

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

SEPTEMBER 4, 2002

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 2:00 p.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 |
| ANTHONY HOOD | Board Member |
| JOHN PARSONS | Board Member |

COMMISSION STAFF PRESENT:

SHERI PRUITT, Secretary, BZA
CLIFFORD MOY
JOHN NYARKU

D.C OFFICE OF CORPORATION COUNSEL PRESENT:

MARIE SANSONE, ESQ.

OTHER AGENCY STAFF PRESENT:

STEPHEN YORK, Office of Planning
VENITA RAY, Office of Planning
JOHN MOORE, Office of Planning
STEPHEN MORDFIN, Office of Planning

AGENDA ITEM

PAGE

PRELIMINARY MATTERS

CASES TO BE DECIDED

APPLICATION OF GERALD SCHULTZ:

16306 ANC-2. 8

GERALD SCHULTZ, Pro Se 8
 1213 - 34th Street, N.W.
 Washington, D.C. 20007
 (202) 965-7671

WITNESS

CHRISTIAN ACHMED 10

APPLICATION OF ELLA L. TOOMBS:

16809 ANC-1B. 27

ELLA L. TOOMBS, Pro Se. 29
 216 Elm Street N.W.
 Washington, D.C. 20001
 (202) 483-3376

APPLICATION OF THE FAMILY PLACE. 38

16910 ANC-1A

ROBERT RICHARDSON, ESQ. 40
 1371 Underwood Street, N.W.
 Washington, D.C. 20012
 (202) 273-6364

WITNESSES

CAMILLE FOUNTAIN. 44

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

(2:00 p.m.)

CHAIRPERSON GRIFFIS: Okay. As we call to order the after public hearing for, let me just say this is, of course, the September 4, 2002 public hearing of the Board of Zoning Adjustment of the District of Columbia, and I bid everyone a good afternoon.

My name is Geoffrey Griffis, and I am the Chairperson. Joining me today is the Vice Chair, Ms. Anne Renshaw, and we do anticipate Mr. Zaidain from the National Capital Planning Commission, who will be on my right.

And I believe we are expecting Mr. Parsons from the Zoning Commission. So we will be graced by their wonderful presence momentarily, I am sure.

Copies of today's hearing are available to you, and they are located at my left on the table next to the door that you did enter into the hearing room.

Let me just layout a few of the pieces for those who have been here before, and I for those that have not been here before, these hearings are being recorded.

So we must ask you to refrain from any disruptive noises, actions, or anything else that might implement or distract us from our proceedings.

When presenting before the Board, I will ask you to speak into the microphone, and the microphone will have to be on.

1 I will ask that everyone as they come forward to
2 state their name and address for the record, and we will walk you
3 through any other technical difficulties that we might run into.

4
5 All persons planning to testify either in favor or
6 in opposition are also to fill out two witness cards. Witness
7 cards are available at the table in front of us, also at the
8 table where you entered into.

9 You shall fill in those cards and upon coming
10 forward to speak to the Board, you can give it to the recorder,
11 who is sitting to my right with the headphones on.

12 The order of procedure for this afternoon will be,
13 first -- and this covers all special exceptions and variance
14 cases. We will have the statement and witnesses of the
15 applicant. We will go to government reports that are attendant
16 to the application, and we will get the Advisory Neighborhood
17 Commission report as a third item.

18 And the fourth item, we will have parties or
19 persons in support of the application, and the fifth item would
20 be parties or persons in opposition to the application.

21 And sixth, we will have closing remarks by the
22 applicant. Cross-examination of the witnesses is permitted by
23 the applicant or parties. The ANC within which the property is
24 located is automatically a party in the case.

25 The record will be closed at the conclusion of each

1 case, except for any material specifically requested by the
2 Board, and we will outline exactly what and when that type of
3 information should be submitted into the Office of Zoning. After
4 the record is closed, of course, no other information will be
5 accepted by the Board.

6 The Sunshine Act requires that the public hearing
7 in each case be held in the open and before the public, and the
8 Board may, however, consistent with its rules and procedures, and
9 the Sunshine Act, enter into executive session during or after a
10 case for purposes of reviewing the record, or deliberating on a
11 case.

12 The decision of the Board in these contested cases
13 must be based exclusively on the public record. To avoid any
14 appearance to the contrary, the Board requests that persons
15 present today not engage Board Members in conversation.

16 I would ask at this time that everyone turn off all
17 beepers and cell phones, and any other sort of noise making,
18 transmitting, devices, so that we don't have any disruptions to
19 the proceedings.

20 We will make every effort to conclude the hearing
21 today by six o'clock. I don't anticipate that being a problem.
22 It is a busy week for everybody, and so we will get everyone out
23 of here in due time.

24 At this time the Board will consider preliminary
25 matters. Preliminary matters are of course those which relate to

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1 whether a case will or should be heard today, such as a request
2 for a postponement, a continuance, or withdrawals, or whether
3 proper and adequate notice has been given.

4 If you are not prepared to go forward with a case
5 today, or if you believe the board should not proceed, I will
6 give you an opportunity to address that after I go to the staff
7 to see if the staff members have any preliminary matters for the
8 board.

9 MS. PRUITT: No, Mr. Chair, there is no preliminary
10 matters.

11 CHAIRPERSON GRIFFIS: Very well. Does anyone in
12 the audience with an application have any preliminary matters for
13 the board? Not seeing an indication of that, I think we can call
14 the first case for the afternoon.

15 MS. PRUITT: The first case of the afternoon is
16 16906, the Application of Gerald Schultz, pursuant to 11 DCMR
17 3104.1, for a special exception to allow a roof deck addition to
18 a single-family dwelling under Section 223, not meeting the lot
19 occupancy requirements, Section 403, minimum lot dimension
20 requirements, Section 401; and nonconforming structure provisions
21 under Subsection 2001.3, in an R-3 district at 1213 □ 34th Street,
22 Northwest, Square 1205, Lot 51.

23 Those planning to testify, could you please stand.

24
25 (The witness was sworn.)

1 MS. PRUITT: Please come forward and be seated.
2 Mr. Chairman, on this particular case, you do have a request for
3 party status.

4 CHAIRPERSON GRIFFIS: Oh, yes, indeed. And if I am
5 not mistaken, it is from Mr. Jeremiah; is that correct? Oh, I'm
6 sorry, that's his first name. Demakilus. Is that gentleman or
7 the person who requested party status for this application here
8 today?

9 Okay. Board Members, do take a moment now just to
10 refresh, but we have reviewed this, and it is Item 20, or Exhibit
11 Number 20 rather, and it is a request for party status. The
12 issue, number 6, which goes directly to the fact of whether they
13 are distinctly, or significantly, or uniquely, impacted I think
14 is an important one.

15 I think the other criterium for granting party
16 status are met to the adjacent owner. However, I am not
17 convinced that the status of increased opportunities for trespass
18 on the adjacent roof is necessarily strong enough to order a
19 party status in the case, and clearly the persons are open to
20 testifying, and give testimony, on their current situation or
21 their opinion of the application.

22 Frankly, if this gives roof access to an adjacent
23 property, it gives roof access to all of the properties that are
24 connected to the row house. Also, in the fact that the party
25 status application is looking to a current condition that is

1 actually happening, and therefore somehow that establishes their
2 criterium to be a party.

3 I don't make that case, and I am not convinced, but
4 I can be convinced if other board members have other opinions.

5 VICE CHAIRPERSON RENSHAW: Mr. Chairman, I wasn't
6 clear whether Mr. Demakilus resided at 1217 33rd Street, because
7 his address has on the party status application is 3110 N Street,
8 Northwest, and this could be a rental unit.

9 I'm sorry that Mr. Demakilus is not here to answer
10 the questions that the board and speak for his party status
11 application.

12 CHAIRPERSON GRIFFIS: Indeed.

13 VICE CHAIRPERSON RENSHAW: We are not in a place to
14 argue the case for him.

15 CHAIRPERSON GRIFFIS: Right.

16 VICE CHAIRPERSON RENSHAW: So I would at this
17 point, since he is not here, just take note of the fact that he
18 has made an application, and that's all we can do.

19 CHAIRPERSON RENSHAW: Okay. And I would agree.
20 Let me make one clarification, because I don't think you are
21 saying because he is an owner and it is a tentative building that
22 that precludes him from being a party.

23 VICE CHAIRPERSON RENSHAW: That's correct.

24 CHAIRPERSON GRIFFIS: It does not, and I know that
25 you know that. I think it really goes to the fact of whether it

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1 is a distinct and unique effect, and the fact that he would have
2 □- that would have either granted or denied party status.

3 Any other opinions on the party status application?

4 If not, I would move that we deny the party status to Mr.
5 Demakilus.

6 MR. ETHERLY: I would second that, Mr. Chairman.

7 CHAIRPERSON GRIFFIS: Thank you very much. All in
8 favor?

9 (A chorus of ayes.)

10 CHAIRPERSON GRIFFIS: Opposed?

11 VICE CHAIRPERSON RENSHAW: I am going to abstain in
12 this one.

13 CHAIRPERSON GRIFFIS: Very well. The staff will
14 record that vote, and we can move on.

15 MS. PRUITT: The vote will be recorded as
16 3-0-1; motion made by Mr. Griffis, and seconded by Mr. Etherly,
17 and Ms. Renshaw abstaining.

18 CHAIRPERSON GRIFFIS: Good. In which case, why
19 don't we have the gentlemen in front of us introduce themselves,
20 and we will turn it over to you.

21 MR. ACHMED: I am Christian Achmed, and I designed
22 the proposal for Mr. Schultz for a roof deck at 1213 □ 34th
23 Street. This is a design which was approved some months ago by
24 the ANC Aldridge Town Board, and the Commission of Fine Arts.

25 When I actually took the approved permit drawings

1 to the Building Department, it was identified that a special
2 exception would be required since the stair to the roof deck is
3 within the side court, and has increased the lot occupancy.

4 This decision to put the stairs in the side court
5 incidentally was in response to neighbors' requests that there
6 not be a stair on the very back of the L of the house, but rather
7 discreetly introduced and that certainly met with approval from
8 the neighbors, particularly the directly impacted neighbor in
9 support of it.

10 And in fact offered to come and make a statement as
11 well here if necessary. So that is what we are here for today.

12 CHAIRPERSON GRIFFIS: What is the dimensions on
13 that side yard?

14 MR. SCHULTZ: It is 3 feet, 4 inches roughly.

15 MR. ACHMED: It is 3 feet, 5 inches.

16 CHAIRPERSON GRIFFIS: And your statement is the
17 fact that the reason why you are here is because the stair built
18 is in that side yard area, and it increases the lot occupancy

19 MR. ACHMED: Right. Introducing this stair,
20 unbeknownst to us □

21 CHAIRPERSON GRIFFIS: Frankly, the side yard goes
22 to lot occupancy, and it has to be calculated in it. It is an
23 interesting piece, because looking at this, I am wondering why
24 you are here, and not to mention that you have enough oversight
25 on the deck to begin with.

1 But it seems to me that it goes to the definition
2 of an addition, and what is an addition to a single family.
3 There is no defined area and so I guess my -- and I guess the
4 Board's understanding of that -- is where there is expanded
5 structure, or goes into an area that is not built.

6 MR. ACHMED: Right.

7 CHAIRPERSON GRIFFIS: And that's why I was trying
8 to figure out what actually triggered you coming in. We may not
9 get answers to that, and so we may just pop through this quickly.
10 However, unless the staff has an idea --

11 MS. PRUITT: No, I was just looking, and this
12 actually did go through the BA Office, and they say strictly to
13 lot occupancy, but no further explanation.

14 CHAIRPERSON GRIFFIS: Well, there it is. We do
15 have the memo from April 15th, 2001, from Mr. Jerry Bell, and that
16 is what he does indicate. So please don't take it as if I am
17 trying to correct you. I just did not have an understanding of
18 why -- MR. ACHMED: I didn't either.

19 CHAIRPERSON GRIFFIS: Well, okay, I think we can --
20 why don't we move along fairly quickly, and why don't you give us
21 what is in addition to, or give a little generalization of what
22 is the submitted information for the board members.

23 MR. ACHMED: Right. The roof deck is approximately
24 12 by 15 feet in the middle of the structure, and there is a
25 stair leading to it from a new door in the second floor of the L,

1 which I will show you the elevation.

