

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

JUNE 5, 2001

+ + + + +

The Public Meeting convened in Room 220 South,
441 4th Street, N.W., Washington, D.C. 20001, pursuant to
notice at 1:07 p.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
ANNE MOHNKERN RENSHAW	Vice Chairperson
GEOFFREY GRIFFIS	Board Member
SUSAN MORGAN HINTON	Board Member

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Commissioner (a.m. sess)
HERBERT M. FRANKLIN	Commissioner (a.m. sess)
JOHN G. PARSONS	Commissioner (p.m. sess)

COMMISSION STAFF PRESENT:

Sheri Pruitt, Secretary, BZA
Paul O. Hart, Office of Zoning
John K. A. Nyarku, Office of Zoning

OTHER AGENCY STAFF PRESENT:

John Fondersmith, Office of Planning
Jennifer Steingasser, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.
Christine Roddy, intern

APPEAL OF D.C. PUBLIC SCHOOLS/MICHAEL SUSSMAN/GEORGE GOWN FLEA MARKET:

16642 ANC-2E, ANC-3B 4

PAMELA SMITH, CORPORATION COUNSEL
ARTHUR PARKER, ASSISTANT CORPORATION
COUNSEL 4

NORMAN M. GLASGOW, JR., ESQ. 6
Holland and Knight, LLP
Suite 400
2100 Pennsylvania Avenue, N.W.
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(202) 955-3000

APPLICATION OF WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY:

16726 ANC-1B 12

NORMAN M. GLASGOW, JR., ESQ. 13
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WITNESSES

LAWRENCE GUYOT 13
ELISA HILL 21
CHRIS DONATELLI 24
NIGEL GRAGG 26
MAURICE WALTERS 27
STEVEN SHER 47
GARNET WOODHAM 73
BEVERLY BAKEIR 95
ANNE WOODHAM 97

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

(1:08 p.m.)

MR. HART: Are you ready?

CHAIRPERSON CROSS REID: Waiting for you.

MR. HART: Oh, okay. This is Case No. 16642. That's appeal of D.C. Public Schools, Michael Sussman, Georgetown Flea Market, pursuant to 11 DCMR 3100, 3101, from the administrative decision of Edgar Nunley, Zoning Review Branch, Department of Consumer and Regulatory Affairs, made on October 6th, 1999, to the effect that a use variance is required to continue to operate the sales of antiques and collectables on a public school parking lot, Sundays only, in an R-3 district at premises 1819 35th Street, N.W., Square 1297, Lot 850.

The case is before you, Madame Chair.

MR. PARKER: Good afternoon. Arthur Parker, Assistant Corporation Counsel, along with Pamela Smith, Corporation Counsel.

MS. SMITH: Good afternoon.

MR. PARKER: Entering an appearance on behalf of the Zoning Administrator, Mr. Johnson.

CHAIRPERSON CROSS REID: Okay.

MR. PARKER: We have a preliminary matter. On Friday, we had filed a motion to continue this appeal. We had consulted with the Appellant's counsel and the Appellant to see

1 what their position would be on this request, and they
2 indicated they would not oppose the request.

3 Our office -- when I say "office," I mean the
4 Civil Division that from time to time steps in to represent Mr.
5 Johnson at these proceedings -- learned of the posture of the
6 case about a week ago, and since that time was trying to come
7 to grips with some of the issues that it presented.

8 And we came to the conclusion that we would like
9 some additional time for our office to review the various legal
10 issues involved here, and for our client, the Zoning
11 Administrator and the Executive, to consider some of the other
12 issues involved in the case and to see whether we can come to a
13 consistent position that doesn't have any unintended
14 consequences with regard to our future zoning positions before
15 this Board.

16 So we think we need some time to do that. We
17 would request a date some time after July 15th.

18 CHAIRPERSON CROSS REID: Okay. Were you also
19 going to say something?

20 MS. SMITH: No. I figured it would be easier if
21 just one of us spoke.

22 CHAIRPERSON CROSS REID: Okay. All right. Mr.
23 Glasgow, did you want to respond?

24 MR. GLASGOW: We have no opposition to the
25 request for the continuance.

1 CHAIRPERSON CROSS REID: Okay. The continuance
2 was requested by the government. Did the ANC put in a position
3 in support or whatever?

4 MS. PRUITT: The ANC is in support.

5 CHAIRPERSON CROSS REID: Okay, all right. And
6 you want to have it continued to July the 15th?

7 MR. PARKER: A date after that.

8 CHAIRPERSON CROSS REID: A date after July 15th.

9 What date would be appropriate?

10 MS. PRUITT: September or October, based on our
11 schedule.

12 CHAIRPERSON CROSS REID: All right.

13 MS. PRUITT: It's a very heavy schedule, and
14 we've been having problems.

15 CHAIRPERSON CROSS REID: What date?

16 MS. PRUITT: Right now the first available date
17 without rearranging everything would be October 16th.

18 CHAIRPERSON CROSS REID: October 16th. Mr.
19 Parker, how does that fit with your schedule?

20 MR. PARKER: If that's the earliest date, given
21 our request, I guess that's what we'll take, October 16th.

22 CHAIRPERSON CROSS REID: Mr. Glasgow.

23 MR. GLASGOW: I have no objection to that.

24 CHAIRPERSON CROSS REID: Okay. All right. Board
25 members?

1 MEMBER HINTON: No objection.

2 VICE CHAIRPERSON RENSHAW: No objection.

3 CHAIRPERSON CROSS REID: Do we have a motion?

4 VICE CHAIRPERSON RENSHAW: I move that we
5 continue Case No. 16642 to a date certain, October 16th, 2001.

6 CHAIRPERSON CROSS REID: Morning or afternoon?

7 MS. PRUITT: It would be a morning.

8 CHAIRPERSON CROSS REID: Morning. Okay.

9 MEMBER HINTON: I second.

10 CHAIRPERSON CROSS REID: All in favor?

11 (Chorus of ayes.)

12 CHAIRPERSON CROSS REID: No opposition.

13 All right. Then that would then conclude this
14 morning's session, and we will return at approximately 1:30 for
15 the afternoon session.

16 We only have one case for the afternoon, and
17 that's -- what's that? The WMATA case.

18 All right. Thank you very much.

19 (Whereupon, at 1:10 p.m., the public hearing was
20 recessed for lunch, to reconvene at 1:30 p.m., the same day.)

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

(1:45 p.m.)

CHAIRPERSON CROSS REID: Good afternoon. All right. The hearing will please come to order.

Good afternoon, ladies and gentlemen. This is the June 5th public 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 Chair; Susan Hinton, representing the National Capital Planning Commission; Geoff Griffis; and John Parsons, representing the Zoning Commission.

Copies of today's hearing agenda are available, too. They are located to 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 on each end of the table in front of his. When coming forward to speak to the Board, please give both cards to the reporter, who is sitting to my right.

The order of proceedings for special exceptions and variances is:

One, statement of witnesses of the Applicant;

Two, government reports, including Office of Planning, Department of Public Works, et cetera;

Three, report of the Advisory Neighborhood

1 Commission;

2 Four, parties or persons in support;

3 Five, parties or persons in opposition;

4 Six, closing remarks by the applicant.

5 Cross examination of witnesses is permitted by
6 the Applicant or parties. The ANC in which the property is
7 located is automatically a party in the case.

8 The record will be closed at the conclusion of
9 each case except for any materials specifically requested by
10 the Board, and the staff will specific at the end of today's
11 hearing precisely what is expected.

12 The Sunshine Act requires that the public hearing
13 on each case be held in the open before the public. The Board
14 may, consistent with its rules of procedure, under the Sunshine
15 Act enter executive session during or after the public hearing
16 or on a case for purpose of reviewing the record or
17 deliberating on the case.

18 Decisions of the Board in these contested cases
19 must be based exclusively on the public record. To avoid any
20 appearance to the contrary the Board requests that person
21 present not engage the members of the Board in conversation.

22 Please turn off all beepers and cell phones at
23 this time so as not to disrupt these proceedings, or put them
24 on vibrator.

25 The Board will make every effort to conclude the

1 public hearing as near as possible to 5:00 p.m. If the
2 afternoon cases are not completed by 5:00 p.m., the Board will
3 assess whether it can complete the pending case or cases
4 remaining on the agenda.

5 At this time the Board will consider any
6 preliminary matters. Preliminary matters are those which
7 relate to whether a case will or should be heard today, such as
8 requests for postponement, continuance or withdrawal, whether
9 proper and adequate notice of the hearing has been given.

10 If you're not prepared to go forward with the
11 case today, if you believe that the Board should not proceed,
12 now is the time to raise such matter.

13 Are there any preliminary matters? Does the
14 staff have any preliminary matters?

15 The staff is not here. All right. Well, we
16 can't call the first case yet without staff. Just a moment.

17 (Pause in proceedings.)

18 MR. HART: Are you ready?

19 CHAIRPERSON CROSS REID: Go ahead and call the
20 first case, please, Mr. Hart.

21 MR. HART: Okay. Application No. 16726 of the
22 Washington Metropolitan Area Transit Authority, pursuant to 11
23 DCMR 3104.1, for special exceptions to extend the provisions of
24 a less restrictive district into a more restrictive district
25 under Subsection 2514.2, and to allow more than one roof

1 structure and roof structures of unequal height under
2 Subsection 411.11, and pursuant to Subsection 3103.2, for
3 variances from the wide of court requirements under Subsections
4 401.6 and 638.1, residential recreation space requirements
5 under Section 635, public space at ground level requirements
6 under Section 633, and 75 percent street wall requirements
7 under Subsection 1903.3, in the R-B, ARTS/CR and ARTS/C-2-A
8 districts at the northwest corner of 13th and U Streets, N.W.,
9 that is, Square 236, Lots 37 through 39, 800 through 804, 828,
10 829, and 832.

11 CHAIRPERSON CROSS REID: Thank you.

12 MR. HART: Persons planning to testify, will you
13 stand and raise your right hand, please.

14 (The witnesses were duly sworn.)

15 MR. HART: Thank you. Be seated.

16 CHAIRPERSON CROSS REID: All right. There is no
17 one else here who plans to testify in regards to this
18 particular case?

19 All right. Is there anyone here who's here for
20 the second case of the afternoon, the Georgetown Flea Market
21 case?

22 (No response.)

23 CHAIRPERSON CROSS REID: Okay. All right, Mr.
24 Glasgow.

25 MR. GLASGOW: All right. Thank you, Madame

1 Chair.

2 We would like to reorder the witnesses and the
3 order of proceeding just very slightly to accommodate Mr.
4 Guyot. He has to leave for a meeting, and we would like for
5 him to testify first, and then we would proceed with the
6 testimony of the Applicant's case, if that's acceptable. He's
7 the ANC representative.

8 CHAIRPERSON CROSS REID: Okay. All right.

9 MR. GUYOT: Thank you, Madame Chairman. thank
10 you very much.

11 Regarding BZA Application No. 1672, WMATA site
12 Square 236, this letter is to advise that ANC-1B at its
13 regularly scheduled April 5th public meeting, at which a quorum
14 was present, voted to support the request of Donatelli & Klein,
15 the Applicant, in BZA Application 16726 for four variances and
16 two special exceptions to permit the construction of an
17 apartment building with ground floor retail at 13th and U in
18 Square 236.

19 This action is consistent with the prior actions
20 of the Commission in support of this project before the City
21 Council and D.C. agencies.

22 The Commission was advised that the subject
23 property is unique and affected by several exceptional
24 situations and conditions, including its large size, being
25 44,341 square feet; its unusual shape; and its being included

1 in three different zoning categories.

2 In order to accommodate the building as
3 previously supported by ANC-1B, we were advised that there is a
4 need for variances from the provisions of required public space
5 at grade level of Section 633 and the street frontage design
6 requirements of Section 1903.

7 We were also informed that a variance is needed
8 from the court requirements of Section 638 in order for
9 Donatelli & Klein to provide access to the rear of the
10 properties for parking of the abutting property owners.

11 And, Madame Chairman, I may point out that this
12 was done at the request of the residents, and that's why this
13 is being done.

14 We were advised that variance relief is required
15 from the provisions of Section 635 for private residential
16 recreational space. The ANC further was informed that special
17 exception release is request pursuant to Section 2514-2 and
18 that special exception relief is required for the roof
19 structures located on the proposed building.

20 ANC-1B supports these requests for variances and
21 special exception which will allow Donatelli & Klein to
22 construct a building as originally approved by ANC-1B by a
23 unanimous vote, after consultation with the ANC and members of
24 the community.

25 ANC-1B urges the prompt approval by the Board of

1 this important project so that it may proceed forward for the
2 benefit of the community and the District as a whole.

3 Madame Chairman, if I may, I'd like to read two
4 other letters.

5 CHAIRPERSON CROSS REID: Okay.

6 MR. GUYOT: Okay. "On behalf of the Board of
7 Directors of the Development Corporation of Columbia Heights, I
8 am submitting a letter in support of and on the behalf of
9 Donatelli & Klein in reference to Square 236 project at 13th
10 and U, N.W. A zoning adjustment is needed in order to
11 construct this important project. The plans have already been
12 approved by the Historic Preservation Review Board, the DCCH
13 Board of Directors, along with other community development
14 groups, as well as the ANC supports this effort and the
15 following improvements:

16 "Special exception pursuant to Section 2514.2 to
17 permit retail use of the ground floor level of the portion of
18 the building located at 13th and U;

19 "Special exception pursuant to Section 411-11 for
20 more than one roof structure and for roof structures of equal
21 height;

22 "Variances from the counts with requirement,
23 Section 406-1 and 638.1;

24 "Variance from the private residential recreation
25 requirement, Section 635;

1 "Variance from the public space at ground level
2 requirement of Section 633.

