAIRPERSON REID: 1-E will receive the great  
6 weight to which it's entitled. Thank you very much.

7 MS. SUCHER: Okay. Thank you.

8 MS. RENSCHAW: I just --

9 CHAIRPERSON REID: Any questions from Members?

10 MS. RENSCHAW: I just have a statement for Ms.  
11 Sucher, that I compliment you on the very thoroughness of your  
12 report.

13 MS. SUCHER: Thank you.

14 MS. RENSCHAW: And I see that you had to -- you  
15 did a poster or flier in both Spanish and in English.

16 MS. SUCHER: That is correct.

17 MS. RENSCHAW: And I just want to compliment you  
18 on the way this report was laid out with the various points of  
19 view of those who attended your meeting.

20 MS. SUCHER: Thank you.

21 CHAIRPERSON REID: Okay. Wait. Mr. Heidary, did  
22 you have any questions of this witness?

23 MR. HEIDARY: Yes, ma'am.

24 CHAIRPERSON REID: All right.

25 MR. HEIDARY: The first from they give me was

1 there the meeting, they proposed it because in the paper was  
2 this convenience store. If you look at it, I waived that.

3 CHAIRPERSON REID: Well wait, the question is to  
4 her.

5 MR. HEIDARY: You -- your personal opinion to  
6 this project, somebody be always there and take care of it is -  
7 - what is your personal opinion to that?

8 MS. SUCHER: Well, I don't believe the ANC has --  
9 is not even supposed to be based on personal opinion. This is  
10 based on zoning compliance and how it would affect the  
11 neighborhood.

12 MR. HEIDARY: But you're one of the member of the  
13 ANC. I'd like to at least know what is your personal opinion  
14 to that somebody be to the building and they have a small  
15 office there.

16 CHAIRPERSON REID: Well, go ahead.

17 MS. HINTON: Madam Chair, if I could just -- it's  
18 out of order to ask her personal opinion. She's representing  
19 the ANC, and so the time here is for you to ask questions of  
20 what the ANC position is.

21 MR. HEIDARY: Today the position I say -- well  
22 today the position on how -- I don't know she's there, that the  
23 --

24 CHAIRPERSON REID: You have to ask her questions.

25 MR. HEIDARY: You know ANC they changed their

1 position.

2 CHAIRPERSON REID: The ANC.

3 MR. HEIDARY: Oh, I don't -- they changed the  
4 position regarding since the application changed as the  
5 convenience store is no issue; convenience store, and just be  
6 office for the personal use.

7 MS. SUCHER: Well even at the ANC meeting when  
8 this was discussed, the ANC and all community members were  
9 aware at that point that it was changed -- your proposal was  
10 changed from convenience store to office space; and the vote  
11 was taken after that knowledge.

12 CHAIRPERSON REID: Okay?

13 MR. HEIDARY: Thank you. I have no question.

14 CHAIRPERSON REID: Thank you.

15 MS. SUCHER: Okay.

16 CHAIRPERSON REID: No other questions. All  
17 right. Then where is --

18 MS. SUCHER: That's it?

19 CHAIRPERSON REID: Okay. Thank you.

20 MS. SUCHER: Thanks.

21 CHAIRPERSON REID: All right. Persons in support  
22 of the application? All right. Persons in opposition, please  
23 come forward. Persons or parties. Uh-huh. And there were  
24 some other folks.

25 MR. MABLEY: Okay. Well what I will do is just --

1 well, I'm Steve Mabley again with the Residents of Mount  
2 Pleasant North. And what I wanted to say is just to highlight  
3 some of the items in the letter, and to highlight some of the  
4 items that were brought out in this discussion so far.

5 The residents of our group are opposed to any  
6 changes in the zoning variance for a number of reasons, and  
7 these are listed in the party application. Primarily among  
8 these would be the trash issue. The building has an ongoing  
9 longstanding problem with trash, which overflows the dumpster  
10 and the trash containing enclosure which opens onto the  
11 walkway; and so we've had an ongoing -- sidewalk, excuse me.  
12 And so we've had an ongoing problem with uncontained trash, and  
13 accompanied increased rat populations. And all the people in  
14 the neighborhood are aware that the source is this open trash  
15 receptacle. And the residents of Mount Pleasant fear that any  
16 increase in the use would cause an accompanying increase in the  
17 trash, and therefore, since it's already poorly managed, that  
18 the trash would be even an even larger problem, and  
19 accompanying that would be the larger rat problem which we  
20 don't like. So that would be the primary reasons in  
21 opposition.

22 Also, big on the list are congestion from  
23 traffic. And there are some safety issues here which we want  
24 to mention. Often times existing commercial traffic in the  
25 neighborhood will turn a corner and upset the flat sewer covers

1 which are square, and often times one or two edges will dip  
2 into the sewer opening and leave a large hole in the sidewalk.

3 And these are a safety problem, and I think they're a safety  
4 problem directly related to large vehicles going through our  
5 neighborhood on streets that are 22 feet wide.

6 Three of the streets -- three of the four streets  
7 leading into the corner on this building are 22 feet wide, and  
8 it's insufficient really for commercial traffic. And we fear  
9 that a maintenance van, an extra maintenance van would increase  
10 the frequency of these dips and open sewer structures.

11 I ride my bicycle in the neighborhood. I rode my  
12 bicycle here today, and a wide vehicle such as a van causes a  
13 problem for bicycles, pedestrians, visibility and safety on the  
14 road, on a narrow road of 22 feet. The road directly in front  
15 of the Casa Vista, the fourth on that road -- that comes into  
16 that corner is 24 and a half feet, so it's not that much wider.

17 All these roads are narrow.

18 And I want to highlight that as the -- Mr. John  
19 Moore mentioned earlier, that nothing prohibits an office  
20 function or maintenance function within the building, nor  
21 nothing prohibits the function of him to live there and be  
22 there, or to have a maintenance or caretaker at the building.  
23 And so we don't see the need for any increased zoning changes  
24 which might open the door to other types of uses which would --  
25 which we can't discuss here, you know; but it might open the

1 door to something else, and we don't know what that would be.

2 And finally, I appreciate living in an historic  
3 district and having an historic home, and I'm concerned about  
4 the character of the neighborhood, and concerned about any  
5 changes of use which might undermine the historical nature and  
6 value that I get as a resident there from that; and so that is  
7 my segway into what Kerri Culhane will discuss.

8 MS. CULHANE: My name is Kerri Culhane, and I am  
9 a resident of Mount Pleasant. I live one block from the  
10 property in question. I live at 3314 Brown Street; and I also  
11 lived in the property that's adjacent to the Brown Street  
12 Market which is the only commercial zoned property within the  
13 residential portion of the District. And I respectfully  
14 request that you deny the applicant's request to grant a  
15 variance to the Casa Vista for commercial or office use.

16 Mount Pleasant is a historic district, and it has  
17 been listed on the National Register of historic places since  
18 1987. The neighborhood's significance is derived from the  
19 eclectic mix of mostly residential architecture dating from the  
20 mid-19th to the mid-20th centuries.

21 The character of the historic district in the  
22 vicinity of the Casa Vista is primarily residential. This area  
23 north of Park Road is defined by its residential architecture  
24 ranging from the 19th to the 20th century. The Casa Vista is  
25 an example of mid-20th century apartment building, and though

1 it doesn't meet the age requirements for being a contributing  
2 part of the district, its use as a residential property is  
3 certainly in line with the residential character of the  
4 district.