2 VICE CHAIRPERSON RENSHAW: I am glad that you are
3 explaining that because I couldn't figure out how you were
4 getting out there.

5 MR. ACHMED: This is a new door in the south wall
6 of the L of the house. May I come up and point to it?

7 CHAIRPERSON GRIFFIS: Actually not. You can just
8 use the exhibit, as it is all going to be on the record. If you
9 want to refer to the photograph.

10 VICE CHAIRPERSON RENSHAW: It is Exhibit Number 4.

11 MR. ACHMED: Right. The photograph that Ms.
12 Renshaw is holding up, in the very back of the white wall on the
13 left side of the image, to the rear of that.

14 VICE CHAIRPERSON RENSHAW: Exactly.

15 MR. ACHMED: I'm sorry, up in the photograph, and
16 exactly right there is the door, the proposed door.

17 CHAIRPERSON GRIFFIS: So if we look at Exhibit 4,
18 which is the photograph that you are referring to, if we also
19 look at Exhibit 8, which is the plan, I will indicate up here on
20 my own that this is dropping down.

21 And I am illustrating the stairs dropping down to
22 the landing, which is adjacent to the wall that you pointed out
23 in the photograph, and you enter into the building at that level.

24 Is that correct?

25 MR. ACHMED: Correct.

1 CHAIRPERSON GRIFFIS: Does that make sense to you?

2 VICE CHAIRPERSON RENSHAW: Going down?

3 CHAIRPERSON GRIFFIS: What you are looking at, if I
4 can --

5 VICE CHAIRPERSON RENSHAW: So you are going down
6 this way?

7 CHAIRPERSON GRIFFIS: Right.

8 VICE CHAIRPERSON RENSHAW: And then you are going
9 in that way?

10 CHAIRPERSON GRIFFIS: I am again going to refer the
11 board --

12 MR. ACHMED: If I can clarify, the access to the
13 roof deck is from the second floor.

14 CHAIRPERSON GRIFFIS: Correct. Do you have the
15 roof plan, the exhibit that was submitted?

16 MR. ACHMED: Yes.

17 CHAIRPERSON GRIFFIS: Why don't you put that up on
18 that easel?

19 MR. ACHMED: Well, I will hold it up.

20 CHAIRPERSON GRIFFIS: Now, the issue here is that
21 the roof deck, with all of the horizontal areas which are
22 indicated, that is on the roof level.

23 MR. ACHMED: The stairs take you down to the rear
24 or the back of the L.

25 CHAIRPERSON GRIFFIS: And you walk down here and

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1 you enter into the livable level.

2 VICE CHAIRPERSON RENSHAW: Do you hide a window
3 that seems to be back there?

4 MR. ACHMED: No. No, that -- well, can you point
5 to the window? Yes, that window is here, and so that is the
6 window of the house in question, and that is within the house in
7 question. So actually you could -- and I don't know how high is
8 determined, but this stair does rise above that, yes.

9 But since it is an open tread, light still filters
10 through.

11 MR. ZAIDAIN: So the window will be viewing the
12 stairs essentially?

13 MR. ACHMED: Essentially, yes.

14 CHAIRPERSON GRIFFIS: There was a supplemental
15 received October 16th, and actually it is stamped, and October 16th
16 is actually the approved by the Commission of Fine Arts, but it
17 is part of the packet as to the elevation.

18 VICE CHAIRPERSON RENSHAW: I couldn't figure it
19 out.

20 CHAIRPERSON GRIFFIS: This is -- we are again
21 looking at the back elevation, and the landing that we see in the
22 plan happens here, and the stairs go up to the deck here, and
23 that is the window in question.

24 MR. ACHMED: Yes. That is the window beyond the
25 second floor.

1 CHAIRPERSON GRIFFIS: Okay.

2 MR. ACHMED: And the stairs arising.

3 CHAIRPERSON GRIFFIS: Good. There is no
4 penetration of windows on the adjacent property that share that
5 area, correct?

6 MR. ACHMED: No, none.

7 VICE CHAIRPERSON RENSHAW: And you don't attach the
8 stairs to the opposite party wall is it?

9 MR. ACHMED: No, it is supported on its own with
10 steel posts, which I will show you. This is the foundation for
11 it, and so it is a separate, or it is an independent structure.

12 And then here you can see the 4-by-4 wood posts
13 actually that support the stair landing above. So it is not tied
14 into the neighboring wall, and it is an independent structure.

15 CHAIRPERSON GRIFFIS: Does everyone understand?

16 VICE CHAIRPERSON RENSHAW: Now I do.

17 CHAIRPERSON GRIFFIS: Good. Okay. What else can
18 you tell us? What else do you need to tell us?

19 MR. ACHMED: That it is again approved twice by the
20 ANC and the CFA, and by our engineer, and so we are confident of
21 the structural details. And one request that the Old Georgetown
22 Board made in addition was that the wood -- that it would be
23 pressure-treated wood, but after a few moments after we are able
24 to paint it, it will be painted a dark color so as to disappear
25 within the skyline view.

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1 VICE CHAIRPERSON RENSHAW: And there would be no
2 way for anyone on the ground can access those stairs?

3 MR. ACHMED: Oh, none could.

4 CHAIRPERSON GRIFFIS: Are you aware of any problems
5 that have happened on the roofs, aside from Santa Claus every
6 once in a while?

7 MR. SCHULTZ: I am Gerald Schultz, and I am the
8 owner of the property. I have no knowledge of any problems that
9 have been on the roof. I moved into this house a year and a half
10 ago, and it is my permanent residence, and I plan to be there for
11 a long time into the future.

12 And I know of no problems on the roofs. All of the
13 roofs are connected.

14 CHAIRPERSON GRIFFIS: Right.

15 MR. SCHULTZ: And each of the roofs also has an
16 access to the roof through a trap door, which we use for cleaning
17 of gutters, et cetera. Next to me on both sides, there is a
18 private residence, and the owners of those private residences are
19 living there, and they have approved also this particular deck.

20 So if there is a problem with any kind of problem,
21 let's say, on this particular block we have student houses at the
22 end of each -- at the house on each end of the block, and it was
23 my feeling that if there is by chance any problem with that, that
24 I would be tough, as far as trespassing laws go, and prosecute.

25 CHAIRPERSON GRIFFIS: Well, here is my

1 understanding. I did make a joke, but I don't take lightly the
2 comment and concern. Rowhouses in the District are very common,
3 and that can be a very common occurrence.

4 And in the best case, they are just being malicious
5 and drinking, and leaving their beer bottles as indicated in the
6 comments here. The worst is actually breaking into houses from
7 the roof tops, all of which the board is aware of.

8 I, when looking at this, actually think that this
9 will mitigate that problem if you actually are able to be, and
10 have a responsible person able to essentially patrol the area
11 while they are up there, and certainly have access to get up
12 there and look up there and to see if anything is happening.

13 So this may actually be a positive step in curing
14 that problem if it is still occurring. Others?

15 VICE CHAIRPERSON RENSHAW: Just to inquire that
16 this is not going to have any awning on it?

17 MR. SCHULTZ: No, this would not have an awning.
18 It is basically my plan to have an open deck and with the railing
19 around, and basically I have some planters with grasses or
20 whatever, but there will be no awning, no permanent awning or
21 anything like that.

22 MR. ACHMED: And I just want to point out that
23 there is a three foot high regulation rail around the deck as
24 well.

25 CHAIRPERSON GRIFFIS: Very well. Any other

1 questions of the applicant? If not, I think we can move on then.

2 Well, thank you very much, but why don't you just stay where you
3 are, however, and let's go to the Office of Planning's report,
4 and if you would like to summarize the record, that would be
5 fine, and highlight some issues for us.

6 Or if you think we need to go through the whole
7 thing, you let me know.

8 Good afternoon, Mr. Chairman, and members of the
9 board. I am Stephen Mordfin with the Office of Planning, and
10 this is with reference to BZA Application 16906.

11 The Office of Planning has recommended approval of
12 this application as submitted by the applicant, and that this
13 application is in conformance with Section 223, to be used as a
14 single-family detached dwelling, and will not substantially
15 intrude on the character, scale, with comparative houses along
16 the street.

17 The lot occupancy is 66.15 percent, which is less
18 than the 70 percent permitted by Section 223.3, and that
19 concludes the briefing by the Office of Planning.

20 CHAIRPERSON GRIFFIS: Thank you very much. Do the
21 Members of the Board have any questions for the Office of
22 Planning? Board Members?

23 VICE CHAIRPERSON RENSHAW: Just to note that it is
24 a very complete report.

25 CHAIRPERSON GRIFFIS: Indeed.

1 MR. ZAIDAIN: Mr. Chair?

2 CHAIRPERSON GRIFFIS: Yes?

3 MR. ZAIDAIN: Actually, I do have a question.

4 CHAIRPERSON GRIFFIS: Okay.

5 MR. ZAIDAIN: And it is more of curiosity. The
6 Historic Preservation Review Board talked about a transmittal
7 letter, dated October 29th, 2001, and it says, "Issue, permit
8 subject to zoning approval." Does that just mean that they
9 approved it pending zoning approval through us; is that correct?

10 MR. MORDFIN: Yes.

11 MR. ZAIDAIN: Okay. I was just kind of wondering.

12 CHAIRPERSON GRIFFIS: Anything else?

13 MR. ZAIDAIN: No.

14 CHAIRPERSON GRIFFIS: Okay. It has been brought to
15 my attention, and I am glad that it has, because dare I question
16 Mr. Bella, who is the previous zoning administrator who wrote the
17 memo of the 15th, but I would reference the board to 2001.3(a),
18 and that actually speaks to the fact that enlargements or
19 additions may be made to a structure provided that the following
20 requirements shall be met.

21 And (a) is that structure shall conform to
22 percentage of lot occupancy requirements. So it is not that the
23 stair goes to expanding a non-conforming lot occupancy, but the
24 fact that it is not conforming to lot occupancy currently, and
25 this addition would then trigger that and bring you in here.

1 So I am glad that we can clear that one up. Okay.
2 We do have submissions from the Fine Arts of the Georgetown
3 Board, which is Exhibit 3, and I would just take note of that.
4 It has been referenced already.

5 ANC-2E has no objection to the request, and that is
6 Exhibit 24 and 26. Do you have those, Ms. Renshaw?

7 VICE CHAIRPERSON RENSHAW: Yes. The August 1st
8 letter, and that is Exhibit Number 26, is signed by Peter
9 Pulsifer, the Chair of ANC-2E, and he states that at a meeting on
10 July 2nd, 2002 seven commissioners were present, constituting a
11 quorum, and they unanimously approved a motion of no objection to
12 the applicant's request for a special exception.

13 Considering the fact that the request is non-
14 conforming and provisions are in response to the neighbor's
15 concern, and we note that there had been a previous letter of
16 September 5th, 2001, where he notes the concerns of neighbors
17 having to do with the stairs, as well as the arbor, and I take it
18 an arbor was proposed at one time?

19 Let me finish here and then you could, Mr. Schultz,
20 mention that. And 2E commended the work that was being done by
21 the architect to address the concern, and at that time ANC-2E
22 approved the concept of the roof deck that would not be visible
23 from public space.

24 And they wanted to see the redesign of the stairs
25 at a future meeting, and obviously that was the case, because on

1 July 2nd, 2002, they passed their unanimous support. So was there
2 an arbor?

3 MR. ACHMED: Yes, initially that was part of the
4 design. It is no longer in the design. Thank you.

5 CHAIRPERSON GRIFFIS: Good. Now would be the time
6 if anyone is here to here from anyone who is here either in
7 support or in opposition, and to come forward and give testimony.

8 Not having an indication of people availing
9 themselves of that, I would turn to you for closing remarks, if
10 needed.

11 MR. ACHMED: None, other than thank you for taking
12 the time to review the application.

13 MR. SCHULTZ: Thank you very much.

14 CHAIRPERSON GRIFFIS: Okay. I would suggest then
15 that we move for the approval of Application Number 16906 for a
16 special exception to allow the roof deck addition to a single-
17 family dwelling under Section 223, which are not meeting the lot
18 occupancy requirements which are in the R District, and listed
19 under 403, the minimum lot dimensions 401, and nonconforming
20 structure provisions, Subsection 2001.3.

