

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

OCTOBER 22, 2002

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

COMMISSION STAFF PRESENT:

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Sheri M. Pruitt, Secretary, BZA
Beverley Bailey, Office of Zoning
Clifford Moy, Office of Zoning

OTHER AGENCY STAFF PRESENT:

Dave McGettigan, Office of Planning
Karen Thomas, Office of Planning
John Moore, Office of Planning
Joel Lawson, Office of Planning
John Nyarku, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Lori Monroe, Esq.

<u>AGENDA ITEM</u>	<u>PAGE</u>
PRELIMINARY MATTERS	8
 <u>APPLICATION OF LAWRENCE N. BRANDT, INC.</u>	
<u>16930 ANC-6A</u>	10
WHAYNE S. QUIN, ESQ.	11
CHRISTY M. SHIKER, ESQ. HOLLAND AND KNIGHT, LLP SUITE 100 2099 PENNSYLVANIA AVENUE, N.W. WASHINGTON, D.C. 20006 (202) 955-3000	
 <u>WITNESSES</u>	
RICHARD ROSENTHAL	21
JOHN SCHLICHTING	23
GRAHAM GUND	35
LAURA CABO	37
DAVID MCGETTIGAN	54
LINDSLEY WILLIAMS	73
JAMES VAN SWEDEN	78
ROBERT L. HALL	84
MAC MCNEILL	123
LAURA MCPHERSON	124
EDWARD MILLER	126
CURTIS WATKINS	126
JOHN M. SEBREE	127
JOE MAHEADY	129
JOSEPH MOLINARO	130
DESIREE FRENCH	131
LINDA M. JOHNSON	132
NAOMI RESNICK	132
WILLIAM CHAPIN	134
PATRICK DENNIS	136
ROB GABANY	137

APPLICATION OF PAUL C. DOUGHERTY
16928 ANC-3D (WITHDRAWN)

C-O-N-T-E-N-T-S (Cont.)

AGENDA ITEM

PAGE

APPLICATION OF MIRANDA R. BROWN

16929 ANC-7B163

MARC D. LOUD, ESQ.164
7826 EASTERN AVENUE, N.W. #311
WASHINGTON, D.C. 20012
(202) 723-9675

WITNESSES

MIRANDA BROWN164
KAREN THOMAS168

APPLICATION OF ICG BANCROFT ASSOCIATES LLP

16932 ANC-1D172

CHRISTOPHER H. COLLINS, ESQ.172
CAROLYN BROWN, ESQ.
HOLLAND AND KNIGHT, LLP
SUITE 100
2099 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 862-5990

WITNESSES

STYLIANOS CHRISTOFIDES178
GUILLERMO RUEDA184
JOHN MOORE193

<u>AGENDA ITEM</u>	<u>PAGE</u>
AFTERNOON SESSION	207
 <u>APPLICATION OF RANDLE HIGHLANDS MANOR LP</u>	
<u>16896 ANC-7B</u>210
JERRY A. MOORE, ESQ.216
ARTER & HADDEN, LLP	
1801 K STREET, N.W.	
SUITE 400	
WASHINGTON, D.C. 20006	
(202) 775-7100	
 <u>WITNESS</u>	
GERALDINE MARSHALL210
 <u>APPLICATION OF THE PUBLIC WELFARE FOUNDATION AND</u>	
<u>MANNA INC.</u>	
<u>16927 ANC-1B</u>232
JAMIE GOODSON	233
ARNOLD & PORTER	
555 12TH STREET, N.W.	
WASHINGTON, D.C. 20004	
(202) 942-5000	
 <u>WITNESSES</u>	
LARRY KRESSLEY238
GEORGE ROTHMAN241
CARL SKOUGLUND247
NATE GROSS258
JOEL LAWSON	276
PHILIP SPALDING	292

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

9:38 a.m.

CHAIRPERSON GRIFFIS: On the record. Good morning ladies and gentlemen. I will ask that the hearing please come to order. This is the 22nd of October 2002 Public Hearing of the Board of Zoning Adjustments in the District of Columbia.

My name is Geoff Griffis. I am the Chairperson. Joining me today is Vice Chair, Ms. Anne Renshaw. We are anticipating Mr. Curtis Etherly to be joining us shortly. Representing the Zoning Commission this morning is Mr. Anthony Hood. Representing the National Capital Planning Commission is Mr. Zaidain.

Copies of today's hearing are available for you. They are located at the table that has disappeared but used to be close to the door where you entered into the hearing room. It should be somewhere in the general area. If there's a need for additional copies, please let Staff know. We can make those available to everybody.

I'm going to run through a few things that are of great importance to our public hearings. First of all, we ask that people refrain from any disruptive noises or actions in the hearing room when the

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1 proceedings are taking place. When presenting to the
2 Board, you will need to speak into a microphone. That
3 microphone should be on so that we can record you as
4 all proceedings are being recorded. I would ask also
5 that people turn off cell phones and beepers at this
6 time so anyone giving testimony is not disrupted by
7 those noises.

8 All persons planning to testify in
9 opposition or in favor of any of the applications will
10 need to fill out a witness card. Witness cards are
11 available at the table in front of us. They are also
12 at the table where you entered into the hearing room.

13 Two cards are to be filled out by anyone giving
14 testimony. Those two cards are to go to the recorder
15 who is sitting to my right.

16 The order for today's hearing will be for
17 both variances and special exceptions first the
18 statement of witnesses of the Applicant. Second will
19 be the Government reports. Those include Office of
20 Planning and any other agencies attending to the
21 application. Third, we will hear from the Advisory
22 Neighborhood Commission.

23 Fourth, we will hear parties or persons in
24 support. Fifth would be parties or persons in
25 opposition. Sixth, we will have closing remarks,

1 rebuttal testimony, and anything else the Applicant
2 would like to do to close their case.

3 Cross examination of witnesses is
4 permitted by the Applicant or parties. The ANC within
5 which the property is located is automatically a party
6 in the case. The record will be closed at the
7 conclusion of each case except for any material that
8 this Board specifically requests. We will be very
9 detailed in that material request and when it should
10 be submitted to the Office of Zoning. After that, the
11 record of course, without saying will be closed and no
12 other information will be accepted by the Board.

13 The Sunshine Act says that public hearings
14 on each case be held in the open and before the
15 public. The Board may however consistent with its
16 rules of procedure and the Sunshine Act enter
17 executive sessions during or after a public hearing on
18 a case in order to review the record or to deliberate
19 on that case. The decision of the Board in contested
20 cases must be based exclusively on the public record.

21 Therefore, we ask in order to avoid any appearance to
22 the contrary that people present today not engage
23 Board Members in conversation.

24 The Board will now consider any
25 preliminary matters. Preliminary matters are those

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1 which relate to whether a case can be heard today such
2 as request for postponement, continuance, withdrawal
3 or whether proper and adequate notice has been given
4 for the hearing. If you are not prepared to go
5 forward with a case today, now is almost the time to
6 bring that up to the Board or any other preliminary
7 matters that you might have.

8 I will first go to Staff and wish them a
9 good morning. We have Staff for the Office of Zoning,
10 Ms. Bailey and Ms. Pruitt, and I believe Mr. Moy will
11 be joining us also. Good morning.

12 MS. BAILEY: And Counsel.

13 CHAIRPERSON GRIFFIS: Indeed. And our
14 Corporation Counsel which is Ms. Monroe who is making
15 sure we make no drastic, legal mistakes today. Wait a
16 minute. Is that on the record?

17 (Laughter.)

18 CHAIRPERSON GRIFFIS: Okay.

19 MS. BAILEY: Mr. Chairman, Members of the
20 Board, good morning. The preliminary matter this
21 morning, Mr. Chairman, has to do with the second case
22 of the morning, Application Number 16928, Paul C.
23 Dougherty. That case was withdrawn yesterday, Mr.
24 Chairman.

25 CHAIRPERSON GRIFFIS: Good. Thank you

1 very much.

2 MS. BAILEY: That's the only preliminary
3 matter that Staff has at this time, Mr. Chairman and
4 Members of the Board.

5 CHAIRPERSON GRIFFIS: Very good. Do any
6 of the participants here this morning have any
7 preliminary matters for the Board? If not, we can
8 call our first case.

9 MS. BAILEY: The first case is Application
10 Number 16930 of Lawrence N. Brandt, Inc., pursuant to
11 11 DCMR 3103.2, for a variance from the height
12 requirements under section 770, a variance from the
13 floor area ratio requirements under section 771, a
14 variance from the off-street parking requirements
15 under section 2101, and a variance from the loading
16 requirements under section 2201, and pursuant to 11
17 DCMR 3104.1, a special exception from the roof
18 structure requirements under section 411, to allow the
19 construction of an office building in the HR/C-3-C
20 District at premises 500 New Jersey Avenue, N.W.
21 Square 627, Lots 7, 12, 801 and 802. Please stand to
22 take the oath all those who will be testifying in the
23 case.

24 //

25 //

1 WHEREUPON,

2 RICHARD ROSENTHAL, JOHN SCHLICHTING, GRAHAM GUND,
3 LAURA CABO, JAMES VAN SWEDEN, ROBERT L. HALL,
4 MAC MCNEILL, LAURA MCPHERSON, EDWARD MILLER,
5 CURTIS WATKINS, JOHN M. SEBREE, JOE MAHEADY,
6 JOSEPH MOLINARO, DESIREE FRENCH, LINDA M. JOHNSON,
7 NAOMI RESNICK, WILLIAM CHAPIN, PATRICK DENNIS, and
8 ROB GABANY

9 were called as witnesses by Counsel for the Applicant
10 and, having been first duly sworn, were examined and
11 testified as follows:

12 CHAIRPERSON GRIFFIS: Good morning.

13 MR. QUIN: Good morning, Mr. Chairman.
14 Shall I proceed?

15 CHAIRPERSON GRIFFIS: Indeed.

16 MR. QUIN: And Members of the Board.
17 First, my name is Whayne Quin with Christy Shiker of
18 the law firm of Holland and Knight. We represent the
19 Applicant in this case and the National Association of
20 Realtors. We'll call them NAR for purposes of
21 shortness today, brevity, the contract purchaser of
22 the property involved.

23 So that you're not afraid of what is about
24 to happen I just wanted to say that the people who
25 were standing up are in support. We could identify no

1 one in opposition. I just thought that might ease the
2 air a little bit.

3 CHAIRPERSON GRIFFIS: You were already
4 counting on the panels we would have up. Okay.

5 MR. QUIN: This application will permit
6 the construction of an exciting and innovative
7 headquarters building for NAR at this difficult site
8 in the new downtown area of the District of Columbia,
9 500 New Jersey Avenue, N.W. The Board unanimously
10 approved in March of last year in Case Number 16744
11 virtually the identical relief that's sought in this
12 application with one minor exception which I will come
13 to.

14 Mr. Griffis and Ms. Renshaw sat on that
15 case. Mr. Parsons was the designee from the Zoning
16 Commission representing the National Park Service.
17 You may recall, Mr. Griffis and Ms. Renshaw, that you
18 granted the case without taking any testimony from the
19 Applicant. It was a bench decision. If at all
20 possible, we would love for you to do the same thing
21 today. I just throw that out there so if you can
22 possibly find that appropriate that would be great for
23 us.

24 This is a classic zoning case. It's a
25 classic variance case as the Board recognized

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1 previously. The site is extremely small, 8,312 square
2 feet. It's an irregularly shaped, isosceles,
3 elongated, triangular shape with its widest depth
4 being only 68 feet.

5 Yet the surrounding public space is
6 extremely broad. For example, New Jersey Avenue which
7 is facing you on this side of the model from building
8 to curb is 50 feet. (Indicating.) You may remember
9 that, those that sat on the case. That will be
10 described by witnesses if we reach those. This
11 results in a site that cannot reasonably be developed
12 under existing zoning constraints.

13 Obviously the site hasn't changed since
14 the last time it was before the Board, but the owners
15 have changed. The previous owner has sold the site to
16 the present owner. The present owner has a contract
17 to sell the property to the National Association of
18 Realtors to develop the headquarters building.

19 There are at least four significant
20 differences, all positive I think from the last
21 building proposed. I'd like to just briefly review
22 those. These are all part of NAR's requirements to
23 make this a special building.

24 First, the building will be owned and
25 occupied 40 percent initially by NAR as a Washington

1 headquarters. This of course provides a major tenant
2 and the will and the ability to absorb some of the
3 extraordinary costs resulting from this site. So this
4 is not a spec office building. That's important for
5 this case and it's an important difference.

6 Second, the design and architect, Ramgun
7 Associates, were selected by an architectural jury of
8 experts comprised of the present Chairman of the Fine
9 Arts Commission, Harry Robinson, a former architect of
10 the Capital, George White, who also sat as a Zoning
11 Commission Member and sometimes on this Board, and
12 noted, experienced Washington architect Colden
13 Florence (PH). The rationale and context of the
14 design with the four finished facades will be
15 described by Mr. Gund if necessary.

16 This is the third point. A landscape plan
17 has been coordinated and will continue to be
18 coordinated with the National Park Service designed by
19 the internationally respected and noted firm of van
20 Sweden. Mr. van Sweden is here to answer your
21 questions as well today. That's the third point.

22 The fourth difference, and perhaps this is
23 the most unusual part of the difference, is the first
24 building in the District of Columbia at least to my
25 knowledge that will be certified as a LEED green

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1 building under the criteria of the United States Green
2 Building Council. That will become prototypical over
3 the next two decades for construction in this area.
4 That was specifically a desire of NAR.

5 We have filed in the record a document
6 that came from the web that describes what LEED is.
7 The LEED criteria will be explained as part of our
8 testimony again if necessary. The LEED stands for
9 leadership and energy and environmental design. It's
10 under a green building rating system based on criteria
11 established by the United States Green Building
12 Council.

13 We are extremely pleased to have the
14 strong support in writing from the vast majority of
15 owners that surround the property in nearby
16 properties, almost all of which are commercial
17 buildings or hotels. There is an institutional use,
18 Georgetown University. We have a letter in the record
19 in support from Georgetown. We are not aware of any
20 opposition from any adjacent or nearby property
21 owners. The record has I think 12 or 13 letters from
22 owners of commercial type property or hotels.

23 We are obviously very pleased with the
24 Office of Planning supplemental report and their
25 support. We have one condition in their supplemental

1 that we will have to deal with to make sure that it's
2 workable, but we agree to all of those conditions.

3 Also, we are very pleased with the support
4 letter from the National Park Service which has
5 jurisdiction over the United States Reservation
6 immediately to the north of the site. It's facing
7 you. It's the triangular shaped property with the
8 large tree in the center. We've met with them as the
9 testimony will show. We also have support from Union
10 Station Redevelopment Corporation and the National
11 Building.

12 So now I'm going back to the areas of
13 relief sought. The exceptional site conditions bring
14 about the infeasibility of developing the site under
15 the strict application of the regulations. That's why
16 this site has not been redeveloped in the last quarter
17 century. In fact, the site is really a problem site
18 and we have a solution for it.

19 Because of the problems, the cost of
20 construction have kept the property from being
21 developed. I don't think I've ever seen a situation
22 that more clearly and simply illustrates why this
23 Board was created and why the variance clause was
24 enacted. Perhaps the best summary of the impact on
25 the site is contained in Exhibit I which I'm sure you

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1 all have read to the pre-hearing statement.

2 The last page is a summary that compares a
3 normal site which is in the first column under the
4 applicable HR/C-3-C zoning at least theoretically
5 because it couldn't be built if you look at the
6 numbers. The second column shows this particular
7 building and the clear infeasibility of construction
8 if no relief were granted. The third column shows the
9 situation where the relief is granted and the height
10 and density, loading, parking relief requested is
11 granted.

12 This still results in a loss, but because
13 the building will be the headquarters of the National
14 Association of Realtors this loss can be absorbed by
15 the Association. That's a very important distinction
16 in this case.

17 CHAIRPERSON GRIFFIS: I'm sorry to
18 interrupt you, but for your purposes of looking at
19 Table 1 when you say "infeasible" you're talking about
20 economic infeasibility.

21 MR. QUIN: Yes.

22 CHAIRPERSON GRIFFIS: And you're comparing
23 it with a generic market standard billing as labeled
24 in that. It goes to what? You're pinning the gross
25 quarter foot cost of a building.

1 MR. QUIN: Well, as the testimony will
2 show as stated in our pre-hearing submission when you
3 have a building that's on a lot this size and this
4 narrow, you have first of all four facades in effect.

5 CHAIRPERSON GRIFFIS: Right.

6 MR. QUIN: All finished. You have no
7 alley. You have no side wall. You have no space for
8 interior backup space because everything is on the
9 surface. It's that shallow. That brings about a need
10 for a finished building which increases the cost
11 dramatically. There are a number of other costs too
12 which are stated in our statement.

13 CHAIRPERSON GRIFFIS: Indeed. I just
14 wanted to make sure that your exact point of looking
15 at this table is clear to the Board. That is the
16 square foot cost in order to do something of this size
17 no one would take on. Is that correct?

18 MR. QUIN: That's correct.

19 CHAIRPERSON GRIFFIS: Okay.

20 MR. QUIN: So as stated earlier, the
21 identical relief was granted before the Board in the
22 last case in March 2001, but there's one additional
23 area. That is the special exception for roof
24 structures. The difference here is that in this case
25 there's access to the roof and a roof elevator that

1 goes up. You can see in the model on the side that's
2 facing you that there is access to the roof and a
3 trellis at the southern end of the building which
4 allows people to go to the roof.

5 In so doing, you cannot feasibly have the
6 height of all of the surrounding enclosing walls the
7 same height, which you have to do in the 1910 Height
8 Act, if you want to meet the one-to-one setback. So
9 the walls are set lower as you get closer to the edge
10 to maintain the 45 degree angle that's required under
11 the Zoning Regulations and under the 1910 Height Act.

12 CHAIRPERSON GRIFFIS: Is someone going to
13 speak further about that?

14 MR. QUIN: Yes, if that's necessary. We
15 always want to give the Board the ability to move very
16 expeditiously in this case. I assume that all of you
17 are familiar with the exhibits that are in the record.

18 Unless there are questions of me, I'd like to proceed
19 with our first witness.

20 CHAIRPERSON GRIFFIS: Okay. Do you have
21 an outline of your witnesses as you are going to call
22 them?

23 MR. QUIN: Yes. I can tell you who they
24 are and what they would say if you feel they are
25 necessary. First is a representative from the

1 National Association of Realtors who is Chairman of
2 the Washington Headquarters Project Development Team.

3 Then would be John Schlichting, Carr America, who is
4 the building development consultant for NAR. Graham
5 Gund is here as the architect.

6 CHAIRPERSON GRIFFIS: I'm sorry. The Carr
7 representative is going to talk more on the cost of
8 the development and why it is higher.

9 MR. QUIN: Right. He'll deal with the
10 LEED, significance of that and how that can be
11 accomplished and basically the development ingredients
12 that go into this building. Eric Smart is an economic
13 consultant. His statement is in the record. Lindsley
14 Williams, an urban planner and former Member of the
15 Zoning Commission and finally Osborne George, traffic
16 consultant are all here as may be necessary.

17 I would like to again emphasize that we
18 think we filed a very complete pre-hearing statement
19 and we are prepared to shorten our testimony at any
20 time especially if you would like to take action
21 approving the application. But otherwise, we will
22 proceed. Then you can maybe give us guidance as to
23 how far we should be going.

24 CHAIRPERSON GRIFFIS: Excellent. We
25 appreciate your pointing out that we do have that

1 option. I think we can refine this. I think the
2 submission was excellent also. I do know that the
3 Board will probably have a few clarifications on
4 certain issues.

5 I would suggest that we go to the NAR rep.
6 Let's just take them down. What I may do if it
7 doesn't appear rude, but I will probably interrupt you
8 and direct people so it can get right to what the
9 Board actually needs and then move on.

10 MR. QUIN: Right. Let me introduce first
11 Richard Rosenthal, chair of the Washington
12 Headquarters Project Development Team. He's really
13 going to be just introductory without any depth of the
14 development discussion. Mr. Rosenthal.

15 MR. ROSENTHAL: Honorable Members of the
16 Board, my name is Richard Rosenthal. I'm a real
17 estate consultant, mediator, and practicing commercial
18 real estate broker. I've been a Member of the
19 National Association of Realtors for 27 years and have
20 served on their Board of Directors since 1984. Last
21 year I was Chair of the Real Property Operations
22 Committee and currently Chair the NAR Washington
23 Headquarters Project Development Team.

24 The National Association of Realtors
25 represents 870,000 members across the nation

1 practicing in every real estate discipline. Our
2 Association has maintained an active presence in the
3 District for some 30 years and currently employs 105
4 staff members in our Metro Center offices. Last May
5 we presented this project to the 750 members of our
6 National Board of Directors.

7 For the first time in our recollection,
8 there was not a single comment or question, just
9 unanimous approval. The study and design came as a
10 result of an architectural competition between world
11 class architectural firms juried by architectural
12 figures from the Metropolitan Area. We are very
13 appreciative of the depth of the immediate community's
14 support and encouragement for our project.

15 Our membership and staff made it clear to
16 us that with your approval of this application they
17 wish to demonstrate their continuing commitment to the
18 District, the neighborhood, and provision of
19 professional expertise in support of legislative and
20 regulatory real property matters. Thank you for my
21 time.

22 CHAIRPERSON GRIFFIS: Thank you very much.

23 Board Members, questions? Very well. It seems like
24 you have an awful lot of friends in Congress and the
25 Senate too.

1 (Laughter.)

2 CHAIRPERSON GRIFFIS: Of course we look at
3 them all evenly, no matter who sent us letters. We're
4 happy to get them. Good morning, sir.

5 MR. SCHLICHTING: Good morning, Mr.
6 Chairman and Members of the Board. My name is John
7 Schlichting. I am Vice President and Director of
8 Development for Carr America. Carr America is serving
9 as development consultant for the contract purchaser
10 of the site, National Association of Realtors.

11 MR. QUIN: May I interrupt just one
12 second. Mr. Schlichting's resume was submitted for
13 the record and he has qualified before as an expert
14 for this Board. We would offer him as an expert in
15 real estate development.

16 CHAIRPERSON GRIFFIS: Thank you.

17 MR. SCHLICHTING: Very briefly --

18 CHAIRPERSON GRIFFIS: Actually we need to
19 take action on that. Board Members, any questions?
20 Did everyone get this? This was a late submission.
21 Do we all have that? Okay. Any objections?

22 VICE CHAIRPERSON RENSHAW: No.

23 CHAIRPERSON GRIFFIS: Very well. We can
24 take you as an expert witness this morning.

25 MR. SCHLICHTING: Thank you. Very

1 briefly, Carr America and its predecessor, the Oliver
2 Carr Company have over 40 years of experience
3 developing Class A office buildings in downtown
4 Washington D.C. We are known for developing the
5 highest quality office buildings in the marketplace.
6 The NAR included us on the development team to ensure
7 that their Washington headquarters would indeed be the
8 highest quality office building built anywhere in the
9 country.

10 The new proposal for 500 New Jersey Avenue
11 is exactly the same size and height as the building
12 approved by the Board last summer. Our building
13 designed by the internationally acclaimed
14 architectural firm, Graham Gund Architects, is 12
15 stories tall and contains the exact square footage of
16 the prior proposal. The ground floor will be very
17 open, transparent, and welcoming and is completely
18 devoted to retail space after allocating space for the
19 building's lobby and service areas and so forth.

20 A cafe, perhaps a Starbucks or a similar
21 light food operation, is anticipated at the building's
22 northern point opening out to an outdoor cafe which
23 will then open onto the National Park Service
24 Reservation. The proposal intends to maximize green
25 space. The NAR is committed to working with the Park

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1 Service on the relandscaping of that reservation at
2 the block's northern tip.

3 The remainder of the building will be top
4 quality office space with the NAR occupying the top
5 four floors initially with the potential for
6 expansion. The site represents all the private
7 property in Square 627 bordered by New Jersey to the
8 east, E Street to the south, First Street to the west,
9 and the fore mentioned Reservation and F Street to the
10 north.

11 The site itself is an extremely narrow and
12 small triangle of 8,312 square feet. Both the size of
13 the site and the shape of the site are exceptional.
14 New Jersey Avenue meets First Street at a 15 degree
15 angle which is one of the tighter conditions in the
16 District. The public space from curb to the face of
17 the building on the New Jersey side is 50 feet and the
18 public space on First Street from the curb to the face
19 of the building is 25 feet for a total of 75 feet when
20 the maximum width of the building at the very southern
21 side is 68 feet.

22 The site presents and extraordinary case
23 of practical difficulty because it would be impossible
24 to develop an economically sound building under the
25 current zoning for three primary reasons. We filed a

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1 letter incidentally yesterday from me addressed to
2 Lawrence Brandt describing this practical difficulty.

3 A copy was also included for you today.

4 The three reasons. The first is the
5 configuration of the site requires a much larger
6 proportion of fully articulated and expensive facades.

7 There is no rear yard. There is no alley. There are
8 no party walls which would allow for less expensive
9 exterior walls. The proportion of exterior wall to
10 interior space is extremely high because of the
11 narrowness of the building. The facade costs
12 therefore could be as much as three times the average
13 D.C. office building.

14 Secondly, the small floor plate means a
15 much higher proportion of building common areas such
16 as elevators, fire stairs, bathrooms, to usable office
17 space. Finally, while the site mark and public space
18 of most D.C. office buildings represent only a small
19 portion of the site area, the site mark and
20 landscaping at 500 New Jersey far exceeds the size of
21 the site itself. This practical difficulty is the
22 same that was made for the prior case last summer.
23 All of these issues are greatly exacerbated if the
24 building were smaller.

25 The actual variances that the Applicant is

1 requesting are the same ones granted last summer with
2 the one exception of the roof elements. With regard
3 to height and density permitted by right is 90 feet
4 high and 6.9 FAR. The Applicant is requesting 130
5 feet and 10.59 FAR. This will allow the building to
6 fill the envelope at the site and be as tall as
7 surrounding development while still being an unusually
8 small 12 story building.

9 With regard to the parking variance, 48
10 spaces are required on-site. Again, due to the size
11 and the shape of the site, we can only provide 25
12 spaces on-site, but we are providing 43 more in vault
13 space under public space for a total of 68 spaces.
14 With regard to the loading variance --

15 CHAIRPERSON GRIFFIS: Actually before we
16 go off the parking, is the vault space parking stacked
17 parking?

18 MR. SCHLICHTING: That's correct.

19 CHAIRPERSON GRIFFIS: Okay. Do you have
20 information on how --

21 MR. SCHLICHTING: What do you mean by
22 stacked?

23 CHAIRPERSON GRIFFIS: Is it going to be
24 striped for a standard parking deck so that you would
25 actually pour into the vault space or are those

1 stacked in terms of they are two deep which we often
2 see?

3 MR. SCHLICHTING: They would all be self
4 park.

5 CHAIRPERSON GRIFFIS: Self park. So it
6 will function on its own.

7 MR. QUIN: Some of the spaces are less
8 than nine-by-19 as shown on the plan.

9 CHAIRPERSON GRIFFIS: Right. Clearly as
10 submitted, we need knowledge of the fact that you're
11 providing additional -- The relief is still required.

12 So that's the way we're going to look at it. The
13 question is for us in the larger picture what is the
14 terms of the vault space with the District of
15 Columbia.

16 MR. QUIN: I think that's a legal
17 question. Traditionally in the center of the city,
18 it's a revocable permit. I can only recall once
19 incidence in the entire history of the city when that
20 has been revoked. That was for Pennsylvania Avenue.
21 I guess also for Metro. So generally what happens in
22 these cases as we do here is that we look at what is
23 proposed for street widenings and utilities and go
24 ahead and bear the cost of improvements and you pay
25 rent on the space. It's a revicable permit, but it's

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1 never revoked.

2 CHAIRPERSON GRIFFIS: Okay.

3 MR. QUIN: I won't say never, but hardly
4 ever.

5 CHAIRPERSON GRIFFIS: Indeed. I would
6 agree. How far along are you in the negotiations? Do
7 you have an actual lease signed? Has the site survey
8 been done that speaks to the availability of this
9 space without hindering any of the utilities or any of
10 the other --

11 MR. QUIN: Yes. We have looked at the
12 architectural, the physical space. The approval
13 process is part of the building permit process, so
14 we're not there yet. But it will be. If you would
15 like, you can condition the building part.

16 CHAIRPERSON GRIFFIS: I just want to get a
17 read on where you are. You've entered into
18 discussions. The District is prepared for this.

19 MR. QUIN: Yes. We went forward with that
20 with the last application. Remember, I also handled
21 that case. We had discussions with the city, so there
22 was no problem with the width of the depth.

23 CHAIRPERSON GRIFFIS: Okay. The
24 architectural space has been surveyed. Has there
25 actually been civil engineering surveys of the site?

1 MR. QUIN: I'm sorry.

2 CHAIRPERSON GRIFFIS: Have you conducted
3 civil surveys of the site?

4 MR. QUIN: Yes. There's a release from
5 all utility companies at this point.

6 CHAIRPERSON GRIFFIS: Okay. Clearly then
7 the stage is set for that and you don't anticipate any
8 major hindrances in providing those.

9 MR. QUIN: Other than paying for it.

10 CHAIRPERSON GRIFFIS: Indeed. Thank you.

11 MR. SCHLICHTING: Anything else on parking
12 before I move on?

13 CHAIRPERSON GRIFFIS: I don't think so.
14 Any other questions on parking?

15 MR. SCHLICHTING: Okay. With regard to
16 the loading variance, the Zoning Regulations require
17 one 30 foot deep loading berth, one 20 foot service
18 delivery space, and 100 square feet of loading
19 platform. Due again to our tiny floor plate, we
20 cannot provide the 30 feet berth on-site but we can
21 provide the other two requirements on-site with a 30
22 foot berth outside in public space. Incidentally,
23 that is shown on your drawing. We noticed this
24 morning it's not shown on the model, but it will be an
25 allocated space on public space.

1 The one additional requested relief is a
2 special exception for the roof structure. Unlike the
3 previous proposal, the NAR requires a roof deck and
4 consequently requires elevator access to the roof.
5 Therefore we need to vary the heights of the penthouse
6 structure to reduce the size and bulk of the penthouse
7 while complying with all of the required set backs.
8 Again, this is because of the narrowness of the site.

9 The penthouse is 16 feet tall at the
10 elevator core. It's ten feet, eight inches tall to
11 enclose the cooling tower and nine feet, ten inches
12 above the elevator, lobby, and circulation spaces.
13 Again, our proposal complies with all set back
14 requirements.

15 CHAIRPERSON GRIFFIS: Let me just make a
16 quick clarification because clearly the test for
17 variances is not granted based on the requirement of
18 the tenant and developer. Your statement just said
19 that the NAR requires a roof terrace and therefore the
20 penthouse needs to be changed. That's interesting
21 information. I think it's great to have a roof
22 terrace, but I think it's stronger as it is submitted.
23 I think we're there in terms of the set backs. I
24 don't know if you were prepared to talk about the
25 Height Act and how it would actually go straight to

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1 the requirements of what the set back should be for
2 the height of the penthouse.

3 MR. QUIN: Let me first say this is
4 special exception, not a variance.

5 CHAIRPERSON GRIFFIS: I'm sorry.

6 MR. QUIN: It is presumed to be valid
7 unless if we need the test that is set forth in
8 section 411 of the regs.

9 CHAIRPERSON GRIFFIS: Right. Indeed.

10 MR. QUIN: John, do you want to speak to
11 that or wait for Graham Gund?

12 MR. SCHLICHTING: I think possibly some of
13 this could be resolved by changing the word "required"
14 to "desires."

15 CHAIRPERSON GRIFFIS: Perhaps.

16 MR. QUIN: That may be the distinction
17 between a variance and special exception.

18 CHAIRPERSON GRIFFIS: Right. Indeed.

19 MR. SCHLICHTING: We believe that the
20 building including all of these areas of relief is
21 fully and completely compatible with the immediate
22 surrounding area and the context. NAR is committed to
23 going the extra mile with this building and intends
24 for its Washington D.C. headquarters to represent a
25 model of environmentally sensitive architecture.

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1 NAR desires to be among the first in the
2 city to develop a building that will satisfy the U.S.
3 Green Building Council's LEED or Leadership in Energy
4 and Environmental Design, we call it LEED, green
5 building rating system. We are submitting this
6 morning a three page list of design elements to
7 achieve at least 26 LEED points which would qualify
8 the building to be LEED certified.