5 The neighborhood is also characterized by very  
6 narrow streets, and they were not design to carry commercial  
7 traffic. Any additional traffic would bring with it additional  
8 pollution, noise, vibration. And as Steve has mentioned,  
9 disruptions to services, knocked over street lights is also a  
10 common occurrence when large trucks try to negotiate these  
11 narrow corners. This additional traffic would adversely impact  
12 the residential character of the district, and put a strain on  
13 already heavily traveled streets.

14 The neighborhood north of Park Road is served by,  
15 as I mentioned before, the Brown Street Market which is located  
16 in a historic commercial building that dates to the early 20th  
17 century; and this is one block away from the Casa Vista.

18 The Mount Pleasant Street commercial corridor is  
19 two blocks away from the subject property, and is certainly  
20 more appropriate and appropriately zoned area for the type of  
21 development that Mr. Heidary would like to see. And I would  
22 just to reiterate that the residential area north of Park Road  
23 is not an appropriate place for a re-zoning of a residential  
24 property. Thank you.

25 CHAIRPERSON REID: Any other persons in

1 opposition? Okay. I'm sorry. Mr. Heidary, did you wish to  
2 question --

3 MR. HEIDARY: Yes. From the day I buy -- I  
4 purchase this building to today, you have a past problem with  
5 the previous owner and everything. Are you happy with the way  
6 that I handle the place and the change to the neighborhood?

7 MR. MABLEY: I'm glad you asked that because I'm  
8 not satisfied as a neighbor with the management. The trash  
9 problem which we discussed at a meeting held probably three  
10 months ago; we expressed our desire to have the trash contained  
11 in rigid containers, and ultimately moved interior to the  
12 building where the trash was initially kept when the building  
13 was built. Some time since then before I moved into the  
14 neighborhood it was moved outside, and has been a problem ever  
15 since.

16 This past weekend we had -- not only was the  
17 trash bags over flowing the open dumpster into the containment,  
18 but overflowing from the containment onto the sidewalk. And  
19 the door of the containment being on the sidewalk, was pressed  
20 open by the trash, and therefore the door -- the side of the  
21 containment fence was blocking the sidewalk so -- and I have  
22 seen an increase in the rat population this spring which I --  
23 in that area which I attribute to the open trash; so no, I'm  
24 not happy with that.

25 And I've also noticed that -- I noticed you made

1 an attempt to -- there was a stockade type of fence, wooden as  
2 a containment around the trash, and there was an attempt to put  
3 some white painted sheet metal which is probably the first not  
4 being in really in keeping with the historic district; but the  
5 white painted sheet metal certainly a further step away from  
6 the type of design theme for a historic district, was placed  
7 over the wooden stockade fence design; and so I wouldn't say  
8 that that was an improvement.

9 And then if -- and then recently there was some  
10 trouble with the doors which you mentioned. I observed that --  
11 I did appreciate that the sort of commercial type doors that  
12 were on the building before, you did put paned window type of  
13 doors on the front entrance which was good, but it was not of a  
14 commercial weight, and these doors as he mentioned were broken  
15 due to heavy use which could be expected.

16 I predicted that that would happen. I noticed  
17 that the doors were of light weight and low quality; although  
18 the design was nice. I think for a building like that you  
19 really need to spend the money on a durable high quality  
20 product; so those are some of my comments about the building  
21 management.

22 MR. HEIDARY: So did you opinion the need to have  
23 a maintenance there? That is you say; you say the trash and  
24 everything, so that is the -- in other word, you agree with me  
25 I have to have a staff there.

1 MR. MABLEY: That I do agree with.

2 MR. HEIDARY: Thank you, sir. Can I ask --

3 CHAIRPERSON REID: Okay. Thank you.

4 MR. HEIDARY: What is your opinion to this moment  
5 from the time I bought -- purchased the building; is the  
6 building better managed as the previous owner, or you have --

7 MS. CULHANE: I can't speak to that. I've been a  
8 resident of the neighborhood for one year; and if I'm  
9 understanding you correctly, you've owned the property for a  
10 year, so I can't speak to your management style.

11 MR. HEIDARY: No other question.

12 CHAIRPERSON REID: Thank you. All right.  
13 Persons in opposition; come forward. Wasn't there at least one  
14 or two other people? All right. Then this is the time for you  
15 to come.

16 MS. PRUITT: Anybody who would like to testify in  
17 opposition to this application, please come forward and sit at  
18 the table. We can go one at a time.

19 CHAIRPERSON REID: All right. Everyone come up.  
20 I think there are three people or two people?

21 MS. PRUITT: I believe there are a couple of more  
22 people who wanted to testify; please come up.

23 CHAIRPERSON REID: Anyone who wants to testify,  
24 come up right at this time right now. All right. So there are  
25 only two people; three.

1 MS. PRUITT: Three.

2 CHAIRPERSON REID: Okay. All right. Each person  
3 gets three minutes.

4 DOMINICK: My name is Dominick. I'm probably the  
5 closest resident to the apartment. I live almost exactly  
6 opposite from it, probably 50, 60 feet from it. And I've been  
7 a resident in Mount Pleasant in that block area for 13 years,  
8 so I have seen some things come and go.

9 I don't see that the application for even just an  
10 office use is a necessary remedy for raising the rent rolls.  
11 There's many other ways to increase the profitability of that  
12 building by just perhaps working with the tenants themselves,  
13 and adding improvements for extra rent rolls. Whether  
14 displacement of tenants for use of an office would necessarily  
15 be a smart financial either, but in terms of the added traffic  
16 and use in a quasi-commercial use, I do not see that the  
17 direction that that would be heading in would be a good one.

18 I've watched that building over its tenure for  
19 the last five or six years probably very carefully, and I still  
20 have seen the building in its presence be a crest-fallen  
21 building, both in the level of workmanship and maintenance that  
22 has been applied to it. I think the old slogan as you say, the  
23 broken glass syndrome, where a single pane of glass attracts  
24 all kinds of other problems. I think that's what we're  
25 witnessing taking place the re.

1           The trash enclosure certainly is not in keeping  
2 with a historic district. There's many solutions to enclosing  
3 that trash, none of which have been carefully visited. The use  
4 of found objects to enclose that or put up even the application  
5 for a zoning sign did not help, in my opinion, in terms of  
6 suggesting what kind of management would be behind the future  
7 office use; so from that stand point and being probably the  
8 most impacted by a change in use, I would have to say I'm  
9 currently opposed to it.

10           And also there is an ease of using the -- by  
11 moving into the district and into that building you could have  
12 use in home occupation or other ways in using that building for  
13 the office use. That's by right already in the zoning, so  
14 certainly that can take place. And there's many real estate  
15 management businesses within a block of that as well who could  
16 handle the day-to-day supervision of that. Most of the  
17 activity of a detrimental nature, the breaking windows and  
18 stuff take place at night anyway, so being there on a nine to  
19 five would not help that process. Thank you.

20           CHAIRPERSON REID: Okay. Thank you.

21           MS. PALANQUA: Okay. My name is Lucy Joseph  
22 Palanqua, and I do live in the building at 1708 Newton Street,  
23 N.W. My problem with Mr. Massoud is that he does not take care  
24 of his tenants properly. The tenants have numerous complaints  
25 about the property, mainly the trash, the broken windows. I

1 myself have been hurt by a broken window from Mr. Massoud's  
2 property.