21 And if I had looked at the advertising, I would
22 have known where to look to find my own questions answered; at
23 the premises of 1213 □ 34th Street, Northwest. I think this again
24 clearly conforms, and satisfies all the tests under 223.

25 That is, light and air available, and adjoining

1 properties clearly won't be impeded. Privacy use of the
2 adjoining neighbor, again, will not be impacted. In fact, the
3 submitted limited testimony about the adverse impact, this seems
4 like it may actually help alleviate it, if not eliminate that.

5 And the rest I would just say that it is in
6 compliance with (c) and (d), and then 223.3, and 4. With that
7 being said, yes?

8 VICE CHAIRPERSON RENSHAW: Second.

9 CHAIRPERSON GRIFFIS: Thank you very much, Ms.
10 Renshaw. All those in favor?

11 (A chorus of ayes.)

12 CHAIRPERSON GRIFFIS: Opposed?

13 (No audible response.)

14 CHAIRPERSON GRIFFIS: Gentlemen, thank you very
15 much. I assume that you are looking for a summary order; is that
16 correct?

17 MR. ACHMED: I am not sure what that is, but I
18 guess so, yes.

19 CHAIRPERSON GRIFFIS: Very well. A summary order
20 is the more expedited and abbreviated, and it does not go into
21 findings of fact and conclusions of law; and the other obviously
22 takes a little bit longer. So a summary order is okay. That
23 would be my recommendation.

24 MR. SCHULTZ: Thank you very much.

25 CHAIRPERSON GRIFFIS: Thank you all, and let's

1 record that vote.

2 MS. PRUITT: The staff will record the vote as 5-0-
3 0, motion made by Mr. Griffis, and seconded by Ms. Renshaw, and
4 summary order.

5 CHAIRPERSON GRIFFIS: Thank you very much. I think
6 we can move quickly on to the next case, and welcome Mr. Parsons
7 with us.

8 MS. PRUITT: The next case is Application 16909, the
9 Application of Ella L. Toombs, pursuant to 11 DCMR 3104.1, for a
10 special exception to allow a change in a nonconforming use from a
11 grocery store to a grocery store/deli under Subsection 2005.1, in
12 an R-4 District, at 1901 □ 4th Street, Northwest, Square 3089, Lot
13 50.

14 All those planning to testify, could you please
15 stand.

16 (All witnesses were sworn.)

17 MS. PRUITT: Please come forward and be seated.

18 CHAIRPERSON GRIFFIS: Does the applicant want to
19 come forward, and if you would introduce yourself and give your
20 address.

21 MS. TOOMBS: My name is Ella L. Toombs, and my
22 address is 216 Elm Street, Northwest.

23 CHAIRPERSON GRIFFIS: Very well. I will turn it
24 over to you to present your case.

25 MS. TOOMBS: Okay. Fine. That would be fine.

1 CHAIRPERSON GRIFFIS: Good.

2 MS. TOOMBS: I have been a resident of LeDroit Park
3 for about 13 years, and a couple of years ago I purchased what
4 was called at that time the New University Market. We converted
5 the name and also converted the structure as you can tell by my
6 written description.

7 We extensively renovated the site on the exterior,
8 as well as the interior. While those renovations were going on,
9 again this had been a market for over 26 years, and also sold
10 wine and beer.

11 While those renovations were going on, we polled
12 the community as it were through e-mail, as well as through a
13 survey, which the ANC has for your perusal, in order to find out
14 what in fact the community wanted in the New LeDroit Park Market.

15
16 And in addition to the standard grocery and even
17 more so, what they wanted were deli type articles, i.e., salads,
18 sandwiches, donuts, coffee, those types of things.

19 So we went on and continued the design of the space
20 with that in mind, and therefore decided to do that. It was not
21 until, however, I had the Health Department come out in order to
22 do the inspection that I learned that the addition of the deli
23 would require something different zoning wise.

24 Otherwise, I would have obviously applied for that
25 long before, but I just had no idea that you could sell beer and

1 wine, but couldn't sell a bologna sandwich.

2 So that is the point at which we are today. This
3 is a neighborhood facility, and it has been accepted as a market
4 for many years, and the community strongly supports the addition
5 of the deli to it.

6 It doesn't add any addition, in terms of the amount
7 of space that is used up in the market, because essentially by
8 redesigning it, we have made the space much more useable for all
9 practical purposes.

10 And again this is a neighborhood facility, and this
11 is not the type of market that people would drive to. Most of
12 the constituents walk to the market, and this is my case.

13 CHAIRPERSON GRIFFIS: Excellent. Thank you very
14 much. I must say dramatic before and after pictures, and I think
15 you well stated, and perhaps even understated, the amount of work
16 that went into this. Board Members, questions of the applicant
17 specific to the case, and I would refer you to 2003.1, which does
18 talk about whether this would adversely affect the present
19 character or future development of the surrounding areas.

20 I think it is fairly clear that it would not, but
21 any other questions for the applicant at this time?

22 VICE CHAIRPERSON RENSHAW: A question for Ms.
23 Toombs. A statement on your application, where you said that new
24 business cannot survive without this deli, and if you would
25 explain what you mean.

1 MS. TOOMBS: Sure. Just briefly, and a minor point
2 that I think is important. The quality of merchandise in the
3 current location differs somewhat; i.e., there are no -- there is
4 a limited amount of single beers, and there is no blunts, and
5 there isn't anything associated with drug paraphenalia, et
6 cetera, and that may not have been the case in the other market.

7 So that it would be desirable to have the deli as
8 an additional component in order to support the viability of the
9 market.

10 CHAIRPERSON GRIFFIS: The e-mail survey I thought
11 was obviously not scientific, but I think it is a great way to
12 get open feedback on what your clientele is going to be. So are
13 you selling flowers, fresh flowers? I saw that.

14 MS. TOOMBS: No.

15 CHAIRPERSON GRIFFIS: Okay.

16 VICE CHAIRPERSON RENSHAW: But the community has
17 great plans for you.

18 MS. TOOMBS: I know. Well, we are doing the best
19 that we can, but they also wanted to know if we can accommodate
20 them.

21 CHAIRPERSON GRIFFIS: And my point seriously is the
22 fact that I think it is excellent that you actually did that
23 unscientific poll in order to really define your own business,
24 and I think that will define its own success.

25 The other I thought most important thing, it is

1 clearly within our jurisdiction that it changes the modifications
2 and the design, and the plan and all of that under the special
3 exception that you are coming into.

4 And the first thing that I did look at was the
5 store front and the windows, and one of the most impressive
6 things that I found is that they are open, and you can look into
7 them.

8 I do not understand, and I am not a retailer, but I
9 do not understand why people hover those windows, and it seems to
10 be, one, better advertising, and better street frontage, but also
11 I think it is a better atmosphere and environment inside.

12 And so I was happy to see that happening, and I
13 think that will be very successful. Any other questions of the
14 applicant at this time?

15 VICE CHAIRPERSON RENSHAW: You mentioned in your
16 statement of support for changing uses within the structure,
17 Exhibit Number 20, that there were signed petitions. I didn't
18 see any signed petitions there in the file.

19 MS. TOOMBS: Well, I know that the ANC had those,
20 and so I don't think I have them with me today.

21 MR. GYOT: I will deal with that in my testimony.

22 VICE CHAIRPERSON RENSHAW: Very good. Thanks.

23 CHAIRPERSON GRIFFIS: Okay. Anything else at this
24 time? Good. Let's go to the Office of Planning then.

25 MS. RAY: Good afternoon. My name is Benita Ray,

1 and I am with the D.C. Office of Planning and I think the report
2 speaks for itself. We support approval of the project for all
3 the reasons that the applicant has stated, and that you, Mr.
4 Chair, has already stated.

5 I would be happy to entertain any questions that
6 the Board might have.

7 CHAIRPERSON GRIFFIS: Excellent. The Office of
8 Planning will stand on the record with their report, which I
9 think is absolutely appropriate, and based on the nature and the
10 thoroughness of the report itself, and also the great photographs
11 that are attached. Do you have a copy of the Office of Planning
12 report?

13 MS. TOOMBS: No, I don't.

14 CHAIRPERSON GRIFFIS: You should absolutely get
15 one. So we will give it to you on the way out.
16 Any questions for the Office of Planning? Does the applicant
17 have any questions of the Office of Planning?

18 MS. TOOMBS: No, thank you.

19 CHAIRPERSON GRIFFIS: Board Members? Very well.
20 Let us go then to the ANC report, ANC-1B, and I believe there is
21 a representative here. Mr. Gyot, good afternoon to you. How are
22 you?

23 MR. GYOT: Fine. And yourselves?

24 CHAIRPERSON GRIFFIS: Very well. Thank you.

25 MR. GYOT: I apologize for the absence of a letter,

1 but we are talking here about a political phenomenon. I think we
2 all would like to see this. Three hundred people signed the
3 petition.

4 Dr. Toombs called me the evening before our ANC
5 commission, as there was a problem getting on our agenda. Once
6 it was on, there were 10 people from the LeDroit Park Civic
7 Association, and they were testifying in support of this.

8 It is absolutely astounding, and I hope that we get
9 a bench warrant (sic) and also congratulate Dr. Toombs. It is
10 the kind of thing that those of us who deal with people see one
11 or two times in our lives.

12 It is absolutely astounding. The community support
13 is beyond anything that I have ever seen, and despite my advice
14 and instruction, they conducted a political meeting, and tied it
15 into the LeDroit Park Civic Association, and did it with panache.

16 So we have here real civic engagement that goes far beyond one
17 place that entirely changed its character.

18 This is a place where people used to buy drugs, and
19 sit on the corner, and that doesn't happen anymore. Hence, the
20 open windows. We unequivocally, when the ANC voted, we voted
21 unanimously, and we hope that you do also.

22 CHAIRPERSON GRIFFIS: Good. It would be our
23 anticipation on your testimony that you would have a letter
24 submitted for summary action by the ANC?

25 MR. GYOT: Absolutely.

1 CHAIRPERSON GRIFFIS: Okay. And we can take that
2 into the record, and I do know what you meant, but we don't issue
3 bench warrants, but decisions may be made for those that are well
4 within our jurisdiction.

5 MR. GYOT: Thanks for the correction.

6 CHAIRPERSON GRIFFIS: Indeed. Good. Any questions
7 of the ANC member?

8 VICE CHAIRPERSON RENSHAW: Just to ask Mr. Gyot,
9 when was the meeting when you voted on this, if you remember, and
10 also what the quorum was?

11 MR. GYOT: Very good. It was last month's meeting,
12 and the quorum was eight people present, and eight people voting
13 in favor.

14 VICE CHAIRPERSON RENSHAW: And last month's meeting
15 was what date?

16 MR. GYOT: The first Thursday of last month.

17 VICE CHAIRPERSON RENSHAW: All right. So it would
18 be the first Thursday in August?

19 MR. GYOT: Yes.

20 VICE CHAIRPERSON RENSHAW: Thank you.

21 CHAIRPERSON GRIFFIS: Good. Any other questions?
22 Thank you very much, Mr. Gyot.

23 MR. GYOT: Absolutely.

24 CHAIRPERSON GRIFFIS: Ms. Toombs, on your letter,
25 dated May 20, to the Commission, you also indicated that the City

1 Council Member Jim Brown would also like to see this addition in
2 the community. Did he have a letter of submission on this
3 application?

4 MS. TOOMBS: I don't think he has one in your
5 folder, but there was supposed to be one, and so maybe one will
6 be forthcoming.

7 CHAIRPERSON GRIFFIS: Okay. And we can add it into
8 the file, if needed. We need to have you turn that mike off.
9 Thank you. Okay. I do not see any other government or agency
10 reports at this time. So we can go to any persons wanting to
11 testify in regards to this case, either in support or opposition.

12 If not, in which case I will turn it over to you,
13 Ms. Toombs, for any final remarks.

14 MS. TOOMBS: I don't really have any final remarks.
15 I thank you for your compliments. It was hard work, but I think
16 the success of it will be its own reward, and that's all that I
17 can say. Thank you.