9 This list is a simplified version of a
10 more complicated matrix that we have previously shared
11 with the Office of Planning. Because some of these
12 LEED points are earned based on building operations
13 and performance at full occupancy, we anticipate to
14 achieve 17 points prior to occupancy of the building
15 and at least nine points subsequent to occupancy,
16 earning the 26 points for LEED certification.

17 In terms of community support, we attended
18 and were prepared to present to the ANC Board on
19 October 3, but the ANC was unable to reach a quorum.
20 We have subsequently had a productive meeting and
21 conversations with single member District
22 representative, Robert Hall. We are delighted to
23 report that we have tremendous support from almost
24 every one of our immediate neighbors. All the hotels
25 and office buildings that surround the site are very

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1 enthusiastic about our project.

2 We also have great support from the
3 architectural community, most notably the three jurors
4 that chose the design, Harry Robinson, George White,
5 and Coke Florence (PH). We are confident that 500 New
6 Jersey Avenue will be a new landmark for Capitol Hill
7 and one that calls on voters and realtors everywhere
8 to raise new standards for environmentally sensitive
9 design.

10 CHAIRPERSON GRIFFIS: Thank you very much.

11 Let me just say I think it's more of an interest in
12 terms of the LEED and LEED certification of the Board.

13 I think it fills out the application very well, but I
14 don't think we're going to do an extensive
15 deliberation or investigation. This is very helpful.

16 It's my understanding that there are actually levels
17 of gradation. You may have said it. I'm sorry if I
18 missed it. What is the level of this building?

19 MR. SCHLICHTING: We are anticipating to
20 be certified which is the first level.

21 CHAIRPERSON GRIFFIS: Okay.

22 MR. QUIN: I was just going to call our
23 next witness.

24 CHAIRPERSON GRIFFIS: Okay. Any questions
25 from the Board? Very well. Good.

1 MR. QUIN: Our next witness is Mr. Graham
2 Gund of Graham Gund Associates. I would submit Mr.
3 Gund as an expert in the field of architecture.

4 CHAIRPERSON GRIFFIS: Board Members?

5 MR. QUIN: And Laura Cabo will be
6 assisting him also.

7 MR. GUND: Laura Cabo is a principle in my
8 firm. We've worked together for 15 years.

9 CHAIRPERSON GRIFFIS: Good. Before you
10 proceed, excuse me. Board Members, if you have any
11 questions of Mr. Gund on his background. Any
12 objection? Mr. Gund, it is my pleasure to tell you
13 that you have been accepted as an expert witness by
14 this Board. I welcome you here this morning. It's
15 very exciting to see you. Please proceed when you are
16 ready.

17 MR. GUND: Thank you, Mr. Chairman. Good
18 morning and good morning to Members of the Board. Our
19 offices are located in Cambridge, Massachusetts. We
20 have a 30 year history of collaborating with wonderful
21 clients to create commercial, cultural, educational,
22 and housing projects located throughout the country
23 and abroad.

24 Our office is the recipient of over 100
25 design awards including the prestigious Harleston-

1 Parker Award given each year for the most beautiful
2 building in Boston. We have won this twice as well as
3 the international competition for the NAR headquarters
4 building. Of interesting note is our D.C. project The
5 Lansburg, a mixed use residential development located
6 nearby that has been a catalyst for the rejuvenation
7 of the surrounding Penn Quarter area.

8 The building on its unique triangular site
9 presents the opportunity for a stand alone jewel, a
10 landmark building that will bring vitality,
11 rejuvenation, and identity to this commercial
12 crossroads. The NAR as owner/occupant is committed to
13 the creation of a wonderful urban oasis for the
14 community in the form of a welcoming
15 landscape/streetscape.

16 Glimmering as a beacon in the National
17 Capitol District, the combination of transparent and
18 opaque elements in the skin of the new headquarters
19 for the NAR becomes a dramatic piece of abstract
20 sculpture. In the traditions of Washington's
21 monuments, this design sets itself apart from the --
22 tightly controlled historic fabric. In the pioneering
23 spirit of early Washington, the NAR's building
24 evocative and symbolic architecture celebrates the
25 future of the American workplace.

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1 The NAR's rich history and far reach into
2 modern culture is exemplified by a quote by Abraham
3 Lincoln that states "The strength of our nation is in
4 our homes." These dynamic and contemporary building
5 forms speak to NAR's role as a national business
6 leader and its mission to create a remarkable
7 workplace for the future. Its sustainable innovations
8 will serve as a model worthy of emulations and is
9 committed to LEED certification.

10 This is a unique, triangular site. As was
11 mentioned before, it's 8,312 square feet at 500 New
12 Jersey Avenue. The proposed building is 12 stories,
13 130 feet, 87,995,000 gross square feet with exclusions
14 and FAR is 10.59. Set back off New Jersey is 50 feet
15 and 25 feet off First Street. It is bordered by First
16 Street on the west, E Street on the south, and F
17 Street on the north. It's located in the heart of a
18 commercial crossroads and is surrounded by hotels,
19 offices, and educational buildings.

20 MS. CABO: I'm Laura Cabo. I will just
21 point some things out on the model. As you can see,
22 this is New Jersey. (Indicating.) We have F Street
23 here. We have the location of a nine story office
24 building here that rises up to 110 feet. There's the
25 office building on the corner along New Jersey Avenue.

1 The location of the Washington Court Hotel which we
2 couldn't fit this on the model as you can see and get
3 it in the door, but it does rise up to about 130 feet
4 here and has a glass atrium to the back.

5 We have the Pepco Power Distribution Plant
6 along this way. Here's E Street. Here you can see
7 the Hyatt Regency which reaches up to about 90 feet.
8 The Holiday Inn which is also 90 feet is further down
9 on this block. Then along on First Street you can see
10 the location of a nine story office building here.
11 This is currently a hole in the ground that's being
12 built for Georgetown Law School which is an extension
13 of their student and fitness facilities which I might
14 mention has a wonderful glass curtain wall. We'll be
15 distributing a drawing of it from the architect.

16 MR. QUIN: We were able to get copies of
17 that yesterday. We thought that would be helpful in
18 showing the context of glass walls.

19 MS. CABO: Then also located in this area
20 but not showing up in the model is the Georgetown Law
21 School. (Indicating.) Then as Graham and many others
22 have mentioned, here's the location of the National
23 Park Service site and the existing tree which is a
24 little bit taller than this in reality. Then the
25 tower which marks our building and the far end along E

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1 Street.

2 MR. GUND: We are working with the
3 National Park Service and the office of James van
4 Sweden and Associates to make this a centerpiece of
5 the urban revitalization of the entire block. James
6 van Sweden is here to answer any questions which you
7 may have later in the presentation.

8 We're using London pavers, typical of the
9 D.C. specifications and granite pavers around the
10 building, a rod iron fence to protect Park Service
11 site, and the 60 foot tall willow oak. On New Jersey
12 Avenue, there's ocova trees. On First Street, there's
13 sugar maple trees. Planting beds with small curbs
14 contain native plantings. The intention is to weave
15 the landscape, water, human activity through the
16 transparency of the ground floor store front from
17 First Street to New Jersey.

18 The building design features an inviting
19 and transparent building entrance creating a sparkling
20 respite in the city. The ground level retail
21 component, potential cafe with outdoor dining will
22 have lush plantings and visual access from both New
23 Jersey and First Street. A second entrance for the
24 cafe has been added at the request of the Office of
25 Planning to maximize this transparency.

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1 There is a drop off on New Jersey, service
2 on First Street, parking entry on E Street. Floors
3 three through eight will be a signature address for
4 businesses. The full height glass walls allow
5 abundant light, wonderful conference and meeting
6 spaces with strong visual connections to the Capitol
7 and the city beyond. Numerous sustainable innovations
8 will serve to make a model of environmental
9 sensitivity but also a productive, wonderful place to
10 work.

11 Some of these innovations are measurement
12 and verification systems that measure air quality,
13 gray water reclamation, sun control through the
14 brucellae and state-of-the-art lighting controls and
15 systems. A distinct identity is created for the NAR
16 on the top four floors through an interior water wall
17 that rises up through each floor to the roof garden.
18 The tranquil garden will be used as an outdoor room
19 for business and pleasure. Features include water,
20 stone, plantings, and a shade producing trellis. The
21 roof deck will embrace remarkable views of D.C. and
22 the Capitol Building.

23 The building is made of a tautly curved
24 glass plane on New Jersey and First Streets that
25 floats above an inner structure that is revealed

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1 through the azure glass. The curved facade will
2 create a distinct building form that changes from
3 different vantage points around the city. We can show
4 that's a narrow north elevation looking at it from the
5 corner where you can most easily see the curve shape
6 and the effect that produces. (Indicating.) As you
7 move around the building there will be a different
8 experience of it.

9 The glass plans allow panoramic views and
10 strong connections to the neighborhood. The
11 sculptural form is anchored by a tower at the
12 convergence of the surrounding streets creating an
13 overlook into the park and an identifying beacon for
14 the area. The transparent street level is welcoming
15 by day and creates safe and abundant levels of light
16 at nighttime.

17 The building forms take clues from the
18 great monuments; the curve of the Capitol dome, the
19 transparency of the White House portico, and the
20 verticality of the Washington Monument. This clearly
21 modern building is indeed appropriate within the
22 Capital city.

23 L'Enfant's framework of radiating avenues
24 connecting to significant focal points was based on a
25 European planning model to elevate America in the eyes

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1 of the world. This plan left room for future
2 grandisement, recognizing the inevitable changes in
3 the nation. L'Enfant's plan called for monuments that
4 took abstract ideas and translated them into physical
5 space and build form; the Capitol, the seat of
6 Government, the Mall, the Nation's front lawn, and
7 Civic Center.

8 The NAR headquarters design is appropriate
9 to its unique mission to create a workplace of
10 tomorrow. The NAR in concert with the surrounding
11 community will set a standard for others to follow.
12 Much time, thought, and skill has been put into the
13 creation of this elegantly and delicately mass
14 sculpture that embodies the pioneering spirit of our
15 nation.

16 It's modern forms create a dramatic
17 counterpoint to the rich history of the Capitol
18 District. The NAR is a respected neighbor that is
19 willing to be a leader for the revitalization of the
20 commercial crossroads at New Jersey and First Street
21 and to demonstrate the Capital city's commitment to an
22 environmentally sound world. Thank you.

23 CHAIRPERSON GRIFFIS: Thank you very much.

24 Questions, Board Members?

25 VICE CHAIRPERSON RENSHAW: Yes, Mr.

1 Chairman. I'd like to ask Mr. Gund to talk a bit
2 about the tower which marks your building if you
3 would, the height of that tower. Is that a sell tower
4 or is that a tower to support a light?

5 MR. GUND: It is really symbolic of the
6 location of the convergence of two streets. I think
7 it symbolizes and enhances the nature of the street
8 plan which comes together at a very significant point
9 near the corner of the building.

10 VICE CHAIRPERSON RENSHAW: And how high is
11 that tower?

12 MS. CABO: The top of the penthouse rises
13 to 147 feet, 11 inches. The tower rises somewhat
14 above that. Unfortunately I don't have my scale and I
15 don't have that information in front of me but it does
16 rise about another 15 or 20 feet above that. I can
17 measure it off of the drawing.

18 CHAIRPERSON GRIFFIS: For zoning purposes,
19 this is an architectural embellishment on the front of
20 the building.

21 MS. CABO: Yes.

22 VICE CHAIRPERSON RENSHAW: It is not a
23 sell tower.

24 MS. CABO: No.

25 MR. GUND: It is never intended to have

1 any kind of --

2 CHAIRPERSON GRIFFIS: Even with the
3 economic argument, you're not going to try to offset
4 some costs.

5 VICE CHAIRPERSON RENSHAW: Because it
6 reminds me of a sell tower, so I just wanted to
7 inquire about that.

8 MR. GUND: We saw it as an open steel
9 structure that I think adds a nice contrast to the
10 smooth, taut surface of the glass. The other end of
11 the building also is more solid which can be seen in
12 one of the drawings. It has aluminum panels on it
13 below the windows. Those are the same panels that are
14 used on the top of the building to enclose the
15 equipment.

16 MS. CABO: This height would be about 167
17 feet.

18 COMMISSIONER HOOD: Mr. Chairman, while
19 we're on the subject of the tower.

20 CHAIRPERSON GRIFFIS: Yes.

21 COMMISSIONER HOOD: So your testimony is
22 at no time will that tower be used for any other use
23 than an architectural reason.

24 CHAIRPERSON GRIFFIS: That's correct. Of
25 course, you're asking the designer.

1 COMMISSIONER HOOD: Yes. That's true.
2 I'm concerned because the Zoning Commission is dealing
3 with antennas as late as last night. Now I come in
4 this morning and I see another antenna tower.

5 CHAIRPERSON GRIFFIS: I think the Board
6 and the Commission is overly aware and very sensitive
7 about the changing issues with the technology and the
8 need for technology and how we are trying to come up
9 to contemporary realities. From all that you've said
10 which was enjoyable to hear especially the description
11 of the building itself and those elements that went
12 into the design in terms of its specific site in
13 Washington D.C. I think it would be detracted clearly
14 if it had an additional function rather than that of
15 an embellishment on the corner of the building. Not
16 to mention you probably would be seeing us or the
17 Commission if you tried to do it. So that being said,
18 I think that's enough on that.

19 COMMISSIONER HOOD: Mr. Chair, let me just
20 also ask even though I know it doesn't have a use and
21 it's there for design purposes, is there a chance you
22 may put strobe lights or any lighting on it?

23 MR. GUND: There may be some lighting
24 along with general lighting of parts of the building,
25 but there's no strobe or flashing lights or anything

1 that is neon or anything of that sort.

2 COMMISSIONER HOOD: I'm basically talking
3 about lighting on the antenna and which direction
4 would it be pointing.

5 MR. GUND: It would be pointing up.

6 CHAIRPERSON GRIFFIS: You're talking more
7 about a safety light for air traffic.

8 MR. GUND: No.

9 CHAIRPERSON GRIFFIS: You're actually
10 illuminating the physical elements of it.

11 MR. GUND: Right, from the ground. But
12 there's no plan to have a flashing red light or
13 anything on the top.

14 MS. CABO: And I think this describes the
15 look of it at night where there would just be some
16 site lighting which would work to highlight the areas
17 around the building for safety as well as some
18 aesthetic value. There's no plan to have any fashion
19 beacon unless it's required by some regulation.

20 CHAIRPERSON GRIFFIS: I guess it is in a
21 no-fly zone.

22 MR. QUIN: I think, Mr. Chairman, to put
23 an antenna there you'd have to go through a whole new
24 process.

25 CHAIRPERSON GRIFFIS: Indeed.

1 MR. QUIN: If you wanted to put that in as
2 a condition to the order, we would have no problem
3 with that.

4 CHAIRPERSON GRIFFIS: It would be
5 redundant.

6 COMMISSIONER HOOD: We could deal with it
7 in the conditions.

8 CHAIRPERSON GRIFFIS: Do you understand
9 the lighting of it?

10 COMMISSIONER HOOD: Not actually. You
11 have the Washington Court Hotel across the street.
12 You're talking about adverse impacts, so if the
13 lighting is pointing away from that area, I know that
14 was a big issue that we heard during the testimony.

15 CHAIRPERSON GRIFFIS: Okay. The issue
16 would be the lighting potentially from this tower
17 you're trying to address whether it might keep
18 residents awake because it was --

19 COMMISSIONER HOOD: Shining into the hotel
20 rooms.

21 CHAIRPERSON GRIFFIS: Indeed.

22 COMMISSIONER HOOD: Anyway, that's a mute
23 point now. We can address that in the conditions.

24 CHAIRPERSON GRIFFIS: Okay. Well, I think
25 we can address that here in that first of all there's

1 a substantial distance away from the hotel. I'll let
2 the architect speak to this, but in viewing the
3 rendering at night it appears that it would illuminate
4 itself but not necessarily transfer an amazing amount
5 of light that might interrupt.

6 MR. GUND: There was never a plan to have
7 lights on the structure that you could see. There
8 might be lights that would illuminate the structure
9 but not ones that you could ever see the source of
10 from surrounding area.

11 CHAIRPERSON GRIFFIS: Okay.

12 COMMISSIONER HOOD: I think he answered
13 my question, Mr. Chairman.

14 CHAIRPERSON GRIFFIS: Okay. Not to
15 mention the energy efficiency that has been talked
16 about. Those lights may go off at some point,
17 probably will not go all night which if I'm not
18 mistaken actually is a reality. There's an awful lot
19 on timing devices and also the occupancy sensing
20 which makes a lot of sense.

21 Other questions? Part of the height
22 necessity for this building is also an increased first
23 floor height which accommodates retail. Is that
24 correct?

25 MR. GUND: Yes.

1 CHAIRPERSON GRIFFIS: From your experience
2 in designing buildings and urban retail if I'm not
3 mistaken, you're looking at a ceiling height of
4 roughly 11, six on the first floor. That accommodates
5 the type of square footage retailer that you might
6 have in this building.

7 MR. GUND: Yes it does. It's low, but I
8 think it works.

9 CHAIRPERSON GRIFFIS: Okay. Other
10 questions? Thank you very much. We do appreciate
11 your testimony this morning.

12 MR. QUIN: Mr. Chairman and Members of the
13 Board, we have three other witnesses which I think
14 have filed very complete statements. One is Eric
15 Smart of Bowl (PH) and Smart Economic Consultants.
16 That was if you remember the statement under Tab I and
17 the exhibit that we went over.

18 Osborne George the traffic consultant has
19 a lengthy report and Lindsley Williams as well. Mr.
20 James van Sweden is here for questions. Unless you
21 feel that we should go through each of those which we
22 can do, we would certainly open those four experts to
23 questioning unless you feel that you would like us to
24 go through their testimony.

25 CHAIRPERSON GRIFFIS: Board Members, first

1 of all, do you want to call all these witnesses and
2 hear testimony? If there's no objection, I would say
3 we should proceed with any specific questions of the
4 submissions.

5 MEMBER ZAIDAIN: Mr. Chair, to make sure
6 I'm understanding all the issues here, the roof issue
7 falls under 411 which is the special exception. The
8 standards set forth there relate to operating
9 difficulty, size of building, lot, et cetera. Really
10 the only testimony we've heard at this point is the
11 desire to have the roof structures as they are. I
12 guess if you could just offer a witness that can
13 direct some testimony to the specific criteria and the
14 special exception as opposed to just the desire to
15 have the roof.

16 MR. QUIN: Yes. We can call John
17 Schlichting back please.

18 MEMBER ZAIDAIN: Okay.

19 MR. SCHLICHTING: Yes, sir.

20 MR. QUIN: I think the question is under
21 411 which is special exception it describes why do you
22 need to have different heights. The set back is met,
23 but why do you need to have different heights in order
24 to meet the set back and what is the use of the roof
25 that would normally be permitted on an office

1 building.

2 MEMBER ZAIDAIN: Just to clarify. You've
3 already talked about the desire of the tenant wanting
4 to have the arrangement that way. The test is more of
5 an operational type of issue. I just wanted to know
6 if you could offer some testimony in that way.

7 MR. SCHLICHTING: That's fair. The desire
8 obviously is to have access to the roof. Therefore
9 the desire is to have elevator access to the roof.
10 Elevators require a significant amount of space above
11 them to operate properly. The prior submission which
12 did not request this relief, the elevator only went up
13 to the top floor, the twelfth floor and the run off
14 was above in the penthouse area which was all uniform.

15 MEMBER ZAIDAIN: Excuse me. Just to be
16 sure I'm clear. When you say "prior submission"
17 you're referring to the other BZA case with the other
18 BZA order.

19 MR. SCHLICHTING: That's correct. The 16
20 feet required for the elevator core is the minimum
21 that we can get all of the elevator equipment, the
22 elevators themselves up to the roof, and the space
23 above it that is required. Correspondingly, the ten
24 feet, eight to enclose the cooling tower is the
25 minimum that we can enclose that cooling tower with.

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1 Then the nine foot, ten is the minimum for the
2 elevator lobby. So basically the roof structures were
3 designed at the minimum height that allow the
4 different operations; the elevator, the cooling tower
5 to operate properly.

6 CHAIRPERSON GRIFFIS: Anything further,
7 Mr. Zaidain.

8 MEMBER ZAIDAIN: No. Thank you.

9 MR. QUIN: I will note this for the
10 record. In Mr. Williams's statement at page 23,
11 there's a short synopsis of the roof structure at an
12 equal height walls.

13 MEMBER ZAIDAIN: Great. Is that in the
14 pre-hearing statement?

15 MR. QUIN: It's under Tab H, page 23.

16 CHAIRPERSON GRIFFIS: And it is
17 interesting at 411, clearly we've seen most often when
18 a roof is tried to be utilized or animated and
19 occupied that our requirements actually limit that
20 possibility. But I think the intent of 411 is also to
21 control design. In my reading of it I think the past
22 experience and clearly the history of 411 is to make
23 sure that we have penthouses that are at least removed
24 from site and detailed enough as we have design
25 control actually this Board over roof structures that

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1 come in for special exception.

2 So the point is I think the intent of 411
3 is well met. I think it actually helps the penthouse
4 structure itself to break down the mass so it actually
5 supports the shape of the building and I think will
6 create a better scale.

7 MEMBER ZAIDAIN: Sometime it's hard with
8 the difficulty in developing the size.

9 CHAIRPERSON GRIFFIS: Indeed. Very well.
10 Anything else? I would say I think we can move
11 through the last three witnesses. I have to say as
12 you noted on page 23, we had a substantial submission
13 from Mr. Williams that walked through quite a bit.
14 There were several things that I thought were worth
15 noting.

16 First of all, the graphics are always very
17 helpful for the Board, at least to me personally. But
18 it was striking in terms of the test for uniqueness of
19 the comparison and the potential possibility and the
20 L'Enfant plan in the city of how this site could be
21 created or was created or is or not. We clearly if I
22 recall correctly had four possibilities of it. This
23 is the only one that is available for private
24 development which is not only unique but of singular
25 importance. I wanted to point that out. I do think

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1 it was very complete in terms of the submission.

2 So if there are any other questions, Board
3 Members, of those submissions, we can continue on. I
4 would ask before we continue however Office of
5 Planning we'll go to next and whether they are
6 prepared to address the DDOT report that was submitted
7 late.

8 MR. MCGETTIGAN: Yes. We can summarize
9 that.

10 CHAIRPERSON GRIFFIS: Okay. Then I would
11 just mention to the Applicant when we get to that they
12 should be prepared to answer some of the questions on
13 this. Yes, sir. Let us move to Office of Planning.
14 We do need to waive in the supplemental report. I'll
15 hear any objections to doing that. If no objections
16 are voiced, I will take it as consensus to accept the
17 supplemental report and welcome Office of Planning
18 representative Mr. McGettigan this morning.

19 MR. MCGETTIGAN: Thank you, Mr. Chair.
20 Again for the record, my name is David McGettigan from
21 the Office of Planning. As we've seen from the
22 information that's provided in the record there's
23 quite a lot that shows this site is unique, unusual in
24 shape and size, and certainly the large amount of
25 landscaping set in front of it are also part of the

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1 exceptional situation of the site.

2 These create the practical difficulties
3 that have been noted particularly in regards to
4 parking and loading with the shape of the site. It's
5 too thin to fit a full size loading space into it at
6 any location and to create a sufficient travel aisle
7 and parking spaces underground even without extending
8 into vault space.

9 As far as the height and FAR go, we see in
10 the submission from Carr America and the testimony
11 that they have an extremely high fixed cost for this
12 building. It's a cost that would have to be absorbed
13 by any building that was built on this site for the
14 amount of usable floor area that they're getting out
15 of the space. They have the three facades that have
16 to be articulated. They have a court area that has
17 minimum space requirements to fit a core area in there
18 that eats up the area that they do have on each floor.

19 Third is the amount of site work and
20 landscaping that they're planning to do with this
21 development and is really necessary to make the
22 building attractive. This area needs a lot of
23 infrastructure. A lot of the sidewalks need to be
24 reconstructed. It's deteriorated. They are going to
25 be doing that work, so that's another cost that's

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1 fixed of this site that makes the high fixed cost a
2 practical difficulty. Additionally, I think the green
3 building features that are being introduced provides
4 some additional costs and considerations that need to
5 be taken into consideration.

6 As far as substantial detriment goes, we
7 see that parking is being provided in vault space so
8 that the adverse impacts of the parking grants are
9 being mitigated. The loading can be accommodated in
10 public space. I'm going to take a moment since we're
11 talking about loading to address what the Office of
12 Transportation has said. I'll summarize.

13 They feel that the loading also can be
14 accommodated in public space, but they would love to
15 see it on the street and not in what's labeled a
16 buffer, a loading area on the site plan. They would
17 like the loading space that is shown that's directly
18 backed into, perpendicular to the street to remain.
19 Other loading can be accommodated by parking along the
20 street.

21 They also note that the new drive which is
22 different in this application, the drop off area has
23 to be approved by the Director. They don't support
24 that at this time. As far as the other substantial
25 detriment considerations, we see that this is a green

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1 building. We're impressed with the effort that the
2 Applicant has gone through to try and meet the green
3 building standards.

4 We want to see a green building in the
5 city that can be a model. They're providing ground
6 floor retail which is important to the vibrancy and
7 street life in the area. It's a very big concern in
8 this area that we have this ground floor retail and
9 some pedestrian activity to bring on security because
10 of the activity and to make it a pleasant pedestrian
11 experience. The retail on the ground floor and the
12 clear glass help provide that.

13 In regards to the special exception, we
14 note that the size and shape of the building do
15 present a very restrictive envelope on which you can
16 put any rooftop equipment. That's an appropriate way
17 to handle the rooftop elements if you need access to
18 the roof. The access to the roof is part of the green
19 building to enjoy the landscaping and the trellis and
20 the elements on the building. Part of being a green
21 building is to provide opportunity for the occupants
22 of the building to enjoy the outdoors, to have
23 visibility onto the street, and it improves the
24 atmosphere for the occupants of the building.

25 In summary, we would recommend approval of

1 the building, of the application. We think that on
2 balance the application will have a very positive
3 impact on the neighborhood. Because of the shape on
4 the site, it's necessary to grant some zoning relief.

5 We do have three conditions that we're suggesting.

6 One is that the Applicant should obtain
7 the green building rating from the U.S. Green Building
8 Council. We noted in our report prior to the issuance
9 of the certificate of occupancy, but in subsequent
10 conversations with the Applicant we noted that some of
11 the items that you can do for LEED certification
12 cannot be done before certificate of occupancy.

13 They've identified those. They can do at
14 least 17 points before the certificate of occupancy is
15 issued. The other nine would have to come afterwards.

16 We feel that's an acceptable way to condition it to
17 ensure that we have a green building.

18 We've been working with the Applicant on
19 the streetscape. We made some suggestions which
20 they've indicated they would consider. One was we
21 wanted to make sure that pedestrians were attracted to
22 the ground floor and it was permeable to pedestrians
23 walking by. We thought the planted areas that were
24 proposed blocked access to it and thought some
25 pathways should be provided through to the building

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1 and that perhaps an additional entrance could be
2 provided on the north retail space to give some
3 options to pedestrians to enter the building perhaps
4 opening onto the courtyard that's being labeled on the
5 plan.

6 Also, the transparency of the glass is
7 very important. We can see from the model that it's
8 transparent. I don't know if the Applicant brought
9 the samples of the glass, but I've seen the samples of
10 the glass and they are very transparent. So I am
11 comfortable on that. But transparency is important to
12 provide visibility into the building and see the
13 activity on the inside for the pedestrian. It aids in
14 the security and the pedestrian street life.

15 Then the third condition is of course that
16 what's promised and shown here is provided and is in
17 compliance with the plans that are presented by Graham
18 Gund and SND Architects. Thank you. I'll take any
19 questions.

20 CHAIRPERSON GRIFFIS: Good. Thank you
21 very much. A couple quick questions. I'm not sure if
22 you touched on the fact about DDOT. Is it your
23 understanding that they are actually not supportive of
24 the circular driveway drop off at the building?

25 MR. MCGETTIGAN: Yes. If I can read that

1 section --

2 CHAIRPERSON GRIFFIS: No. I think it's
3 established that the buffer loading they are against,
4 but I wasn't sure if they clearly came out against --

5 MR. MCGETTIGAN: Well, it says I oppose
6 buffer loading area and circular driveway from site
7 plans.

8 CHAIRPERSON GRIFFIS: They're saying take
9 your word from the plans because they need approval
10 from the Director. That implicit thing, the Director
11 is not going to approve it. In fact, I think it's a
12 great idea. We're worried about traffic. Why not
13 pull cars off. It still maintains the street line of
14 New Jersey Avenue.

15 MR. MCGETTIGAN: That's --

16 CHAIRPERSON GRIFFIS: Should we get the
17 Director here?

18 MR. MCGETTIGAN: You're right. It doesn't
19 specifically say that. It just says that they need to
20 get permission from the Director.

21 CHAIRPERSON GRIFFIS: Mr. Quin, is it your
22 understanding if you were to remove the loading area
23 on the public space that you need to address it in
24 this application or was that part of the relief
25 sought?

1 MR. QUIN: Well frankly, we're a little
2 surprised on removing the buffer loading area, but
3 that's okay because previously the Board wanted a
4 screen so that's why we did it that way. The street
5 is fine. We have no objection if that's what DOT
6 wants. We will get approval on the circular driveway
7 from the Director. That's a public space permit
8 anyway.

9 CHAIRPERSON GRIFFIS: Right.

10 MR. QUIN: So that's pretty routine.

11 CHAIRPERSON GRIFFIS: Although on New
12 Jersey it's more difficult than just a public space.

13 MR. QUIN: Well, it is but because of the
14 depth that you have there, you have 50 feet for
15 pedestrians to get in. It doesn't make a lot of sense
16 frankly not to have closer access for vehicles to get
17 to the entry of a building. I think DOT is basically
18 simply following the downtown streetscape area.
19 Generally that's true.

20 CHAIRPERSON GRIFFIS: Right.

21 MR. QUIN: But when you have a sight
22 that's this long and this deep, I think that the
23 circular driveway will be approved. That can be a
24 condition as well to the BZA order. We don't have a
25 problem with that.

1 CHAIRPERSON GRIFFIS: I think we'll
2 address it. I mean, I'll hear from other Board
3 Members, but I think this Board will support the
4 circular driveway there. I think the important piece
5 of it is how the materials that are utilized there and
6 making it very clear that the sidewalk continues, so
7 there may be a different paving pattern. I mean,
8 you're showing a paving pattern here that I think
9 works fairly well. It clearly would have to be
10 landscaped. It goes to the site plan.

11 MEMBER ZAIDAIN: I guess my question for
12 OP would be is there any conflict between what DDOT is
13 now stating and what OP would like to see in terms of
14 landscaping and streetscaping. Is that something that
15 could be worked out?

16 MR. MCGETTIGAN: Yes. We didn't have any
17 concern about the circular drive as long as the paving
18 was continuous and you had a sense that you could walk
19 there without too much trouble. I think we're okay
20 with the drive.

21 MEMBER ZAIDAIN: Okay. My second question
22 would be you talk about the green building rating. I
23 guess my question is in order for them to get this
24 rating is there going to have to be some tweaks or
25 changes in the design in order to get this rating or

1 is this just a matter of process. The design is there
2 and everybody feels like it qualifies for whatever
3 level, I think certification was the level that was
4 testified to and it's just a matter of going through
5 the process and getting the certification.

6 I guess my problem is if we make this a
7 condition or whatever and it goes before this Council,
8 and again I'm pulling words out because I'm not
9 familiar with the process, and all of a sudden the
10 design has to be changed for whatever reason to meet
11 some standards and then you have some problems with an
12 approval order if one is issued. Are you following
13 me?

14 MR. MCGETTIGAN: Yes. I think that
15 there's 69 points that you can get to get a green
16 building. When we sat down with the Applicant, we
17 identified 26 that they felt they could do and 15 that
18 were possible. So there's a wide range of points to
19 be had. Doing 17 and trying to get nine more and get
20 the certification, I think is certainly doable. I
21 think that since they are initiating the green
22 building they have their own reasons for wanting the
23 green building, so they have their own reasons for
24 trying to get that certification.