3 "Please give these improvements your earnest
4 consideration."

5 Madame Chairman, I introduce both of these
6 resolutions. Both of them passed unanimously.

7 I have one other letter if I may.

8 CHAIRPERSON CROSS REID: Okay.

9 MR. GUYOT: This is from Mr. Scott Palmeroy, who
10 lives in the immediate vicinity of the building, and he is
11 speaking.

12 "The purpose of this letter is to express my
13 personal endorsement of the zoning changes requested by the
14 Ellington Apartment development project. The organization,
15 Cardoza-Shaw Neighborhood Association, has sent a letter of
16 support, but I wanted to send my person endorsement.

17 "The zoning changes reflect changes that were
18 required because of Donatelli & Klein's working with the
19 surrounding residents and neighbors to produce the best
20 development possible and at the request of the community."

21 This is signed by Mr. Scott Palmeroy, Co-
22 President of the Cardoza-Shaw Neighborhood Association and a
23 board member of the U Street Business and Arts Coalition.

24 CHAIRPERSON CROSS REID: Okay. Is that it?

25 MR. GUYOT: That's it. Thank you very much.

1 CHAIRPERSON CROSS REID: All right. Any
2 questions for Mr. Guyot?

3 VICE CHAIRPERSON RENSHAW: Mr. Guyot.

4 MR. GUYOT: Yes.

5 VICE CHAIRPERSON RENSHAW: Good afternoon.

6 MR. GUYOT: Good afternoon.

7 VICE CHAIRPERSON RENSHAW: Right over here.

8 The letter that has been signed by Mr. Melcher,
9 the Chairman of ANC-1B, does not include your name as a
10 presenter. Were you voted on to present this material to us
11 today?

12 MR. GUYOT: I was -- there was a -- no, I was
13 not.

14 VICE CHAIRPERSON RENSHAW: All right. I think
15 for the file, I would suggest, Madame Chair, that if the
16 Chairman would send a letter to be included in the file --

17 MR. GUYOT: Fine.

18 VICE CHAIRPERSON RENSHAW: -- stating that you
19 were approved of as presenting this material.

20 MR. GUYOT: The approval was not voted on, but
21 that's fine. I'll see that that's signed.

22 VICE CHAIRPERSON RENSHAW: That you have been
23 authorized to present.

24 MR. GUYOT: Very good.

25 VICE CHAIRPERSON RENSHAW: Thank you.

1 MR. GUYOT: Sure.

2 CHAIRPERSON CROSS REID: Okay. Mr. Guyot, that
3 concludes the complete ANC report. There is no one else here
4 to give an ANC report?

5 MR. GUYOT: That's correct.

6 CHAIRPERSON CROSS REID: All right. Okay. Thank
7 you.

8 Then in that there was a quorum present and that
9 the vote taken at that particular ANC meeting to support the
10 application, then the ANC-1B will be afforded the great weight
11 to which it is entitled.

12 MR. GUYOT: Thank you very much.

13 CHAIRPERSON CROSS REID: Thank you.

14 Mr. Glasgow, let me just before you begin -- is
15 the anyone here in opposition to this case?

16 (No response.)

17 CHAIRPERSON CROSS REID: Okay. Then seeing none,
18 Mr. Glasgow, I'd appreciate it if you would basically give us
19 the salient points so we can pretty much expedite this case and
20 get through it fairly quickly.

21 MR. GLASGOW: Thank you. Thank you, Madame
22 Chair.

23 Good afternoon, members of the Board. For the
24 record, my name is Norman M. Glasgow, Jr., of the law firm of
25 Holland and Knight, LLP, representing the Applicant in this

1 case and the designated developer of what is now Lot 67 in
2 Square 236.

3 There's been a subdivision to combine all of the
4 lots that were mentioned previously into a record lot.

5 Here with me today are Ms. Elisa Hill of the
6 Washington Metropolitan Area Transit Authority; Chris Donatelli
7 and Lou Donatelli of Donatelli & Klein, seated in the audience;
8 Nigel and Vance Gragg of Gragg Associates, who are developers
9 of the project along with Donatelli & Klein; Ellington Plaza DG
10 Limited Partnership; Maurice Walters of Tour Degallis Partners
11 (phonetic), CHK, the architectural firm for the project; and
12 Steven Sher, Director of Land Use Service, Zoning and Land Use
13 Services at Holland and Knight.

14 Also here with me is Mr. Dennis Hughes of Holland
15 and Knight, and there are several other representatives of
16 Donatelli & Klein.

17 I will dispense with the brief opening statement
18 that I normally give at this point in time. You all, I assume,
19 have a copy of the statement of the Applicant and have seen it.

20 CHAIRPERSON CROSS REID: We all have copies, and
21 we have all read it. All of the Commissioners that are in our
22 files have been prepared for it.

23 MR. GLASGOW: Great. Thank you.

24 With that I have now just skipped three pages of
25 my opening statement. The only other thing that I wanted to

1 address there is that the R-5-B district comprises about 3,120
2 square feet of a lot area that is over 44,000 square feet. So
3 the R-5-B portion of the lot is about seven percent of the
4 subject site. The rest is commercially zoned, and as you all
5 know, this is essentially a residential apartment project.

6 If there are no preliminary questions, I would
7 like to proceed with the testimony of the witnesses and first
8 call Ms. Elisa Hill.

9 Would you please identify yourself for the record
10 and proceed with your testimony?

11 MS. HILL: Elisa Hill. I'm with the Washington
12 Metropolitan Area Transit Authority.

13 Good afternoon, members of the Board. I'm a
14 senior development specialist with the Authority.

15 On September 23rd, 1999, the WMATA Board
16 designated Ellington Plaza DG Limited Partnership as the
17 developer of WMATA owned parcels numbered 37, 38, 39, 800, 801,
18 802, 803, 804, 828, 829, and 832 in Square 236.

19 On February 24th, 2000, the WMATA Board approved
20 the terms of a sales agreement with Ellington Plaza and
21 authorized staff to execute it. It was executed on May 23rd,
22 2001.

23 The sales agreement requires the developer to
24 obtain all needed permits from the District of Columbia.

25 WMATA supports the application here before this

1 Board for a special exception and variance relief from the
2 zoning regulations. Your approval will allow this important
3 project to move forward. We believe that this project complies
4 with the District's comprehensive plan, which recommends that
5 this area be developed with a mix of residential and retail
6 uses.

7 The Authority aggressively pursues development of
8 its properties through its well established joint development
9 program which seeks to integrate transit service with
10 development to maximize the benefits from the public investment
11 in the Metro system.

12 The goals of the program are to increase
13 ridership to the system, increase revenues to the Authority
14 through the sale or lease of its properties, and provide
15 benefits to the local jurisdictions in the form of taxes, jobs,
16 and increased economic development.

17 The District of Columbia will benefit not only
18 from the potential taxes generated by this project, but also
19 from the infusion of additional new residential development in
20 this area which will contribute significantly to its continued
21 revival and catalyze the ridership the project will generate.

22 WMATA enthusiastically supports the application
23 before you. Your approval will allow this important project to
24 be realized.

25 MR. GLASGOW: Thank you, Ms. Hill.

1 CHAIRPERSON CROSS REID: Thank you.

2 MR. GLASGOW: I assume that the Board would want
3 us to proceed with all of the witnesses and then have any
4 questions.

5 CHAIRPERSON CROSS REID: Okay.

6 MR. GLASGOW: All right. Thank you.

7 I'd like to call the next witness, Chris
8 Donatelli and Nigel and Vance Gragg.

9 Mr. Donatelli, would you please identify yourself
10 for the record and proceed with your testimony?

11 And Mr. Nigel Gragg will be testifying after
12 that.

13 MR. DONATELLI: Good afternoon. My name is Chris
14 Donatelli, President of Donatelli & Klein. To my right are my
15 partners, Nigel and Vance Gragg. All of us are members of the
16 partnership that was selected by the owner of the site,
17 Washington Metropolitan Area Transit Authority to develop the
18 Ellington Apartments at the corner of 13th and U Streets, N.W.,
19 in the heart of the greater U Street historic district and ARTS
20 overlay district.

21 By way of background, as it will be discussed
22 later, we have obtained approval from the D.C. City Council for
23 closing the public allies so that this project could move
24 forward and unanimous approval from the HPRB for the design,
25 height, and mass of the proposed building.

1 The Office of Planning report also recommends in
2 favor of the project.

3 The Ellington is an architecturally distinctive
4 building that represents the unique history and current
5 opportunity of the Cardoza-Shaw U Street neighborhood as a
6 place to live, work, and play in the District of Columbia.
7 Included within the Ellington are eight stories of 186 rental
8 apartments, two levels of underground parking, and
9 approximately 15,000 square feet of ground level commercial
10 retail space.

11 Today the Cardoza-Shaw U Street corridor is at
12 the crossroads of being able to move forward in a positive
13 fashion, and this project furthers that positive energy being
14 generated in the following ways.

15 Number one, locating high density residential
16 development near the U Street African America Civil War
17 Memorial Metro Station;

18 Stimulating the growth of commercial investment
19 and retail oriented businesses in the U Street corridor;

20 And, three, creating a positive perception of
21 increased public safety on U Street by contributing additional
22 residents and extended life to the street.

23 In the court of planning Ellington, we met and
24 overcame several critical design challenges. The tunnels of
25 the Metro Green Line, which traverse under the development

1 site, required an exceptionally engineered and costly building
2 foundation system.

3 The historic character of the community and the
4 spirit of the greater U Street historic district and the ARTS
5 overlay district suggested an appropriate height of the
6 building to soften the remaining height perspective of the
7 building.

8 We voluntarily took, in cooperation with the
9 community and staff of the HPRB, which resulted in our losing
10 one floor of the building.

11 The configuration of the site and the three
12 different zoning classifications which cover it required that
13 we create a horizontally long building that essentially has
14 three sections of varying height.

15 I'll now turn it over to Nigel Gragg.

16 MR. NIGEL GRAGG: For the record, my name is
17 Nigel Gragg, a principal in the corporation of Gragg &
18 Associates and a partner with Donatelli & Klein on the
19 Ellington.

20 Despite these challenges, we were able to create
21 a building that has won the enthusiastic support of both the
22 community and the District of Columbia officials charged with
23 development and oversight, including the Cardoza-Shaw
24 Neighborhood Association, U Street Business and Arts Coalition,
25 Area Neighborhood Commission 1B, Walker Memorial Baptist

1 Church, Historic Preservation Review Board, Office of Planning
2 and Zoning, Deputy Mayor for Economic Development, Eric Price,
3 and the Honorable Council Member for Ward 1, Jim Graham.

4 We are here before you today requesting relief
5 from a few of the technical zoning requirements that government
6 the development site, relief that will allow us to construct
7 the Ellington as it is presently designed.

8 Unless you have any questions at this time, I
9 would like to have Mr. Maurice Walters of Tour Degallis CHK,
10 architects, walk you through a more complete overview of the
11 Ellington Plaza and the details of the relief we are requesting
12 of you.

13 Thank you very much.

14 CHAIRPERSON CROSS REID: Thank you, Mr. Gragg.

15 MR. GLASGOW: Mr. Walters, would you please
16 identify yourself for the record and proceed with your
17 testimony?

18 MR. WALTERS: My name is Maurice Walters. I'm a
19 principal with the architecture firm of Tour Degallis and
20 Partners, CHK, and I'm going to talk from the drawing. So
21 hopefully this microphone will pick up my testimony.

22 The first exhibit, I wanted to just reiterate
23 some of the issues that were brought up about the zoning. As
24 you can see here, the large area in the tan color is the ACR
25 zone, which is the bulk of the site. The smaller area in brown

1 is the AC-2-A, which extends back 17 feet from U Street, just
2 to back up, the intersection of 13th and U Street right here,
3 and then the area here is the R-5-B, and that continues on with
4 the existing adjacent townhomes and church there.

5 It will be important when we get into the floor
6 plan to remember the thinness of the AC-2-A. That is germane
7 to the reason for the extension that we're proposing.

8 The architecture here, as has been mentioned, we
9 worked very closely with HPRB and with the community to come up
10 with a building that we are very proud of and we think will be
11 a very positive addition to U Street and the revitalization of
12 that corridor. It will add residential and retail uses to an
13 area in close proximity to a Metro station, and we feel it will
14 definitely contribute to the community.

15 In designing the building, we have attempted to
16 break down the massing so that it isn't -- it's a very large
17 frontage, 336 feet on U Street, and we studied some older
18 buildings within the city to look at successful ways of dealing
19 with larger massing.

20 Two of those buildings that are very close, one,
21 the Roosevelt on 16th Street is arranged with a series of
22 fingers or pavilions along the street with intermittent
23 courtyards. That was a very important kind of thing to look
24 out for and served as a model to the building.

25 Another one, just down 13th Street, the White

1 Law, again, two pavilions with a central courtyard.

2 So from there we have arranged the building with
3 a series of three finger pavilions along U Street, then with
4 courtyards that go back in between, softening the massing, and
5 then the building is stepped back at the seventh and eighth
6 floors.

7 It's an eight story building. It's continuous up
8 to the sixth floor, and then terraces back, and the seventh and
9 eighth floor are set back.