18 CHAIRPERSON GRIFFIS: Good.

19 VICE CHAIRPERSON RENSHAW: And just to clarify, Ms.
20 Toombs, that this is open seven days a week?

21 MS. TOOMBS: Correct.

22 VICE CHAIRPERSON RENSHAW: And the hours?

23 MS. TOOMBS: The hours are like 8:00 a.m. to 10:00
24 p.m. currently.

25 CHAIRPERSON GRIFFIS: Excellent. Any other

1 questions, Board Members, or deliberations? If not, I would then
2 ask for -- I would move for approval of Application 16909, for a
3 special exception to allow the change of nonconforming use from a
4 grocery store to a grocery store/deli, under Subsection 2003.1.

5 The premises are located at 1901 □ 4th Street,
6 Northwest.

7 MR. ZAIDAIN: I so move.

8 CHAIRPERSON GRIFFIS: Thank you very much, Mr.
9 Zaidain. I don't think I need to run through the entire case
10 again. However, I think we have flushed out most of the issues
11 that are pertinent in fact under 2003.1 in this case, and that
12 this case clearly meets those.

13 And that the Office of Planning did an excellent
14 job in outlining their analysis in regards to the requested
15 zoning relief. So I can turn to others for deliberative
16 comments. Not seeing an indication of that being needed, I would
17 ask for all of those in favor to signify by saying aye.

18 (A chorus of ayes.)

19 CHAIRPERSON GRIFFIS: And opposed?

20 (No audible response.)

21 CHAIRPERSON GRIFFIS: Thank you all very much. I
22 propose that we do a summary order on this also, unless otherwise
23 requested. Will a summary order be okay? Great.

24 MS. TOOMBS: Thank you very much.

25 CHAIRPERSON GRIFFIS: And thank you very much.

1 MS. PRUITT: The staff will record the vote as 5-0-
2 0, motion made by Mr. Griffis, and seconded by Mr. Zaidain, and
3 summary order.

4 CHAIRPERSON GRIFFIS: Let's move on then and call
5 the last case of the day if I am correct.

6 MS. PRUITT: The last case of the afternoon is
7 16910, Application of The Family Place, pursuant to 11 DCMR
8 3104.1, for a special exception to continue to operate a
9 community center, last authorized by BZA Order Number 15530,
10 under Section 209, in an R-5-B, at the premises of 3309 □ 16th
11 Street, Northwest, Square 2676, Lot 469.

12 All those planning to testify, could you please
13 stand.

14 (All witnesses were sworn.)

15 MS. PRUITT: Could the applicant come forward. Mr.
16 Chair, before we start, there is one preliminary matter that the
17 staff would like to address. In reviewing this, this application
18 is a continuation of a case that was approved by the BZA in 1991,
19 and it expired last year.

20 At that time though, it was reviewed under Section
21 209. In 1999, there were new regulations put forth for community
22 service centers. And this is actually a community service center
23 under Section 334.

24 It is really more catering to exactly what they
25 applied for, or exactly what they do, and when they first

1 applied, that section was not available. So we are suggesting
2 that it be amended. I have talked to the applicant, and they are
3 aware that there is some changes, and that their submission does
4 really address them.

5 And OP has submitted also a supplemental report
6 dealing with the criterion of 334. They reviewed it under that
7 section also for you, and you have got those today.

8 CHAIRPERSON GRIFFIS: Okay. And this is reviewed
9 under a supplemental report; is that correct?

10 MS. PRUITT: Correct.

11 CHAIRPERSON GRIFFIS: Okay. We will have them walk
12 through that. Board Members, any note of difficulty in
13 advertising? Clearly, it was advertised as a community center,
14 and it would probably have been advertised as a community service
15 center, and not a whole world of difference in terms of people
16 understanding what it is.

17 And I think we can amend the application and hear
18 the case, unless anyone has an objection. Does the applicant
19 have any objection to that?

20 MR. RICHARDSON: No.

21 CHAIRPERSON GRIFFIS: Probably no. Do you have an
22 objection to us hearing the case, and amending it to come under
23 Section 334?

24 MR. RICHARDSON: No objection.

25 CHAIRPERSON GRIFFIS: Okay. Great. Thanks. And

1 why don't we move ahead then and I will turn it over to you for
2 introduction of yourself to the panel, and you may proceed.

3 Mr. RICHARDSON: Mr. Chairman, and Members of the
4 Board of Zoning Adjustment, my name is Robert Richardson. I am
5 an attorney licensed to practice in the District of Columbia.

6 I appear before you today as the applicant and as
7 the Chairman of the Board of The Family Place. I signed the
8 application for an unlimited continuation of the special
9 exception that The Family Place has had since 1991, as a
10 community center for the past 17 years.

11 I understand that the application is under Section
12 334, since that was adopted after 1991 when we were granted under
13 209. The continuation of the services application is the third
14 time for The Family Place to have been before this board.

15 We were granted a special exception in 1985 for two
16 years modified, to five years in '86, and granted 10 years in
17 1991. We seek an indefinite continuation of the operation of the
18 community center, which has been a vital part of the community
19 for the last 22 years, 17 at our present location.

20 I am pleased to appear before you today in this
21 continuation of operations hearing on behalf of our 15 member
22 Board of Directors, 8 member staff, and the more than 200
23 families that The Family Place serves every year.

24 I would like to very briefly make an oral review of
25 The Family Place, and then let Camille Fountain, immediately on

1 my left, our executive director, outline our administrative
2 structure, and then let Elena Aguilar on my further left, our
3 program coordinator, to share with you the life-changing services
4 offered to participants, many of whom find The Family Place a
5 sanctuary for the new land or transitions to a new land may be
6 eased.

7 The Family Place has been in Ward One for 22 years,
8 and then at our present location for 17 years, principally
9 providing counseling services, pre-natal services, to pregnant
10 women. That is our core mission when we started, and it is
11 essentially our core mission today.

12 Along with the pre-natal services, we provide
13 family counseling services. Most of our clientele are Hispanic
14 immigrants, newly arrived to this country, and they find The
15 Family Place a welcome environment for them making the transition
16 to America.

17 For the last 17 years at our present location, The
18 Family Place has been a good neighbor, in compliance with all
19 statutorily and regulatory requirements, and fulfilling our core
20 mission as I outlined above.

21 Our documented experience is that, and the skills
22 that we help new immigrants with enhance their life skills, and
23 enhance the community, and enhance the ability of them to be good
24 parents.

25 The Family Place has deep and wide roots in the

1 community, the community being the Mount Pleasant, Adams-Morgan,
2 Columbia Heights area. Members of our board live, work, and
3 worship in the neighborhood. Three members live in the
4 neighborhood on Euclid Street, Brown Street, and 16th Street,
5 Northwest.

6 Another board member manages a neighborhood book
7 shop; while yet three others worship within walking distance of
8 The Family Place. One board member is a physician researcher at
9 Children's Hospital.

10 And one is a nurse educator at Howard University,
11 and four are human service providers, with an emphasis on early
12 childhood education. Several, unfortunately, like myself, are
13 attorneys, including a retired Federal Judge and a business
14 executive.

15 Our board and staff reflect the culture and
16 economic diversity of the neighborhood. Over the summer, since
17 we have filed our application, I and staff members appeared at
18 three ANC meetings to explain our application, and to listen to
19 objections from our neighbors, and to try to remedy any
20 conditions that the neighbors felt were not in harmony with our
21 application.

22 One of the things that we did to become more
23 neighborhood friendly, the neighbors stated that our sign above
24 the house was not neighborhood friendly in a residential
25 neighborhood.

1 So we removed the larger sign and kept a very
2 small, unobtrusive sign on the side. But the larger sign had
3 been there for 17 years without anyone complaining about it, but
4 in the spirit of becoming neighborhood friendly, we removed the
5 sign.

6 We are committed and enthusiastic about the work
7 that we have been doing on behalf of children and families, while
8 in harmony with our neighbors, and in compliance with all
9 applicable regulations. I would like now to turn over to
10 Camille Fountain, our executive director, who will explain
11 briefly our administrative structure. When we finish, and Ms.
12 Aguilar finishes, we would be pleased to answer any questions you
13 may have.

14 MS. FOUNTAIN: Hi, I am Camille Fountain, the
15 executive director of The Family Place, and have been here for --
16 it will be four years in November of this year.

17 The Family Place has an annual operating budget and
18 has maintained this level of approximately \$500,000 since the
19 time that I have been there. This year the budget is actually
20 \$434,581.

21 We receive or we get funding from individuals,
22 churches, organizations, and we get government support from the
23 Office of Latino Affairs, and we have support from the D.C.
24 Public Schools Even Start Program.

25 We also receive funds from foundations, and some of

1 our largest foundation support comes from The Cafitz Foundation,
2 the Freddie Mac Foundation, the Mirah Fund, and the Maddox
3 Foundation.

4 We have a staff of eight full-time employees, and
5 four of them don't drive at all, and the four of us that do
6 drive, there is two spaces in the back of the house, and the
7 other two use street parking, usually on Monroe Street or the
8 surrounding area.

9 The staff that operates the facility or the program
10 is myself as the executive director, and we have an
11 administrative assistant, and we basically provide the financial
12 and administrative oversight.

13 Elena, who will talk to you later, is the program
14 coordinator, and she coordinates and implements the programs,
15 with the help of an in-take person, who does receptionist and in-
16 take responsibilities, and two family support workers, and two
17 early childhood assistants that provide child care while parents
18 attend our classes.

19 The staff that I have just listed and just talked
20 about provide services through emergency and drop-in services,
21 that include where people will come in and ask for emergency
22 financial assistance to help pay their rent, and mortgage, and
23 utilities.

24 And we receive funds sometimes from FEMA, and right
25 now we are getting funds from the D.C. Health Fund to help with

1 emergency assistance, and our in-take person helps with that.

2 People will come in and ask for diapers, clothes,
3 food, or whatever, and our in-take person facilitates that. They
4 also □- we also do case management, and each family that wants to
5 maintain a long term relationship will be assigned a family
6 support worker, where the family support worker establishes first
7 a very good connection with the family, so that they build trust.

8 And work with the families to help them through
9 their problems, and we usually work with them in establishing
10 goals -- you know, life goals, and will work with them in
11 whatever way, and Elena will talk to you about that in a little
12 bit of how the family support workers do their work.

13 We also do pre-natal parenting, and ESL classes
14 through our educational component, where parents receive pre-
15 natal education, parenting education, and through the D.C. Public
16 School's grant that I mentioned, we have an even start grant,
17 where families learn -- it is a four component program, where
18 families learn -- we have adult education, which is ESL, and
19 while the parents are taking that, the children of those parents
20 -- and ESL is, □English as a second language.□

21 And while the parents are in the □English as a
22 second Language□ class, the child is attending age appropriate
23 early childhood education classes, with a licensed or
24 credentialed child development associate person. They all
25 require --

1 CHAIRPERSON GRIFFIS: I think what you will need to
2 do is just focus, because although it is an excellent program as
3 you are outlining, and it is an important piece, our jurisdiction
4 doesn't go into the extent of your presentation, and we need to
5 know the --

6 MS. FOUNTAIN: Okay. You don't want to know the
7 details of the program then?

8 CHAIRPERSON GRIFFIS: Well, the initial piece under
9 3104 is, are you a non-profit organization.

10 MS. FOUNTAIN: Yes.

11 CHAIRPERSON GRIFFIS: And what we would need a
12 submission of is are you a 501(c)(3); is that correct?

13 MS. FOUNTAIN: Yes.

14 CHAIRPERSON GRIFFIS: So if we could have that, and
15 I may have missed it in my file, but if not, we will just have
16 that submitted, and a verification of that. Clearly that is one
17 of the tests, or one of the provisions in the regulation.

18 MS. FOUNTAIN: Okay.

19 CHAIRPERSON GRIFFIS: The other -- you have talked
20 about a couple of things. First of all, hours of operation, and
21 when do you open and when do you close.

22 MS. FOUNTAIN: From 9:00 a.m. to 7:30 p.m. is our
23 proposed operational hours. We are usually open from 9:00 to
24 5:00, but occasionally we will have an evening class that will
25 extend until 7:30.

1 CHAIRPERSON GRIFFIS: Okay. And that is in fact,
2 if I am not mistaken, that was in the previous order also; am I
3 correct?

4 MS. FOUNTAIN: Yes.

5 CHAIRPERSON GRIFFIS: Indeed. Okay. And your
6 attorney had indicated that there were presentations by you at
7 the ANC meetings; is that correct?

