

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

JANUARY 8, 2002

+ + + + +

The Public Hearing convened in Room 220 South,
441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice
at 9:30 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
ANNE MOHNKERN RENSHAW	Vice Chairperson
CURTIS ETHERLY, JR.	Board Member
DAVID LEVY	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

JOHN G. PARSONS	Commissioner
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COMMISSION STAFF PRESENT:

Beverly Bailey, Office of Zoning
Paul O. Hart, Office of Zoning
John K. A. Nyarku, Office of Zoning

OTHER AGENCY STAFF PRESENT:

John Fondersmith, Office of Planning
David McGhettigan, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.
Marie-Claire Brown, Esq.

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Washington, D.C. 20007	
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P-R-O-C-E-E-D-I-N-G-S

(9:46 a.m.)

CHAIRPERSON GRIFFIS: Good morning, ladies and gentlemen. The hearing will please come to order.

This is, interestingly enough, the January 9th, if I'm not mistaken, 2002 -- oh, 8th. Let's not push the week -- January 8th, 2002 public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Geoff Griffis, Chairperson. Joining me today is the Vice Chair, Anne Renshaw. Representing the National Capitol Planning Commission is Mr. Levy, David Levy, and we are potentially expecting a new appointee today to be sworn in and sit with us, and we have also Mr. Parsons representing the Zoning Commission.

Copies of today's hearing are available to you. They are located to my left at the door, the door you did enter into.

All persons planning to testify either in favor or in opposition are to fill out two witness cards. These cards are located on each end of the table in front of us. They're also at the table as you came in.

Upon coming forward to speak to the Board, please give both cards to the reporter, who is sitting to my right. The order of procedure for special exceptions and variances is, first, a statement and witnesses of the applicant.

1 Second will be the government reports, including
2 the Office of Planing, Department of Public Works, et cetera.

3 Third, we will take the reports of the ANC,
4 Advisory Neighborhood Commission.

5 Fourth would be parties or persons in support.

6 And, fifth, parties or persons in opposition.

7 And, finally, we will have closing remarks by the
8 applicant.

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

12 The record will be closed at the conclusion of
13 each case, except for any material specifically requested by the
14 Board and the staff will specify at the end of the hearing
15 exactly what is expected.

16 The Sunshine Act requires that a public hearing
17 in each case be held in the open before the public. The Board
18 may, consistent with the rules of procedure and the Sunshine
19 Act, enter into executive session during or after the public
20 hearing on a case for purposes of reviewing the record or
21 deliberating on the case.

22 The decision of the Board in these contested
23 cases must be based exclusively on the public record. To avoid
24 any appearance to the contrary, the Board requests that persons
25 present not engage the members of the Board in conversation.

1 Now, at this time we would ask, of course, to
2 turn off all cell phones and beepers so that we don't disrupt
3 the proceedings.

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

9 If you are not prepared to go forward in the case
10 today or if you believe the Board should not proceed, now is the
11 time to raise such matters.

12 Before I go to the audience, I will ask staff if
13 we have any preliminary matters for this morning's cases.

14 MS. BAILEY: Mr. Chairman, good morning.

15 There is a preliminary matter. I'm not sure
16 whether you want to take this up now or after the cases have
17 been called, and that is it concerns the affidavit of posting.
18 As of close of business yesterday, we did not receive the
19 affidavit of posting for the first two cases. I understand that
20 the affidavits are now in the office, and I'm not quite sure
21 what the delay was. Again, I'm not sure if you want to take
22 this up now or after the cases are called.

23 CHAIRPERSON GRIFFIS: Okay. And, Ms. Bailey,
24 also I'd introduce staff that will be ably assisting us. Ms.
25 Bailey and Mr. Hart is also here, and our Corporation Counsel.

1 Is that the only preliminary matter we have?

2 MS. BAILEY: For the first two cases.

3 CHAIRPERSON GRIFFIS: I'd say we address it now,
4 representing the cases this morning. If you wouldn't mind
5 turning on your mic and just giving us your name and address.

6 MR. GELL: Yes, Mr. Chair. I'm Stephen Gell. My
7 address is 1101 30th Street, N.W., and I'm representing the
8 applicants in the two cases before you.

9 I understand that the affidavits were brought in
10 yesterday. Unfortunately, they were in the mail room. Ms.
11 Booth did find them this morning by going down to the mail room,
12 and apparently they were there and had been logged in yesterday.

13 But I regret that you didn't get them five days
14 in advance, which is what your rule is, and I will try to do
15 better in the future, but they were logged in yesterday.

16 CHAIRPERSON GRIFFIS: Okay, and the affidavit has
17 indicated that the time required for the posting was properly
18 done; is that correct?

19 MR. GELL: Yes, that's correct.

20 CHAIRPERSON GRIFFIS: Okay. I don't see any
21 reason to hold up hearing these cases based on this matter. We
22 have the affidavits now, and I think we should proceed.

23 I have one preliminary matter to bring up with
24 these cases. I would like to consolidate the two, meaning we
25 will hear both at the same time, as they are physically adjoined

1 and also, I would say, programmatically it would make no sense
2 to take them separately.

3 So we will do that now. It is an issue in terms
4 of the fact that one of the properties, the second case I
5 believe it is, depending on the order, actually has a bit of a
6 different relief. So we will obviously have decisions and
7 motions based on the specifics required for the two
8 applications.

9 That being said, I think we can jump right in,
10 and Mr. -- I'm sorry. Ms. Bailey, if you would call the first
11 two cases, if we could do that together.

12 MS. BAILEY: Certainly. The first case is number
13 16792 of Alan Skvirsky, pursuant to 11 DCMR 3103.2, for a
14 variance from the rear yard requirements under Section 404; a
15 variance from the floor area ratio requirements under Section
16 402; a variance from the lot occupancy requirements under
17 Section 403; and a variance from Section 2001.3 for an addition
18 to an existing nonconforming structure operated as a bed and
19 breakfast in the DCOD Dupont Circle overlay district, R-5-B
20 district, at premises 1606 19th Street, N.W., Square 111, Lot
21 52.

22 The next case, the second case, is Application
23 No. 16793 of Anexora Skvirsky, pursuant to 11 DCMR 3103.2, for a
24 variance from the rear yard requirements under Section 404; a
25 variance from the floor area ratio requirements under Section

1 402; a variance from the lot occupancy requirements under
2 Section 403; and a variance from Subsection 2001.3 for an
3 addition to an existing nonconforming structure and pursuant to
4 11 DCMR 3104.1; a special exception to operate a bed and
5 breakfast as a home occupation, having a maximum of six sleeping
6 rooms under Subsections 203.8 and 203.10 in the Dupont Circle
7 overlay district/R-5-B district, at premises 1604 19th Street,
8 N.W., Square 111, Lot 53.

9 Please stand. All those wishing to testify,
10 please stand to take the oath. Please raise your right hand.

11 (The witnesses were duly sworn.)

12 MS. BAILEY: Thank you.

13 CHAIRPERSON GRIFFIS: Thank you very much, and
14 good morning.

15 Let me just first, as we don't have a lot of
16 people here, is there anyone else here involved in these two
17 cases this morning?

18 (No response.)

19 CHAIRPERSON GRIFFIS: Okay. So we know what's
20 happening here.

21 Then, Mr. Gell, I will turn it over to you and
22 jump right in, please.

23 MR. GELL: Thank you, Mr. Chair and members of
24 the Board.

25 I know after last Wednesday you might be a little

1 concerned about my cases because, of course, we had serious
2 opposition, but I'm happy to tell you -- and I do want to thank
3 the Board for its help in that case, which was considerable --
4 but I'm happy to tell you that this morning we have no
5 opposition that I'm aware of in any of the cases you're going to
6 hear this morning, and that includes these two plus the one
7 after it.

8 CHAIRPERSON GRIFFIS: Well, I can also state that
9 we have no long-term memory anyway.

10 (Laughter.)

11 MR. GELL: The two cases that are being combined
12 differ in only one respect. They both have the need for the
13 variances in order to build an addition on the back, that is, at
14 the alley. The one difference that you'll find in 1604 is that
15 they want to expand or they have a right to have two guest rooms
16 in a bed and breakfast. They would like to have six.

17 So there is a special exception procedure in the
18 historic district -- we're in the Dupont Circle historic
19 district -- for expansion from two to six, that is, with a
20 special exception. So that's the only difference you're going
21 to see in these cases.

22 Having said that, I would like the Board
23 obviously to consider the special exception as a separate matter
24 and to make its motion separately on that issue.

25 CHAIRPERSON GRIFFIS: Can I interrupt you just a

1 moment?

2 MR. GELL: Yes, sir.

3 CHAIRPERSON GRIFFIS: Okay. Two things then. We
4 will take that into account in terms of taking a special
5 exception as a separate motion, but I want to interrupt you
6 because we have been joined, of course, this morning by Curtis
7 Etherly, who is the new and recent appointment of Mayor Williams
8 to the Board, and we absolutely welcome him and look forward to
9 long and exciting meetings hearing cases and look for your
10 input.

11 So as everyone is aware, we have our new member
12 and we will then proceed.

13 Thanks.

14 MR. GELL: The owners of these houses are Alan
15 and Anexora Skvirsky. Anexora is a teacher at Wilson High
16 School and had classes this morning and felt that Alan and the
17 architect and one of the neighbors could handle all of the
18 information, all of the questions and so forth. So she looked
19 at her priorities and said it was more important to be teaching
20 youngsters at Wilson. I hope you'll forgive her for not being
21 here at the meeting, at the hearing.

22 I would first like to qualify Michael Beidler,
23 who is an architect, as an expert witness on the design of the
24 rear addition, and I have an updated work experience list. One
25 was included in your package.

1 CHAIRPERSON GRIFFIS: Right.

2 MR. GELL: If you would like to see --

3 CHAIRPERSON GRIFFIS: Do you have copies?

4 MR. GELL: Yes.

5 CHAIRPERSON GRIFFIS: Do you want to just give it
6 to staff and we can pass it down?

7 And we will put this in as Exhibit 31. And what
8 we're looking at, of course, is work experience list in terms of
9 firms, education, and then relevant local completed HPRB-
10 influenced project list. That's a delicate phrase.

11 MR. GELL: May I just add to this that Mr.
12 Beidler has also been on the Dupont Circle Conservancy Board and
13 the DCCA, Dupont Circle Civic Association Board, for about seven
14 years.

15 CHAIRPERSON GRIFFIS: Yeah, I don't see any need
16 to take a lot of time on this. I think it's fine entering him
17 as an expert witness, and you indicated in terms of
18 architectural design; is that correct?

19 MR. GELL: Yes, that's correct.

20 CHAIRPERSON GRIFFIS: Fine. I think that's
21 approved.

22 MR. GELL: I would just like to make a few
23 comments before I have the witnesses come to testify. The
24 variance is needed for a number of reasons, one of which is to
25 be able to use the roof, which is currently a roof of the second

1 floor and is currently being used for serving breakfast and as a
2 sun area; to be able to use it during the winter as well.

3 But even more important, the reason for the
4 addition is to block the noise of the HVAC units across the
5 alley. This is a problem that has been before you before in
6 connection with the granting of a variance, I believe, to Mr.
7 Kane. It's a problem that has existed for a long time.

8 The District has not found a way really to stop
9 it and to lessen that noise, and this is really the only way we
10 feel the Skvirskys are going to be able to find some relief and
11 be able to use these buildings as residence and as bed and
12 breakfast.

13 I think it will affect their ability to sell the
14 property, should they do so in the future, and certainly their
15 ability to use it.

16 The second problem that comes from the alley is
17 the fact that they are in between -- by the way, I might add
18 that the Firehook Bakery, and Mr. Skvirsky will talk about this,
19 also has air conditioning units. They are right in between the
20 two buildings. So that's been a serious problem for them.

21 And the second issue is the fact that none of
22 those businesses handle their trash properly. Rats have
23 collected in the area, and they have caused serious problems for
24 the Skvirskys. This will enable them to put a garage door,
25 brick wall, garage doors in the alley and prevent any intrusion

1 by the rats.

2 The uniqueness is really a confluence of several
3 factors. First of all, these are nonconforming structures in
4 the R-5-B zone, having been built before the zoning code took
5 effect. I was even told by the Zoning Administrator that we
6 really ought to consider these as special exceptions under 2109
7 as an exception or as a change in a nonconforming structure.

8 But I think the Office of Zoning decided
9 differently, and so out of an abundance of caution, we filed
10 them as variance cases needing rear yard, lot occupancy, and FAR
11 relief.

12 The lot is small, as many of the lots are, but
13 this one, in particular, coming at the end of a narrowing
14 square, and I think Mr. McGettigan in his report has pointed
15 this out very well, that these lots are smaller than others.
16 The ability to build or add to or fix problems or deal with
17 issues by construction is, of course, circumscribed.

18 Third, it's adjacent to a very high density
19 retail, commercial strip, with lots of restaurants that generate
20 the kinds of problems we're talking about here.

21 Fourth, it's in a historic district, which also
22 creates certain problems of trying to change the outside of a
23 building. And I might add that we do have conceptual approval
24 by the HPRB.

25 And the fact that these houses are between two

1 commercial neighbors that are causing these problems, not just
2 one neighbor, but two that are about equidistant. One is the
3 Firehook Bakery, which is next door. It's on the corner of Q
4 and 19th and extends to the alley. And the other is the Wrap
5 Works, which generates a lot of the trash and the noise.

6 The extraordinary and exceptional condition
7 caused by the small size of the lot in a historic district makes
8 any alteration or expansion next to impossible.

9 We have here a DCR-5-B zone back up to a DCC-3-B
10 zone, and I've already stated that without this relief, it's
11 going to be very hard for them to operate a bed and breakfast
12 or, in fact, to use it as a residence, as you'll hear.

13 I'd like next to ask Mr. Skvirsky if he would
14 come forward and talk about what he's planning. I'd like him to
15 say a little bit about how he happened to own these properties
16 and what he has done to improve them, which I think you'll agree
17 has been a great benefit to the historic district.

18 Alan Skvirsky.

19 MR. SKVIRSKY: Thank you for the opportunity.

20 CHAIRPERSON GRIFFIS: Good morning.

21 MR. SKVIRSKY: Good morning.

22 Those of you who are familiar or not familiar
23 with Dupont Circle, the property at 1604 was a pretty rundown
24 rooming house with hanging wires and certainly a fire hazard.
25 The owner was an absentee landlord for about 15 years, and he

1 had a for sale sign on it for five years, which despite being
2 cited allowed him to continue to not make any improvements.

3 It was bought in 1995. We restored it. It's
4 quite beautiful. I'd love for you to come some time and visit.

5 And no changes, of course, were made to the front
6 of the building consistent with its being in a historical
7 district.

8 The use of it as a bed and breakfast. What we
9 wanted to do is to increase the number, the use and number of
10 room from two to six, which I guess is allowed, but an exception
11 is required.

12 But the major problem has been over the last five
13 years, as Mr. Gell indicated, has been a series of problems with
14 our commercial neighbors in terms of these very large HVAC
15 systems. They promised to put them on the roof, promised to
16 enclose them. They were cited a number of times. The noise
17 level has been indicated to be much higher than accepted.
18 They've been fined, but no change has occurred, and it has
19 become very difficult both from a living point of view and from
20 our guests' point of view.

21 There's some pictures here that show where
22 they're located. Can I? As well as the significant trash
23 issue.

24 CHAIRPERSON GRIFFIS: Those aren't currently in
25 the case file? Those are different than what we have?

1 MR. SKVIRSKY: Yes, sir.

2 MR. GELL: These are not -- well, I believe they
3 were brought in at the end of last week, but I wanted you to
4 have very current pictures of the trash particularly, and of
5 course, these also show the HVAC units. So they were not --

6 CHAIRPERSON GRIFFIS: Okay, but just for your
7 understanding, if you put them in, you're not getting them back.

8 Is that okay?

9 MR. SKVIRSKY: I don't want them.

10 CHAIRPERSON GRIFFIS: Okay. I just want to be
11 clear. If you wouldn't mind.

12 MR. SKVIRSKY: I don't want to even look at them.

13 CHAIRPERSON GRIFFIS: Well, I'm sure that we do
14 then.

15 MR. SKVIRSKY: The pain that it brings.

16 CHAIRPERSON GRIFFIS: Just bring them up to staff
17 and we'll pass them down.

18 MR. SKVIRSKY: The request would have no impact
19 on parking. As all of you know, parking has always been a
20 problem. As a matter of fact, anybody who wants a reservation
21 at the bed and breakfast at the Dupont, at the Circle, we
22 suggest to them strongly that they should not get a car since
23 there's no need for one given our close proximity to the Metro
24 and the difficulty of parking. This request would not change
25 that.

1 We have two spaces that are used for people who
2 can't live without their cars, particularly if they're from
3 California. They seem to -- are used to cars there. So they
4 like to have their cars.

5 And then we have additional space that we rent at
6 a garage in the event that we have more than two cars that space
7 is needed for. So from the parking point of view, it's not
8 going to increase the requirements for any parking, and two is,
9 I gather, within the --

10 CHAIRPERSON GRIFFIS: Let me interrupt you
11 briefly, and we'll put these photographs in as Exhibit 32, and
12 then if you, now that you don't have copies and I have them,
13 want to describe what they are.

14 MR. GELL: We do.

15 CHAIRPERSON GRIFFIS: Okay. If you would just
16 point where these actually are for those Board members that may
17 not be familiar, and actually for the record, and I'm going to
18 spread them out here, and we'll pass them down to this side.

19 MR. SKVIRSKY: I don't know the order I gave them
20 to you. So --

21 CHAIRPERSON GRIFFIS: No, I think just generally
22 speaking.

23 MR. SKVIRSKY: Yes. This one that says "Private
24 Parking by Permit Only," that is directly in back. That is the
25 alley you see as you look at that. Our house is to the right of

1 that alley, and so it's directly in back of our residence bed
2 and breakfast, and those are the three units that we've been
3 talking about that have been promised to be put on the roof and
4 that do not meet the, as I understand it, the noise level
5 because they have been tested.

6 This one, which shows trash uncovered is also in
7 that same property in front or to the right of where those
8 systems are below it, which is Wrap Works' trash. This is not a
9 picture. I mean, we could have taken a picture of this every
10 day and show you that because that's what it occurs.

11 These are the air conditioning units, which is
12 Firehook's air conditioning units, and the corner of our
13 residence, the bed and breakfast, is right next to those. So
14 those are an additional four.

15 This is another picture of the trash, and I
16 believe -- do you have this one here? Yeah, that one. That
17 one's just a close-up of -- I think it's this way -- of those
18 units which is really -- this is the longer view of it, and this
19 is the close-up view.

20 VICE CHAIRPERSON RENSHAW: Mr. Skvirsky, whose
21 trash is this?

22 MR. SKVIRSKY: That is --

23 VICE CHAIRPERSON RENSHAW: This is the close-up
24 view of the trash?

25 MR. SKVIRSKY: That is Firehook's trash, which

1 is right below -- right below here. You can see this is the
2 fence, open fence, and that's where they keep their trash,
3 which, of course, Firehook is a bakery, bread place, and they
4 have been asked repeatedly.

5 And that's where the rats like to congregate.
6 We've tried to put cement around. We've had significant
7 problems, and at our own expense have tried to correct the
8 problem.

9 The city did help at one point in terms of the
10 alley, but because of the construction at the other end of the
11 alley, that has unearthed scores of them.

12 You know, we've spent just personally in excess
13 of \$10,000 just to prevent, try to prevent them from getting in
14 through the back end of the building where there's a fence,
15 wooden fence.

16 I think that's all.

17 MR. GELL: Thank you.

18 I'd like now to present Michael Beidler.

19 CHAIRPERSON GRIFFIS: Actually before you leave,
20 can I have one quick question?

21 MR. SKVIRSKY: Sure.

22 CHAIRPERSON GRIFFIS: You indicated -- and
23 forgive me if I missed it -- in the case file that I did read --
24 do you live at one of the properties?

25 MR. SKVIRSKY: Yes.

1 CHAIRPERSON GRIFFIS: And it is the second one in
2 from the corner?

3 MR. SKVIRSKY: Yes.

4 CHAIRPERSON GRIFFIS: Okay. Thank you.

5 MR. SKVIRSKY: Thank you.

6 MR. GELL: Michael will show you the addition.

7 CHAIRPERSON GRIFFIS: Good. Yeah, I think that's
8 going to be helpful.

9 Do we have the cordless microphone? Thanks, Mr.
10 Nyarku.

11 Now, Board members, while he's setting up the
12 boards of which we're going to need copies of at some point, I
13 want us to just give a clarification of the fact that there are
14 two sets of plans, one for each case. One, it's my
15 understanding looking at them, was actually the interior floor
16 plan, and the other was the addition.

17 So we can easily be looking at both of those
18 while we walk through this.

19 MR. BEIDLER: Can you hear me if I just stand up
20 here?

21 CHAIRPERSON GRIFFIS: No. Actually the point is
22 not us hearing you, but the point is getting you on record, and
23 that's why you have to speak into the microphone. Someone is
24 looking for the cordless. So hopefully it will come, but if
25 that's not inconvenient for you.

1 MR. BEIDLER: Okay. This is fine.

2 CHAIRPERSON GRIFFIS: Okay, great. Well, welcome
3 and good morning. And I will let you speak. However, what I
4 want to stress is the fact what I would like to have
5 clarification on quickly is where you are with HPRB.

6 We have several options that were in both the
7 files, in terms of HPRB has one of the options been conceptually
8 approved or not, and then you don't need to address these right
9 away, but obviously you can get to those.

10 So with that I'd say, again, good morning, and go
11 at it.

12 MR. BEIDLER: Thank you.

13 The first thing I'll do is I'll --

14 MR. GELL: Michael.

15 MR. BEIDLER: Okay. Thank you.

16 The first thing I'll do is I'll talk about the
17 simpler of the two issues, which is the increase in the room
18 number in 1604 19th Street. That's this set of plans here.

19 The top board is the basement plan, which is the
20 owner's unit, and it has a separate entrance, and the owner
21 lives in that house.

22 This plan here shows this one plan, a general
23 parlor here for the guests, kitchen here, a guest room here, and
24 a bath here for this room, and then a second floor plan which
25 has three rooms, each having its own bath, and a third floor

1 down here, which has two rooms, and each one has their own bath.

2 So that makes up the six rooms in 1604.

3 If I can for a second, I'm just going to go
4 through the photographs and have them real quick -- this first
5 photograph shows -- it is looking south -- the two buildings we
6 are talking about are the red brick buildings right here.

7 There's a building on the corner, which is this
8 building here. Diago Hair Cuttery Shop is on this very little
9 corner here, and then Firehook Bakery is in the bottom of the
10 space here.

11 CHAIRPERSON GRIFFIS: Hold on just a second.
12 We're going to interrupt you for technical difficulties.

13 (Pause in proceedings.)

14 CHAIRPERSON GRIFFIS: I think we've got this set
15 up now. You're lucky because in a few cases we actually drop
16 the mirror ball, and it can get distracting.

17 MR. BEIDLER: Again, this is the corner of Q
18 Street and 19th. The site is unfortunately -- I'm sorry --
19 behind these trees. These are trees that we planted early in
20 the project initially years ago to kind of fence the yards from
21 the commercial street here on Q Street.

22 But anyway, the Firehook Bakery is here on the
23 corner and Wrap Works is in this corner in the building here,
24 which is at the corner of Q and Connecticut.

25 Nineteenth comes down straight and cuts in, and

1 these buildings are at the point of the wedge where it comes
2 into Dupont Circle.

3 This photograph here shows you more of a straight
4 on view of 1604 and 1606 19th Street from 19th Street looking
5 across the street at the building. So this kind of gives you
6 the immediate context.

7 The next row of photographs here shows you I'm
8 standing over on the corner here looking north. This is 19th
9 Street here. This is Q Street in front, and this is Diago's
10 Hair Shop here, and then Firehook Bakery on the corner here.

11 Most of these photographs are in the package, I
12 think.

13 CHAIRPERSON GRIFFIS: Yeah, let me ask Board
14 members. Are we all fairly familiar with this site in terms of
15 the case and all of that?

16 Yeah, I think we can pretty much move on from
17 this.

18 MR. BEIDLER: Okay. Great. So 1604 19th Street
19 is this building. That's the floor plans that we have here. So
20 that gives you the context of the increase in the number of
21 rooms.

22 I'm going to switch the rooms out and put the
23 addition boards up.

24 MEMBER LEVY: Mr. Chair.

25 CHAIRPERSON GRIFFIS: Yes.

1 MEMBER LEVY: I've got a quick question about
2 this photograph in the corner that shows the alley view.

3 MR. BEIDLER: Yes.

4 MEMBER LEVY: It would benefit me if we ran
5 through that one photograph.

6 MR. BEIDLER: Okay. This is a photograph that
7 was taken from the roof of 1606 looking down at the alley.
8 These are the condenser units that are serving the Wrap Works
9 space. These are the units that have been cited and the owner
10 has promised to put them on the roof and it never happens.