3 Also, he will be displacing tenants that are  
4 already there, to bring forth his proposed zoning variance.  
5 The tenants are mainly Hispanic speaking, very, very low  
6 income. There is a lack of low income housing in the area.  
7 Displacing these people will be totally wrong. He has given  
8 them a rent increase that would have taken effect within five  
9 days of close to two and three hundred dollars per unit. I  
10 myself was affected.

11 I think this is wrong. First of all, he's  
12 supposed to give us a 30 day notice. He hasn't even bothered  
13 to do so. He's trying to displace all of this in bringing forth  
14 this. First it will be the basement. Then it will be the  
15 first floor. Then it will be the second floor. When is it  
16 going to stop? That's all I have to say.

17 CHAIRPERSON REID: Thank you.

18 MR. HADERAS: I think by giving him the 2,600  
19 square feet of the office space there --

20 CHAIRPERSON REID: I'm sorry, sir. You must give  
21 your name and your address.

22 MR. HADERAS: I'm sorry. My name is Alex Haderas.  
23 I live in 2216 Woodfield Road. I've been associated with  
24 Massoud, helping him in certain areas on some of the properties  
25 he's managing. I notice that he has had a very difficult time

1 managing this building because he puts the new doors. The  
2 gentleman said that the doors are not heavy duty enough. That  
3 has got nothing to do with somebody who comes with probably  
4 hammer or something, has broken the doors handle completely,  
5 and some of the damages which are done to it. By giving him  
6 the 2,600 square feet of the office space there he would not  
7 only -- the amount of the trash will be reduced there. He  
8 would be able to have the management itself there, and also be  
9 able to stay there on the property with these people and take  
10 care of this property and upgrade it to an acceptable state.  
11 Right now as everybody is unhappy, this isn't a very good shape  
12 area. And he -- with the amount of -- it's very controversial  
13 the way we see it here.

14 One way they say that the rent is being increased  
15 too much. If he doesn't increase the rent, if he doesn't have  
16 that rent, how he's going to be able to manage a historic  
17 building which is very expensive to manage and maintain it.  
18 The piping, the -- everything in the building needs to have  
19 extra care and extra expense, so in order to be able to manage  
20 it, he has to cut his overhead somewhere, and he has to be able  
21 to be in the place with his staff there to be able to manage  
22 it. And I don't think there should be an objection to giving  
23 him the permission to have 2,600 square feet of the area for  
24 his own business use.

25 CHAIRPERSON REID: Okay.

1 MR. HADERAS: That's all I have to say.

2 CHAIRPERSON REID: All right. Thank you. Is  
3 there any cross examination, Mr. Heidary?

4 MR. HEIDARY: No.

5 CHAIRPERSON REID: Okay. Board Members, did you  
6 have any questions of these witnesses? All right. Thank you.  
7 Thank you very much. All right. Closing remarks by the  
8 applicant. Mr. Heidary, that's you.

9 MR. HEIDARY: AS I say, the building is going --  
10 I apologize. As I say, the building is old building as all of  
11 them testified. It need a lot of care, and the income of  
12 building is not that much so I separately get the maintenance  
13 man live there. So the office I'm using there, actually I'm  
14 helping to income the building so I can maintain it. And if my  
15 staff they have to be the office there so they watching the  
16 building carefully, so the trash that go in the street, I'm not  
17 there.

18 My staff is. They don't know that the door of  
19 the trash can open, trash is in the street. I can't run every  
20 moment to come to see who put the trash can outside; so if my  
21 office be there, people be more careful. My staff looking at  
22 it, and I will be mostly there because that is -- I'm running  
23 my life, my business from my office; so I think is good for  
24 neighborhood, good for the building, good for the-- I don't  
25 know. The way that I am handling it from the day I get the

1 building, they know the outside I tried to -- I did lot of the  
2 change. They testified themself, I changed the door. The door  
3 was the -- like the garage door was there. I change it with  
4 beautiful Colonial door. I did a lot of the good thing there,  
5 and I want to do more. I love -- I say I love D.C. and I want  
6 to, you know, come back to D.C. because I was a student in the  
7 area. Is homely for me. For me is like the home, you know; so  
8 this up to you. That is -- I want to be my office, but I don't  
9 want to lie to say oh, this is office only for that building.  
10 That is the reason I'm in here.

11 CHAIRPERSON REID: Okay.

12 MR. HEIDARY: I want to be office for my  
13 business. Thank you.

14 CHAIRPERSON REID: Thank you. Thank you very  
15 much. Okay. Board Members, what is your pleasure; comments,  
16 discussion, motions?

17 MS. RENSHAW: Just some observations from  
18 listening to the testimony. One, Mr. Heidary is an absentee  
19 landlord.

20 CHAIRPERSON REID: Is that a motion?

21 MS. RENSHAW: No, I'm just making comments right  
22 now, and two; I didn't get any feeling from the testimony today  
23 from the applicant about staff hours. In other words, if he  
24 did get this relief that he has requested, that the staff would  
25 be on a 24 hour basis, or that he would staff the office in

1 evenings and weekends, which --

2 CHAIRPERSON REID: You could have asked him those  
3 questions.

4 MS. RENSRAW: I know I could have, but I'm also  
5 making a statement. And it seems to me that the applicant  
6 would present this information himself, but he has not. And  
7 didn't even get the feeling that there would be a 24 hour hot  
8 line.

9 I am in favor of what the Office of Planning has  
10 stated, that some kind of an operation just dealing with the  
11 management of this building would be acceptable; but to run an  
12 enlarged business out of these -- this residential unit would  
13 not be. That's my feeling.

14 CHAIRPERSON REID: Okay. Ms. Hinton.

15 MS. HINTON: Madam Chair, I would agree with  
16 that; and I would make a motion that we deny the request for a  
17 use variance, because the applicant has not met the burden of  
18 proof in demonstrating there's an unique condition in the  
19 property, or any hardship that it causes in his complying with  
20 the zoning regulations.

21 MR. PARSONS: Second.

22 CHAIRPERSON REID: Any further comments?

23 (Vote.)

24 MS. PRUITT: Staff would record the vote as five  
25 to zero to deny, motion made by Ms. Hinton, seconded by Mr.

1 Parsons.

2 CHAIRPERSON REID: Okay. I would be remiss  
3 without making mention of this beautiful report submitted by  
4 Office of Planning, with all the color pictures, and the  
5 graphics. It's very well done.

6 Okay. I am now going to have to leave, and I  
7 will turn the meeting -- the hearing over to the Vice  
8 Chairperson, Anne Renshaw. Thank you.

9 MS. RENSHAW: Thank you, Mrs. Reid. And now  
10 would staff call the next case, please.

11 MS. PRUITT: The next application is 16707,  
12 application of Frederick and Julia Wade, pursuant to 11 DCMR  
13 3103.2 for a variance from subsection 2300.2(a) to allow the  
14 construction of an accessory private garage not meeting the  
15 side yard requirements under Section 405 in an R-2 District at  
16 4837 Hayes Street, N.E., Square 5148, Lot 53.

17 All those planning to testify, would you please  
18 stand and raise your right hand.

19 WITNESSES SWORN

20 MS. PRUITT: Please be seated and start.

21 MS. RENSHAW: Good afternoon. When you start, if  
22 you would give your name and your address, please; and indicate  
23 if you are the -- all three the applicant. We have two  
24 applicants and a guest. All right. Fine, we'll get to you in  
25 just a moment, if the applicant would start, please.