25 Of course a lot of the points have a cost

1 associated with them and are involved in the
2 engineering and the details of the building. So they
3 can't be sure which of the 41 possible points that we
4 identified are going to be doable. They need some
5 flexibility in the points system to get the green
6 building, but I think if we ask for the 17 before the
7 certificate of occupancy and they get the other nine
8 on their own cognoscence that would be acceptable.

9 MR. QUIN: Mr. Zaidain, to answer your
10 question directly, we don't expect any changes in the
11 design in order to accomplish the rating.

12 MEMBER ZAIDAIN: So you just stated that
13 you feel that there are 17 definitely that can be had
14 and that's with the current design and that would give
15 them the level of certification. Is that what I
16 understand?

17 MR. QUIN: It would have to be 17 plus
18 nine. It has to be 26 points to get certification,
19 but the balance has to be when the building is
20 operational. There are things inside the building --

21 MEMBER ZAIDAIN: I was going to say, is
22 there interior, like energy saving, mechanisms that
23 are a part of all this that wouldn't relate to the
24 exterior design?

25 MR. QUIN: Yes. They're covered in the

1 letter that was submitted by Mr. Schlichting attached
2 to the LEED there that gives the options which we
3 expect to pursue.

4 MEMBER ZAIDAIN: Okay. Thank you.

5 VICE CHAIRPERSON RENSHAW: Mr. McGettigan,
6 DDOT proposes that the Applicant should provide a curb
7 side loading area with a maximum length of 40 feet
8 along First Street. The Applicant has stated on page
9 15 of their submission that a loading zone is
10 designated on First Street between 9:30 a.m. and 6:30
11 p.m. Is this going to have any impact on p.m. rush
12 hour traffic?

13 MR. MCGETTIGAN: I don't know.

14 VICE CHAIRPERSON RENSHAW: Is First Street
15 a heavily used street during p.m. rush hour?

16 MR. MCGETTIGAN: Let me check. Perhaps
17 George can answer that.

18 CHAIRPERSON GRIFFIS: It's on the wrong
19 side for rush hour going out of town.

20 VICE CHAIRPERSON RENSHAW: I'm just
21 asking. Perhaps the Applicant --

22 CHAIRPERSON GRIFFIS: Why do we care about
23 people leaving the city?

24 VICE CHAIRPERSON RENSHAW: Mr. Quin, is
25 that something that could be adjusted backwards in

1 other words to cut it off at 4:00 instead of 6:30?

2 MR. QUIN: We can work with Department of
3 Transportation on any hours. I'm not worried about
4 that. If this is what they want and if we have a need
5 for a loading on a special occasion, we can get that.

6 VICE CHAIRPERSON RENSHAW: That's
7 understandable, but it was just the inconsistency in
8 your report versus what they say. I know DDOT has no
9 problems with it, but given the traffic circulation
10 problems in the city perhaps the Applicant should
11 consider cutting it off at 4:00.

12 MR. QUIN: We can certainly do whatever
13 DOT wants us to do on that. This is an existing
14 loading area. We can utilize that as it is or if we
15 need to cut it off earlier we can do that too. We're
16 flexible on that.

17 VICE CHAIRPERSON RENSHAW: Okay.

18 SECRETARY PRUITT: Excuse me, Mr. Chair,
19 before you go further, we need to waive that in.

20 CHAIRPERSON GRIFFIS: Indeed. Excellent
21 point. Any objection to waiving in the DDOT report
22 that we've now been discussing?

23 COMMISSIONER HOOD: Mr. Chairman, just for
24 the record, I really think we need to send this DDOT
25 report back to them. This hearing started at 9:30 and

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1 this report comes in at 10:23. While I'm sure we're
2 going to accept it, I think at some point in time if
3 they can't send it in on time we need to send it back.

4 CHAIRPERSON GRIFFIS: Good point. Note
5 that for future reference. But Mr. Hood, you're not
6 objecting to accepting it in today's record. Is that
7 correct?

8 COMMISSIONER HOOD: I'm objecting to it.

9 CHAIRPERSON GRIFFIS: Okay. Very well.
10 Any other objections? I think that's an excellent
11 point, Mr. Hood. I think we should and we have talked
12 to other agencies in the past. Clearly it's the
13 importance of having reports for the Board so that we
14 can have time to read it and digest it and also for
15 Applicant to address them so that we don't spend an
16 awful lot of time going through it.

17 I think it's important enough and
18 substantive enough for us to address today, so I would
19 urge that the Board support it. I would move that we
20 waive our rules and accept the DDOT report this
21 morning. I will ask for a second.

22 MEMBER ZAIDAIN: Seconded, Mr. Chair.

23 CHAIRPERSON GRIFFIS: Thank you very much.

24 All those in favor?

25 (Chorus of ayes.)

1 CHAIRPERSON GRIFFIS: All those opposed?

2 COMMISSIONER HOOD: Opposed.

3 CHAIRPERSON GRIFFIS: It's a close one.

4 COMMISSIONER HOOD: Let me just say this,
5 Mr. Chair.

6 CHAIRPERSON GRIFFIS: I agree with Mr.
7 Hood. I get tired of reading these at the last
8 minute.

9 COMMISSIONER HOOD: We work hard at night.
10 Some of us are up at 4:00 trying to read because we
11 had hearings prior. I understand they have a lot of
12 work to do, but so do we. If we keep on accepting
13 this, they're going to keep on doing it. At some
14 point in time, we're going to have to just say hey
15 look we can move forward without you.

16 CHAIRPERSON GRIFFIS: And I totally agree.
17 I think we're talking about the process that this
18 Board and the DDOT agency need to work on. I would
19 hate to jeopardize or limit the information coming in
20 on this specific application to prove the point that
21 needs proving to DDOT. I would suggest that we at
22 lunchtime write a letter. We can all sign it and make
23 sure that our feelings of importance of their reports
24 being received on time are communicated. Very well.
25 I think the record will show the vote on that.

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1 SECRETARY PRUITT: Would you like the
2 Staff --

3 CHAIRPERSON GRIFFIS: No. Let's keep
4 moving. Yes?

5 MR. MCGETTIGAN: I'm ready to answer Ms.
6 Renshaw's question I think. On Exhibit J at the
7 traffic report page 6, it says that The a.m. peak
8 hour and the p.m. peak hour level of service at the
9 two intersections of New Jersey Avenue and First
10 Street and E Street and First Street for a.m. peak is
11 A and B on those two and the p.m. is B and C. So
12 it's not --

13 VICE CHAIRPERSON RENSHAW: It's a
14 deterioration of service at the p.m.

15 MR. MCGETTIGAN: Yes.

16 VICE CHAIRPERSON RENSHAW: We'll take note
17 of that. Thanks.

18 CHAIRPERSON GRIFFIS: Very well. Other
19 questions of the Office of Planning by the Board? Mr.
20 McGettigan, I think it's an excellent point that
21 you're talking about having entrances on the northern
22 retail space that might spill people out in the
23 courtyard, but isn't that really a designed decision
24 based on the actual retailer or cafe or function that
25 goes in there?

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1 MR. MCGETTIGAN: Yes. Our concern is just
2 that there be interaction. Depending on the retailer,
3 yes I can see that it might be better to have one
4 entrance that's controlled. Some retailers control
5 their product at the counter and they could enjoy too,
6 so yes I agree it would depend on who is going in
7 there.

8 CHAIRPERSON GRIFFIS: Okay. I mean, I
9 think the discussion has happened and that point won't
10 be lost to the designer and developer, so they will
11 certainly take that. In fact, it seems like they're
12 trying to capture that Georgetown crowd coming in on
13 the other side. And also in terms of the narrowness
14 of the building itself I think will lend for
15 circulation and animation in that area.

16 In any case, I think it's an excellent
17 point. I'm not sure it makes it to the level of a
18 condition for us, but we can have discussion on that.

19 Let's move on then. Does the Applicant have any
20 questions of the Office of Planning at this time?

21 MR. QUIN: No questions.

22 CHAIRPERSON GRIFFIS: You have stated, Mr.
23 Quin, that it is not objectionable to the Applicant to
24 remove the buffer loading area which would remove the
25 curb cutoff on First Street. Is that correct?

1 MR. QUIN: That's correct.

2 CHAIRPERSON GRIFFIS: Okay.

3 MR. QUIN: We will have a curb cut in
4 order to get into the building.

5 CHAIRPERSON GRIFFIS: My understanding of
6 what DDOT is saying is it would remove that curb cut,
7 it would remove that loading, not just the buffer of
8 the loading area.

9 MR. QUIN: Maybe I should call Mr.
10 Schlichting to answer that question.

11 MR. SCHLICHTING: Thank you, Mr. Chairman.
12 We do have a 20 foot service and delivery loading
13 dock within the building that we intend to maintain.

14 CHAIRPERSON GRIFFIS: Correct.

15 MR. SCHLICHTING: So that will require a
16 curb cut on First Street. We have no objection to
17 removing the 30 foot loading berth that was in public
18 space on the sidewalk and buffered with a low wall.
19 My understanding is that is what DDOT is saying is
20 unnecessary and that loading can be serviced from the
21 street.

22 CHAIRPERSON GRIFFIS: I see. There's a
23 little bit of discrepancy perhaps with then this
24 streetscape plan and the ground floor plan.

25 VICE CHAIRPERSON RENSHAW: Are there

1 metered spaces along First Street?

2 MR. SCHLICHTING: I believe there are.

3 VICE CHAIRPERSON RENSHAW: So you would be
4 removing how many?

5 MR. SCHLICHTING: I'm told there is an
6 existing loading zone there for the prior use of the
7 site.

8 VICE CHAIRPERSON RENSHAW: And no meters
9 in that loading zone?

10 MR. SCHLICHTING: That would --

11 VICE CHAIRPERSON RENSHAW: Is Mr. George
12 here?

13 MR. QUIN: Unfortunately our traffic
14 consultants have not made it. I think the traffic
15 problem today.

16 CHAIRPERSON GRIFFIS: There's some irony
17 there.

18 MR. QUIN: That's right.

19 MR. SCHLICHTING: Unfortunately the late
20 arrival of this report has not allowed us to look into
21 this. The idea of servicing the loading requirement
22 was going to be on the sidewalk and now is on the
23 street, so we don't fully understand the situation.

24 MR. QUIN: As mentioned earlier, the Board
25 specifically, and I'll ask for sure I thought wanted a

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1 low wall as a buffer for loading. If the DOT wants us
2 not to have the loading area, then obviously the wall
3 is not there either. So we'd put that on the street.

4 We don't object to that if that's what DOT and the
5 Board feels is important.

6 CHAIRPERSON GRIFFIS: The First Street
7 curb cut, there is an existing curb cut there. Is
8 this close to, is there expansion, is it in the same
9 location?

10 MR. QUIN: Mr. Williams, in absence of our
11 traffic consultant will be sworn.

12 CHAIRPERSON GRIFFIS: Ms. Bailey, can you
13 swear Mr. Williams in?

14 WHEREUPON,

15 LINDSLEY WILLIAMS

16 was called as a witness by Counsel for the Applicant
17 and, having been first duly sworn, was examined and
18 testified as follows:

19 MR. WILLIAMS: Mr. Griffis, the existing
20 conditions include a number of parking meters. I
21 haven't gotten a precise count. I do have some
22 photographs that are available for me to interpret or
23 to bring to your attention which depict approximately
24 nine or ten metered parking spaces along the First
25 Street side of the square proceeding from an existing

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1 curb cut all the way past the tip of the building and
2 along the side of the Park Service Reservation.

3 The same conditions exist along New Jersey
4 Avenue. I cannot clearly make it out, but it is my
5 belief having been to the site a number of times and
6 knowing the city's desire to collect money that those
7 are metered as well.

8 CHAIRPERSON GRIFFIS: Yes they are. Okay.
9 So what's the impact? Also, first of all, the curb
10 cuts, are they the same?

11 MR. WILLIAMS: The curb cuts right now are
12 consistent with the prior use history for a gasoline
13 station. The curb cut along First Street is in
14 approximately the same location as that proposed. The
15 throat of the new curb cut would be less than that
16 depicted in this diagram and it may be shifted
17 somewhat.

18 CHAIRPERSON GRIFFIS: What do you mean by
19 "approximately"?

20 MR. WILLIAMS: The curb cut as shown in
21 the photographs is at least 30 feet from one side of
22 the driveway to the other.

23 CHAIRPERSON GRIFFIS: Okay. But the
24 majority of the existing proposed fits within the
25 existing curb cut.

1 MR. WILLIAMS: Yes.

2 CHAIRPERSON GRIFFIS: Okay.

3 MEMBER ETHERLY: I'm sorry, Mr. Chair.
4 Mr. Williams, that will be the first curb cut as
5 you're proceeding north from the south end of --

6 MR. WILLIAMS: Proceeding north from E
7 Street, there is proposed by the Applicant a one curb
8 cut that comes into the service delivery space. It
9 was to have also served the public space location of
10 the larger loading berth.

11 MEMBER ETHERLY: On the First Street side.

12 MR. WILLIAMS: On the First Street side.
13 The entrances along the New Jersey Avenue side, I am
14 not prepared to give an absolute statement, but I
15 believe the curb cut locations would have to be
16 adjusted somewhat from what I can see in the
17 photographs. These photographs are not I believe in
18 your record at this point. Oh, they are?

19 MR. QUIN: Yes, sir.

20 VICE CHAIRPERSON RENSHAW: Mr. Chairman, I
21 refer to page 10 of the technical memorandum of the
22 Applicant's traffic consultant which is where it is
23 the off street loading requirement review. This is
24 Tab J. Of course there is the description based on
25 what the Applicant has proposed. It states that in

1 order to facilitate the arrangement as the Applicant
2 has previously proposed a removal of up to two metered
3 parking spaces may be necessary and that the Applicant
4 would be required to obtain approvals from the D.C.
5 Government which would include assessment of any
6 fiscal impacts.

7 But this will have to be adjusted. This
8 will have to take into account DDOT's report. We
9 would need I think to have another assessment of the
10 situation.

11 MEMBER ETHERLY: Mr. Chair, if I may just
12 to come back to the exchange we had regarding the curb
13 cut on First Street. If I understand you correctly,
14 Mr. Williams, the existing curb cut which was in place
15 for the previous Petroleum Service Station use roughly
16 falls within the space of what is the first curb cut
17 as you are proceeding north from the back end of the
18 building, roughly, approximately.

19 MR. WILLIAMS: Yes.

20 MEMBER ETHERLY: The second curb cut as
21 you are proceeding towards the Park Service
22 Reservation area will in all likelihood be replaced
23 with curb.

24 MR. WILLIAMS: I expect so.

25 MEMBER ETHERLY: Okay. As far as the

1 existing curb cuts that are on the New Jersey frontage
2 of the building are with the exception of maybe the
3 south one, you're going to be readjusting those or
4 eliminating those altogether.

5 MR. WILLIAMS: I would use the word
6 adjusting. There would have to be two curb cuts for a
7 semi-circular driveway.

8 MEMBER ETHERLY: For the circular
9 driveway, okay.

10 MR. WILLIAMS: And I believe they would
11 fall at a different point along the roadway than the
12 curb cuts at present at least to a substantial extent.

13 MEMBER ETHERLY: Okay. Thank you. Thank
14 you, Mr. Chairman.

15 CHAIRPERSON GRIFFIS: Is everybody clear?
16 To summarize, it seems that there are three existing
17 curb cuts. One is fairly close to where the proposed
18 new one will be. There's three the proposed design
19 also incorporates. Well, it actually incorporates
20 four, but the three primary are on First and New
21 Jersey Avenue with a little bit of changing.

22 Going to this buffered loading area.
23 Perhaps I've missed it on the elevation. What is the
24 height? What is the actual buffering that's being
25 talked about for this?

1 MR. SCHLICHTING: We do not have a final
2 design or elevation for that. We just listed it on
3 the drawing as a low wall which I would anticipate
4 being something in the order of 36 inches high.

5 MR. QUIN: But that would not be
6 implemented if we put the loading on the street.

7 CHAIRPERSON GRIFFIS: And then there's a
8 planting that happens on each side of that. That
9 would also have that wall of some sort. Is that
10 what's anticipated?

11 MR. QUIN: We can call Mr. van Sweden on
12 the landscaping if that would be appropriate.

13 MR. VAN SWEDEN: I'm James van Sweden.

14 CHAIRPERSON GRIFFIS: It's at the bottom.

15 MR. VAN SWEDEN: James van Sweden,
16 landscape architect. I've been practicing in
17 Washington for 27 years. I've done a lot of work in
18 the city on various public projects and commercial and
19 a lot of residential.

20 The planting will also add to the buffer
21 of course. It will be on each side of the wall.
22 There's service here. (Indicating.) The wall is shown
23 right there. There is a lot of planting actually
24 because of the right of way and the set back on all
25 sides of this project. We have plenty of room for

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1 landscaping. We can make it quite lush and planted
2 out as a buffer.

3 CHAIRPERSON GRIFFIS: What you're
4 anticipating is that plant is actually in a raised bed
5 but it's surrounded by a wall that would continue to
6 buffer.

7 MR. VAN SWEDEN: Yes. Possibly.

8 CHAIRPERSON GRIFFIS: Is it possible to
9 have the landscaping on grade?

10 MR. VAN SWEDEN: Yes.

11 CHAIRPERSON GRIFFIS: Maybe a small curb.

12 MR. VAN SWEDEN: No. We're going to be
13 planting at grade. Plantings will be over the roof of
14 the garage.

15 CHAIRPERSON GRIFFIS: I'm sorry. Even
16 with the sidewalk level. I understand that it's on a
17 grade.

18 MR. VAN SWEDEN: Yes it will.

19 CHAIRPERSON GRIFFIS: If I just understood
20 what you're saying, it would be raised off the
21 sidewalk by two to three feet.

22 MR. VAN SWEDEN: There could be a wall,
23 but the planting could still be at grade.

24 CHAIRPERSON GRIFFIS: So you look up over
25 the wall into planting.

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1 MR. VAN SWEDEN: The landscaping is not at
2 any detailed point.

3 CHAIRPERSON GRIFFIS: What's your
4 preference, raised or not raised?

5 MR. VAN SWEDEN: Not raised.

6 CHAIRPERSON GRIFFIS: Fabulous. That
7 would be mine also. It seems that you could
8 accommodate, and I'm not really sure of the substance
9 of what DDOT is talking about with this buffering. I
10 think the buffering actually hurts the sidewalk appeal
11 I'll call it because I think it artificially defines
12 the sidewalk. Although it's large enough.

13 It seems like you could buffer your
14 loading zone with even some sculptural bollards that
15 might indicate where you park in and would keep
16 somebody from driving across the sidewalk and have
17 your landscapes go out across the building. Can we
18 make recommendations to DDOT? Is that within our
19 jurisdiction? All right.

20 I think I'm understanding this. Do the
21 Board Members understand the landscaping and that
22 function that's happening on that side? Excellent.
23 Does Office of Planning have a comment on that?

24 MR. MCGETTIGAN: I think what DDOT is
25 asking is that there not be a loading space in that

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1 area between the sidewalk and the building. That it
2 just be gone, so there wouldn't be a need for a wall
3 anymore and they could landscape that space.

4 CHAIRPERSON GRIFFIS: No, I understand.
5 It would be the removal of the loading, but I think
6 for our purposes and looking at the Zoning Regulations
7 we need to accommodate clearly the function of this
8 building and not create any adverse impact on the
9 surrounding area.

10 Where Ms. Renshaw is going to which I
11 clearly understand is if we start removing the public
12 parking out in front of this building because we need
13 to have the FedEx and the UPS truck use a loading area
14 which is off of a loading area from the main entrance
15 then what are we actually facilitating. So that's why
16 I'm not clearly understanding the substance of all of
17 DDOT's objection to it. I think functionally and
18 design wise we can make it work which is where I think
19 the Board was previously and perhaps is now.

20 MR. QUIN: I have another solution which
21 is to renew the objection to the DOT report. This is
22 really frankly unfair to the Applicant because we had
23 a case to prepare on a basis of the record. We worked
24 with DOT for over a month to get the report that tells
25 us something that's a surprise at the hearing. We can

1 accommodate it if that's the desire of the Board, but
2 on the other hand to raise new issues I think is not
3 proper. We had to get our public space permits
4 anyway.

5 CHAIRPERSON GRIFFIS: Right.

6 VICE CHAIRPERSON RENSHAW: But I think,
7 Mr. Quin, that we can accept the report which we have
8 done. We can voice our objections to the various
9 points in the report. I don't feel that I am bound to
10 shall we say vote on what DDOT has recommended.

11 MR. QUIN: Thank you.

12 CHAIRPERSON GRIFFIS: Very well. I think
13 the Board should take it up in terms of the zoning
14 issues and the impact. Something has to give. That's
15 if not the defining element of this application, it's
16 a squeeze of a site. Clearly if we're doing loading
17 on-street we're losing something if we can accommodate
18 it. So we'll address that.

19 VICE CHAIRPERSON RENSHAW: And we also,
20 Mr. Chairman, have to keep in mind the pedestrian
21 flow.

22 CHAIRPERSON GRIFFIS: Exactly.

23 VICE CHAIRPERSON RENSHAW: And it's such a
24 compelling and beautiful building that we would want
25 to have the streetscape look as finished as possible

1 and not have a loading dock in the street and then
2 have to take all the packages and items across the
3 sidewalk into the building.

4 CHAIRPERSON GRIFFIS: I would agree.
5 Anything else on that? Who brought that up anyway?
6 Okay. Are there any follow-up questions to the Office
7 of Planning?

8 MR. QUIN: No questions.

9 CHAIRPERSON GRIFFIS: Board Members? Very
10 well. Let's move on then. We should acknowledge the
11 fact that we did get the Federal Trade Commission
12 letter in support which if I'm not mistaken is also
13 part of the ownership at 601 New Jersey Avenue. Is
14 that correct?

15 MR. QUIN: That's my understanding, yes.

16 CHAIRPERSON GRIFFIS: Okay. It's
17 interesting having all these submitted. In my note on
18 memos, do we take these as official government reports
19 or do we take these as letters of support? So I think
20 we'll clearly hit them all. I think it's important to
21 go to the ANC at this point of which there is some
22 note of unclarity. I believe Mr. Hall is here today.
23 Is that correct?

24 MR. HALL: Yes, sir.

25 CHAIRPERSON GRIFFIS: Very well. Are you

1 prepared to speak today?

2 MR. HALL: Yes.

3 CHAIRPERSON GRIFFIS: Excellent. Why
4 don't you come forward?

5 VICE CHAIRPERSON RENSHAW: As Mr. Hall is
6 coming forward just to note that the letter from Mr.
7 Hall, ANC 6A-01 is Exhibit Number 81.

8 MR. QUIN: May I? I'm familiar with it.
9 I note that it is not a report of the ANC.

10 CHAIRPERSON GRIFFIS: Indeed.

11 MR. QUIN: It is a committee, or maybe not
12 even a committee, it is a memorandum signed by Mr.
13 Hall whom we have been meeting with. I'm not sure
14 what he's going to say, but I would certainly object
15 to any postponement of this case.

16 CHAIRPERSON GRIFFIS: Yes. Noted. Mr.
17 Hall, I think that's why we wanted you to come up
18 here, just to see if you could bring any clarification
19 briefly on this issue.

20 MR. HALL: Good morning. As Mr. Quin
21 noted, this is not a letter from the full ANC which is
22 one of the reasons why I'm here. It is actually a
23 letter from my own district in which this building is
24 located and this very facility is located. This
25 building would be a neighbor to this corridor so to

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1 speak or this business district.

2 The reason why I'm requesting that the
3 Board give us additional forbearance in hearing the
4 position of the full ANC is that in a previous
5 application there was a Zoning and Licensing position
6 that was taken for these very same variances and
7 special exceptions supporting development on this
8 location in a very strong way. There were only two
9 abstentions at the Zoning and Licensing level.
10 Everyone else was in full support of the Applicant at
11 the time, the prior Applicant.

12 The full ANC voted once again unanimously.
13 Then there was a subsequent unanimous vote by your
14 own Board. With the new Applicant, I think there is
15 still support for the idea of this development
16 happening, as being useful, as being beneficial to
17 this corridor which is in great need and deserves much
18 better development than it currently has. However,
19 the Zoning and Licensing Committee met with this
20 particular design and unanimously opposed it.

21 The unanimous opposition by Zoning and
22 Licensing Committee is not common. Even a unanimous
23 position by ANC or Zoning and Licensing is not common.

24 But they unanimously took a position against it.

25 CHAIRPERSON GRIFFIS: Do you know

1 specifically the bullet point list of the issues they
2 took opposition of?

3 MR. HALL: I think the primary issue
4 speaks to the aesthetics and the potential harm to the
5 business corridor. I don't think anyone argued that
6 this type of development and investment in our city is
7 not warranted.

8 CHAIRPERSON GRIFFIS: Let me throw a
9 hypothetical at you, Mr. Hall.

10 MR. HALL: Sure.

11 CHAIRPERSON GRIFFIS: If it went to the
12 full ANC and they opposed it and they wrote their
13 letter of which of course they would need to outline
14 the zoning issues, where would our jurisdiction be in
15 fulfilling the ANC's desire to oppose this if it was
16 based on the design? My point maybe more directly is
17 we don't have a lot of jurisdiction outside of the
18 penthouse which we could play around with for a while
19 which is in our jurisdiction.

20 MR. HALL: Right.

21 CHAIRPERSON GRIFFIS: I'm not sure how we
22 get down to the rest of the building.

23 MR. HALL: Understanding this is
24 hotel/residential overlay.

25 CHAIRPERSON GRIFFIS: Yes. It's a nature

1 overlay.

2 MR. HALL: And the concern that has been
3 expressed is that the prior design that was approved
4 was although still an office type facility, not hotel
5 or residential, had an aesthetic that gave that
6 feeling, a warmer, hotel/residential type feeling. It
7 was more of an open building. It had the windows. It
8 had balconies. It was not clearly an office building.

9 This is an incredible design but it is
10 clearly an office facility. There's nothing hotel or
11 residential about it. The concern is that it would do
12 harm to the business corridor. We can see from that
13 harm why the aesthetic is a concern for the ANC, at
14 least the Zoning and Licensing.

15 While I feel that the ANC should have an
16 opportunity to weigh in on that potential harm, this
17 ANC has taken positions before regarding the concern
18 for the aesthetic nature of Capitol Hill and the type
19 of buildings that are placed in the Capitol Hill area.

20 No one says that this is not a beautiful building,
21 but it seems more appropriate for Crystal City and not
22 appropriate in the shadow of the nation's capital.

23 This is a very unique site. It has been
24 noted. It is a site that is unlike any in the world
25 with the 50 foot sidewalks beside it and your -- you

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1 can't get anywhere. We are just very concerned about
2 making sure that we don't run into producing a
3 building, although not a bad design, but inappropriate
4 for this location.

5 CHAIRPERSON GRIFFIS: I think that's an
6 excellent point. I think the Board can deliberate on
7 that. But let me ask you a few things just to explore
8 your position.

9 MR. HALL: Sure.

10 CHAIRPERSON GRIFFIS: First of all for
11 clarities sake, clearly there are experts on the
12 differing side that support this design and find it
13 appropriate for the area. I'm sure you are aware of
14 that. My question to you though is in the area even
15 with the hotel/residential overlay you're not looking
16 to the context of the hotels in order to inform the
17 design of this building. Are you? I guess directly
18 what designs of the hotels in this area do you like?

19 MR. HALL: Well quite frankly a lot of
20 these designs in the 601/602 particularly aren't in my
21 personal opinion --

22 CHAIRPERSON GRIFFIS: You're talking about
23 601 New Jersey, the new building.

24 MR. HALL: Yes. The new buildings aren't

25 --

1 CHAIRPERSON GRIFFIS: But that's not a
2 hotel.

3 MR. HALL: I understand. I apologize.
4 The Hyatt Regency is not aesthetically as pleasing I
5 think as it could have been developed. I would not
6 argue that some of the things that have been put there
7 in the past are detrimental along the same lines.
8 However, I don't think that's a basis to continue in
9 that vein of putting more buildings that look more
10 like Crystal City around Capitol Hill.

11 CHAIRPERSON GRIFFIS: Okay. Good point.
12 Board Members, any questions of Mr. Hall?

13 VICE CHAIRPERSON RENSHAW: Mr. Hall, did
14 the architects visit with your Zoning and Licensing
15 Committee?

16 MR. HALL: Yes. For the Applicant?

17 VICE CHAIRPERSON RENSHAW: Yes.

18 MR. HALL: Yes they did.

19 VICE CHAIRPERSON RENSHAW: Did you bring
20 up these points with them? Did you have a discussion
21 of your feelings?

22 MR. HALL: Yes. I would have to say that
23 I wrote a letter, and I didn't submit it for this
24 record, personally to the President to the National
25 Association of Realtors before the Zoning and

1 Licensing Committee meeting even happened because I
2 could see this thing happening. I want to see this
3 development happen, but I after a little bit of time
4 know the general responses that we get from for
5 instance the Aesthetic Park Association was very
6 concerned with the type of aesthetic, a lot of
7 residents who live in this area.

8 They met my presentations as if I had to
9 say nothing. They didn't respond. They didn't call
10 back. They didn't say let's sit down and talk. They
11 didn't acknowledge the ANC or the position of the
12 residents at all. Even realtors had written letters
13 that I have received. Also I have seen written
14 letters to the National Association of Realtors in
15 opposition. The very members of the NAR are opposed.

16 It's even the Capitol Hill Association of
17 Merchants. I'll just read this very briefly. They
18 describe this as an inappropriate juxtaposition of
19 aesthetics in our neighborhood. Now I could never put
20 together something that sounds that great. But the
21 point is there is real opposition to this design not
22 only by every commissioner on the Zoning and Licensing
23 that was there, every resident which there are a
24 majority of residents that are on that Board, but also
25 some associations that are in the area and are

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1 stakeholders. There is real opposition by realtors in
2 the neighborhood. I think that has to be brought
3 forward and considered. This is not --

4 CHAIRPERSON GRIFFIS: I think we need to
5 get fairly quickly to why hasn't that come forward
6 now. Clearly we're not doing a popularity contest.

7 MR. HALL: Right.

8 CHAIRPERSON GRIFFIS: Even though it would
9 seem to be with the amount of letters that I put in
10 here. Why haven't we heard this before? Why aren't
11 the people here today? Why didn't the ANC briefly
12 meet or do a special meeting if a quorum couldn't be
13 met? When is it that you met? I mean, you've known
14 about this for a substantial amount of time.

15 MR. HALL: Yes.

16 CHAIRPERSON GRIFFIS: Okay.

17 MR. HALL: I think that during the period
18 that this has been a concern the majority of the
19 correspondence that I have seen and even my own
20 personal correspondence has been directed toward the
21 NAR, toward the President imploring them to consider
22 our voices. We're looking not to have a adversarial
23 relationship but to have a relationship where we
24 cooperate much in the way that we're currently
25 cooperating with BBM.

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1 We didn't want a repeat of that, so I saw
2 a number of stakeholders approach the NAR and its
3 President and various officers of its Board, Mr.
4 McDermott for one that I know of, and they met those
5 responses with very little concern for being a good
6 neighbor and for engaging us in a dialogue. I think
7 this is something that should have been addressed
8 better to the Board of Zoning Adjustments. But we
9 thought quite frankly that we would have gotten a
10 better response by now.

11 CHAIRPERSON GRIFFIS: A better response
12 from the NAR.

13 MR. HALL: Yes.

14 CHAIRPERSON GRIFFIS: Then why didn't the
15 ANC meet or do a special meeting and call a quorum?

16 MR. HALL: There was little time to put
17 together the special meeting because of the legal
18 requirements of calling a special meeting, timing, et
19 cetera. I didn't want to say this but these are
20 volunteers. I myself am a volunteer. It's hard to
21 get them together on such short notice.

22 CHAIRPERSON GRIFFIS: We know the feeling.

23 MR. HALL: We did have a good number of
24 commissioners at the meeting where we failed to make a
25 quorum. We had a public meeting instead of a regular

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1 ANC meeting since we had lots of public there. We
2 offered the Applicant the opportunity to make a
3 presentation. I will say that I probably clouded
4 their opportunity by voicing my opinion.