11 The trash for this restaurant are back in here.
12 There's a little gate. I'm sorry I didn't get it in the
13 photograph, but here you can begin to see the trash cans here,
14 and then here are the units, the HVAC units that are here for
15 Firehook, and their trash is right below that.

16 What's important in these photographs and the
17 reason why I wanted to point these out is this fence line right
18 here is an existing fence, which encloses the rear of the two
19 buildings. This is important because this is the line upon
20 which we are going to build the new addition.

21 So in terms of the context on site and its
22 relationship to the alley, that's important, and if I can direct
23 your view to this site, you can see this again. This is from
24 the alley side now looking up.

25 Here's the trash for Firehook. That's here, and

1 then this is the fence line right here, and then these are the
2 back of the two buildings that we were talking about.

3 So you can see the limitation on the rear yard.
4 There's almost no rear yard at all. It's very small. It's
5 eight feet, and you know, that's the reason why.

6 This is a shot from this end of the alley looking
7 south, and then again, here's the site right here and the back
8 of the two buildings. Firehook is in this building right here
9 to the corner.

10 VICE CHAIRPERSON RENSHAW: Mr. Chairman.

11 CHAIRPERSON GRIFFIS: Yes, please.

12 VICE CHAIRPERSON RENSHAW: I have a question. In
13 the bottom right-hand photograph that shows the back of the
14 property, the two buildings, whose car is that?

15 MR. BEIDLER: This is one of the cars for the bed
16 and breakfast, I think.

17 VICE CHAIRPERSON RENSHAW: That's one of the
18 parking spaces?

19 MR. BEIDLER: Yeah, that's one of the spaces. So
20 you can see, and another space is right here. So the cars go in
21 on each side.

22 VICE CHAIRPERSON RENSHAW: How are you handling
23 the parking with this proposed addition?

24 CHAIRPERSON GRIFFIS: Well, let's pull up the
25 plans for that. I think that's an excellent point that we need

1 to get into, but we're going to need to see the new.

2 And several houses down in that photograph is --
3 we'll take note of that illegal roof deck there and maybe see
4 that at some point. No, I'm just --

5 MR. BEIDLER: I think in the photographs you'll
6 seem them.

7 CHAIRPERSON GRIFFIS: For clarity of the record,
8 in case anyone ever reads this, I was referring to a site that
9 is not part of this application.

10 MR. GELL: Thank you.

11 CHAIRPERSON GRIFFIS: Good.

12 MR. BEIDLER: I'm only putting this up because
13 this is one of the drawings that's in your package. The other
14 drawing that's in your package is this drawing. This is the one
15 I'd actually like to talk about because this is in response to
16 HPRB's comments.

17 CHAIRPERSON GRIFFIS: Why aren't we just talking
18 about that then?

19 MR. BEIDLER: I'm sorry. What was the question?
20 I'm just going to be talking about this one. Like the other
21 drawing is in your package as well as that.

22 CHAIRPERSON GRIFFIS: Oh, good, good. I'm glad.
23 That's clear. I think that's important. I think we ought to
24 focus on this one.

25 MR. BEIDLER: I agree. Let's pull this one. Can

1 I have a little light or something? Thanks.

2 CHAIRPERSON GRIFFIS: This also is the option --
3 I believe it was Option 2 in the file, and we'll get
4 clarification on that. This is the one that you're indicating
5 that HPRB has taken action on?

6 MR. BEIDLER: Well, we went before the Dupont
7 Circle Conservancy. The Dupont Circle Conservancy approved the
8 project in concept. They looked at -- the Dupont Circle
9 Conservancy saw this line. They approved the drawing in
10 concept, pending HPRB's comments, but they had no problem with
11 the enclosure in the rear yard with the glass structure and its
12 impact on the historic district.

13 A couple of things that I want to point out that
14 are really important. This is the site plan of the two
15 properties, 1604 -- 1604 is at the bottom and 1606 is at the
16 top. The dark line indicates the existing footprint of the
17 building on the site.

18 There is no change in the building footprint.
19 We're not adding any square footage to the building. The intent
20 is not to enclose the interior usable space for expanding
21 existing floor plates.

22 That's very important to Dupont Circle Citizens
23 Association and the Conservancy.

24 And another point that's important to HPRB is
25 that we're not actually altering the buildings at all. The

1 addition that we're proposing is not visible in any way from
2 19th Street, which is in the front. Nineteenth Street is right
3 where Stephen is on the front here, and you can see the roof
4 line of the addition in the back, which is the blue. There no
5 view line at all possible from 19th Street or from Q Street,
6 except from when you're standing across the street and you're
7 looking down the alley. You'll see on the back of the alley.

8 We're not altering the building in the rear at
9 all, except that the attachment point is where the addition
10 meets the building. We're not changing windows. We're not
11 changing exterior finish. We're not changing roofs. We're not
12 changing anything.

13 The glass addition will come in up under the
14 existing gutter system that serves the upper roof, but we're not
15 going to be taking anything off the building or modifying the
16 buildings in any way except at the attachment points.

17 That was a very important point to HPRB because
18 they didn't want the buildings altered.

19 HPRB didn't rule on it because we didn't -- I
20 didn't have a final design. We went to the Conservancy for
21 concept approval, and we went to HPRB for concept approval.
22 Both of them approved the project in concept pending further
23 review, final review of materials, scale, everything else, all
24 of those other points.

25 Now, HPRB, this concept -- I'll just take a step

1 back to further explain this. Initially this concept was
2 presented to the Conservancy, and one of the Conservancy members
3 happens to be Steve Calcott, who made some comments about
4 wanting the scale reduced at the alley side.

5 Their feeling was that this vertical elevation
6 was too much right on the face of the alley, and they wanted us
7 to provide some relief there. So we did.

8 CHAIRPERSON GRIFFIS: For absolute clarification,
9 Steve Calcott is the staff member that's actually writing or
10 reviewing this for HPRB, and you're indicating he's also on the
11 Conservancy.

12 MR. BEIDLER: Yes.

13 CHAIRPERSON GRIFFIS: To that I have his memo
14 attached to the Office of Planning, which they'll get to, but it
15 indicates here that actually HPRB did not grant conceptual
16 approval.

17 MR. BEIDLER: Did you have a copy of the report?

18 CHAIRPERSON GRIFFIS: It says, "Staff recommends
19 the Review Board direct the applicant to continue studying a
20 lower two and a half story rear enclosure as suggested above and
21 return to the Board once the zoning and building code issues are
22 more fully resolved."

23 And the action, which is always bold at the end
24 of their memos, indicates that Board approved staff report did
25 not grant conceptual approval, but encouraged applicant to

1 produce something along the lines of which staff was suggesting.

2 So I understand the process. I mean, you're
3 obviously in it and on your way.

4 MR. BEIDLER: Right. We haven't gotten a rule
5 from anyone else.

6 CHAIRPERSON GRIFFIS: Right.

7 MR. BEIDLER: And so this is where we are.

8 In response to their comments, what we did is we
9 relieved the scale of the glass. We took it back from the
10 vertical line, which is this line right here, moved that plane
11 back, and developed a relationship between the vertical part of
12 it and the existing vertical part of the building in the corner.

13 The line here in the center is the property line
14 between the two buildings, 1604 and 1606. It's being developed
15 as one project because visually that makes the most sense, and
16 the material use and the scale of the glass panes and all of
17 those elements are not finalized.

18 We have to go back and do further study on that
19 and go back to HPRB, get their comments.

20 CHAIRPERSON GRIFFIS: What are you proposing for
21 materials?

22 Let me also just make comment, and, Board
23 members, you may not agree or disagree, but I mean we more often
24 than not -- folks get through HPRB and get at least conceptual
25 approval so they know what they're doing, which means there's

1 material talk and all of that.

2 I have two problems, one of which is for the
3 applicant's burden. If we start mucking around with this and
4 they go back to HPRB and HPRB is not happy with its, what do you
5 do? I mean, do you have to come back to BZA to go through it if
6 something changes in it?

7 So I'm a little concerned about that.

8 Be that as it may, I'm also concerned in terms of
9 the level of information that we really should be looking at in
10 terms of making some of the decision. It's not all encompassing
11 in the regulations that we're going through, but certainly this
12 is an important part.

13 So I don't know if anyone else has any feedback
14 or comment on that or opportunities for direction because,
15 frankly, my first questions are let's get into materials. What
16 are you proposing for it?

17 You're indicating there's a blue above the garage
18 door. Is that glass now or is that --

19 MR. BEIDLER: It was intend to be glass. The
20 darker color would intend to be some kind of a masonry.

21 CHAIRPERSON GRIFFIS: But just actually in that
22 curved piece below the square, that's glass?

23 MR. BEIDLER: Yes.

24 CHAIRPERSON GRIFFIS: And you have roll-up doors.

25 MR. BEIDLER: Here.

1 CHAIRPERSON GRIFFIS: You have enough room that
2 obviously that's not going into those.

3 MR. BEIDLER: Well, the roll-up doors will happen
4 behind.

5 CHAIRPERSON GRIFFIS: No, I understand.

6 MR. BEIDLER: And it will be a horizontal --

7 CHAIRPERSON GRIFFIS: Right.

8 MR. BEIDLER: -- obviously door that will roll up
9 behind it.

10 CHAIRPERSON GRIFFIS: Right.

11 MR. BEIDLER: So there will be some solid behind
12 this.

13 CHAIRPERSON GRIFFIS: I see.

14 MR. BEIDLER: The glass will be on the front
15 plane.

16 CHAIRPERSON GRIFFIS: Okay.

17 MR. BEIDLER: So there will be probably 12
18 inches.

19 CHAIRPERSON GRIFFIS: And you're proposing this
20 is all vision glass, correct?

21 MR. BEIDLER: Correct.

22 CHAIRPERSON GRIFFIS: You indicated it's low E
23 and sound insulated. It will ventilate.

24 MR. BEIDLER: Conservancy didn't want tinted
25 glass of any kind.

1 CHAIRPERSON GRIFFIS: Yeah.

2 MR. BEIDLER: They just wanted clear glass.

3 CHAIRPERSON GRIFFIS: I think that would be
4 probably a good idea.

5 How about exterior lighting in the alley area?
6 And my understanding is that those doors would just go into the
7 back space, but they'd obviously access the alley. Let me
8 bundle all of my questions in one.

9 You need to talk about parking, when those doors
10 open how you actually pull a car in there because from our plans
11 and actually from your photographs, you're parallel parking. So
12 we'll get to that.

13 Lighting, and then also a brief discussion about
14 at least the palette of materials that you're thinking about at
15 this point, and that's all I can deal with right now.

16 MR. BEIDLER: Okay. I'll try to remember all of
17 the questions.

18 CHAIRPERSON GRIFFIS: I'll remind you, believe
19 me.

20 MR. BEIDLER: Parking. What happened, as you
21 thought, parallel parking. The doors will go up a covered pole
22 in this way, a covered pole in this way. That's the way the
23 parking happens now.

24 CHAIRPERSON GRIFFIS: Okay, but you have a post
25 right in the middle of that. You have basically two roll-up

1 doors.

2 I understand that it would work incredibly well
3 if it pulled up, and I may be mistaken, but it seems to me I --

4 VICE CHAIRPERSON RENSHAW: Is it one door or two
5 doors?

6 MR. BEIDLER: It's one door that will operate as
7 two doors. Everything will be operable in tandem here. So
8 these will both go up at the same time and they'll both come
9 down at the same time.

10 We're going to need that anyway to get the width
11 for the cars to get in here, and the property is both owned by
12 the same person. So that's why this is all a combined project,
13 and the way this is going to be designed is that we're not going
14 to need a post there, but that we can put them there if we need
15 them for some reason in the future.

16 But this is going to be designed with a large
17 opening. So this will go up, the cars will go in, the doors
18 will come down.

19 These doors will be used for trash and pedestrian
20 accessing, ingress and egress.

21 CHAIRPERSON GRIFFIS: Where do you put the trash?

22 MR. BEIDLER: Right now the trash is over here.
23 So they can come down from inside of the house and put the
24 trash, and then the trash comes in and out of here.

25 CHAIRPERSON GRIFFIS: But you're building right

1 on the alley line, right?

2 MR. BEIDLER: That is correct.

3 CHAIRPERSON GRIFFIS: So where would they put the
4 trash receptacles?

5 MR. BEIDLER: The trash will be in here.

6 CHAIRPERSON GRIFFIS: I see.

7 VICE CHAIRPERSON RENSHAW: Inside?

8 MR. BEIDLER: Correct.

9 CHAIRPERSON GRIFFIS: So the actual pick-up, the
10 commercial hauler that comes, would actually have a key to that
11 door. They would go in, pull them out?

12 MR. BEIDLER: I suppose so, yes.

13 VICE CHAIRPERSON RENSHAW: Or would you pull them
14 out the day of the pick-up?

15 MR. BEIDLER: We may need to recess this door to
16 provide a space there for them, but, again, that hasn't been
17 resolved. I haven't even drawn that part of the design.

18 VICE CHAIRPERSON RENSHAW: This is now a business
19 that needs a dumpster, does it?

20 MR. BEIDLER: No, it's not. No.

21 VICE CHAIRPERSON RENSHAW: Okay.

22 MR. BEIDLER: The materials for the base is going
23 to be some kind of a light masonry, probably not limestone, but
24 maybe precast, so that it's more or less compatible visually
25 with the corner building, which is a light building.

1 And then everything above that is just going to
2 be glass.

3 MEMBER ETHERLY: Mr. Chair.

4 CHAIRPERSON GRIFFIS: Yes.

5 MEMBER ETHERLY: If I may, just as a follow-up to
6 one of the previous questions.

7 CHAIRPERSON GRIFFIS: Indeed.

8 MEMBER ETHERLY: For purposes of comparison, how
9 is the trash collection for the site handled now?

10 MR. BEIDLER: It's handled -- this basically
11 remains open on trash days, this opening, and the guys go in
12 there. They walk in. They pull the trash cans out from the
13 back of the garbage truck and put the cans back.

14 MEMBER ETHERLY: Okay.

15 MR. BEIDLER: And then I guess the house manager
16 comes and makes it pretty.

17 CHAIRPERSON GRIFFIS: So they're always on site.
18 They're not pulled out into the alley.

19 MEMBER ETHERLY: Thank you, thank you.

20 CHAIRPERSON GRIFFIS: Okay. Well, first of all,
21 let me also indicate I think this is becoming a successful
22 elevation as compared to the other one, which I understand why
23 it was done, potentially just to have a glass enclosure of a
24 historic back end of the property.

25 But this, I think, in terms of design is starting

1 to really integrate, although alley -- and we should be -- you
2 know, and Board members, please stop me when I get too far --
3 and remember that this is an alley elevation we're looking at.

4 But I think it's an important one in terms of
5 obviously the siting, but this, I think, is going in the right
6 direction.

7 My quick question is why you wouldn't -- well,
8 actually I'm not going to get into that at this point. So --

9 MR. BEIDLER: Let me just comment the reason why
10 we would like -- basically at the bottom, the previous scheme
11 had glass going all the way down with a metal spindle panel at
12 the bottom. The problem is when you go back there and you look
13 at the trash arms that go through there, I mean, those guys,
14 although they're incredibly agile, they do on occasion take a
15 brick or two off the building.

16 So we want a base that's something that's
17 substantial enough to be able to resist a truck hitting it or
18 tapping it at least is necessary at the base of the building.
19 If not this part, at least this part really needs to be
20 something that's substantial and able to resist a dump truck.

21 VICE CHAIRPERSON RENSHAW: Looking again at the
22 photograph on the right-hand side of your series of photographs
23 that shows the present back end of the houses, is there a curb
24 cut for the cars to pull up, or is that just a sloped site?

25 MR. BEIDLER: It's a sloped site.

1 VICE CHAIRPERSON RENSHAW: Is that a sidewalk
2 area in front of it or just a --

3 MR. BEIDLER: No, just a paving line.

4 VICE CHAIRPERSON RENSHAW: All right. Thank you.
5 All right.

6 MR. BEIDLER: And you can see in some of the
7 other photographs it's the same down the rest of the alley. You
8 know, it's pretty much level. Cars just pull right in off the
9 alley.

10 VICE CHAIRPERSON RENSHAW: Thank you.

11 CHAIRPERSON GRIFFIS: Okay. With currently the
12 second level, I believe, the deck, which I believe the owner
13 indicated it was for breakfast serving, that's going to be
14 enclosed. Was that counted towards the total FAR?

15 MR. BEIDLER: It was.

16 CHAIRPERSON GRIFFIS: Okay. Just to be clear on
17 that, and then there's no other occupiable space above the site;
18 is that correct?

19 MR. BEIDLER: Correct.

20 CHAIRPERSON GRIFFIS: That's okay, and then the
21 closure back to that site to the alley line was counted towards
22 the FAR.

23 MR. BEIDLER: Correct.

24 CHAIRPERSON GRIFFIS: Okay. Yeah, Mr. Levy, do
25 you have something?

1 MEMBER LEVY: Yeah. A question again about the
2 area where the cars are parked and the trash is kept because I'm
3 having trouble figuring out from the plans. Is that a
4 completely separated space where the roof or the ceiling --
5 where the cars are kept there in your section?

6 MR. BEIDLER: Could you rephrase it please?

7 MEMBER LEVY: I'm trying to figure out whether
8 the cars that are still going to be parked in the same area but
9 are not within the glass enclosed structure. Are they separated
10 from the roof decks by a ceiling or a roof or are they within
11 the same space that the windows of the building open to?

12 CHAIRPERSON GRIFFIS: That's an interesting
13 point. What he's saying is if you're sitting in the car parked
14 and it's idling, aren't you filling up the greenhouse with gases
15 that the people on that deck on second floor are going to be in
16 the same environment?

17 MR. BEIDLER: I'm embarrassed to say that
18 probably the way the plan is shown that is correct, but that's
19 one of the issues that we intend to get into, and the building
20 code issues. You know, there are other building code issues
21 here that we haven't gone into because we didn't want to go too
22 far with this. Everybody is going to think of looking into it.

23 CHAIRPERSON GRIFFIS: Right, and you've also
24 indicated on the plans that they are self-ventilating, which
25 means they'll be hinged, and they'll be on some sort of sensor

1 conceivably so that the top will open up.

2 MR. BEIDLER: Right.

3 CHAIRPERSON GRIFFIS: All right, but that's an
4 interesting point that you bring up because logically speaking -
5 -

6 VICE CHAIRPERSON RENSHAW: I thought there were
7 floors.

8 CHAIRPERSON GRIFFIS: -- you probably wouldn't
9 want to park back there.

10 MEMBER LEVY: I mean, you're basically parking
11 inside occupied space.

12 CHAIRPERSON GRIFFIS: Right, and not to mention
13 having trash and everything stored in there.

14 MR. BEIDLER: I think installing a floor or some
15 kind of a separation at a level that would be below the window
16 sill level on the first floor is out of the question. It's just
17 not something that we've -- it's not something that these
18 drawings show.

19 MEMBER LEVY: And thinking it through in my head,
20 I was wondering then at that point are there within the courts
21 of the building at whatever level, are there also windows or
22 doors that go into the existing structures.

23 MR. BEIDLER: Again, the answer is yes. Right
24 now in the alleys there are existing metal fire escapes that
25 have just been there forever, and those are used for egress,

1 correct.

2 VICE CHAIRPERSON RENSHAW: And those would stay?

3 MR. BEIDLER: Those would stay. That's what we
4 did before so that when they get under the ground, they can get
5 out the back.

6 One of the points that Stephen asked me to
7 reiterate was the fact that the building line that we're going
8 to be establishing here is where the existing fence line is. It
9 also happens to be the same line as the building at the corner.

10 So in terms of setback off the alley, you know, we're not
11 encroaching any further on the -- we're not making a condition
12 that's any worse than it already is there as an existing
13 condition.

14 VICE CHAIRPERSON RENSHAW: To ask about the
15 enclosed roof deck, that would be enclosed. That is not going
16 to be open to the area below, save looking through the glass; is
17 that correct?

18 MR. BEIDLER: It would be encompassed by this
19 enclosure over the back of the entire building. So I think the
20 answer to your question is yes, but it's not a separate box.
21 It's the same box.

22 VICE CHAIRPERSON RENSHAW: It's the same box, but
23 if the back end of the deck sunroom -- wouldn't there be a
24 permanent glass wall of its own?

25 MR. BEIDLER: We can put one there. Currently

1 this --

2 VICE CHAIRPERSON RENSHAW: It's not there now.

3 MR. BEIDLER: This was designed as just one large
4 enclosure at the back of the entire building with the idea that
5 we needed to protect the buildings somehow and make some gesture
6 to protect them from the rats and the noise and all the problems
7 that have developed in this alley since the owners bought the
8 building.

9 I think one of the other things that's important
10 to understand and reiterate what Alan said is that, you know,
11 when the owners bought this building and we initially started
12 this project of restoring that 1604 19th Street, you know, this
13 was a relatively quiet alley. You know, these commercial
14 buildings didn't -- I mean, they existed there, but the current
15 use wasn't there. Firehook Bakery wasn't there. Wrap Works
16 wasn't there, and there was a travel agency in this building
17 where Wrap Works is, and there was a small pizza shop, but the
18 density and the intensity of the use wasn't nearly what it is
19 now.

20 And this is really the result of the conditions
21 that have been created by the increased use in that space, and
22 they don't have anywhere to go. I mean, they have to either
23 protect themselves or leave.

24 And you know, they've made quite an investment in
25 this property and don't want to leave.

1 VICE CHAIRPERSON RENSHAW: Well, I asked the
2 question because I gather that you wanted to make the sun deck a
3 12 month eating area, and in order to heat that in the
4 wintertime if the sun isn't out, for instance, you would need to
5 have a glassed in back wall, I would think, or it would be
6 pretty cold.

7 MR. BEIDLER: Well, the idea is that there would
8 be a separate unit that would serve this space that would just
9 sort of heat and cool the space. I don't think anyone is
10 thinking about going out there with a bathroom and slippers
11 necessarily, but --

12 VICE CHAIRPERSON RENSHAW: But they don't eat in
13 their coats.

14 MR. BEIDLER: They don't eat in their coats.
15 That's correct.

16 VICE CHAIRPERSON RENSHAW: Okay.

17 CHAIRPERSON GRIFFIS: Well, I mean, that can get
18 into the design, frankly. With as much glass as is coming and
19 the sun that's in there, it's probably going to be a cooling
20 load on that area.

21 MR. BEIDLER: Right.

22 CHAIRPERSON GRIFFIS: So you're going to have to
23 cool that down rather than warm it up.

24 I think I wanted -- and the case that was
25 submitted went through it, but I think you eloquently stated

1 that part of what's motivating this and, frankly, part of the
2 variance case that you're making is the fact that Dupont Circle
3 has developed to a point of which there's incredible successful
4 commercial on Connecticut Avenue that actually wraps around
5 towards 19th, and you have this historic district that has these
6 townhouses, nonconforming as they are that are in this
7 particular case abutting all the way up and the areas are
8 adjacent.

9 And how do you create that buffer and have still
10 the successful functionings of both the balance, is really what
11 it's coming to.

12 And forgive me if you state it, and I didn't
13 catch it, but I know it's in the written file. The fact of the
14 matter is that conversions of buildings like this and the
15 investment in them have, in fact, spurred on the successful
16 nature of the Connecticut Avenue commercial strip.

17 So that being the context in what we're getting,
18 I think that's important. I think we obviously have focused on
19 a few interior program issues that will become important, and
20 what I'd like to do is kind of move on and we can get back to
21 these. I think we've taken notes on this, but my last two
22 things perhaps on this.

23 First of all, my concern with moving ahead with
24 this in terms of parking is that I would think logically and I
25 think I stated that the cars probably wouldn't keep pulling back

1 in there if this were in total greenhouse. You may want to
2 speak to that in terms of whether as a historic structure,
3 whether, first of all, those are -- well, whether those are
4 legal sized parking spaces in the back of those units and
5 whether, in fact, parking would be required in the historic
6 overlay if those weren't legal. But I don't want to --

7 MEMBER LEVY: Mr. Chair, could I just build on
8 that quickly?

9 CHAIRPERSON GRIFFIS: Yeah. Actually you can
10 jump right back into it.

11 I have to make comment on the section, and I
12 don't know how we deal with this, and this was my first probably
13 indirect comment in the beginning of the balance between HPRB
14 and Zoning, but I think that's a big mistake to make that look
15 like the back side of a shack on a beautiful townhouse. I think
16 your first option, if I recall correctly -- actually it's in
17 front of me -- actually carries the greenhouse roof line
18 straight down, and it has a very vertical elevation on the
19 alley.

20 And if you'll look at the adjacent building and,
21 frankly, other adjacent buildings on that site, that's a much
22 more responsive move even though you've changed totally the
23 materials; it's a responsive move to the adjacent properties
24 and, frankly, I think helps integrate even though the alley side
25 back in from the Q Street/19th corner up the alley.