1 MS. WADE: Okay. My name is Julia Wade. I live  
2 at 4837 Hayes Street, N.E. I'm one of the applicants.

3 MR. WADE: My name is Frederick Wade. I live at  
4 4837 Hayes Street. I'm one of the applicants.

5 MS. RENSHAW: All right. Would you please  
6 describe your case, what you are requesting of the Board,  
7 please.

8 MR. WADE: Okay.

9 MS. RENSHAW: And the other person; the third  
10 person is?

11 MR. KELLY: Yeah. My name is Raymond P. Kelly.  
12 I live at 5124 B Street, S.E.

13 MS. RENSHAW: Thank you.

14 MR. KELLY: And I am the fellow who done the work  
15 --

16 MS. RENSHAW: Could you draw the microphone up to  
17 you a little bit? That's it. We can't quite hear you. Say  
18 your name again, please.

19 MR. KELLY: Raymond P. Kelly.

20 MS. RENSHAW: All right.

21 MR. KELLY: I live at 5124 B Street, S.E.,  
22 Washington, D.C.

23 MS. RENSHAW: Uh-huh.

24 MR. KELLY: And they're going to let me do the  
25 talking because I'm the one that done the work there.

1 MS. RENSHAW: All right. You've done the work;  
2 all right. So you're going to do the talking?

3 MR. KELLY: I will try.

4 MS. RENSHAW: All right. Go ahead.

5 MR. KELLY: Now where are we? I forgot.

6 MS. RENSHAW: Would you please describe what the  
7 application is about; what are you requesting?

8 MR. KELLY: Yeah. What I'm requesting -- the  
9 application is about the garage not coming up to the zone. You  
10 know, as far as that is concerned and we're requesting a  
11 variance.

12 MS. RENSHAW: All right. You're requesting a  
13 side yard variance.

14 MR. KELLY: That's what we want.

15 MS. RENSHAW: Now in one of the papers that we  
16 have in our file, it talks about the rear yard. It's not the  
17 rear yard, it's the side yard on this property. Why don't you  
18 start?

19 MR. KELLY: Yes, well number one -- let me start  
20 again. See the -- we have the building. I mean the garage is  
21 halfway up.

22 MS. RENSHAW: It's partially built.

23 MR. KELLY: Yes, ma'am.

24 MS. RENSHAW: All right.

25 MR. KELLY: And we got stopped by the inspector

1 because (inaudible). Yes, ma'am. And then when I went to -- I  
2 got the plan. I got that in my hand, and did the drawings. I  
3 did the drawings in character to the neighborhood but the  
4 zoning stopped me, see. I got stopped at zoning, and they  
5 requested -- well they requested I see you all.

6 MS. RENSHAW: All right. So you were in the  
7 process of building this garage.

8 MR. KELLY: Yes, ma'am.

9 MS. RENSHAW: And the inspector asked you where  
10 was the permit.

11 MR. KELLY: That's right.

12 MS. RENSHAW: And you did not have a permit.

13 MR. KELLY: Didn't have one. Uh-huh.

14 MS. RENSHAW: And so you were sent here.

15 MR. KELLY: Right.

16 MS. RENSHAW: Correct. All right.

17 MR. KELLY: And what we would like to do is  
18 finish the garage for a whole lot of reasons.

19 MS. RENSHAW: How much of the garage is built?

20 MR. KELLY: It's scaffold high all the way  
21 around, almost got up.

22 MS. RENSHAW: It's almost up but what's not  
23 finished?

24 MR. KELLY: It's about two and a half foot left  
25 on the masonry walls, and the roof.

1 MS. RENSHAW: All right. And this is to  
2 accommodate your van that has been vandalized and --

3 MS. WADE: And a truck.

4 MS. RENSHAW: And a truck.

5 MR. KELLY: And the truck, and tools.

6 MS. RENSHAW: And the tools; so we've got a van,  
7 a truck, and the tools. And would you give us the dimensions  
8 of this garage that you have partially constructed but haven't  
9 finished.

10 MR. KELLY: It's 17 by 24. Let me rephrase that  
11 It's 17 by 19.6 something like that. I can't remember.

12 MS. RENSHAW: Well while you look at that, I'm  
13 going to ask right at this moment if any of the Board Members  
14 have any questions of the applicants at this point. I would  
15 like to start on my right. Mr. Parsons, do you any questions.  
16 Mr. Griffis?

17 MR. GRIFFIS: No questions.

18 MS. RENSHAW: Mrs. Hinton. All right. We don't  
19 have any questions from the Members of the Board at this  
20 particular time, but you are not able to meet the side yard  
21 requirements of the eight feet.

22 MR. KELLY: Yes, ma'am.

23 MS. RENSHAW: And you are only going to be able  
24 to have what kind of a space on your side yards; what would be  
25 the dimensions? How many feet?

1 MR. KELLY: I have --

2 MS. RENSHAW: To your property line from --

3 MR. KELLY: I have 6 foot -- seven foot five on  
4 the west side. I have nine foot in the rear, and I have 23  
5 feet in the front, and I have about 19 -- about 24, 26 inches  
6 on the other side.

7 MS. RENSHAW: Twenty-six inches?

8 MR. KELLY: Something like that. Yeah, a little  
9 less than two foot. It's a little better than two foot.

10 MS. RENSHAW: So about two feet plus.

11 MR. KELLY: Yeah, that was the problem, see.

12 MS. RENSHAW: All right. Well at this point --  
13 by the way, are there any -- is anybody in the audience that is  
14 going to speak in opposition or in support of this application?

15 MR. KELLY: We have people that -- no, we have  
16 people that is going to --

17 MR. WADE: We have letters --

18 MS. RENSHAW: I know. I just wondered if there  
19 was anyone here.

20 MR. KELLY: Oh.

21 MS. RENSHAW: All right. Thank you. I would like  
22 to at this point turn to the Office of Planning for its report.  
23 Good afternoon.

24 MS. ROBERTS: Good afternoon, Madam Chairperson  
25 and Members of the Commission. Section 2300.2 of the zoning

1 ordinance permits a private garage as an accessory building in  
2 the R-2 district, and is subject to the requirements that state  
3 that it may be located either within a rear yard or beside the  
4 main building. If the garage is located beside the main  
5 building, it shall be removed from the side lot line a distance  
6 equal to the required side yard, and from all building lines a  
7 distance of not less than ten feet.

8 The proposed garage is to be located beside the  
9 main building. As per requirements of Section 2103.3, the  
10 property is unique by reason of its shape. A number of the  
11 lots along the block of Hayes Street that are irregular shape,  
12 but this lot is the smallest. The lot fronts along Hayes  
13 Street and is only 16 feet wide. There is a 15 foot building  
14 restriction line along the lot frontage. The area behind the  
15 house is narrower than that of the side yard, and therefore  
16 it's unable to accommodate the garage.

17 Due to the shape, size and the building  
18 restriction line across the front of the property line the  
19 proposed garage is unable to meet the required side yard  
20 requirement; that would make the applicant unable to build the  
21 proposed garage. This would be an exception or practical  
22 difficulty to the applicants since they would have to continue  
23 to leave their vehicle unprotected and be susceptible to be  
24 broken in again or stolen.

25 The variance request will not cause any

1 substantial detriment to the public good as the location of the  
2 garage will not impact adjacent residents to the east of the  
3 property. That house has a greater than required side yard.  
4 The intent and purpose, and integrity of the zoning regulation  
5 and the map will not be harmed as the garage will not block the  
6 light and air of the adjacent residents. The garage cannot be  
7 viewed from that side yard of the adjacent house because it has  
8 no windows on doors. The one story brick garage will compliment  
9 the residence and the surrounding properties.