5 CHAIRPERSON GRIFFIS: About them.

6 MR. HALL: And they decided that they
7 would not present which I think they could have
8 presented to the community but they chose not to and
9 they left.

10 CHAIRPERSON GRIFFIS: Let me ask and I
11 appreciate this. We can only go so far with this.
12 Let me just make a statement from the Board's
13 perception. Clearly we take with all seriousness the
14 role that the ANC plays in our proceedings. It is
15 disappointing that we couldn't have full participation
16 today. I think we need to have a little bit of
17 discussion, but I think you flushed out a lot of the
18 concern.

19 I can certainly relate to that. I can
20 imagine this design going to the community and
21 probably not being accepted immediately only because
22 of its newness, its differentness. People are going
23 to have different opinions. Then I think there's a
24 whole side that would look at it and be very excited
25 about it and see what was happening.

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1 So I guess my point is two fold. One is
2 I'm not sure that I'm prepared, and I'll hear from my
3 Board Members, to delay the hearing and postpone it
4 for the ANC to get a quorum and to submit the response
5 because what I'm hearing is it's a basis of design.
6 Again, that goes to the critical piece of how much
7 could the Board actually deliberate on the issues of
8 concern.

9 Believe me and I can say although I
10 probably shouldn't and I may try and get it off the
11 testimony, I can see applications that I come in here
12 that I find are horrible designs and unless we can tie
13 it to our Zoning Regulations and give us jurisdiction
14 to actually look at it to try and change it then our
15 hands are essentially tied. So going to this
16 immediate case --

17 MR. HALL: The height variance.

18 CHAIRPERSON GRIFFIS: Well --

19 MR. HALL: HR normally.

20 CHAIRPERSON GRIFFIS: I understand that
21 except for the fact that and in your own testimony
22 today you said that the previous which is a similar
23 height was acceptable and yet this is not acceptable.

24 My point is I don't know how we tie it just to the
25 design because this doesn't have a copper pentroof

1 that looks as some might think more residential or
2 hotel-like. I'm not sure how we would deliberate on
3 that issue.

4 MR. HALL: My understanding is that for
5 the height variance to be granted one of the
6 conditions is that the building would do no harm to
7 the area its in.

8 CHAIRPERSON GRIFFIS: Correct.

9 MR. HALL: And the position that I think
10 that the ANC will take is that this building
11 aesthetically does do that harm and thus the height
12 variance should not be granted which is purely a
13 zoning issue.

14 CHAIRPERSON GRIFFIS: Yes. It would be an
15 excellent discussion to have. I'm sorry we can't have
16 the full participation of the ANC. My question to you
17 would be as I imagine that you'd be cross examined is
18 if this building was of four or five stories with this
19 same articulation, same materials with the curtain
20 wall, would it be objectionable.

21 MR. HALL: I'd like the full ANC to weigh
22 in on that, but I think that it would probably still
23 be objectionable quite frankly.

24 CHAIRPERSON GRIFFIS: That doesn't go to
25 the height is where I think people would go.

1 MR. HALL: Well, it does go to the height
2 not necessarily directly but that height and the
3 willingness of the community to allow for the height,
4 because the height of this building is going to impact
5 its grandeur in the corridor. It's in how notable it
6 is in the corridor. That notability that was given by
7 virtue of an increase of height can augment how
8 harmful the design is to the community.

9 The community has very great and serious
10 concerns, not only the residents but members of the
11 NAR itself. There's a member of the NAR that sits on
12 the Zoning and Licensing Committee who also wrote a
13 letter to her own president who is a realtor.

14 CHAIRPERSON GRIFFIS: I understand. But
15 you also understand for us the anecdotal there are
16 five, there are four against it. First of all, we
17 would need them all submitting so we can take on
18 substance of the points and go from there.

19 I know only a little bit about design, but
20 clearly it's a fascinating thing. It's worth huge
21 discussion because you can have very intelligent
22 people on both sides of the same issue. Again, I just
23 go to the point of I'm not sure how far this Board can
24 take it. Let me hear from other Board Members if
25 there's any comments. What we are looking at right

1 now is there is a request to continue this in order
2 for the ANC to create a quorum in their public hearing
3 to take action on this.

4 MR. QUIN: Mr. Chairman, may I be heard on
5 that request?

6 CHAIRPERSON GRIFFIS: Yes.

7 MR. QUIN: I think I would get an
8 opportunity to respond to that. First of all, we got
9 the letter the day of the hearing. That's another
10 problem. The design issue is one that I'm concerned
11 about, but legally, I mean, Mr. Hall, we work with
12 them all the time on other cases in this case. But I
13 don't think that Mr. Hall as an ANC Single Member
14 District Representative has the authority to request
15 on behalf of the full ANC a postponement in the first
16 place.

17 Secondly, we have contract provisions and
18 we can put our witnesses on. We need to move forward
19 with this case. There are some deadlines that we have
20 to meet. Third, there was no ANC report at all last
21 time in the record for this Board's decision. If you
22 recall, there was a report from the Committee but not
23 the ANC because there was also the question of whether
24 the ANC should have the time to put a report in. The
25 Board determined there was no need to. The action

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1 that Mr. Hall refers to about ANC-6A was subsequent to
2 the Board's grant of the case.

3 The next point is all the issues that
4 we're talking about here if we deal with design, it is
5 the choice of the proponent of the present owner of
6 the property. As long as we meet the tests as we
7 believe we have, then the Board needs to grant the
8 application. I think going to the ANC any further
9 delay is just beyond my imagination.

10 We've had the last three times that we've
11 tried to go to this ANC they have not been able to get
12 a quorum. That's three straight months. Aside from
13 the legal points involved and then I would like to
14 come back, I think there are two points I want to
15 register. One is the legal position that we oppose
16 any request and the reasons I've just stated.
17 Secondly, I would like the opportunity to ask Mr. Hall
18 some questions about his testimony, but that's a
19 different issue I suppose.

20 CHAIRPERSON GRIFFIS: Indeed. I'll give
21 you an opportunity and I should have. Do you have
22 questions of Mr. Hall now based on his testimony?
23 Then the Board can pick this up very quickly.

24 MR. QUIN: Yes. I don't have many
25 questions.

CROSS EXAMINATION

BY MR. QUIN:

Q Mr. Hall, generally do you follow your constituency that's most affected by a particular project?

A I would say I do, yes. I think that all of my constituency are impacted and affected by this project.

Q Have you reviewed the record to know of the letters of support from abutting and confronting properties and that there is no opposition from any property that confronts or is in close proximity to this building? All are either in support, and I have a list here which I can show you.

A Please.

Q I'll just read them to you. Georgetown University, Hyatt Hotel, the Federal Trade Commission, Holiday Inn, Hotel George, AE Capitol Associates which is a limited partner of Hotel George, Washington Court Hotel, Green Hood Cohen which is 500 First Street, Lincoln Company 440 First Street, Phoenix Park Hotel, the Akorage (PH) Companies, Louie Dreyfuss and in addition there are letters from Union Station Redevelopment, National Building Museum, and there are other letters. They are all within your constituency

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1 if I'm not mistaken.

2 A I agree. And I think a lot of those
3 organizations previously supported the other design as
4 well.

5 Q Yes.

6 A One thing I would note about those letters
7 of support is they generally come from business owners
8 and/or transient type organizations, places where
9 people are transient as opposed to residents. The
10 residents that I have been in contact with have not
11 given any support whatsoever to this development.
12 They are stakeholders as well.

13 Q What is the closest resident that has
14 expressed --

15 A I live at 240 Parker Street.

16 Q How far away is that?

17 A I don't know the exact how many feet or
18 mile, but it's over near Union Station, right behind
19 Union Station.

20 MR. QUIN: I don't have any other
21 questions.

22 THE WITNESS: But even though I don't live
23 in the shadow of the building --

24 CHAIRPERSON GRIFFIS: Actually Mr. Hall,
25 in cross examination you just need to answer the

1 questions.

2 MR. HALL: Okay. I apologize. I just
3 wanted to make a note that this is not purely an
4 objection based on design. You asked me to list some
5 of them. Then we went into a discussion of the design
6 as a very strong consideration. But even the DOT
7 support which was late and like my letter came today
8 unfortunately DOT and some of the issues that they
9 have raised could quite naturally be concerns of the
10 ANC as well as they are concerns here to the Board.

11 The full ANC should weigh in on all of
12 these issues. They certainly could not have
13 considered some of these issues without a similar
14 opportunity to review that documentation. So I'm
15 really asking for the opportunity and it is a letter
16 purely from me. It is not a letter from the full ANC.

17 I'm asking for this to be granted for the benefit of
18 the full ANC, but I'm not speaking on behalf of the
19 full ANC.

20 CHAIRPERSON GRIFFIS: And I think that's
21 understandable.

22 MR. HALL: Okay.

23 CHAIRPERSON GRIFFIS: I think the Board
24 fully appreciates, Mr. Hall, your concern in terms of
25 residents and D.C. folks that are here. In terms of

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1 our regulations whether rightly or wrongly, we
2 acknowledge property owners.

3 I think the point is very well made that
4 the surrounding and adjacent property owners which in
5 fact it goes to how we establish party status in a
6 case as to how one would be uniquely or differently
7 affected if a relief was granted meaning who is going
8 to get harmed the worst. Those are the people that
9 are adjacent to the property. Clearly we do have on
10 the record support from those property owners. I just
11 want to make that point. I know other Board Members
12 have comments.

13 VICE CHAIRPERSON RENSHAW: Well, Mr.
14 Chairman, I think Mr. Hall as the Single Member
15 District Representative for that area is trying to do
16 his job in representing the citizens in his area.
17 That includes the residents also. We have a
18 requirement, Mr. Hall, whereby if you are presenting
19 something before the Board and you are not the Chair
20 or the Vice Chair you come with a letter of
21 authorization that states that you are shall we say
22 the selected one to make the comment before the Board.

23 However, in your ANC you don't have the
24 luxury of having a quorum. So therefore that kind of
25 clearance could not be given to you because you had no

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1 quorum at your meeting. So that presents yet another
2 difficulty. When is your next meeting?

3 MR. HALL: The first Thursday of next
4 month.

5 VICE CHAIRPERSON RENSHAW: What guarantees
6 would there be that there would be a quorum?

7 MR. HALL: I don't think anyone can
8 guarantee a quorum there. I think that in light of
9 the recent activity that I would work a lot harder to
10 individually go to each of them if need be to attempt
11 to get them there. There were extenuating
12 circumstances that I didn't note because I felt that
13 would be overly detailed regarding why we did not have
14 the quorum at the last meeting. I fully expected that
15 we would have had a quorum at the last meeting. But
16 those extenuating circumstances were communicated by
17 members of the board that evening.

18 CHAIRPERSON GRIFFIS: Okay. Mr. Hood.

19 COMMISSIONER HOOD: Thank you, Mr.
20 Chairman. Mr. Hall, go back to the question Mr. Quin
21 was asking. I still don't understand where your
22 nearest residence that you represent lives. We know
23 where you live. I want to know where your nearest
24 residents are.

25 MR. HALL: Yes, sir. I believe there's

1 one apartment building in this entire business area.

2 COMMISSIONER HOOD: On what street?

3 MR. HALL: I don't have a map on me.

4 COMMISSIONER HOOD: It's behind Union
5 Station?

6 MR. HALL: It's adjacent to the Hotel
7 George. It's on that strip.

8 CHAIRPERSON GRIFFIS: Indeed.

9 COMMISSIONER HOOD: Okay. And you heard
10 loud and clear from them.

11 MR. HALL: Well, I don't know specifically
12 which of them who live in that building attend or
13 frequent the meetings. So I can't verify that it has
14 been directly from them. But I see my position as
15 representing all of the residents that are in the
16 Single Member District. That includes more than just
17 those residents. I don't think that the harm is just
18 about who is given the most harm.

19 COMMISSIONER HOOD: I understand. I want
20 to speed this up. Let me go to my question. Have you
21 had a Single Member District meeting on this issue?
22 Regardless of the full ANC or whatever, have you had a
23 Single Member District meeting?

24 MR. HALL: Yes I have. My meetings are
25 the first Tuesdays of the month. Quite frankly people

1 don't really come out to those meetings as well as
2 they probably should.

3 COMMISSIONER HOOD: Let me ask you this
4 question about 6A. I'm not trying to discredit the
5 ANC 6A because I do know it's a volunteer job. Have
6 you always had an issue getting a quorum? This 6A
7 unfortunately has a reputation of having some
8 problems. So if this Board was to go in the direction
9 of even allowing more time for 6A, what's the
10 guarantee you won't come back and tell us the same
11 thing? And I'm going by previous things that have
12 happened.

13 MR. HALL: I agree. I think that as a
14 member and I am currently elected as the Treasurer, 6A
15 is one of the most troubled ANCs in the city.
16 However, we're still an ANC. I still think they
17 deserve to be heard. I don't think that there's any
18 guarantee that I come back with a different outcome.
19 That I could not say because I could not speak for the
20 level of commitment by some of the commissioners or
21 the circumstances in my face.

22 I think at that point my argument would be
23 a lot weaker. I probably wouldn't even present it. I
24 probably would just say we'll go with whatever happens
25 at that point. But I'm asking for this forbearance

1 and this opportunity.

2 COMMISSIONER HOOD: Right. I got you on
3 that, Mr. Hall. I can tell you that my concern, Mr.
4 Chairman, is that I think that when we have ANCs come
5 out we usually ask them to supply a letter. And this
6 goes in line with Mr. Quin. I think we just need to
7 be consistent. Whether we allow him some additional
8 time, that's up to the Board. But I think ANC should
9 have given us a letter letting us know that Mr. Hall
10 is coming out to represent them.

11 I can tell you that we will definitely be
12 crucial in other cases on other ANC commissions. I
13 just want to make sure that this Board is consistent
14 because it happened in Ward Five. I'm not taking up
15 for Ward Five. We were across the board with them. I
16 want us to be across the board with all the ANCs
17 throughout the city.

18 CHAIRPERSON GRIFFIS: So your point being
19 to be consistent then we would move on with this.

20 COMMISSIONER HOOD: Well, I would like to
21 hear from the regular BZA Board Members on that.

22 CHAIRPERSON GRIFFIS: You don't want to be
23 the troublemaker.

24 COMMISSIONER HOOD: I don't want to be the
25 troublemaker.

1 CHAIRPERSON GRIFFIS: Indeed.

2 COMMISSIONER HOOD: I was fine with Mr.
3 Hall mentioning the DOT submittal.

4 CHAIRPERSON GRIFFIS: Yes. Okay. Ms.
5 Renshaw. We really need to move this on.

6 VICE CHAIRPERSON RENSHAW: Right. Again
7 Mr. Hood, I wanted to reinforce what I said before.
8 That is without a quorum Mr. Hall could not have
9 gotten an appropriate letter acknowledging that he
10 would be the one to speak before the Board.

11 CHAIRPERSON GRIFFIS: Exactly. Mr.
12 Zaidain, did you have something?

13 MEMBER ZAIDAIN: Not really to add. I
14 feel for Mr. Hall. He's taking this up for his whole
15 entire ANC. I appreciate him coming down and facing
16 the fire on this. But it seems to me we've heard the
17 testimony and we know the position. I'm not going to
18 speak to the DDOT issue because I'm on Mr. Hood's side
19 on that one. It seems like it's all ready to design.

20 Whether or not this building is a proper
21 design for Capitol Hill with all due respect to the
22 architect, I'm sure that could be debated by many
23 people who are of architectural minds. It's like this
24 whole deal with the green rating. That really has
25 nothing to do with the variance to us. We have heard

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1 a lot of testimony and it's certainly interesting and
2 enlightening to me that really has nothing to do with
3 what we're deliberating on.

4 It just seems to me that the design is not
5 going to change. We're not here to deliberate on the
6 design changing. We have specific issues we have to
7 take up, so I don't see how we can address some of the
8 issues that Mr. Hall is bringing up especially when
9 the design is really dictated by the facade and the
10 treatments related to that and not really even the
11 height. I mean, it could be the same height and a
12 different design and maybe be acceptable to him.

13 CHAIRPERSON GRIFFIS: So you're supportive
14 of continuing.

15 MEMBER ZAIDAIN: Yes. I'd say I am.

16 CHAIRPERSON GRIFFIS: And not delaying for
17 ANC action.

18 VICE CHAIRPERSON RENSHAW: I don't think
19 it's useful.

20 MEMBER ZAIDAIN: Yes. That's what I'm
21 saying.

22 VICE CHAIRPERSON RENSHAW: You want to go
23 ahead.

24 MEMBER ZAIDAIN: Yes. I've not heard any
25 testimony saying that there is a significant issue

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1 that could be resolved in a timely manner on this
2 case. Furthermore, again not to get into the ANC
3 there but with the advertisements and everything that
4 go along, a lot of ANCs get stuff here on time. It's
5 a tough issue.

6 VICE CHAIRPERSON RENSHAW: However, we
7 note for the record that the ANC mailing was returned
8 to the BZA because the box was closed, no forwarding
9 address. So there is that difficulty in getting word
10 to them.

11 CHAIRPERSON GRIFFIS: There is the point
12 that ANC should know about this. Is that correct?

13 VICE CHAIRPERSON RENSHAW: Mr. Hall knew
14 about it.

15 MR. HALL: That we didn't know about it?

16 CHAIRPERSON GRIFFIS: Right.

17 MR. HALL: I'm not saying that. I'm
18 saying what I received --

19 VICE CHAIRPERSON RENSHAW: To pick up on
20 what Mr. Zaidain said, what do you think can be
21 resolved if you were to get a short delay in this, in
22 other words a continuance?

23 MEMBER ZAIDAIN: That's a good point. Do
24 you think if a delay was given the position would
25 change?

1 MR. HALL: Well, of the names noted
2 against this application there are four out of roughly
3 ten to 12 members of the Zoning and Licensing were ANC
4 including myself. I'm not sure what they are for. We
5 are against it for a number of reasons. Mr. Ferrell
6 was the chair of that Zoning and Licensing. He was
7 supposed to forward a letter from Zoning and
8 Licensing. But I can't speak for the position of
9 other commissioners.

10 I just think a number of them haven't had
11 an opportunity to weigh in on this particular design
12 but are concerned. I've spoken with them directly.
13 One other concern I bring forth is there is a
14 dangerous potential precedent at least in the mind of
15 the community with the bait and switch type of
16 scenario. I'm not saying that is what this is because
17 there are a lot of other circumstances why the
18 original design that they approved and that they
19 supported vehemently is not what is going to happen.

20 MEMBER ZAIDAIN: I don't understand that.
21 It's because of what was approved originally and that
22 this is different.

23 MR. HALL: Right. The last application
24 was approved in totality; design, other variances,
25 structural differences. It was approved as a complete

1 package. Part of the basis for an approval today is
2 that those variances have already been granted.
3 They've already been brought forth and secured by the
4 --

5 CHAIRPERSON GRIFFIS: Let me just stop you
6 Mr. Hall. This Board had a very big concern with that
7 also. In fact, there was talk about this being a
8 modification to our past approval. I think we've
9 proven today clearly that we have not based this case
10 on the previous order. I think this Board first of
11 all has read absolutely everything, has had different
12 questions and different investigations. We have taken
13 this as a stand alone application.

14 I think they have made their case and
15 perhaps positively made their case for this
16 application. I don't think that this Board even
17 entertained the fact that this had anything to do with
18 the previous approval outside of we don't need a lot
19 of site description because we've been through it
20 already. I do want to put that to rest because I
21 think it would be a concern for the community to think
22 you can propose this one building and then just switch
23 it around and make it totally different. There it is.

24 MEMBER ZAIDAIN: Well, but on that same
25 line, it's my understanding and Corporation Counsel

1 can correct me that with this design, and when I say
2 design I'm talking about the facade treatment and
3 everything, if they would have met the matter of right
4 for height and risk structures but then came in under
5 the FAR and whatever the other variance was in the
6 previous order they could have gotten a permit without
7 coming back before us.

8 CHAIRPERSON GRIFFIS: Well, I don't know.

9 SECRETARY PRUITT: Actually Mr. Zaidain,
10 we did talk about it a great deal. You'd have to
11 apply for a building permit within six months. You
12 did not, so therefore --

13 CHAIRPERSON GRIFFIS: The order lapsed.

14 MEMBER ZAIDAIN: Right. But theoretically
15 the design could have changed to this type of design
16 as long as they would have met the previous order.
17 They would have gotten the permit if it was within
18 that six month timeframe. Correct?

19 SECRETARY PRUITT: Correct. Within the
20 six months.

21 MEMBER ZAIDAIN: That just shows that
22 design is out of our jurisdiction when it comes to
23 these orders.

24 CHAIRPERSON GRIFFIS: Somewhat, yes.

25 MEMBER ZAIDAIN: Well, in this case it is.

1 CHAIRPERSON GRIFFIS: Right.

2 MR. HALL: All I'm saying is that the
3 support that the community lent to the previous
4 application which incorporated the concern about the
5 design, about the pedestrian experience, about the
6 tree scapeing, elements of that design that they bring
7 forward and that we're concerned about. I don't think
8 it's ever good to think that even though it may not be
9 in the program of this organization to say that those
10 concerns should be cast aside at any point because
11 they do impact not only that corridor but the
12 residents who are close to it and are stakeholders
13 there.

14 CHAIRPERSON GRIFFIS: I absolutely agree.
15 I think it's of great importance to this Board.
16 Let's answer the first question if Corporation Counsel
17 can. That is to establish the fact that Mr. Hall does
18 in fact have the authority to come and ask for a
19 continuance.

20 MS. MONROE: Mr. Chairman, no he does not.
21 He does not have any authorization from the full ANC
22 which he would need to present.

23 CHAIRPERSON GRIFFIS: Okay. Well, we have
24 a particular situation here. I think with all the
25 weight that we can talk about whether the Board takes

1 it on its own independent thought of needing an ANC
2 report or action on this in order for us to
3 substantiate the record for our own deliberation or
4 are we able to have deliberations on this noting the
5 personal testimony of Mr. Hall and the issues that are
6 brought up. Can this Board actually address those in
7 context with the entire record? Let me hear.

8 COMMISSIONER HOOD: Mr. Chairman, I'm just
9 throwing this out here. I think you have your regular
10 monthly meeting on the first Tuesday of every --

11 MR. HALL: Thursday.

12 COMMISSIONER HOOD: Oh, it's the first
13 Thursday. Notwithstanding that Mr. Hall does not have
14 authorization from the ANC and I'm not sure Mr. Quin
15 has asked for this decision and I don't want to get
16 into that. My question I guess goes to Mr. Quin. Two
17 weeks, would that make or break you in this case?

18 MR. QUIN: I think it would break us for
19 the following reasons.

20 COMMISSIONER HOOD: Two weeks?

21 MR. QUIN: What happens is on November 5
22 the next board of directors meeting starts. That's
23 the board of directors meeting that would determine,
24 and I can ask Mr. Rosenthal to testify on that point,
25 but my understanding is in order to have the approval

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1 to proceed there's a contract that says, talking about
2 the bait, you have to fish or cut bait by December 1.

3 In order to do that, the only meeting of the board of
4 directors is November 5. So we need a decision if at
5 all possible prior to November 5. I can call Mr.
6 Rosenthal to talk about that.

7 COMMISSIONER HOOD: Let me just say this,
8 Mr. Quin. So you came in here this morning, I'm not
9 going to use the word assuming but I guess I will,
10 assuming that you were going to get a bench decision
11 on this case.

12 MR. QUIN: No. I never assume that, Mr.
13 Hood. What I did assume is that we had been to the
14 ANC back on September 11. There had been no motion to
15 postpone or anything. I am now faced with it this
16 morning for the first time. I think that's not
17 appropriate. We have had all our witnesses here.
18 We've done everything we're supposed to do. Notice
19 has been advertised properly. I think we've made our
20 case. So we would ask the Board to decide the case as
21 it feels it should as expeditiously as possible. We
22 will have to live with that.

23 COMMISSIONER HOOD: Okay. Notwithstanding
24 all that, so again if this Board made their decision
25 on the 5th which they normally they don't do a whole

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1 lot of bench decisions --

2 CHAIRPERSON GRIFFIS: They do but go
3 ahead.

4 COMMISSIONER HOOD: Oh, I'm being
5 corrected. Maybe they do. I'm not here.

6 MR. QUIN: The last case was a bench
7 decision on this particular matter.

8 CHAIRPERSON GRIFFIS: Right.

9 MR. QUIN: The ANC had not submitted a
10 report. There had been a report by Mr. Hall from the
11 Licensing and Zoning Committee, but there was no ANC
12 report the last time on the same case, the same
13 variances. The Board did not feel that was essential.

14 COMMISSIONER HOOD: Okay.

15 MR. HALL: There was a letter that was
16 submitted for the record from me.

17 COMMISSIONER HOOD: Mr. Chairman, I'll
18 just see where the discussion goes and I'll go with
19 that.

20 MEMBER ETHERLY: Mr. Chair, if I may, I
21 think we've been incredibly accommodating on this
22 particular line of questioning for some time now. I
23 think Counsel for the Applicant and Corporation
24 Counsel has hit the key issue here which is clearly
25 our procedures, our rules, as unfortunate as they may

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1 be in this particular instance, Mr. Hall, are set
2 forth very clearly what we need in order to provide
3 great weight to an ANC decision.

4 Clearly we're lacking the authorization at
5 this particular juncture for you to speak on behalf of
6 the ANC. I think that creates an issue as to whether
7 or not Mr. Hall's request can be treated as a motion.
8 I think very clearly it cannot. I believe the Board
9 once again has been very generous in terms of
10 exploring this issue and I think that was appropriate
11 for us to do so because as the Chairman said the ANC,
12 its members, its voice, especially its commissioners
13 should be heard at every opportunity.

14 It's a difficult matter that we don't have
15 perhaps as much detail as would be ideal to really
16 flush out where the ANC concerns are coming from. But
17 in the absence of the authorization issue and the
18 absence of any clear indication that we would have a
19 quorum at the following ANC meeting and all respect to
20 my colleague Mr. Hood, I think it would be unfair to
21 prejudice this Applicant. Of course the Applicant has
22 the right to request a bench decision, a summary
23 decision as would any Applicant when they present
24 before this Board.

25 I just think it would be unfair, Mr.

1 Chairman, to further inconvenience this Applicant
2 especially out of the fact that we've had testimony to
3 the fact that extensive efforts have been made to
4 reach out to the ANC. I think I've heard Mr. Hall say
5 a number of times that while perhaps there may have
6 been some difficulty in dealing with the owner of the
7 property there have been opportunities to engage with
8 Counsel and talk about some of your concerns with
9 regard to the design.

10 Mr. Chairman, I'd be prepared to move
11 forward. I don't think this would require a vote in
12 this instance because it's not a motion being brought
13 forward by a party. I'd be prepared to move forward
14 today.

15 CHAIRPERSON GRIFFIS: Good. I think those
16 are excellent points. Mr. Hall, it can't be said
17 enough how seriously we take the ANC and its
18 participation and its representation in the community,
19 but I would urge this Board to move ahead today. I
20 think we've had the articulation of an awful lot of
21 points that we can deliberate on. So if there are no
22 objections, we can move into testimony.

23 VICE CHAIRPERSON RENSHAW: I just want to
24 register a bit of caution because I do feel that
25 sometimes ANCs are handicapped one way or another.

1 When a commissioner comes before the Board and
2 expresses an opinion that the commissioner feels for
3 the good of the ANC, for the good of his or her Single
4 Member District, a short delay is necessary in order
5 to get comments that perhaps the Board might reflect
6 on to the Board and we should take that into
7 consideration.

8 We're not talking about a huge amount of
9 time. I understand what Mr. Quin said about a board
10 meeting on November 5 but also Mr. Hood brought out
11 the point that it seemed to Mr. Hood and to us that a
12 bench decision is what was going to be requested and
13 therefore clearance for your board meeting on the 5th.

14 Then we have Mr. Hall who was putting up a little
15 stop sign here and saying wait a minute the community
16 unfortunately has not been able to weigh in on this
17 for a lot of reasons.

18 We went through the discussion. It was a
19 healthy discussion at that. But I don't see why when
20 Mr. Hall's ANC is going to be meeting on the 7th we
21 cannot accommodate and just ask for a report. Again,
22 Mr. Hall may come back to us and say there was no
23 quorum.

24 CHAIRPERSON GRIFFIS: Right. Ms. Renshaw
25 I think --

1 VICE CHAIRPERSON RENSHAW: But I do feel
2 that it is best for the community to have its say
3 heard by the Board.

4 CHAIRPERSON GRIFFIS: Or the ANC. Mr.
5 Zaidain.

6 VICE CHAIRPERSON RENSHAW: Through the
7 ANC.

8 CHAIRPERSON GRIFFIS: Any opinion?

9 MEMBER ZAIDAIN: I kind of disclosed my
10 opinion. I would pretty much associate myself with
11 Mr. Etherly.

12 CHAIRPERSON GRIFFIS: That's fine. I
13 think we need to weigh the risks here. If the Board
14 feels that we actually don't have enough information
15 to continue on this, then I would have that opinion
16 succinctly stated. I think we do. I think all the
17 issues are before us and I think we can move ahead
18 even without the ANC.

19 We need to weigh the reality of whether
20 they can pull together a special meeting within the
21 week in order for a week of response. I just don't
22 see that happening. I don't see us needing to delay
23 our schedule even further in terms of setting this for
24 decision making or extending it into the afternoon
25 hour which it is now. So if there is no objection, I

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1 would go to testimony of support.

2 COMMISSIONER HOOD: I think I need to
3 clarify. I believe my colleague sitting next to me,
4 Board Member Etherly obviously didn't understand what
5 I was saying. I'm not in agreeance of holding up for
6 the ANC. My point was simply that normally we make --
7 at the public meetings which is the first Tuesday of
8 the month.

9 CHAIRPERSON GRIFFIS: Indeed.

10 COMMISSIONER HOOD: I'm not saying we held
11 it up for the ANC because we didn't. But if you left
12 the record open, maybe we could take something in.

13 CHAIRPERSON GRIFFIS: Right.

14 COMMISSIONER HOOD: Let me finish. It
15 goes back to my point. Mr. Quin came in here under
16 the assumption of a bench decision. I'm ready to move
17 forward any way.

18 CHAIRPERSON GRIFFIS: Right. I don't
19 think it's a bad assumption by an Applicant to come in
20 with a full submission and no opposition. This Board
21 usually sets for decision making cases that need
22 supplemental information, that may be contested, that
23 will take a longer deliberative time which we may be
24 running out of today anyway. However, I would
25 strongly urge and I think we should move on to the

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1 testimony.

2 Again, it goes to the fact that we've been
3 in this situation before even when the ANC was in fact
4 in support. With our previous application of this
5 site, we were in the same situation. I will say this
6 and hopefully this will be the last word, Mr. Hall, we
7 appreciate your participation here.

8 I think you have voiced some pertinent and
9 important issues that the Board will deliberate on
10 whether it's officially ANC position or not. We took
11 you out of order in terms of giving testimony in
12 opposition is what we can succinctly say. With that,
13 thank you. You can return to your seat.

14 MR. HALL: Thank you.

15 CHAIRPERSON GRIFFIS: Let me understand
16 how many people are coming forward to give oral
17 testimony in support of this today at the 12:10 hour?

18 SECRETARY PRUITT: Mr. Chair, before you
19 go forward, I just wanted to note for the record we
20 did get a letter from the Park Service in support of
21 this application.

22 CHAIRPERSON GRIFFIS: Good. I see. It's
23 Exhibit 77. Very well. Let's go. We need to have
24 the first four people. I'll explain. I'm going to
25 pull up an extra chair here. I want five people here

1 at the table. We'll start and go down the row.

2 Who are the first five volunteers?
3 Please, you just need to come forward. I don't have a
4 list or an order or anything of that sort. There are
5 two important things that I want to say in regard to
6 giving testimony either in opposition or in support.
7 We are only hearing testimony in support at this time.

8 First, persons giving testimony are
9 limited to three minutes. There are clocks on either
10 side that will time you. Secondly, if you have
11 submitted a written statement, it would be important
12 for you to tell us that at the beginning. You can
13 also just very quickly highlight it which I'm sure you
14 are all aware of you have three minutes but you don't
15 absolutely need to use it. As I said in the
16 beginning, I need your name and also your address in
17 your introduction. So I will start on my right. Good
18 afternoon, sir.