1 So that's my comment. How we actually deal with
2 that, who knows, but I think we'll get to that. Obviously more
3 importantly is the interior approach.

4 Mr. Levy, you wanted to say something?

5 MEMBER LEVY: Yeah, I wanted to building on your
6 -- I agree with your comments about the design of the greenhouse
7 itself, but I wanted to build on your comments about the
8 continued use of those parking spaces, and it goes back to your
9 initial concern about whether or not we're actually looking at a
10 design and considering a design that's close enough to what's
11 actually going to be constructed.

12 If you look at the site drawing, which is labeled
13 in our packages AS-1, which is the top one there, it appears to
14 be showing that the alley is ten feet wide, and that the
15 existing space used for the cars to park is somewhat less than
16 ten feet wide.

17 CHAIRPERSON GRIFFIS: Yeah.

18 MEMBER LEVY: And this drawing doesn't reflect
19 the thickness of the masonry or I guess you said it might be
20 precast wall that would be constructed as part of the new
21 design.

22 So my concern, I don't see how it would be
23 practical to continue parking cars in that space, and although
24 initially I wasn't too concerned about your comment about the
25 design, I now do wonder whether we're reviewing something that's

1 going to be close enough to what's actually built to be
2 valuable.

3 CHAIRPERSON GRIFFIS: Well, to the heart of the
4 question maybe we can get resolution on parking. Actually I
5 don't know if -- give us the quick dimensions from the back of
6 the structure to the alley line. Obviously the alley is not
7 moving parallel to the structure, but at 1604, it appears the
8 existing condition would be -- what is its minimum?

9 MR. BEIDLER: Right here it's about eight and a
10 half feet.

11 CHAIRPERSON GRIFFIS: Eight and a half, and then
12 up to the property line -- now, down just for 1604, right. It's
13 adding whatever it is. It may be a foot.

14 MR. BEIDLER: It's adding, and it may be a foot.

15 CHAIRPERSON GRIFFIS: Okay.

16 MR. BEIDLER: Probably eight inches.

17 CHAIRPERSON GRIFFIS: So say plus or minus eight,
18 six there.

19 And then the widest point up at 1606?

20 MR. BEIDLER: Probably closer to ten feet.

21 COMMISSIONER PARSONS: But as I understand it,
22 they're not trying to meet a parking requirement here. It's
23 more of a convenience for themselves, correct?

24 CHAIRPERSON GRIFFIS: Right, and that's what I
25 want to get to the bottom of, is whether, in that it's historic

1 and we can pull that out -- it is a historic district -- my
2 recollection of the actual regulations is that no more parking -
3 - well, basically you're exempt from parking in the historic
4 district.

5 So I think that would help us out more if we knew
6 kind of the direction that it was going, and if --

7 COMMISSIONER PARSONS: So if they want to pull a
8 couple of sports cars in here, why is it of concern to us?

9 CHAIRPERSON GRIFFIS: It probably should not be.

10 MEMBER LEVY: If I could, Mr. Parsons and Mr.
11 Chair, my concern isn't so much that the design will change and
12 they won't meet a parking requirement, but just that the design
13 in general might change significantly from what we're
14 considering. If there are these types of issues with the design
15 at this point, are we considering and possibly approving
16 something that's not going to be built, that something else
17 would ultimately be built because the design is in such an early
18 stage?

19 CHAIRPERSON GRIFFIS: Then, again, by not --

20 COMMISSIONER PARSONS: I would defer to the
21 Historic Preservation Review Board as somebody that's going to
22 be in addition here, and that's what's before us.

23 CHAIRPERSON GRIFFIS: Right. I think, yeah.

24 COMMISSIONER PARSONS: What the mullions look
25 like and the type of glass --

1 CHAIRPERSON GRIFFIS: Oh, we'll get there. Oh,
2 no, no, no. That's not our problem.

3 (Laughter.)

4 CHAIRPERSON GRIFFIS: No, I think what Mr.
5 Parsons is indicating is the fact that -- and I would concur,
6 and frankly, I may have led the Board down this path too far --
7 but I think let us look at the design in terms of the zoning
8 implications that it has.

9 MEMBER LEVY: And let me just clarify if I could
10 and then I'll drop it. My concern is not the issues that you
11 brought up about the color of the glass or the mullions or any
12 of that. It's comfort level of weather, the design in concept,
13 and as it relates to the zoning is going to stick.

14 CHAIRPERSON GRIFFIS: right.

15 MEMBER LEVY: And that's my only concern.

16 CHAIRPERSON GRIFFIS: Right, and I would agree.
17 I think the point, if we can step back maybe a little bit, the
18 point, in fact, is the addition that we're looking at obviously
19 is being done to mitigate the problems that the applicant has
20 put forward to us, and that is, one, the rodent; two, the noise
21 from the adjacent properties.

22 And so I know we're all thinking that as we get
23 into these details, but of course when something is shown us, we
24 often react and maybe go down a little bit too far. But I think
25 there it is, and we have gone through then for 1604 and 1606 the

1 FAR variances. That has been cleared up in terms of knowing the
2 occupiable space that will be created with this covering with
3 the greenhouse.

4 Lot occupancy, of course, is fairly
5 straightforward with this, and it, of course, is in addition to
6 an existing nonconforming. Do we have any other questions on
7 that or directions we need to look at from the architect?

8 COMMISSIONER PARSONS: I just had one internal
9 question about this space and how it will be used. You
10 suggested that it would be used for breakfast, for other food
11 service, but there's no change to the third floor to accommodate
12 that. People would be served in the kitchen and then walk to
13 the roof with their meal?

14 MR. BEIDLER: I'm not sure exactly how bed and
15 breakfast works in terms of its internal function, but what I
16 can tell you is that the intent is not to add occupiable floor
17 space. The deck that will be used for breakfast service is
18 already existing, and it is used that way in warmer months.

19 COMMISSIONER PARSONS: I understand.

20 MR. BEIDLER: And when weather allows. This will
21 just extend that period of time a little further because it will
22 have a roof over it. That's all.

23 But we're not adding; we're not in-filling any
24 space or adding any decks or --

25 COMMISSIONER PARSONS: So there's no change to

1 the third floor existing.

2 MR. BEIDLER: Correct.

3 COMMISSIONER PARSONS: No insertion of a little
4 kitchenette or anything.

5 MR. BEIDLER: No.

6 COMMISSIONER PARSONS: Okay.

7 CHAIRPERSON GRIFFIS: Good. Thank you.

8 Any other questions of the architect?

9 (No response.)

10 CHAIRPERSON GRIFFIS: You can continue on if you
11 have other things to say.

12 MR. BEIDLER: No, I'm finished.

13 CHAIRPERSON GRIFFIS: I figured we had probably
14 wore you out there.

15 MR. GELL: Thank you, Mr. Chair.

16 I would like at this point to ask Zelda Zeldin,
17 who is a neighbor, to come forward and make a statement.

18 CHAIRPERSON GRIFFIS: Okay.

19 MS. ZELDIN: Good morning.

20 CHAIRPERSON GRIFFIS: Good morning.

21 MS. ZELDIN: Yes, it's still morning. Okay.

22 I can't speak to the design, but I own 1610. So
23 I'm another building over, and I can say generally that
24 everything the Skvirskys have done to their property, front,
25 back and interior, has improved it greatly. They're great

1 neighbors.

2 I can certainly understand why they have to put
3 something in the back. I cannot address the design, but
4 something should be approved back there because we are
5 constantly fighting the noise and the trash and the rats.

6 Now, I appeared before the Board when Michael
7 Kane came for his approval to do the build-out across the alley
8 from us, and he was given approval with two provisos. One was
9 that he attend to the trash situation immediately and put in a
10 dumpster with a cover.

11 We've still go trash pouring over.

12 And the noise, which had been tested twice and
13 found to be beyond allowable levels. He's done nothing about
14 that noise. Those air conditioning units, both -- one of the
15 things that was required -- I wish I had brought my copy of the
16 Board's ruling -- was that those units were to be moved either
17 in the basement or the roof, and he's done neither.

18 And Wrap Works and he keep passing the buck back
19 and forth. He owns the building. Wrap Works is the tenant, and
20 he has violated the Board's own proviso on that noise and the
21 rat situation ever since he started his construction. Every rat
22 that's been sleeping back there for centuries is running behind
23 our buildings.

24 And if they can put up something that will both
25 buffer the noise and keep some of those rats out, I'm all for

1 it, and I'm sure the neighborhood would be for it.

2 CHAIRPERSON GRIFFIS: Great. Thank you very
3 much. That is very helpful, and we appreciate you coming down
4 and spending time with us this morning.

5 MS. ZELDIN: Thank you.

6 MR. GELL: That concludes our case. I may want
7 to say a word after the other reports.

8 CHAIRPERSON GRIFFIS: Of course. Yeah, we'll
9 return.

10 Why don't we move quickly to Office of Planning
11 if they're prepared? And we do have a report from them, which
12 if there's no objection we can waive in as it came in late.

13 Yeah, let's actually make sure that all of the
14 Board members have these as they were -- do you have it?

15 Okay. Good. I think we're ready.

16 MR. McGETTIGAN: Thank you, Mr. Chairman and
17 members of the Board.

18 My name is David McGettigan from the Office of
19 Planning, and I'll be presenting the report from the Office of
20 Planning on this project.

21 The subject property is in the residential zone,
22 and it is a nonconforming structure and requires relief under
23 2001.3, in particular, in regards to the FAR and the lot
24 occupancy and the rear yard requirements. None of these are met
25 by the existing structure and the nonconformity will be, in each

1 of these three areas, be expanded.

2 It's important though to note that the use of
3 this area is going to be very similar. They're not changing its
4 dual function as a rear yard and parking. It would just be
5 under glass to protect it from the noise of the adjoining
6 commercial areas and the adjoining commercial alley.

7 The comprehensive plan encourages the renovation
8 and adaptive reuse of existing structures and, therefore, would
9 support modifications of this sort.

10 The property is also in the Dupont Circle overlay
11 district, which controls the height, bulk, and appearance scale
12 of additions and is intended to protect the integrity of
13 contributing buildings, which this is to the historic district.

14 Therefore, it's important that the Historic
15 Presentation Review Board review and approve this addition.

16 The bed and breakfast is permitted for two
17 bedrooms and with approval of the report may be expanded up to
18 six bedrooms with the special exception. There's no particular
19 criteria listed in the zoning ordinance to evaluate the special
20 exception request, but we did look at the adverse impacts and
21 the general purpose intent of the zoning regulations.

22 The use as a six bedroom bed and breakfast would
23 not be adverse to the neighborhood. The only concern that is a
24 concern would be parking. However, as noted, they are very
25 close to the Dupont Circle Metro station. The commercial area

1 may have differing peak demands, and so there might be more on
2 street parking.

3 Also the applicant indicated in his testimony
4 that if he needs additional parking, he rents space in a garage
5 nearby.

6 From the variance tests, we note -- and if you
7 look at the last page of the report, there's an amount that
8 shows the shape of the square and the lot configuration, that
9 this is a narrowing square that's the narrowest at the point
10 where these lots are, and these lots are substantially shallower
11 than the other lots to the north.

12 Also, this is also the configuration -- also the
13 commercial strip is heading towards the residential. The buffer
14 of the middle of the square is narrowing down to a very small,
15 ten foot alley separating the residential from the commercial,
16 and we believe that this is a unique enough situation to warrant
17 the granting of a variance.

18 I wanted to note some things on the historic
19 preservation staff report, which is attached. The staff report
20 recommends -- and this is on the second page, and it's
21 underlined above the bold -- that the Review Board direct the
22 applicant to continue studying a lower two and a half story rear
23 enclosure as suggested above and return it to the Board.

24 I believe the applicant has tried to address this
25 concern. It may be changed more, but still the staff is in

1 support of an addition. It suggests that the height of the
2 enclosure be limited to the top of the second floor and a second
3 addition be added to protect the third floor.

4 But this does not, I think, affect the zoning
5 issues in the case of how this enclosure is built. There will
6 be an enclosure built. The use will stay the same. The bulk of
7 the second option is less, and if the HPRB would be happy with
8 that or some alternative that was less bulky, then I think the
9 zoning issues would be addressed.

10 And that concludes my report.

11 CHAIRPERSON GRIFFIS: Great. Thank you very
12 much.

13 Any Board members, questions of Office of
14 Planning?

15 (No response.)

16 CHAIRPERSON GRIFFIS: Mr. Gell, did you have any
17 cross examination of the Office of Planning?

18 MR. GELL: No, Mr. Chairman.

19 CHAIRPERSON GRIFFIS: Thank you.

20 Let's go to ANC-2B reports. I don't believe we
21 have any other government reports. I have no recollection of
22 them. ANC-B2, which responded to both applications, of course,
23 we're consolidating those. So we can look at both of those, and
24 I believe it is Exhibit 22 in our file. Ms. Renshaw has it out.

25 If you could, just briefly summarize those for

1 us.

2 VICE CHAIRPERSON RENSHAW: Yes. The letter is
3 dated October 15th, 2001, and it's signed by Vince MacKown, the
4 Chairperson of ANC-2B, the Dupont Circle Advisory Neighborhood
5 Commission.

6 And he states that at a meeting on October 10th,
7 2001, ANC-2B voted to support Application 16792 and 16793 by
8 Alan and Anexora Skvirsky at 1604 and 1606 19th Street for
9 variances from requirements for an addition to a nonconforming
10 structure and a special exception to allow an increase of bed
11 and breakfast rooms from two to six.

12 Further, ANC-2B conditions this support upon
13 additional review by ANC-2B of the architectural renderings
14 prior to submission to the Historic Preservation Review Board
15 and the Department of Consumer and Regulatory Affairs.

16 And this is with seven of seven commissioners in
17 attendance, a quorum at a duly called public meeting. And that
18 was the motion that was unanimously approved.

19 But it states in the letter in the final
20 paragraph that ANC-2B asserts its rights to further review
21 before final approval.

22 CHAIRPERSON GRIFFIS: Oh, well, that just throws
23 a wrench in the whole works.

24 I would assume that you've seen this letter and
25 had obviously correspondence with the ANC. So we appreciate

1 that overview of that, and let us move on.

2 Any other government reports? I ask again before
3 we get off of that.

4 (No response.)

5 CHAIRPERSON GRIFFIS: Is anyone else here,
6 parties, rather, persons in support or opposition of this?

7 (No response.)

8 CHAIRPERSON GRIFFIS: Not seeing any indication,
9 Board members, questions, issues that we want to bring up before
10 closing remarks?

11 MS. BAILEY: Mr. Chairman, staff has a brief
12 clarification or need clarification on a point. Yesterday we
13 asked the applicant to provide a copy of the home occupation
14 permit. We did receive a copy for one of the buildings that's
15 located at 1606 19th Street, N.W., and it indicates that that
16 property is being used as a bed and breakfast for one employee
17 and two rooms.

18 We did not, however, receive a copy of the home
19 occupation permit for the other building that is at 1604 19th
20 Street, and I guess the question is: is that building currently
21 operating as a bed and breakfast? And if so, had the applicant
22 obtained the proper permits to do so?

23 CHAIRPERSON GRIFFIS: Well, you can respond to
24 that.

25 MR. GELL: Mr. Chairman, we did make application

1 for a permit to operate a bed and breakfast in 1604, as well,
2 but because we asked for six rooms, they kicked it back and
3 said, "No, you have to get your zoning approval first and then
4 we will consider it."

5 I think it would be an automatic thing once we
6 get the zoning approval.

7 CHAIRPERSON GRIFFIS: Right. Okay. Thank you
8 for bringing that up.

9 And that, of course would lead to a C of O for
10 that building, wouldn't it?

11 MR. GELL: Well, it doesn't need a C of O.

12 CHAIRPERSON GRIFFIS: Oh, that's right.

13 MR. GELL: It's a residential building, and it's
14 a home occupation.

15 CHAIRPERSON GRIFFIS: Okay, good. Okay. Any
16 other questions, Board members?

17 (No response.)

18 CHAIRPERSON GRIFFIS: Are you ready to go to
19 closing remarks then?

20 MR. GELL: Yes. Members of the Board, these are
21 always interesting and difficult cases because what you have is
22 kind of a traditional problem of accommodating residential and
23 commercial uses in an area, very intensely used urban area, and
24 accommodating the needs of our community to preserve historic
25 buildings and to encourage people to invest in those buildings

1 and to bring them up to use and to be historic and to maintain
2 them.

3 And the flexibility that the Zoning Board has in
4 order to move that process along and help it and help our city
5 is what we're considering here, and I hope that you will grant
6 these variances and also the special exception.

7 Thank you very much.

8 CHAIRPERSON GRIFFIS: Thank you, Mr. Gell.

9 Let me just get a quick indication of Board
10 members whether we are prepared to proceed on this today. Is
11 there information that we want to gather if we move this to a
12 decision making?

13 COMMISSIONER PARSONS: I don't need anymore
14 information.

15 CHAIRPERSON GRIFFIS: Are you ready to go?

16 (The Board conferred.)

17 CHAIRPERSON GRIFFIS: Okay. Having unofficially
18 polled my members and gotten a small feel for where we are, I
19 think we are prepared to move on today. Mr. Gell, you did not
20 ask necessarily for a decision, but I would imagine you wouldn't
21 turn one down perhaps, not predicting which way this is going,
22 frankly, but --

23 MR. GELL: I would be happy to officially ask for
24 a bench decision at this point.

25 CHAIRPERSON GRIFFIS: Okay, and you indicated a

1 summary order also then.

2 MR. GELL: Yes, that's correct.

3 CHAIRPERSON GRIFFIS: Okay. Well, Board members,
4 we have been asked, and I think it actually assists us in
5 breaking out the special exception from the variances and then
6 from the variances for each case, and I would -- I would move
7 that we approve Application 16793, the special exception to it,
8 to operate a bed and breakfast home occupation having a maximum
9 of six sleeping rooms under Subsection 203.8 and 203 --

10 COMMISSIONER PARSONS: Second.

11 CHAIRPERSON GRIFFIS: That's wonderful, just
12 moving things quite along. That is for 1604.

13 It has been moved and seconded. Any discussion?

14 (No response.)

15 CHAIRPERSON GRIFFIS: Very well. I ask all those
16 in favor.

17 (Chorus of ayes.)

18 CHAIRPERSON GRIFFIS: Any opposed?

19 (No response.)

20 CHAIRPERSON GRIFFIS: Great. We'll record that
21 vote very quickly and keep moving here.

22 MS. BAILEY: The motion to approve 16793 was made
23 by Mr. Griffis, Mr. Parson second, Mr. Levy and Ms. Renshaw and
24 Mr. Etherly in support of that motion.

25 CHAIRPERSON GRIFFIS: Good. I'm going to stay on

1 1604 then and move approval of Application 16793 for the
2 variance of FAR, the variance from lot occupancy and also under
3 2001.3 for the addition to existing nonconforming structure.

4 MS. SANSONE: Mr. Chairman, there's also a rear
5 yard variance.

6 CHAIRPERSON GRIFFIS: Oh, I'm sorry. Yeah. I
7 tried to pull it all together with these scratches.

8 And a rear yard variance. Thank you.

9 VICE CHAIRPERSON RENSHAW: Second.

10 CHAIRPERSON GRIFFIS: And it has been seconded.
11 I appreciate that.

12 I think and we won't be redundant when we get to
13 1606 perhaps, but obviously there's a uniqueness to this based
14 on the parcel itself that it sits, the narrowing aspect of it,
15 the small site, specific site on the properties.

16 I think it's interesting. Frankly, it's my first
17 time hearing a case that actually bases part of its variance
18 case on the existing conditions of adjacent properties, but I do
19 not find it specifically in this case farfetched and, frankly,
20 very successful in terms of how we integrate different uses that
21 need to be compatible, although we need to have these and the
22 residential close to our commercial quarters. That's what
23 defines our successful urban area, and I don't think, and I
24 would concur with Office of Planning, that there's any sort of -
25 - I think this is within the intent of the zoning regulations,

1 and therefore, would ask for other comments, if any.

2 VICE CHAIRPERSON RENSHAW: Mr. Chairman.

3 CHAIRPERSON GRIFFIS: Yes.

4 VICE CHAIRPERSON RENSHAW: I am quite pleased
5 with the attention that the applicants have given to the alley
6 situation, which is always a problem or many times a problem in
7 the District, where on the street fronts the properties look so
8 very neat, and on the rear off the alleys, it's quite a
9 different story.

10 And so I am pleased that the rear portion of
11 these two historic homes are going to look so very updated, so
12 very clean and neat. At least this is what the rendering shows,
13 and we hope that it stimulates some further clean-up and pick-up
14 of that alley situation.

15 CHAIRPERSON GRIFFIS: Good. Thank you.

16 Let me also amend my motion or perhaps we can
17 take it separately if this becomes difficult, but I think we
18 need to have two conditions on the motion.

19 One, in that we are looking at a design that's
20 evolving because of the different scenarios it has to go
21 through, I think we need to condition the fact that trash
22 receptacles will be -- area for trash pick-up and storage will
23 be made on site so that we don't have the problem, and it is a
24 narrow alley. The only recourse is to put the cans out, and
25 frankly, the garbage truck will mow them down.

1 The second, I would indicate that I think we
2 ought to condition that proper and adequate -- well, no, I'm
3 going to let that go.

4 the third point that we did bring up which I
5 don't think we need to condition is the fact of function in
6 this. Obviously it's a very major concern if we have idling or
7 operating cars within an enclosed area that will be occupiable,
8 how you mitigate that. Again, that goes to the building code
9 requirements that they will have to deal with as it progresses
10 along, and I think it's pertinent that we brought that to light
11 and made note of it.

12 So I would amend my motion if that's acceptable
13 to Ms. Renshaw for your second, and ask -- yes, Mr. Levy?

14 MEMBER LEVY: I'm sorry. Point of clarification.

15 CHAIRPERSON GRIFFIS: Yes.

16 MEMBER LEVY: So your motion has just the one
17 condition for the trash?

18 CHAIRPERSON GRIFFIS: It does, indeed.

19 MEMBER LEVY: Okay. Thanks.

20 CHAIRPERSON GRIFFIS: Any other comments or
21 anything else needed?

22 Mr. Levy, do you want to take a moment?

23 MEMBER LEVY: Maybe I should make a comment here
24 actually because I'm -- I am perhaps more concerned about the
25 second issue that you mentioned than other Board members are,

1 and that is that, you know, we're voting on a project. We're
2 voting on a variance. One of the burdens of proof happens to be
3 no detriment to the public good, and I'm really stuck on the
4 fact that we have idling automobiles inside an occupied space
5 and that the design hasn't progressed to the point at which that
6 problem could be solved.

7 I have a hard time accepting the fact that that's
8 not a detriment to the public good enough though that may be,
9 you know, take care of or it will be taken care of by building
10 codes later on. I mean, we're voting on a project that shows
11 cars parked within an occupied space, and I have a really hard
12 time getting around that.

13 So if you have some type of a condition, that
14 would make me feel better about that.

15 CHAIRPERSON GRIFFIS: Let me speak to that
16 quickly. If the design has to be radically altered in order to
17 accommodate that multi-use of that back area, right, conceivably
18 we're looking at something that is not going to be built, as
19 your comment was previously, Mr. Levy.

20 Still in all, for the zoning regulation purposes,
21 I would imagine that the rear yard variance would be required.
22 Certainly the floor area would be required for the enclosure of
23 that top space. It may even be less that they enclose. So
24 there would be less FAR, that variance, my point being going to
25 all of this is that the variance -- believe me, I would like to

1 have more control of design than we have perhaps on this case
2 and didn't get into this. The point, in fact, is that the
3 zoning regulation, the relief that we're looking at I'm not sure
4 would be dramatically altered as this design progresses.

5 MEMBER LEVY: My response to that would be that
6 because there are these what I consider to be significant
7 problems with the design at this point, that if the design
8 changes significantly, it'll be different from the project that
9 was advertised, that was available for the public to review, and
10 I don't have the comfort level and I don't know that it would
11 change in some adverse way or something would be perceived as
12 adverse to a neighboring property owner, but I don't know that.
13 So I'm uncomfortable with that.

14 And so I put that out there for what it's worth
15 because those issues will impact how I would tend to vote.

16 CHAIRPERSON GRIFFIS: No, and I think you're
17 making some excellent points. Let's look at how we solve this.

18 Is it conceivable that we could base our approval
19 on a condition of final review of the HPRB approved elevations
20 and plans?

21 VICE CHAIRPERSON RENSHAW: As the ANC wants to do
22 also?

23 CHAIRPERSON GRIFFIS: Right, exactly. I knew
24 they'd cause trouble.

25 VICE CHAIRPERSON RENSHAW: I think they are well

1 within their rights to have stated what they did.