8 MS. FOUNTAIN: Yes.

9 CHAIRPERSON GRIFFIS: Let me get directly to my
10 point. Actually, I am jumping ahead to the Office of Planning
11 report, but there is a mention that there was an affidavit that
12 was given to the ANC about the condition of the building of which
13 you occupy now. Is that correct?

14 MS. FOUNTAIN: Yes, Mr. Chairman.

15 CHAIRPERSON GRIFFIS: And was that submitted into
16 this record?

17 MS. FOUNTAIN: Yes, it was, I believe.

18 CHAIRPERSON GRIFFIS: Okay. Do other board members
19 have that, because if I saw it, I did not take it as what I
20 thought it was. If we could find that and give me an exhibit
21 number on it that would be grand.

22 Also, when you do in-take for emergency care, what
23 is your in-take procedures, in terms of do you take a name and an
24 address of a person, and are records kept on the drop-in basis?

25 MS. FOUNTAIN: Yes.

1 CHAIRPERSON GRIFFIS: And then for continuing long
2 term cases, you also have an in-take obviously that that was the
3 fact?

4 MS. FOUNTAIN: Yes.

5 CHAIRPERSON GRIFFIS: What is the percentage of
6 your clientele that lives in the general area?

7 MS. FOUNTAIN: Well, 95 percent.

8 CHAIRPERSON GRIFFIS: Okay. So in terms of that,
9 one of the provisions that we clearly look at is that it is
10 necessary and convenient in the neighborhood, and it is serving
11 the existing adjacent neighborhood.

12 So you would say that the majority of your
13 clientele come from the Columbia Heights, Mount Pleasant area; is
14 that correct?

15 MS. FOUNTAIN: Yes, and Adams-Morgan.

16 CHAIRPERSON GRIFFIS: And Adams-Morgan. Okay.
17 Good. Did anyone find that?

18 MR. RICHARDSON: Mr. Chairman, if it is not in your
19 packet, I can provide you a copy of it.

20 CHAIRPERSON GRIFFIS: Do you have it with you?

21 MR. MOORE: No.

22 CHAIRPERSON GRIFFIS: Do you have a copy of that
23 document?

24 MS. FOUNTAIN: The affidavit?

25 CHAIRPERSON GRIFFIS: Yes. We may be looking at it

1 and not know what it is. But I don't think so. If you wouldn't
2 mind handing it to the staff up here. Oh, you have additional
3 copies?

4 MS. FOUNTAIN: Yes.

5 CHAIRPERSON GRIFFIS: Fabulous. Make sure you keep
6 one and give us one that won't be returned, and we can make
7 additional copies if needed. 334.3 indicates that no structural
8 changes shall be made, except those required by other municipal
9 laws or regulations. Have you made any structural changes on the
10 property at all?

11 MS. FOUNTAIN: No.

12 CHAIRPERSON GRIFFIS: Talk to me a little bit about
13 Mr. Finnegan, I believe, who resides -- is that an adjacent
14 property, 3311 □ 16th Street?

15 MS. FOUNTAIN: Yes.

16 CHAIRPERSON GRIFFIS: Thank you very much. Also
17 presented at the ANC and was concerned about the condition of the
18 rear of the structure, and also about a homeless person who
19 trespasses on the property, and a lack of maintenance of The
20 Family Place property. Are you aware of those concerns?

21 MS. FOUNTAIN: Yes. Yes, we are.

22 CHAIRPERSON GRIFFIS: Okay. Do you want to just
23 address those a little bit for us?

24 MS. FOUNTAIN: Sure. Mr. Richardson will respond.

25 CHAIRPERSON GRIFFIS: Just a second. Board

1 Members, have you seen this?

2 MS. RENSHAW: I just got it.

3 CHAIRPERSON GRIFFIS: Okay. We are going to take
4 this in as a submission to the record, and it will be --

5 MR. RICHARDSON: We entered it earlier through Mr.
6 Moore, and it should be in the record, but you may keep those
7 copies.

8 CHAIRPERSON GRIFFIS: Through who? Oh, I'm sorry.

9 MS. FOUNTAIN: Through the Office of Planning.

10 MR. MOORE: Mr. Chair, they did provide me a copy;
11 however, I have not --

12 CHAIRPERSON GRIFFIS: Okay. I'm sorry. I was
13 trying to find a Moore in the Office of Zoning. So now it is
14 there as Exhibit 33, and everyone has it, and it is in the
15 record. Okay. Yes, sir?

16 MR. RICHARDSON: The concerns as I indicated in my
17 opening statement, that we went to three community meetings over
18 the summer, and explained to the members of the community, and
19 listened to the concerns of the neighbors, we first spoke with
20 the neighbor, Mr. Finnegan, back in April.

21 We asked him for a list of his complaints that he
22 was concerned about, and he did not give us anything in writing.

23 He just orally talked about complaints. We wrote him a letter
24 and asked for complaints.

25 At the first ANC meeting, he then presented a list,

1 which we first saw at that meeting. It sort of blindsided us in
2 terms of his issues. Then we had some □-

3 CHAIRPERSON GRIFFIS: Well, let's get to the
4 substance.

5 MR. RICHARDSON: The substance basically is that he
6 was concerned about a homeless man who slept on our porch from
7 time to time, who urinated, he said. We called the police every
8 time we were alerted to it.

9 As Ms. Fountain indicated, we normally close up at
10 five o'clock, and the homeless person came after dark. What we
11 tried to do was that we submitted or we installed some lights on
12 the porch, motion detector lights, so when someone would come,
13 the lights would come on.

14 That didn't deter him. We called the police every
15 time that we knew that he was there, and the police came from
16 time to time. Of course, we never knew that he was there,
17 because no one was there between 5:00 and 9:00 the next morning,
18 but the neighbor knew that he was there, and we suggested that he
19 call the police whenever he saw the homeless man.

20 Finally, we went to Council Member Jim Brown, and
21 this was August, and I met with him about the homeless person.
22 He, in-turn, contacted the D.C. Community Health, which relocated
23 the homeless person to a shelter, because the person had some
24 problems, and that was taken care of. So that situation has been
25 resolved.

1 MS. FOUNTAIN: And he hasn't returned.

2 CHAIRPERSON GRIFFIS: And this has been since when
3 that this has not happened again?

4 MR. RICHARDSON: This has been since April, and we
5 have not seen him since then, since he was relocated by
6 Councilman Brown's office.

7 CHAIRPERSON GRIFFIS: Okay.

8 MR. ETHERLY: Mr. Chair.

9 CHAIRPERSON GRIFFIS: Yes, Mr. Etherly?

10 MR. ETHERLY: Just as a point of clarification.
11 The affidavit is very, very helpful, and so thank you for
12 submitting that, but I just want to be clear. On the final sheet
13 of the three page affidavit submission, there appears to be a -
14 I believe it is a separate list which describes Mr. Finnegan's
15 complaints, and I just wanted to make sure that was actually the
16 case.

17 MR. RICHARDSON: The parking in the front or the
18 back of The Family Place?

19 MR. ETHERLY: Yes. So that is just a list of all
20 the complaints that you have received from Mr. Finnegan?

21 MR. RICHARDSON: Yes.

22 MR. ETHERLY: Thank you. Thank you, Mr. Chair.

23 MR. RICHARDSON: All of these issues were addressed
24 at the ANC meeting, and we provided copies of this at the ANC,
25 and to the ANC members. I think I see an ANC person in the room

1 who will testify to that, that we did provide that.

2 And the issues have basically been taken care of,
3 and when the agency talks about parking, we have two spaces in
4 the back, and trash is collected twice a week.

5 There was a deck on the rear of The Family Place,
6 which is no longer there. We tore that down to prevent people
7 from using it in the evening at night when we were not there. We
8 were trying to be a good neighbor.

9 And he complained about the deck, and so we took
10 the deck down to prevent people from using the deck in the
11 evening for whatever activities they were using it for when no
12 one was there.

13 CHAIRPERSON GRIFFIS: Okay. And the photographs
14 are depicting the new access stairs going up to the building; is
15 that correct?

16 MS. FOUNTAIN: Right.

17 MR. RICHARDSON: We have access stairs in the back,
18 yes, but those -- before those stairs were there, there was a
19 deck there, but the deck was taken down. You can't get into the
20 building.

21 CHAIRPERSON GRIFFIS: We are establishing and
22 looking at current conditions, and the exterior lighting on the
23 building, where is it located?

24 MR. ETHERLY: As far as the rear of the property.

25 MR. RICHARDSON: This is the rear, yes.

1 MR. ETHERLY: Is it just the motion --

2 MR. RICHARDSON: No, the motion detectors are in
3 the front, the front porch. The deck attracted people in the
4 back. Once we took that down, that went away. The motion
5 detector is in the front porch, but we have had no problems since
6 the homeless person has been relocated.

7 CHAIRPERSON GRIFFIS: Do you have exterior lighting
8 in the rear of the property?

9 MS. FOUNTAIN: Yes.

10 MR. RICHARDSON: I'm sorry?

11 CHAIRPERSON GRIFFIS: Exterior lighting in the rear
12 of the property?

13 MS. FOUNTAIN: Yes, we do.

14 MR. RICHARDSON: Yes.

15 CHAIRPERSON GRIFFIS: And that is -- is it motion
16 detected, or is it just on?

17 MS. FOUNTAIN: It is a light that we cut on when we
18 leave.

19 CHAIRPERSON GRIFFIS: So it stays on all night
20 until you return?

21 MS. FOUNTAIN: It stays on all night, but we are
22 trying to do some changes to the back, in terms of the lighting
23 and a fence. The fence, actually, I am waiting for the person to
24 tell me when they are going to come and install the fence. I
25 have already signed the agreement.

1 CHAIRPERSON GRIFFIS: The fence that would what,
2 cover the back?

3 MS. FOUNTAIN: It would cover the whole back. It
4 will not allow any outside person in.

5 CHAIRPERSON GRIFFIS: So it will enclose the
6 property?

7 MS. FOUNTAIN: Yes.

8 CHAIRPERSON GRIFFIS: And it will be gated so that
9 you can open it up and park?

10 MS. FOUNTAIN: It will be chained and locked.

11 VICE CHAIRPERSON RENSHAW: Do you have a permit for
12 the fence?

13 MS. FOUNTAIN: No, we have not proceeded with it
14 yet.

15 MR. RICHARDSON: The fencing area is way too
16 to secure the property and the rear, and to protect our parking
17 spaces, because in the evening when we leave at 5:00 or 6:00
18 o'clock, neighbors park there in the neighborhood, because
19 parking is very scarce in the neighborhood.

20 Often times in the morning, we have to fight to get
21 the neighbors to move their cars out of our space. So the
22 fence would be a way that we can secure the property, and keep
23 it private, in terms of parking.

24 MS. RENSHAW: I just brought it up, because you
25 will need a permit to install the fence.

1 MR. RICHARDSON: Yes.

2 VICE CHAIRPERSON RENSHAW: Do you have a permit for
3 the fence in the front, or is that considered a railing?

4 MR. RICHARDSON: The fence in the rear you mean?

5 VICE CHAIRPERSON RENSHAW: No, in the front.

6 MR. RICHARDSON: We don't have -- you mean that
7 little white fence that you are looking at? Oh, that has been
8 there for a long time.

9 VICE CHAIRPERSON RENSHAW: Is that considered a
10 railing or a fence?

11 MR. RICHARDSON: I think it is considered a railing
12 for people to walk along. I'm not sure how I would classify
13 it. That little white thing has been there --

14 VICE CHAIRPERSON RENSHAW: That little white thing.

15 MR. RICHARDSON: Yes, what you are looking at in
16 the photograph.

17 MS. FOUNTAIN: I would say it is a railing.

18 CHAIRPERSON GRIFFIS: And just because it has been
19 there for a long time doesn't mean that it is not -- well, that
20 it is conforming or properly done, but it does look to be a
21 railing for access up to the front of the house.

22 VICE CHAIRPERSON RENSHAW: Well, I would just
23 suggest that if you are going forward with permits for fencing
24 in the back that you might want to include the front and just
25 get it all taken care of.

1 MR. RICHARDSON: Okay. We will do that. Thank
2 you.

3 CHAIRPERSON GRIFFIS: Item -- the top item is from
4 the adjacent neighbor and speaks to management budget, and you
5 have given us the total budget of The Family Place this year.
6 Is there a certain percentage that is set aside for maintenance
7 on the building?