10 Additionally, when we move over to the kind of
11 panhandle area where the R-5-B and C-2-A are, the zoning goes
12 down, and it's a smaller footprint. So we've kind of made a
13 separate structure in scale there. It's a four story building,
14 and we've even treated it a little bit differently.

15 It's a very important location in the city and a
16 prominent intersection. So we've made a building that's a
17 little bit more unique there. We have loft type apartments,
18 and the upper three levels, and then the ground floor is retail
19 also, and that building also has a small courtyard that sits
20 back from the street.

21 We're attempting to let U Street, the sidewalk,
22 breathe a little bit. If you're familiar with the current
23 configuration, there's restaurants along the south side that
24 have put outdoor seating, but it's very tight, and we want to
25 create an environment here where the street will kind of

1 breathe a little bit and allow for cafes and gathering spaces
2 within the street.

3 Other things we've done are create little
4 Belvedere pavilions up on the terrace to add to the interest.
5 The tenants of the seventh floor will be able to use this
6 terrace and have little pavilions to come out and enjoy the
7 views down to the south.

8 Other architectural elements that arose in the
9 discussions with HPRB were the idea of the decorative metal
10 cornice that occurs at the top of the building, at the sixth
11 floor, to kind of reinforce the six story nature of the
12 building along U Street.

13 Additionally, we have a series of little French
14 balconies also on that exposure, again, kind of making a strong
15 line on the building.

16 We have attempted to treat the building in a
17 classical manner or arrangement of a strong base, middle and
18 top, but it's also kind of reminiscent of some earlier art deco
19 buildings, kind of Jazz Era buildings. So it's also modern in
20 the same right.

21 We had done some earlier studies for the
22 community and HPRB. We montaged a computer modeling to
23 photographs to illustrate the impact of the building. This
24 view is taken across from the Lincoln Theater looking to the
25 west down U Street. The existing Rite-Aid, and you can make

1 out the Reeves Center beyond, another apartment building
2 beyond. So you get a sense of the impact of the massing.

3 You can see the three fingers and how they're
4 relieved by the courtyards and then what we call the loft
5 section at the corner. We're proposing possibly two different
6 brick colors to distinguish the two, a tan brick for the main
7 structure and a reddish brick for this building that then leads
8 back to the row of red brick Victorian structures that
9 currently exist on 13th Street.

10 The detailing of the facades, we anticipate,
11 again, a predominantly brick facade. There will be storefront
12 detailing at the base of the building to articulate the
13 groundplate, some granite detailing at the base of the
14 storefronts, also a series of canopies and awnings that denote
15 entries to the building.

16 Signage is another important issue. We want to
17 have a lively signage on the building. We even have a -- it's
18 hard to make out, but we have a sign on the corner that's
19 envisioned to say Ellington Plaza at the intersection of 13th
20 and U.

21 As was mentioned earlier in the negotiations, we
22 did lose a building. The building is approximately 34,000
23 under the allowable FAR for the site, and the reason for that
24 is the loss of the floor, and other negotiations that have gone
25 on with the building through approvals.

1 I'll quickly walk you through the plans so you
2 can understand how the building is organized and arranged, and
3 then I want to address the zoning issues that we're asking for
4 relief on.

5 A diagram of the lower level parking. As was
6 mentioned, one of the important issues is that the Metro
7 tunnels sweep under the site. That results in some very
8 interesting structural implications, a transfer pad that
9 transfers all of the structural loads. It is a significant
10 cost factor to the project.

11 We've attempted to get as much parking in. The
12 tunnels are down a certain dimension. So Metro has been or
13 WMATA has been very agreeable in letting us get down close, a
14 reasonable distance to the tunnels to get a good view of
15 parking.

16 The parking far exceeds the zoning requirements,
17 but we have two bays of parking under the main building, and
18 then a single bay under the fourth story.

19 Moving up the building, this is the first floor
20 plan. Again, U Street, 13th Street. The areas in red
21 represent the retail frontage on U Street. You can see in here
22 the courtyard envisioned for outdoor seating at the four story
23 building.

24 Another issue is we're proposing extending just a
25 grass of landscaping panel on the 13th Street frontage to make

1 the retail frontage or the retail use of that. The idea is
2 that we wouldn't have storefronts and entries on there. That
3 would occur within the building.

4 Moving along, we have a museum/retail space
5 that's showed here that has frontage back in the back, and in
6 the middle of the building we have the residential lobby entry.

7 The residential lobby is shown in blue, a concierge desk
8 moving back into here to a leasing center where management for
9 the building occurs, back through a elevator lobby.

10 This area back in here is part of the amenity
11 package, which also fulfills the residential recreation space.

12 We have a large community room with a kitchenette, billiards
13 and game room. We also have a little small outdoor patio for a
14 little bit of the outdoor space; a meeting room to be used for
15 the residents of the building, the small business, a small
16 conference table, business center.

17 A very large, gracious health club, aerobics
18 room, and locker rooms for the building. Some more tenant
19 storage.

20 The ramp down to the garage; our loading berths
21 around the back, and some additional parking spaces off of the
22 existing public alley.

23 Another important issue we'll get to later are
24 the creation of the setbacks that occur in this shaded area
25 here that are allowing access to the back of the townhomes and

1 then the four foot pedestrian alley that's being created behind
2 this building to allow them also access out to 13th Street.

3 Moving along, the second floor, you can start to
4 see the typical floor plan where it occurs. These shaded areas
5 are the terraces that are created when we cut back the
6 courtyards. Those units will have access out onto a terrace.

7 E-shaped building, and the issues we'll be
8 talking about with relief are related somewhat to this. We're
9 bringing stair towers up to the building, a stair tower here
10 and here, and an elevator core in the middle. So all of those
11 come up through the roof, and that necessitates the need for
12 relief on that.

13 So the main double loaded building here, and then
14 the smaller, four story loft building over to the edge.

15 Skipping ahead to the fifth floor, the building
16 continues at pretty much the same. Then at the fifth floor, we
17 get a small terrace area on the roof of the four story loft
18 area that provides some of the residential recreation space.

19 Also, a lot of these units have their own
20 individual balconies, which count to that requirement, too.

21 Moving up to the seventh floor, the building
22 terrace is back. Along U Street there's an 18 foot terrace
23 across the front. These units will have access out to the
24 terrace, and the little Belvedere pavilions at the corners will
25 also be used by them, and then on the back sides of the

1 building, the building also terraces back certain dimensions to
2 provide outdoor space for those units.

3 Lastly, the roof plan, one of the elevators will
4 come up in the middle. There will be a vestibule access out
5 onto a landscape deck currently envisioned with a mixture of
6 hearthscape and some greenscape, even possibly a little green
7 lawn panel if people wanted to come up and enjoy some outdoor
8 games.

9 The two stair pavilions also come up. They share
10 an enclosure with mechanical ventilation units for the stair
11 towers, something that's required for fire safety. That will
12 be, again, one of the areas of relief.

13 Okay. At this point, I want to start talking
14 about the areas of relief that we are seeking. I guess I'll
15 just go right back to the roof plan to talk about that issue
16 first, the special exception we're seeking.

17 As I mentioned, the three separate structures
18 that come up, the two stair towers in the side, they're rising
19 up above the roof line, is necessitated by the need to provide
20 private residential recreation space, and the configuration of
21 the building drives them being remote from the center. It's
22 actually required by the building codes that they be spread
23 out.

24 So that's driving three separate ones. We could,
25 in fact, join them with some kind of wall or enclosure, but it

1 would reduce the amount of recreation space we'd have to
2 provide.

3 The second issue is the height. The elevator
4 penthouse has a requirement to be tall, 18 feet or 18 feet,
5 six. The zoning code allows that.

6 The other two structures do not need to be that
7 tall. They only need to be approximately eight feet tall for
8 the stair enclosure and the screen loft, those mechanical
9 units. So we want to keep those low, and we don't want to
10 raise those to the full height. We want to minimize their
11 impact on the height of the building.

12 The second issue that we're requesting a special
13 exception for is the extension of the zoning boundary line, and
14 again, as we mentioned on the survey, we only have a 17 foot
15 dimension along here that is zoned the C-2-A.

16 So currently that would only allow for a small
17 portion to be retail. This is a very important corner in the
18 building. We feel it's a really wonderful spot for retail, and
19 it would be appropriate to extend that line and this line to
20 allow us to build that area in red, and our intention is that
21 all of the frontage and storefronts would occur along U Street
22 or within this courtyard.

23 We would only propose returning retail signage
24 back for the 17 feet that currently exists along here for C-2-
25 A. This might have windows on the facade, but it would be

1 landscaped. Again, the intention not to have retail activity
2 filtering off of the 13th Street sidewalk.

3 We have a buffer of residential use. There's a
4 stair for the residential above coming down here. So that
5 buffers that edge from retail activity.

6 Above the first floor the entire use is
7 residential. So we're only seeking the special exception for
8 the ground floor plan.

9 Moving on to the issue of the courts that we're
10 seeking relief for, again, that is necessitated by the setbacks
11 that we provided along here and here for access to the back of
12 the units. There's two courts.

13 One that we're calling the pedestrian alley here
14 is currently four feet in width. It's to allow pedestrian
15 access out to U Street. By code, that would need to be 10.2
16 feet.

17 If we were to push the building further, these
18 units within here are already configured at a 27 foot depth.
19 That is below kind of what you -- typically in an apartment,
20 you're around a 29 foot depth for an apartment. So we're
21 already two feet, two and a half feet below what is optimum,
22 and if we were to go the full width, it would just render this
23 whole section of apartments infeasible.

24 Over here we have a combination of a small area
25 that is ten feet and then it branches out to 12 feet in this

1 area. That's for the lower level, and then when we go to the
2 seventh and eighth floor, the building steps back and the
3 dimension expands.

4 Again, the building is getting down to a
5 dimension in this area of 17 -- I'm sorry. I'll go back to my
6 notes for the numbers -- the apartment depths are 21 feet here.

7 Now, the reason we're able to get by with 21 feet
8 in this area is it's for a smaller expanse than over here.
9 Here we have a long expanse of apartments. So we can play a
10 few tricks and downsize a few rooms within this area. Again,
11 we're just slightly under.

12 At the upper level, the building steps back about
13 another five feet, and the unit dimension gets down to 16 feet,
14 which is incredibly narrow. What we basically have is a five
15 foot bathroom and a ten foot bedroom, and that's playing every
16 trick we know, and we're able to do it across a length of two
17 bedrooms there to make that one work.

18 The fourth issue we're seeking relief on is the
19 residential recreation space. As we mentioned, we feel we're
20 providing a very generous program on the first floor. We're
21 somewhat in conflict with the zoning. The zoning requires 50
22 percent of the ground floor to be retail, but we feel that
23 we've provided quite a lot down there.

24 If you remember, we had a large health club,
25 large aerobics room, a lobby, a meeting room, a game room, and

1 a small outdoor area. We also have the two or three courts.
2 We have the one larger court and two smaller courts, and then
3 as you go up the building, on the second floor we have these
4 courts. We start to pick up the private balconies. We have
5 the roof of this structure. We have the terraces on the
6 seventh floor, and then the main roof structure.

7 So we've really thrown a lot in. We feel it's as
8 much or more than most projects, similar residential projects
9 are providing. In fact, most projects are having to seek
10 variance for this issue. It is a very onerous requirement.

11 So we've gone pretty far towards providing what's
12 needed. We're at 24,900. Twenty-nine thousand square feet
13 would be required. So we've gone a long way towards meeting
14 what's required.

15 The last two issues are kind of co-related.
16 They're a result of the ARTS overlay requirement within the
17 site, and the amount of public use space on the ground floor.

18 We're required to provide ten percent open space
19 on the ground floor. We're providing the two smaller
20 courtyards along here, and then the larger courtyard.

21 The sixth issue is the street wall build to. The
22 zoning code is encouraging us to push everything up to the
23 street wall. So the two things that you can see here in this
24 diagram are kind of competing with each other, and what we've
25 tried to do is strike a balance to provide, you know, kind of a

1 compromise, which we feel helps the building be more
2 interesting architecturally by providing some relief to the
3 street wall, but getting as much of it on the street line.

4 In some cases, we actually are having small bay
5 windows that then go over the line as is allowed by the
6 building code. So there is kind of an undulation or modulation
7 to the street wall.

8 The predominant wall is on the property line, but
9 there are things that come in and go out a little bit, and that
10 all acts to provide interest to the facade.

11 So in closing, we've got a project that we're
12 very excited about. We really think the building would be a
13 strong addition to the community. We've worked very hard with
14 HPRB and the citizens to get their input and implement it and
15 incorporate it into our building in what we think is a positive
16 manner, and we just have these areas of relief that we need to
17 ask you to consider.

18 Thank you very much.

19 MR. GLASGOW: Maurice, could you speak to the
20 parking pads being created for the neighbors in the court?

21 MR. WALTERS: Yes. In addition to the access
22 that's being created here, in the negotiations with the
23 neighbors each one of them will get one parking pad at the back
24 of their building so they can now have parking.

25 COMMISSIONER PARSONS: Madame Chair, I wonder if

1 I could jump in here.

2 CHAIRPERSON CROSS REID: Okay.

3 COMMISSIONER PARSONS: It seems as though the
4 roof plan that you just showed us is not the one that we have
5 in the record. We're shown this plan here, which shows none of
6 the detail that you described.

7 MR. WALTERS: That was an earlier version. We
8 received --it's basically the same extent of painting. It's
9 the landscape architect had provided us a computer drawing that
10 showed more detail with paving and green areas. I think that's
11 the major difference between the two drawings. That drawing
12 just showed everything with a paving pattern.