10 In summary, the proposed accessory private garage  
11 will allow the applicants to better secure their property, and  
12 the provisions of -- they have met the provision of Section  
13 3103.2 of the zoning ordinance for granting the variance.  
14 Approval of this variance request will not cause any  
15 substantial detriment to the public good, and may in fact help  
16 to deter vandalism and thefts in the neighborhood.

17 The Office of Planning therefore recommends that  
18 the Board of Zoning Adjustment approve the requested variance.

19 Thank you, Madam Chairman.

20 MS. RENSHAW: Thank you very much. And do our  
21 Board Members have any questions for the Office of Planning?  
22 Mr. Parsons.

23 MR. PARSONS: No, ma'am.

24 MS. RENSHAW: Mr. Griffis?

25 MR. GRIFFIS: No.

1 MS. RENSHAW: And Mrs. Hinton.

2 MRS. HINTON: I do. When I look at the page 2 of  
3 your report that shows the other lots that are on the block, it  
4 appears to me that there are a number of lots that are smaller  
5 than this one. As a matter of fact, the one directly to the  
6 east is smaller; is that not what you found?

7 MS. ROBERTS: Because of the access that this  
8 property provides to the adjacent residents, the lot size  
9 itself may be a little larger, but the amount of the property  
10 that they have to use is a little smaller.

11 MR. KELLY: They are unique. They are unique.

12 MRS. HINTON: Now what do you mean the access  
13 that this property provides to the adjacent owner?

14 MS. ROBERTS: I think the building that you have  
15 on -- that you're looking at right now; actually the entrance  
16 to the adjacent building to the west is not how it's shown on  
17 the site. Both -- they have -- they share their access into  
18 their property with their adjacent resident.

19 MRS. HINTON: Do you have any sort of map or  
20 pictures because I'm not following what you're saying.

21 MS. RENSHAW: We do have some pictures in the  
22 file.

23 MR. KELLY: We've got pictures.

24 MR. WADE: Can I show you; can I come up there?

25 MS. RENSHAW: You can, but anything you hand us

1 as I understand, becomes property of the Board of Zoning  
2 Adjustment.

3 MR. WADE: That's all right.

4 MS. RENSHAW: Do you have any pictures that you  
5 would like to submit?

6 MR. WADE: Yes, we've got some of the same  
7 pictures, but I just wanted to explain to you.

8 MS. ROBERTS: If you look at page 4 on figure 2,  
9 this is where -- this is the access to their house. It's also  
10 the access to the adjacent residence.

11 MRS. HINTON: And that comes across the front of  
12 the property?

13 MR. KELLY: Yes, ma'am.

14 MS. ROBERTS: Yes.

15 MRS. HINTON: Okay. But that -- a garage isn't  
16 allowed in the front yard. Is that right?

17 MR. WADE: No, ma'am.

18 MRS. HINTON: So how does that affect the  
19 location of the garage?

20 MS. ROBERTS: Well the location of the garage --  
21 that garage can either be located in the side or the rear. But  
22 what I was trying to prove is -- to say is that the amount of  
23 property that they really have to use is less than would appear  
24 on the building plan.

25 MRS. HINTON: Is that driveway on their lot or is

1 it in the space in front of their lot --

2 MS. ROBERTS: It is on their lot.

3 MRS. HINTON: -- in that building restriction  
4 area?

5 MS. ROBERTS: It is on their lot. It cross over  
6 the building -- it is on their lot.

7 MRS. HINTON: Well what's between their lot and  
8 the street right-of-way that's shown here?

9 MS. ROBERTS: Grassy area.

10 MS. RENSHAW: I would like to know since this  
11 garage is partially built, do we have any photographs showing  
12 the garage at the present time.

13 MS. WADE: You don't have any pictures in front of  
14 you?

15 MR. WADE: It's up there.

16 MS. RENSHAW: I'd like Mr. Griffis to say into  
17 his microphone what he was trying to describe to me.

18 MR. GRIFFIS: Okay. Well I'm looking at the 11  
19 by 17s that were provided in our --

20 MS. RENSHAW: Does that have an Exhibit number,  
21 Mr. Griffis?

22 MR. GRIFFIS: I don't see one. That's what I was  
23 looking for. Is it --

24 MRS. HINTON: It's part of Exhibit 4.

25 MR. GRIFFIS: Okay. Very good.

1 MS. RENSCHAW: Thank you.

2 MR. GRIFFIS: Exhibit 4. If you're looking at the  
3 one labeled side yard, I believe you're seeing the back side of  
4 the garage construction in progress. There's the one in the  
5 top right hand corner also side yard, which is showing work in  
6 progress. And --

7 MRS. HINTON: The OP report additionally, on page  
8 4, the top picture shows part of the garage in construction --  
9 under construction.

10 MR. PARSONS: I presume from your description  
11 that the photographs you provided may not be the state of  
12 condition now. You said that it was up to within two feet of  
13 the top all the way around.

14 MR. KELLY: Approximately. Just -- it's  
15 approximately four from the top.

16 MR. PARSONS: Yeah.

17 MR. KELLY: That would be about --

18 MS. RENSCHAW: Do you have --

19 MR. PARSONS: So these pictures seem to be out of  
20 date. Did you send --

21 MS. RENSCHAW: So just could you -- did you -- you  
22 kept building it after --

23 MR. KELLY: No, no. No, no.

24 MS. RENSCHAW: You just took the pictures before  
25 you knew you were going to have a case here?

1 MR. WADE: They told us to take the pictures, so  
2 we just took pictures of it. And then we also took pictures of  
3 the driveway and the other parts of the house.

4 MRS. HINTON: Right. But then my question is  
5 then you kept building after that.

6 MR. KELLY: No, the walls are not all the way up.  
7 Just the --

8 MS. WADE: Just the corners.

9 MR. KELLY: The corners.

10 MRS. HINTON: Oh, just the corners, as is shown  
11 in these photographs.

12 MR. PARSONS: Oh.

13 MRS. HINTON: Just the corners are up. So it  
14 looks like this still; you haven't gone any further than this.

15 MR. KELLY: No, we haven't finished it; no.

16 MR. WADE: We didn't touch it.

17 MS. RENSHAW: All right. Thank you. Do you have  
18 any photographs to submit that we do not have in the file;  
19 anything additional that you want to place in the record?

20 MR. WADE: I gave you what I have, but can I  
21 explain to you about something? I can give them to her; she  
22 can have them.

23 MS. RENSHAW: All right. Fine. If one of our  
24 staff people would get them from you and then you could --

25 MR. WADE: I'll give them to you.

1 MS. RENSHAW: Don't get up. We'll have someone  
2 come to you.

3 MR. WADE: I was going to explain to them, Mr.  
4 Kelly, about it, you know.

5 MS. RENSHAW: All right. We will get the  
6 explanation of the photographs and then we'll move right along  
7 to the ANC report.

8 MS. WADE: This is the front of the house.

9 MS. RENSHAW: Just tell us what you're going to  
10 pass in. One is the front of the house?

11 MR. WADE: This right here, the front of the  
12 house. And where the side -- where the steps coming out of the  
13 front of the house, it comes right to the driveway. The  
14 driveway is used by the people on the other side, and I use the  
15 apron part, you see.

16 MS. RENSHAW: All right. Thank you. So the  
17 driveway turns; it comes up from the street and then it turns  
18 to the right passed your doorway.