2 MEMBER LEVY: I don't think that's a bad idea. I
3 don't think that address the particular issue that concerns me.

4 I don't think HPRB will be concerned with --

5 CHAIRPERSON GRIFFIS: But my point is what we
6 need to do is look at the same plans that have progressed. Once
7 HPRB approves it, they're not -- basically I wouldn't imagine
8 that the applicant or the architect is changing the design
9 dramatically. So I use that as a benchmark only, that there's a
10 completeness involved by which we could then have a milestone to
11 move on.

12 And it, frankly, doesn't put an excessive burden
13 on the applicant in terms of progressing. I mean, if we have to
14 approve the design once it's built, that's a little problematic,
15 but if we catch it before, you know, it's actually gone through
16 full permitting.

17 Does that make sense to you, Mr. Levy?

18 MEMBER LEVY: It makes sense. It just doesn't
19 make me any more comfortable.

20 VICE CHAIRPERSON RENSHAW: Is it possible to put
21 in the language that we would like to see adequate ventilation
22 from that enclosed rear space, noting that automobiles will be
23 parked back there just as a highlight to trigger some kind of an
24 extra review by DCRA?

25 CHAIRPERSON GRIFFIS: Well, I think, I mean, if

1 we wanted to do that, I don't think we can get that specific
2 because I'm not sure where in the regs. we'd find that site.

3 But we can easily say that this would be legally
4 occupiable space. I mean, that kind of is redundant, but I
5 mean, I think that can -- I think that can be accommodated.

6 MEMBER LEVY: I don't think -- I mean, I just
7 think we should proceed with the vote, and I'll just vote my
8 conscience and other Board members can do the same, and then I'm
9 not suggesting that we need to put any complicated conditions on
10 the order. Just stating that I'm -- well, there's one --

11 VICE CHAIRPERSON RENSHAW: -- about the trash
12 receptacle.

13 MEMBER LEVY: Right, right.

14 CHAIRPERSON GRIFFIS: Go ahead.

15 COMMISSIONER PARSONS: I'm pretty confident that
16 this owner and this architect are not going to proceed with the
17 situation where the fumes of garbage and trash would be coming
18 up into their atrium nor the fumes of automobiles.

19 So I think it will solve itself. I think you
20 brought out an excellent point. The architect is, quote,
21 embarrassed. It will take care of itself, I think, without our
22 noodling it.

23 MEMBER LEVY: Well, I don't know what else -- I
24 feel like I'm being asked to vote on a project that was
25 presented to me, and that's a project that's designed as it is

1 currently, and I appreciate the fact that other Board members
2 disagree with my position, and I accept that.

3 MEMBER ETHERLY: Mr. Chairman.

4 CHAIRPERSON GRIFFIS: Yes.

5 MEMBER ETHERLY: I think Mr. Levy raises a good
6 point, but I'd like to associate myself with Mr. Parsons'
7 remarks. I think he hits the nail right on the head, that this
8 problem will get corrected. I don't think it's in the owner's
9 interest to structure this in such a way that he's going to
10 create a dangerous condition here.

11 CHAIRPERSON GRIFFIS: Indeed. Okay. Well, I
12 appreciate that, and all of that being said, I think we'd have
13 two conditions on my motion. One would be for the proper trash,
14 as stated before, and I would indicate that the motion would be
15 or the order would be approved based on the final review and
16 approval of the elevations and plans.

17 And I would indicate that I think a milestone
18 ought to be at conceptual approval from HPRB.

19 Ms. Renshaw, I'd ask if that is acceptable to
20 you.

21 VICE CHAIRPERSON RENSHAW: Yes, that will be.

22 CHAIRPERSON GRIFFIS: I hope that doesn't
23 complicate things for Board members. I'll give a brief moment
24 for questions if there are any.

25 (No response.)

1 CHAIRPERSON GRIFFIS: Not seeing any indication,
2 I would ask for all of those in favor.

3 (Chorus of ayes.)

4 CHAIRPERSON GRIFFIS: And those opposed?

5 MEMBER LEVY: Opposed.

6 CHAIRPERSON GRIFFIS: And record that vote when
7 you're ready, Ms. Bailey.

8 MS. BAILEY: The motion was made by Mr. Griffis,
9 Ms. Renshaw second. Supporting is Mr. Parsons and Mr. Etherly.
10 Mr. Levy is opposed to the motion.

11 CHAIRPERSON GRIFFIS: Thank you.

12 And I think for a total clarification, we need to
13 do this all over again for the second parcel or the second site,
14 and that's going to be Application 16792, and I would move the
15 variance from rear yard requirements from the floor area ratio
16 and lot occupancy requirements and also a variance from 2001.3
17 for an addition to existing nonconforming structure.

18 And frankly, as we have pulled these together and
19 they are identical, I would move the same motion with the same
20 two conditions, obviously that the condition of trash can be
21 accomplished on one of the other of the sites as they are or
22 conceived as we're looking at to be joined, and I would ask for
23 a second on that.

24 VICE CHAIRPERSON RENSHAW: Second.

25 CHAIRPERSON GRIFFIS: Thank you, Ms. Renshaw.

1 And unless there are any other questions, I would
2 ask for all those in favor.

3 (Chorus of ayes.)

4 CHAIRPERSON GRIFFIS: And opposed?

5 MEMBER LEVY: Opposed.

6 CHAIRPERSON GRIFFIS: Thank you.

7 And we can record that vote also.

8 MS. BAILEY: The motion is to approve Application
9 No. 16792, as read by the Chair. The motion was made by Mr.
10 Griffis. Ms. Renshaw is in -- second and is in agreement. Mr.
11 Parsons and Mr. Etherly are in agreement, and Mr. Levy is
12 opposed.

13 CHAIRPERSON GRIFFIS: Thank you very much, Ms.
14 Bailey.

15 And if I'm not mistaken, that takes care of both
16 of those first two cases in the morning.

17 I thank you very much, Mr. Gell, and did you have
18 a question or comment on that, not that that's actually
19 appropriate for me to ask at this point, but you look like you
20 had something to say. So I'll give you an opportunity.

21 MR. GELL: I was wondering if it would be
22 possible to give the second condition again. As I understood it
23 was conditioned on acceptance of the elevations and plans by the
24 HPRB. Is that --

25 CHAIRPERSON GRIFFIS: Well, actually it is based

1 on the review and approval by this Board, which we may have to
2 get clarification on, but of the approved conceptual designs,
3 plans, and elevations from HPRB.

4 MR. GELL: Does that mean we should be coming
5 back?

6 CHAIRPERSON GRIFFIS: No.

7 MR. GELL: No?

8 CHAIRPERSON GRIFFIS: I don't think we're set for
9 public hearing. I think it's something that can be submitted.

10 MR. GELL: And then the Board will take a further
11 action?

12 CHAIRPERSON GRIFFIS: Well, that's where the
13 lawyers are going to help me out on that.

14 MS. SANSONE: Mr. Chairman, perhaps if there's
15 modifications to the design or the dimensions that could be
16 presented to the Board in a request for modification of plans,
17 which would not necessitate additional public hearings just to
18 review under the rules for that.

19 CHAIRPERSON GRIFFIS: And, frankly, what I was
20 thinking was that, in fact, we'd wait for this before we
21 actually issued the order, or isn't that correct?

22 I mean if we got this information in, it became
23 part of the record, the final record. We have our motion, which
24 is based on this one condition, which is more this Board's
25 process than the first condition being more, you know,

1 administrative; that we would then issue the order after that
2 brief review by this Board.

3 MR. GELL: Would that mean that if the -- I'm
4 sorry.

5 MS. SANSONE: Well, I was just curious if that
6 posed any problems for the applicant in going back to HPRB or
7 any other agency.

8 CHAIRPERSON GRIFFIS: And that's what I'm hoping
9 to mitigate because I think they can go clearly with the fact
10 that they have approved variances and the special exception and
11 can move forward with HPRB, but all we are looking at is to
12 review the HPRB approved conceptual plans.

13 Let me be even more direct perhaps in this. This
14 Board does not have great regulatory powers to deal with the
15 design of this. So there is only small, very small issues that
16 we could even get involved in.

17 I mean, we're obviously looking at HPRB to look
18 at that, but based on the fact of issues that have come up in
19 terms of the parking and also in terms of the use, and it is
20 part of our variances, all I'm indicating is that we need to
21 take another look at it as it's gone through for the conceptual
22 design of HPRB and then, frankly, hopefully send it i on its
23 way.

24 MR. GELL: And will this be true even if what
25 comes out of the HPRB is essentially what you've seen here?

1 CHAIRPERSON GRIFFIS: I don't know.

2 MR. GELL: I mean the modification --

3 CHAIRPERSON GRIFFIS: Let's get to that point.

4 MR. GELL: Okay.

5 VICE CHAIRPERSON RENSHAW: And, Mr. Chairman,
6 just a question about the request of ANC-2B. It has approved
7 with condition that this return also to 2B.

8 CHAIRPERSON GRIFFIS: Yeah.

9 VICE CHAIRPERSON RENSHAW: Are we then going to
10 take a look at what HPRB has approved, understanding that the
11 ANC has also take a look, or is that not a requirement of that
12 Board?

13 CHAIRPERSON GRIFFIS: No, not a requirement of
14 ours because I think ANC will have, first of all, another
15 opportunity to go to the final Board, HPRB hearing, and they can
16 be heard there. And, frankly, their issues are probably going
17 to be more pertinent there as they had no opposition to any of
18 the zoning issues here.

19 So I think they will do that when they can.

20 VICE CHAIRPERSON RENSHAW: thank you for
21 clarifying that.

22 CHAIRPERSON GRIFFIS: Okay. Is that --

23 MR. GELL: Thank you very much.

24 CHAIRPERSON GRIFFIS: Sure.

25 MS. BAILEY: Mr. Chair.

1 CHAIRPERSON GRIFFIS: Yes.

2 MS. BAILEY: I'm very sorry, but just so that
3 staff can be very clear, this project is approved. The order
4 should not be issued until we have finally received something
5 from HPRB indicating what their status is in terms of the design
6 of the project.

7 Would the Board like to see the submission from
8 HPRB?

9 CHAIRPERSON GRIFFIS: Yeah, that's exactly what
10 we're looking at.

11 MS. BAILEY: Okay.

12 CHAIRPERSON GRIFFIS: Thank you. Thank you for
13 that clarification.

14 And then when we're ready, we can call the next
15 case of the morning.

16 MR. GELL: I'm sorry, Mr. Chairman. I wonder if
17 it's possible just to raise one point. Would it be possible for
18 the Board to issue its order on the special exception so that
19 they can get their permits?

20 CHAIRPERSON GRIFFIS: Oh, yeah, and that is, in
21 fact, I think facilitated by the fact that we have separated
22 those. If that's not --

23 MR. GELL: Thank you very much.

24 CHAIRPERSON GRIFFIS: That's systematic. So I
25 may be talking out of turn, but I think we can do that.

1 Indeed. All right. We're going to take a 40
2 minute and 30 second break to the next meeting. We will see you
3 back shortly.

4 (Whereupon, the foregoing matter went off the
5 record at 11:30 a.m. and went back on the record
6 at 11:36 a.m.)

7 CHAIRPERSON GRIFFIS: Okay. It looks like we're
8 all back.

9 Mr. Gell, are you prepared to move forward on the
10 next case? I need to call it first. So just a yes or a no
11 would be great.

12 MR. GELL: Yes, I am.

13 CHAIRPERSON GRIFFIS: Okay, great. Then we'll
14 call the next case of the morning.

15 MS. BAILEY: Thank you, Mr. Chairman.

16 Application No. 16682 of W.F. Equipment
17 Corporation, pursuant to 11 DCMR 3104.1, for a special exception
18 to allow new residential development consisting of five row
19 dwellings under Section 353; and pursuant to Subsection 3103.2
20 for variances from Sections 401 and 405 from the lot area, lot
21 width, and side yard requirements for one semi-detached dwelling
22 that's located on Lot 36; and a variance under Section 402 from
23 the FAR requirements for the five new dwellings in the R-5-A
24 district at premises 5516 through 5526 Hunt Place, N.E., Square
25 5204, Lots 31 and 36.

1 Please stand to take the oath. Please stand.

2 (The witnesses were duly sworn.)

3 MS. BAILEY: Thank you.

4 Mr. Chairman, Mr. Gell was having a problem with
5 posting this week. This case was not posted either, or I should
6 say the affidavit was not filed. So we are assuming the
7 property were posted, but we received the affidavit this
8 morning, and we asked the applicant to submit it to you at this
9 time.

10 CHAIRPERSON GRIFFIS: Okay. Let's take a look at
11 it.

12 All right. We don't have copies of these then;
13 is that correct?

14 MR. GELL: Mr. Chairman, that came in this
15 morning.

16 CHAIRPERSON GRIFFIS: Okay.

17 MR. GELL: Ms. McGee brought it with her. This
18 was another problem of the holidays, and the fact that she also
19 lives out in western Maryland and it was very difficult for her
20 to get it back.

21 But she did check the property at the requisite
22 times and made sure that all of those signs were up.

23 CHAIRPERSON GRIFFIS: Okay. So there was posting
24 for the required time, correct?

25 MR. GELL: That's correct.

1 CHAIRPERSON GRIFFIS: Okay. I think we can waive
2 our rules on this acceptance of the affidavit, and it will
3 become Exhibit No. 58.

4 Okay. Anything else, Ms. Bailey, that you've
5 caught?

6 MS. BAILEY: No, Mr. Chairman.

7 CHAIRPERSON GRIFFIS: Thank you very much.

8 Mr. Gell, we'll turn it over to you for opening
9 remarks.

10 MR. GELL: Thank you very much, Mr. Chairman.

11 I'm sorry. Do you like to be called Mr. Chair or
12 Mr. Chairman?

13 CHAIRPERSON GRIFFIS: Oh, you know, I hadn't
14 really thought about it. Whatever you're comfortable with.

15 MR. GELL: You may hear both from me then.

16 I want to thank the Board for granting a
17 rehearing in this case. As you know, it had been presented some
18 time ago, earlier in the year last year, and was rejected
19 largely on the fact that some issues, such as grading,
20 landscaping had not been adequately dealt with. It was before I
21 was involved in the case, but I think there were issues that
22 were legitimate issues and ought to have been addressed.

23 There were also questions about the quality of
24 the housing. I think Ms. Renshaw was on the Board at the time,
25 and so she'll remember.

1 All of those, when I got the case, I looked at
2 them all and decided that what we had to do was bring in to help
3 us Mr. Angel Clarons, who is an architect, former Chairman of
4 the Board of Zoning Adjustment, also a former Chairman of the
5 Zoning Commission, to deal with those issues and make sure that
6 what we present to you on a rehearing is going to be adequate,
7 in fact, is going to be very attractive.

8 And I believe that what you are going to see
9 really is a much better case, a much better presentation, a much
10 better thinking through of the issues that had justifiably been
11 raised by the Board at a previous time.

12 I'd like to incorporate into this hearing the
13 records and the transcripts, testimony and other submissions of
14 the previous hearing just in case there is something in there
15 that we may have to refer back to.

16 I think you have everything before you that's
17 relevant to the hearing, but as a technical matter, I just
18 wanted to incorporate the record of the previous case, including
19 our request for rehearing and your granting thereof. That may
20 be an automatic thing anyway since it's a rehearing.

21 CHAIRPERSON GRIFFIS: Let me just get a quick
22 clarification on that from Corporation Counsel. Based on the
23 fact that it's a submission, it's part of the record of this
24 case. Is there a different meaning or weight that's given based
25 on Mr. Gell moving that it be submitted?

1 CORPORATION COUNSEL: No, it's just part of the
2 record.

3 CHAIRPERSON GRIFFIS: Okay.

4 CORPORATION COUNSEL: We're looking back at
5 everything that was considered before and what's been submitted
6 now.

7 CHAIRPERSON GRIFFIS: Okay. And as you
8 indicated, Ms. Renshaw was sitting on the Board before, but
9 everyone else has gone through and been provided the actual
10 testimony of the previous hearings.

11 So Mr. Gell.

12 MR. GELL: I would also at this time qualify Mr.
13 Angel Clarons as an architect, design architect, with the
14 ability to discuss the site plan, as well as the design of the
15 buildings. His resume is in your packets.

16 CHAIRPERSON GRIFFIS: Okay.

17 COMMISSIONER PARSONS: Enthusiastically support.

18 CHAIRPERSON GRIFFIS: I think we have support of
19 that. So you can move on, please.

20 MR. GELL: Thank you, Mr. Parsons.

21 I think as an overview, I simply want to refer to
22 what has become very, very evident from the decisions of the
23 Advisory Neighborhood Commission, from the letter that you
24 received from I think it was Milton Bailey who was at that time
25 Director of the Department of Housing and Community Development,

1 and from the Office of Planning, that there is a tremendous need
2 for affordable housing in this neighborhood.

3 It's a neighborhood that had gone through some
4 tough times. It's not out of them yet. It's improving.
5 There's a lot of home ownership. Many people who really want to
6 preserve and protect their homes and to increase the safety and
7 the livability of this neighborhood.

8 They all would like to see six houses built in
9 this vacant space, which is actually six lots that had been
10 created some time in the past, about 25 years ago.

11 So we're dealing with the size lots that were
12 created some time ago, and we have a plan for putting six houses
13 with reasonable amount of space, with back yards on that
14 property.

15 Now, we have to look at them really in two
16 groups. I would like to have you just consider the whole thing
17 as a unit, but the variances that are needed and the special
18 exception really -- well, the special exception relates to the
19 whole thing because that's under R-5-A, but the variances are
20 different based on whether we're talking about the five units
21 that are attached or the one unit, 36, that is semi-detached.

22 and it may also be -- and I've set them up this
23 way -- that you have to consider the uniqueness and the
24 variance, the extraordinary condition, and so forth, all of
25 those tests for variances in light of whether it's one project,

1 one parcel or the other five parcels.

2 At this time I wanted to state for the record
3 that we do agree to be bound by the agreement entered into with
4 ANC-7C on construction, just to make that part of the record,
5 which I think was a request at an earlier time.

6 I am also advised, and I have given copies of all
7 the documents to a planning expert who represents the church. I
8 think it's the Church of the Incarnation which has a major part
9 of this site, of this neighborhood.

10 They have reviewed the plans. They have them.
11 They have interposed no objection. They have not indicated that
12 they want to take part by either approving or not and so forth,
13 but in fact, they do have the plans. And I am authorized by Mr.
14 Lindsey Williams, who is their representative, that they do have
15 them and that I can say to you that they have not interposed any
16 objection.

17 And I would very much appreciate a bench decision
18 and a summary order on this if the board concludes that it is
19 proper to grant these variances and special exceptions.

20 I'd like Angel Clarence to come forward now and
21 talk about the quality of the houses, the design, the
22 landscaping. He should probably take about 15 minutes or so.

23 MR. CLARONS: Well, good morning, members of the
24 Board. My name is Angel Clarence, and it is the first time that
25 I come before this Board on this side of the wall.

1 CHAIRPERSON GRIFFIS: Does it feel different?

2 MR. CLARONS: It feels different, yeah,
3 absolutely.

4 Let's see. Well, when first I visit the site,
5 the site is on a steep slope on the street. The street runs
6 down the conclave. This is the front elevation of the houses,
7 and it slopes that way, in that direction.

8 And I, frankly, didn't understand very well what
9 was the intention in the original site plan that had been
10 submitted before. I didn't make any sense of the grading that
11 had been done.

12 So I went back and basically redesigned it, and
13 creating in essence three stepping platforms or levels in the
14 ground, removing a significant amount of dirt from the back,
15 which is an issue. It creates a difficulty for developing the
16 site both in terms of that slope and in terms of that as a red
17 line that goes in there like that, and by creating the tree
18 levels, the house can sit properly in those platforms.

19 The grading then allows for the groundwater to go
20 slowly and stepping down the site and not affecting adversely
21 the sites below the site, and the same thing happening in the
22 front where the grading steps down and then also towards the
23 street, pulling the water away from the street.

24 That's as far as the site is concerned. As far
25 as the landscaping is concerned, we consulted with the landscape

1 designer, and we are proposing the planting of four trees. This
2 will be, I believe -- what did I say they were?

3 CHAIRPERSON GRIFFIS: Red maples, I believe.

4 MR. CLARONS: Red maples, and then in between the
5 houses and in between the garage or the driveway, there would be
6 evergreens that would grow up to a six foot height, and then
7 some decorative planting and shrubs by the entrances, thus
8 creating a sense of landscape with grass and in driveways, and
9 then the planting creating a rhythm down the street at the
10 houses also come down the street.

11 One of the things that I also did is I asked the
12 owner if there was a choice in the type of siting that we're
13 going to be able to use here, and I was told that, yes, there
14 was a palette of vinyl siding. It is vinyl siding. It is
15 affordable housing, and I am proposing a variation of vinyl
16 siding with each of the houses as they come down the hill.

17 In terms of the construction of the buildings,
18 the buildings are conventionally constructed up to the first
19 floor level. They will be concrete masonry units. I'm
20 proposing that they will be parged, be parged or scored
21 horizontally in order to create a base on which the houses then
22 sit.

23 And then the upper part of the houses are built
24 in modules, and the difference from what I understand modular
25 housing to be is that the houses are basically the same as

1 conventionally framed. They have wood frame. They have
2 drywall. They are just built at a factory to a much higher
3 level of accuracy in dimension and in the construction, in the
4 way that it was constructed.

5 Anyone who has been on the construction site, you
6 know, it's seen struts are not exactly straight. They cannot
7 get it plumb.

8 CHAIRPERSON GRIFFIS: Excuse me. Someone really
9 needs to talk to me.

10 (Pause in proceedings.)

11 CHAIRPERSON GRIFFIS: There was great
12 information.

13 MR. CLARONS: You're clear on that.

14 CHAIRPERSON GRIFFIS: I am clear, and I would
15 look to that other Board member to be very clear on it, and I
16 don't think, indeed, it's a problem having off site fabrication
17 of the materials that are put together on site.

18 MR. CLARONS: Okay. So, well, let's see. What
19 else?

20 I have the floor plans you have in your copy.
21 There's a garage, family room there going up, and then there's a
22 layout, a family dining room with a kitchen and powder room, and
23 then three bedrooms upstairs, and that seems to be the type of
24 product that this market requires.

25 There's optional balconies in the back as well as

1 patios, which will be not provided as a matter of the basic
2 house, but as an option which is typical of development houses.

3 That's it. Any questions?

4 CHAIRPERSON GRIFFIS: Yeah. I think could you
5 just walk us through quickly the square footage that's been
6 indicated, and obviously you're going after a variance for the
7 FAR. I'm looking at three levels.

8 If you want to just point out and like give us
9 the footprint, square footage of each level.

10 MR. CLARONS: I believe we exceed by 200 feet,
11 1890.

12 CHAIRPERSON GRIFFIS: Yeah, 1890 is the total.

13 MR. CLARONS: Eighteen, ninety is the total.

14 CHAIRPERSON GRIFFIS: All right.

15 MR. CLARONS: That's correct.

16 CHAIRPERSON GRIFFIS: And that's on three levels?

17 MR. CLARONS: That is on three levels. That's
18 inclusive of three levels.

19 CHAIRPERSON GRIFFIS: Okay.

20 MR. CLARONS: That's right.

21 PARTICIPANT: That's about 600 per level.

22 CHAIRPERSON GRIFFIS: Right, and I think in the
23 previous case and obviously in the submission we're looking at
24 various small footprinted houses, which is part of the argument,
25 of course, that's being made for the variance of FAR.

1 Okay. Any other -- let me also do just a quick
2 clarification. You indicated that the vinyl siding will vary in
3 the color palette. From the elevations that are here in front
4 of us now, it looks to be you're indicating also the roof
5 shingles will vary to bring some --

6 MR. CLARONS: The roof shingles will vary to
7 bring some variety.

8 CHAIRPERSON GRIFFIS: So that we know what's
9 happening here. Okay.

10 MR. CLARONS: I note step-back. There's a one
11 foot step-back between the units and the whole set of townhouses
12 is set back 18 feet from the property line in order to create a
13 street front that is fairly common to the whole street.

14 CHAIRPERSON GRIFFIS: Right. Which I think was a
15 valuable move.

16 MR. CLARONS: It was a request.

17 CHAIRPERSON GRIFFIS: Right, and it was also to
18 be set back from one of the adjacent properties that were there.

19 COMMISSIONER PARSONS: Mr. Clarons, I'm looking
20 at your grading plan, which was a big concern, I guess, the last
21 time it came before the Board. I see you've proposed a
22 landscape timber retaining wall, and it's shown there on the
23 section.

24 MR. CLARONS: That's correct.

25 COMMISSIONER PARSONS: For the uppermost unit,

1 but chose not to do that between the other units as you move
2 down the slope.