13 COMMISSIONER PARSONS: Yes. Well, I was
14 wondering if we could pass that around just so we'd all know
15 what it is.

16 CHAIRPERSON CROSS REID: And that also has to
17 stay in the record, but we needed to have gotten a submission
18 with the most updated and --

19 MR. WALTERS: We just did receive that within the
20 last few days.

21 CHAIRPERSON CROSS REID: Right.

22 MR. WALTERS: Again, that was attempting to show
23 the quantity of space. This just shows it in more detail.

24 (The Commission conferred.)

25 CHAIRPERSON CROSS REID: Did you want to proceed

1 onto the next? Thank you.

2 Did other Board members have questions at this
3 time of the ARTS check?

4 MEMBER GRIFFIS: I have one or actually perhaps
5 maybe several questions.

6 First of all, I think this is an absolutely
7 intriguing animation for this corner. However, in your
8 negotiations with the adjacent property owners and residents,
9 you spoke about providing parking pads for each of those
10 townhouses. Was part of the negotiation also the four foot
11 pedestrian alley, I believe you called it, that is just a
12 walking connection to 13th Street?

13 MR. WALTERS: Yes.

14 MEMBER GRIFFIS: It was. So it was actually
15 something that the residents wanted?

16 MR. WALTERS: Yes.

17 MEMBER GRIFFIS: In terms of your design and
18 construction, any sort of security lighting or anything like
19 that provided for that?

20 MR. WALTERS: Yeah, there'll be lighting along
21 the alley. We've had some discussions about whether or not to
22 put a gate there. That's not been completely resolved.

23 MEMBER GRIFFIS: Which direction are the
24 residents going in terms of gate? Do you know offhand?

25 MR. WALTERS: I don't know.

1 MEMBER GRIFFIS: It would probably be a strong
2 thing to do.

3 To that also, what sort of control is the
4 building going to have on the courtyards that are on U Street?

5 You're proposing three of them, two of the small, a little
6 over 200 square feet, and then the largest one.

7 You had said that in your application that there
8 might be seating available. I would imagine that might be
9 restaurant, cafe of some sort.

10 MR. WALTERS: Un-huh.

11 MEMBER GRIFFIS: Is there control of that perhaps
12 after business is closed? Is there any sort of definition that
13 happens there?

14 MR. WALTERS: The two smaller ones only go back
15 about ten feet. We're not proposing any control on those
16 because the storefronts go back. That is going to function as
17 a more normal sidewalk area.

18 The larger one, we continue actually the street
19 wall across with a series of architectural piers, with
20 decorative light fixtures on them that continues the theme that
21 we've introduced over here.

22 And then what we're designing are a series of
23 large bifold gates that will park open up against the piers.
24 So during the day those can be opened up. People can flow into
25 it, but at night they could be closed down for security. It's

1 a fairly substantial space, to also close that up.

2 MEMBER GRIFFIS: So you anticipate the control of
3 that to basically be on the tenant that is --

4 MR. WALTERS: The building manager.

5 MEMBER GRIFFIS: Or perhaps the building --
6 right.

7 MR. WALTERS: Or the tenant. It depends on how
8 things lease out, if there's one or two tenants in that space.

9 MEMBER GRIFFIS: I see. Good. Thank you.

10 CHAIRPERSON CROSS REID: Okay. All right.

11 MR. GLASGOW: I would like to call our last
12 witness, Mr. Steven Sher.

13 Mr. Sher, would you please identify yourself for
14 the record and proceed with your testimony?

15 MR. SHER: Madame Chair and members of the Board,
16 for the record, my name is Steven E. Sher, the Director of
17 Zoning and Land Use Services, with the law firm of Holland and
18 Knight, LLP.

19 Mr. Walters did, I think, a very good job in
20 explaining the areas of relief and why this building needs the
21 degree of relief that it does from this Board. He's kind of
22 made my job not quite redundant, but a little simpler than it
23 sometimes is.

24 So I'd like to focus on a couple of the key
25 points that are involved here. Number one, the fact that the

1 three zoning classifications apply to this property, the
2 ARTS/CR, the ARTS/C-2-A, and the R-5-B, but they all sort of
3 come together at that corner of 13th and U where the property
4 doesn't have nearly as much depth as it does as you go further
5 to the west along 13th Street.

6 So notwithstanding the fact that the bulk of the
7 property is zoned ARTS/CR, where the three zones comes together
8 is what creates a bunch of our issues. So we've got the courts
9 in that area. WE've got some of the residential recreation
10 space in that area, and so forth.

11 Number two, the push-pull, if you will, between
12 the overlay requirement that says the building has to come out
13 to the street front and the underlying requirement of the CR
14 zone, which says we need to create some space back from the
15 street front, that ten percent, it's supposed to be adjacent to
16 the entrance so you really don't want it around in the back,
17 and yet at the same time, we're saying this building is
18 supposed to come out to the street wall. The street wall is
19 supposed to come out to the property line.

20 So you can either go all the way one way and have
21 no variance, on the one side, or go all the way the other way
22 and have no variance on that side, or you wind up as the
23 architects have done here, trying to satisfy everybody. So
24 you've got a little bit of one and a little bit of the other,
25 and you need a variance from both.

1 So it's really that sort of opposite, contrary
2 nature of the overlay with the underlying zone that creates the
3 need for the variance on those two issues.

4 With respect to the roof structure, what happens
5 here essentially is you've got three points of access to the
6 roof. You've got an elevator tower in the middle, and you've
7 got two stair towers at either ends of the corridors that serve
8 the residential units on the lower floor, that go all the way
9 up from the ground to the roof.

10 You could connect all of those things, and you
11 could make them all 18 foot, six inches high, and you wouldn't
12 need any relief from the Board. But what you've done is
13 created almost 100 feet extra of linear length of roof
14 structure that just adds to the bulk on the top of the
15 building. It forces that extra 100 feet to be at 18 foot, six
16 so that the walls are all of equal height when, as Mr. Walters
17 testified, the stair towers only need to be eight feet high.

18 So the stair towers, the two roof structures at
19 either end are of equal height in and of themselves, but
20 they're not at the same height as the elevator tower in the
21 middle. They're not connected to the elevator tower in the
22 middle. So instead of having one roof structure of pretty
23 substantial bulk, we've got one, and then two smaller ones at
24 either end of the corridors below. So that's what occasions
25 the need for relief from the roof structure requirements.

1 Let me think what else I wanted to say.

2 On the residential recreation space, one of the
3 things that's happening here is that this building is not a
4 sort of typical CR model. The CR zone permits six FAR, three
5 FAR commercial and the remainder three FAR residential. So, in
6 effect, you have a 50-50 split between the commercial and the
7 residential.

8 In this building, we are doing -- number one,
9 we're not even all the way up at the six FAR because in order
10 to accommodate the design concerns, we're about 30,000 square
11 feet less than the maximum permitted onsite.

12 But we have a much greater proportion of
13 residential in this building than would ordinarily be the case.

14 There's no office use in this building at all, which is what
15 you would typically find in a CR building, say, in the west end
16 area which is where most of the rest of the CCR zone is mapped.

17 So what happens is because you've got a higher
18 proportion of residential, you get a higher requirement for
19 residential recreation space, and the Board is familiar with
20 many of the cases in downtown area where people have had a
21 great deal of trouble meeting that requirement.

22 In this case, we're not that far off, but we're
23 still four or 5,000 square feet less than what is required, and
24 as you can see on that center set of diagrams on the zoning
25 diagram sheet, the architects have kind of taken every nook and

1 cranny they can find to put into residential recreation space.

2 We've got a generous amount on the first floor.
3 We've taken a lot of the roof area, the rest of which has to be
4 left aside for mechanical equipment that serves the residential
5 units below. So I think they've done a pretty good job of
6 meeting that requirement, but because of the nature of the
7 building, the size of the site, the amount of space required, a
8 variance is required in that respect.

9 I think Mr. Walters has talked enough about the
10 courts that I don't really need to go there.

11 And, again, as to the area where the three
12 different zone boundaries come together, the relief that's
13 being requested primarily relates to the first floor because
14 second, third, and fourth floor are going to be used for
15 residential, which is permitted in the R-5-B zone. That
16 applies to that site now.

17 What's happening is we get a little more FAR than
18 would otherwise be in the R-5-B, but the basic issue is that
19 with the 17 foot depth of the C-2-A there, you really don't
20 have much you can do even if you didn't have that courtyard
21 there.

22 If you look at the zoning map, which we've
23 attached as Exhibit E to the statement, not to my report, but
24 to the Applicant's pre-hearing statement, you will see -- and I
25 can't explain exactly why that is other than it's probably an

1 historical fact -- that along 13th Street, that zoning boundary
2 line of the depth of U Street gets to that 17 foot depth. Both
3 further to the west and further to the east it's much deeper,
4 but right at that point it's only 17 feet.

5 So what happens when you try and develop this
6 site as it is now on a single record lot, you've got the zoning
7 boundary lines coming together there, and we would request that
8 relief from the Board as a special exception, and I think we've
9 demonstrated that we have complied with the requirements.

10 So without going through all of the various
11 conclusions, I would suggest that we have demonstrated that
12 this application complies with the applicable standards, and
13 that the Board should approve the application.

14 MR. GLASGOW: Madame Chair, that concludes the
15 direct testimony of the Applicant's witnesses.

16 CHAIRPERSON CROSS REID: Okay. Board members,
17 questions?

18 MEMBER HINTON: I have one, Madame Chair.

19 CHAIRPERSON CROSS REID: Okay.

20 MEMBER HINTON: There's a zoning reg. that I
21 don't know the exact number, but I bet that you do, and that's
22 the one that talks about in this ARTS overlay district, the
23 height of the building about 65 feet has to be set back at the
24 one-to-one ratio.

25 And I know you reference it in here, although

1 you're not asking for any variance from that, but when I look
2 at the cross-sections that are in the record, and maybe they've
3 been updated, but the ones that we have in a couple areas, it
4 appears that you're not meeting the one to one.

5 So is that something that's been corrected or
6 updated?

7 And I guess specifically in regard to -- and
8 we've talked about this on another project -- when you have a
9 terrace, out at the edge of the terrace, you're required by
10 code to have some sort of railing or something to keep people
11 from falling off, but then that extends into that zone.

12 And in addition, on this project, you have those
13 little architectural features that are on the corners that seem
14 to -- you know, they've got the columns and they've got the
15 outline at least of a roof, and that seems to be in that area
16 also.

17 So can you just explain? You'll need to be on a
18 microphone, yeah.

19 MR. WALTERS: I think to specifically answer your
20 question, you're referring to the transverse section on A-401,
21 Drawing F-2. On the front of the building, a portion of the
22 guard rail parapet, it's very close. It's almost at the line.

23 The zoning code measures heights from the room
24 deck and parapets are allowed to come above that, and that was
25 our interpolation, that we were definitely complying with the

1 terrace roof level being below. The guard rail is virtually
2 right on, and those other things are rooftop embellishments.

3 MEMBER HINTON: Okay, but maybe could you tell us
4 what section of the code that is so that we can look at it?
5 Because I thought the whole point of it was that you wouldn't
6 have things like rooftop embellishments, that the idea there is
7 that at least from the street level, the visibility of any
8 building that goes beyond that height would disappear from the
9 street level.

10 So that would indicate to me that these rooftop
11 embellishments right out at the edge would be contrary to the
12 intention of that, even though they're permitted in other parts
13 of the regulations; that in this specific --

14 MR. WALTERS: I think as we were going through
15 the negotiations with HPRB and the community, those were viewed
16 as being very positive, as adding something almost charming or
17 lovable to the building, that people could go up and sit under
18 those and enjoy the views to the south.

19 MEMBER HINTON: Right, and I'm not questioning
20 that. I'm just sort of trying to figure out if maybe what you
21 need is a variance to this other portion of the code.

22 (Members of the Applicant conferred.)

23 MR. SHER: I think what you're looking at is
24 Section 1902.2.

25 MEMBER HINTON: That's exactly it, yeah.

1 MR. SHER: I know that in general, the Zoning
2 Administrator's Office has applied those setbacks from the
3 roof, and if there's a railing or an architectural
4 embellishment that applies, that is extended over and above
5 that.

6 I think in the case we had that you were talking
7 about before, we were on Mass. Avenue, but we were also at the
8 limit of the height permitted by the Act of 1910. So we had a
9 somewhat different situation.

10 In this case, we're actually allowed to have a
11 parapet that extends above the height because it's not
12 controlled by the Act of 1910. We're below that level.

13 MEMBER HINTON: I understand that.

14 MR. SHER: Okay.

15 MEMBER HINTON: I don't know. Let me read this
16 again.

17 "In the underlying CR zone, if a building is
18 located on a lot that abuts a street," which this is --

19 MR. SHER: Right.

20 MEMBER HINTON: --"alley or zone boundary with a
21 residential zone, no part of the building shall project above a
22 plane drawn at 45 degree angle from the line located 65 feet
23 directly above the property line or on each such street, alley,
24 or zone boundary."

25 Do you understand? I mean, it says no part of

1 the building.

2 MR. SHER: Right, and again, I guess in the sense
3 that the way that the Zoning Administrator has traditionally
4 interpreted provisions like that, they've said, "Okay. If
5 there's a setback required, your roof is at such-and-such a
6 point. You measure the setback from that point," and if an
7 architectural embellishment is allowed or if a railing required
8 by the building code is allowed, then it's allowed because you
9 have to have it so people don't fall off the edge of the
10 building.