8 MS. FOUNTAIN: It is not a certain percentage. We
9 always make sure that there is some amount of funds available
10 for maintenance of the building.

11 CHAIRPERSON GRIFFIS: I see. Okay. Any other
12 questions?

13 MR. ETHERLY: Just one final question, Mr. Chair,
14 just to get a sense of the proximity of Mr. Finnegan's
15 property. I am looking at Exhibit 4, which is included in our
16 record as three photographs, one of the rear and one of the
17 front, and then kind of a larger, broader view of the front.

18 Mr. Finnegan's property -- and it might be
19 difficult for you to see this picture here, but you see I am
20 holding up Exhibit Number 4 of the rear of your property. Mr.
21 Finnegan's property is that?

22 MS. FOUNTAIN: Yes.

23 MR. ETHERLY: And I am pointing to what appears to
24 be a property to the left, and as you are facing away from the
25 rear of the subject property. Okay. Thank you. I just wanted

1 to get a sense of the proximity of his property.

2 And is that a chain-linked fence that separates The
3 Family Place property?

4 MS. FOUNTAIN: Yes, it is.

5 MR. ETHERLY: Okay. Thank you very much. Thank
6 you, Mr. Chair.

7 VICE CHAIRPERSON RENSHAW: Does his property have a
8 for sale sign in the front?

9 MR. FOUNTAIN: His property has a for rent sign.
10 He is renting his basement.

11 CHAIRPERSON GRIFFIS: Okay. Any other questions at
12 this time from the Members of the Board? If not, I think we
13 can proceed, unless there are further indications or further
14 testimony you want to present.

15 MR. RICHARDSON: No, we're fine. We will answer
16 any questions that you may have.

17 CHAIRPERSON GRIFFIS: Yes, I think that will
18 probably facilitate being more effective if the board members
19 were to do that, because our jurisdiction is going to be under
20 334, and so if we point our questions to that.

21 Let's go to the Office of Planning then, and
22 welcome them, and get their report. Mr. Moore.

23 MR. MOORE: Good afternoon, Mr. Chair and Members
24 of the Board. I am John Moore from the Office of Planning. We
25 did a supplemental report to reconcile 3104 as opposed to 209,

1 and we were just informed of that today, this afternoon here,
2 and it is not a hundred percent correct.

3 There is a reference to 209 still in the report, in
4 the summary, at least. But the Office of Planning believes
5 that the applicant has made his case, and we support the
6 application, and hope that the board will do the same. If
7 there are any specific questions that you have for the Office
8 of Planning, we would be glad to answer them.

9 CHAIRPERSON GRIFFIS: Mr. Moore, did you do the
10 site visit?

11 MR. MOORE: Yes, I did, three times.

12 CHAIRPERSON GRIFFIS: And did you have any concerns
13 with the condition of the property?

14 MR. MOORE: There is in my mind in the rear, where
15 the alley is located, where the District is responsible for,
16 that it was not as clean as it should be. In the rear of the
17 property, there are some real issues that have already been
18 articulated by the applicant.

19 They have a chain that they put up in the rear of
20 the property for allowing no parking when they are not there,
21 and I can understand that, as they are not there during the
22 night time.

23 They have adequate lighting on the building, front
24 and back. And the fact that there is no one there at night
25 time means that the building is (inaudible) as well as the

1 neighbor, but (inaudible).

2 CHAIRPERSON GRIFFIS: Okay. Others?

3 MR. ETHERLY: Mr. Chair, a question back to the
4 applicant, and then I will come to Mr. Moore. I know that this
5 is going to take a little flushing out on the parking side.
6 With regard to the two staff members having parking spaces on
7 the rear of the property, and you have two other staff members,
8 and so that is a total of four out of the total of eight staff
9 members that you currently have. The other two park on the
10 street.

11 Mr. Moore, could you recall what the parking
12 restrictions were for the neighborhood? Is it residential
13 sticker parking, or --

14 MR. MOORE: Most of it is sticker parking. I think
15 on Monroe that you can park without a sticker.

16 MR. ETHERLY: Okay. For either Mr. Richardson or
17 Ms. Fountain, you don't recall running into any concerns or
18 complaints expressed by neighbors on the part of the other two
19 staff members who are parking on the street?

20 MS. FOUNTAIN: No, because there is ample street
21 parking. I mean, as you are aware, Monroe Street, from 14th to
22 16th Street, is a very long block, and there is ample parking,
23 and zoned parking for the staff to move their cars; and on 16th
24 Street, you can park for a few blocks between 9:30 and 4:00.

25 MR. ETHERLY: Okay. And once again you have at

1 present a total of eight staff members, and that with the
2 existing order which we are looking at does allow the applicant
3 to move to as many 13 employees, but at this juncture, there
4 aren't any plans or any considerations being given to expanding
5 your work force?

6 MS. FOUNTAIN: No.

7 MR. ETHERLY: And the center itself doesn't
8 maintain its own vehicle, like a van or anything like that?

9 MS. FOUNTAIN: No.

10 MR. ETHERLY: Okay. Okay. Thank you, Mr. Chair.
11 Thank you, Mr. Moore.

12 VICE CHAIRPERSON RENSHAW: Mr. Chairman, a question
13 for Mr. Moore. Was your report on the application run by the
14 fire department?

15 MR. MOORE: No, Ms. Renshaw, we didn't.

16 VICE CHAIRPERSON RENSHAW: I am just looking at or
17 focusing on the back stairs, and wondering if not this is a
18 fire exit, and whether those stairs have to be metal instead of
19 wood?

20 MR. MOORE: I made a mention of that during my tour
21 of the site, and I believe that the back stairs were up to
22 standards. But I ran it by the fire department, and that could
23 be considered as a fire exit.

24 CHAIRPERSON GRIFFIS: Was there a permit pulled on
25 the construction of those stairs?

1 MS. FOUNTAIN: We are in the process, but we were
2 waiting for the decision here to reconstruct a porch. As Mr.
3 Richardson said, we took down the deck, and we are in the
4 process of applying for a permit so that we can construct a
5 porch.

6 So those steps are temporary steps and actually we
7 should be getting a permit within the next two weeks. It is
8 our assumption that we can't get a permit until this process is
9 finished with, with this filing.

10 CHAIRPERSON GRIFFIS: Did you happen to retain the
11 documentation on your old deck?

12 MS. FOUNTAIN: Pictures.

13 CHAIRPERSON GRIFFIS: Well, pictures probably, but
14 any drawings or anything of that nature?

15 MS. FOUNTAIN: No, that was prior to my arriving.

16 CHAIRPERSON GRIFFIS: Well, I will give you some
17 advice, which is out of our scope right now, but don't destroy
18 any evidence of your past deck. So with that being said, take
19 it for what it is, and let's move on. Any other questions for
20 the Office of Planning?

21 Good. Mr. Moore, in your investigation, you
22 mentioned that there were two previous orders. Did you get any
23 evidence that there was non-compliance with any of the
24 conditions or the previous orders?

25 MR. MOORE: No, Mr. Chairman, I didn't observe any.

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CHAIRPERSON GRIFFIS: Okay. And the applicant, would you say the same? Is it your understanding that you are in compliance with the current orders?

MR. RICHARDSON: Yes, we are.

CHAIRPERSON GRIFFIS: Okay.

VICE CHAIRPERSON RENSHAW: Mr. Chairman, I would just like to ask the applicant why the applicant did not come in earlier than this. If your order to operate the facility expired in August of 2001, what prevented you from coming in earlier than this?

MR. RICHARDSON: Administrative oversight, Ma'am.

VICE CHAIRPERSON RENSHAW: When did you discover the --

MR. RICHARDSON: We discovered it in April of this year.

VICE CHAIRPERSON RENSHAW: Okay. Thank you.

CHAIRPERSON GRIFFIS: And what provisions are you making now, in terms of monitoring any other orders or approvals by the city? For instance, how do you keep track of your licensing provisions in the facility?

MS. FOUNTAIN: We are aware now of things, and my responsibilities as executive director is to monitor and check on that. So, I do that personally.

CHAIRPERSON GRIFFIS: I see. However, this Board

1 has seen numerous cases where executive directors change, and
2 then come in and say, well, I'm new and I wasn't around when
3 that happened. So I didn't know it was there. What sort of
4 record keeping or provisions do you have --

5 MS. FOUNTAIN: We have a standards or operations
6 procedure manual which we are -- which I am compiling now, and
7 we are making note of, so that we have a historical document in
8 the agency for any predecessors to refer to.

9 CHAIRPERSON GRIFFIS: Excellent. I think that is
10 absolutely appropriate. Okay. Anything further from the OP at
11 this time? If not, we can move on to -- well, let us look. We
12 do have a letter of support from Harold Brazil, Council Member,
13 Exhibit Number 30.

14 That is not the council member that helped you with
15 the homeless problem, however; is that right?

16 MS. FOUNTAIN: No.

17 MR. RICHARDSON: No, it was Council Member Graham.

18 CHAIRPERSON GRIFFIS: Indeed. Do you have a letter
19 from Council Member Graham?

20 MR. RICHARDSON: No, we do not.

21 CHAIRPERSON GRIFFIS: Okay. Let's move to ANC-1A
22 then, and I believe we have a representative from the ANC here.

23 MR. RICHARDSON: Yes, that is correct.

24 CHAIRPERSON GRIFFIS: Ms. McIntire, are you
25 prepared to come forward? Good afternoon.

1 MS. MCINTIRE: Good afternoon. Shall I proceed?

2 CHAIRPERSON GRIFFIS: Please.

3 MS. MCINTIRE: Okay. I hand-delivered the copy of
4 ANC-1A's resolution to the board on August 19th. Do you have
5 that in your file?

6 CHAIRPERSON GRIFFIS: Yes.

7 MS. MCINTIRE: To summarize the ANC at its August
8 13th special meeting, at which seven commissioners were present,
9 and a quorum is five, voted to adopt a resolution supporting
10 the continuation of The Family Place as a community center.

11 The vote was seven to zero, with some conditions,
12 which reflected the concern of the neighbor, and to make a note
13 that we did not ask that the sign be removed, but that it be
14 replaced. We don't want the facility to be invisible, but the
15 sign being smaller, but visible to customers of The Family
16 Place.

17 CHAIRPERSON GRIFFIS: Indeed, and there are
18 regulatory bodies that look at signs, especially in residential
19 neighborhoods. So that would be taken under account by the
20 property owner, I think, to either change the sign or have the
21 existing one. And the other conditions?

22 MS. MCINTIRE: The other conditions were the
23 security on the front and the back, with the homeless person
24 has been discussed here, and that was raised.

25 The maintenance problems of the property that

1 affect the neighbor will be addressed, if they have not
2 already. That's it.

3 CHAIRPERSON GRIFFIS: Are you aware of the
4 specifics in terms of the maintenance of the exterior of the
5 property and the grounds, and also the maintenance that needs
6 to be performed to mitigate that to adjoining properties?

7 MS. MCINTIRE: There was a leak or a gutter that I
8 think was loose that may have been fixed.

9 MS. FOUNTAIN: It was fixed.

10 VICE CHAIRPERSON RENSHAW: Ms. McIntire, you stated
11 in your resolution that you suggest that the special exception
12 be granted for a term of five years; and yet the applicant is -
13 - and I quote - seeking an indefinite continuation.

14 Did you discuss this at length at your ANC meeting,
15 and how did you come upon five years as the term?

16 MS. MCINTIRE: Five years is a compromise between
17 something shorter and something longer. The 10 years, I think,
18 there was some concern that it needed to be reviewed more
19 frequently.

20 VICE CHAIRPERSON RENSHAW: Did the applicant
21 present an indefinite continuation to the ANC, or was it a 10
22 year period, and then you selected the five years as the
23 compromise?

24 MS. MCINTIRE: In the application was an indefinite
25 term mentioned.

1 CHAIRPERSON GRIFFIS: In the opening statement
2 today that was mentioned.

3 MS. MCINTIRE: But in the application to the BZA
4 was it mentioned or not?

5 CHAIRPERSON GRIFFIS: No, I don't think there would
6 have been an opportunity for them to have asked for that. The
7 application itself would have just come in under the
8 requirements, and the extent of time is something that is at
9 the discretion and decided by the board.