3 Those are two foot grade changes, and I see
4 that's perfectly acceptable, but was it a matter of cost? My
5 point being that two of these owners are going to have to eat
6 the slope, if you will, in their back yard. Is that something
7 that could be accommodated to give them a little more living
8 space or is that just --

9 MR. CLARONS: Well, you can design things 100
10 different times, different ways, but I felt that this is not a
11 significant slope. It does take a certain amount of space out
12 of usable back yard of this unit, but, on the other hand, what
13 can I tell you? An owner that is engaged in their property can
14 do things on that slope and can either build itself a little
15 sitting area if they want to use their own thing.

16 It seems to me that we are providing for a gentle
17 sloping terrain, and it is true that we could, you know, put
18 timbers in here separating the step. I didn't feel it was
19 necessary.

20 COMMISSIONER PARSONS: All right. Then let's go
21 to the front.

22 MR. GELL: Mr. Parsons, I just wanted to add to
23 that if I may. The cost is a very considerable consideration in
24 this project. Keeping these under -- keeping these units
25 inexpensive and affordable really requires us to look at every

1 dollar that we spend, and if that decision was made because of
2 cost, I can certainly understand it, but I just wanted to say
3 that was very much a watchword.

4 COMMISSIONER PARSONS: Well, that was my
5 suspicion.

6 But if we go to the front elevation, I'm a little
7 more concerned about the first step down. It's five feet from
8 one unit to the next there, if you take the first two units on
9 the section. That's a substantial drop there, and I wonder why
10 you didn't choose to use a wall there.

11 MR. CLARONS: Ah, you mean here.

12 COMMISSIONER PARSONS: Correct. The first one.

13 MR. CLARONS: Well --

14 COMMISSIONER PARSONS: The second one is four
15 feet, which I think maybe will be all right, but --

16 MR. CLARONS: No, they're all four feet.

17 COMMISSIONER PARSONS: Well, one goes from 110 to
18 105. That's the one I'm focusing on.

19 MR. CLARONS: Yeah. Well --

20 COMMISSIONER PARSONS: There's so little room to
21 pick up that grade between those two front entrances that I
22 think a wall would really be helpful there. Landscape timber,
23 the same kind of thing.

24 MR. CLARONS: It could be a small step. We could
25 conceivably put a small, 12 inch and lower that so that the

1 slope will be four inches, and the last one foot we can pick up
2 with a couple of timbers.

3 COMMISSIONER PARSONS: Well, yeah, I think
4 something -- some criticality is needed there, some structural.

5 MR. CLARONS: Yeah, and that was my original
6 inclination. After I checked that, it looked to me like it was
7 sufficient, and again, on the interest of cost, I didn't put
8 them there. It was my original inclination, was, yes, to create
9 like maybe two steps so that we could go down and then slope and
10 then down again and then slope in order to diminish the amount
11 of slope needed between the timbers, not to put a big timber
12 wall, but to perhaps create two smaller timber walls.

13 But when I checked the slope, the slope is not
14 excessive, and it is not uncommon, and it is obviously slightly
15 less expensive to put the -- I don't think that it is a major
16 issue. I think that the owner can speak to the issue of cost
17 more effectively than I can, but I think that it is the only --
18 that's the only point.

19 COMMISSIONER PARSONS: Otherwise I think you're
20 going to have an erosive situation. I mean, these are not
21 people with a lot of wherewithal to spend additional money
22 outside, and it would really be detrimental to the appearance, I
23 think, at least in the initial years of ownership that a stepped
24 circumstance, some kind that you describe, would be helpful.

25 MR. CLARONS: Well, we can agree to add some

1 timber walls. Actually if we're going to do it, we can do it in
2 both cases and it would be similar.

3 COMMISSIONER PARSONS: Okay. But I agree on the
4 back of the house. That's a different situation.

5 CHAIRPERSON GRIFFIS: Good. Other questions?

6 VICE CHAIRPERSON RENSHAW: Just following up on
7 Mr. Parson's questions, who is responsible for the timber wall
8 after it is installed? Does it then become the property of the
9 homeowner?

10 MR. CLARONS: Yes.

11 VICE CHAIRPERSON RENSHAW: And, I mean, the sales
12 agreement would spell that out?

13 I'm just thinking of a situation whereby you have
14 two parties warring over who maintains that timber wall if it
15 becomes crucial.

16 MR. CLARONS: Oh, it is a single fee, you know,
17 house. So whoever owns the timber wall because it's inside
18 their property will be responsible for that timber wall. The
19 timber wall will not be -- I don't envision that the timber wall
20 will be located at the party wall. I envision a timber wall
21 located on this side of that property line and another one on
22 that side on that property line so that we can extend this flat
23 area, then come up across, then come up again, and the recovery
24 line would be in basically the flat area because that's --

25 VICE CHAIRPERSON RENSHAW: I understand. All

1 right.

2 MR. CLARONS: So there will be no timber -- there
3 will be no party timber wall.

4 CHAIRPERSON GRIFFIS: Other questions there at
5 this time?

6 (No response.)

7 CHAIRPERSON GRIFFIS: Okay.

8 VICE CHAIRPERSON RENSHAW: I do have another
9 question for Mr. Clarons. You stated in your opening remarks
10 that you were going to be moving a lot of dirt in the back. In
11 other words, there's going to be removal of a significant amount
12 of dirt in the back.

13 So just hinging onto Mr. Parsons' concern about
14 the back area, the way it slopes and perhaps the need for yet
15 another timber wall, if you're moving around all of this dirt in
16 the back, can't you accommodate that?

17 MR. CLARONS: Well, what I was referring to was
18 this. You can see a red line here, and this is existing grade
19 at this location, which is this location in there like that, and
20 it creates -- this is part of both the practical difficulty of
21 the topography of the site, and it's creating this kind of mound
22 in there like that, which basically creates no reasonable back
23 yard situation.

24 This dirt needs to be taken out. That has, in
25 order to be able to create this area back in here from the

1 backyard to the other lots, that has nothing to do with the
2 timber wall located back in there like that.

3 The timber wall, what we're doing is we're
4 removing basically this amount of dirt in there like that, and
5 then stepping out and creating the platforms where the house
6 will sit. The timber wall then becomes a separate issue. It
7 becomes -- they're not connected.

8 VICE CHAIRPERSON RENSHAW: But you can do your
9 grading to accommodate a timber wall.

10 MR. CLARONS: We could do the grading to
11 accommodate a timber wall, yes, absolutely. That's right, and
12 the timber wall was not put there for the reason that Mr. Gell
13 mentioned, which is basically another cost to a project that is
14 marginal at best.

15 VICE CHAIRPERSON RENSHAW: Well, I'm just
16 concerned about the drainage issue. There is, I understand, a
17 requirement in the District for homeowners to disburse their
18 water on their own property, and when you don't have any
19 retaining walls in the back with that kind of a slope, it seems
20 to me that the water is going to be flushing down, not only the
21 natural water, the drainage of the soil, but the water that
22 comes off of the roofs of these homes.

23 And I would just think that a timber wall in the
24 back would be a sensible arrangement and would not overly tax
25 the budget of the developer.

1 MR. CLARONS: Well, it is definitely something we
2 can add. I would let, you know, Mr. Gell response.

3 MR. GELL: We would assume that a significant
4 amount of the water would be absorbed into the ground as well,
5 and the slope may be considered gentle enough -- and I'm not an
6 expert in these things -- but to take care of the runoff so that
7 you don't have torrents of water washing away all of the
8 topsoil.

9 MR. CLARONS: And, Ms. Renshaw, if I may add,
10 there was exactly the concept of the planning of the site was to
11 create this platform because you are basically having a very low
12 gradient at each of these levels. So you don't have a torrent
13 of water. You have water that stops and then goes down and then
14 it doesn't stop. The water doesn't stop, but it has a place.
15 It's not a continuous slope where the water accelerates. It is
16 a water that comes down, settles, has time to filter down, and
17 then most to the next step, et cetera, et cetera.

18 So you don't have a swale of water taking it down
19 the slope.

20 CHAIRPERSON GRIFFIS: Mr. Gell.

21 MR. GELL: Yes. I'd like to just refer you to
22 one point that I made in our materials, and that is that since
23 this is under an R-5-A procedure, I just wanted to point out
24 that R-5-A was put in place, that is, the special exception
25 procedure when you build several homes at one time was put in

1 place, I believe, in order to provide some flexibility in cases
2 where you were building single family homes in an area that had
3 been more or less designated for garden apartments.

4 CHAIRPERSON GRIFFIS: Right.

5 MR. GELL: Where the considerations of FAR and
6 lot occupancy and so forth were so very different. So I would
7 urge you to take the spirit of that and see this as an
8 opportunity to provide some flexibility given the conditions
9 that we're facing in order to provide this affordable housing.

10 CHAIRPERSON GRIFFIS: Indeed, and I think Board
11 members looked at that and we'll take it under consideration.

12 Okay. Go ahead.

13 MR. GELL: No, I was just going to introduce our
14 next witness.

15 CHAIRPERSON GRIFFIS: Do you have somebody who
16 can speak to the context of the site, you know, and the area?
17 Do you want to speak to that?

18 My question is this. We can see from the posting
19 photographs adjacent is just what you've talked about. It's
20 kind of gardenish apartments, but it's an apartment complex
21 behind it.

22 MR. GELL: Behind it, yes.

23 CHAIRPERSON GRIFFIS: Behind these, these heads,
24 correct?

25 It appears to me, an untrained eye perhaps with a

1 bad aerial photograph, that there is a large space separating
2 this site from the garden apartments, I believe, that was closed
3 off. Is there any sort of access from the rear of these sites?

4 MR. GELL: The garden apartments, I believe, are
5 at a much higher level, and I'm not aware of any alley that was
6 there at any time. Perhaps somebody else has -- I don't know if
7 Mr. Vondersmith (phonetic) has looked at that, but as far as I
8 know, that was never a public alley.

9 CHAIRPERSON GRIFFIS: So it's your assumption
10 that the property of the garden apartments actually come up to
11 the fenced property line of these structures?

12 MR. GELL: Yes, that's right, but this street is
13 not garden apartments. These are all single family homes.

14 CHAIRPERSON GRIFFIS: No, indeed, indeed. And
15 that goes to the next piece, and I think you've stated it, but
16 it's in front of us. The proposed adjacent buildings as you
17 move up the street actually have parking in front, garages that
18 are within the buildings?

19 MR. GELL: We have pictures of that.

20 CHAIRPERSON GRIFFIS: Yeah, indeed.

21 MR. GELL: It doesn't appear to be on the copy I
22 brought with me.

23 Yes, those houses do have garages, and those are
24 also within the R-5-A, and they all have the same if not more
25 square footage FAR or GFA.

1 CHAIRPERSON GRIFFIS: Okay. Well, don't let me
2 stall it. Unless there's other direct questions at this point,
3 you're welcome to proceed, Mr. Gell.

4 MR. GELL: Yeah, you obviously have read my
5 arguments in the papers, and so I would not -- unless you had a
6 question about that, I would leave it at that and ask Ms. Ann
7 McGee, who is a representative of the corporation that is going
8 to be putting up these houses, to make some statements.

9 She was involved in the earlier case and has
10 probably the best knowledge about this project of anybody. And
11 at some point if necessary, if there's a question that we feel
12 Mr. Shanahan should answer, Mr. Bronson Shanahan is with us, and
13 he would be the project manager when and if we can get this
14 started.

15 So Ms. McGee.

16 MS. MCGEE: Good morning, and thank you very much
17 for letting --

18 CHAIRPERSON GRIFFIS: I'm sorry. Before you get
19 too far, you just need to turn your microphone on. Otherwise we
20 can't record you.

21 MS. MCGEE: I didn't know it wasn't on.

22 CHAIRPERSON GRIFFIS: Indeed.

23 MS. MCGEE: Good morning, and thank you very much
24 for hearing us again. We very much appreciate it.

25 I really don't have a great deal more to say than

1 I had said originally, except that Mr. Clarons, whatever he
2 recommends as far as handling the ground at the back and the
3 water, we are more than willing and plan to accept.

4 I am not an engineer. I'm not an architect.
5 This gentleman is, and I trust him very completely. So whatever
6 he recommends to us we will accept, and if he considers that
7 it's necessary to have more walls, that's what we'll do.

8 Now, by the same token, as Mr. Gell has very
9 clearly pointed out, this is a tight project. We have to try
10 and fall within the guidelines of the mortgages that are
11 available to these people, and that, in turn, is governed by the
12 price of the houses.

13 So it is very important to us to keep these
14 within the guidelines that are required for their mortgages
15 because these people can get -- if we can hold it to where it
16 has to be, can get in for \$200, and that's a very doable thing
17 for small families, and this is our goal in all of this.

18 Now, by using modular construction as opposed to
19 stick built construction, we also have a considerable saving,
20 and the saving is not apparent. It really is a saving in that
21 we can get it done and get it over with and get in and get out
22 and not lose all our materials in the throes of it. And that's
23 basically the reason why we want to use it.

24 It's not the easiest site to access because of
25 the position. Its roads, we have to come in over the time. We

1 have to come down. All of the trucking end of it is really
2 difficult, but it is well worth it considering the losses that
3 take place in inner city building of materials.

4 For one thing, we couldn't even put the
5 appliances in those houses and don't until the homeowner
6 actually takes possession. Now, they're entitled to the
7 appliances, but we won't put them in because they're taken out
8 every night.

9 So, I mean, it's really very difficult, and thus,
10 modular construction is the answer for this kind of thing, and I
11 guess you feel comfortable with modular construction now, and I
12 can certainly address any areas where you have a lack of
13 comfort.

14 As I think I mentioned once before, we have third
15 party inspection in the factory. This is an outside inspector
16 who is responsible for our houses meeting the codes before
17 they're delivered, and their seal goes on every single house. A
18 house does not go out the door without the third party
19 inspector's seal for the District of Columbia.

20 And they have to be very responsible because
21 they're liable if for any reason they get out without that.
22 They're certainly not the most popular people in the factory I
23 can tell you because they stop the whole production line if
24 something is wrong, and nothing behind it can move until he
25 okays it, it's corrected, and whatever has to be done.

1 So they're not exactly our friends. So we have
2 to pay for it.

3 CHAIRPERSON GRIFFIS: Right, and as I stated, and
4 I think the Board members have a good deal of comfort and,
5 frankly, some experience even perhaps with that type of
6 construction.

7 Then to that modular, obviously you are
8 essentially buying a kit of parts and assembling it on site.
9 Are the townhouses that we're seeing now one model that is done
10 and that there were others that were thought of in terms of --
11 let me just be direct and specific. In terms of articulation of
12 the main facade, is there one that was entertained to have any
13 sort of bay or any sort of, you know, as I say, articulation?

14 MS. MCGEE: Yeah, those start to get expensive.

15 CHAIRPERSON GRIFFIS: And that would go to the
16 point then.

17 MS. MCGEE: Now, let me just add that this is not
18 a kit. It isn't a kit.

19 CHAIRPERSON GRIFFIS: I'm sorry. Probably a bad
20 word.

21 MS. MCGEE: I just want to make sure you
22 understand.

23 CHAIRPERSON GRIFFIS: Yeah, I know.

24 MS. MCGEE: It's like four shoe boxes in
25 miniature.

1 CHAIRPERSON GRIFFIS: Right.

2 MS. MCGEE: One, two, three, four, and then
3 they're joined together and the roofs are popped up.

4 CHAIRPERSON GRIFFIS: Right.

5 MS. MCGEE: And that is modular construction.
6 When they arrive, when the boxes arrive, everything that's
7 inside is complete.

8 CHAIRPERSON GRIFFIS: Right.

9 MS. MCGEE: Kitchens are totally complete.
10 Bathrooms are totally complete. Carpeting is done. Vinyl
11 flooring is done, doors, windows, everything, door chimes,
12 though the chimes are kept off and put on on site.

13 Well, I know there are one or two things that are
14 boxed like the chandelier over the dining room table, for
15 instance, is boxed because it does this (indicating) in
16 transportation, but basically you have four boxes coming
17 together that make a whole house.

18 There is only the carpentry that is involved in
19 interconnecting them that is involved. Where doorways meet, they
20 have to be trimmed out and carpeting rolled over. The plumbing
21 and electrical are all complete.

22 Now, they have to be interconnected. Thus, we
23 have to have electricians and plumbers on site. They don't love
24 us particularly either because there isn't very much work for
25 them.

1 CHAIRPERSON GRIFFIS: Right.

2 MS. MCGEE: They're just interconnecting.
3 However, nowadays there are plumbers and electricians who do
4 nothing else but modular housing, and they're very quick at it
5 and they get it over with. So we're more popular than we used
6 to be, but there was a time they didn't like us very much.

7 However, this is what makes modular housing.
8 It's the completeness of the unit as it is delivered.

9 Now, one of the questions, I guess, that came up
10 the last time is why don't we build a smaller house. We just
11 cannot market a two bedroom house in that area. They're all
12 three bedrooms, and they all have garages.

13 Now, there's no way that a family of four, which
14 is what these are basically aimed at, can live in two bedrooms
15 and not have a garage.

16 Now, all of the people on the street whom I've
17 talked to absolutely have pounded into me you must have a garage
18 because the cars are vandalized every night, and it is just
19 plain unsafe.

20 So you know, we have to listen to the street and
21 to the people there, and that's what has really created that
22 particular situation. Now, they can turn and increase that
23 house in size if they want to in due course by doing something
24 with the basement area. You know, they can make a family room
25 out of it, whatever somebody wants to do in due course, and a

1 lot of people do that kind of thing in townhouses.

2 So the house itself can be expanded for more
3 living area if they have young children.

4 The other newer houses that are in that area are in
5 that area actually are of this size. Two of them we actually
6 supplied, which are across the street on the other side.

7 Now, it was another company of Mr. French's, but
8 still it's the same engineering group and that kind of thing,
9 and it's exactly the same house more or less.

10 CHAIRPERSON GRIFFIS: And then we actually have
11 pictures of that in the file.

12 MS. MCGEE: I think so. It's directly across the
13 street, slightly downhill.

14 CHAIRPERSON GRIFFIS: Are there three of them?

15 MS. MCGEE: I think there are two of them, if I
16 remember, aren't there? There are two. There's a pair.

17 Are there three?

18 CHAIRPERSON GRIFFIS: Okay. Then I think --

19 MS. MCGEE: Yeah, I can't remember. It was a
20 long time ago actually.

21 CHAIRPERSON GRIFFIS: -- Exhibit B and the
22 submission.

23 MS. MCGEE: Now, has anybody any questions that I
24 can answer?

25 CHAIRPERSON GRIFFIS: That's a good point. Any

1 questions?

2 (No response.)

3 CHAIRPERSON GRIFFIS: Okay. Thank you very much.

4 Board members, have you seen these photographs?
5 It wasn't labeled, and I didn't realize -- well, I guess it is,
6 in fact, labeled well, but I didn't read it. But there's a past
7 model or a past modular housing photographs, and this is the
8 color in the exact file. So let me just pass it down so people
9 have an opportunity to look at this as we get black and white
10 copies in our file to look at, which are often difficult to
11 actually decipher what they are.

12 Okay.

13 MR. GELL: I don't have anything further. I'd be
14 happy to answer questions, and I'd like to have a chance to make
15 another comment if possible.

16 CHAIRPERSON GRIFFIS: Good. Board members,
17 questions?

18 MR. GELL: Thank you.

19 VICE CHAIRPERSON RENSHAW: Mr. Gell, you remarked
20 earlier about the construction agreement, construction
21 management plan that you had with ANC-7C, and we'll get into the
22 ANC report later on, and I'd just like to ask the Chair: do you
23 want me to bring this up now or later, the construction
24 management plan?

25 CHAIRPERSON GRIFFIS: Let's bring it up now. In

1 fact, let's just make a statement because it's part of the
2 record that the ANC-7C did recommend approval of this in Exhibit
3 56. So we don't need to go into that, but if you want to go
4 into the details of the construction plan.

5 VICE CHAIRPERSON RENSHAW: Yes, because I find
6 the construction management plan to be a little bit inadequate
7 and wanted to discuss this with you.

8 It states in the first -- there are only three
9 small paragraphs in this construction management plan that is
10 dated May 24th, 2001, and it is signed by the Chairperson of 7C,
11 but it's not countersigned by you or by the applicant, but I'm
12 assuming this has your agreement.

13 MR. GELL: Yes, it does, and I believe one has
14 been signed. Perhaps the copy that you have is not, but
15 certainly if it's made part of the record it will be effective,
16 and we'll be happy to make sure that the ANC has a copy.

17 VICE CHAIRPERSON RENSHAW: All right. Well, I
18 just wanted to bring up several points where in the first
19 paragraph -- and your language may have changed because of --
20 this is Exhibit No. 41 I'm talking about.

21 It's says the construction hours will generally
22 be from seven until five Monday through Friday. It would be
23 good for the community to know exactly when. I know you have to
24 have some flexibility, and you state that you want to minimize
25 the impact on the surrounding property, but you should, in my

1 opinion state exactly when the construction hours are, and
2 perhaps you want some flexibility when you get to the inside,
3 the finishing of the inside of the properties, whereby you may
4 need to be in there a little later or perhaps on a Saturday
5 according to when your work people are available.

6 Then I wanted to note that in this construction
7 agreement you don't have very much language about the trucks,
8 which are the bane of everyone's existence, I know, in a
9 community. For instance, the need for covered trucks and the
10 clean-up of streets after a day's work.

11 That the trucks will be at the appropriate load.
12 We find in construction sites around the city trucks are often
13 overweight.

14 That you should keep or the ANC should require
15 that you keep the licenses and the registration of the truck
16 drivers. This is very important, and construction sites are
17 doing this around the city because of concerns of community
18 groups.

19 That you know the truck routes; that the truck
20 routes not be through the community, but access back onto the
21 major thoroughfares if at all possible; and that the trash
22 around the site be collected regularly. In other words, daily
23 that you clean up the site from excess trash.

24 In other words, workers bring in "to go" food,
25 and you need to have that taken care of on a daily basis.

1 And also very important, worker parking. Where
2 are the construction workers going to park? It's not uncommon
3 for workers to take over or an applicant to take over public
4 space, and if that's the case, permits are needed.

5 So I bring up these points because I do find that
6 this construction management plan is not that protective of the
7 community, and perhaps you could be the good souls that go back
8 to the ANC and request a tightening of this construction
9 management plan.

10 MR. GELL: Ms. Renshaw, I have participated in
11 creating many construction management plans, and I know many of
12 the problems that you've brought up. There's a very big
13 difference though in this kind of construction where the houses
14 are going up in a day, where they're all finished at the
15 factory.

16 Now, there may be some additional minor work
17 that's done after, and I'm going to have Ms. McGee speak to it,
18 but we're really talking about only a one or two-day situation,
19 and obviously something that is prolonged would have a serious
20 impact on the community, but I wonder if this one would.

21 As far as the roots, Hunt Place comes off of
22 Eastern Avenue, which is a major thoroughfare. So there's
23 really only one way they can come, and that would be directly
24 turn off and straight down the street and stop.

25 It's unlikely that except for that one or two day

1 period when they're putting up the houses -- it may be only one
2 day -- that they would be -- you know, there wouldn't be a
3 continuing trash problem. It would be taken care of within that
4 very short space of time, and the same with worker parking.

5 That day will have a lot of activity on that
6 street and there's no way around that because it's important to
7 everybody to get it done very quickly.

8 CHAIRPERSON GRIFFIS: If I may interrupt you,
9 rather than go through all of the litany of all the issues that
10 Ms. Renshaw brought up, which I think are very important, you
11 may want to just take heed of that and discuss it with --
12 because -- and I'll wait for this to go by.

13 I think it's a pertinent point that you bring up
14 with the actual installation of the house will be one or two
15 days. You have an awful lot of regrading to do. So you will
16 have large earth or at least bulldozers on.

17 MR. GELL: That's a good point.

18 CHAIRPERSON GRIFFIS: It was also stated that the
19 foundation, in fact, is to be site built. It's going to be CMU
20 within it. It's going to be finished for. So it's a little bit
21 more than a few days. So certainly not in total --

22 MR. GELL: You're correct. I was thinking only
23 about the erection of the houses themselves.

24 CHAIRPERSON GRIFFIS: Right. And you make a very
25 good point I'll let Ms. McGee speak to.

1 CHAIRPERSON GRIFFIS: Well, do we need reaction
2 to it? I mean, I think you made your point, and we'll see how
3 that evolves with anything we do, but I think the point is clear
4 that they should be addressed for the ANC and obviously a plan
5 worked out, and it sounds like it will be easy to deal with.

6 Other issues?

7 VICE CHAIRPERSON RENSHAW: Yes. Mr. Clarons
8 spoke about the red maples and the evergreens. The evergreens
9 are in the back?

10 MR. CLARONS: No.

11 VICE CHAIRPERSON RENSHAW: The evergreens are in
12 the front.

13 MR. CLARONS: The evergreens are I'd like to
14 point out --

15 CHAIRPERSON GRIFFIS: It's interesting, and, Ms.
16 Renshaw, I had to look also because I don't know why. Our copy
17 didn't have that reading very well.