11 That's just the way it's been interpreted. I
12 know that's not -- this is a similar language to other things
13 that you find in setback requirements for other parts of the
14 regulations. I don't know that -- I know that I have not ever
15 personally asked about this particular section, but it's
16 similar to the way the regulations have been applied elsewhere.

17 MEMBER HINTON: Okay. I appreciate your opinion
18 on that. Thanks.

19 CHAIRPERSON CROSS REID: You have a question?

20 VICE CHAIRPERSON RENSHAW: Yes, Madame Chair.

21 First of all, on the drawing that we see before
22 us of the facade of the building, is the lower part on our
23 right-hand side pointed toward 13th Street or pointed towards
24 14th Street? Thirteenth Street?

25 MR. WALTERS: Thirteenth Street.

1 VICE CHAIRPERSON RENSHAW: All right, and this
2 building is positioned right across from the Reeves Center at
3 14th and U?

4 MR. SHER: No.

5 MR. WALTERS: No, it's across from where the
6 Rite-Aid is.

7 MEMBER HINTON: The Rite-Aid. I know where that
8 is.

9 But it looks on the map where there is a red
10 boundary, this is Exhibit B, to be right across from the Reeves
11 Building at 14th and U.

12 MR. SHER: That red describes the whole square.
13 It's not just the site of this building.

14 VICE CHAIRPERSON RENSHAW: Okay. On the parking,
15 this is a residential building with 186 units, two levels of
16 below ground parking, 177 parking spaces for residential and
17 retail.

18 Now, how many of those parking spaces are going
19 to be set aside for retail?

20 MR. WALTERS: I believe it's a dozen.

21 VICE CHAIRPERSON RENSHAW: Microphone.

22 MR. WALTERS: Do you want me to pull the first
23 floor plan up?

24 I believe we have a dozen spaces at grade. We've
25 got ten spaces at grade, and then the balance that are required

1 would be within the building.

2 VICE CHAIRPERSON RENSHAW: The balance, and how
3 many are going to be required?

4 MR. WALTERS: I don't have that number. Seven?

5 MR. GLASGOW: Yeah. On Sheet G-002 in Exhibit H,
6 lower right-hand corner, and I see I've had to take my glasses
7 off twice to read it, they have the retail spaces. The
8 residential spaces will total 156.

9 VICE CHAIRPERSON RENSHAW: All right. One
10 hundred and fifty-six spaces for 186 units?

11 MR. GLASGOW: Yes, it is significantly in excess
12 of the requirements.

13 VICE CHAIRPERSON RENSHAW: But that is a terribly
14 busy street. The parking is at a premium over there.

15 MR. GLASGOW: Right, and we are diagonally across
16 from a Metro station.

17 VICE CHAIRPERSON RENSHAW: Right. I understand
18 that, but people will have cars. How much is set aside for
19 visitor parking?

20 MR. GLASGOW: Those spaces are the residential.
21 Those are accessory spaces to the building. Plus there is no
22 place else to put parking. We have a Metro tunnel underneath
23 this building. We have maximized this parking at significant
24 expense, as much as can be done.

25 VICE CHAIRPERSON RENSHAW: All right. The other

1 question I have for you, on the corner of your building at 13th
2 and U, you show a sign that states Ellington Plaza. I think
3 that's what it is.

4 MR. WALTERS: That's correct.

5 VICE CHAIRPERSON RENSHAW: Is that going to be a
6 lit sign?

7 MR. WALTERS: The intention was, yes, that it
8 would be lit, and again, in working with HPRB, the staff member
9 wanted to maybe have the building reinterpret some of the kind
10 of life and graphic activity that had occurred on buildings
11 earlier in history, and that was a -- that sign was something
12 that directly came out of working with them.

13 VICE CHAIRPERSON RENSHAW: Will that illumination
14 shine into the windows of what I think is residential space?

15 MR. WALTERS: As a pilot, we will shield that so
16 that it does not shine into those units. The intention would
17 be to put some kind of a baffle at the back of the sign to not
18 adversely impact that apartment.

19 VICE CHAIRPERSON RENSHAW: Because it would be a
20 technicolor apartment, I would think.

21 But I'm also wondering with some of these neon
22 type signs, there is a hum on the sign, and how are you going
23 to handle any kind of noise?

24 MR. WALTERS: Have the sign manufacturer
25 -- I believe it has to do with appropriately sizing the

1 transformers that go within them and appropriately ventilating
2 them to mitigate noise pollution.

3 VICE CHAIRPERSON RENSHAW: Well, we won't be out
4 there with our noise meters, but I was just curious as to how
5 you were doing it.

6 And also you stated that the inside design of the
7 first floor was going to contain some conference spaces. Did I
8 hear you correctly?

9 MR. WALTERS: Yes. In contemporary apartment
10 developments, what we find is a lot of people work at home or
11 have some sort of business they do within the home now, and in
12 almost all modern apartment developments they will provide a
13 business center, which will have some computer hook-ups, a
14 place for people to come work. It will have printers and faxes
15 if they don't have that in their apartment, and also it will
16 have a small conference area if they have a need to meet with a
17 couple of people, usually a small room, 12 by 16 feet with a
18 conference table. They can schedule that to use.

19 Also there's a need for just the management to
20 occasionally use it, too. It's a very common amenity within
21 apartment buildings these days.

22 VICE CHAIRPERSON RENSHAW: Well, I have learned
23 something then. I just had the feeling as you described this
24 that it was going to be more towards small business people
25 setting up shop in this residential building.

1 MR. WALTERS: No, it's not intended as like a
2 live-work situation. It's just an amenity that they would sign
3 up to use for a couple of hours.

4 VICE CHAIRPERSON RENSHAW: But this would not be
5 used by the general public. This would only be for the
6 residents of the building?

7 MR. WALTERS: I believe that would probably just
8 fall for -- that area is really just for access for the
9 residents.

10 VICE CHAIRPERSON RENSHAW: And a last question.
11 Are these condos or are these apartments, rental apartments or
12 a mix of both?

13 MR. WALTERS: It would be condominium regime.

14 VICE CHAIRPERSON RENSHAW: So they will purchase
15 the units.

16 MR. WALTERS: No, they can be leased on their
17 condominium regime.

18 VICE CHAIRPERSON RENSHAW: Okay. Thank you.

19 CHAIRPERSON CROSS REID: Okay. Let me ask a few
20 questions here.

21 In regard to the retail space, what is the
22 percentage of retail space?

23 MR. SHER: The retain is approximately 24,000
24 square feet, including storage, selling space, and the total
25 space on the first floor.

1 CHAIRPERSON CROSS REID: Including storage?

2 MR. SHER: Storage associated with the retail,
3 approximately 24,000 square feet.

4 CHAIRPERSON CROSS REID: Okay, and what about the
5 recreation space? What's the percentage of the recreation
6 space in the building?

7 MR. SHER: The recreation total is just under
8 25,000 square feet, using all of the space that we can count
9 towards creation, balconies, the rooftops, the courtyards, and
10 so forth.

11 CHAIRPERSON CROSS REID: When you spoke in terms
12 of the courtyard space for the open space by U Street, my
13 understanding about that, I guess -- this is to the -- I'm
14 sorry. Give me your name.

15 MR. WALTERS: Maurice Walters.

16 CHAIRPERSON CROSS REID: Mr. Walters. That space
17 for the open space where people can sit and mill around, now I
18 wasn't clear as to whether or not that was as a part of the
19 retail space, like an open space for a cafe or something, or
20 was that just another space that was provided for the benefit
21 of the community or people, you know, traversing up and down U
22 Street?

23 MR. WALTERS: I think ideally it would be a bit
24 of both, that it would evolve as both. If there's a restaurant
25 or cafes in there, they might have tables, but also the gates

1 would be open during daylight hours, and the public could come
2 in there, too.

3 CHAIRPERSON CROSS REID: Okay, all right. Thank
4 you.

5 Any other questions?

6 (No response.)

7 CHAIRPERSON CROSS REID: Okay. If not, then we
8 go now to -- thank you very much -- to the government reports.
9 Office of Planning.

10 COMMISSIONER PARSONS: Madame Chairman, I just
11 want to take a minute to congratulate Mr. Glasgow and his team
12 on a fine presentation.

13 MR. HART: Madame Chair, we need to waive the
14 Office of Planning --

15 CHAIRPERSON CROSS REID: Yes, yes, we do. Unless
16 there's any objection, then we can waive it by consensus.
17 Board members, Office of Planning report?

18 All right. Thank you.

19 MS. STEINGASSER: My name is Jennifer
20 Steingasser. I'm with the Office of Planning.

21 I'm going to give the report on this case.

22 The Office of Planning, so that I don't get
23 redundant by the end of the presentation, found that the
24 special exceptions and the variances requested could be
25 granted, quote, without substantial detriment to the public

1 good and without substantially impairing the intent and purpose
2 and integrity of the zone plan as embodied in the regulations.

3 Having said that, going through each variance
4 quickly and briefly and each special exception, we found that
5 the variance request to Section 406 for the residential court,
6 the Applicant requested a four foot court in variance to the
7 10.2 required by code. In essence, as explained, this is a
8 sidewalk connecting the front of the residential properties to
9 the rear parking, and the uniqueness of that portion of the
10 lot, the adjoining zoning districts, and the overall size of
11 the project we found to be a unique situation, and we recommend
12 approval of that variance.

13 The roof structure, as adequately explained,
14 again, it's a large site which resulted in a large building.
15 The design is not unreasonable as set out by code.

16 If all three were required to be in one rooftop
17 structure, it would not properly serve the residential legs of
18 the building as intended by the building code, and it would
19 result in less residential recreation space as the roof is
20 intended to be a rooftop terrace and meet their residential
21 recreation space requirement.

22 We found that these three requested roof
23 structures did not impair the light nor air of the adjoining
24 properties, and we recommended approval of that special
25 exception.

1 The variance to Section 633, the required public
2 space at ground level, and its conflicting compelling issues
3 with the street front design requirement of Section 1903, we
4 agreed with the Applicant that this was a push me-pull you type
5 of design issue that they worked through with the neighborhood
6 and the Historic Preservation.

7 There was practical difficulty that resulted from
8 the large property and the CR district requirement being at
9 odds with the ARTS overlay. We recommended in favor of this
10 variance as well as the street frontage design of the ARTS
11 overlay for Section 1903.

12 Section 635, the private residential recreation
13 space, we felt that the Applicant had, indeed, provided a great
14 deal of recreational space for the residential portion of this
15 project, including the rooftop terrace, the fifth floor
16 terrace, the lobby, community room, billiards room, meeting
17 room, and health club. Their proposal met ten percent.

18 It's not an uncommon request for projects this
19 size to request a variance to the recreation space, and we
20 found that it could be granted without substantial detriment to
21 the project or the zones.

22 The open courts, as discussed in the Section
23 638.1, they are requesting courts with dimensions ten to 12
24 feet in variance to the 12.2 feet, which would be required
25 under the code.

1 We felt that it was a result of the site design
2 and the efforts to provide the neighbors with access to their
3 properties, and we had no objection to that request, and we
4 also recommended in favor.

5 The final special exception request being the
6 boundary line crossing a lot, Section 2514. The Applicants
7 requested that the CR-A extend 35 feet and the C-2-A with the
8 ARTS overlay extend also 35 feet into the R-5-B portion, the
9 thumb portion of the lot as it were.

10 Going through the criteria set out in the code,
11 the extension was limited to that portion within 35 feet, which
12 both requests were. It did not exceed or require compliance
13 with Section 2514, which addresses the more restrictive
14 residential portion. So it did not apply to this site.

15 The extension had no adverse effects upon the
16 character of future development of the neighborhood. To the
17 contrary, it actually enhanced the future development and
18 character of the neighborhood, and the Board could impose
19 requirements pertaining to design, appearance, screening, as
20 they may deem necessary to protect the adjacent properties.

21 We didn't feel there were any additional
22 requirements that needed to be put on that request and
23 recommended approval of that special exception as well.

24 And that concludes our brief report.

25 CHAIRPERSON CROSS REID: Okay. Thank you.

1 Questions? Board members, Office of Planning?

2 (No response.)

3 CHAIRPERSON CROSS REID: All right. Mr. Glasgow,
4 questions?

5 (No response.)

6 CHAIRPERSON CROSS REID: All right. Thank you.

7 All right. The ANC report has already been
8 given. Mr. Guyot gave that. I don't think we have any other
9 government reports that I could see. Do the Board members have
10 any others?

11 (No response.)

12 CHAIRPERSON CROSS REID: All right. Then we move
13 now to persons and parties in support of the application.

14 (No response.)

15 CHAIRPERSON CROSS REID: Okay. Seeing none,
16 persons and parties in opposition to the application?

17 We don't have any parties. So persons in
18 opposition?

19 (No response.)

20 CHAIRPERSON CROSS REID: All right. Closing
21 remarks by the Applicant.

22 MR. GLASGOW: Madame Chair and members of the
23 Board, we have spent some period of time getting this project
24 to the point that it is right now. If it possible, we would
25 like to get a bench decision today. That will enable us to

1 proceed forward.