19 MR. MCNEILL: Good afternoon, Board
20 Members and Chairman. My name is Mac McNeill. I am
21 the General Manager and a resident at the Washington
22 Court Hotel. I think I'm the only resident, my wife,
23 myself and two beagles that overlook the site where we
24 live.

25 CHAIRPERSON GRIFFIS: Are those voting

1 beagles?

2 (Laughter.)

3 MR. MCNEILL: No. One thing that hasn't
4 been mentioned a lot is the current state of the site.

5 We've been with the property at 525 New Jersey for
6 the last 13 years and seen it decline through those
7 years with abandoned and deteriorating buildings and
8 now an abandoned gas station. It has really become a
9 site that is prone to crime, vagrancy, and drug
10 activity.

11 We look at this as an opportunity for a
12 vast improvement in the neighborhood for the
13 residents, for the businesses and for the city and
14 economically. We are in strong support and hope that
15 the Board will look positively on approval of the
16 variances requested.

17 The one other point I wanted to make is
18 that there has been reference made to the previous
19 design. My only comment is at least as far as I know,
20 and I'm not a commercial real estate expert, there's
21 never been any real solid proof that the design could
22 have financially supported. So I'll close my
23 testimony with that.

24 CHAIRPERSON GRIFFIS: Thank you.

25 MS. MCPHERSON: Good afternoon. My name

1 is Laura McPherson. I reside at 2032 Belmont Road,
2 N.W. I am an employee of NAR the realtors. I support
3 the project for a number of reasons. I am a
4 legislative representative for the organization. As
5 such, I frequent that area and agree with the previous
6 testimony on the unsafeness of the area as it
7 currently is.

8 I think the building will solidify the
9 neighborhood a little bit more particularly with the
10 retail space coming to the area. I would think that
11 the people who are there now whether they are
12 residents or on the commercial properties they utilize
13 that space and will frequent the Starbucks or whatever
14 the retail space might be.

15 In addition and responding to Mr. Hall, I
16 don't know if his concern was the area being too
17 commercial and not enough residential but if you look
18 at the downtown area around the NIC center there's a
19 number of commercial spaces intertwined with
20 apartments. So to me it doesn't seem to matter.
21 There seems to be a good mix going on downtown. I
22 don't see where this would deter that in any way.
23 Thank you.

24 CHAIRPERSON GRIFFIS: Thank you very much.

25 And you both have letters of support submitted.

1 MR. MILLER: Good afternoon commission.
2 My name is Edward Miller. I live at 1317 Constitution
3 Avenue. I have sent in a letter of support for the
4 project. I've been a voting member of Ward Six for
5 almost 20 years now. I think in most of that time
6 that property there, and it's an area that I've gone
7 to some of the businesses around there often, I would
8 consider it kind of a blighted area.

9 I think that with all the testimony today
10 that we've heard financially this is the kind of
11 design that's going to need to go there. I would
12 support it and echo the previous testimony here that
13 what's being looked at here is much better than what
14 we have now. I just don't see that it's going to get
15 developed in the next 20 years that I hope to live
16 here if we don't move forward now with someone who's
17 willing to take the financial risk of putting this
18 together. I thank you for your consideration.

19 CHAIRPERSON GRIFFIS: Thank you, sir.

20 MR. WATKINS: Good afternoon, Chairman and
21 other Board Members. My name is Curtis Watkins. I
22 operate an organization called East Capitol Center for
23 Change which is located at 5901 Dix Street, N.E.

24 I come here today to strongly endorse the
25 building of this structure for several reasons. The

1 things that we do are job training, after school
2 programs, and we do crime reduction programs. What we
3 attempt to do is take young people and give them
4 opportunities to change their lives by being positive
5 forces within the community.

6 In 2000, we were awarded HUD's best
7 practice for our apprenticeship program. Knowing this
8 community as I do, this particular area at night has a
9 lot of negative things going on. There's a lot of
10 drug trafficking and everything. What I look at this
11 structure as is an icon that can change the scope of
12 that community and be a positive image for young
13 people especially if some of our apprenticeship people
14 are participating in the construction of this
15 facility.

16 CHAIRPERSON GRIFFIS: Good note. We'll
17 let that sink in for a moment before I move on to the
18 next. Very well. Thank you very much.

19 MR. SEBREE: Mr. Chairman, I am John
20 Sebree. I live at 927 Quincy Street, N.W. I did
21 submit a letter for the record as well. I've been
22 with the National Association of Realtors for 12
23 years. When I started there, we were at 777 14th
24 Street. We're now at 700 11th Street. We're moving
25 closer to the Hill which makes me very happy because I

1 spend my days there.

2 When I talk to my friends who work around
3 that area especially at the Hall of States and other
4 places close by, they're very excited. They've read
5 that this building might be coming. They ask me lots
6 of questions. They want to know that there's more
7 retail space. They want to know that there are going
8 to be more great restaurants.

9 So I'm very proud of the fact that the
10 National Association of Realtors is making the
11 statement that they are about choosing the site and
12 going to the Hill and putting together such a
13 wonderful project. Even though the greenness of the
14 building doesn't mean a lot or make a big difference
15 to your decision today, it's really exciting as you
16 said to see this kind of commitment and what that's
17 going to do for the future of building in the District
18 of Columbia.

19 I would also say that just being in that
20 neighborhood as Curtis and so many others have said if
21 you drive by it now which I'm in taxis most everyday I
22 go by that space and I see this blighted property.
23 We're working with Congress and other government
24 agencies to try and enhance areas just like that.
25 We're making this commitment now to do just that. I

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1 think it's going to be wonderful for the people of
2 that Ward but also for the people of all of Washington
3 D.C.

4 CHAIRPERSON GRIFFIS: Good. Thank you
5 very much. We often have testimony that says this lot
6 is so blighted we just want anything, but I think it
7 has particular relevancy today in that how difficult
8 this site is to develop. The record shows that it's
9 been underdeveloped for many years.

10 So that's what essentially you're going to
11 in terms of moving ahead with this and really
12 supporting in terms of getting a development done, not
13 just any development. Actually it's also in support
14 of this. I think I've heard that from all of you.
15 Board Members, questions?

16 MEMBER ETHERLY: No questions.

17 CHAIRPERSON GRIFFIS: Very well. Any
18 cross examination of the testimony today? No cross
19 examination. I think you very much. Let us get the
20 next four or five up. Good afternoon.

21 MR. MAHEADY: Good afternoon. I'm Joe
22 Maheady. I'm with NAR. I reside at 2711 Ordway
23 Street in the District. I'm a 12 year employee of NAR
24 with a 23 year residence in the District of Columbia.
25 I'm in very big support of D.C. I think it's a great

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1 place to live and work.

2 I'm very proud of NAR for deciding to
3 build our D.C. headquarters in the District. We could
4 have gone elsewhere and we chose not to. I'd also
5 like to speak to the green building aspects of the
6 building. I'm an Environmental Policy Analyst with
7 NAR. I'm very aware of how important energy is. It's
8 a national issue.

9 I agree with the expert testimony that was
10 presented that this building is a model of what
11 commercial buildings will look like in the future. I
12 think NAR should be recognized for their leadership in
13 attempting to build this kind of building. I would
14 hope that the District of Columbia would embrace NAR
15 for making that effort. Thank you.

16 CHAIRPERSON GRIFFIS: Thank you.

17 MR. MOLINARO: Good afternoon. I'm Joseph
18 Molinaro. I live at 1201 O Street, N.W. in the Logan
19 Circle neighborhood. I also have submitted a letter
20 in support of this project. I think this amount of
21 commitment by NAR where I work is something I'm very
22 proud of. As a District resident, I think this
23 building would be a great contribution to the
24 District.

25 In 1976 when I graduated from Catholic

1 University, my first job was at the Hyatt Regency
2 Hotel on New Jersey Avenue next door, so I'm very
3 familiar with the neighborhood and also familiar with
4 the fact that this neighborhood has not really
5 improved and grown as much as it should. I think a
6 project of this quality and a project that brings as
7 much street life as this would will be a great
8 addition to that neighborhood. Thank you.

9 CHAIRPERSON GRIFFIS: Good. Thank you
10 very much.

11 MS. FRENCH: Good afternoon. My name is
12 Desiree French. I live at 1327 Jefferson Street, N.W.
13 in 16th Street Heights in Washington, D.C. I am also
14 an employee of NAR. I have lived on and off in the
15 District of Columbia since the 1980s, this last time
16 for 12 years.

17 I think back to my days as a reporter when
18 I worked here. I would have to go up On the Hill
19 sometimes and how some of the areas particularly the
20 New Jersey area site where NAR is proposing to build
21 this building was pretty blighted as we've heard
22 stated here today. I look around the city overall
23 from the time I lived here back in the '80s and
24 comparing it to today and I've seen tremendous
25 progress made downtown with residential as well as

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1 commercial buildings.

2 It's just made a tremendous difference
3 walking in the city and feeling like this is a
4 downtown area that's vibrant. So I comment NAR for
5 its efforts to help the District of Columbia with a
6 progressive development in what we hope will be a nice
7 site in the future. I did as well submit a letter for
8 this project.

9 CHAIRPERSON GRIFFIS: Indeed. Thank you,
10 Ms. French. Your submission is Exhibit 76.

11 MS. JOHNSON: Good afternoon. My name is
12 Linda Johnson. I am a resident at 1530 16th Street,
13 N.W. I have lived in D.C. for six years. I also
14 submitted a comment letter for the record. I am an
15 employee of NAR.

16 Basically I support this project. I
17 commend my employer for stepping up to the plate and
18 agreeing to develop this site which is currently
19 blighted making it a tremendous attraction for retail,
20 for residents, and for workers who will be working in
21 an area near the Capitol. I think it's a great
22 project. I think it deserves your full attention and
23 your approval. Thank you.

24 CHAIRPERSON GRIFFIS: Thank you very much.

25 MS. RESNICK: Mr. Chairman and Board

1 Members, my name is Naomi Resnick. I have submitted a
2 letter to you. I've been living in Washington for 50
3 years now. I arrived here in 1953. The first thing
4 that caught my attention was when I came out of Union
5 Station and looked at the area I said oh my goodness I
6 should go back to New York. It really scared me.

7 CHAIRPERSON GRIFFIS: Some of us have had
8 that feeling.

9 MS. RESNICK: I kept that in mind. I got
10 in my cab and went to the hotel that was assigned to
11 me at that time. I've been coming back to the area
12 rather frequently. I still feel it's a very blighted
13 area and very bad for people coming to the nation's
14 capital to see an area looking that way. I believe my
15 employers are really taking great steps in
16 constructing this new building. It would be a big
17 asset to the area. Thank you.

18 CHAIRPERSON GRIFFIS: Thank you very much.
19 Board Members, any questions of the testimony you
20 just heard? Any cross examination? We thank you all
21 very much for your participation. It does mean a
22 great deal and we have read all your letters. Others?
23 Is anyone else here, noting the people coming up, to
24 give testimony today either in support or in
25 opposition? Why don't you come up, sir?

1 MR. GABANY: In support?

2 CHAIRPERSON GRIFFIS: Either support or
3 opposition. Anybody else giving testimony. I assume
4 by that you are giving testimony in opposition. Is
5 that correct?

6 MR. GABANY: Yes.

7 CHAIRPERSON GRIFFIS: Good. So we will
8 start here on the right with you, sir.

9 MR. CHAPIN: My name is William Chapin.
10 I'm an architect. I live at 165 Neptune Avenue,
11 Ormond Beach, Florida. However, recently I was
12 president of the American Institute of Architects and
13 for that reason spent a great deal of time on New York
14 Avenue, N.W.

15 I am the architectural consultant to the
16 NAR in the process of selecting the architect. I
17 effectively administered the jury. Having been that
18 close to the process, I can speak I think quite
19 informably about what an extraordinary commitment the
20 NAR has made to making sure this is the best building
21 they could possibly build on this site. They have
22 brought forward some absolutely gifted architects who
23 did inspired work.

24 Mr. Gund I think has come up with
25 something that may very well register over time as one

1 of the really great buildings of Washington, D.C. It
2 goes well beyond just being very good. I'm very
3 pleased to have been involved in this. I think
4 Washington is very lucky to have the opportunity to
5 have this building be built in its midst.

6 CHAIRPERSON GRIFFIS: Thank you very much,
7 sir. Your reference to New York Avenue is where the
8 headquarters of that is.

9 MR. CHAPIN: That's correct.

10 CHAIRPERSON GRIFFIS: Very good.

11 MR. CHAPIN: A previous employer.

12 CHAIRPERSON GRIFFIS: Is there a
13 continuing involvement with the jury in terms of the
14 design development?

15 MR. CHAPIN: Well, my continuing
16 involvement would be to informally monitor the
17 progress as the building goes through its design
18 process. They have suggested they would like to be
19 sure that the quality of the design as submitted be
20 converted into a building. That's their commitment
21 which I think is a very serious one and obviously is
22 being very carefully and very appropriately followed
23 through by the architects as they go forward into the
24 working drawings.

25 CHAIRPERSON GRIFFIS: Excellent. So there

1 is some representative from the future owner and
2 developer in terms of the design development process.

3 MR. CHAPIN: Quite.

4 CHAIRPERSON GRIFFIS: Thank you very much.
5 Let me go to my far left.

6 MR. DENNIS: Good afternoon. My name is
7 Patrick Dennis. I live at 1259 F Street, N.E. I'm a
8 brand new resident to Washington, D.C. I just bought
9 a home in May. When I was making a decision to move
10 to Washington, I took my daughter's counsel. I have
11 two grown daughters. We decided that after the attack
12 on the Pentagon and all the activity with the
13 terrorists we gave it a lot of serious consideration
14 when it was my decision to move to Washington.

15 They said what can you do, you know you
16 want to go but where can you live where you would feel
17 the best about being in Washington. After a lot of
18 consideration, we decided I would buy a house on
19 Capitol Hill. I wanted to make that statement because
20 I wanted to show my commitment to them that I wasn't
21 afraid. I'm very proud that my employer who happens
22 to be the National Association of Realtors feels the
23 same way.

24 They are making a big statement of
25 commitment to say that this is the place to be, not to

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1 be afraid. It's a good place to commit, a good place
2 to work, a good place to live. I'm proud of them.

3 CHAIRPERSON GRIFFIS: Good. Thank you
4 very much. I actually applaud you for your decision
5 and you are safer in the city.

6 MR. GABANY: Good afternoon. My name is
7 Rob Gabany. My address is 31 Delaware Avenue, S.W.
8 I'm currently the Executive Director of CHAMPS which
9 is the Capitol Hill Association of Merchants and
10 Professionals. I thank you for the opportunity to be
11 here.

12 In front of you is a letter that was
13 prepared by the Chair of our Economic Development
14 Committee, Harry Schnipper. I'll just go over some
15 comments in the same spirit of Mr. Schnipper's letter.

16 You mentioned the word "irony" a few minutes ago in
17 context of the fellow who was supposed to be here
18 answering questions about traffic but could not
19 probably for a good reason given what happened this
20 morning.

21 It's also ironic that last July we were
22 here approving another development plan for the same
23 spot. The Board that time unanimously and
24 enthusiastically approved the plan and offered many
25 praises to the developer at that time for his

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1 visionary project and also urban planning in general,
2 not just of that building but how we saw it in the
3 context of the whole neighborhood. I believe this is
4 an awesome building. I applaud the architect. It's
5 quite grand.

6 Our concern as Mr. Hall has expressed is
7 in the context where it will be located so close to
8 the Capitol and Capitol Hill we're just not quite sure
9 if it's the proper structure or design. So I'm mostly
10 talking about aesthetics here. I mention that despite
11 the inhibition that Pierre L'Enfant who I think
12 symbolically if you want to annex Virginia again and
13 bring Rosslyn or Crystal City right near the Capitol
14 Building then we would have his vision. Otherwise, we
15 don't see it that way.

16 So that is mostly our reason. We see it
17 as a promise position that needs a carefully planned
18 building. Also I had a question. It was mentioned
19 that this plan was brought up last May. Here it is
20 only but six months later and a new vision, a new
21 building has been designed and ready to go in a matter
22 of five or six months.

23 So before I mention that without this
24 building here the spot would be empty but with the
25 current owner of the property has more use for it.

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1 I'm not sure if you asked that question. The lady
2 mentioned before that when she came into D.C. from
3 Union Station she thought it was like New York City.
4 It someone saw this building on Capitol Hill would
5 they think they're in Boston, New York or Berlin and
6 not Washington, D.C.

7 Evidently somebody said he comes here by
8 taxis. We want something that would increase
9 pedestrian uses, not people using taxis back and
10 forth. That's the whole idea. Thank you very much.

11 CHAIRPERSON GRIFFIS: Excellent points. I
12 thank you very much. Board Members, questions?

13 VICE CHAIRPERSON RENSHAW: Mr. Gabany,
14 what is the size of your organization?

15 MR. GABANY: We have 330 members.

16 VICE CHAIRPERSON RENSHAW: 330 and they
17 have voted on --

18 MR. GABANY: They have not voted. No,
19 ma'am. The Economic Development Committee and the
20 Planning and Zoning Committee expressed these
21 concerns, so this is not the opinion of the full
22 membership. As a matter of fact, some members here
23 have spoken in favor of the project.

24 VICE CHAIRPERSON RENSHAW: Thank you.

25 CHAIRPERSON GRIFFIS: The letter also

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1 states that CHAMPS continues to endorse the project
2 designed by Mr. Helman. I note that because it's
3 actually bolded in your letter.

4 MR. GABANY: Yes. We were here last July
5 in support of the hearings for the variances.

6 CHAIRPERSON GRIFFIS: Indeed.

7 MR. GABANY: We also mentioned the
8 projects into our business quarterly. So we have a
9 history here of supporting that project.

10 CHAIRPERSON GRIFFIS: Good.

11 MR. GABANY: We saw it as more Capitol
12 Hill like.

13 CHAIRPERSON GRIFFIS: Okay. That's the
14 importance of that message to us. It's the context
15 and how the architecture fits into the context of
16 Capitol Hill and that's your view, not that we would
17 pull back and say we will only support Mr. Helman's
18 development. That's not what you're asking this Board
19 to do. Clearly you'd understand that we couldn't do
20 that.

21 MR. GABANY: Correct.

22 CHAIRPERSON GRIFFIS: All right. So we're
23 looking at context. Other questions? Questions from
24 the Applicant?

25 MR. QUIN: No questions.

1 CHAIRPERSON GRIFFIS: Very well. Thank
2 you very much. Anyone else? Last opportunity for
3 testimony today either in support or in opposition.
4 As the recorder is coming up, I need to mention that
5 clearly if you have given today and haven't filled out
6 two witness cards those need to be filled out before
7 you leave in order to have an official record. They
8 would go to the recorder who sits on my right.

9 Very well then. I would suggest although
10 I hate to do it, we're going to take five minutes and
11 let you compose a closing statement and remarks.
12 We're going to come back for that. We will then go
13 straight into our two other morning cases. So I
14 appreciate everyone's patience that are here for
15 morning cases. We will be back within seven to ten
16 minutes. Off the record.

17 (Whereupon, the foregoing matter went off
18 the record at 12:34 p.m. and went back on
19 the record at 12:46 p.m.)

20 CHAIRPERSON GRIFFIS: On the record. Very
21 well. When you are ready, Mr. Quin.

22 MR. QUIN: Thank you, Mr. Chairman and
23 Members of the Board. Because of the completeness of
24 the testimony and the evidence of the record, there
25 are obviously no more questions of our witnesses. So

1 what I would like to do is just make a closing
2 statement.

3 Let me start by saying I never assume a
4 bench decision from this Board. In fact, rarely do I
5 even ask for them unless I know that the evidence is
6 all in and it's appropriate. There's a big difference
7 between a bench decision and a summary order let me
8 say. This case may be a bench decision. It might be
9 an order. I have a few other things to suggest why it
10 might be appropriate today. If it's not, you all
11 obviously have the discretion to decide it whenever
12 you want to decide it within reason.

13 But here I think we have a really
14 compelling case. The record is extremely complete.
15 Our pre-hearing statement was very detailed on each
16 and every point of the relief and the areas that we're
17 seeking relief in, namely the four variances and the
18 special exception. There is very strong support from
19 the Office of Planning as you have heard and as you
20 have read. You are required by case law to give that
21 agency strong weight.

22 There's support from the National Park
23 Service, perhaps the most affected agency, federal or
24 District. There's support from the property owners
25 that surround the site which we made a big point of

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1 because that is the context. If they felt that it was
2 out of context, they would not be writing the letters.

3 They are the most affected. They relate directly to
4 the site. They look at the site daily, nightly,
5 morning. They like this building.

6 There's a lot of other support in the
7 record which you all have seen. In my opinion,
8 there's no probative opposition to the variance relief
9 or the special exception relief. The design here has
10 been the only question. I want to talk a little bit
11 about that.

12 The design here was initially selected by
13 a jury, members of which are known and care about all
14 areas of the city, the Commission of Fine Arts
15 Chairman Harry Robinson, George White architect of the
16 Capitol, and Coke Florence (PH) of course who's been
17 in private practice for all these years. There was a
18 very strong statement I thought from Mr. Gund as to
19 the context. I was looking a little earlier at the
20 context.

21 There seems to be for some reason a
22 reaction against glass. That's not the first case
23 we've had that in. But I'm just looking at the
24 Georgetown University Law Center right across the
25 street. That's a lot of glass. That did not have to

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1 come to the BZA at all for any approval.

2 Getting back to the test, the site clearly
3 is exceptional. There is absolutely no doubt that
4 this is a unique site. Uniqueness is not used in the
5 variance statute. Only unusual and exceptional words
6 are used. But commonplace says it's unique. This is
7 a unique site by virtue of its angles, its length, its
8 small size and shape so that to build anything as a
9 matter of right is just not economically feasible.
10 The record is overwhelming in support of that.

11 I don't need to go back to the prior
12 decision of the Board of Zoning Adjustment. The
13 evidence is in this record right now. The only
14 discussion that we've heard that in any way is a
15 controversy, and I even hesitate to say controversy,
16 it's more differing views, is design. Yet this Board
17 is not a design review body. It applies the variance
18 clause and the special exception.

19 I just note that in the record, and it
20 escaped me earlier I'm sorry I missed it, that the
21 comprehensive plan, while that's not a test for you to
22 apply, calls for this area high density, commercial,
23 land use category in the general land use map. So
24 that's understood to be an appropriate place for a
25 commercial office building. It is not something that

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1 is just thrown in there. This is an appropriate use.

2 This is an appropriate building. We've met all the
3 tests. I see there's absolutely no reason to delay a
4 decision.

5 It's fresh in your mind. You're best
6 today to decide the case. We would hope that you
7 would decide today. If you want to do a bench
8 decision, we would hope you would do that. If you
9 feel a full order is necessary, we can of course draft
10 an order that would have findings of fact and
11 conclusions of law. It can also deal with all the
12 conditions in detail. But even a summary order, we
13 can provide drafts of the conditions.

14 So the bottom line is I don't think you're
15 going to be any better off a week from now, two weeks
16 from now or longer in deciding the case. The evidence
17 is very clear on the record. This is a wonderful,
18 exciting addition for this city. It really is. I
19 believe it's just as important for this particular
20 area as MCI Center was when it was built at its
21 location in terms of generating new activity. I think
22 we've heard that from the surrounding property owners.

23 So with that, I just would suggest and
24 hope that you would consider a bench decision. That's
25 entirely in your discretion. I do not assume that

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1 you're going to do it, but I see that there is a valid
2 basis for it and see no reason to delay. On the other
3 hand, it would allow this project to move forward
4 quickly.

5 As I stated earlier, one of the major
6 differences in this case and most cases that we come
7 before you with is that this has a tenant. This is a
8 40 percent occupied building by NAR at the beginning.

9 That's what makes this case financially feasible.
10 That's what allows us to proceed. Please, let's have
11 that opportunity. If you can approve it as fast as
12 possible, we would appreciate it. Thank you.

13 CHAIRPERSON GRIFFIS: Thank you very much,
14 Mr. Quin. Board Members, I'm fully prepared to
15 deliberate and move on this today. If others are not,
16 I can hear from them.

17 MEMBER ETHERLY: Mr. Chairman, I would
18 also be prepared to move forward.

19 CHAIRPERSON GRIFFIS: Good. Thank you.
20 In which case, I believe our deliberation is most
21 expeditious under a motion. That would be for
22 approval of Application Number 16930 for the variance
23 of the height requirement, variance of the FAR, and
24 also the variance from the off-street parking, and the
25 variance from the loading requirements as stated in

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1 the record. That would also include a special
2 exception from the roof structure requirements as
3 listed in section 411.

4 I would add to the motion these following
5 conditions. One, although it's somewhat redundant of
6 a condition. Clearly what is presented to us today is
7 what will be binding in the order. That speaks to the
8 third condition of the Office of Planning, that the
9 Applicant will construct the building with substantial
10 conformance. Clearly anything that goes outside of
11 that would come back to us as modification or would be
12 different.

13 I would include that as a condition. In
14 that condition, I think it just reinforces the
15 positive direction that the Applicant is actually
16 taking in terms of the LEED design. I would say that
17 we could ask for the submission with the green
18 building rating prior to the issuance of a C of O.
19 Those are the only two I would have. If we could take
20 a second, we can discuss the conditions on the motion.

21 MEMBER ZAIDAIN: I'll second.

22 CHAIRPERSON GRIFFIS: Thank you, Mr.
23 Zaidain. Discussion.

24 MEMBER ETHERLY: For purposes of
25 discussion, Mr. Chairman, I would have no issue with

1 the first condition. I might be somewhat concerned
2 with regard to the second condition as to whether or
3 not that might be perhaps outside of our purview or
4 our scope. I appreciate the condition because I think
5 as was noted in the testimony, the Applicant is most
6 certainly to be applauded for taking the steps that
7 they have taken with regard to the greenness of this
8 proposed building.

9 I am very hopeful that this will set the
10 standard by which other buildings and other projects
11 will be measured in this city. But I raise that more
12 as a question or query perhaps either to Corporation
13 Counsel or to Staff. I don't have an issue if it's
14 not a problem, but I'm just curious about the
15 inclusion of that.

16 CHAIRPERSON GRIFFIS: Good. Well, my
17 thinking in addressing it in a condition is clearly
18 it's a substantive part of the record and the
19 building. It does go to the argument that was made.
20 That is one of the economics of it. Clearly the
21 strongest piece of economics argument goes to the site
22 restrictions and the runable square footage and making
23 that economically viable.

24 But we have had testimony to the fact that
25 doing this although not a requirement does add some

1 design and systems costs. Although there may be pay
2 off in the future which would hopefully be there for
3 the owner. I do think it's a substantive piece to the
4 rest of the project.

5 COMMISSIONER HOOD: Mr. Chair, also I
6 would kind of agree with the statement of Board Member
7 Etherly. Anyway, regardless, being as it may I would
8 just like to add that the architectural tower
9 embellishment not be used for any other purpose other
10 than that. I would just like us to put a condition in
11 there for that.

12 VICE CHAIRPERSON RENSHAW: I second that.

13 CHAIRPERSON GRIFFIS: Indeed. I guess the
14 intent there is to preclude --

15 VICE CHAIRPERSON RENSHAW: An antenna
16 tower.

17 MEMBER ZAIDAIN: Mr. Chair --

18 COMMISSIONER HOOD: We have had testimony
19 that it's not going to have a use. It's just there
20 for architectural embellishment. I want to make sure
21 that's what it is used for.

22 CHAIRPERSON GRIFFIS: Indeed. I would
23 accept the motion.

24 MEMBER ZAIDAIN: Mr. Chair, for purposes
25 of deliberation, could you repeat the condition with

1 regards to the green aspect of the building that we're
2 discussing?

3 CHAIRPERSON GRIFFIS: Although
4 unbelievable that I wasn't understandable and direct.

5 MEMBER ZAIDAIN: Well, I also seconded the
6 motion. However, I guess it's more my embarrassment
7 than yours.

8 CHAIRPERSON GRIFFIS: The condition would
9 be that there was substantive documentation of a green
10 building rating. That may mean the certification of
11 the building prior to the certificate of occupancy.

12 MEMBER ZAIDAIN: You were tying that to
13 the economic vitality of the project.

14 CHAIRPERSON GRIFFIS: I think that's how
15 it is introduced for our jurisdiction, yes.

16 MEMBER ZAIDAIN: Well, I guess my concern
17 is really to the questioning I gave OP on that motion.
18 That is we are tying this project to a process that
19 they may not have control over in terms of getting
20 this rating.

21 CHAIRPERSON GRIFFIS: I appreciate the
22 Board's and your concern. Certainly we don't take our
23 conditions lightly. We want things that are
24 enforceable and attendant to the project. I think if
25 it ran into difficulty there is relief that could be

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1 sought in a simple modification. The timing would
2 correspond to that. Well, it might correspond. But I
3 think we would be open if that specific instance came
4 here for modification and justification for that.

5 MEMBER ETHERLY: And Mr. Chair, if I
6 understand correctly, it sounds like your condition is
7 not predicated on what particular certification might
8 actually be forthcoming just if there is some
9 substantiation of a certification, whatever level that
10 may be, as a green building. I believe Corporation
11 Counsel may have some guidance or some additional
12 comment.

13 MS. MONROE: Yes. Mr. Chair and Board
14 Members, I just want to say I'm not sure you can do
15 that as a condition. But I'm not sure you need to
16 because I think the economic viability argument is
17 strong without it. So I'm not sure you want to put it
18 in there because I'm not sure it's necessary.

19 MEMBER ZAIDAIN: Yes. And I believe in
20 OP's testimony it was that the Applicant was going to
21 be doing this anyway.

22 VICE CHAIRPERSON RENSHAW: Mr. Chairman,
23 could we discuss the DDOT recommendations and those we
24 may not agree with?

25 CHAIRPERSON GRIFFIS: Good. Indeed. I

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1 think we do need to address the issue of the loading.

2 I would suggest the direction of the Board in our
3 order and approval would be for the removal of the
4 buffer wall and that it would be broken down with some
5 sort of vehicular barrier and sidewalk to loading. I
6 do not see the substantive argument for removing that
7 loading area. However, there is an importance to it
8 integrating into the sidewalk level.

9 VICE CHAIRPERSON RENSHAW: You want the
10 loading to stay in public space.

11 CHAIRPERSON GRIFFIS: Well, I think it's
12 more --

13 VICE CHAIRPERSON RENSHAW: In other words,
14 to remove it from First Street.

15 CHAIRPERSON GRIFFIS: If it goes beyond
16 the property line, we can't take it out or leave it
17 in. It's going through another review process. I
18 think what we will note and what I was hoping to note
19 was in fact more frankly design direction of what is
20 the opinion of this Board. That would be to break
21 down the wall and create some bollard system or
22 something of elegant design if that means anything to
23 barrier the sidewalk. And I would drop the landscape
24 down to the sidewalk level also.

25 VICE CHAIRPERSON RENSHAW: Well, I just

1 wondered if the order could not express our concern
2 with any loss of metered parking on the street and our
3 concern about keeping First Street more open for rush
4 hour traffic since it has dropped to a C designation
5 in the p.m. rush.

6 CHAIRPERSON GRIFFIS: I think it's
7 perfectly appropriate that it be articulated the
8 Board's position that we support and do not want to
9 see metered parking lost surrounding the site, that we
10 have found that the proposed curb cuts were
11 appropriate and did not deter from the overall area,
12 and that we didn't want to see large barriers or solid
13 walls segregating the sidewalk from the public area
14 adjacent to the properties. Did everyone get that?

15 MEMBER ZAIDAIN: I got that, Mr. Chair.

16 CHAIRPERSON GRIFFIS: Okay. Other issues?

17 MEMBER ETHERLY: Mr. Chair, I think it's
18 probably worth just some additional discussion. We
19 dealt with it once again very exhaustibly during the
20 course of the public hearing. Once again, while we
21 are in the absence of a formalized ANC report, I think
22 it is very important to note that we received
23 extensive conversation, testimony from the ANC about
24 concerns that they may have.