10 MS. MCINTIRE: Okay. It was discussed at the
11 meetings. A neighbor, the immediate neighbor who was facing
12 concerns, wanted a period of two years. So that was a
13 compromise between the interests of the immediate neighbor and
14 the interests of the organization, and we went a little longer.

15 CHAIRPERSON GRIFFIS: Okay. And is it the ANC's
16 concern that the building is not in compliance with local
17 building codes?

18 MS. MCINTIRE: Well, since there were some
19 questions about commenting on work that was contemplated in
20 April, it then came up as to whether there may have been issues
21 of permitting for previous work, and to have inspections would
22 resolve any consideration.

23 CHAIRPERSON GRIFFIS: Right. Right. Okay. Does
24 the applicant have any questions of the ANC?

25 MR. RICHARDSON: No questions for the ANC.

1 CHAIRPERSON GRIFFIS: Okay. All right. Do you
2 have any cross-examination of the ANC?

3 MR. RICHARDSON: No examination of the ANC.

4 CHAIRPERSON GRIFFIS: Very well. Board Members,
5 further clarifications? Thank you very much, Ms. McIntire. I
6 appreciate you being here, and presenting this report.

7 And is there anyone else here to give testimony
8 today either in support or in opposition? Moral support from
9 the crowd, but not oral testimony. Very well. Then let us
10 just go to -- we have noted I think eight letters of support,
11 and we are not going to read them all.

12 The Board Members have reviewed them. However, Mr.
13 Etherly, I think, probably has them categorized perfectly.

14 MR. ETHERLY: Mr. Chair, I do indeed have them
15 categorized by letters of support, and I will just note that in
16 particular there is a letter from -- Exhibit Number 29, from
17 Ken Dean, former ANC Commissioner for 1A-05, in support.

18 And also I will note Exhibit Number 27 from Dr.
19 David Hilfiger, and presumably his wife, Marcia Hilfiger, who
20 are owners of the co-op property which sits to the rear of the
21 subject property across the alley, also in support of the
22 application. Thank you, Mr. Chair.

23 CHAIRPERSON GRIFFIS: Thank you very much. Is
24 there anything else that we -- that you are aware of that we
25 are not calling attention to, in terms of submissions or

1 support letters?

2 MR. RICHARDSON: Mr. Chairman, I think there were
3 nine letters. One letter was probably faxed late from the
4 rehabilitation center, our neighbor to our immediate right as
5 we face us two doors down on the corner.

6 We are the third building on 16th Street, and the
7 neighbor on the corner, rehabilitation □-

8 MS. FOUNTAIN: They have that.

9 MR. RICHARDSON: You have that.

10 CHAIRPERSON GRIFFIS: Is that □-

11 MR. RICHARDSON: There were a total of nine, and I
12 thought I heard eight letters, but I counted nine.

13 CHAIRPERSON GRIFFIS: Oh, I see. Well, we made be
14 missing one. That□s interesting. Is that also a community
15 service center, the Bureau of Rehabilitation property at the
16 corner?

17 MR. RICHARDSON: Yes, that is. That is a halfway
18 house basically.

19 MS. FOUNTAIN: It is a halfway house.

20 CHAIRPERSON GRIFFIS: Do you know of any others in
21 the square?

22 MR. RICHARDSON: No, that is the only one that I
23 know of.

24 CHAIRPERSON GRIFFIS: Good. Then I think the
25 record is complete. Board Members, questions for the applicant

1 before I have them give final remarks? Clarifications? If not,
2 very well, I will turn it over to you for any sort of closing
3 statement you might have.

4 MR. RICHARDSON: Mr. Chairman and Members of the
5 Board, I note today that the ANC's concerns were generated by
6 one neighbor, and all the concerns were generated by one
7 neighbor. I note that the neighbor is not here today, and I
8 note that he has not sought party status.

9 And I note that all of his complaints we have
10 addressed in the ANC meetings and to him. So, I think that the
11 complaints that have been raised have been satisfied and
12 rectified, or can be rectified or satisfied through normal
13 enforcement action, and not through this board.

14 And I would ask, therefore, since there is no
15 opposition to our application that there be a summary order
16 entered, or a bench decision, in our favor today. Thank you.

17 CHAIRPERSON GRIFFIS: Thank you very much. Clearly
18 we can do a summary order when there is no opposition.
19 However, that is about as far as to an extent that it goes for
20 us in terms of the case.

21 Clearly, you have to come into the regulations and
22 334 sets those out, and each of those have to be complied with,
23 and that is what we have been investigating today on this case.

24 Although the neighbor as you have stated is not
25 here today, and you have indicated that it is only one neighbor

1 that has the complaint, I think the board, first of all, is
2 aware enough to weigh any sort of testimony or submissions for
3 their own value.

4 I just want to directly and frankly state that this
5 is not a popularity contest. If there is no opposition, it is
6 a successful application; and if there is loads of opposition,
7 then it fails.

8 And we do look at the merits of the case that is
9 provided, and so to that, let me speak my mind. When you
10 indicate -- and I am a little distressed at the -- well, one
11 might say the aggression towards the adjacent neighbor, in
12 terms of just addressing the process and all of that, rather
13 than specifically the issues.

14 But I think you have in terms of the submission of
15 the affidavit and such, but if you look through -- and you just
16 made the statement that it is only one neighbor that is
17 complaining.

18 Well, you only have two letters of support from
19 actual resident neighbors. The rest are institutions. To me
20 in my mind, one could ascertain that, oh, my gosh, the entire
21 block is surrounded by institutions, and that perhaps this is
22 not the correct continued use for this property.

23 We have not gone there, but it just gives you an
24 indication of directions that might have been taken. So, to
25 that, looking at the substantive issues, if we look at 334, I

1 think clearly 334.1 addresses this application.

2 It certainly is an organization that is created for
3 the purpose of improving social and economic well-being for the
4 neighbors and residents. The community service center in point
5 two will be located so as not to become likely objectionable to
6 the neighboring properties because of noise or other
7 objectionable conditions.

8 I want to address some of that in the motion. So,
9 334.3, no structural changes shall be made, except for those
10 required by municipal laws or regulations. I frankly don't
11 understand why that is even in this regulation, because it
12 doesn't make much sense to me. So we will pass that on.

13 However, 334.4, use shall be reasonably necessary
14 or convenient to the neighborhood in which the proposed is
15 located, I think that has also been established by the written
16 submissions, and also the oral testimony today, it is servicing
17 upwards of 90 to 95 percent of its clientele from the adjacent
18 three neighborhoods.

19 And, point five, the community service center shall
20 not be organized for profit. We are having a submission of the
21 502(c)(2) status of the organization.

22 Any other comments by board members? Otherwise, we
23 can go to a motion and I will open with an opportunity.

24 MR. ETHERLY: Mr. Chair, I don't have any further
25 comments. I would be inclined to move approval of Application

1 Number 16910 of The Family Place, pursuant to 11 DCMR, Section
2 3104.1, for a special exception to continue to operate a
3 community center under Section 334, at the premises 3309 □ 16th
4 Street, Northwest. I would be inclined to lead the motion
5 broadly stated at that point, and then in discussion work out
6 the appropriate conditions that would be attached to the
7 motion.

8 CHAIRPERSON GRIFFIS: I think that is a very
9 opportune motion, and why don't we leave a second until we get
10 the conditions, and so let's start with first of all the term.
11

12 The ANC is recommending a condition of 5 years on
13 the order, and I would hear discussion if anyone is opposed to
14 that.

15 MR. ETHERLY: Mr. Chairman, I would not be opposed
16 to a period of five years. I think enough issues have been
17 identified, such that it might be appropriate to revisit the
18 application sooner rather than later, and that is of course not
19 a statement on the good work that the facility has been doing
20 throughout its history and will continue to do.

21 But just in terms of the nature of some of the
22 concerns that have been raised, that it might be appropriate to
23 revisit within five years.

24 VICE CHAIRPERSON RENSHAW: I support that, Mr.
25 Chairman.

1 CHAIRPERSON GRIFFIS: Good.

2 MR. ZAIDAIN: I would agree.

3 CHAIRPERSON GRIFFIS: Okay. Are there other
4 conditions that need to be attached?

5 MR. ETHERLY: The 501(c)(3) should be a condition.

6 CHAIRPERSON GRIFFIS: Indeed.

7 VICE CHAIRPERSON RENSHAW: And the fire department
8 review, which is to be handled through the office of planning,
9 and the report.

10 CHAIRPERSON GRIFFIS: I don't know if we can make
11 that a condition on a zoning order. That would be - in order
12 to get permeated, it is going to have to go through the fire
13 inspector. All I am saying is that, one, it would be
14 redundant, but two, it kind of steps out of our jurisdiction if
15 I am not mistaken.

16 VICE CHAIRPERSON RENSHAW: Well, it should have been
17 part of the OP report, and the OP report is going to be amended
18 then to include fire department review. Is my term or my
19 language correct on that, Mr. Moore?

20 MR. MOORE: I have no problem absolutely doing that.

21 MR. ZAIDAIN: But it would seem that we would need
22 to keep the record open to accept more information.

23 VICE CHAIRPERSON RENSHAW: Or just to anticipate a
24 corrected or an updated Office of Planning report, which will
25 include the Fire Department's or the Fire Marshal's review.

1 CHAIRPERSON GRIFFIS: And the concern is for the
2 rear stair.

3 VICE CHAIRPERSON RENSHAW: Exactly.

4 CHAIRPERSON GRIFFIS: All right.

5 VICE CHAIRPERSON RENSHAW: And possibly a fire
6 escape from the second floor.

7 CHAIRPERSON GRIFFIS: Yes.

8 MR. ETHERLY: So not necessarily a condition, but a
9 clear direction and guidance that □-

10 VICE CHAIRPERSON RENSHAW: For an updated Office of
11 Planning report.

12 MR. ETHERLY: Absolutely. I mean, it might be
13 helpful, Mr. Chairman, perhaps to revisit, or to run through
14 the conditions that were attached to the prior order.

15 CHAIRPERSON GRIFFIS: Right.

16 MR. ETHERLY: And shoot over to the suggested
17 conditions from the ANC, because I think we can deal with the
18 prior order's conditions in relatively short order.

19 CHAIRPERSON GRIFFIS: Okay.

20 MR. ETHERLY: Once again, we seem to have consensus
21 on the five year piece.

22 CHAIRPERSON GRIFFIS: Let me interrupt you though
23 and just state that we can put Ms. Renshaw's concern to rest,
24 and I would say that we do have the Office of Planning refer
25 their report to the Fire Marshal, but we can also write a

1 letter to the DCRA indicating any concerns that you have, in
2 terms of the property.

3 MR. ETHERLY: And to flush out Ms. Renshaw's
4 comment further, that would be with respect to both the rear of
5 the property, the exit stairs, and then also the front
6 railing/fence, depending on what we decide to call that.

7 CHAIRPERSON GRIFFIS: I think you are also talking
8 about whether there is a secondary egress required out of the
9 upper story. So I think it is the whole structure.

10 All right. That is a good point and let's get on
11 to previous orders. Do you want to walk us through that?

12 MR. ETHERLY: Condition Number 2 of the previous
13 order read that two on-site parking spaces shall continue to be
14 provided in the rear yard of the subject property for use by
15 the community center.

16 We have received testimony that those two spaces
17 continue to be available for use by staff, and I would probably
18 suggest continuation of that condition to any subsequent order.

19 CHAIRPERSON GRIFFIS: Excellent.

20 MR. ETHERLY: Condition Number 3 spoke to the hours
21 of operation shall be from 9:00 a.m. to 7:30 p.m., Monday
22 through Friday, and we received testimony that it is the
23 applicant's desire that those hours of operation continue, and
24 once again it would be 9:00 a.m. to 7:30 p.m., Monday through
25 Friday only, correct?

1 MR. RICHARDSON: Correct.

2 CHAIRPERSON GRIFFIS: And that means that you are
3 not in the building on the weekends at all?

4 MR. RICHARDSON: That is not correct. The board
5 has meetings five times a year in the evening, and every fourth
6 Saturday, there may be a parenting class for working fathers
7 who can't come during the day. So this is not a regular type
8 of thing.

9 CHAIRPERSON GRIFFIS: Okay. I would say that we
10 introduce some language that the hours of operation of the
11 social service agency be as stated, 9:00 to 7:30, and outside
12 those hours of operation, the structure will be used for board
13 meetings, and any other -- whatever we want to call it.