2 CHAIRPERSON CROSS REID: Okay. Excuse me, Mr.
3 Glasgow. I'm sorry. I think I had a question.

4 Was there a question in the back?

5 MR. WOODHAM: Yes.

6 CHAIRPERSON CROSS REID: Come forward to the mic,
7 please, before closing remarks.

8 MR. WOODHAM: Madame Chairman, my name is Garnet
9 Woodham. We're the owners and the occupiers of 2000 13th
10 Street.

11 CHAIRPERSON CROSS REID: Okay. Now, did you --

12 MR. WOODHAM: That's the 800 lot.

13 CHAIRPERSON CROSS REID: Okay. Did you wish to
14 testify?

15 MR. WOODHAM: Yes, I just wish to make a
16 statement here.

17 CHAIRPERSON CROSS REID: All right. Have you
18 been sworn in?

19 MR. WOODHAM: No.

20 CHAIRPERSON CROSS REID: Okay. Before you can
21 make a statement, sir, you have to be sworn in.

22 I'd ask because I saw several people in the back
23 who did not raise their hand; I had asked if there's anyone who
24 wished to testify, to make a statement. If you do, you have to
25 be sworn.

1 MR. WOODHAM: This is just by way of some
2 questions which I need to ask.

3 CHAIRPERSON CROSS REID: Well, well, well, a
4 couple of things. One is in order to be able to ask questions,
5 you have to be a party in the case, and I don't know. Did you
6 receive any information regarding --

7 MR. WOODHAM: Yes. I received a copy of your
8 circular inviting the public to --

9 CHAIRPERSON CROSS REID: Okay, and did --

10 MR. WOODHAM: -- to this hearing.

11 CHAIRPERSON CROSS REID: And did you receive the
12 information about party status?

13 MR. WOODHAM: Yes, it must -- it would have been,
14 yes. It would have probably been included in that.

15 CHAIRPERSON CROSS REID: All right. In order for
16 you to ask questions at a hearing, then you have to be granted
17 party status.

18 MR. WOODHAM: Okay.

19 CHAIRPERSON CROSS REID: Which is usually done --

20 COMMISSIONER PARSONS: Madame Chairman, maybe we
21 could just have him --

22 CHAIRPERSON CROSS REID: -- at the beginning.

23 COMMISSIONER PARSONS: -- express his concerns
24 and then --

25 MR. WOODHAM: Yeah, that's really all that I'm

1 wanting to do at this point.

2 COMMISSIONER PARSONS: And not in a question
3 form.

4 CHAIRPERSON CROSS REID: Okay.

5 COMMISSIONER PARSONS: And we can get through
6 this.

7 CHAIRPERSON CROSS REID: All right. So, no, you
8 have to be sworn in. Why don't you stand, please, sir, and
9 then be sworn in, and then we can hear what you have to say.

10 (Whereupon, the witness was duly sworn.)

11 MR. HART: Thank you.

12 CHAIRPERSON CROSS REID: Okay. Now, because of
13 the fact that obviously there is some misunderstanding, I do
14 want to make sure that you are granted, you know, your due
15 process and rights here.

16 MR. WOODHAM: Thank you. Thank you.

17 CHAIRPERSON CROSS REID: And as such, we have to
18 also make sure we do it properly. So Mr. Parsons has
19 recommended that we hear -- let you air what you have to say,
20 and if you have questions, all right, then you can basically --
21 you really can't ask questions of the Applicant at this point,
22 but you can voice your concerns, and we can make sure that --
23 can try to make sure that your questions are answered. How
24 about that?

25 MR. WOODHAM: Sure. That's fine.

1 CHAIRPERSON CROSS REID: Okay.

2 MR. WOODHAM: That's fine.

3 CHAIRPERSON CROSS REID: Your name and address,
4 sir.

5 MR. WOODHAM: My name is Garnet Woodham, and my
6 address is 2000 13th Street.

7 CHAIRPERSON CROSS REID: And --

8 MR. WOODHAM: And that is adjoining the
9 development.

10 CHAIRPERSON CROSS REID: Okay. So you're the
11 abutter (phonetic) right beside?

12 MR. WOODHAM: We are abutting immediately beside
13 the development that is proposed on those drawings.

14 CHAIRPERSON CROSS REID: Okay.

15 MR. WOODHAM: Madame Chairman, what I wanted to
16 just raise were just a couple of issues, which listening to the
17 presentations sort of piqued my interest.

18 The presentation that has been presented to us
19 talks about the commercial and residential nature of the
20 development. Now, this description, I think, does not spell
21 out for us the environmental problems which would arise from
22 the use to which these commercial buildings would be put.

23 The draft letter, first of all, we received,
24 indeed, a draft letter from the developers seeking our
25 signature in support of the variances that were being asked,

1 requested from you today.

2 And in that draft letter, they refer to the
3 desire by someone -- it is not spelled out in the letter -- to
4 provide an open cafe area at the intersection of 13th and U
5 Street. I think that that is what has been described here as
6 the restaurant.

7 If this use is implemented, we have a couple of
8 concerns that certainly would affect us who are adjoining this
9 area more than it would affect anyone else.

10 First of all, there is the possibility of rats
11 and rodent infestation because restaurants, cafes usually
12 spread and develop -- it's an area where rats and rodents are
13 usually -- are usually -- are usually found.

14 the second thing that we are concerned about is
15 the collection of garbage. Usually for restaurants, and so on,
16 garbage is collected at night, at odd hours of the night, and
17 that, I think, requires the residents to be -- it does not help
18 the residents in any way because of the noise and all of the
19 clutter from the garbage collection.

20 The noise, for example, from the cafe use is also
21 very disturbing because of the hours that the cafe would be
22 open or that the restaurant would be open, and also the
23 delivery of goods and inputs to the development of food and
24 items of that kind.

25 And the other thing which is very critical to me

1 is that what the development does is that it changes the
2 organic development of that area. What we have seen is a
3 number of small buildings going up. This is a huge, monstrous
4 building. What we have seen there is, in fact, small
5 commercial enterprises. We are seeing a very large enterprise
6 here, commercial operation going on.

7 So that if you looked from that point of view,
8 plus these other concerns that we are setting out here, this,
9 in fact, presents for us a problem. And we would like to know
10 just what sort of approach is being taken to insure that that
11 is ameliorated.

12 CHAIRPERSON CROSS REID: Okay.

13 MR. WOODHAM: Although we fully appreciate that
14 the development must continue and must be made, we believe that
15 the residents who have traditionally been in the area, that our
16 sort of tranquility and peace and quiet should be respected and
17 should be sustained.

18 Thank you very much, Madame Chairman.

19 CHAIRPERSON CROSS REID: Thank you, and give me
20 your name again.

21 MR. WOODHAM: Woodham, Garnet Woodham.

22 CHAIRPERSON CROSS REID: Mr. Woodham, your points
23 are well taken. Certainly given the fact that this is a large
24 development, and if your property is abutting it, I think that
25 it's good for you to be here so that you can express whatever

1 concerns you do have and to get some assurances from the
2 developer as to how those -- if there are negative impacts --
3 are to be mitigated or be addressed.

4 So thank you very much, and I'll have --

5 VICE CHAIRPERSON RENSHAW: Madame Chair.

6 CHAIRPERSON CROSS REID: -- Mr. Glasgow or
7 whoever among your witnesses who would like to respond to it.
8 Just one second please.

9 Ms. Renshaw?

10 VICE CHAIRPERSON RENSHAW: Yes, I had a question
11 for Mr. Woodham.

12 Mr. Woodham.

13 CHAIRPERSON CROSS REID: Mr. Woodham.

14 MR. WOODHAM: Oh, I'm sorry.

15 VICE CHAIRPERSON RENSHAW: I have a question for
16 you, please. I wanted to know about did the Applicant talk to
17 you at all about a construction agreement, since you are an
18 immediate abutter to the property?

19 MR. WOODHAM: A construction?

20 VICE CHAIRPERSON RENSHAW: A construction
21 agreement. We haven't heard -- we haven't heard how long the
22 construction period is going to be, but there will be a number
23 of months when this building is under construction, and I
24 wanted to know if you had been apprised of a construction
25 agreement that may be worked out with the Advisory Neighborhood

1 Commission on behalf of the residents and the other properties
2 in the area.

3 MR. WOODHAM: No, I haven't heard of a
4 construction agreement, not with -- not with us.

5 VICE CHAIRPERSON RENSHAW: But that would be a
6 concern of yours? Is that a concern of yours?

7 MR. WOODHAM: Yes, it would be. This clearly was
8 a concern, like most of the other concerns that I've raised
9 here, yes..

10 VICE CHAIRMAN RENSHAW: And would you just
11 reflect on the parking in the area? Is there a parking problem
12 now?

13 MR. WOODHAM: Well, there is a parking problem.
14 But the parking is currently -- it's currently on 13th Street,
15 on the street itself, and on U Street. I think the developers
16 have done some very -- you know, they made a very interesting
17 concession, made a concession of providing, you know, parking
18 in the new alleyway, off the new alley way for the residents in
19 the area.

20 And that I think sort of answered that particular
21 question in relation to the residents, certainly to my whole
22 place.

23 VICE CHAIRMAN RENSHAW: Would the direction of
24 the cars heading into the garage go past your house?

25 MR. WOODHAM: No, I don't think so.

1 VICE CHAIRMAN RENSHAW: All right. So you'd be
2 buffered in some way?

3 MR. WOODHAM: I'd be buffered in some way, yes.

4 VICE CHAIRMAN RENSHAW: All right. Thank you
5 very much.

6 CHAIRPERSON REID: Aren't you one of the
7 neighbors who received a parking space behind your house?

8 MR. WOODHAM: Yes.

9 CHAIRPERSON REID: Okay. So there was some
10 communication?

11 MR. WOODHAM: There is communication.

12 CHAIRPERSON REID: Okay.

13 MR. WOODHAM: Yes, yes.

14 CHAIRPERSON REID: But still you had some
15 concerns?

16 MR. WOODHAM: Yes, but these are additional.

17 CHAIRPERSON REID: Right.

18 MR. WOODHAM: It's as a matter of that reflecting
19 the presentation that is made just a while ago.

20 CHAIRPERSON REID: Okay. I understand.

21 COMMISSIONER PARSONS: Mr. Woodham, I think it
22 would be helpful if you identified on this drawing over here,
23 the red one and green, which is your unit or building. Is it
24 the first green one there?

25 MR. WOODHAM: Yes.

1 CHAIRPERSON REID: You can just walk over there,
2 sir, and point it out.

3 COMMISSIONER PARSONS: Mr. Glasgow seems to know
4 the answer to that question.

5 MR. WOODHAM: Yes, he knows the answer. That's
6 it.

7 CHAIRPERSON REID: Right there up beside it.

8 COMMISSIONER PARSONS: Right behind the
9 restaurant then.

10 MR. WOODHAM: Right behind the restaurant, and
11 that is really why this is of concern to us, because clearly
12 this is -- this could be quite disturbing.

13 VICE CHAIRMAN RENSHAW: And the parking for the
14 restaurant is the blue space behind the red right by the
15 alleyway; is that correct?

16 CHAIRPERSON REID: What is that again, Mr.
17 Walters?

18 VICE CHAIRPERSON RENSHAW: No, no, no.

19 CHAIRPERSON CROSS REID: Right here on 13th
20 Street.

21 MR. WALTERS: On 13th Street. Are there any curb
22 cuts on 13th street? Any curb cuts on 13th street?

23 PARTICIPANT: No.

24 CHAIRPERSON REID: That's now a -- that's going
25 to be a pedestrian walkway, right?

1 PARTICIPANT: A pedestrian walkway.

2 CHAIRPERSON CROSS REID: Right.

3 VICE CHAIRMAN RENSHAW: Would you just trace the
4 way that cars will come into the garage?

5 MR. WALTERS: Cars will come through a curb cut
6 on U Street.

7 MR. HART: Please, Mr. -- Mr. --

8 CHAIRPERSON CROSS REID: All right.

9 MR. HART: Yes, the mic.

10 MR. WALTERS: Cars will come in through a curb
11 cut on U Street, come back and then make a turn from this alley
12 into a ramp and go back down into the garage there. Also, in
13 the existing public alley, as I mentioned, we have a loading
14 berth here, and then the additional spaces off of the alley,
15 right there.

16 VICE CHAIRMAN RENSHAW: If they were to park in
17 one of those additional spaces off the alley, how would they
18 get to the restaurant?

19 MR. WALTERS: They would have to walk around the
20 building this way through the alley.

21 VICE CHAIRMAN RENSHAW: There would be no way to
22 cut through on the other end going towards --

23 MR. WALTERS: They could walk though this area
24 and through the narrow sliver also, the pedestrian alley there.
25 Another option is -- and we haven't quite come to terms with

1 the security -- it may be possible to let them come through the
2 building, too.

3 VICE CHAIRMAN RENSHAW: What kind of security --
4 would you go over the security in that little pedestrian walk
5 way for Mr. Woodham's benefit?

6 MR. WALTERS: Okay. When we actually met with
7 them and talked with them earlier, we did raise the possibility
8 of having a gate at this point that we'd have to devise some
9 kind of control for with a lock on the street side or on the
10 inside and did they want it. It wasn't kind of a clear
11 resolution at the time. It was something that needed to be
12 discussed further as to what would happen there.

13 VICE CHAIRMAN RENSHAW: And what is the
14 construction schedule? How many months?

15 MR. WALTERS: The developer?

16 VICE CHAIRMAN RENSHAW: Developers.

17 MR. DONATELLI: Twenty months.

18 VICE CHAIRMAN RENSHAW: Twenty months.

19 MR. DONATELLI: Yes.

20 VICE CHAIRMAN RENSHAW: And I take it that what
21 with a subway tunnel underneath, there's not going to be any
22 blasting?