19 MR. WADE: Yes, ma'am. That's their driveway.

20 MS. RENSHAW: And the garage would be to the left  
21 of this photograph.

22 MR. WADE: Yes, ma'am.

23 MS. RENSHAW: All right. I'm going to pass it  
24 down to Mrs. Hinton. All right. We get a better picture of  
25 it.

1 MR. WADE: Yeah. Here's where it turns, and this  
2 right here is the back -- this part here is the back where the  
3 garage is going to be.

4 MS. RENSHAW: I give you photograph number 2. All  
5 right. And this is the area where you're going to be building  
6 the garage.

7 MR. WADE: And that's looking at it from the  
8 street.

9 MS. RENSHAW: And we see some mortar blocks in  
10 the back.

11 MR. WADE: Yes, ma'am.

12 MS. RENSHAW: And that's a corner of the garage?

13 MR. WADE: Yes, ma'am.

14 MS. RENSHAW: All right. I'll pass this to Mrs.  
15 Hinton. Do you want to label these pictures 1 and 2.

16 MS. HINTON: Yes.

17 MS. RENSHAW: All right.

18 MR. WADE: And this is the one coming from the  
19 street.

20 MS. RENSHAW: And this will be coming from the  
21 street, will be picture number 3. And right in front is the  
22 access from the street.

23 MR. WADE: Yes, ma'am.

24 MS. RENSHAW: And then your neighbor would turn -

25 -

1 MR. WADE: No, that's my house right there in  
2 front.

3 MS. RENSHAW: All right. This is --

4 MR. WADE: His house is down the driveway.

5 MS. RENSHAW: To the right.

6 MR. WADE: Yes, ma'am.

7 MS. RENSHAW: So someone accessing his house  
8 would come in and turn to the right at that point.

9 MR. WADE: Yes, ma'am. That's his driveway.

10 MS. RENSHAW: All right. This is number 3. Are  
11 there any other photographs?

12 MR. WADE: This is the same thing.

13 MS. RENSHAW: All right. Fine. So we have three  
14 additional photographs that will be passed down to --

15 MR. WADE: Oh, wait a minute. Now here's the  
16 thing. See where -- right here, this is where you come in from  
17 the street right here. See this right here where you come in  
18 from the street, and this is the driveway coming in from the  
19 street. And this driveway is all that -- that belongs to the  
20 house down there.

21 MS. RENSHAW: Very good. Thank you. We'll take  
22 a look at that, and this will be Exhibit Number 4.

23 MS. HINTON: Yes. Three is --

24 MS. RENSHAW: Three, and this is Exhibit Number  
25 4. And we will pass this down. And while Mrs. Hinton is

1 looking at that, could we move on to the ANC report, or do you  
2 have additional questions? Could we move on to the ANC report  
3 and then we'll come back to you, Mrs. Hinton.

4 MRS. HINTON: Yes.

5 MS. RENSHAW: All right. Is there anyone from  
6 the ANC here? No. All right.

7 MS. ROBERTS: You should have a letter.

8 MS. RENSHAW: We do have a letter, and I have it  
9 right here. And I'm going to reference the letter, and it's  
10 dated April 23rd, and it is signed by Mary Gaffney, the  
11 Chairperson of ANC 7-C. And it states that 7-C held a public  
12 meeting -- a special public meeting on April 11th, 2001 to  
13 discuss this application. There was proper notice to the  
14 public. Three members of the commission constitute a quorum.  
15 All five of the commission members were present at the meeting,  
16 the quorum was established. Two representatives from the  
17 Office of Planning were in attendance and the applicant.

18 The issues and concerns were raised, and they had  
19 a lengthy discussion, and the community voted in favor of the  
20 applicant. And then on Thursday, April 12, 2001, 7-C held its  
21 regular public meeting. A quorum was established. Four  
22 commissioners were present out of five. They recommended that  
23 application 16707 be approved, and to ask the BZA to approve  
24 the support and grant the request favorably. And Commissioner  
25 Crook made the motion, and it was seconded by Commissioner

1 Adlery, and the motion passed unanimously. And so we have that  
2 for the record.

3 We also have for the record -- we have three  
4 letters of support that have been submitted stating that  
5 Katherine Frank, Elmer and Mary Gorim, and Juanita Fairchild  
6 are in support of your application for a private garage on the  
7 property at 4837 Hayes Street, N.E. They do not have any  
8 objections to having the garage built; and we so note these for  
9 the record.

10 All right. Now Mrs. Hinton, do you have any  
11 further comments that you would like to make at this point?

12 MRS. HINTON: Well no, but I guess I'm still  
13 trying to figure out exactly how this lot is situated and what  
14 is on it; and whether that driveway is -- it doesn't appear  
15 that the entire driveway can be on your property. Is that your  
16 understanding of it, that it's all on your lot?

17 MS. WADE: Our understanding when we bought that  
18 lot about five years ago was that that driveway belonged to our  
19 neighbors, and the -- the house to the right. They explained  
20 to us that when they were having their house built, they paid  
21 to have a driveway put in. When they came back to check, the  
22 driveway was put in front of the lot at our place, but -- and  
23 therefore, it was their driveway, and they had to come -- had  
24 come to down to zoning or wherever and had it written into the  
25 plat, so we use the driveway because that's our only access we

1 have to coming into our property. We pull in the driveway. We  
2 pull straight to the side of the house where we're going to put  
3 the garage. They pull in and come -- make that turn and come  
4 around to their property which is to the right of us.

5 MS. RENSHAW: But the property to the left is  
6 your property.

7 MS. WADE: The property to the left is our  
8 property. all the way --

9 MR. WADE: And the apron -- see, there's an apron  
10 there too that comes right in, see; direct to the garage.

11 MRS. HINTON: So the -- okay. But as far as the  
12 property lines, is the driveway on your property but they say  
13 it's their driveway? Or is it-- MR. WADE: It's their  
14 property.

15 MS. WADE: They said it's their property. They  
16 said they purchased that.

17 MS. RENSHAW: Okay.

18 MR. KELLY: It's within the restriction line.

19 MRS. HINTON: So you consider -- you think your  
20 property goes right to that front edge of the driveway.

21 MR. WADE: No, no. My -- it goes to the front  
22 steps. Where you see the steps coming out on my front door --

23 MRS. HINTON: Uh-huh.

24 MR. WADE: -- that's where my property starts and  
25 their property is the driveway. That's their driveway.

1 MRS. HINTON: Okay. I guess then -- can I ask --

2 MS. RENSHAW: Uh-huh. Go ahead.

3 MRS. HINTON: The reason that your garage can't  
4 be any closer to the house is what? Why did you put the garage  
5 where you put it and not any closer to the house?

6 MR. WADE: Who wants to walk around the back of  
7 the house, you know.

8 MR. KELLY: I guess I could answer that a little  
9 better. From my experience and working through the District, I  
10 was always under the impression that in putting a building  
11 between a house there should always be enough room there for an  
12 emergency, you know, fire and things, to get in and out. And  
13 there is a side door there, see. There's a side door there  
14 with maybe about 10, 13 feet.

15 MRS. HINTON: And is that a window on -- is there  
16 a window on that side also, or just a door?

17 MR. KELLY: That's a window there too; yeah.

18 MRS. HINTON: That's a window and the door. So  
19 you want to be able to still use the door.

20 MR. KELLY: Sure. You know.

21 MRS. HINTON: Okay. Thank you.

22 MS. RENSHAW: All right. We're going to pass  
23 these photographs down, and then I would ask the members of the  
24 Board if they are ready to -- are we going to decide this case  
25 today? What is the pleasure of the Board? Mr. Parsons?