25 While those concerns might not rightfully

1 be addressed in this particular forum at this time, I
2 think it would be important to note that there is and
3 probably continues to be an opportunity for the ANC,
4 for the community, for the Applicant however this
5 project may ultimately proceed to continue working
6 forward in terms of fashioning what I think is going
7 to be a good working relationship ultimately. So I
8 think that's just important to highlight because the
9 ANC representative Mr. Hall did bring some important
10 observations to the Board's attention. I just wanted
11 to note that for the record.

12 CHAIRPERSON GRIFFIS: Thank you.

13 MEMBER ZAIDAIN: And to follow that up in
14 my mind the whole design of the building turns on the
15 facade which as I said whether or not it's compatible
16 with the surrounding buildings sure it could be
17 debated but it's clearly out of the purview of this
18 Board. This could come in as a matter of right
19 development with the same facade treatment and get a
20 permit.

21 CHAIRPERSON GRIFFIS: Right. And the
22 issue goes to whether the facade as it's being dealt
23 with now creates some sort of negative impact or
24 adverse impact.

25 MEMBER ZAIDAIN: Right. I do appreciate

1 the ground level retail. That always helps the
2 environment. We've heard a lot of testimony about
3 Starbucks coming into this. I would just like to
4 encourage them not to give into the model of a
5 Starbucks right off the bat and pursue other
6 independent coffee shops.

7 CHAIRPERSON GRIFFIS: A nice pizza place.
8 You have a lot of college kids over there.

9 VICE CHAIRPERSON RENSHAW: I hope here is
10 an area where the ANC can lend its voice because I'm
11 sure that the Applicant, whoever is renting the space
12 would want to know what the community would like to
13 have in that location along with of course what the
14 tenants are going to require.

15 CHAIRPERSON GRIFFIS: Good.

16 MR. QUIN: Mr. Chairman.

17 CHAIRPERSON GRIFFIS: Be delicate. We're
18 in the middle of deliberating a motion.

19 MR. QUIN: I'm being very delicate. This
20 relates to a legal issue.

21 VICE CHAIRPERSON RENSHAW: Mr. Quin,
22 didn't we remind you before?

23 MR. QUIN: Yes you did.

24 VICE CHAIRPERSON RENSHAW: And we should
25 stick to that, please.

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1 MR. QUIN: I'm just talking about the
2 evidence that the record on the --

3 VICE CHAIRPERSON RENSHAW: But we have a
4 motion on the floor.

5 CHAIRPERSON GRIFFIS: Hold on. Let me
6 hear. Mr. Quin, you are commenting on the attorney.

7 MR. QUIN: Yes. The legal issue as to the
8 jurisdiction of the Board on the certification for
9 LEED. All I wanted to correct is as part of that
10 observation by Counsel is that the testimony supports
11 17 points before the C of O and nine after. If you
12 determine that this is what you should do, then we
13 understand that. But it was not as we understood. We
14 can't do the certification prior to the C of O.

15 CHAIRPERSON GRIFFIS: It's an excellent
16 point.

17 MR. QUIN: I'm sorry. I apologize. I
18 will go back and be quiet.

19 CHAIRPERSON GRIFFIS: We are strictly per
20 process.

21 MR. QUIN: Yes.

22 MEMBER ZAIDAIN: Well, I don't think we
23 reached a consensus on that.

24 CHAIRPERSON GRIFFIS: No we haven't.
25 Others, on other issues? Very well. I'm perfectly

1 acceptable of dropping the LEEDs. I think it will be
2 noted in our record and in the order that clearly it
3 was a convincing, compelling aspect of the building.
4 I do just want to lend our and this Board's great
5 support in seeing that happen.

6 If there's not others, let me just speak
7 to the motion. That is I think we have clearly had a
8 substantiation of the case in terms of establishing
9 the extraordinary exceptional situation. That really
10 comes out of the land clearly on this one as stated in
11 Mr. William's report that was submitted. I found it
12 absolutely compelling in terms of looking at how this
13 site could have come into creation with our city's
14 layout and our master plan.

15 With that, we have heard ample testimony
16 and written submissions on the practical difficulties
17 that arise out of the land for all of the variances,
18 that being the height, the FAR and the parking, going
19 to the size and the shape. We shouldn't lose the
20 thought in this whole economic argument about the cost
21 per square foot to build the building, but we also
22 need to look seriously and note the fact of the cost
23 for being able to create usable space. There is
24 substantial evidence to that in the submissions.

25 With the core factor in this building, the

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1 amount of space that's left open for utilizing is
2 diminished greatly. Therefore, it needs to be
3 compensated in terms of greater mass which goes to the
4 height and the FAR. The off-street parking I think
5 stands on the record and in the testimony we've heard
6 today it's very clear. All of it has been explored by
7 the Applicant to create as much parking as possible.

8 The special exception for the roof I think
9 we also did explore. I think it was important.
10 Actually it led itself in its relief from our
11 regulations to a better design which actually is more
12 in the intent of section 411 then actually a matter of
13 right and house in 411. I think that was a very
14 strong case with that.

15 The conditions are set forth. Our
16 directions and comments I think are sufficient with
17 this. So I would ask for all of those in favor of the
18 motion to signify by saying aye.

19 (Chorus of ayes.)

20 CHAIRPERSON GRIFFIS: And opposed.

21 (No response.)

22 CHAIRPERSON GRIFFIS: Very well. We will
23 support the vote on this.

24 MS. BAILEY: The vote is recorded on as
25 five-zero-zero to approve the application. Mr.

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1 Griffis made the motion. Mr. Zaidain second. Ms.
2 Renshaw, Mr. Hood, and Mr. Etherly are in agreement.
3 There are conditions to accompany the order. Mr.
4 Chairman, if I could just briefly go over them.

5 The first one is the Applicant shall
6 construct the building in substantial conformance with
7 the building plans prepared by Graham Gund and SND
8 Architects. The tower that is attached to the
9 building shall be used for architectural embellishment
10 only and for no other purpose. The order should
11 mention, not necessarily a condition, that the metered
12 spaces on the street shall be maintained as much as
13 possible, minimum loss of commuter parking. Then, Mr.
14 Chairman, the green building was made a condition or
15 not.

16 CHAIRPERSON GRIFFIS: It is not.

17 MS. BAILEY: It is not. Those were the
18 two conditions and just mention of these other items.
19 Is that a summary order or full order, Mr. Chairman?

20 VICE CHAIRPERSON RENSHAW: I believe we
21 had some comments about the loading area.

22 CHAIRPERSON GRIFFIS: Yes. I think we'll
23 but that in the text.

24 MS. BAILEY: Mr. Chairman, I didn't get
25 that. If someone could just read that to me, I would

1 appreciate it.

2 SECRETARY PRUITT: They're talking about
3 the condition about the removal of the east wall. Do
4 you want that as a condition or as part of the text?

5 CHAIRPERSON GRIFFIS: Do you want it as a
6 condition?

7 SECRETARY PRUITT: Develop it into the
8 text like we've done before.

9 CHAIRPERSON GRIFFIS: Since this is
10 precedent setting, Ms. Renshaw and I are in 100
11 percent agreement that we should have a condition that
12 actually says that we do not want a solid barrier that
13 segregates the sidewalk from the public area and that
14 it should be broken down in its design features. I
15 wouldn't get the exact wording on that.

16 Is it clear the intent of those
17 conditions? Is there any question on those
18 conditions? I'm prepared to do a summary order on
19 this with the text that has been substantiated by the
20 Board. Is that the request of the Applicant?

21 MR. QUIN: Yes. We would prefer a summary
22 order. If you want more findings, we can do that too.

23 CHAIRPERSON GRIFFIS: All right. Well,
24 there it is.

25 MEMBER ZAIDAIN: Mr. Chairman, I'm

1 supporting a summary order in this proceeding.

2 VICE CHAIRPERSON RENSHAW: I think, Mr.
3 Chairman, I would vote for a full order knowing Mr.
4 Quin is so good at full orders. But we spent an
5 enormous amount of time talking about this. I think
6 that the case itself warrants an expansion of detail.

7 COMMISSIONER HOOD: Mr. Chairman, even
8 though we spent an amount of time, I still think a
9 summary order is sufficient.

10 MS. BAILEY: Mr. Chairman, if I could
11 offer a compromise position in that maybe to have the
12 Board review the summary order and to include all of
13 the points that were made and have the Board review it
14 prior to issuance.

15 CHAIRPERSON GRIFFIS: Which we do on all
16 orders. I would tend to agree with that. I think
17 that the case record will show the substantiation of
18 the entire case. Clearly a full order comes with
19 opposition that needs to be addressed. I think we can
20 do so. It does lend itself to the point that we need
21 a hybrid of a summary order and a full order.

22 However, I think that's the appropriate
23 way to go. Let's do that. We'll do a summary order.

24 We'll come in for a review. Mr. Quin, if you want to
25 draft a summary order and get it over as quickly as

1 possible, that would be excellent. Can that be done
2 by Thursday?

3 MR. QUIN: Yes.

4 CHAIRPERSON GRIFFIS: It's always good to
5 check on who's going to do it.

6 (Laughter.)

7 SECRETARY PRUITT: If you don't mind, you
8 can send us a paper copy and an electronic one. Thank
9 you.

10 CHAIRPERSON GRIFFIS: Good. Then I'd like
11 to get that to the Board. We can talk about a
12 schedule on that and soon after we'll get that out.
13 That being said, there's no other issues for this
14 case. Well, there might be. No more time on this.
15 We are going to request a full order.

16 The issue that does come into effect is we
17 do not have the availability of some sort of element
18 that we can add a lot of text to. If we start doing a
19 summary order, it does lend itself not necessarily for
20 this Board but perhaps in the future or in this case
21 legal difficulties in terms of what is said. So what
22 is the timeframe for turnaround of that?

23 MR. QUIN: (Inaudible.)

24 CHAIRPERSON GRIFFIS: Okay. We'll look to
25 it this week. Clearly you know as well as I do the

1 faster you get it in the faster we get it out. So
2 anything else on this one? Great. Well, I wish you
3 all a great day. I wish I could say go have a good
4 afternoon, but part of it is over. So with that, we
5 are going to take five minutes so that this case
6 assemble all their stuff. The next case on the
7 schedule I would ask to start setting up at the same
8 time. We will resume then. Thank you all very much.
9 Off the record.

10 (Whereupon, the foregoing matter went off
11 the record at 1:16 p.m. and went back on
12 the record at 1:25 p.m.)

13 CHAIRPERSON GRIFFIS: On the record. Ms.
14 Bailey.

15 MS. BAILEY: Application Number 16929 of
16 Miranda R. Brown, pursuant to 11 DCMR 3103.2 for a
17 variance from the lot area and lot width requirements
18 under section 401, and a variance from the side yard
19 requirements under section 405, to allow the
20 construction of a single family detached dwelling in
21 the R-1-B District at premises 3120 Pennsylvania
22 Avenue, S.E., Square 5545, Lot 3. Please stand to
23 take the oath.

24 WHEREUPON,

25 MIRANDA BROWN

1 was called as a witness by Counsel for the Applicant
2 and, having been first duly sworn, was examined and
3 testified as follows:

4 CHAIRPERSON GRIFFIS: Good afternoon.
5 Before we get into this specific case for those also
6 in attendance, we are on the second case of three
7 cases in the morning. Clearly we had a monstrous case
8 that has taken us to this point. I will be calling
9 the afternoon session at 3:00 today, so if people want
10 to make according schedules we certainly welcome the
11 audience if you would like to sit through these.
12 However, it will not be feasible for us to start that
13 until that time. With that, let us get to this case.

14 If I could just have you introduce yourselves.

15 MR. LOUD: Good afternoon, Mr. Chairman.
16 My name is Marc Loud. I am Counsel for the Applicant
17 Miranda Brown.

18 MS. BROWN: Good afternoon. My name is
19 Miranda Brown. I am the Applicant.

20 CHAIRPERSON GRIFFIS: Good. Okay.
21 Clearly you are here for a variance to the lot area
22 and the lot width requirements and the side yard
23 requirements for the construction of a single family
24 detached dwelling. I think it would be appropriate in
25 the Board's perspective if you want to stand on the

1 record and just take questions from the Board if
2 you're prepared to do that, I should explain.

3 MR. LOUD: That is an excellent approach.
4 We will follow that.

5 CHAIRPERSON GRIFFIS: Good. That being
6 said, Board Members, are there specific questions for
7 the Applicant at this time?

8 VICE CHAIRPERSON RENSHAW: I would like
9 the Applicant to briefly describe the access to the
10 house. I understand from the application that there
11 are going to be no outside ramps. Is that correct?
12 So if you would describe for us the access into the
13 house.

14 MS. BROWN: Okay. There's not going to be
15 any outside ramps because the basement is going to be
16 level. You would be able to use a wheelchair and come
17 directly into the house. Then there will be an
18 elevator in the basement that will carry you
19 throughout the entire house.

20 CHAIRPERSON GRIFFIS: So the first level
21 is accessible.

22 MS. BROWN: Correct.

23 CHAIRPERSON GRIFFIS: Both front and back.

24 MS. BROWN: Front and back.

25 CHAIRPERSON GRIFFIS: Okay. Good.

1 Clearly, Board Members, the record shows in the
2 submission the issue of the side yard. We have an
3 existing lot which is not conforming which is what you
4 are here for. But the side yard is created by the new
5 structure. That side yard is based to balanced off
6 the driveway that would be necessitated or at least
7 utilized by this structure.

8 That would then have the building impede
9 on the side yard by less than two feet. The issue
10 that has come before us with this specific application
11 is the maneuverability of the structure itself for
12 wheelchair access substantiates the need for the
13 dimensions that are shown in the submission that we
14 have on the record. Any other questions of the
15 Applicant?

16 VICE CHAIRPERSON RENSHAW: On the Office
17 of Surveyors map, are your parents living to the right
18 or the left of your proposed house?

19 MR. LOUD: Let me beg your indulgence for
20 one second as I put a copy in front of her. I believe
21 it's to the west.

22 CHAIRPERSON GRIFFIS: Well, if you are
23 facing the lot.

24 MR. LOUD: It's to the right.

25 CHAIRPERSON GRIFFIS: It's to the right.

1 Okay.

2 MS. BROWN: It's to the right.

3 CHAIRPERSON GRIFFIS: So you will be
4 sharing the side yard that's in question.

5 MS. BROWN: Correct. With my parent.

6 CHAIRPERSON GRIFFIS: With your parents.

7 MS. BROWN: Parent.

8 CHAIRPERSON GRIFFIS: Right. Indeed.

9 VICE CHAIRPERSON RENSHAW: So your parents
10 house is going to be how far away from your house if
11 you are sharing that side yard?

12 CHAIRPERSON GRIFFIS: Where is theirs
13 located on the lot?

14 MS. BROWN: Okay. We have to show a
15 picture of my parents lot so I can show them.

16 MR. LOUD: We beg your indulgence one
17 second. Let me just make sure I understand the
18 question. In terms of where her lot ends and her
19 parents lot begins, how many feet are there?

20 VICE CHAIRPERSON RENSHAW: How much side
21 yard does her parents have their home to the lot line?

22 MR. LOUD: Ten feet.

23 VICE CHAIRPERSON RENSHAW: Ten feet.

24 Thank you.

25 CHAIRPERSON GRIFFIS: Anything else?

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1 VICE CHAIRPERSON RENSHAW: That's it.

2 CHAIRPERSON GRIFFIS: Good. Let us go to
3 the Office of Planning which has recommended approval
4 of the application.

5 MS. THOMAS: Good afternoon, Mr. Chairman
6 and Members of the Board. At this time we would ask
7 for questions of the Office of Planning.

8 CHAIRPERSON GRIFFIS: Excellent. I think
9 that's appropriate. Board Members, any questions? I
10 note that the Office of Planning report does lay it
11 out very fully and completely. It does also speak to
12 the pre-existing legal lot which if I'm not mistaken
13 was subdivided in 1923 or there about. That's a few
14 years before the Zoning Regulations came into effect.
15 Anything else from the Board?

16 VICE CHAIRPERSON RENSHAW: No.

17 CHAIRPERSON GRIFFIS: Does the Applicant
18 have any questions of the Office of Planning?

19 MR. LOUD: Just with respect to one
20 technical correction. It's probably a typo. On the
21 front page of the memo under the heading Application
22 Relief Sought, the second bullet item should read
23 5.83 feet proposed. It reads 5.83 inches.

24 CHAIRPERSON GRIFFIS: Indeed.

25 MR. LOUD: I just wanted to make that

1 correction for the record.

2 CHAIRPERSON GRIFFIS: Excellent point.
3 That would be a substantial variance in technical
4 terms. Right? Okay.

5 MEMBER ZAIDAIN: We'd be in trouble.

6 (Laughter.)

7 CHAIRPERSON GRIFFIS: Anything else then
8 of the Office of Planning?

9 MR. LOUD: No.

10 CHAIRPERSON GRIFFIS: Good. Thank you all
11 very much. Is there an ANC representative here today
12 for this application? We will make note that ANC-7B
13 does recommend approval. The report was timely filed.
14 It is Exhibit Number 27. And we have letters from
15 the DuPont Civic Association also in support as
16 Exhibit Number 29. We do have the referral letter
17 from the ZA which is Exhibit Number 4. Anything else
18 I'm missing? Very well. We can take a moment for
19 closing remarks.

20 MR. LOUD: I'll be very brief. First of
21 all, thank you and thank you for your patience
22 enduring the day that you've endured. I just want to
23 add that I think that you have before you a very
24 complete record. There's no opposition to it. The
25 Office of Planning supports this recommendation.

1 It is our hope that you will be very
2 expeditious in ruling on this if you want to do a
3 bench decision or a summary order particularly because
4 none of us know what the future holds for us. She has
5 waited a very long time to begin building this house
6 next door to her parents. Unfortunately the events of
7 this morning suggest that none of us can take anything
8 for granted but particularly in her case in the period
9 between the filing of the application in July and our
10 hearing today she lost her father.

11 It's a very troubling situation for she
12 and her mom. She probably did not want me to say this
13 on the record but I think it's very important in the
14 context of the Board making a very quick decision so
15 that she can begin construction. Thank you.

16 CHAIRPERSON GRIFFIS: Thank you very much.
17 We are absolutely sorry for your loss. I think that
18 it is appropriate that we move based on the record to
19 approve Application Number 16929 of Brown for the
20 variance of the lot area, the lot width and also
21 variance from the side yard requirements to allow the
22 single family detached dwelling at premises 3120
23 Pennsylvania Avenue, S.E. I'd ask for a second.

24 VICE CHAIRPERSON RENSHAW: Second.

25 CHAIRPERSON GRIFFIS: Thank you. I think

1 clearly it's outlined in the record the uniqueness of
2 this pre-existing legal lot that existed before the
3 Zoning Regulations has now become non-conforming in
4 terms of the 1958 regulations. The exceptional
5 practical difficulties I think is well substantiated
6 in terms of utilization for the single family
7 residence and the addition of the particular user and
8 their requirements for this structure.

9 I think it has been outlined well and
10 substantiated in the record that it won't have any
11 negative impact on the zoning map or regulations. Any
12 others speaking to the motion? Then I'd ask for all
13 those in favor to respond by saying aye.

14 (Chorus of ayes.)

15 CHAIRPERSON GRIFFIS: Opposed.

16 (No response.)

17 MR. LOUD: Thank you.

18 CHAIRPERSON GRIFFIS: We'll record the
19 vote.

20 MS. BAILEY: The vote is recorded as five-
21 zero-zero to approve the application. Mr. Griffis
22 made the motion. Ms. Renshaw second. Mr. Zaidain,
23 Mr. Etherly, and Mr. Hood are in agreement. This is a
24 summary order, Mr. Chairman.

25 CHAIRPERSON GRIFFIS: Yes I believe so.

1 Very good. Thank you very much. Enjoy your stay.
2 And we appreciate your patience today actually as
3 we've gotten through the morning. With that, let us
4 call the next case.

5 MS. BAILEY: Application Number 16932 of
6 ICG Bancroft Associates LLP, pursuant to 11 DCMR
7 3104.1, for a special exception to allow an addition
8 to a single family dwelling under section 223, not
9 meeting the rear yard requirements (section 404) in
10 the R-3 District at premises 2138 Bancroft Place,
11 N.W., Square 2532, Lots 56 and 811. Are you ready to
12 take the oath?

13 WHEREUPON,

14 STYLIANOS CHRISTOFIDES AND GUILLERMO RUEDA
15 were called as witnesses by Counsel for the Applicant
16 and, having been first duly sworn, were examined and
17 testified as follows:

18 MR. COLLINS: Good morning, Mr. Chairman.

19 CHAIRPERSON GRIFFIS: We'll take that for
20 the record. As it's a morning case, you prefaced good
21 morning.

22 MR. COLLINS: Sorry.

23 CHAIRPERSON GRIFFIS: It happens.

24 MR. COLLINS: Good day, Mr. Chairman and
25 Members of the Board.

1 CHAIRPERSON GRIFFIS: Indeed.

2 MR. COLLINS: My name is Christopher
3 Collins with the law firm of Holland and Knight. With
4 me is Carolyn Brown of Holland and Knight. We are
5 here on behalf of the Applicant, ICG. Seated to my
6 right is the Applicant's representative, Mr. Stylianos
7 Christofides. This is an application for a special
8 exception approval for a rear yard that is less than
9 20 feet in the R-3 zone. This approval will enable
10 the restoration of a residence built in 1898 back to a
11 residential use.

12 This Applicant has appeared before the ANC
13 twice. The Applicant's representative has also spoken
14 to many neighbors of the project. We're pleased to
15 report that we have the support of the Advisory
16 Neighborhood Commission. The Historic Preservation
17 Review Board Staff recommends approval in concept.
18 You have a report in your packet. There is a
19 subsequent report that has come out. They will be
20 back to the HPRB on Thursday. We have worked out all
21 the issues that remain from the first case.

22 The Sheraton Kalorama Historical
23 Association has voted to support the application. We
24 have letters of support with us from the president of
25 the Sheraton Kalorama Neighborhood Council. I believe

1 you were faxed a copy of the ANC's letter because we
2 met last evening. I have the original waiver letter
3 where they requested the seven day waiver and we
4 supported that.

5 CHAIRPERSON GRIFFIS: You are submitting
6 the Sheraton Kalorama now.

7 MR. COLLINS: I can do that.

8 CHAIRPERSON GRIFFIS: Why don't we do
9 that? Let's just get everything as it comes in.

10 MR. COLLINS: We also have support from
11 our only abutting neighbor to this property which is
12 the neighbor abutting immediately to the east. Those
13 are being submitted right now. We have several other
14 letters of support as well which are also being
15 submitted into the record. We have Office of Planning
16 support. We are unaware of any opposition to this
17 application.

18 This building was originally constructed
19 as a single family dwelling in 1898 with an addition
20 placed on it a few years after that. The building
21 will be divided into two single family row dwellings
22 which are permitted as a matter of right in the R-3
23 zone. The special exception is intended to allow for
24 the construction of garages at the rear of the
25 building that do not meet the rear yard requirements.

1 The rear yard resulting will be four and a
2 half feet. The rear yard abuts a 15 foot wide alley.

3 So the total open space will be 19 and a half feet.
4 The rear yard requirement is 20 feet. The standard
5 for approval in this case is that the addition must
6 not have a substantially adverse effect on the use or
7 enjoyment of any abutting or adjacent dwelling or
8 property.

9 The rear addition is designed with a deck
10 above the garage. The rear is going to be a garage
11 with a deck above. The deck is at the main level of
12 the house. However, at the point where the rear yard
13 would start, the deck drops two feet so that the deck
14 at the point where we're infringing on the rear yard
15 if you will is actually two feet below the main level
16 of the house in an effort to further mitigate any
17 potential impact on anybody in this case.

18 CHAIRPERSON GRIFFIS: But that also goes
19 to the point of it not going to the lot occupancy
20 calculation. Am I correct?

21 MR. COLLINS: As originally designs which
22 was submitted with our application way back in the
23 beginning, the entire thing was level. In its
24 original application it did not exceed the lot
25 occupancy.

1 CHAIRPERSON GRIFFIS: I see. You are here
2 now because you further pushed it down.

3 MR. COLLINS: Further pushed it down.

4 CHAIRPERSON GRIFFIS: Which probably had a
5 lot to do with what HPRB was talking about.

6 MR. COLLINS: Well, there were several
7 issues. It's a function of the screen wall which --

8 CHAIRPERSON GRIFFIS: We have it the
9 transcript that was submitted. We have it. The Board
10 read the whole thing, so we know what you went
11 through.

12 MR. COLLINS: Okay.

13 CHAIRPERSON GRIFFIS: We're going to be
14 worse.

15 MR. COLLINS: I hope not.

16 CHAIRPERSON GRIFFIS: Okay.

17 MR. COLLINS: So with the privacy screen
18 railing that's shown in the plans which the architect
19 will describe in more detail that extends only four
20 feet above the main level of the house and is no
21 higher of the screen wall of our only abutting
22 neighbor directly to the east as requested by that
23 neighbor. The statement of the Applicant which we've
24 submitted and the exhibits attached to that statement
25 explain our case in detail. As you have said, you

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1 have read them.

2 The architect and the owner's
3 representative will describe how the Applicant meets
4 the test for relief. Unless you have any questions at
5 this time, I'd like to go to the first witness, Mr.
6 Christofides.

7 CHAIRPERSON GRIFFIS: Let me just make
8 sure that the Board is 100 percent comfortable with
9 the fact that we're coming in under 223 with this
10 application and everyone is fully understanding the
11 rationale that has just been laid out to us in the
12 opening and also in the record. Everyone is clear?

13 Now one clarification as you were throwing
14 numbers around in terms of the rear yard. You
15 indicated that you had four and a half feet plus the
16 alley which would give an opening space of I think you
17 said 19 and a half feet. Then you said that the rear
18 yard requirement would be 20 feet.

19 MR. COLLINS: Right.

20 CHAIRPERSON GRIFFIS: Okay. Just for
21 clarity sake, of course the rear yard wouldn't
22 calculate in the alley but rather you're talking about
23 that there would be with this structure an open space
24 of 20 feet which is what goes to the intent of a rear
25 yard. That is to give light and air to the

1 surrounding properties.

2 MR. COLLINS: Exactly right.

3 CHAIRPERSON GRIFFIS: Okay.

4 MR. COLLINS: The effective open space is
5 almost equivalent to what the rear yard requirement
6 is.

7 CHAIRPERSON GRIFFIS: Right. Good. I
8 think the Board is fully prepared for this. So I
9 think if you want to quickly go ahead with the case.
10 We're probably hopefully going to interrupt and get
11 pointed questions answered and then we can move this
12 along.

13 MR. COLLINS: Great. Mr. Christofides,
14 would you please identify yourself and summarize your
15 testimony?

16 MR. CHRISTOFIDES: Good afternoon to all
17 the Board Members. Thank you for seeing us this late.
18 I know it's been a very long day for you already.
19 Very briefly, our company is Infrastructure Capital
20 Group. We came into real estate in 1998. We have a
21 long history of tackling historic projects in the
22 District.

23 Our main theme is the Gap Building also
24 located on 9th and F Street for which we won an award
25 in the year 2000 as the best renovation,

1 rehabilitation project in Washington. We also own 215
2 Connecticut Avenue which is another historic property
3 just south of DuPont Circle. We have approval from
4 HPRB for a facade rework on that. We also own 911 F
5 Street, adjacent to 901 F. We have fully renovated
6 the historic facade on that property as well.

7 So we love the historic niche properties
8 as our focal point. The residential project we
9 identified in the former Kingsbury Center we love that
10 historic neighborhood. It is our first residential
11 project, but we have partnered with Hastings
12 Development which is a company well known for its
13 residential capabilities. We thought that bringing
14 the historic advantages and knowledge that we have
15 with the residential aspect of Hastings we would form
16 a very good team in order to bring the project back to
17 its original shine which was the historic residential
18 property that it was in the past.

19 The project also had two smaller row
20 houses located along Phelps Street which we have
21 already started construction as a matter of right.
22 These are being fully restored. All the entire
23 facade and everything is being redone, repointed, the
24 original stone work, everything is still there. We
25 would like to address the main building which is 2138

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1 Bancroft in exactly the same light as we will show you
2 from the drawings.

3 As Mr. Collins said, we have had a lot of
4 discussion with the entire neighborhood. We have
5 tried to be as sensitive as we can to all of the
6 demands of the neighbors as well as HPRB, the Sheraton
7 Kalorama Historic Association. We met with the ANC
8 twice. We have held regular meetings with our
9 immediate neighbors, that is on 2134 Bancroft. We've
10 also met with our neighbors at Phelps.

11 We are in constant communication with
12 anyone who wants to use the alley and how the project
13 actually impacts them. At every single point, we have
14 shared our drawings in trying to work through them and
15 trying to explain them to everyone that wanted to
16 actually have additional information. We feel that we
17 have reached the point where everyone understands the
18 project.

19 We have been given full support from
20 everyone in the community. We just finished from last
21 night with the ANC a very good discussion, a very good
22 meeting, where everyone actually clapped as we left
23 the room. So that was a very good pat on our back.

24 CHAIRPERSON GRIFFIS: We don't get that a
25 lot.

1 (Laughter.)

2 MR. CHRISTOFIDES: Just to address the
3 point further, you have been given copies of the
4 support letters that we have. We also have been
5 receiving verbal supports from all of the other
6 neighbors. We went all the way down to about two or
7 three different neighbors along the corridor, not
8 necessarily requesting letters of support from them
9 but at least to explain to them exactly what we were
10 doing.

11 In conclusion, I'm hoping that all of the
12 information that is required is present in the report.

13 If you have any questions that you would like to ask
14 us, we'd be pleased to answer them. I'm hopeful that
15 you will give us your support as well so we can move
16 forward with the process. Thank you very much.

17 CHAIRPERSON GRIFFIS: Thank you. A couple
18 of quick things. Clearly in your testimony from HPRB
19 it was established that this is a historic property.
20 This isn't a designated property. Is it? It's just a
21 historic overlay. But it has a prominent architect
22 that built it. I think it was said that this may not
23 be the greatest work but a work in any case.

24 It was built in two separate phases.
25 There was an original property and the adjacent

1 property. One of the issues that did come up and I
2 think it would relate to us somewhat but I don't think
3 it has any impact is you're maintaining the one
4 entrance in that will access both. What you're doing
5 is creating two side by side essentially townhouses.
6 Correct? And that's for our understanding. Then the
7 parking will be attendant to each of those in the
8 rear.

9 MR. CHRISTOFIDES: That is correct, yes,
10 Mr. Chair.

11 CHAIRPERSON GRIFFIS: My question on the
12 plans and maybe we'll get into this but there seems to
13 be a dividing wall with the two parking. Is there a
14 reason for that? Are they attendant to one of the
15 units or the other?

16 MR. CHRISTOFIDES: If I may allow the
17 architect as we're going through the drawings to
18 actually address that.

19 CHAIRPERSON GRIFFIS: We'll do that.
20 Absolutely. It is anticipated that you're actually
21 subdividing this for two ownership entities. Is that
22 correct?

23 MR. CHRISTOFIDES: Yes.

24 CHAIRPERSON GRIFFIS: And what's the
25 timing on the subdivision?

1 MR. CHRISTOFIDES: I believe the minute we
2 receive the full HPRB support then we will immediately
3 put forward the documentation for the subdivision.

4 CHAIRPERSON GRIFFIS: Okay.

5 VICE CHAIRPERSON RENSHAW: I'm looking at
6 a picture of your building. It's Exhibit Number I
7 don't know. That's what it is. In any case, I'm just
8 turning it towards the Applicant and pointing out a
9 rooftop area. Is that part of your building or is
10 that the adjoining?

11 MR. CHRISTOFIDES: That is the adjoining
12 building.

13 VICE CHAIRPERSON RENSHAW: All right.

14 MR. CHRISTOFIDES: That is the immediate
15 neighbor to our east.

16 VICE CHAIRPERSON RENSHAW: And you have
17 their support.

18 MR. CHRISTOFIDES: Yes. That's actually
19 one of the letters that was just submitted this
20 morning. The name of the neighbors is the Crupin (PH)
21 family.

22 VICE CHAIRPERSON RENSHAW: All right.

23 MR. CHRISTOFIDES: And it's 2134 Bancroft
24 Place.

25 VICE CHAIRPERSON RENSHAW: We're just up

1 here wondering whether or not there has been
2 permission to build that rooftop area.