23 MR. DONATELLI: No. There's not going to be
24 blasting.

25 VICE CHAIRMAN RENSHAW: It's a good thing.

1 MR. DONATELLI: I can assure you.

2 VICE CHAIRMAN RENSHAW: Are you in agreement to
3 enter into a construction agreement with the ANC on behalf of
4 the neighbors, the adjoining property owners and the community?

5 MR. GLASGOW: Madame Chair, may I ask a question
6 on that?

7 I mean there are -- these issues obviously are
8 taken care of by the building code. We are at 13th and U
9 Streets, N.W., on very -- two heavily trafficked streets, and
10 the building code and the Department of Public Works work out
11 with how you stage construction and how you work that out.

12 And we would prefer to proceed under the building
13 code. We have not asked for any variance relief or any other
14 issue with respect to that. Our building, in fact, is smaller
15 than what's permitted as a matter of right under the zoning
16 regulations.

17 It appears to me that this is outside the scope
18 of the hearing.

19 CHAIRPERSON REID: No, I think that, Mr. Glasgow,
20 what happens -- Ms. Renshaw raises an issue that is not
21 uncommon before this Board, and that is in consideration of
22 neighbors who are in such close proximity to the development
23 that the time of construction commencing in the morning and
24 when it ends in the afternoon, things like that that would not
25 necessarily be within the code, that there be some type of

1 arrangement made with the ANC to address those types of issues,
2 as well as things like trucks idling, you know, the time of day
3 that the trucks would be coming and things like that, the
4 routing of the trucks, identification of the staging areas and
5 the like.

6 MR. GLASGOW: I would suggest, Ms. Reid, that I
7 understand that fully when we're in the middle of residential
8 zones. We are on U Street, N.W., a commercial corridor, which
9 has been designated as a commercial corridor and redevelopment
10 area. We have probably about a fifth of the commercial FAR
11 that we're permitted to have under the zoning regulations.

12 This is essentially an apartment building being
13 built in a commercial zone. And that it's a -- it's a
14 different situation than being in the middle of an area of R-4
15 or R-3 zoning where there's nothing but blocks of residential
16 around you in all directions.

17 We're on a commercial corridor. We're right off
18 -- we're a half block off of 14th Street.

19 CHAIRPERSON REID: But, Mr. Glasgow, you and I
20 both know very well that those houses behind you are
21 residential and the houses across the street are residential as
22 well. And the houses on the corner of 11th -- I mean at 13th
23 and V Street are also residential. I mean, so it's right --
24 while it's not right there, it's not surrounded by residential,
25 but there's residential in such close proximity that there

1 would be some concerns raised.

2 And I would feel, I would think, that there would
3 not be a problem. I can't imagine why there would be a problem
4 with addressing those issues proactively other than --

5 MR. GLASGOW: I don't think that there's an issue
6 here. I want to make sure we don't get unduly constrained when
7 we're on 13th, 14th, and U Streets. That's my only issue.
8 It's not philosophically I don't have a problem. But I don't
9 want to get unduly constrained when we're in a heavily
10 commercial corridor where there's traffic all the time. And
11 we're trying to get a building built under a tight time
12 schedule with WMATA. They don't want us taking a long period
13 of time to have construction going on near their tunnel. We
14 don't want that either.

15 CHAIRPERSON REID: Well, I mean, I think that Ms.
16 Renshaw's request is not something that's unreasonable. You
17 can basically write that out in 15 minutes, an assurance that
18 you have a certain time that that construction starts and a
19 certain time that it ends, that you -- that addresses the
20 trucks, the routing and things of that nature.

21 MS. PRUITT: Excuse me. I do have a question in
22 reference to this matter.

23 Are you suggesting that the Applicant then make
24 an agreement with the ANC on this? Because the ANC isn't here.
25 I don't think we can really -- the ANC has chose not -- well,

1 did not raise this issue. That would require us leaving the
2 record open, having the ANC comment.

3 It's a much more involved process than just --

4 CHAIRPERSON REID: I don't know if Ms. Renshaw
5 wants to --

6 MS. PRUITT: That why I want to understand what
7 you really are looking for.

8 CHAIRPERSON REID: Ms. Renshaw, why don't you
9 just reiterate what you are asking for?

10 VICE CHAIRMAN RENSHAW: I am suggesting for
11 everyone's good that an agreement be put together, a simple
12 agreement that is endorsed and signed on by the ANC, and
13 there's an opportunity for the abutters to understand the
14 parameters of the construction. This eliminates any hard
15 feeling, any problems that you may encounter en route, and
16 there will be some.

17 But at least you will address such aspects of a
18 hotline, for instance, someone to call if there is a problem.

19 And I can say from experience that it is the best
20 and safest route to go. And it does not require a great deal
21 of time and effort on the part of the Applicant.

22 MS. PRUITT: So in that sense it would have to go
23 back to the ANC for a duly noticed meeting, and the Board would
24 probably make a decision in their September --

25 VICE CHAIRMAN RENSHAW: It could go on the next

1 agenda for just this aspect of a construction agreement on this
2 project.

3 CHAIRPERSON REID: Well, maybe --

4 VICE CHAIRMAN RENSHAW: It's not a big deal.

5 VICE CHAIRMAN RENSHAW: Ms. Renshaw, rather than
6 it going through the ANC, that might be problematic, but what
7 about if they were to submit just -- we could -- before the
8 order is issued if we decide to go forward, that they submit to
9 us the construction plan?

10 VICE CHAIRMAN RENSHAW: And then we could
11 circulate --

12 CHAIRPERSON CROSS REID: It does not have to go
13 to the ANC.

14 VICE CHAIRPERSON RENSHAW: -- the response to the
15 ANC and to the abutters.

16 MEMBER GRIFFIS: Madame Chair, if I could
17 comment, I'm at all familiar with this area and ANC 1-B. It's
18 a fairly thorough and investigatory ANC, Mr. Guyot and Mr.
19 Melcher.

20 This neighborhood, if I'm not mistaken, also just
21 went through the Metro construction. So I don't think the ANC
22 and the community would be unaware of large development
23 problems, and I wonder if we aren't adding additional time at
24 the minimum, but also just additional complexity to bringing
25 something of this magnitude to fruition.

1 Certainly, anything like this is going to have
2 complications and details that need to be ironed out. I might
3 suggest that perhaps when the developer sign the contract with
4 their general contractor, there will be specific spell-outs of
5 time and loading and schedules. Maybe that can be presented
6 and shared with the ANC.

7 CHAIRPERSON REID: Yeah. I think that's where
8 we're going with it. Basically, we don't want to unduly burden
9 the Applicant, but at the same time we do have to give some
10 solace to the community that has to live through this. And as
11 such, perhaps we can mitigate the situation both ways by, as
12 Mr. Griffis just mentioned, just spelling out the construction
13 management plan and having it submitted to us.

14 MS. PRUITT: Madame Chair, we'll reiterate that
15 the building codes do, sort of, control the hours of operations
16 and that you cannot build on Sunday. That is already covered
17 in another area of building codes. So it's not like that will
18 not be addressed.

19 CHAIRPERSON REID: But is it covered adequately
20 enough? Because if that's the case, then why do we ever have -
21 -

22 MS. PRUITT: We don't need to. We just do.

23 MEMBER HINTON: And I would also say --

24 MS. PRUITT: It's redundant when the Board does
25 it.

1 MEMBER HINTON: Right. The level of noise is
2 also restricted. There are a lot of restrictions, and absent
3 any kind of testimony from anyone in the community that
4 something more detailed is needed, I don't think that this
5 Board should be suggesting or requiring that more information
6 is needed. I think we should rely on the codes that have been
7 established by the District of Columbia.

8 CHAIRPERSON REID: If in fact they do address the
9 issues that are being raised by Ms. Renshaw --

10 MEMBER HINTON: They do. They address time.
11 They address noise.

12 CHAIRPERSON REID: Because I know that we often
13 have construction management plans. So if that's the case,
14 then I don't know why we even require them of anyone else.

15 MEMBER HINTON: I think sometimes there are
16 specific issues that are raised by either the ANC or other
17 parties or people in the area, and sometimes those issues can
18 be addressed. But in this case there have been no issues that
19 have been raised.

20 So to require or request a construction
21 management plan that goes beyond what the District requires
22 when there's absolutely been no mention of what sort of things
23 that it would even speak to, I think that it's unnecessary.

24 VICE CHAIRMAN RENSHAW: Well, perhaps Mr. Woodham
25 would comment whether as the primary abutter to this

1 construction site it looks like on the map -- perhaps you would
2 address the need for or the requirement for a construction
3 management plan.

4 CHAIRPERSON REID: But before you speak, Mr.
5 Woodham, let me just mention something here. When we hear
6 cases in this particular hearing room, it is oftentimes in
7 areas where people are very much aware of various types of
8 development and it's not anything new to them and so they come
9 in and they express how they feel.

10 In this instance, the feeling that I'm getting is
11 that this is something that it is relatively new to these
12 particular abutters, these neighbors. They are not familiar
13 with the process. They have not gone through this before. And
14 as such, the coming down, groping, trying to figure out what,
15 in fact, is happening and they want to try to get an idea as to
16 how it's going to impact them, and to get some kind of
17 assurances through us from the developers that their whole life
18 is not going to be turned upside down.

19 MR. WOODHAM: Madame Chairman, I think that that
20 is perfectly correct. I mean, we lived through the building of
21 the Metro. And that was quite -- it was quite --

22 CHAIRPERSON REID: Dramatic.

23 MR. WOODHAM: That was a nightmare. Our house
24 has cracked. We had to get an engineer to come in to see what
25 was wrong, all that sort of -- a lot of problems.

1 However, that was completed. There were no
2 compensations made to us in all of that. We had to do all
3 sorts of things. And we really don't really want to go through
4 that again. It's as simple as that.

5 MR. GLASGOW: I don't want to protract this very
6 much longer. But we have a signed agreement with Mr. Woodham
7 from several months ago. This project and this discussion that
8 we've had has been going on a very long time. This is no news
9 to anyone.

10 We have an access easement that's dated February
11 27th, 2001, and I'll submit a copy of a recorded document
12 guaranteeing for the access easement there.

13 I have a document dated October 16th, 2000, which
14 Mr. Woodham was a party to, and I'll submit that for the
15 record, which has 12 points to it, including how we are going
16 to be proceeding with the development of the site, the access
17 to the rear of their property.

18 So this is something that's been going on. There
19 were a couple of points that Mr. Woodham raised that I want to
20 make sure that we do have clarified, but with respect to the
21 development and the construction and what it is that we're
22 doing, we have had conversations over months over this.

23 This project has been a high profile project in
24 that community for a couple of years now, as we've gone through
25 the alley closing process, the WMATA award that we obtained,

1 and I don't have any issue against what Mr. Woodham -- a couple
2 of the questions that he's raising, but to get off track on a
3 lot of these other things, where there other codes and
4 regulations that deal with them and the discussions that we've
5 had, we think at this point in time we've spent a lot of time,
6 energy and effort to get to this point, and instead of having a
7 room full of people in opposition, we have a neighbor who's
8 come up with a couple of questions that we've had.

9 There's been a lot of time spent to get to this
10 point. There's no surprise as to what's been going on here and
11 how this has been proceeding. There has been notice upon
12 notice, and community meetings upon community meetings on this
13 project and with the neighbors.

14 So with that I'd like to introduce these and then
15 see if we can, if it's acceptable to the Board, respond to a
16 couple of the questions with respect to the retail use on the
17 ground floor level and see if there's a way to proceed.

18 COMMISSIONER PARSONS: Madame Chairman, I agree
19 with Mr. Glasgow on this issue now that we've heard all of
20 this. I think we ought to proceed.

21 CHAIRPERSON REID: Okay. I'm not sure if I agree
22 totally with Mr. Glasgow. I think that there are people here
23 in the community that have not been heard from, and I'd like to
24 give this other person here an opportunity to speak.

25 You have to be sworn in if you want to speak.

1 (Whereupon, the witness was duly sworn.)

2 MS. BAKEIR: My name is Beverly Bakeir --

3 CHAIRPERSON REID: Speak into the mic.

4 MR. HART: Are there other parties that need to
5 be sworn in?

6 MS. PRUITT: Anybody else want to speak on this
7 issue?

8 CHAIRPERSON CROSS REID: Okay. Give your name
9 and your address ma'am.

10 MS. BAKEIR: Okay. My name is -- my name is
11 Beverly Bakeir. My address is 2010 13th Street.

12 I agree with Mr. Woodham. I have the same
13 concerns. Can I get up and --

14 CHAIRPERSON REID: Sure.

15 MS. BAKEIR: -- point out where my property is
16 located?

17 CHAIRPERSON CROSS REID: Just make sure you speak
18 into the mic. If you could speak into that mic up there.

19 MS. BAKEIR: This is my house here.

20 CHAIRPERSON REID: If you could come over this
21 side please, ma'am, and then you can point on that side.

22 MS. BAKEIR: My property is located right here,
23 Lot 41, and I have the same concerns as Mr. Woodham as far as
24 the construction, the noise. I went through the same noise and
25 everything when Metro was putting the subway in.

1 Also, when this gentleman here was describing the
2 cafe, he indicated that the --

3 CHAIRPERSON REID: That's on the corner, where
4 the red -- yeah, right there in the corner.

5 MS. BAKEIR: The cafe people would enter, or they
6 may enter through this area out here, and I thought that this
7 is private property for the residents and not for the public.