1 MR. PARSONS: I move we approve the application.

2 MS. RENSHAW: All right. Do we have a second?

3 Do we have a second so that we can entertain more discussion?

4 MRS. HINTON: Yes, I'll second for discussion.

5 MS. RENSHAW: All right. We have a second for  
6 discussion. And discussion please then; understanding that Mr.  
7 Griffis and Mr. Parsons are just looking at your photographs  
8 right now.

9 MR. WADE: Yes, ma'am.

10 MR. GRIFFIS: A question of the applicant; maybe  
11 OP can also address this, but was there any study or reason why  
12 you didn't access the garage from the existing alley in the  
13 rear of the property?

14 MS. WADE: There is no alley back there.

15 MR. GRIFFIS: Okay. I just wanted to make that  
16 clear.

17 MR. WADE: Those are trees and things.

18 MS. RENSHAW: All right. Just having a small  
19 break here while they study the material.

20 MR. GRIFFIS: I have no further questions.

21 MS. RENSHAW: All right. Mrs. Hinton, do you  
22 have any further questions?

23 MRS. HINTON: No, I don't.

24 MS. RENSHAW: All right. Mr. Parsons has moved,  
25 and Mrs. Hinton you seconded a motion. Are we ready to vote?

1 And I am assuming you want a bench decision and a summary  
2 order.

3 MR. KELLY: Yes, ma'am.

4 MS. RENSHAW: All right. Are we ready to vote.

5 (Vote.)

6 MS. RENSHAW: And would call the vote please, Ms.

7 --

8 MS. PRUITT: The staff would record the vote as  
9 five -- excuse me -- four to zero to approve motion made by Mr.  
10 Parsons, seconded by Ms. Hinton, a summary order.

11 MS. RENSHAW: All right. Very good. And that  
12 means the summary order will be available in, Ms. Pruitt?

13 MS. PRUITT: Approximately two to three weeks.

14 MS. RENSHAW: Two to three weeks you will have  
15 your summary order.

16 MS. PRUITT: But we will mail to you so you don't  
17 have to come back down.

18 MS. RENSHAW: And congratulations. It was --  
19 your property is so configured that it was a little bit  
20 difficult for us to understand. We needed a movie, a video I  
21 think of you driving into the property so we could see it, but  
22 --

23 MR. WADE: I was looking at it, and it's  
24 confusing.

25 MS. RENSHAW: It's confusing.

1 MR. WADE: Even though I'm living there, it's  
2 confusing.

3 MS. RENSHAW: It's confusing when you look at it.  
4 Well thank you for coming down and being with us this  
5 afternoon. And we are pleased that you have your variance and  
6 you can get on with finishing this garage to protect your  
7 property.

8 MR. WADE: And we thank you all.

9 MS. RENSHAW: Thank you.

10 MR. WADE: Do we have to wait to get the permit?

11

12 MS. RENSHAW: That -- you will get your summary  
13 order within two to three weeks. And then after that, then you  
14 can get your permit.

15 MS. PRUITT: Excuse me. After that you have to  
16 wait 10 days before you can go get your permit though, after we  
17 mail it to you.

18 MR. WADE: All right. Thank you.

19 MS. RENSHAW: All right.

20 MS. WADE: Thank you very much.

21 MR. KELLY: Thank you.

22 MS. RENSHAW: Just watch your mailbox, and it  
23 will be there forthwith.

24 MR. WADE: Uh-huh. Thank you very much.

25 MS. RENSHAW: You're quite welcome.

1 All right. Would staff please call the next  
2 case.

3 MS. PRUITT: The last case on the agenda is  
4 application 16712, application of Barbara and Donald Heffernan  
5 pursuant to 11 DCMR 3103.2 for a variance from Subsections  
6 2001.3(a), (b) and (c) to allow the enlargement, a rear deck  
7 addition, of an existing non-conforming single family dwelling.

8 And pursuant to 11 DCMR 3104.1, for a special exception from  
9 Section 223, as said enlargement does not comply with the  
10 closed court requirements under Section 406 in an R-4 District  
11 at 2319 -- excuse me -- 213-9th Street, S.E., Square 923, Lot  
12 27.

13 Would you please stand and take the oath.

14 WITNESSES SWORN

15 MS. PRUITT: Thank you. Please be seated and  
16 start.

17 MS. RENSHAW: And please introduce yourself.  
18 Good afternoon.

19 MR. HEFFERNAN: Good afternoon. My name is Don  
20 Heffernan. I live at 231-9th Street, S.E. I've been there for  
21 19 years. Should I just describe what we're doing?

22 MS. RENSHAW: Go ahead. Present your case,  
23 please.

24 MR. HEFFERNAN: We're proposing to build a ground  
25 level deck, no roof or anything like that, at the rear of our

1 house. It's -- the house when we bought it was non-conforming  
2 as I understand it because the dog-leg leading to the basement  
3 stairs is narrow. You know, it was built in 1903 at a time  
4 when they could be narrow and I guess the zoning requirements  
5 now is it has to be wider. So we exceeded -- the existing  
6 house that we bought exceeded the space requirements. The deck  
7 because it's considered to be space, I guess, exceeds it more.

8 The reason we're proposing to build a deck is to  
9 get effective use of the yard. I've noticed over the past  
10 seven, eight years we've used the yard quite a bit less than we  
11 used to, and it suddenly dawned on me that part of that reason  
12 is I've got bad joints which I'm expecting -- this is somewhat  
13 speculative, but I'm expecting based on my family history will  
14 get a whole heck of a lot worse in the next 10 to 15 years, so  
15 going down stairs is just a bit of hassle; and that's the only  
16 reason I would assume I use the yard less that we used to. So  
17 when my wife wanted to re-landscape, I said let's build a deck  
18 because I notice at the neighbor's house we always go out on  
19 the deck which is closer to the threshold level of the kitchen,  
20 and it just -- it's easier to go out. You don't have to go  
21 downstairs, so when we did our landscaping plans, we planned in  
22 this deck to be at the first floor level; so that's the reason  
23 for the deck.

24 The only thing I can understand -- I don't quite  
25 understand the second piece of it about the dog-leg. The only

1 thing I can assume is that we wrap the deck around into the  
2 dog-leg because it made sense so we could keep some -- you  
3 know, like the grow back there and stuff. I don't see that  
4 that's a change. The dog-leg is there already, and it's  
5 already non-conforming because it's four feet wide. We're just  
6 kind of raising the floor level of the dog-level by extending  
7 the deck into it.

8 MS. RENSHAW: We have a request for the project  
9 folder by Mrs. Hinton. It's down with Mr. Parsons. All right.

10 And this case has to do with a variance from Subsections  
11 2001.3(a), (b) and (c) to enlarge -- allow the enlargement of a  
12 rear deck addition of an existing non-conforming single family  
13 dwelling, and for a special exception from Section 223 as said  
14 enlargement does not comply with the closed court requirements  
15 under Section 406 in an R-4 District at 231-9th Street, S.E.

16 MS. PRUITT: Mr. Hoffman -- Hofferan is it?

17 MR. HEFFERNAN: Heffernan.

18 MS. PRUITT: How far -- how high is your deck off  
19 of grade? It looks like it's two feet. I just want to --

20 MR. HEFFERNAN: Oh, it's probably three feet.  
21 It's basically just a little under the threshold for the  
22 current kitchen.