3 MR. CHRISTOFIDES: I could not speak to
4 that.

5 VICE CHAIRPERSON RENSHAW: And you're not
6 speaking to it. I'll bet you know but you're not
7 speaking to it. But thank you anyway.

8 MR. CHRISTOFIDES: You're welcome, ma'am.

9 CHAIRPERSON GRIFFIS: Okay. I bet that
10 doesn't have HPRB's stamp of approval. Any other
11 questions at this time? If not, let's proceed
12 through.

13 MR. COLLINS: Thank you. The next witness
14 is Mr. Rueda from Singleterry Rueda Architects. Mr.
15 Rueda, would you please identify yourself for the
16 record and summarize your testimony?

17 MR. RUEDA: Good afternoon. My name is
18 Guillermo Rueda. I'm an architect in Washington, D.C.
19 I'm a resident of Washington, D.C. I've been
20 practicing in the District for the last 15 years. As
21 Mr. Collins said I'm a partner with Singleterry Rueda
22 Architects which has been in existence for five years.

23 We specialize and design intensive
24 projects that are often subject to community
25 involvement and/or review. We have many projects that

1 involve either historic districts or historic
2 structures. We are often asked to present to the
3 different governing bodies and neighborhood
4 committees.

5 Our feature project if you will is Loyal
6 Plaza which is in Striver Section. We recently
7 received a catalyst award for design excellence that
8 enriches city life in Washington, D.C. We are engaged
9 in this project to return this Hornblower Marshall
10 building to a single family residence. In this case,
11 it will be two. I'm not sure if it's easier for me to
12 stand or sit.

13 CHAIRPERSON GRIFFIS: Whatever you're
14 comfortable with. If you are comfortable sitting, we
15 have plans in front of us. We can probably get
16 through it. Otherwise, we do have a cordless mic that
17 you can use and point.

18 MR. RUEDA: Okay. I'll try from here and
19 see how my nervous energy accommodates this. I think
20 we should probably start off with a change to the
21 exhibit. In the packet that you have before you,
22 there is one section that was a carry over from the
23 previous set of drawings that we submitted to you. We
24 felt it important to submit this for the record
25 because it does accurately represent the section

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1 through this revised garage edition.

2 The elevation from Phelps shows the
3 project and its scope pretty well. You're dealing
4 with a pretty large single family residence that was
5 added on to early in the 20th Century.

6 MR. COLLINS: Which drawing are you
7 referring to there?

8 MR. RUEDA: It's 3.4, the west elevation.

9 You can see the original Hornblower Marshall with the
10 proposed addition here to the south of the structure.

11 The rear yard line does coincide with the set of
12 steps that we have provided to try to develop and
13 mitigate the mass of the addition a little bit
14 allowing for the privacy that the owner, in this case
15 the developer Mr. Christofedes. Rather than having a
16 single masonry solid wall, we have tried to create a
17 series of piers and iron work and railings that would
18 screen the use of the roof terrace up above and at the
19 same time provide privacy that would be necessary for
20 the end users.

21 The plan over here on A1.1 shows the
22 basement level approach to the residences which you
23 can see divided at the point of the original addition
24 which is this 21.6 portion to the east of the site.
25 The rear addition here does accommodate parking. One

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1 of the schemes that we have considered which is what
2 you see present is the ability to have a space that
3 could be either rented or sold to the properties
4 directly to the south that the developer is also
5 developing and as he said are currently under
6 construction.

7 CHAIRPERSON GRIFFIS: Wow. That's some
8 good work for the lawyer to figure out how you do
9 that, sell that little space. Can you find the land
10 underneath? Well, we won't go into that. Okay. Rear
11 elevation.

12 MR. RUEDA: The rear elevation A3.3 from
13 the south shows that we are in fact keeping the mass
14 of this equal to or below the adjoining structure so
15 as to really not impact their privacy or their light
16 and air. I'll get to the light and air study.
17 Basically what you see before you is again through our
18 discussions with HPRB trying to develop the addition
19 to be a little more in keeping in terms of mass and
20 how it's broken down with the rest of the neighborhood
21 and trying to provide for a scale that would be
22 compatible with the surrounding neighborhood.

23 One of our goals in this as an architect
24 and also as part of the project team was to try to
25 develop a street scape in this part of town. If you

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1 are familiar with it, this particular street is pretty
2 devoid of human scale because of the development to
3 the west which is Kalorama Square. There's a fairly
4 large wall. So we've tried to create more of a
5 pleasant scale to make it a little bit easier to walk
6 on that street without feeling the imposing nature of
7 the development across the street.

8 CHAIRPERSON GRIFFIS: But you also bring
9 up the context of the neighborhood and that alley.
10 That clearly came out in HPRB which was informative
11 for this Board. I think in the testimony it was 95 or
12 99 percent of the townhouses on that alley actually
13 had structures if not even carriage houses and
14 structures along that.

15 So additionally in terms of a special
16 exception, we're looking if there's any adverse
17 factors that are developed with this for the use of
18 the adjoining. But we have one that I think you're
19 speaking to or we'll get to is you're infilling a
20 surface parking area which clearly doesn't define the
21 sidewalk edge which is something of value in urban
22 blocks and this would do that.

23 MR. RUEDA: That is correct.

24 CHAIRPERSON GRIFFIS: Okay.

25 MR. RUEDA: It's a fairly irregular shaped

1 lot. Because of the configuration of the streets, it
2 gets pinched towards the south. It makes it a little
3 bit more difficult for us to try to craft this mass.
4 It was quite a problem. It was the Kingsbury School.
5 You would often see anywhere upwards of nine cars
6 jammed onto this piece of asphalt. Really as a
7 defining moment to that alley, it was quite disruptive
8 and certainly a little bit out of keeping with the
9 neighborhood.

10 In one of the exhibits you'll see 4.1, we
11 try to show the immediate neighbors in context on the
12 alley. Well, you can see that directly to the east,
13 the Crupin (PH) residence and 2134 does have the
14 required set back from the property line. It does
15 encroach into the rear yard the same way that we're
16 proposing to do. The next two properties probably
17 along with several others are shown as they exist.
18 They are basically developing the full extent all the
19 way to the alley.

20 You'll see in the light and air study on
21 4.1 the lowest angle of sun is December 21 at 2:00.
22 You can see from the diagram that the development to
23 the west always prevents, basically that has impact
24 over our neighbor way before we do. Once it goes
25 below that point, everything is in shade. So we don't

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1 adversely impact in terms of that.

2 Our lot occupancy coverage as was stated
3 before does stay at 57 and a half percent given the
4 fact that we don't go beyond the main level of the
5 residence. I feel like I'm forgetting something.

6 CHAIRPERSON GRIFFIS: The abutting
7 neighbors, you've created a wall that is in line with
8 their wall which would continue their privacy of use
9 and enjoyment of their property. Is that correct?

10 MR. RUEDA: Thank you. That is correct.
11 The wall through discussions was agreed to that we
12 would stay at the level. Immediately next to them,
13 we've actually set that down even a little bit more to
14 try to define the two masses for the two different
15 properties so that you could have definition between
16 the two units. As a way of also trying to say we'll
17 set down a little bit further and really ensure that
18 you don't have any loss of enjoyment or property.

19 CHAIRPERSON GRIFFIS: Good. Okay. I
20 think it's clearly laid out but just for the record
21 the materials that are being used on the new addition
22 are compatible if not identical to the existing
23 structure. Is that correct?

24 MR. RUEDA: That is correct. We will be
25 using compatible materials that reflect the nature of

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1 the original structure.

2 CHAIRPERSON GRIFFIS: For total clarity,
3 it is showing as brick. It's intended to be a brick
4 addition in the back, the substantial mass of it.

5 MR. RUEDA: Correct. It will be a brick
6 addition with metal railings and screens in the
7 character of the existing railings and screens on the
8 property.

9 CHAIRPERSON GRIFFIS: Right. The only
10 lighting that is happening is above the doors which is
11 somewhat consistent with the rest of the area or the
12 use of the garage. They'll be downward focused I
13 would imagine.

14 MR. RUEDA: Right. There was
15 consideration from SKHA that we not use security
16 lights, that we try to do something ornamental in
17 keeping with the character that was intended for the
18 community.

19 CHAIRPERSON GRIFFIS: Just make sure they
20 work, let alone ornamental. That's the important
21 piece for that alley, lighting. Any other questions?
22 This is a self certification. Is it not?

23 MR. RUEDA: Yes.

24 CHAIRPERSON GRIFFIS: Is it your testimony
25 that your penthouse structures comply with 411 in

1 terms of set back and height?

2 MR. RUEDA: Yes they do. We have verified
3 that through meetings with the Zoning.

4 CHAIRPERSON GRIFFIS: Okay. Very well.
5 Anything else? Questions? Considerations? In this
6 you've dropped the height of the garage, what is the
7 construction then of the slab?

8 MR. RUEDA: Well, one of the things is
9 because of the slope of the site, because this
10 addition gets exposed the way it does and because
11 there is a 36 inch difference between the main level
12 of our property and the deck level of the adjoining
13 property, the step in the slab which would be concrete
14 with some sort of stone top setting --

15 CHAIRPERSON GRIFFIS: Okay. The structure
16 itself. My issue is going to in looking at this
17 section you're showing just a poured slab. Is that
18 your anticipation?

19 MR. RUEDA: That's correct.

20 CHAIRPERSON GRIFFIS: There's not steel
21 supports below it. That would then diminish the
22 height available which may --

23 MR. RUEDA: No. That's a structure
24 concrete slab.

25 CHAIRPERSON GRIFFIS: Okay. That is

1 sufficient for my purposes. Anything else? Very
2 well. Thank you very much. That was very
3 informative. Let us go to the Office of Planning.
4 Good afternoon, sir.

5 MR. MOORE: Good afternoon, Mr. Chair and
6 Members of the Board. I'm John Moore with the Office
7 of Planning. Our report should be a matter of record.
8 I would stand on that report as issued. I will
9 answer your questions of course if you have any.

10 CHAIRPERSON GRIFFIS: Excellent idea.
11 Noting we've had a reference in the record of a
12 restaurant and it's 2:00 and we haven't had lunch. I
13 should say that I think it's sufficient in terms of
14 the submission on this and the clarity of the
15 information in the OP report. I think the entire
16 record was clear, both in OP and also in the procedure
17 before HPRB what might have created some detrimental
18 impact or adverse use of adjoining properties.

19 It went to a lot of the height and massing
20 of this structure. I think that has been mitigated.
21 I'm sure that the green space for planting has been
22 clearly defined at this point and substantiated. Any
23 questions of Office of Planning? Good. We should
24 make great note of the great photographs that are
25 inputted in this report as usual.

1 VICE CHAIRPERSON RENSHAW: This seems to
2 be one of Mr. Moore's signatures.

3 CHAIRPERSON GRIFFIS: Indeed. We always
4 know his reports.

5 MR. MOORE: With all those accolades, I
6 must confess that two of the photographs I borrowed
7 from the Applicant.

8 CHAIRPERSON GRIFFIS: We don't care where
9 you get them. It's just nice to see them in your
10 report. Does the Applicant have any questions of the
11 Office of Planning?

12 MR. COLLINS: No.

13 CHAIRPERSON GRIFFIS: Good. I should say
14 again it clearly outlines the entire relationship with
15 the comprehensive plan and also speaks to the
16 requested zoning relief under 223 which I will
17 reiterate at the end of this. So moving along. We do
18 have submitted today the ANC report. I just had it in
19 front of me.

20 VICE CHAIRPERSON RENSHAW: It's dated
21 October 21. We need to waive this in.

22 CHAIRPERSON GRIFFIS: Yes. Any objection
23 to waiving in the report from the ANC? Not hearing
24 any, I take it as a consensus of the Board to waive in
25 the report unless there is any objection from the

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1 Applicant.

2 MR. COLLINS: To the contrary, we support
3 the waiver because we just met last night.

4 CHAIRPERSON GRIFFIS: Good. Ms. Renshaw,
5 do you want to summarize?

6 VICE CHAIRPERSON RENSHAW: The letter is
7 dated October 21. It is signed by Marla Carter, ANC-
8 1D Vice Chair. She states that they met on October
9 21, 2002. They voted in support of the Applicant to
10 allow an addition to an existing single family
11 dwelling with two historic preservation covenants to
12 run with the land and also noting that there will be a
13 construction agreement between ICG Bancroft Associates
14 and the ANC.

15 Construction will not begin until fully
16 executed covenants and agreements are submitted to the
17 ANC. The ANC thanks us for considering its letter.
18 Again, it was passed. It doesn't state that there was
19 a quorum present nor the vote. I don't see the vote
20 mentioned.

21 MR. COLLINS: I'd be happy to clarify.

22 VICE CHAIRPERSON RENSHAW: Was it
23 unanimous?

24 MR. COLLINS: It's a two member ANC and it
25 was unanimous, yes.

1 VICE CHAIRPERSON RENSHAW: Okay.

2 CHAIRPERSON GRIFFIS: Okay. I'll bet they
3 don't have a problem getting a quorum. We do have
4 also, and I skipped over it but we've been
5 highlighting it quite a bit, HPRB. You indicated that
6 there was an additional report. Are you submitting
7 that into the record?

8 MR. COLLINS: Yes. That's being submitted
9 right now. It's a supplemental report indicating that
10 we worked out the issues. You'll see as it will speak
11 for itself that the staff is recommending conceptual
12 design approval and delegation of final details to
13 staff.

14 CHAIRPERSON GRIFFIS: Okay. That's fine.

15 VICE CHAIRPERSON RENSHAW: While this is
16 being passed out, could we ask the architect to spell
17 his name for us?

18 MR. RUEDA: First or last.

19 VICE CHAIRPERSON RENSHAW: Both.

20 MR. RUEDA: G-U-I-L-L-E-R-M-O R-U-E-D-A.

21 VICE CHAIRPERSON RENSHAW: Thank you.

22 CHAIRPERSON GRIFFIS: Okay. And I have
23 also the Sheraton Kalorama Neighborhood Council letter
24 which is dated October 20. Is that correct? This is
25 the letter that you submitted today. Is that correct?

1 MR. COLLINS: That's correct. It is.

2 CHAIRPERSON GRIFFIS: It's representing
3 the Sheraton Kalorama Neighborhood Council.

4 MR. COLLINS: It's written by Mr. Chapin
5 as president.

6 CHAIRPERSON GRIFFIS: I see. How many
7 members are there in the Council? Do you know?

8 MR. COLLINS: I do not know. The letter
9 just says as a neighbor "I support" and he signed it
10 as president of the SKNC.

11 CHAIRPERSON GRIFFIS: And it's on their
12 letterhead.

13 MR. COLLINS: It's on their letterhead.

14 CHAIRPERSON GRIFFIS: Which throws me off
15 because it's indicating "my support" is what the
16 letter says for the BZA special exception.

17 MR. COLLINS: Right.

18 CHAIRPERSON GRIFFIS: Oh well. There it
19 is. Any questions of that? Anything else I'm missing
20 in terms of the record for submissions either in
21 support or in opposition at this point? Is anyone
22 here to give testimony today for support or opposition
23 related to this case?

24 (No response.)

25 CHAIRPERSON GRIFFIS: Then we can go for

1 closing remarks.

2 MR. COLLINS: Thank you, Chair and Members
3 of the Board. You have all the information for you to
4 support our application for special exception
5 approval. We appreciate your consideration at the
6 earliest possible time. We would request that because
7 this is also a proceeding before the HPRB and because
8 when the BZA approves a case the approval includes
9 approval of the plans that were submitted that we
10 would ask for flexibility to address any historic
11 preservation issues that are raised by the HPRB in
12 their subsequent deliberation which is Thursday.

13 CHAIRPERSON GRIFFIS: How would you have
14 us word flexibility? Clearly the only thing that
15 would affect us is the rear yard. It didn't seem like
16 it came up to discussion with HPRB that you would be
17 moving that rear wall.

18 MR. COLLINS: That's correct. But in the
19 past there have been instances where the zoning
20 administration has taken the position that any change
21 to a plan even though it had nothing to do with the
22 relief requested to the Board must come back to the
23 Board for modification of the plans if the HPRB
24 changes.

25 CHAIRPERSON GRIFFIS: Indeed.

1 MR. COLLINS: So that's why I'm asking for
2 flexibility.

3 CHAIRPERSON GRIFFIS: And how would you
4 have us word flexibility?

5 MR. COLLINS: With a condition that the
6 Applicant is granted flexibility to address design
7 features requested by HPRB in the final plans.

8 CHAIRPERSON GRIFFIS: I see. Okay.

9 MR. COLLINS: HPRB staff because the final
10 has been delegated to staff.

11 CHAIRPERSON GRIFFIS: Indeed.

12 VICE CHAIRPERSON RENSHAW: Is it requested
13 or required?

14 MR. COLLINS: I guess it would be required
15 because they've requested we would do it if they
16 didn't --

17 VICE CHAIRPERSON RENSHAW: But it's a
18 requirement for their vote.

19 MR. COLLINS: Exactly. You're absolutely
20 right. It would be a requirement. Any changes
21 required by the Board or the staff.

22 CHAIRPERSON GRIFFIS: Good. Anything
23 further?

24 MR. COLLINS: Just that we request your
25 approval.

1 CHAIRPERSON GRIFFIS: Thank you very much.

2 That being said, Board Members, I would move approval
3 of Application Number 16932 for a special exception
4 under 223 to allow the noted development which its lot
5 does not meet the rear yard requirements. It is the
6 premises of 2138 Bancroft Place, N.W.

7 VICE CHAIRPERSON RENSHAW: Second.

8 CHAIRPERSON GRIFFIS: Thank you very much,
9 Ms. Renshaw. The case is sufficiently filled in
10 meeting the test for the zoning relief under 223. We
11 have touched on all of it. It goes directly to not
12 creating any adverse effects or impacts. That's
13 relating to light and air use of neighboring
14 properties.

15 The vision from the street which is always
16 an interesting piece I think is unique in this
17 circumstance but I think has clearly also been
18 addressed. This is essentially now on the elevation,
19 but it actually is being designed and animated to
20 stand alone as it will be somewhat visible although
21 not from the primary street of the building which I
22 think comes in the greatest concern. Others, speak to
23 the motion? Very well. If not, I would ask for all
24 in favor to signify by saying aye.

25 (Chorus of ayes.)

1 CHAIRPERSON GRIFFIS: And opposed?

2 (No response.)

3 MS. BAILEY: Mr. Chairman, who seconded
4 the motion?

5 CHAIRPERSON GRIFFIS: Ms. Renshaw.

6 MS. BAILEY: The vote is recorded as five-
7 zero-zero to approve the application. The motion was
8 made by Mr. Griffis and seconded by Ms. Renshaw. Mr.
9 Zaidain, Mr. Etherly, and Mr. Hood are in agreement.
10 It would include a condition which says the
11 application is approved pending flexibility by the
12 Applicant to address design issues required by the
13 HPRB board or staff.

14 CHAIRPERSON GRIFFIS: Yes. I did forget
15 that in my motion. Didn't I? Excellent. The Board
16 is in agreement and consensus.

17 MEMBER ZAIDAIN: Yes.

18 MEMBER ETHERLY: I agree.

19 CHAIRPERSON GRIFFIS: I think it would be
20 well incorporated into our order. Good. Anything
21 further? Do we have anything? Complete? Excellent.
22 I thank you all for your patience today. Good luck.
23 It looks like a great project. We certainly look
24 forward to seeing it if we're in the neighborhood.
25 Have a great day. Okay. That in fact will complete

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1 and I will adjourn the morning session of October 22,
2 2002, the Board of Zoning Adjustments.

3 In the same breath, I am going to call the
4 afternoon session so that we might in fact entertain
5 preliminary matters attendant to the cases. Then we
6 will be recessing for lunch. I will postpone my
7 opening remarks for the afternoon session until we
8 reconvene. I do believe we have a preliminary matter
9 to attend to on one of the cases.

10 MR. MOORE: Good afternoon, Mr. Chairman
11 and Members of the Board. I'll be brief. I'm Jerry
12 Moore, the Council for the Applicant in the Randle
13 Highlands BZA special exception and variance case this
14 afternoon.

15 Our case first went to public hearing on
16 July 16. As you recall for a number of different
17 reasons, that case was continued until October 22. On
18 October 16, the Board indicated that we would be the
19 first case on the agenda but for whatever reason that
20 didn't work out. We are now the last case on the
21 agenda for this afternoon. When I came in at 1:00
22 today, the Board was still working on the first case.

23 CHAIRPERSON GRIFFIS: Great. We've been
24 there. Don't recount it for us.

25 MR. MOORE: I'll ask the Board to continue

1 this hearing until the first available date which I am
2 told is the morning session of January 7, 2003.

3 CHAIRPERSON GRIFFIS: Okay.

4 MS. BAILEY: Mr. Chairman, I would just
5 note that there were members from the community here
6 before the Board took up the other cases. I'm not
7 sure if there will be attendance later on this
8 afternoon. There were other persons, Ms. Marshall and
9 some other members from the community here that are
10 not in the room at this time.

11 CHAIRPERSON GRIFFIS: Indeed.

12 SECRETARY PRUITT: They wouldn't have --
13 for the request for continuance unless you granted
14 them party status. That was one thing you had to deal
15 with.

16 MEMBER ZAIDAIN: So the issue is they were
17 fine with the continuance or debating the continuance.

18 VICE CHAIRPERSON RENSHAW: Does Counsel
19 have anything to weigh in?

20 MS. MONROE: I don't know. Are any of
21 these other people parties already?

22 CHAIRPERSON GRIFFIS: Well, that was the
23 issue. We have an application for party status that
24 in fact at our last hearing we asked two things on
25 this. We asked that further substantiation be

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1 submitted then we would take up party status which is
2 what I think we need to do at this point.

3 We don't necessarily need anyone to speak
4 to the issue. I think we have substantial
5 documentation towards party status. We also have
6 information that speaks against it. That's what we
7 need to weigh.

8 SECRETARY PRUITT: And Mr. Chairman,
9 actually it was announced at the hearing that this
10 would be the first case at 1:00 which is when Mr.
11 Moore was here. So I guess everyone should have at
12 least assumed that we were going to start at 1:00.

13 CHAIRPERSON GRIFFIS: Except that I made
14 the announcement we'd start at 3:00.

15 SECRETARY PRUITT: Today?

16 CHAIRPERSON GRIFFIS: Yes.

17 SECRETARY PRUITT: But they wouldn't have
18 known that unless they called.

19 CHAIRPERSON GRIFFIS: Well, if they were
20 here at 1:00 they would have known.

21 SECRETARY PRUITT: Oh, I'm sorry.

22 CHAIRPERSON GRIFFIS: Anyway, is Ms.
23 Marshall here?

24 (No response.)

25 MR. MILLER: All right. There's quite a

1 lot coming up that we need to do. This is very clear.

2 What I want to do is take a party status at this
3 point. Since you have your file out, why don't you
4 grab that?

5 MEMBER ZAIDAIN: Sure. Before we get into
6 that, I do want to say that I wasn't here on the July
7 16 hearing, but I have read the transcript and the
8 record. I will be participating.

9 CHAIRPERSON GRIFFIS: Good. Thank you
10 very much for clarification.

11 COMMISSIONER HOOD: Also, Mr. Chair, I
12 will not be participating in this case. My colleague
13 will be Mr. Hannaham.

14 MR. MOORE: In that case, I don't think
15 you have a majority. You don't have a quorum, sir.

16 CHAIRPERSON GRIFFIS: Yes we do. We have
17 four members.

18 VICE CHAIRPERSON RENSHAW: Curtis is
19 coming back.

20 CHAIRPERSON GRIFFIS: Okay. Clearly it's
21 come to my attention that this is going to be more
22 cumbersome based on the fact that I had announced we
23 won't start until 3:00, so that's what we're going to
24 do. We're going to pick this right up at 3:00.
25 People will be back in. We're going to take up party

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1 status. We're going to take up the request for a
2 continuous at that time. We should expedite it all.
3 So we'll see you at 3:00. Off the record.

4 (Whereupon, at 2:22 p.m., the above-
5 entitled matter recessed to reconvene at
6 3:17 p.m. the same day.)

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

3:17 p.m.

CHAIRPERSON GRIFFIS: On the record.

Okay. Let us reconvene the afternoon session. I had called it to order, but I do need to give a little outline of how we are proceeding today. This is the October 22, 2002, public hearing of the Board of Zoning Adjustments, District of Columbia.

My name is Geoff Griffis. I am Chairperson. With me today is Ms. Anne Renshaw, Vice Chair and also Mr. Curtis Etherly. Representing the Zoning Commission is Mr. Hood. With us this afternoon and representing the National Capitol Planning Commission is Mr. Zaidain.

Copies of today's hearing will be made available. If there are need of additional copies, they are usually on that table as you enter into the hearing room. Please let Staff know if we need additional copies out there this afternoon.

Also please be aware that these proceedings are being recorded. There are several things with that. When you come forward, you are going to need to speak into a microphone. The microphone needs to be on. Also, I'll need you to fill out two witness cards, anyone coming forward to

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1 speak to the Board. Those cards should be filled out
2 and given to the reporter who is sitting to my right.

3 As these are being recorded and the Board
4 has focused 100 percent attention on those presenting
5 to us, we ask that people present not create any
6 disruptive noises or actions in the hearing room when
7 we are proceeding. Let me also ask people present now
8 to turn off any cell phones or beepers so we don't
9 have any disruptions of testimony in the proceedings.

10 The order of procedure for the special
11 exceptions and variances this afternoon will be first
12 statement and witnesses of the Applicant. Second will
13 be Government reports attendant to the application.
14 Those are Office of Planning, DDOT, and anything else
15 that is submitted. Third would be the ANC reports.

16 Fourth, we will hear testimony from
17 persons or parties in support of the application.
18 Fifth would be persons or parties in opposition.
19 Finally, we will have rebuttal testimony and/or
20 closing remarks from the Applicant. Cross examination
21 of witnesses is permitted by the Applicant or the
22 parties in each case.

23 The ANC within which the property is
24 located is automatically a party in the case. The
25 record will be closed at the conclusion of each case

1 except for any materials that the Board specifically
2 requests. The Board will be very specific on what is
3 to be submitted and when it is to be submitted to the
4 Office of Zoning. After which the receipt of that
5 information the record will be closed and therefore no
6 other information will be accepted by the Board.

7 The Sunshine Act requires that the public
8 hearing on each case be held in the open and before
9 the public. The Board however may consistent with its
10 rules, procedure, and the Sunshine Act enter executive
11 session in order to review the record or deliberate on
12 a case. The decision of the Board in all cases and
13 most importantly in contested cases is to be based
14 exclusively on the public record. Therefore, we ask
15 the people present today not to engage Board Members
16 in conversation.

17 The Board will make every effort to
18 conclude today at 6:00. I will update the schedule if
19 we look like we're getting close to that and will
20 surpass it. At this time, the Board will consider any
21 preliminary matters.

22 Preliminary matters are those which relate
23 to whether a case will or should be heard today such
24 as request for a postponement, continuances, or
25 withdrawal or whether proper and adequate notice has

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1 been provided regarding the case. If you are not
2 prepared to go forward today with your case, it is
3 appropriate to bring that to the Board's attention.
4 We were at our quick break entertaining preliminary
5 matters on the case in the afternoon. I think we
6 should continue with that unless others know
7 differently. In which case, why don't we call the
8 case and take it up.

9 MS. BAILEY: Application Number 16896 of
10 the Randle Highlands Manor LP, pursuant to 11 DCMR
11 3103.2, for a variance from maximum number of stories
12 under section 400, and a variance from the floor area
13 ratio requirements under section 402, and pursuant to
14 11 DCMR 3104.1, a special exception to allow the
15 construction of a community residence facility
16 (assisted living facility for seniors and other
17 qualified persons, 52 residents and 40 rotating staff)
18 under section 358, in the R-5-A District at premises
19 2700 R Street, S.E., Square 5585, Lot 812. Mr.
20 Chairman, I think the witnesses were sworn in
21 previously.

22 CHAIRPERSON GRIFFIS: Okay. If you would
23 introduce yourself to the Board. Just give your name
24 and address.

25 MS. MARSHALL: My name is Geraldine C.

1 Marshall, 1720 27th Street, S.E., Unit 105,
2 Washington, D.C. 20020.

3 CHAIRPERSON GRIFFIS: Good. Thank you
4 very much, Ms. Marshall. Let me just state our first
5 order of business in the preliminary matter will be to
6 take up the party status application that has been
7 submitted by Ms. Marshall. Ms. Marshall does have a
8 letter indicating that she is representing the Randle
9 Highlands Civic Association in her request for party
10 status.

11 We have a submission also from the
12 Applicant's representative in opposition to granting
13 of party status. Therefore, I think the record is
14 complete in terms of what we need to deliberate on.
15 I'm going to not have any sort of testimony on this
16 unless it becomes absolutely necessary. I think the
17 information is sufficient for the Board to take up its
18 discussion and deliberation.

19 There is one clarification question that I
20 need answered by you, Ms. Marshall to begin with. Can
21 you give a description of the membership residency of
22 the Civic Association? Is there a geographic boundary
23 of the Civic Association? In the previous hearing, it
24 was indicated that there are 146 members to the Civic
25 Association. What we need to know is what are the

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1 Association boundaries.

2 MS. MARSHALL: Off the top of my head I
3 don't know but I'm going to quickly look through here
4 and see where we do have. The boundaries are we go
5 from Pennsylvania Avenue, S.E. to Texas Avenue. We go
6 from 30th Street to 25th Street. And the actual
7 membership --

8 CHAIRPERSON GRIFFIS: That's okay. I
9 think that's what we need is the boundaries.

10 MS. MARSHALL: Okay.

11 CHAIRPERSON GRIFFIS: For the record, Ms.
12 Marshall, the Applicant's property under question in
13 this immediate application fits in that boundary.

14 MS. MARSHALL: Yes.

15 CHAIRPERSON GRIFFIS: Very good. Board
16 Members, discussion. We have Ms. Marshall who has put
17 in a party status application representing 146 members
18 that have that geographic boundary which includes the
19 property in question in this application.

20 MEMBER ETHERLY: Mr. Chair, if I may, you
21 will recall that we had substantial discussion on this
22 matter at a previous hearing on the application. I
23 expressed at that time some considerable concern at
24 essentially what I felt was a fashioning a party
25 request out of air. Be that as it may, we decided to

1 move forward with providing Ms. Marshall and the
2 Randle Highlands Civic Association with an opportunity
3 to provide a party request application.

4 My only concern is whether or not we have
5 an application which speaks with the requisite amount
6 of uniqueness in terms of whether the interest of this
7 particular party, in this case the Randle Highlands
8 Civic Association and that of Ms. Marshall. But more
9 importantly I believe we're treating this as an
10 application of the Civic Association. Perhaps that's
11 a question worth ironing out a little bit just to be
12 certain.

13 My biggest concern is when we look at a
14 party request as my colleagues are well aware in
15 3106.3 notes that the Board shall grant party status
16 only if the person has clearly demonstrated that his
17 or her interests will be more significantly,
18 distinctively or uniquely affected in character or
19 kind by the proposed zoning action. Once again that's
20 section 3106.3.

21 I would be open to conversation or comment
22 from my colleagues as to whether or not there is a
23 sense that the application as it is presently
24 presented satisfies that particular criteria because
25 at this particular juncture I am not necessarily

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1 persuaded. That is not speaking to the merits of any
2 of the concerns that have been raised in the party
3 status application as to whether they are true or
4 accurate or whether they are false and inaccurate but
5 simply whether or not there is a specificity there or
6 a uniqueness with respect to those concerns that
7 perhaps take the Civic Association and/or Ms. Marshall
8 out of the realm of simply being a person with a
9 property interest in the community that could also be
10 captured by any comment that we receive from the ANC
11 which of course is automatically a party in any
12 proceeding. Thank you, Mr. Chairman.

13 CHAIRPERSON GRIFFIS: Thank you. Others?

14 VICE CHAIRPERSON RENSHAW: Mr. Chairman,
15 perhaps Ms. Marshall could speak to those points since
16 she's at the table. It states in her party status
17 application under just that clause that Mr. Etherly
18 has read on whether the person's interest will be more
19 significantly, distinctively, or uniquely affected
20 that [Geraldine C. Marshall seeks to appear as a party
21 representing the Randle Highland Civic Association.]
22 So perhaps she could put some flesh on the bones here
23 for us to consider.