18 VICE CHAIRPERSON RENSHAW: No.

19 CHAIRPERSON GRIFFIS: Or whatever it is, and
20 there are several site plans that are happening. So let me get
21 what I need to show her first.

22 MR. CLARONS: Those are the old site plans.

23 CHAIRPERSON GRIFFIS: Oh, yeah, right. Yeah,
24 that's true. I have a colored one that I'll get to that's in
25 here somewhere.

1 VICE CHAIRPERSON RENSHAW: I have this one.

2 CHAIRPERSON GRIFFIS: Oh, right, indeed.

3 VICE CHAIRPERSON RENSHAW: All right, and this
4 color one does not have an exhibit on it, but it shows four red
5 -- are these four red maple trees?

6 MR. CLARONS: These are the plans that reflect
7 the development, and you might not have those.

8 CHAIRPERSON GRIFFIS: No, and I don't think we
9 do.

10 MR. CLARONS: We might have to submit this for
11 the record.

12 CHAIRPERSON GRIFFIS: Yes. Actually anything
13 that's shown today we're going to have to have in the record.

14 MR. CLARONS: They do show three in between the
15 driveways, one set there, another set there, and another set
16 there. Then they show four maples, red maples located at this
17 location, a green one down the street, and then we have
18 additional shrubbery located between the driveway and the
19 entrance of each of the houses, and there are six sets of those
20 alternating from in berry (phonetic) hollies to -- no, the in
21 berry hollies are this one to the labora (phonetic), and the
22 snow mound over on this side.

23 So there will be an alternating set of shrubbery
24 from house to house, three evergreens in the space between the
25 driveways, and then the four red maples.

1 VICE CHAIRPERSON RENSHAW: What are the sizes of
2 the red maples and the three evergreens?

3 MR. CLARONS: Two inch calipers as planted.

4 VICE CHAIRPERSON RENSHAW: And are you going to
5 have some agreement, I hope, with the landscaping company that
6 if these don't survive within a period of five years they'll be
7 replaced?

8 MR. CLARONS: Yeah. I do have actually the
9 landscape letter available. There is a guarantee; is that
10 correct, of the material? They will be replaced what, within a
11 year usually?

12 CHAIRPERSON GRIFFIS: Yeah, I can't imagine that
13 it goes to five years, but if you can get that, that would be
14 grand.

15 VICE CHAIRPERSON RENSHAW: One year is standard.

16 CHAIRPERSON GRIFFIS: It's easier when you're in
17 the point because -- I know landscape people know better than I
18 -- but my understanding is the fact that in case that plants are
19 damaged in transition or in planting, obviously within a year
20 you're going to see and you won't go through full season. If it
21 obviously makes it, then perhaps it was bad management of the
22 owner at that point.

23 So one year seems appropriate, although I think
24 Commissioner Renshaw's concern is valid of getting these things
25 up and running and able to last.

1 VICE CHAIRPERSON RENSHAW: Established, right.
2 But we do have in the record that there will be three evergreens
3 and four red maples, two inch caliper when planted.

4 CHAIRPERSON GRIFFIS: Good, right, and we will
5 have that plan submitted as part of the record.

6 VICE CHAIRPERSON RENSHAW: And guaranteed.

7 MR. GELL: Ms. Renshaw, I'm sorry you don't have
8 a copy of this. I believe we did submit this plan, which is the
9 latest plan as part of -- you know, in 15 or more copies.

10 CHAIRPERSON GRIFFIS: What was it attached with?
11 Anything?

12 CHAIRPERSON GRIFFIS: I mean I think we've seen
13 what we need to see, but I know I didn't get that one.

14 MR. GELL: I wonder if you got the others.

15 CHAIRPERSON GRIFFIS: The one with the 110 story
16 building?

17 MR. GELL: That's the one.

18 (Laughter.)

19 CHAIRPERSON GRIFFIS: No, did you guys get this?

20 VICE CHAIRPERSON RENSHAW: No.

21 CHAIRPERSON GRIFFIS: Okay. Well, we didn't
22 receive this, no. Right, right, exactly.

23 Well, our great concern and our great attention
24 to the boards that are up there today was based on the fact that
25 we didn't see them before, and now we have an opportunity to

1 have reviewed them, which is why we have public hearings, for
2 several reasons.

3 Oh, yeah, that is very helpful actually in the
4 larger scale up close, but I think we all -- Board members
5 didn't have this that we could review, but I think it was fairly
6 clear what was happening looking at those boards.

7 Okay. Landscaping, we're pretty much dealt with.
8 Anything else that we want to try to cross?

9 Yeah, I think we have one other issue to bring up
10 before we move too further on. This is a self-certification, is
11 it not?

12 MR. GELL: No, there was a certification. There
13 was a letter from the zoning administrator. That was part of
14 the original package.

15 CHAIRPERSON GRIFFIS: Right, and I remember
16 seeing that, and I wondered how we were dealing with it in terms
17 of this case.

18 No, I don't want the letter from the Zoning
19 Administrator necessarily.

20 Okay. There is an issue that I have found and I
21 think other Board members have found in terms of the regulations
22 and looking at this with the R-5-B, and one of the concerns was
23 whether there was adequate relief being sought for the garage in
24 the front and the driveways, and we were looking at Section
25 2116.6 and also Chapter 23, and I, frankly, don't have

1 clarification on it at this point, but there seems to be some --
2 there seems to be zoning regulations that read that if they are
3 adjoined, simultaneous development of row houses, that the
4 driveways of each two need to have one curb cut and split to go
5 to other townhouses, and I will bring up the chapter and verse
6 here.

7 So 2117.9, and it's driveways and parkings for
8 row dwellings shall be governed by the following special
9 provisions, and if we go to 17.9(a), in the case of two or more
10 row dwellings which are constructed concurrently on adjacent
11 lots and have direct access only from the street, each two row
12 dwellings shall provide access to the required off street
13 parking spaces through adjacent driveways that share one
14 driveway opening.

15 The width of each driveway shall not exceed seven
16 feet on each lot.

17 First of all, Mr. Gell, did you touch upon that
18 at all in your evaluation of this application or I can ask the
19 architect.

20 MR. GELL: No, I was not aware of that.

21 CHAIRPERSON GRIFFIS: Yeah.

22 MR. CLARONS: This applies to R-5-A?

23 CHAIRPERSON GRIFFIS: Well, no, this is under --
24 in fact, Chapter 21 deals with the parking requirements.

25 MR. CLARONS: Off-street parking.

1 CHAIRPERSON GRIFFIS: Right, and believe me, I
2 spent some time looking at the garage, garage placement, and
3 then parking, parking, and trying to get this one.

4 You know, I'll be honest. It is my personal
5 opinion of this regulation that it seems to be -- I'm not sure
6 what it serves. I'm not sure what the actual intent even is. I
7 can only assume the intent goes to minimizing the curb cuts
8 thereby maximizing street parking availability.

9 I'm not sure how you actually do it in a lot of
10 these cases to have a split driveway, and I'm not sure you'd
11 have the turning radius unless you blacktopped your entire front
12 yard.

13 But I want to make sure that we have everything
14 tight, you know. We've found something that we think -- I
15 think somehow needs to be addressed, and frankly, that's what
16 I'm not knowing.

17 One option is that we ask you to go to get a
18 letter from the Zoning Administrator on this and have an
19 assessment of whether relief is required or not.

20 The other is --

21 MR. GELL: Well, of course, if the Board could
22 grant the relief, assuming it's needed, that might clear it up.

23 I would point out these are all individual lots, and you have
24 issues of easement and so forth, that somebody is driving over
25 somebody else's lot in order to get into his own driveway.

1 So it's not an easy thing to deal with on a
2 physical level.

3 CHAIRPERSON GRIFFIS: And I absolutely agree with
4 you there, and the wording is so clear, but it says in case of
5 two or more roads which are constructed concurrently on adjacent
6 lots. I mean it's actually speaking of the fact that they are
7 different lots.

8 So God bless. Maybe it's about getting along
9 with your neighbor. So you've got to share part of your --
10 that's what it is. The zoning regs. are getting into the
11 neighborhood development, yeah.

12 COMMISSIONER PARSONS: What do you understand the
13 curb cut width to be? Fourteen?

14 CHAIRPERSON GRIFFIS: No, I understand it to be
15 seven. Wait. It would be ten, one curb cut, ten, although that
16 dimension isn't there, and would split to seven and seven in a
17 T.

18 Is that not the way you read it?

19 COMMISSIONER PARSONS: No, I've never heard of
20 this before. So I'm trying to get why it wouldn't be 14. It
21 just doesn't --

22 CHAIRPERSON GRIFFIS: Which is, yeah, exactly
23 where I went in thinking --

24 COMMISSIONER PARSONS: You've got a pair of seven
25 foot driveways coming out that --

1 CHAIRPERSON GRIFFIS: You want the seven feet to
2 meet so that you have one curb cut so that you maximize street
3 parking. That's the only logic I can see on it.

4 COMMISSIONER PARSONS: So here we've got a pair
5 of ten foot driveways?

6 CHAIRPERSON GRIFFIS: Yeah, the current site is
7 proposing ten foot driveways, correct?

8 COMMISSIONER PARSONS: So we're taking up, say,
9 at least 25 feet of street frontage as opposed to seven.

10 CHAIRPERSON GRIFFIS: Now, it would be --

11 COMMISSIONER PARSONS: As opposed to ten. Excuse
12 me.

13 CHAIRPERSON GRIFFIS: Well, each two would have
14 one cut.

15 COMMISSIONER PARSONS: Right.

16 CHAIRPERSON GRIFFIS: So it would be one cut, two
17 cuts, three cuts, I think.

18 MR. GELL: The other problem is that these are at
19 different levels. The adjacent garages are at four feet. One
20 is four feet below the other.

21 MR. CLARONS: Well, Mr. Chairman, if I may say
22 so, I don't know if this variance -- I agree with you. I think
23 if this is an issue that we need variance, this is a very clear
24 case where the topographic situation creates a practical
25 difficulty for it's a rather unique condition, and it creates a

1 practical difficulty to do this driveway the way that you're
2 reading the regulations to require.

3 And the other amazing thing is that I sat on that
4 board for seven years, and then on the Zoning Commission for
5 almost two, and I've never heard of that regulation. So live
6 and learn.

7 CHAIRPERSON GRIFFIS: Yeah, we keep finding these
8 things that no one has ever heard of.

9 MR. CLARONS: I know.

10 CHAIRPERSON GRIFFIS: It's frustrating.

11 Okay. Well, why don't we get a feel from
12 Corporation Counsel in term so four options to proceed with
13 this. For instance, are we looking at, for 2117.9, is this that
14 puts us into a variance?

15 CORPORATION COUNSEL: Well, that is one way you
16 could proceed certainly.

17 CHAIRPERSON GRIFFIS: I see.

18 CORPORATION COUNSEL: I also might point, and I'm
19 just reading it here, if we're going to go the variance route,
20 there may be another variance I may add to this. That would be
21 the provision immediately preceding that, 2117.8(d).

22 I'm just reading it for the first time here, but
23 a driveway should provide --

24 CHAIRPERSON GRIFFIS: Maybe we should stop
25 reading. That's our problem.

1 CORPORATION COUNSEL: Yeah, maybe.

2 "A driveway which provides access directly from
3 the street to the road, dwelling or flat shall be a minimum or
4 28 feet from all adjacent drives, would provide access directly
5 from the street to the road, dwelling or flat as measured from
6 the nearest edge of such driveway opening."

7 So they would have to be 28 feet apart once you
8 join them.

9 CHAIRPERSON GRIFFIS: Oh, my God.

10 CORPORATION COUNSEL: So you wouldn't meet that
11 either even if you did join them.

12 CHAIRPERSON GRIFFIS: That's a nice, spread out
13 development, isn't it?

14 VICE CHAIRPERSON RENSHAW: Mr. Chairman, can't we
15 go the route of requesting a variance from these two parking
16 requirements, 2117.9 and 2117.8(d)?

17 CHAIRPERSON GRIFFIS: Yeah.

18 VICE CHAIRPERSON RENSHAW: Would that cover it?

19 CHAIRPERSON GRIFFIS: How long do we want to
20 delay and find more?

21 VICE CHAIRPERSON RENSHAW: I think we should
22 close the book.

23 CHAIRPERSON GRIFFIS: That's the problem. We sit
24 up all night reading these things and nothing else to do.

25 VICE CHAIRPERSON RENSHAW: Two o'clock in the

1 morning we're finding these things.

2 CHAIRPERSON GRIFFIS: Okay. Mr. Gell, have you
3 had your opportunity for closing? What am I -- closing the
4 whole thing out already?

5 Let's go to Office of Planning first, shall we?
6 I'm sorry. I'm looking at the clock and my stomach is
7 grumbling. I may possibly just be getting hungry, but let's
8 continue on with this and turn to Office of Planning for their
9 report.

10 MR. FONDERSMITH: Thank you, Mr. Chairman.

11 I'm John Fondersmith from the Office of Planning,
12 and as I think you know, we had prepared a report previously and
13 recommended approval, and I think I would say, too, that in the
14 discussion at the previous hearing and the revision work that's
15 been done that in terms of the grading and the planning, the
16 project has been improved.

17 In our previous, which we attached to our report
18 to you, we did have an aerial photo. I think that's what you
19 referenced before, that shows the location of these six lots on
20 Hunt Place off Eastern Avenue.

21 And I guess the main point I want to make is the
22 way the R-5-A comes in with the remaining or the surrounding
23 area being R-2. So, in effect, the special provision in R-5-A
24 for the special exception for an overall development was put in,
25 we understand, really to deal with the large garden apartment

1 project or large townhouse project and so on, where you don't
2 have a regular street grade. You're providing circulation and
3 parking areas and so on within a large tract.

4 In this case where we're dealing with subdivided
5 lots that were done some time ago, and as was mentioned, the
6 first eight had been built up; in effect, many of those
7 provisions in that R-5-A special exception procedure really
8 don't apply to this case. In other words, it's a fairly simple
9 case.

10 What you need to recognize is that I think you
11 have and deal with the special exception thing. You do need to
12 deal with the variance on the FAR, which, again, is this
13 combination of really townhouses here and the one semi-detached
14 in the R-5-A that creates that.

15 And finally, you need to deal with, as has been
16 discussed, the variance for the side yard and lot requirements
17 for the end lot.

18 We do mention again in here, and this was back
19 before the first hearing when we looked at the original site
20 plan, we requested the applicant to move the houses back from
21 where they had been designed first so that they lined up with
22 the existing houses and with the single family house, which is
23 downhill off Lot 36.

24 And the applicant readily agreed to do that. And
25 they also introduced this variation for every two houses of a

1 foot to kind of break up that. But basically the houses are
2 moved back so that they're in line. And as I said, in line with
3 the existing row dwellings up the hill. And as I say, that was
4 done before the first hearing.

5 So we recommend that you approve the special
6 exception for this project, although as I say, a lot of that
7 really doesn't apply, and that you deal with the variance for
8 the side yard requirement and for the minimum lot area for Lot
9 36 being slightly less than it would be to under the R-4
10 district standard.

11 And as we said in here, theoretically you could
12 read it -- I mean theoretically, but you wouldn't want to -- you
13 could redesign that end house to be narrower, but why do that?
14 Because then that makes that less of a good house than the other
15 five.

16 So we think the way to go is what has been
17 proposed, is a variance for the side yard on the end unit. So
18 we recommend that that be done. We don't believe that these
19 variances will cause a substantial detriment to the public good
20 or impair the intent, purpose, and integrity of the zone plan.

21 You have the previous agency comments from DHCD
22 and the Department of Public Works, and of course, from the ANC.

23 So we would recommend that this project be approved with these
24 variances and special exceptions.

25 CHAIRPERSON GRIFFIS: Thank you.

1 Board members, questions of Office of Planning?

2 (No response.)

3 CHAIRPERSON GRIFFIS: You did break down your
4 argument in the back and in terms of the FAR. Well, it's in the
5 report.

6 Mr. Gell, do you have any questions of the Office
7 of Planning?

8 MR. GELL: No, I don't.

9 CHAIRPERSON GRIFFIS: Okay. We don't have any
10 new submittals of government reports. As indicated by Office of
11 Planning, they were submitted previously. So I don't think the
12 service has changed that much or at all in terms of the impact
13 on those.

14 Let's move to the ANC report, which is Exhibit
15 No. 56, and they do recommend approval, and I believe they have
16 the update of the last, correct?

17 VICE CHAIRPERSON RENSHAW: Yes, but I want to
18 point out that this letter dated December 27th from Marty
19 Gaffney, Chairperson of ANC-7C, does not indicate a quorum. She
20 indicates, and rightly so, that we initially agreed to advocate
21 this application in June 2001, and in that letter that we have
22 in our file for the previous case, she went into exactly how
23 many commissioners constitute a quorum, but she stated in this
24 letter, December 27th, that they met on December 8th, 2001, and
25 the Commission again voted to continue support of the above-

1 mentioned application, without mentioning the quorum that would
2 be necessary.

3 She wrote again on December 31st that serves to
4 reaffirm that ANC-7C continues to support the application, but
5 again, no information about a quorum and the vote.

6 CHAIRPERSON GRIFFIS: Yes, Mr. Gell.

7 MR. GELL: Mr. Chairman, I understand they didn't
8 specifically say that there was no quorum, but they did say that
9 they voted, and for her to say that there was a vote would
10 suggest a valid vote, which would require a quorum.

11 I realize there is a difference between what I'm
12 saying and they are, but with no indication that there was not a
13 quorum, I wonder if it couldn't be assumed.

14 CHAIRPERSON GRIFFIS: Right. Without belaboring
15 the point tremendously, Ms. Renshaw does bring up the fact that
16 we do have certain regulations they have to obviously comply
17 with just outlined so that they can gather great weight.

18 In the fact that they didn't change the direction
19 of their motion from the beginning to this application, I think
20 we can each individually assess and deliberate on the ANC's
21 impact on this case and go on from there.

22 MEMBER LEVY: Mr. Chair.

23 CHAIRPERSON GRIFFIS: Yeah.

24 MEMBER LEVY: I just want to point out for the
25 record that we also have in the file as a part of the previous

1 hearing which has been incorporated into this hearing a letter
2 from the Department of Housing and Community Development that
3 supports the project.

4 CHAIRPERSON GRIFFIS: Good. Thank you.

5 And refresh my recollection. Did you find the
6 public education -- was that the only other government report
7 that we had?

8 MEMBER LEVY: It's the only one I've come across
9 so far.

10 CHAIRPERSON GRIFFIS: All right, and that one was
11 signed by Milton Bailey, correct?

12 MEMBER LEVY: Yes.

13 CHAIRPERSON GRIFFIS: Okay, okay. Good. Okay.
14 You can -- obviously, yeah, Ms. Renshaw is going through the
15 record so we can find that out.

16 I think that's all we have in terms of reporting.
17 So, Mr. Gell, I would --

18 VICE CHAIRPERSON RENSHAW: We have Exhibit No. 34
19 from DPW.

20 CHAIRPERSON GRIFFIS: Oh, right, indeed. Okay.

21 VICE CHAIRPERSON RENSHAW: Exhibit No. 19 is a
22 corrected -- well, no, that's a referral to. Sorry.

23 CHAIRPERSON GRIFFIS: All right. We'll get the
24 entire list before we finalize all of this, and this was a
25 little confusing in terms of having the entire record of the

1 past part of a new record and all of that. So we'll get to the
2 bottom of that for our own deliberative purposes, and I think we
3 could probably have closing remarks if everyone is ready for Mr.
4 Gell.

5 And, Mr. Gell, I would ask you in your closing
6 remarks just to address the three tests for the variance.
7 Obviously we're looking at -- the FAR, I think, is the biggest
8 that impacts most of the sites, but the test is there for all.

9 VICE CHAIRPERSON RENSHAW: Before Mr. Gell goes
10 to his closing remarks, if I could just state that the letter
11 from the Department of Public Works is dated April 13th. It's
12 Exhibit No. 34, April 13th, 2001, and it's favorable.

13 Ken Laydon, the Associate Director for
14 Transportation Planning, states that the proposed use will not
15 negatively affect on-street parking supply or cause a large
16 increase in traffic volume on neighboring streets. Accordingly,
17 DDOT has no objection to the application.

18 CHAIRPERSON GRIFFIS: Good. Thank you.

19 MR. GELL: Thank you, Mr. Chairman and members of
20 the Board.

21 I'm not going to go into the case. I think
22 you've heard enough, and the hour is late, but I will address
23 the questions that the Chair asked me to address, and that is
24 the issues of uniqueness and practical difficulty.

25 The uniqueness, I think, has been fully justified

1 by Mr. Clarons in describing the lot. These houses are on
2 slopes not only from left to right, but front to back, and each
3 one obviously has a slightly different situation in terms of the
4 slope.

5 But earlier I referred to the fact that this is
6 an R-5-A procedure which really suggests that the whole site be
7 looked at as a unity, and I think under either basis, whether
8 individual lots or as a unit of six houses, one has to agree
9 that there is a unique situation here which is because of the
10 slope of the land and the size of these lots.

11 These lots are perhaps smaller than they would be
12 today, but they were created some 25 years ago and create a
13 serious problem for somebody who wants to put housing on a site
14 that is commensurate with what the neighborhood requires and
15 what the market requires.

16 And we've made marketability a very important
17 part of our case, looking at the Tyler case which says that
18 economic considerations can be very important. Sometimes many
19 of these issues can come down to economics anyway, but economics
20 in the sense of will somebody build a house there for sale to
21 the market that doesn't have a garage, that doesn't have three
22 bedrooms, that is smaller than the other houses that has been
23 built in the last 20 years, and in an area of many families.

24 And the answer that we have gotten from a
25 reputable broker is that that is not the case; that, in fact,

1 what is required is something of the size, and that then
2 presents a serious problem because of the size of the lots.

3 So I would refer really to those issues going
4 back, again, to the point that I made that the Board really has,
5 I believe, the authority to look at this with much greater
6 flexibility than they might in a non-R-5-A situation.

7 My discussions with the Zoning Administrator,
8 with Mr. Bello, led me to conclude and he concluded that, in
9 fact, this all should be considered under R-5-A. We've not done
10 that because obviously we want to be sure that there can't be
11 any serious objections to the procedure, and so, therefore, we
12 did go the variance route and so forth.

13 But it was his feeling based on his experience
14 that the whole thing is really one of an R-5-A.

15 I'd be happy to take any of those points and
16 discuss them, but I think those are the basic points. Of
17 course, I made them, as well, in my written submission. So I do
18 thank you for your attention.

19 CHAIRPERSON GRIFFIS: Good, and I appreciate your
20 just reviewing and generalizing for us.

21 I would open it up to the Board's pleasure at
22 this time for questions or actions. You can also give
23 indication if perhaps we would like to set this to decision
24 making and inquire on further information that may be needed.

25 I look to my able Board members.

1 COMMISSIONER PARSONS: Well, I would move
2 approval with the understanding that we're going to give relief
3 from this ridiculous section you found at two o'clock this
4 morning, Mr. Chairman, and then on further reading, the one
5 above it.

6 CHAIRPERSON GRIFFIS: Oh, yeah. You don't want
7 to go too far into it.

8 COMMISSIONER PARSONS: And also I wanted to make
9 a pitch for the pair of retaining walls that need to be placed
10 between units 5518 and 20 and 5522 and 24 to make up the grade.

11 As Mr. Clarons described them, there would be a pair of two
12 feet walls, two foot high timber walls at each location, which
13 would result in a flattened slope at the property line between
14 the two. That is, each unit would have its own little two foot
15 wall to make up the difference rather than a high, four foot
16 wall.

17 So that would be the two conditions that I would
18 -- or actually three, I guess -- that I would suggest.

19 CHAIRPERSON GRIFFIS: Okay. So there's a motion
20 for approval, and forgive me, but that's with the special
21 exception and the variances all in one.

22 COMMISSIONER PARSONS: Oh, yes.

23 CHAIRPERSON GRIFFIS: And the three conditions as
24 stated.

25 VICE CHAIRPERSON RENSHAW: I'll second it, but

1 ask Mr. Parsons whether the pitch for the pair of retaining
2 walls includes front and back.

3 COMMISSIONER PARSONS: No, I was not persuaded
4 that the two foot difference in the back required this.

5 VICE CHAIRPERSON RENSHAW: I would like --

6 COMMISSIONER PARSONS: It's four feet in the
7 front, and that's substantial, but I think the two foot slope --
8 but go ahead. I'm sorry.

9 VICE CHAIRPERSON RENSHAW: Well, I would like to
10 recommend that retaining walls be placed in the back because I
11 think that there is going to be over the years substantial
12 erosion of that area, and I would like to see it shorn up, I
13 think, for the property owners' sake.