8 MR. GLASGOW: I agree with Ms. Bakeir on that.
9 That is not going to be a point of entry to the cafe. That's
10 private property that we own, and that to the center line of
11 the allies closed that you all own.

12 MS. BAKEIR: Okay. I didn't know if he was doing
13 it just to satisfy --

14 MR. GLASGOW: Right. That was one of the reasons
15 why I wanted to clarify some of the issues that have been
16 raised by Mr. Woodham.

17 CHAIRPERSON REID: Okay. Go ahead.

18 MS. BAKEIR: Basically those are my concerns.
19 That's it. Other than that I --

20 CHAIRPERSON REID: That's it?

21 MS. BAKEIR: Yeah.

22 -- I support the project.

23 CHAIRPERSON REID: Okay. All right. Are you
24 done, ma'am?

25 MS. BAKEIR: Yes, ma'am, I am.

1 (Whereupon, the witness was duly sworn.)

2 MS. WOODHAM: Well, first of all, I'd like to say

3 --

4 CHAIRPERSON REID: Name and your address.

5 MS. WOODHAM: I'm sorry. Anne Woodham, and the
6 property that we own is 2006 13th Street. I think my husband
7 said 2000. Okay.

8 I want to agree with Mr. Donatelli that we have
9 had discussions regarding the easements, and we have agreed to
10 the documents he has presented. Our concern today is not about
11 the easements. It's about the cafe restaurant. We have a lot
12 of concerns.

13 We'd like to present a letter from Donatelli,
14 which they address to your Board, asking us to sign off in
15 agreement with the cafe. We did not sign off on that letter,
16 and we wrote -- where is the other letter?

17 We gave a response, and I'd like to present both
18 of those because the cafe is of great concern to us.

19 We have residents that live in our building, and
20 the stench, the smell, the noise, and all the things mentioned
21 continue to concern us, and we have been given no reassurances.

22

23 Can we present the letter from -- sent us by
24 Donatelli?

25 CHAIRPERSON REID: Okay.

1 MS. WOODHAM: And our response.

2 CHAIRPERSON REID: Just briefly give us the
3 salient points of it. You don't have to read the whole thing
4 and your response.

5 MS. WOODHAM: Well, this basically was a letter
6 to the Zoning Board saying -- in the final paragraph says, "We
7 urge the prompt approval by the Board of this important project
8 so that it may proceed forward to the benefit of the community
9 and the District as a whole."

10 And it mentions about the cafe. And this was the
11 first formal indication that we had had about the cafe.

12 The other things, the easements and the backyard
13 paving and so on, we were familiar with this and we agreed to
14 this, and those are the documents that Mr. Donatelli presented,
15 and I think I'd like -- and I'd like to present this.

16 And our response -- where's the response?

17 COMMISSIONER PARSONS: Madame Chairman, while
18 they're looking, I thought I'd express some concern here. This
19 Board has no jurisdiction over whether there's a restaurant
20 here or what type of retail. That's not before us.

21 This is matter of right, ground floor retail, and
22 the objection --

23 MS. WOODHAM: Well, why did Donatelli write to us
24 asking us to sign off on it then?

25 COMMISSIONER PARSONS: I don't know. I'm

1 speaking --

2 MS. WOODHAM: Is it that they were misinformed as
3 well?

4 COMMISSIONER PARSONS: I'm not speaking to you.
5 But I want to express concern that we are getting so far away
6 from this case here it's ridiculous.

7 CHAIRPERSON REID: Well, Mr. Parsons, I think
8 that everyone, every citizen has a right to speak.

9 COMMISSIONER PARSONS: I know that, but it's gone
10 on much too long.

11 CHAIRPERSON REID: And we don't know until such
12 time that they do speak what they're going to say. So we
13 couldn't anticipate what was going to be said.

14 COMMISSIONER PARSONS: I know that. I'm just
15 saying that I want everybody in the room to know that --

16 CHAIRPERSON REID: I think we all know --

17 COMMISSIONER PARSONS: -- that we should not be
18 responding to this.

19 CHAIRPERSON REID: We have not -- we have not yet
20 taken a position. I was -- we were just basically getting an
21 idea as to what the community had to say, the persons who took
22 the time out of their lives to come down and to testify today.

23 MR. GLASGOW: Ms. Reid, I think that we can
24 respond to a couple of the issues. One, if Mr. Walters would
25 get up and show where the trash will be loaded from, that was

1 one of the issues, Mr. Woodham, that I believe you raised.

2 MR. WOODHAM: That's right.

3 MR. GLASGOW: Would you show that and how that
4 would be -- and show the access points there?

5 MR. WALTERS: We provided two enclosed rooms for
6 trash, again, anticipating the concerns. We have one room over
7 here off of that alley. It's this area in yellow. It's
8 accessed by the tenants, and they designed this to have a roll-
9 up door that would go down when and come up when trash is to be
10 picked up. So trash can be through there.

11 CHAIRPERSON REID: So the trash basically is away
12 from the residential area?

13 Now, the cafe trash --

14 MR. WALTERS: We do have one more. This is the
15 one for this space. We have another one immediately by the
16 public alley, this area in yellow. Again, an enclosed room
17 with a roll-down door that can be brought down to secure from
18 vermin. And again, it's directly accessed from the interior by
19 the tenants and then at trash pick up the doors rolled up, and
20 then can be brought out to the public alley.

21 MR. GLASGOW: All right. Now, with respect to
22 the open cafe area, which was the other, now, our building
23 there is what height around the cafe area?

24 MR. WALTERS: Approximately 42 feet in this area.

25 MR. GLASGOW: And the upper three floors of our

1 building are residential?

2 MR. WALTERS: Residential with --

3 MR. GLASGOW: And so what is -- and what is the
4 width of that -- of our building there as it separates from the
5 --

6 MR. WALTERS: Approximately 42 feet thick.

7 MR. GLASGOW: So we have a 40 foot high building,
8 40 feet thick, separating that space from Mr. Woodham's space
9 and Ms. Bakeir's space.

10 MR. WALTERS: That's correct.

11 MR. NIGEL GRAGG: Additionally on trash, Madame
12 Chair, we've agreed with the --

13 CHAIRPERSON REID: You have to speak on a mic.

14 MR. NIGEL GRAGG: We've agreed with the church
15 that we were going to take over their trash not collection, but
16 their disposal; that they can use our facilities. Currently,
17 the church has a trash bin in this --

18 CHAIRPERSON REID: Which one is the church now,
19 Mr. Gragg?

20 MR. NIGEL GRAGG: The church is right here.

21 CHAIRPERSON REID: Is there a school building
22 there, too?

23 MR. NIGEL GRAGG: The church is -- no, there's no
24 school building. It's a church.

25 CHAIRPERSON REID: That has -- wait a minute.

1 There is -- oh, okay. I'm thinking a different one.

2 MR. NIGEL GRAGG: The church has a trash facility
3 about right here, just a collection bin, a large bin. We've
4 agreed to allow them to use our facility, which again I think
5 will address the issue of vermin and rats and mice and stuff in
6 the alley. I think it would actually improve the existing
7 situation with that little bit of additional support for the
8 community.

9 CHAIRPERSON REID: Okay. Does that address the
10 concerns you have?

11 MR. WOODHAM: Well, it's an answer. I can't say
12 whether it's, you know, it's right or wrong or what. I mean, I
13 am depending on the Zoning Board to -- to you guys who are the
14 politicians to determine precisely whether or not this is in
15 the interest of the community and for those of us who are
16 living in the community, not people who are not itinerants, who
17 are coming in and out of the community.

18 CHAIRPERSON CROSS REID: Okay. All right.

19 MR. WOODHAM: We have heard an answer, and it
20 sounds reasonable. But I have no idea whether this is going to
21 be sufficient or the most efficient or the most effective way
22 of doing this. I have no idea.

23 CHAIRPERSON REID: All right. Thank you. Thank
24 you very much.

25 All right. Now, I do have a question in regard

1 to that pedestrian walkway behind -- which would be the cafe.
2 What is that for?

3 I mean, that's coming right beside the Woodhams'
4 house and behind the restaurant, but why do you need a
5 pedestrian walkway there?

6 MR. GLASGOW: That was requested by the
7 community, as Mr. Guyot testified. Yeah, and the neighbors.

8 CHAIRPERSON REID: It seems like to me that that
9 would --

10 MR. GLASGOW: It was their request to have the
11 access out to 13th Street.

12 MS. BAKEIR: That's how we enter from the back,
13 from our backyards.

14 MR. HART: Turn on your mic.

15 MS. BAKEIR: Yes, my name is Beverly Bakeir.

16 That's how we enter from our backyards. That's
17 our back entrance. So when they took away that four feet
18 easement, we all agreed that they would wrap that access around
19 the Woodhams' property on the side of it.

20 CHAIRPERSON REID: Oh, okay. I just wondered.
21 You know, I just wondered. Thank you.

22 MS. BAKEIR: Sure.

23 CHAIRPERSON REID: Do you have a question, Ms.
24 Renshaw?

25 VICE CHAIRMAN RENSHAW: No, we didn't come to a

1 resolution on this construction management plan for the
2 neighborhood, for the community. I would, again, urge it. It
3 is not a heavy duty assignment, and I think it is the proper
4 approach when you are going to impact the community for 20-odd
5 months.

6 MR. GLASGOW: As long as we can proceed in a
7 manner which does not hold up our decision, for instance, in a
8 way that we were talking about in the September resolution.

9 VICE CHAIRMAN RENSHAW: No, just have the
10 Applicant submit something that can be in our record that
11 addresses the construction dates, the hours, the trucking, no
12 idling on 13th Street.

13 MR. GLASGOW: We'd be happy to do that.

14 VICE CHAIRMAN RENSHAW: Something like that. A
15 hotline, washing down the streets.

16 CHAIRPERSON CROSS REID: You have to explain
17 that, the hotline number. It's not something that's --

18 VICE CHAIRPERSON RENSHAW: The hotline number
19 would be released to the neighborhood, someone who is available
20 to be on call to answer questions should the neighbors have any
21 problems with truckers, with the noise, whatever.

22 MR. GLASGOW: We can submit something for the
23 record on that.

24 VICE CHAIRMAN RENSHAW: Thank you.

25 MR. GLASGOW: Thank you.

1 CHAIRPERSON REID: Continue, Mr. Glasgow.

2 MR. GLASGOW: I think that we have met our burden
3 of proof. I think it is clear that we have had dialogue with
4 the community over a significant period of time and have
5 substantial community support. In fact, some of the residents
6 that just testified said they were in support of the project.
7 They wanted some questions answered.

8 I think the record is complete in this case. We
9 would like to have the -- a vote of the Board today on this,
10 and we would submit to the record prior to the issuance of the
11 order of a document dealing with our construction activities.

12 CHAIRPERSON REID: Okay. All right. Board
13 members, what's your pleasure?

14 COMMISSIONER PARSONS: I move we approve the
15 application with no conditions.

16 MEMBER HINTON: I second.

17 CHAIRPERSON REID: Would you like to speak to the
18 bases for the motion as to meeting the burden of proof?

19 MEMBER HINTON: I would be comfortable if we
20 adopt all the reasoning that is put forth in the Office of
21 Planning report.

22 CHAIRPERSON REID: Okay. Thank you.

23 I concur with my colleagues. I think that the
24 only concern is that of -- I think that while the project is --
25 appears to be on point, that we've heard from persons in the

1 community who came today, not in opposition but of concern, and
2 voiced the issues that gave them some pause, and I'm glad that
3 the developer has tried to work with them and tried to work out
4 those issue so that if there are any -- if there is any adverse
5 impact at all, that they be mitigated out of concern for and
6 respect for those persons who live in the community.

7 Okay. Go ahead.

8 VICE CHAIRMAN RENSHAW: Just to thank the
9 Applicant for agreeing to submit to the BZA a construction
10 management agreement. I think that that is very sound.

11 I am concerned also about the abutters, the
12 immediate abutters. This is the second time around for them in
13 probably a short stretch of time, when they are going to be
14 impacted for a prolonged period of time. So anything that the
15 Applicant can do to be available to these abutters, almost in a
16 moment's notice, if there is a grievance, the better for the
17 project, the better for the community.

18 So we ask that there be a marriage of sorts and
19 that you say, "I do," for at least the duration of the project.

20 CHAIRPERSON REID: Okay. Office of Planning has
21 recommended approval, as well as the ANC, and as such now I
22 take a vote.

23 All in favor.

24 (Chorus of ayes.)

25 CHAIRPERSON REID: Opposed?

1 (No response.)

2 MR. HART: Staff would record the vote as five to
3 zero, motion by Mr. Parsons, seconded by Ms. Hinton. The
4 Applicant will submit a construction agreement activity
5 document, and it will be a summary order to include the Office
6 of Planning's report reason.

7 CHAIRPERSON REID: I just wanted to say for the
8 record before we close, to the community, that the issue that
9 was raised in regard to the cafe, I want you to understand that
10 today's hearing is for the development, the building itself.
11 The cafe, the use of what's going into the building is
12 something that is different than what is before us today.

13 So I just wanted to make sure that you understood
14 that, that we weren't just trivializing that concern. But that
15 is not before us, and I understand that often people don't
16 really understand zoning regulations and how they work and the
17 processes. So I just wanted to kind of explain that to you a
18 bit.

19 All right. That then -- are there any other
20 comments, questions, the like?

21 (No response.)

22 CHAIRPERSON CROSS REID: That concludes then
23 today's hearing.

24 Thank you.

25 (Whereupon, at 3:45 p.m., the public hearing was

1 concluded.)

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