23 MS. PRUITT: And the plans --

24 MR. HEFFERNAN: And that's about as high as this  
25 table.

1 MS. PRUITT: And the plans that we have there are  
2 what you took to the zoning administrator's office.

3 MR. HEFFERNAN: Uh-huh.

4 MS. PRUITT: My concern is that usually decks  
5 under four feet don't count, so I'm wondering why he's here;  
6 based on --

7 MRS. HINTON: Well they don't count for lot  
8 occupancy; is that right?

9 MS. PRUITT: So --

10 MRS. HINTON: That's what I was wondering too.

11 MS. PRUITT: So then he's only here for Section  
12 223 which is non-conforming.

13 MRS. HINTON: Uh-huh.

14 MS PRUITT: I mean which is a lesser burden for  
15 you.

16 MR. HEFFERNAN: Oh, that would be good, although  
17 I'd like you to vote on the first one just in case -- I'd hate  
18 to find out that we screwed this --

19 MRS. HINTON: Yeah, I understand.

20 MS. RENSHAW: All right. You understand about  
21 the special exception part of this?

22 MR. HEFFERNAN: Well I understand that's the dog-  
23 leg part. The only thing -- I don't -- I understand that this  
24 probably -- that would be erroneous. I don't understand it. I  
25 assume, you know, when I planned it, we wanted to wrap the deck

1 around into the dog-leg, but the dog-leg is there, so the dog-  
2 leg is already non-conforming. I don't actually understand why  
3 having the deck in the already non-conforming dog-leg makes it  
4 more non-conforming, but it does so -- but that's what we  
5 wanted to do, wrap it around there, and then take it down to  
6 the stairs to the basement.

7 MS. RENSHAW: Well you have to show under the  
8 special exception that this is in harmony with the general  
9 purpose and intent of the zoning regulations, and will not tend  
10 to affect adversely the use of your neighbor's property.

11 MR. HEFFERNAN: My neighbors have both supported  
12 it. It has no impact on their property directly whatsoever. In  
13 other words --

14 MS. RENSHAW: Is that Mr. Reno?

15 MR. HEFFERNAN: That's Mr. Reno. That's where  
16 that dog-leg is.

17 MS. RENSHAW: And the Vladimir --

18 MR. HEFFERNAN: Gonzales is on the other side.

19 MS. RENSHAW: All right. And you have another  
20 letter of support.

21 MR. HEFFERNAN: She's down the block. She --

22 MS. RENSHAW: Vladimir and Leopold Dina Pregelj,  
23 P-r-e-g-e-l-j.

24 MR. HEFFERNAN: Oh, okay. She's further down the  
25 block.

1 MS. RENSHAW: Further down the block, but Mr.  
2 Reno is right next door.

3 MR. HEFFERNAN: Mr. Reno is right next to the  
4 dog-leg. Yeah, he's on that side.

5 MS. RENSHAW: All right. Thank you. All right.  
6 So have we established that it is only the special exception  
7 that we are dealing with today?

8 MRS. HINTON: I think the staff is still trying  
9 to determine that.

10 MS. RENSHAW: Determine that. So if you will  
11 hold for a moment while we -- we do not have an Office of  
12 Planning report in the files. We do have photographs. We do  
13 have an ANC report, and why don't while staff is conferring --  
14 I will just read the ANC 6-B report that they voted. This is a  
15 letter dated -- it's not dated. Is it dated? Yes, it is, my  
16 little marker was over the date; May 21st, 2001, signed by  
17 Keenan Jarbo, the Chairperson at ANC 6-B voted 12 to nothing.  
18 And seven commissioners constitute a quorum but they voted 12  
19 to nothing at its properly noticed meeting of May 8th to  
20 support your application. Mr. Heffernan, and let's see,  
21 Commissioner Anne Black and Gottlieb Simon, the executive  
22 director, were authorized to represent the ANC matter but they  
23 are not here today; so we read that into the record, and note  
24 that the ANC 6-B will be given great weight.

25 MR. HEFFERNAN: Thank you.

1 MS. RENSHAW: You have not started any work on  
2 this deck.

3 MR. HEFFERNAN: No.

4 MS. RENSHAW: Just wanted to check.

5 MR. HEFFERNAN: No, actually we learned when we  
6 were redoing the sidewalk in the front of the house, I had no  
7 idea that that requires permits too, and we had to get a  
8 permit, and ended up getting a permit for our neighbor who got  
9 in trouble because they had already done their sidewalk, so I  
10 have not touched the back.

11 MS. RENSHAW: Uh-huh. We have several  
12 photographs that make up I suppose Exhibit Number 5. And one  
13 of them shows what looks to be a side yard. I'm going to just  
14 hold that out to the applicant and this is within Exhibit  
15 Number 5, three photographs. And I just wanted to ask; is this  
16 the dog-leg?

17 MR. HEFFERNAN: Yes, that's looking out from  
18 inside the dog-leg to the back of the yard.

19 MS. RENSHAW: To the back. This is the front.

20 MR. HEFFERNAN: This is from the top of the  
21 basement stairs looking out. This is -- the deck will be back  
22 here and reach into the dog-leg right in there.

23 MS. RENSHAW: Right in here.

24 MR. HEFFERNAN: Yeah.

25 MS. RENSHAW: All right. Thank you. This is

1 looking from the basement stairs and the deck would wrap  
2 around.

3 Do any of the Board Members have, having looked  
4 at the plans, do you have any comments that you would like to  
5 make at this point?

6 MR. PARSONS: Other than we ought to approve it;  
7 no.

8 MS. RENSRAW: All right. Mr. Parsons would like  
9 to approve. Mrs. Hinton though is wrapped up in the plans.

10 MRS. HINTON: I agree with Mr. Parsons.

11 MS. RENSRAW: All right. Mr. Griffis.

12 MR. GRIFFIS: I agree.

13 MS. RENSRAW: No questions?

14 MR. GRIFFIS: None at all.

15 MS. RENSRAW: My goodness, on your debut, no more  
16 questions. All right. Then Mr. Parsons, would you like to  
17 formally make a motion, please.

18 MR. PARSONS: I move we approve the application.

19 MS. RENSRAW: Now are you approving the  
20 application for the special exception only?

21 MR. PARSONS: No, the variance as well.

22 MS. RENSRAW: The variance as well, and the  
23 special exception. All right. Do we have a second?

24 MRS. HINTON: I'll second.

25 MS. RENSRAW: All right. Mrs. Hinton seconds;

1 and any discussion? Are we ready to vote.

2 (Vote.)

3 MS. PRUITT: Staff would record the vote as four  
4 to zero to approve --

5 MR. HEFFERNAN: Thank you very much.

6 MS. PRUITT: -- the application as presented;  
7 motion made by Mr. Parsons, seconded by Ms. Hinton. The  
8 summary order you should receive in about three weeks.

9 MR. HEFFERNAN: Thank you. And then I have to  
10 wait 10 days after that to file for --

11 MS. PRUITT: Actually it's 10 days from the date  
12 that's stamped on the order.

13 MR. HEFFERNAN: Okay. So --

14 MS. PRUITT: So sometimes, you know, you've got -  
15 - it may be a little bit less by the time you get it in the  
16 mail.

17 MR. HEFFERNAN: I've got it, and that will come  
18 in the mail. Thank you very much.

19 MS. RENSHAW: Congratulations.

20 MR. HEFFERNAN: Thank you.

21 MS. RENSHAW: All right. That ends our meeting  
22 today, our hearing today. The time is now 3:20 and the meeting  
23 is adjourned.

24 (Whereupon, at 3:20 p.m. the above-entitled  
25 matter concluded.)