14 COMMISSIONER PARSONS: So that would be a two
15 foot wall then on the property lines --

16 VICE CHAIRPERSON RENSHAW: That's right.

17 COMMISSIONER PARSONS: -- between those two
18 units.

19 VICE CHAIRPERSON RENSHAW: Un-huh.

20 CHAIRPERSON GRIFFIS: Mr. Levy brings up an
21 interesting point of whether if we put a two foot retaining wall
22 there or if it's under -- and maybe the architect can help us
23 out with this one -- in terms of when a guard rail would be
24 required for a site or for a retaining wall. It would be above
25 --

1 MR. CLARONS: Eighteen inches.

2 CHAIRPERSON GRIFFIS: -- 18 inches, right.

3 Okay. So what we'd be doing with some sort of
4 tie-back or retaining wall there would actually also be
5 requiring -- I mean, we wouldn't be. It would be required for
6 some sort of guard rail on that side, which would then get to
7 the question of why aren't you just putting a fence up there.
8 Then it's on the property line and might be off that.

9 So just to bring that to everyone's attention as
10 we're --

11 MEMBER LEVY: I guess, Mr. Chairman, the reason
12 that I brought it up, aside from pointing out to the applicant,
13 is to ask Mr. Parsons whether the retaining wall with a railing
14 would be preferable to him, to the existing condition of the
15 slope.

16 COMMISSIONER PARSONS: Not to the -- I've slowed
17 down a little bit here. Mr. Clarons said 18 inches was the
18 limit.

19 MEMBER LEVY: Is the max.

20 COMMISSIONER PARSONS: then I'd change my
21 proposal in the front yard to 18 inches rather than two feet. I
22 certainly don't want to introduce a railing. That's ridiculous.

23 CHAIRPERSON GRIFFIS: Well, I think we ought to
24 stay to the main point that you went to, the retaining wall, and
25 let them decide how they have to deal with it.

1 COMMISSIONER PARSONS: Yes.

2 CHAIRPERSON GRIFFIS: Because I think that the
3 larger impact is what you're talking about on the site itself.

4 So I think it's well said and in the correct direction.

5 MR. GELL: Mr. Chairman, would it be possible for
6 Mr. Shanahan to make a comment on the retaining walls since he
7 has something he'd like to --

8 CHAIRPERSON GRIFFIS: Is he a bit fan of
9 retaining walls?

10 MR. SHANAHAN: Not at all. Actually the ones --

11 CHAIRPERSON GRIFFIS: You're going to have to
12 come to the table and speak into a mic, and I mean, I think
13 we're all very well aware of all the issues. So I don't think
14 we need to take that long on this, but please.

15 MR. SHANAHAN: In regard to the retaining walls
16 in the rear, the houses are being marketed for young families
17 and probably older citizens. Those are the two price ranges
18 that probably most fit. And any time you start stepping rear
19 play yards in the back, you're creating a hazard for toddlers,
20 small children, and older individuals when we talk about
21 dropping two feet straight off of the --

22 CHAIRPERSON GRIFFIS: Well, which would go to why
23 a guard rail would be required by the building code, but your
24 anticipation is that no one puts up a fence. What you're saying
25 is that those are basically open, and people are using all of

1 the backyards together.

2 That's fine. That's not necessarily the case or
3 what will actually happen. I mean, the first person in there
4 may put up a fence and fence off their entire back yard. But as
5 the architect stated, someone could then come back in and also
6 put the retaining wall in. They could carve that out. They
7 could carve out seating. They could carve out planting.

8 I think we need to pay attention to the two
9 areas, and maybe you want to reiterate your areas that were --
10 for the retaining wall that you were looking at.

11 MEMBER LEVY: In the front yard you mean?

12 CHAIRPERSON GRIFFIS: No, in your first -- your
13 first condition talked about a retaining wall, correct?

14 MEMBER LEVY: A pair of retaining --

15 CHAIRPERSON GRIFFIS: You wanted those on the
16 front yard.

17 MEMBER LEVY: Right.

18 CHAIRPERSON GRIFFIS: At the two foot drops.

19 COMMISSIONER PARSONS: And I just changed my
20 original proposal from two feet to 18 inches a piece.

21 CHAIRPERSON GRIFFIS: Okay.

22 MR. GELL: Just in the front.

23 COMMISSIONER PARSONS: Just in the front.

24 CHAIRPERSON GRIFFIS: Just in the front.

25 COMMISSIONER PARSONS: Yes.

1 VICE CHAIRPERSON RENSHAW: So the maker of the
2 motion will accept or will not accept my suggestion for
3 retaining walls in the back?

4 COMMISSIONER PARSONS: Will not accept.

5 VICE CHAIRPERSON RENSHAW: Will not accept. Oh,
6 boo.

7 (Laughter.)

8 COMMISSIONER PARSONS: I just don't think it's
9 that steep a grade that --

10 MR. GELL: Ms. Renshaw, we are talking about, I'm
11 told, \$7,000 additional on the project, which is a serious
12 consideration. It's going to be a -- I don't want to say it
13 will kill the project, but it raises the cost.

14 MEMBER ETHERLY: Mr. Chair, if I may, Mr. Gell,
15 is that an amount that's attributable to front and back or just
16 the expense for the front portion?

17 MR. GELL: Just the back.

18 MEMBER ETHERLY: Just the back.

19 MR. GELL: Yeah. I think the front is fine. We
20 can do that.

21 MEMBER ETHERLY: Okay. Thank you.

22 CHAIRPERSON GRIFFIS: Okay. We have a motion
23 with conditions. It has been seconded by Ms. Renshaw. There
24 were unfriendly amendments to it.

25 VICE CHAIRPERSON RENSHAW: Yes. Could we also --

1 I want to make very clear that the condition is with the three
2 evergreens and the four red maples guaranteed for one year.

3 COMMISSIONER PARSONS: All right.

4 VICE CHAIRPERSON RENSHAW: All right.

5 COMMISSIONER PARSONS: That's a very friendly
6 amendment.

7 VICE CHAIRPERSON RENSHAW: Very good.

8 CHAIRPERSON GRIFFIS: Yeah, that amendment should
9 be accepted, of course. Okay. Great.

10 Any other discussion that we need on this? Any
11 other comment?

12 MEMBER ETHERLY: Mr. Chair, just for clarity's
13 sake, can we once again just clarify the effect of Ms. Renshaw's
14 motion, original motion in terms of the conditions.

15 CHAIRPERSON GRIFFIS: What she just said?

16 MEMBER ETHERLY: Yes, in addition to --

17 CHAIRPERSON GRIFFIS: Okay. What she just said
18 actually is she is putting in the record the site plan, all of
19 the plants that were indicated on that site plan, and is taking
20 the developer's comment up as a condition that whatever
21 landscape contractor they do, they enter into an agreement of a
22 year guarantee on the plantings.

23 MEMBER ETHERLY: We're just talking retaining
24 wall in the front, nothing in the back?

25 CHAIRPERSON GRIFFIS: Right, exactly.

1 MEMBER ETHERLY: Understood. Thank you.

2 VICE CHAIRPERSON RENSHAW: I lost the retaining
3 walls in the back.

4 Mr. Chairman, I also brought up the construction
5 management plan, requesting that a more comprehensive
6 construction management plan be worked out with ANC-7C.

7 CHAIRPERSON GRIFFIS: Right.

8 VICE CHAIRPERSON RENSHAW: Covering the trucks
9 and the clean-up of the streets, and making sure that the truck
10 drivers' licenses, registrations are recorded.

11 CHAIRPERSON GRIFFIS: Two things on this.

12 VICE CHAIRPERSON RENSHAW: Worker parking.

13 CHAIRPERSON GRIFFIS: First of all, that ANC has
14 been involved in this discussion. I think what you have given
15 in terms of specificity to the applicant they need to take to
16 the ANC, and I think they have indicated and, I think, have
17 proven that they will do that.

18 I would recommend not making that a condition on
19 it for that reason, one, that I think it will be accomplished.

20 But, secondly, I think we're treading into areas
21 that perhaps we've gone before and oftentimes have, but we're
22 getting into, you know, permitting and building construction and
23 code issues. There is, I mean, in every permit application
24 there is the areas where trucks need to be washed and how you
25 wash and sediment retaining.

1 And so they will have to comply with all of that.
2 Your point, larger, I fully understand, but I don't think it
3 needs to be conditioned with this in that we've given direction,
4 and I think we can pretty much be assured that they'll follow
5 it.

6 VICE CHAIRPERSON RENSHAW: Mr. Gell?

7 MR. GELL: We'll certainly talk with the ANC and
8 try to work something more comprehensive out with them. Some of
9 these requirements that we're talking about are really dictated
10 by the Department of Transportation, but --

11 CHAIRPERSON GRIFFIS: And what's interesting in
12 that, let me just interject, is that a lot of them deal with --
13 I mean, it is really focused on the site, grading issues and
14 changing of the actual site and it's anticipated of digging out,
15 you know, and going -- so I think there's a lot of control over
16 that that the developer won't be able to get away from, but Ms.
17 Renshaw brings up bigger issues, if I know her, and the issue is
18 of communication, and that is what really is at the crux of what
19 she's pushing.

20 And I think based on the fact that you've had
21 communication, there's actually an agreement already agreed upon
22 that she wants more detail on.

23 VICE CHAIRPERSON RENSHAW: Which is a good sign.

24 CHAIRPERSON GRIFFIS: It just talks about
25 continuing that line of communication and making sure that

1 everyone knows exactly what they should anticipate, how they can
2 deal with it and how you are going to be mitigating any of the
3 major problems.

4 If that's acceptable with you, Ms. Renshaw.

5 VICE CHAIRPERSON RENSHAW: Yes, it is.

6 CHAIRPERSON GRIFFIS: Okay. anything else?

7 (No response.)

8 CHAIRPERSON GRIFFIS: Well, then I would ask for
9 all those in favor to signify by saying aye.

10 (Chorus of ayes.)

11 CHAIRPERSON GRIFFIS: And any opposed?

12 (No response.)

13 CHAIRPERSON GRIFFIS: That would have the motion
14 carried, and we'll record the vote on this.

15 MS. BAILEY: The motion to approve the
16 application was five, zero, zero. The motion was made by Mr.
17 Parsons, Ms. Renshaw second, Mr. Levy, Mr. Griffis, and Mr.
18 Etherly in agreement.

19 And would that be a summary order/bench decision,
20 Mr. Chairman?

21 CHAIRPERSON GRIFFIS: Did you want a summary
22 order, Mr. Gell?

23 MR. GELL: Yes, please.

24 CHAIRPERSON GRIFFIS: Can we accommodate that?

25 MS. BAILEY: Certainly, Mr. Chairman, and

1 possibly a suggestion that the applicant prepare a draft and we
2 will circulate that to the Board for final review prior to
3 issuance.

4 MR. GELL: I'll be happy to do that.

5 CHAIRPERSON GRIFFIS: Great. Well, then I thank
6 you all very much, and this will conclude the morning's session.

7 (Whereupon, at 1:11 p.m., the meeting was
8 recessed for lunch, to reconvene at 1:53 p.m., the same day.)

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(1:53 p.m.)

CHAIRPERSON GRIFFIS: Okay. The hearing will please come to order.

Good afternoon, ladies and gentlemen. This is the January 8th, 2002 public hearing of the Board of Zoning Adjustments of the District of Columbia.

My name is Geoff Griffis, Chairperson. Joining me today is the Vice Chair, Anne Renshaw. Representing the National Capitol Planning Commission is David Levy, and representing the Zoning Commission is Mr. Parsons. And, in fact, we have a new member joining us today, Mr. Curtis Etherton (sic), who was sworn in this morning and so is sitting his first session, and we're absolutely happy to have him here, and he has already been a contributing -- Etherly? Did I say that absolutely incorrectly?

PARTICIPANT: Yes.

CHAIRPERSON GRIFFIS: Oh, my goodness. See, what's what happens when I get a short lunch break.

I'm sorry.

MEMBER ETHERLY: That's okay, Mr. Chairman.

CHAIRPERSON GRIFFIS: Yeah, please. Well, correct me every time I do that because it will probably stick.

And we've already had great contributions from him this morning. So we're excited to have our final and be

1 full Board and ready to proceed for the afternoon.

2 Copies of today's hearing agenda are available to
3 you. They are located to my left at the door. It's the door
4 you did enter into.

5 All persons planning to testify either in favor
6 or in opposition are to fill out two witness cards. These cards
7 are located at the end of the table in front of us.

8 Upon coming forward to speak to the Board, please
9 give both cards to the reporter, who is sitting to my right.
10 There are cards, none at these tables, but there are cards at
11 the table as you came in today.

12 The order of procedure for an appeal, and I
13 believe we only have an appeal this afternoon, will be as
14 follows:

15 First, we will hear statement and witnesses of
16 the appellant.

17 Secondly, we will hear from the Zoning
18 Administrator and their representative.

19 Third, the owner, leasee or operator of the
20 property involved, if not the appellant.

21 Fourth the ANC within which the property is
22 located.

23 Fifth, the intervenors' case.

24 And, sixth, we will hear rebuttal and closing
25 statement by the appellant.

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

4 The record will be closed at the conclusion of
5 each case, except for any material specifically requested by the
6 Board, and the staff will specify at the end of the hearing
7 exactly what is expected.

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

14 The decision of the Board in these contested
15 cases must be based exclusively on the public record. To avoid
16 any appearance to the contrary, the Board requests that persons
17 present not engage the members of the Board in conversation.

18 Please turn off all cell phones and beepers at
19 this time so as not to disrupt the proceedings.

20 The Board will, again, thank you for your
21 indulgence in allowing us to start late. We did end the morning
22 session late. So we had to have a quick lunch break, but we
23 will make every effort to conclude this afternoon's hearing
24 close to six o'clock. If we run close to that, I will give
25 updates on how we will proceed and the timing in which we will

1 proceed.

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

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

11 Seeing preliminary hands go up, let me just turn
12 to staff first if they have any preliminary matters for the
13 Board.

14 MS. BAILEY: Mr. Chairman, thank you. Good
15 afternoon.

16 CHAIRPERSON GRIFFIS: Good afternoon.

17 MS. BAILEY: There is a preliminary matter, and
18 it has to do with the property owner/intervenor in the case.
19 Her name is Ms. Kathleen Peoples, and she does have a
20 preliminary matter to address to the Board at this time if it's
21 appropriate, Mr. Chairman.

22 CHAIRPERSON GRIFFIS: Is that you? Yeah, come on
23 up. You do need to sit down and turn on a microphone. Actually
24 you just push the button right in front and the light will --
25 perfect.

1 MS. PEOPLES: Okay. Is this working?

2 CHAIRPERSON GRIFFIS: Indeed.

3 MS. PEOPLES: Okay. My name is Kathleen Peoples,
4 and I am asking for a continuance today.

5 The property owner of 1018 Constitution Avenue is
6 Mr. Philip Sedlack (phonetic), who is my husband. He is
7 currently in Nigeria and cannot be present at these proceedings.

8 In addition, we did receive notification on the
9 16th or at we received a copy of the notification addressed to
10 the appellant that this hearing would take place, on the 16th of
11 November. However, we received nothing, and when we called the
12 Zoning Office to understand what our position was in this case
13 or in this matter, I spoke with a Mr. Paul Hart, who I see is
14 here today, and was advised that this case had principally to do
15 with the city, that is, the Zoning Board, and the appellant.

16 Subsequently I have become informed that it is
17 customary for the property owner to -- or it is at least allowed
18 for the property owner to have representation. I received this
19 information yesterday when the Corporation Counsel attorney for
20 the Zoning Administrator contacted me in the process of routine
21 organization of her case. And it was at that time that I
22 learned that, in fact, I could be represented or at least our
23 property could be represented.

24 My husband has been in Nigeria since the 2nd of
25 January and will return on January 20th.

1 CHAIRPERSON GRIFFIS: Okay. Thank you very much.

2 What actually, Stacy, if you don't mind, Board
3 members might have some questions on it, and let me just get
4 clarity in terms of the chronology of this.

5 You indicated that you first were given notice or
6 what was it that you got notice of?

7 MS. PEOPLES: We received a copy of the letter
8 which was sent to the appellant, to the Pritchards.

9 CHAIRPERSON GRIFFIS: Which was announcing this
10 hearing?

11 MS. PEOPLES: Announcing that this hearing would
12 take place.

13 CHAIRPERSON GRIFFIS: Okay.

14 MS. PEOPLES: We received no other information
15 directed to us.

16 CHAIRPERSON GRIFFIS: So you weren't copied or
17 aware --

18 MS. PEOPLES: We were copied.

19 CHAIRPERSON GRIFFIS: -- of any of the letters
20 that went into DCRA regarding the permit?

21 MS. PEOPLES: We did receive copies of Ms.
22 Pritchard's case, but we did not know our position relative to
23 this body here.

24 CHAIRPERSON GRIFFIS: Yeah.

25 MS. PEOPLES: And so thus, when I discovered that

1 it was customary or at least permitted to have representation at
2 this Board, it was yesterday afternoon. I'm in the process now
3 of looking for counsel, but with such short notice, at least
4 such short notice my being informed of it, I have not yet been
5 able to retain counsel.

6 CHAIRPERSON GRIFFIS: Okay, and again, I'm just
7 trying to get clarity in terms of the big picture here, but you
8 were aware that your permit was causing or I should say the
9 construction was causing some concern and that people were
10 looking into your permit?

11 MS. PEOPLES: I was, indeed.

12 CHAIRPERSON GRIFFIS: Yeah, and that would have
13 been back, well, at the start of construction of course.

14 MS. PEOPLES: Right. There have been a number of
15 instances where we have been made aware that this was an issue,
16 yes, but at each stage, we were not aware that it would come to
17 a legal proceeding. The ANC was the first notice that we had
18 had past the decisions made by the Zoning Board. We knew that
19 it was under contest.

20 When we started to get the permit, Ms. Pritchard
21 attempted to stop the permit at that point. The decision was
22 then made. We advised her that this decision had been made,
23 offered to meet to discuss the parameters of the construction.

24 She declined to meet, and so we have not had any
25 formal communication since that time, or at least any direct

1 communication since that time, since she did decline to meet
2 with us to have that discussion.

3 Subsequent of that, we were notified of an ANC
4 meeting. You may have some of this in your record.

5 CHAIRPERSON GRIFFIS: Yeah.

6 MS. PEOPLES: I'm not sure. We were notified of
7 an ANC subcommittee meeting a day before the meeting, and we
8 were unable to attend. It went from the subcommittee to the
9 larger committee.

10 We prepared to attend in November. Ms. Pritchard
11 asked that it be delayed for a month because she would be out of
12 town. So it was heard in December.

13 Between November and December, we did receive
14 notice that this would go to a hearing, but when we did call to
15 inquire about, well, what is our standing for this hearing, the
16 information that I mentioned was given to us that this was
17 between the Zoning Administrator and the appellant.

18 CHAIRPERSON GRIFFIS: Okay. I mean, I would say
19 from this Board, we're obviously not staff, but from the Board
20 we'd certainly apologize for that miscommunication, and I think
21 that we've had discussions in terms of bringing clarity if
22 similar conversations and phone calls come in.

23 I mean, I think you're aware of the situation.
24 You certainly have the right to be represented here.

25 Do you have an architect on this project?

1 MS. PEOPLES: I do.

2 CHAIRPERSON GRIFFIS: Is he or she in attendance
3 today at all?

4 MS. PEOPLES: They are.

5 CHAIRPERSON GRIFFIS: Okay. So you could
6 conceivably be represented by your architect.

7 MS. PEOPLES: Conceivably could be.

8 CHAIRPERSON GRIFFIS: Okay.

9 MS. PEOPLES: However, I would want to mention
10 that they also were caught unawares, and so although they are
11 here because we've learned that this is, in a sense, a
12 proceeding where representation is required, they also would
13 prefer and I think should be granted the opportunity to prepare
14 also those things that they might want to present to this body.

15 CHAIRPERSON GRIFFIS: Okay, and just for the
16 record, representation, legal representation is not required for
17 these, but I understand your point.

18 Well, do you know what I need to do actually, I
19 think? If the Corporation Counsel representative and the Zoning
20 Administrator could come up quickly.

21 MS. PEOPLES: Should I stay here?

22 CHAIRPERSON GRIFFIS: Yeah, you should stay.

23 And then I believe we're going to need to hear
24 from -- are the Pritchards here, I would assume? Okay.

25 Let me figure out all of these things to pull

1 together here. Is anyone here in attendance that is looking for
2 party status, although we don't have any requests for it that
3 would have come in timely?

4 MS. MARTIN: I be the ANC for this case.

5 CHAIRPERSON GRIFFIS: Hold on. We're going to
6 need you on a mic if you say anything. If you can just give a
7 yes or no, you're planning to?

8 MS. MARTIN: I'm the ANC representative.

9 CHAIRPERSON GRIFFIS: Oh, ANC. I'm sorry. I
10 didn't hear that. Okay.

11 So first of all, if you could just make a quick
12 comment on the motion for continuance.

13 MS. BROWN: Good afternoon, Mr. Chairman and
14 members of the Board. Marie-Claire Brown, Assistant Corporation
15 Counsel on behalf of the Zoning Administrator.

16 I was made aware by Ms. Peoples that she was
17 going to be requesting continuance. While the District has
18 prepared to go forward, we certainly would not object to her
19 continuance of this matter. As the owner, she's entitled to
20 certain things under the law.

21 And as she explained to me yesterday, she was not
22 -- I actually went through the regulations and, in fact, further
23 spoke with Mr. Hart about that, and it appears that Ms. Peoples
24 and Mr. Sedlack were not made aware of what is permitted to them
25 in terms of what they're afforded under the regulations.

1 I made a suggestion to Mr. Hart that perhaps the
2 packet may include a copy of that regulation from here forward.

3 CHAIRPERSON GRIFFIS: I think that's an excellent
4 idea and it would only help to serve.

5 And let me just state, Ms. Peoples, all I'm going
6 to try and do right now is just to flush out the entire issue
7 and then we can do it. And I think we have great concern that
8 everyone, no matter which in terms of party or property owner, I
9 certainly hope that people are prepared, and we don't want to go
10 forward if people are not prepared.

11 However, we also have to balance the fact of our
12 own schedule. We've basically held this afternoon for this
13 entire case, and that obviously pushes our entire schedule, and
14 we have an awful lot of people concerned with this that are
15 here, and of course, we have pulled the Zoning Administrator out
16 of doing his actual work to come down and do this, which is part
17 of his job and it's an important part.

18 But that being said, Ms. Pritchard, I think you
19 said you were here, and also the ANC representative, why don't
20 you come up? I just need to hear just quickly and briefly a
21 comment to the motion for continuance. And you can state your
22 name and address for the record.

23 MS. PRITCHARD: Yes. My name is Janet Pritchard.
24 I'm together with my husband, David Pritchard. I'm the owner
25 of the property at 204 11th Street, N.E. The rear of my

1 property abuts the side lot line of Ms. Peoples' property here
2 in question. And we are the appellants in this case, and I'm
3 here on my own behalf.

4 I would simply point out that as Ms. Peoples
5 herself referenced, as early as back in June, but I don't know
6 if she put a date on it, I had spoken with one of her architects
7 at Wentworth, Levine, raised to the architect the concern while
8 the application for a permit was still pending that I believed
9 that the proposed plan was inconsistent --

10 CHAIRPERSON GRIFFIS: If I could just interrupt
11 you.

12 MS. PRITCHARD: Un-huh.

13 CHAIRPERSON GRIFFIS: You may want to
14 substantiate, but why don't you start off first of all with
15 whether you object or support the motion that's in front of us
16 for a continuance.

17 MS. PRITCHARD: Well, my concern -- I object to
18 it for the reason being that construction is still continuing.
19 It is underway, and of course, with any further delay with this
20 body reaching a decision on the appropriateness of that
21 construction being underway I think is a concern.

22 And I would point out with regard to our own
23 efforts to sort of move -- to have this hearing be heard on a
24 timely basis we might come out in discussions if we have the
25 hearing today, there was some difficulty in having a time before

1 the ANC, first the Zoning Committee and the ANC itself, where
2 both Ms. Peoples and/or her husband and myself and my husband
3 could present the issue to the ANC, pushing it back from October
4 to the December meeting.

5 My husband and I went ahead and filed this appeal
6 even prior to getting the ANC support for the appeal, which we
7 later did get in December. We went ahead and took that step at
8 the end of October so as not to have any further delay in when
9 this matter could be heard before the BZA, who could act with
10 some authority, you know, on it, we hope.

11 CHAIRPERSON GRIFFIS: Okay.

12 MS. PRITCHARD: And then just if I could state,
13 you know, just for the factual record that I first mentioned to
14 the architect back in June that we thought we had a strong basis
15 for appealing the legality of the permit were it to be granted,
16 and we would take that all the way to the BZA if necessary.
17 When we first learned of this in late July, we promptly wrote to
18 the Zoning Administrator on August 7th challenging the validity
19 of the permit.