14 MR. ZAIDAIN: Educational meetings.

15 CHAIRPERSON GRIFFIS: No, because they have ESL
16 classes, and it is not programmatic. It is outside -- I mean,
17 for instance, if they open their doors to a community group,
18 and a neighborhood association wants to meet in their living
19 room, that they be able to do that, and we would not shut them
20 down for that.

21 So we will word that if you understand my
22 intention. So it would be outside of the normal operations of
23 the agency itself, which is running as stated, and then the
24 property would be used for other incidental board meetings, or
25 maybe employee meetings, or something of that nature.

1 And it only became evident to me because in your
2 previous first order you in fact were granted either one
3 evening or one Saturday per month until 10:00 p.m.

4 Now, do you have any programs, or any sort of other
5 □-

6 MR. RICHARDSON: No services after 5:00 p.m.

7 CHAIRPERSON GRIFFIS: Okay. So there it is.

8 MR. RICHARDSON: Just a minute. I'm sorry.

9 (Brief pause.)

10 MS. FOUNTAIN: We have a parenting class that
11 operates once a week right now, and it lets out between 7:30
12 and 8:00.

13 CHAIRPERSON GRIFFIS: Okay.

14 MR. ETHERLY: In terms of Condition Number 4 from
15 the prior order, the number of full-time employees shall not
16 exceed 13, and I am uncomfortable with continuing that, unless
17 there is any concern from the applicant that it appears that
18 they would want to continue with that language as well.

19 MR. PARSONS: Excuse me, but they did say that they
20 had operated for a long period of time with eight employees,
21 and don't expect to have any more than that. Is that correct?

22 MR. RICHARDSON: Well, the number of employees is
23 always conditioned on funding, and in terms of services, our
24 current budget allows us the eight, and the 13 before, when we
25 had a larger budget.

1 MR. PARSONS: Oh, you had 13? I misunderstood.

2 MR. RICHARDSON: Yes, in the past. In the past,
3 yes.

4 MR. PARSONS: Okay. Fine.

5 MR. ETHERLY: Condition Number 5 from the prior
6 order, there shall be no more than 45 participants at the
7 center at any one time. I don't think we got into specifics of
8 testimony regarding the number of clients that you may service
9 at any one time.

10 MS. FOUNTAIN: Forty-five is appropriate.

11 MR. ETHERLY: Okay.

12 VICE CHAIRPERSON RENSHAW: Well, isn't that set by
13 the Fire Marshal as far as the number of people in the
14 building?

15 CHAIRPERSON GRIFFIS: I think what we need to do is
16 to add a sentence to that, that says unless otherwise reduced
17 per building code compliance, because clearly we are not going
18 to -- well, okay. Six.

19 MR. ETHERLY: Condition Number 6 from the prior
20 order, trash shall continue to be collected at least twice a
21 week.

22 CHAIRPERSON GRIFFIS: Is that what happens now?

23 MS. FOUNTAIN: Yes.

24 CHAIRPERSON GRIFFIS: Do you have a commercial
25 pickup?

1 MS. FOUNTAIN: Yes, L&P Trash Removal.

2 CHAIRPERSON GRIFFIS: Okay.

3 MR. ETHERLY: That covers the conditions that were
4 contained in the original order, and I am just glancing over
5 the order that preceded that, but I think that covers
6 everything from the prior order, Mr. Chair.

7 CHAIRPERSON GRIFFIS: Okay.

8 MR. ETHERLY: In terms of the proposed ANC
9 conditions, let me perhaps deal with two of the more
10 straightforward ones. The fourth bulleted item, that the
11 exterior of the property and grounds be maintained as befitting
12 a residential neighborhood.

13 I believe that we probably received testimony both
14 from the ANC and some of the written submissions that suggested
15 that it would be appropriate to ensure that we maintain some
16 language that speaks to that.

17 Once again, I am not suggesting that has not been
18 done previously, but just to ensure that we maintain
19 consideration for the residential character of the
20 neighborhood. Bullet Point Number 5, that maintenance be
21 performed to mitigate damage to adjoining properties.

22 I am comfortable with that language, and perhaps
23 once again just because we have entertained a significant
24 amount of discussion which at least speaks to --

25 MR. RICHARDSON: May I speak to that? There has

1 been no testimony that there has been any damage to
2 neighborhood adjoining properties, and so I am not sure how we
3 can attach a condition on speculation only. No one has
4 testified that any of the neighborhood properties have been
5 damaged.

6 CHAIRPERSON GRIFFIS: Well, actually, it is part of
7 the ANC testimony, and it is a listed proposed condition from
8 the ANC, and in the ANC, it was timely filed, and there was a
9 quorum.

10 We, under our regulations, have to grant great
11 weight to the ANC. Therefore, if we don't accept these, we
12 need to at least address each and every one of them, and all
13 their information that comes in.

14 I think the point, and I think we can consolidate
15 the two of them, I think the point is clear, and that it is
16 something that you also want facilitated, and that is the
17 upkeep and maintenance of the property.

18 If I am not mistaken, in the written submission,
19 The Family Place owns the building; is that correct?

20 MS. FOUNTAIN: Yes.

21 CHAIRPERSON GRIFFIS: So it is also an investment
22 and an asset of the organization itself, and there is no reason
23 why you wouldn't want to protect it and keep it maintained and
24 upgraded. So with that, I don't think it is overly burdensome
25 to also address the ANC, and also the neighbor that represents

1 to the ANC, that we somehow deal with that situation.

2 I think the others -- and if I might suggest that
3 we could run down some of these. First of all, the first one,
4 in terms of the inspection of the insurance and compliance with
5 local building codes, that is out of our jurisdiction, and I
6 think that we have discussed that, in terms of referrals.

7 And certainly also with the population that you
8 have coming in and the clientele, I am certain that you would
9 want to maintain a safe and code compliant building.

10 Securing the property in the rear, I would agree
11 that this probably makes some sense, and you have indicated
12 that you are anticipating pursuing that. I don't believe that
13 we necessarily need to condition that in the order. I think it
14 would be a strong recommendation by the board to pursue that.

15 You stated it yourself that it only facilitates
16 your own parking in the morning so that you could use it. The
17 large sign on the front, I also had stated that there is
18 another jurisdiction or body of regulation that will deal with
19 signage.

20 We do have at times in our regulations control over
21 signage, and this if I am not mistaken is not one of them. The
22 exterior property and grounds maintenance befitting a
23 residential neighborhood, and the maintenance and performance
24 to mitigate damage, I think they are similar, but I am not sure
25 how we would want to language this.

1 And I think that we may just have to say as general
2 and limited, but clearly knowing our intent that the property
3 and grounds be adequately maintained as they are located in a
4 residential neighborhood, and I can take other recommendations
5 on that. Any thoughts?

6 MR. ETHERLY: Well, I am comfortable with that, Mr.
7 Chairman, and perhaps with those two sentences together, the
8 exterior of the property and grounds be maintained in a manner
9 consistent with a residential neighborhood, including the
10 performance to mitigate damage to adjoining properties, or
11 something along those lines.

12 MR. PARSONS: How does anybody enforce that?

13 CHAIRPERSON GRIFFIS: That is what I was waiting
14 for.

15 MR. PARSONS: That gives the neighbor the
16 opportunity to come in here and say, gee, the water ran off the
17 gutter this weekend, and damaging my property.

18 CHAIRPERSON GRIFFIS: Well said, Mr. Parsons, and I
19 do agree that making a general condition like that is somewhat
20 unenforceable, and so I would suggest that we clearly add into
21 our order as it goes out, noting that the board address and
22 took note of the concern of the adjacent neighbor, in terms of
23 the condition, that the strong recommendation clearly was the
24 upkeep and maintenance of the grounds, and the existing
25 structure.

1 And that there was a referral made to DCRA for just
2 the inspection out of concern for the fire, and leave it at
3 that.

4 MR. ETHERLY: I would be comfortable with that, Mr.
5 Chair, but just as a word to the applicant and to counsel, that
6 language is not necessarily to be taken as reading some of the
7 information that we received as being gospel, and that there
8 has been damage on the part of the property as to the
9 neighboring property owner, or anything along those lines.

10 But I just think it would be a very wise caution
11 for this center to consider those relationships, in terms of
12 maintaining a positive vibe so to speak with surrounding
13 neighbors, and it seems like you are doing that, and this is
14 just a way to show that has been done.

15 CHAIRPERSON GRIFFIS: Excellent. Is there a
16 second?

17 CHAIRPERSON RENSHAW: Second.

18 CHAIRPERSON GRIFFIS: Thank you, Ms. Renshaw. The
19 motion is for approval, with the incorporation of previous
20 conditions, except as changed, and one would be the five year
21 term, and the addition of the submission of the 501(c)(3)
22 status. Am I missing anything?

23 MR. ETHERLY: And of course language with respect
24 to buyer and -- well, I can't think of anything else.

25 MS. PRUITT: I believe my understanding was that

1 the fire would actually ☐- that OP would submit a revised
2 report that would become part of the record, but not attached
3 or be part of the conditions of the order with respect to the
4 fire marshal.

5 CHAIRPERSON GRIFFIS: Yes, that☐s correct.

6 MR. EITHERLY: Correct, and that would be my
7 understanding, Mr. Chair.

8 CHAIRPERSON GRIFFIS: That☐s fine, and we can let
9 that come in, and I don☐t want to waste time with it, but let
10 me just interrupt, because I am not sure what purpose it
11 serves; in terms of if we get a report and the fire marshal
12 says, my god, this building is going to kill people, we would
13 have already put our order out.

14 I think the referral is really what we are looking
15 for; is that not right?

16 VICE CHAIRPERSON RENSHAW: Mr. Chairman, referring
17 it through the Office of Planning to the fire marshal is a
18 benefit for the applicant, because if there is anything to
19 correct, I am sure that the applicant will step on it very
20 quickly for the protection of the families that you serve.

21 CHAIRPERSON GRIFFIS: Good. Then can we use it
22 just as a directive to this board and to the Office of Planning
23 that we keep the record open to have it?

24 VICE CHAIRPERSON RENSHAW: I think it should be in
25 the file.

1 CHAIRPERSON GRIFFIS: I see what you are saying.

2 Okay. Very well.

3 MS. PRUITT: Mr. Chairman, also just for further
4 clarification. I believe that the hours of operation, that we
5 amended that to also include some incidental meetings and the
6 weekends, and the evening?

7 CHAIRPERSON GRIFFIS: Yes. Great. Anything else

8 MR. ETHERLY: That's it. Just to speak to the
9 motion, Mr. Chairman, I think we have gone through it in detail
10 with regard to 334, and clearly the center has done good work
11 and continues to do so as evidenced by the large number of
12 letters in support.

13 The ANC continues to support the center's
14 activities, and I believe with the conditions that have been
15 included that we speak to some of the concerns that could
16 conceivably be raised under 334.2 regarding noise or any
17 objectionable conditions.

18 Clearly we have touched on 334.3, and for any
19 structural changes relating to the front and back portions of
20 the property. We have spoken of 334.4, in terms of the use
21 being reasonably necessary or convenient to the neighborhood,
22 in which the facility is currently located, in terms of a lot
23 of the clientele coming from the surrounding vicinities.

24 And we of course will take into the record
25 clarification regarding the 501(c)(3) status, and with that,

1 Mr. Chairman, I would invite my colleagues to support the
2 motion.

3 CHAIRPERSON GRIFFIS: Thank you. Anyone else want
4 to speak to the motion? If not, all those in favor signify by
5 saying ayes.

6 (A chorus of ayes.)

7 CHAIRPERSON GRIFFIS: And opposed?

8 (No audible response.)

9 MS. PRUITT: The staff will record the vote as 5-0-
10 0 to approve with the conditions as mentioned earlier.

11 CHAIRPERSON GRIFFIS: And there was a request for a
12 summary order, correct?

13 MS. PRUITT: Summary order, right.

14 MR. RICHARDSON: Summary order, right.

15 CHAIRPERSON GRIFFIS: Good. I do not see
16 any reason why we could not do that today, noting that the
17 language of some of the directions will be included in that
18 order. In which case, I wish you all a pleasant afternoon, and
19 a good week

20 (Whereupon, at 3:48 p.m., the public hearing was
21 concluded.)

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