20 A copy of this was given to Ms. Peoples and Mr.
21 Sedlack, and then when we filed this appeal in late October,
22 although my understanding we weren't required to necessarily
23 submit to Ms. Peoples all of the arguments of our case that we
24 had submitted to the BZA, we did, in fact, copy her with a full
25 copy of all our arguments and issues that we planned to bring

1 here at that time.

2 CHAIRPERSON GRIFFIS: That was probably a good
3 idea anyway.

4 MS. PRITCHARD: Right. Well, we thought so. So
5 we did so --

6 CHAIRPERSON GRIFFIS: Whether it's required or
7 not.

8 MS. PRITCHARD: -- at the end of October.

9 CHAIRPERSON GRIFFIS: Okay. Good. I think we
10 have your point.

11 Let's just hear from the ANC as you are a party
12 in this case, and if you would just state your name and address.

13 MS. MARTIN: My name is Marina Martin. I am the
14 single member district from ANC-6A-06 where the property is
15 located, and I want to ask for a continuance because the ANC
16 letter that is in your file, I think this letter was properly
17 signed by the chair. I never received this letter myself, and
18 the ANC has not allowed Ms. Gadis to represent itself. I am the
19 single member district. This letter is not from the ANC, was
20 presented yesterday.

21 I have reason to believe that signature is not
22 the signature of the chair. It is a customary among the ANC to
23 have a copy to the single member district. Therefore, I will
24 ask for this point, for the ANC not to be considered in this
25 matter.

1 CHAIRPERSON GRIFFIS: Not to be considered?

2 MS. MARTIN: Considered as pro or against the
3 issue because I think we failed, and I wanted just to set the
4 record straight.

5 CHAIRPERSON GRIFFIS: Well, that seems to be an
6 independent motion for continuance based on other information.
7 So now we have two. And that, frankly, is a little bit of a
8 concern, just what you've brought up in terms of the ANC.

9 Are there other ANC representatives here or
10 Commissioners, I should say?

11 (No response.)

12 CHAIRPERSON GRIFFIS: Okay.

13 MS. GADIS: I am the one who was named by the
14 ANC.

15 MS. MARTIN: At the ANC meeting --

16 CHAIRPERSON GRIFFIS: Hold on. I'm just going to
17 have one person at a time, and if you would, ma'am, just
18 introduce yourself to the microphone.

19 MS. GADIS: Of course. All right.

20 CHAIRPERSON GRIFFIS: Or to us into the
21 microphone.

22 MS. GADIS: I'm Virginia Gadis, a member of the
23 Zoning and Licensing Committee, community member. I am not the
24 elected representative at this time.

25 CHAIRPERSON GRIFFIS: Oh, okay.

1 MS. GADIS: Marina is the elected representative.
2 However, since she has been aloof from this case through most
3 of it --

4 CHAIRPERSON GRIFFIS: Okay. Hold on. I can't
5 get -- we're not going to get into the case at all.

6 MS. GADIS: Yeah.

7 CHAIRPERSON GRIFFIS: So you've stated you're not
8 an ANC member.

9 MS. GADIS: I am. I was a 15 year member of the
10 ANC Commission.

11 CHAIRPERSON GRIFFIS: Okay, but currently you're
12 not.

13 MS. GADIS: And I live on the block where this
14 occurred.

15 CHAIRPERSON GRIFFIS: Good, good. We'll --

16 MS. GADIS: Okay, and so they have named me as
17 the person to do the coordinating with this hearing.

18 CHAIRPERSON GRIFFIS: Oh. But that's an
19 interesting point also. However, to your point, are you
20 indicating that you have been sent here to speak for the ANC?

21 MS. GADIS: Yes, exactly as the letter says.
22 This letter was signed by the Chair. Marina is questioning who
23 signed the letter. The letter was signed by the Chair of the
24 ANC Commission.

25 CHAIRPERSON GRIFFIS: Okay. Well --

1 MS. MARTIN: May I say something?

2 CHAIRPERSON GRIFFIS: Yeah, briefly.

3 MS. MARTIN: I am the single member district.

4 CHAIRPERSON GRIFFIS: Yes.

5 MS. MARTIN: And by law I can represent the
6 single member district.

7 CHAIRPERSON GRIFFIS: Yeah, and that's not a
8 problem.

9 MS. MARTIN: There is another issue why the ANC
10 had to represent a citizen when the single member district, it's
11 here. And I do recognize the misguidance of Rose, a member of
12 the ANC for 15 years, and we all applaud her hard word, but not
13 --

14 CHAIRPERSON GRIFFIS: Actually she had the same
15 letter that says she's speaking for the ANC. So if both of you
16 --

17 MS. MARTIN: But this signature is questionable.
18 Also the letter was presented just yesterday, which is way
19 after the date because at least two weeks ahead of this hearing
20 all the information should reach to you. So the letter was also
21 out of time.

22 CHAIRPERSON GRIFFIS: Okay. Let me just get a
23 handle, and we're going to move on from this. As a single
24 member Commissioner, are you coming to support or oppose the
25 appeal?

1 MS. MARTIN: As a single member district, I -- to
2 oppose the decision of the ANC.

3 CHAIRPERSON GRIFFIS: Wait.

4 MS. MARTIN: So I am in favor of the construction
5 continuing.

6 CHAIRPERSON GRIFFIS: I see. Okay.

7 MS. SANSONE: Mr. Chairman, I have some concern.
8 A single member district --

9 CHAIRPERSON GRIFFIS: Would not be a party.

10 MS. SANSONE: -- would not be a party. She can
11 certainly work through any of the parties and assist them, but
12 unless she requests party status and the Board were to grant
13 that, she does not have party status.

14 CHAIRPERSON GRIFFIS: Okay.

15 MS. SANSONE: And would not be able to make any
16 motions or requests of the Board.

17 CHAIRPERSON GRIFFIS: Fabulous. I do appreciate
18 that, and that's why I questioned our Corporation Counsel, in
19 which case we can pare down based on the regulations the one
20 motion, and I would ask the Board members to briefly make
21 comments or think about the motion for continuance at this point
22 by Ms. Peoples based on her unpreparedness to go forward today
23 because she feels that she is in need of legal counsel and felt
24 that there was, and my words, but some miscommunication of that
25 from staff at the last minute which led her to believe that

1 perhaps she didn't need it or moved her to a decision not to get
2 it.

3 COMMISSIONER PARSONS: Mr. Chairman, I'd like to
4 ask Ms. Peoples. We have some photographs here.

5 I'm talking. It's very confusing.

6 We have some photographs here of the property
7 that I guess you took.

8 MS. PEOPLES: No, no. Those pictures were taken
9 by Ms. Pritchard, I believe.

10 COMMISSIONER PARSONS: Are you familiar with
11 them?

12 MS. PEOPLES: Those are hers.

13 COMMISSIONER PARSONS: These were taken probably
14 in the fall some time. That is, the leaves were on the trees.
15 What is the progress beyond this point?

16 I mean a continuance allows construction to
17 continue, and I'm trying to figure out how far along you are in
18 your construction activities.

19 MS. PEOPLES: Currently, the construction, the
20 outer shell -- I mean, I don't have the right -- is complete.
21 The structure, the outer structure is principally complete, with
22 the exception of the decks that are affixed to the front and
23 back of the addition.

24 COMMISSIONER PARSONS: Is there a roof on it?

25 MS. PEOPLES: Say that again.

1 COMMISSIONER PARSONS: Is there a roof on it, and
2 is it --

3 MS. PEOPLES: There's --

4 CHAIRPERSON GRIFFIS: The framing?

5 MS. PEOPLES: I don't -- is there a roof on it?

6 There's a roof on it.

7 CHAIRPERSON GRIFFIS: If it rained, would it get
8 wet inside?

9 MS. PEOPLES: Oh, no, it doesn't. Yeah, okay,
10 good. Yes, there's a roof and wiring and plumbing has been
11 done. Some of this has been done.

12 COMMISSIONER PARSONS: If we were to continue
13 this for a month or two or whatever our schedule would permit, I
14 mean --

15 CHAIRPERSON GRIFFIS: Conceivably it would be
16 finished.

17 COMMISSIONER PARSONS: You're spending money
18 every day, and you could be occupying it by the time we have a
19 hearing.

20 MS. PEOPLES: I understand the concern that you
21 raise. At the same time I'm concerned that I have not had the
22 opportunity, nor was I apprised of the necessity or the
23 advisability of having representation in this matter.

24 COMMISSIONER PARSONS: Well, when is your
25 completion date?

1 MS. PEOPLES: I actually am not aware that I have
2 one.

3 MR. LEVINE: It will be completed I would think
4 within about 60 days, 60 calendar days.

5 MS. PEOPLES: Sixty calendar days for the record.
6 I guess I'm supposed to say that.

7 COMMISSIONER PARSONS: Yes. Well, it's a risk.

8 VICE CHAIRPERSON RENSHAW: Mr. Chairman, the
9 Board needs a copy of the permit, and I'm hoping that Mr. Bello
10 or the applicant can supply -- the appellant can supply a copy
11 of the permit under question.

12 CHAIRPERSON GRIFFIS: Does that speak to the
13 continuance?

14 VICE CHAIRPERSON RENSHAW: It doesn't, but it
15 also speaks to something we need for the file.

16 CHAIRPERSON GRIFFIS: Yeah.

17 VICE CHAIRPERSON RENSHAW: I'd like to ask Ms.
18 Peoples: is your husband the sole owner of the property or do
19 you co-own the property with him?

20 MS. PEOPLES: Well, I have a marital interest in
21 the property, but he is the -- he bought the property in 1988.
22 We married in 1995 so that he is the person on the deed.

23 VICE CHAIRPERSON RENSHAW: Has your husband sent
24 any communique to you, anything in writing that states that he
25 wants to be here at this hearing? He wants himself to attend

1 these hearings?

2 MS. PEOPLES: This is the issue. When he left,
3 we both, as I mentioned, were apprised of the fact that this
4 hearing would take place. We nevertheless were in possession of
5 what appears to be insufficient or incomplete information about
6 what our representation status or our standing might be. He
7 left for Nigeria with that information, therefore, assuming that
8 I would come to this hearing and be in a sense an observer of
9 what would happen between the Zoning Administrator and the
10 appellant.

11 However, once I've gotten this information I did
12 try to send him an E-mail, but he is in Nigeria. These kinds of
13 connections are tenuous at best, and I have not received an
14 answer.

15 VICE CHAIRPERSON RENSHAW: Thank you.

16 CHAIRPERSON GRIFFIS: yes?

17 MEMBER ETHERLY: Mr. Chairman, this is an
18 interesting matter for first impression for someone who finds
19 their first day on the body.

20 CHAIRPERSON GRIFFIS: Welcome to the Board.

21 MEMBER ETHERLY: Thank you.

22 I understand, Ms. Peoples; I understand the
23 situation that you find yourself in. It is a distressing set of
24 circumstances, to say the least.

25 I am somewhat moved by the continuing nature or

1 the ongoing nature of the harm that is being alleged by some of
2 the parties before the case, and that does give me some concern
3 because without the benefit of advice from Corporation Counsel
4 at this juncture, I would hazard a guess that conceivably if we
5 were -- if my colleagues and I were to issue the continuance,
6 that we could conceivably be in the position of having to undo
7 something or rendering a decision that would have the effect of
8 undoing something that will already have been completed.

9 That being said, Mr. Chairman, I'm kind of
10 thinking this through as we talk, but my inclination is that we
11 move forward in this matter, given the readiness of other
12 parties that are here and prepared to move forward.

13 I am somewhat comforted by the presence of the
14 architect for Ms. Peoples, and that that would provide some
15 ability to respond to some extent here today.

16 Once again, I'm thinking through this as we talk,
17 but that's the direction in which I am leaning here.

18 CHAIRPERSON GRIFFIS: Good. I think that's very
19 helpful, and I also have great concern with making sure we pull
20 this together correctly, as appeals are obviously contentious by
21 definition.

22 But we've got a lot of schedules that are
23 accommodating this and our own. So without trying to take up
24 too much more time on this because I do want to spend enough
25 time to get to the bottom of our own thinking on it.

1 Perhaps Corporation Counsel could give us just a
2 quick advice to indicate if we called this case and started how
3 we could proceed and give an opportunity for cross examination
4 by Ms. Peoples at some point. Is that something that can be
5 facilitated?

6 MS. SANSONE: Mr. Chairman, if I understand what
7 you're asking, could we start today here, the witnesses and then
8 perhaps if Ms. Peoples is unable to formulate all of her
9 questions today, she's later given an opportunity to question;
10 is that what you're asking?

11 CHAIRPERSON GRIFFIS: Well, yeah, or somehow
12 respond to. I mean, I'm asking basically how would we do it.

13 MS. SANSONE: Well, Ms. Peoples and her architect
14 could do the best they could today to ask any questions in cross
15 examination. You may wish to leave -- if we complete the
16 hearing today, you could consider leaving the record open for
17 some written briefing, which could include written briefs
18 submitted by an attorney hired by Ms. Peoples later or perhaps
19 other types of written submissions, or perhaps the hearing could
20 be substantially completed today and we could have yet another
21 session some other day with everyone coming back to try to clean
22 up any unanswered questions.

23 CHAIRPERSON GRIFFIS: Okay. That's helpful>

24 MS. PEOPLES: May I ask a question?

25 CHAIRPERSON GRIFFIS: Yes.

1 MS. PEOPLES: Would that then mean that once the
2 -- I mean, I remember your having listed the order in which
3 people would present their cases, and since I as intervenor, I
4 think was my standing, would come later in the testimonial
5 series; I'm wondering to what extent do I have time to prepare
6 and what documents -- I have some things that I have prepared
7 last night. I'm not sure when or if those are permitted into
8 the record, and if in fact, the case would remain open --

9 CHAIRPERSON GRIFFIS: Well, if we continue it
10 would --

11 MS. PEOPLES: -- until such time as I have --

12 CHAIRPERSON GRIFFIS: If we continue the case,
13 obviously it stays open. We won't close the record. I mean,
14 conceivably if we got through everything today, which we're not
15 going to do, guaranteed, but even if -- well, I can't guarantee
16 anything.

17 If we got through everything today, we could
18 still keep the record open to accept anything that we decide we
19 want to accept. So there's a lot of ways to get around it. So
20 I wouldn't be concerned with not having an opportunity to put in
21 something that you want to.

22 MS. PEOPLES: Even with benefit of counsel at a
23 later time.

24 CHAIRPERSON GRIFFIS: Yes. I mean, time -- I've
25 said it a couple of times, but time is an issue because of the

1 balance -- of one, I mean, conceivably without getting to this
2 case, say there was a ruling of this Board against you and the
3 whole addition -- and I think Board members were talking about
4 this -- the amount of risk you're taking in continuing this once
5 this is under appeal is at your own risk, but we are very
6 sensitive to that also and not wanting to move things down a
7 more dangerous path or a more expensive one, I should say.

8 So the further we put this off the worse it is
9 for everybody I can easily say.

10 What we could do, what I would propose to do is
11 that we start today and take -- I guess we would start with a
12 statement of witnesses of the appellant, and then maybe moving
13 to the Zoning Administrator and then take a recess.

14 (Pause in proceedings; the Board conferred.)

15 MR. LEVINE: Can I add one more wrench into this
16 mess for your folks? Okay.

17 MS. PEOPLES: Let me know. I wanted to say one
18 thing when you're done.

19 CHAIRPERSON GRIFFIS: I think we're ready. I'll
20 listen.

21 MS. PEOPLES: Okay. The one matter that I did
22 want to enter into the record is that although I do have
23 architects here with me from the firm, the person who would be
24 most positioned to speak with authority about the issues is not
25 able to be present. They are also out of town.

1 CHAIRPERSON GRIFFIS: What makes them of more
2 authority to speak?

3 MS. PEOPLES: They're the president of the
4 company -- wait. Who are they? We're doing this by --

5 CHAIRPERSON GRIFFIS: That's all right.

6 MR. LEVINE: One more problem for you. I'm Jerry
7 Levine. I'm President of Wentworth, Levine, architect-builder.

8 And my partner, who is a licensed D.C. architect,
9 is not here. I am here to help support our client. The person
10 who would help you folks the most with questions and also would
11 help Ms. Peoples is not here. That's Bruce Wentworth, my
12 partner. He handled most or just about all of negotiations with
13 Ms. Peoples and Ms. Sedlack and is intimately aware of what the
14 zoning problems were; met with Mr. Bello, and he really would be
15 the prime source for the best information.

16 CHAIRPERSON GRIFFIS: Okay.

17 MR. LEVINE: So just to factor that in.

18 CHAIRPERSON GRIFFIS: Indeed, that's another
19 wrinkle in the --

20 MR. LEVINE: Yes.

21 CHAIRPERSON GRIFFIS: I don't know. What wrinkle
22 in these things?

23 But then, you know, after this motion, we have to
24 deal with also the ANC which will add even more time and I am
25 now, as time ticks on, even more and more conscientious of how

1 we are taking up people's times that may not be necessary.

2 Frankly, Board members, I'm being swayed to
3 consider strongly a continuance on this based on the fact that
4 we have the ANC that I think we're going to need to have some
5 clarity from, and if they come back without the clarity, then we
6 can proceed as we would have today, and that is we can hear from
7 the single member district, and then we have a duly lettered
8 representative of the ANC, that being one issue.

9 Second, I don't want to start things off and take
10 up time and have to revisit an awful lot, which may end up
11 taking us more time.

12 So I would ask for any other comments or
13 suggestions as Board members, but I think that's the direction
14 we should probably proceed in.

15 Ms. Renshaw.

16 VICE CHAIRPERSON RENSHAW: Yes. Mr. Chairman, I
17 have been swayed both ways. I can see both sides of this, and
18 it's difficult. But I think that we have an opening next week
19 on the January 15th schedule, and if it is a short delay, a
20 short continuance, I would be in agreement for a short
21 continuance.

22 In other words, if we can bring this case back to
23 the Board very quickly, I would vote in that regard.

24 CHAIRPERSON GRIFFIS: Okay.

25 MEMBER LEVY: Mr. Chair.

1 CHAIRPERSON GRIFFIS: Yeah.

2 MEMBER LEVY: I would also support a continuance
3 if all parties would be willing to take that opening next week.

4 CHAIRPERSON GRIFFIS: Well, indeed, to do it
5 quickly.

6 MEMBER LEVY: Yes.

7 MS. PEOPLES: The 15th is a Tuesday?

8 CHAIRPERSON GRIFFIS: Yes, we meet on Tuesdays.

9 MS. PEOPLES: And would it be in the afternoon?
10 I ask because I have a plane ticket that I leave town this
11 Thursday morning and return, I believe, Tuesday morning.

12 CHAIRPERSON GRIFFIS: Yeah, it is in the morning
13 we have a opening. It would probably start close to ten
14 o'clock, as we have a special public meeting at nine.

15 COMMISSIONER PARSONS: And when does your husband
16 return?

17 MS. PEOPLES: He returns on the 20th of January.
18 I could, I guess -- I mean, I'd try to pay the freight to
19 change my ticket. I'm just going to visit my family, but I'm
20 just saying I was trying to get a sense without a calendar in
21 front of me of what dates and times we were talking about so I
22 would be able to respond appropriately to your suggestion.

23 CHAIRPERSON GRIFFIS: Ms. Pritchard, your
24 schedule on the 15th?

25 MS. PRITCHARD: I believe that I would be

1 available.

2 CHAIRPERSON GRIFFIS: Can you turn on your mic
3 please? Thank you.

4 MS. PRITCHARD: I believe I would be available to
5 come, having not checked in detail.

6 CHAIRPERSON GRIFFIS: Okay. Ms. Moore?

7 MS. MARTIN: Martin.

8 MS. BROWN: The Government is available on the
9 15th.

10 CHAIRPERSON GRIFFIS: Okay. Thanks.

11 Okay. What about 20 -- I'm sorry. I don't know
12 what's with names with me this afternoon. I'm just --

13 VICE CHAIRPERSON RENSHAW: We need a name tag.

14 CHAIRPERSON GRIFFIS: I'm nuts. All right.
15 Well, maybe that's another -- no.

16 Where was I? Oh, all right. Well, the next
17 available date is the 26th in the afternoon, and that puts it
18 off obviously another month and a half or a month.

19 MS. PEOPLES: It does? No.

20 CHAIRPERSON GRIFFIS: I'm sorry. What did I say?

21 MS. PEOPLES: The 26th is --

22 CHAIRPERSON GRIFFIS: February 26th.

23 MS. PEOPLES: February?

24 CHAIRPERSON GRIFFIS: Yeah.

25 MS. PEOPLES: I thought you meant January.

1 CHAIRPERSON GRIFFIS: No. I'm sorry.

2 VICE CHAIRPERSON RENSHAW: We were talking about
3 January 15th.

4 CHAIRPERSON GRIFFIS: Right.

5 VICE CHAIRPERSON RENSHAW: And then the Chairman
6 said February 26th.

7 MS. PEOPLES: Okay. I didn't hear February.

8 CHAIRPERSON GRIFFIS: I'm just laying it all out
9 here before I make a decision so that we all know what's going
10 on.

11 We have an opening on January 15th in our
12 schedule in the morning. The next available would be February
13 26th if we don't do the 15th, and that would be in the
14 afternoon, and then after that, you know, we're open in March
15 and April.

16 MEMBER ETHERLY: And, Mr. Chair, just to help
17 fill out the 15th as a possibility, Ms. Peoples, perhaps you
18 might want to inquire with the representative of the
19 architectural firm to the extent they might know what the
20 availability of Mr. Wentworth might be on the 15th.

21 MR. LEVINE: He's getting back into town on the
22 14th.

23 MEMBER ETHERLY: Okay.

24 MS. PEOPLES: He comes back in town on the 14th,
25 for the record.

1 MEMBER ETHERLY: Thank you.

2 CHAIRPERSON GRIFFIS: Well, I mean, in that
3 sense, I mean -- well, I mean, I don't want to revisit
4 preparedness on the 15th. So I think we err on the side of
5 caution here and move it to the 26th and then those issues go
6 away. Would you agree?

7 Yeah, the 26th of February, in case I said
8 something else absurd.

9 COMMISSIONER PARSONS: No, you just said the
10 26th.

11 CHAIRPERSON GRIFFIS: Right.

12 COMMISSIONER PARSONS: It wasn't absurd. It was
13 just a Sunday in January -- Saturday.

14 CHAIRPERSON GRIFFIS: And that would be the
15 afternoon, and frankly, I think that is actually a better date
16 for our schedule, not that that rules or matters much, but in
17 terms of the time so that we would be able to proceed through.

18 MEMBER ETHERLY: Mr. Chairman, I'm prepared to
19 support the proffer of the 26th as an option. I would only want
20 to state for the record that, as you noted earlier, Ms. Peoples,
21 there is a considerable risk here in that if something not
22 favorable should happen, you're going to be moving all the more
23 forward with your construction efforts on site, but given the
24 fact that your architect is not present, the architect who would
25 have the most personal and professional knowledge about the

1 project, I would be prepared to support that date, Mr. Chairman.

2 CHAIRPERSON GRIFFIS: Thanks.

3 Okay. I think we've got to move and accept the
4 motion for continuance and set the date for the new schedule on
5 February 26th, 2002 in the afternoon. It will be the second
6 case in the afternoon. Our afternoon sessions start at one
7 o'clock.

8 And for the Board, did I ask? Are you okay with
9 that? Are all parties okay with the 26th?

10 MS. BROWN: Not anticipating February, I didn't
11 bring my calendar, but I will make myself available --

12 CHAIRPERSON GRIFFIS: Okay.

13 MS. BROWN: -- even if I have to reschedule
14 something else.

15 CHAIRPERSON GRIFFIS: Okay. And?

16 MS. PEOPLES: I have no reason to assume I
17 couldn't make myself available.

18 CHAIRPERSON GRIFFIS: Okay. Great. I just think
19 that will help clear up this situation. I think the ANC has
20 gotten the message, and if there's any clarity they could bring
21 to us, that would be good.

22 And for myself and on behalf of the Board, I
23 apologize for everyone's schedule that had to come down and not
24 proceed with this today, but I don't think it would be -- I
25 think we're saving time doing this, by not having to repeat or

1 review things that we may start today for the benefit of folks
2 that aren't here or will be represented then.

3 So that being said, if there aren't any further
4 comments or questions, anything needed?

5 (No response.)

6 CHAIRPERSON GRIFFIS: Yes?

7 Well, that's an excellent point, and what has
8 been stated is whether we can get or somehow direct a stop work
9 order on this, and we have no authority to do that. It's not
10 something the BZA can issue support or even direct to have
11 happen.

12 And I believe the folks that can do that have
13 been properly notified. So it is in their responsibility.

14 Anything else that I can address quickly before
15 we adjourn this afternoon session of January 2002?

16 I thank you all very much, and I will see you all
17 on the 26th of February.

18 (Whereupon, at 2:40 p.m., the public hearing was
19 adjourned.)

20

21

22

23