24 CHAIRPERSON GRIFFIS: Ms. Marshall, do you
25 understand what's being asked of you?

1 MS. MARSHALL: Yes. Well, I think I can
2 remember what was on there. I can't put my hands on
3 it right now and I don't want to hold you up anymore
4 today. In representing the organization, I'm
5 representing everyone that was diagramed in that
6 radius that I just gave you from Pennsylvania Avenue
7 to Texas Avenue and from 30th to 25th.

8 It's not a self seeking interest here.
9 However, what I did demonstrate on there was the fact
10 that there were community based organizations there.
11 The density I think we talked about. I think we
12 talked about the parking.

13 CHAIRPERSON GRIFFIS: Let me assist you
14 and get you an additional copy of this. We don't need
15 to make this a guessing game. Your point is in fact
16 in representing the Civic Association which includes
17 this property in its geographic boundaries that you
18 are in fact uniquely affected based on as your
19 application is saying that there will be a harmful
20 impact on on-street parking, traffic, density.

21 MS. MARSHALL: We do have other community
22 based CBFs in that area.

23 CHAIRPERSON GRIFFIS: Right. A submission
24 that we have in the record indicates that also, that
25 this in fact may need additional relief based on the

1 fact of the adjacent three CBRFs.

2 MS. MARSHALL: Yes. Three.

3 CHAIRPERSON GRIFFIS: Okay. By inference
4 I can take it then an additional CBRF would adversely
5 and uniquely and distinctively affect the interests in
6 your representative agency or association.

7 MS. MARSHALL: Yes. That's what we put
8 down.

9 CHAIRPERSON GRIFFIS: Okay. Comments?

10 MR. MOORE: Mr. Chairman, may I respond?

11 CHAIRPERSON GRIFFIS: Yes.

12 MR. MOORE: Jerry Moore representing the
13 Applicant here. I would ask the Commission, urge the
14 Commission to be very careful --

15 CHAIRPERSON GRIFFIS: The Board.

16 MR. MOORE: The Board to be very careful
17 and be very mindful of the precedent that it is
18 considering here. You have a situation before you
19 where the fact is the Randle Highlands Civic
20 Association did not appear at a public hearing. No
21 representation was made on their behalf at the public
22 hearing.

23 The rules very clearly say that if you
24 want to be a party you have to apply two weeks before
25 the public hearing. There is nothing in the record

1 that suggests that Randle Highlands did not know about
2 the hearing. In fact, the converse to that is true.
3 They knew about the hearing because they submitted
4 documents.

5 CHAIRPERSON GRIFFIS: I understand your
6 point, Mr. Moore. Let me be frank. If you're trying
7 to stand on us throwing this out because of timeliness
8 of submission, your own record does not speak very
9 well of that which we'll get into in terms of
10 submission that you were to have made in September.

11 I don't think that we set precedent in
12 that we can waive our procedure and our rules in
13 accepting late documents. We certainly don't like
14 doing that. This had I think unique circumstances
15 involved in it too. Notification was properly given.
16 We established that at our past hearing.

17 The issue came that it was issued to the
18 property owner. That happened to be the owner of an
19 apartment building which is rental. Therefore, the
20 people on the residents in the area some of which are
21 renters may be a part of this Association some are
22 homeowners I can only assume. The fact of the matter
23 is that the information didn't get down to Ms.
24 Marshall or at least it wasn't laid out in terms of
25 the process that needed to be implemented to appear

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1 before this Board in party status.

2 If there's any precedent that we would set
3 in this, and perhaps it's already been set in others,
4 is that we err on the side of great caution in being
5 able to hear from the community and being able to hear
6 all the facts and all the information. Clearly we
7 have times and cases that we cannot accommodate
8 everything. We do try our best to get the information
9 as we can.

10 So that being said, I note your objection,
11 Mr. Moore. I would bring it to my Board to have
12 further discussion on this granting of party status
13 for the Randle Highlands Civic Association.

14 MEMBER ETHERLY: I'll note, Mr. Chairman,
15 as my colleagues continue deliberation on this
16 particular application that I'm still unpersuaded as
17 to the uniqueness of the interest here. Once again if
18 I understand correctly, the party status application
19 is on behalf of the Randle Highlands Civic
20 Association.

21 CHAIRPERSON GRIFFIS: Yes. That's
22 correct.

23 MEMBER ETHERLY: I want to be sure I'm
24 clear on that. As I noted at the prior hearing on
25 this case, this particular question has never been

1 about an opportunity for the community in my mind or
2 members of the Civic Association to be heard in their
3 entirety with regard to any concerns about this
4 particular application.

5 As my colleagues are well aware, persons
6 are more than able and will be afforded the
7 opportunity to provide testimony on behalf or against
8 the Board's action in this particular application.
9 Once again, I just don't see the uniqueness here as it
10 relates to the standard that's set forth in the
11 regulations with regard to the very specific duties
12 and responsibilities they've afforded to persons who
13 will participate as a party. I'm just unpersuaded at
14 this particular point, Mr. Chairman.

15 CHAIRPERSON GRIFFIS: Very well, Mr.
16 Etherly.

17 MEMBER ETHERLY: I'll also note just to
18 continue very briefly, Mr. Chairman, that we've had
19 very a substantial submission on the record that
20 details the Civic Association's concern on this case
21 and in particular with great specificity, not only to
22 this particular body but to other aspects of the
23 District of Columbia government that are very detailed
24 in terms of what concerns are being expressed with
25 regard to this application.

1 If this Board were to deny the application
2 for party status, there would still be ample
3 opportunity for the Association to appear as any
4 person could appear and provide testimony against the
5 application and still get all of the appropriate and
6 pertinent information that they feel is relevant on
7 the record for our consideration. I just don't see
8 the need at this particular junction to move forward
9 with granting party status.

10 CHAIRPERSON GRIFFIS: Very well. I
11 understand you and the information that you have in
12 opposing light. I think in fact the uniqueness and
13 distinctiveness of this application is very strong and
14 should be granted. The fact of the matter that this
15 individual Civic Association has been developed with a
16 geographic boundary that primarily surrounds the
17 Applicant's property is in fact over 140 members which
18 speaks to the fact that the issues that were brought
19 to our attention in terms of parking and all those
20 listed would as a group distinctly and uniquely affect
21 them.

22 I think the fact of the matter of the
23 submission that was given speaks even more to the need
24 and requirement and in fact the applicability of this
25 party if granted to present a case which is different

1 than just presenting testimony and also to be able to
2 engage in cross examination of witnesses. I think
3 they've come and brought to light information that the
4 Board would not have had refuted in the record or
5 would not have substantiated. I think it's incredibly
6 important to be able to deliberate with a balance of a
7 record. Therefore, I would strongly support granting
8 party status for this application.

9 MEMBER ZAIDAIN: I was just going to put
10 this in the light of some existing cases or what's
11 been going on before this Board, not to get into
12 specific ones. It's oftentimes there are either
13 groups organized in response to a specific application
14 or surrounding groups that are organized already, such
15 civic associations such as this that are in immediate
16 proximity to an application.

17 We oftentimes grant party status for
18 those. We make sure they are directly affected, such
19 as what I think has been proven here. In terms of
20 looking at the two different ways to go here, I would
21 side with the Chair.

22 VICE CHAIRPERSON RENSHAW: I would side
23 with the Chair also. I think it's a benefit to the
24 Board to hear a well-rounded case. If that can be
25 brought to the Board through additional cross

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1 examination from a party, then I support that. So I
2 would vote in favor of this party status application.

3 CHAIRPERSON GRIFFIS: Okay. Others? I
4 think it should be noted just in terms of the
5 submission in opposition just to address the fact that
6 we have established the membership and its
7 jurisdiction in terms of its geography and its
8 formation. I think those are the important pieces
9 that I need to highlight. I would move approval of
10 party status for the Randle Highlands Civic
11 Association with its representative Ms. Marshall
12 before this Board.

13 VICE CHAIRPERSON RENSHAW: Second.

14 CHAIRPERSON GRIFFIS: Thank you, Ms.
15 Renshaw. All those in favor.

16 (Chorus of ayes.)

17 MEMBER ETHERLY: Mr. Chair, just as a
18 matter of discussion, I will continue to voice my
19 opposition and vote against the motion. I will simply
20 say that the most important principle here is the
21 observation that has been raised by Counsel for the
22 Applicant. That is I think the Board did move perhaps
23 a little too proactively in terms of creating an
24 opportunity for the party request application to be
25 considered. I just would like that concern to be

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1 noted for the record, Mr. Chairman.

2 CHAIRPERSON GRIFFIS: Thank you. I
3 appreciate your concern. I think there was some
4 confusion perhaps on my part but maybe on the Board's
5 part also of a previous hearing when Ms. Marshall came
6 in and her representation. In fact, we asked for the
7 letter because it was her statement that said she was
8 representing the Civic Association.

9 That was submitted into the record.
10 That's why we didn't deal with the party status at
11 that point but needed the additional information in
12 order to deliberate. With that said, it has been
13 noted. Mr. Etherly, would you like me to call the
14 vote again?

15 MEMBER ETHERLY: Yes please, Mr. Chairman.

16 CHAIRPERSON GRIFFIS: Thank you. All
17 those in favor signify by saying aye.

18 (Chorus of ayes.)

19 CHAIRPERSON GRIFFIS: And opposed.

20 MEMBER ETHERLY: Opposed.

21 CHAIRPERSON GRIFFIS: Thank you very much.

22 Why don't we record the vote on that?

23 MS. BAILEY: Mr. Chairman, just to make
24 the record clear, Mr. Hood is sitting on the bench but
25 he's not participating in this vote. I do have a

1 proxy from Mr. Hannaham on this issue. Mr. Hannaham's
2 vote is to support the proxy request for the Randle
3 Highlands Civic Association.

4 So the vote is recorded as four-one-zero
5 to approve the application. Motion made by Mr.
6 Griffis. Second by Ms. Renshaw. Mr. Zaidain, Mr.
7 Hannaham are in support. Mr. Etherly is opposed to
8 the motion.

9 CHAIRPERSON GRIFFIS: Good. Thank you
10 very much. Okay. We had a request. Do you want to
11 reiterate that?

12 MR. MOORE: Yes. Mr. Chair and Members of
13 the Board, the Applicant would ask that the Board
14 continue the hearing on this case until the first
15 available date which I understand is the first case on
16 the morning agenda on January 7, 2003.

17 SECRETARY PRUITT: Excuse me, Mr. Chair.
18 That was my mistake. It actually is in the afternoon
19 because we have a meeting in the morning.

20 CHAIRPERSON GRIFFIS: Indeed.

21 SECRETARY PRUITT: So it would be the
22 first case in the afternoon on the 7th.

23 CHAIRPERSON GRIFFIS: There are no cases
24 in the morning of the 7th for a public meeting which
25 means it would be the first case in the afternoon

1 which would start at 1:00. Ms. Marshall, do you have
2 an understanding of that and are you available on
3 January 7?

4 MS. MARSHALL: Evening, January 7?

5 CHAIRPERSON GRIFFIS: Afternoon.
6 Hopefully we won't see the evening. We don't like
7 seeing the evenings around here.

8 MS. MARSHALL: I'll be present.

9 CHAIRPERSON GRIFFIS: At 1:00.

10 MS. MARSHALL: Yes. I'll be present.

11 CHAIRPERSON GRIFFIS: Do you have any
12 opposition to continuing the case today?

13 MS. MARSHALL: No I do not.

14 CHAIRPERSON GRIFFIS: Okay.

15 MEMBER ETHERLY: Mr. Chair, if I may,
16 there was a preliminary matter that was disclosed at
17 our first meeting. Now that we have a new party
18 that's been added to the case I believe it probably
19 would be very appropriate to afford the new party the
20 opportunity to state whether or not there's any
21 concern regarding that particular disclosure.

22 CHAIRPERSON GRIFFIS: Indeed.

23 MEMBER ETHERLY: At the beginning of our
24 proceeding when we first began to hear this case, I
25 disclosed that I am a Board Member of the Greater

1 Washington Urban League which Counsel for the
2 Applicant, Mr. Moore is also affiliated with. There
3 is no overlap in terms of any discussions of that body
4 of this particular case or any business before the
5 BZA, but I wanted to note that relationship.

6 At the particular time, we asked if any of
7 the parties present had a concern about me continuing
8 on that case. As you are now officially a party
9 representing the Randle Highlands Civic Association, I
10 think it would be appropriate to afford you the
11 opportunity to respond to that disclosure once again.

12 Do you have any concern about my continuing?

13 MS. MARSHALL: No. I said no then and I
14 don't have any concern now. I think you will be very
15 honest.

16 MEMBER ETHERLY: Thank you.

17 CHAIRPERSON GRIFFIS: Thank you.
18 Housekeeping. Quick things in order to get ready for
19 January 7. First of all, Ms. Marshall, you will be
20 prepared to cross examine the witnesses of the
21 Applicant. We would like to request that the
22 witnesses presented be present on January 7 for cross
23 examination.

24 Second is you need to get the full record
25 if you do not already have that. That's all the

1 reports, the Office of Planning, everything attendant
2 to this case. A transcript can be made available to
3 you if you so request it. I'm not sure how they do
4 that and how much it costs or anything of that nature
5 but that can be taken up with the Office of Zoning.

6 You are a party in the case now, so
7 anything that would be communicated between this Board
8 and the Applicant will be transmitted to you also.
9 Any submissions will come to you. However, prior
10 submissions you need to make sure that you get them at
11 this point.

12 To that, submissions. Mr. Moore, we had a
13 list of seven things that I think were to be at your
14 attention. Maybe six. I want to just walk through
15 these and see if they are submitted yet and if not
16 that you can give me affirmation that they will be.
17 That was how the building height was derived. Has
18 that been submitted?

19 MR. MOORE: Mr. Griffis, I was under the
20 impression that the Board was requesting that material
21 to be submitted into the record. I was fully prepared
22 to submit all of those items into the record at this
23 continuation hearing. I did submit some documents
24 last evening, but I will submit all of the documents
25 that the record asks for to be submitted prior to the

1 next hearing.

2 CHAIRPERSON GRIFFIS: Okay. Then my notes
3 maybe weren't communicated to you. I had a deadline
4 of September 17 when all additional submissions were
5 to be put into the record. So you are saying that
6 will come in today. The list of other sites
7 considered that were not selected for construction of
8 the proposed building.

9 MR. MOORE: Mr. Griffis, I was under the
10 impression that the 17th date that you said was for
11 Ms. Marshall to submit her application for party
12 status. I was to respond by October 1. With respect
13 to those documents that you are asking for, I will
14 ensure that each one of them that has not been
15 submitted to date is submitted within the next week.

16 SECRETARY PRUITT: Mr. Chairman, just for
17 clarification in reference to Ms. Bailey's minutes and
18 what I have on hearing notes it says all submissions
19 for both sides will be due on September 17 and
20 responses would be due on October 1. That was read
21 into the record and it's in the transcript.

22 CHAIRPERSON GRIFFIS: Okay. There it is.
23 In which case, one week and anything that isn't in and
24 we need it in, it will go to you. I don't anticipate
25 we're needing any responses at this time as this is

1 going to be a continuance. So you're going to get
2 this documentation. It should be part of your case
3 presentation on the 7th. What's the date in a week?

4 MR. MOORE: 29th.

5 CHAIRPERSON GRIFFIS: 29th? My math goes
6 at 3:00 so I don't do anything else. Okay. In which
7 case, on the 29th, Mr. Moore, you can have all that
8 submitted. Is that correct?

9 MR. MOORE: Yes. Some of it is already
10 in.

11 CHAIRPERSON GRIFFIS: Indeed. You don't
12 need to reiterate what that is. Is that correct?

13 MR. MOORE: Correct.

14 CHAIRPERSON GRIFFIS: Okay. Then I think
15 if there's nothing further. Is there anything I'm
16 missing?

17 SECRETARY PRUITT: Mr. Chair, if Mr. Moore
18 is going to submit this information by the 29th, then
19 the party has an opportunity to respond. Maybe we
20 should set a date for that.

21 CHAIRPERSON GRIFFIS: Looking over the
22 information that's being submitted, I don't think a
23 response is required. We can set a date for it.
24 That's fine. We'll set a date for response. I think
25 it will just go into the case presentation, but you'll

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1 have a week past the submission to submit your
2 responses which will go to this office and also the
3 Applicant, Mr. Moore. I would assume that you will
4 get his address and how he wants these transmitted
5 before you leave. And you will do the same.

6 MS. MARSHALL: Yes. I'll probably
7 transmit it the same way I did. I hand delivered it.

8 CHAIRPERSON GRIFFIS: That's up to you how
9 you do it as long as you each know how you are getting
10 it so you can anticipate it. So the 29th will be
11 submissions and responses are what date?

12 SECRETARY PRUITT: November 1 if you are
13 doing a week.

14 CHAIRPERSON GRIFFIS: Excellent. That's
15 it. Is that correct?

16 MR. MOORE: November 1 can't be seven days
17 after October 29.

18 CHAIRPERSON GRIFFIS: I told you the math
19 goes after 3:00.

20 SECRETARY PRUITT: Oh I'm sorry. I
21 thought you said at the end of this week.

22 MR. MOORE: No. I said one week which is
23 October 29.

24 SECRETARY PRUITT: Okay. Excuse me. Then
25 that would be Election Day, November 5.

1 CHAIRPERSON GRIFFIS: That's right. Just
2 get it done before that and go out and vote I want to
3 add.

4 MS. BAILEY: Mr. Chairman, this is a
5 continuing case. The case is still open so we can
6 receive letters in support or in opposition to the
7 application. Is that correct?

8 CHAIRPERSON GRIFFIS: Yes. That would be
9 correct.

10 SECRETARY PRUITT: Just to reiterate it
11 would be October 29 submissions from Mr. Moore and
12 response from Randle Highlands Civic Association on
13 November 5.

14 CHAIRPERSON GRIFFIS: All right. Everyone
15 clearer than we are on the dates for submissions and
16 responses? Fabulous. Then we will see you on the
17 7th. We will see you and your witnesses and the
18 witnesses will be prepared for cross examination. You
19 will be prepared to ask them questions on their
20 testimony.

21 MS. MARSHALL: Do I have to submit a list
22 of my witnesses?

23 CHAIRPERSON GRIFFIS: If you would like to
24 do that, it would be helpful most certainly.

25 MS. MARSHALL: All right.

1 MR. MOORE: I would just like to point
2 out, Mr. Chair, she does not have to cross examine any
3 of my witnesses. That's her choice.

4 CHAIRPERSON GRIFFIS: That is very true.

5 MS. MARSHALL: I would like to.

6 CHAIRPERSON GRIFFIS: Okay. Good. Thank
7 you all very much. I appreciate your patience with us
8 today. Let's call the next case.

9 MS. BAILEY: Application Number 16927 of
10 The Public Welfare Foundation and Manna Inc., pursuant
11 to 11 DCMR 3103.2, for a variance from the lot area
12 and lot width requirements under section 401, a
13 variance from the lot occupancy requirements under
14 section 403, a variance from the rear yard
15 requirements under section 405, a variance from the
16 off street parking requirements under subsection
17 2101.1, and a variance from the building on alley lots
18 provisions under subsection 2507.2, and pursuant to 11
19 DCMR 3104.1, a special exception to allow required off
20 street parking spaces to be located on a lot other
21 than where the principal structure is located under
22 section 2116, to allow the construction of 12 single
23 family dwellings in the R-4 District at premises rear
24 1300 block of Temperance Court, N.W., Square 274, Lots
25 57 through 61 and 804 through 820 (1 through 12 per

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1 subdivision). Please stand to take the oath.

2 WHEREUPON,

3 LARRY KRESSLEY, GEORGE ROTHMAN, CARL SKOUGLUND,

4 NATE GROSS, AND PHILIP SPALDING

5 were called as witnesses by Counsel for the Applicant

6 and, having been first duly sworn, were examined and

7 testified as follows:

8 CHAIRPERSON GRIFFIS: Thank you all very
9 much. I think we're ready for the Applicant.

10 MS. GOODSON: Good afternoon. May I
11 begin?

12 CHAIRPERSON GRIFFIS: Good afternoon.
13 Yes. Let me say this and I'll probably say this a
14 couple of times but please forgive us for being late
15 and we appreciate your patience with us today. Go
16 right ahead.

17 MS. GOODSON: Good afternoon, Mr. Chair
18 and Members of the Board. I am Jamie Goodson of the
19 law firm Arnold and Porter appearing on behalf of the
20 Applicant, The Public Welfare Foundation and Manna
21 Inc. I believe right now you are receiving a copy of
22 my comments and my opening statement. In the interest
23 of time, I'm going to abbreviate those comments.

24 CHAIRPERSON GRIFFIS: Take as much time as
25 you need.

1 MS. GOODSON: Okay.

2 CHAIRPERSON GRIFFIS: The rest of the day
3 is yours.

4 MS. GOODSON: Some of our witnesses do
5 have time constraints, so I would like to be able to
6 accommodate them but thank you. This application is
7 for a special exception and variances necessary in
8 connection with the development of a 12 unit
9 subsidized residential townhouse complex.

10 A special exception pursuant to section
11 3104.1 of the Zoning Regulations is necessary from the
12 requirement that parking spaces be located on the same
13 lot as the buildings they serve. In addition,
14 variances pursuant to section 3103.2 are needed from
15 zoning requirements regarding minimum lot area and
16 width, maximum lot occupancy, minimum rear yard set
17 back, minimum number of parking spaces, and single
18 family dwellings abutting and access from an alley
19 that is less than 30 feet wide.

20 The subject property is undeveloped land
21 located in the center of Square 274 in N.W. District
22 of Columbia. The site is bounded by U Street to the
23 north, T Street to the south, 12th Street to the east,
24 and 13th Street to the west. The property's owner,
25 The Public Welfare Foundation, has its headquarters on

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1 the same block in the True Reformer Building, 1200 U
2 Street.

3 In keeping with its mission, The Public
4 Welfare Foundation has selected Manna Inc. to develop
5 12 affordable two-story townhouses on the subject's
6 site. Currently there are 22 small narrow lots on the
7 site. Each is approximately 11 or 12 feet wide.
8 These lots face Temperance Court which is a 25 foot
9 wide internal alley.

10 A ten foot alley is located behind each
11 row of lots. The Public Welfare Foundation proposes
12 to resubdivide the 22 existing lots into 12 larger
13 lots. Nine of these lots would be located on the west
14 side of Temperance Court and would be served by seven
15 parking spaces grouped at the end of the development.

16 Three other units would be located on the east side
17 of Temperance Court and each would have its own
18 parking space.

19 The 22 existing lots are unusually shallow
20 and are bounded by alleys in the front and rear.
21 Because of these special constraints, it's difficult
22 to make each lot conform with the Zoning Regulations.

23 The proposed subdivision will create lots that
24 conform more closely to the zoning requirements than
25 do the current lots. In addition, the development

1 would not be a substantial detriment to the public
2 good.

3 The construction of affordable two and
4 three bedroom starter homes on currently undeveloped
5 land will meet a critical need for home ownership
6 opportunities in the Shaw neighborhood in which the
7 site is located. These attractive new townhouses
8 would compliment the existing housing in the area and
9 would be affordable to moderate income families. This
10 is a very important benefit in this neighborhood where
11 housing, rent, and prices are escalating dramatically.

12 To require the development to conform to
13 the Zoning Regulation requirements would unnecessarily
14 burden The Public Welfare Foundation by cutting in
15 half the number of lots that could be developed on the
16 site. If full conformity were required, only five
17 conforming lots could be developed on the west side of
18 Temperance Court and one lot on the east side. This
19 proposed site plan efficiently utilizes the space
20 available in this challenging site which is
21 constrained between two alleys as has been noted.

22 The location of the seven parking spaces
23 at the ends of the development rather than on the
24 building lots themselves is a rational strategy to
25 provide convenient access to parking and also permits

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1 well planned, reasonably sized units to be developed.

2 The testimony of our witnesses will establish that
3 the requested variances and special exception are
4 necessary to bring this important affordable housing
5 project to fruition.

6 Larry Kressley, Executive Director of The
7 Public Welfare Foundation will discuss the public
8 benefits of this affordable housing project to this
9 neighborhood. By developing 12 townhouses on now
10 undeveloped land, the Foundation is responding to the
11 expressed desires of community members. George
12 Rothman, the President of Manna Incorporated who is
13 the project's developer will describe how the
14 development provides home ownership opportunities for
15 low or moderate income households. Mr. Rothman will
16 also discuss the anticipated financing and
17 construction schedule for the project.

18 Carl Skooglund of Manna Incorporated, the
19 architect will describe how the appealing proposed
20 housing enhances the buildings that are already in the
21 area surrounding the property and also overcomes the
22 limitations inherent in the site. Nate Gross, a city
23 planner and zoning consultant with Arnold and Porter
24 will discuss the consistency of the proposed
25 development with the comprehensive plan land use map

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1 and housing and heritage objectives. Mr. Gross also
2 will explain why the requested relief is necessary and
3 appropriate satisfying the legal standards set forth
4 in sections 3104.1 and 3103.2 of the Zoning
5 Regulations for special exceptions and variances
6 respectively. I'm now going to ask Mr. Kressley to
7 present his testimony.

8 MR. KRESSLEY: Good afternoon, Mr.
9 Chairman and Members of the Board. My name is Larry
10 Kressley. I'm the Executive Director of The Public
11 Welfare Foundation. For 55 years, the Foundation has
12 been supporting work across the country and around the
13 world in support of community development activities.
14 We have been headquartered in Washington since 1960.

15 I'm here today as a supporter of Manna and
16 its long time work providing affordable housing in the
17 District of Columbia. In addition, I represent the
18 Foundation as a stakeholder on the 1200 block of U
19 Street in support of the Temperance Row project. We
20 also are the current owners of the lots in question.
21 Our plan is to convey these lots to Manna at no charge
22 once this Temperance Row project is ready to start
23 construction and to do whatever else is necessary to
24 bring this development to completion. Indeed we are
25 also supporting this project with a very substantial

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1 grant toward its construction cost.

2 Today I want to give you some background
3 leading up to Manna's development of this effort and
4 also to emphasize how important the Foundation
5 considers this project to be in the unfolding
6 redevelopment of the Shaw neighborhood. When the
7 Foundation made the decision to move the headquarters
8 from the Watergate in Foggy Bottom to the True
9 Reformer Building at 1200 U Street, we felt it was
10 important not only to create a new headquarters for
11 the Foundation but also to support and be a part of
12 activities that directly benefit the Shaw community.

13 We acquired the vacant lots at issue here
14 today in the middle of the block between T and U
15 Streets with our purchase of the True Reformer
16 Building. In spring 2000, we conducted community
17 meetings and a community survey involving neighborhood
18 residents and organizations to solicit broad community
19 input about how to use these lots. At the top of the
20 list from those community meetings and from the survey
21 was the need for affordable housing in the Shaw
22 neighborhood.

23 We looked at several development plans for
24 the lots during 2000. Later that year, we picked
25 Manna's affordable home ownership plan because we

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1 thought it best fit our vision for this community and
2 also reflected the aspirations of the community itself
3 through the survey and the community meetings. That
4 vision is to make Shaw a better place for all who live
5 there in a way that honors its rich and diverse
6 cultural heritage.

7 We were especially interested in ensuring
8 that this project is not only affordable to the first
9 people who would live there but also remain affordable
10 for working people for many years to come. As a
11 foundation, we have worked in support of efforts
12 around the country that challenge the notion that
13 today's city should only be for those who can afford
14 to live in them. On the contrary, we believe that the
15 essence of a great city is a diversity that welcomes
16 all people without regard to their economic status.

17 I think that this project is one of the
18 kind of efforts that we need more of to work toward
19 that end. We have worked closely with Manna and Manna
20 CDC and most of all with the community over the last
21 two years of planning on this project. We request
22 that the Board give us the variances that will move
23 the project forward. Thank you.

24 CHAIRPERSON GRIFFIS: Thank you very much.
25 First of all, and then we'll get to you, let me just

1 say this at the beginning. I know this Board very
2 well. I think we are absolutely supportive of the
3 program and your vision. There's no question of that.

4 Clearly what needs to be presented before
5 us is the test case. It is no matter what happens and
6 which way we go, up or down. We can't decide until we
7 hear the case. But it has no reflection on the vision
8 and the program and providing the availability of
9 affordable or mixed income housing in this area and
10 across the city. So with that, let us continue.

11 MR. ROTHMAN: Good afternoon, Mr. Chairman
12 and Members of the Board. I'm George Rothman. I'm
13 President of Manna. We've been developing affordable
14 home ownership in Washington for 20 years now. We're
15 excited about the prospect of building 12 new
16 affordable row houses in the U Street corridor.

17 We think you'll agree that a housing
18 development is the best use of these lots especially
19 because it will offer affordable home ownership
20 opportunities to households earning between \$24,000
21 and \$40,000 a year. The need for affordable housing
22 and maintaining diversity particularly in the Shaw
23 neighborhood now has grown more severe since we began
24 planning this project almost three years ago. In that
25 time, homes that sold for about \$200,000 are now

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1 selling for \$400,000. Across the street at 13th and U
2 Street a market rate project, The Ellington, has
3 recently been started.

4 Temperance Row project will consist of 12
5 row houses. This low density approach is the most
6 appropriate given that these are interior lots. The
7 existing alley configuration and lot area which you
8 will see later prevents substantial design
9 constraints. That's why we're here today. Our plan
10 shows ten parking spaces which were covered in the
11 introductory statement.

12 The ownership structure of the project
13 will be a limited equity, cooperative corporation
14 owned by the residents. This will provide for a
15 permanent affordability. In the future, it will also
16 allow for some capital gains by the owners when they
17 sell.

18 Financing for this project requires
19 substantial subsidies. As Mr. Kressley has already
20 stated, we're getting the land free and we're getting
21 a substantial grant from The Public Welfare Foundation
22 to start us off. Then we're going to be seeking
23 additional grant funds and below market interest rates
24 from the Department of Housing and Community
25 Development. Overall, we estimate that about 60

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1 percent of our budget will be in the form of subsidies
2 and grants and about 40 percent will be borrowed from
3 other sources. We estimate the total development
4 budget at about 1.9 million or 158,000 per unit.

5 Our projected schedule is to start
6 construction during 2004 after we've completed our
7 construction documents and made the final financing
8 applications. Next year, we'll complete our design
9 work and begin to interview and take applications for
10 membership in the cooperative. Manna CDC will utilize
11 its contacts in the Shaw neighborhood to maximize the
12 number of current Shaw renters who will become owners
13 of Temperance Row. We will also offer ownership
14 training to residents in advance of the move-in date
15 and the take over of project operations by the Board.

16 Knowing that this neighborhood is
17 community interested in the new details of the
18 development, we sought public comment early. We also
19 sought input into the design process before finalizing
20 our proposal. We initiated and held two public
21 meetings to describe our development and answer
22 questions and get that input. The meetings were held
23 on October 22, 2001 and January 15, 2002. We showed
24 the drawings and the site plan and summarized the
25 target residence groups at these public meetings.

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1 Overall, the public comments regarding our
2 plans were favorable. The idea of affordable
3 ownership option through a co-op was especially
4 applauded. We got favorable comment on the aesthetics
5 of the design including the predominant use of split
6 faced concrete block. Our parking plan was also
7 accepted by most attendees.

8 The item of most concern was that our
9 development would effectively narrow the north-south
10 alley running at the western edge of this property.
11 This ten foot wide alley has been used recently as if
12 it were much wider because of the lack of any fencing
13 or other delineation of the property boundary. Our
14 development will create rear yard fences that will
15 border the alley on its east. As a result of the
16 feedback that we got from the neighborhood, we
17 responded by modifying our site plan to effectively
18 create a two foot buffer of empty space at the rear of
19 our western lots thus creating the effect of a 12 foot
20 wide alley.

21 In addition, we made presentations to
22 several organizations including the Cardozo-Shaw
23 Neighborhood Association and its separate Historic
24 Preservation Committee. Both the president and
25 committee chair of CSNA are supporting this project.

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1 We've also presented to the D.C. Historic Preservation
2 Review Board on February 28, 2002, receiving their
3 concept approval.

4 We have appeared before ANC-1B at its July
5 10, 2002 meeting and received their unanimous
6 endorsement of the zoning variances on the table here
7 today. I think a letter of their support is in the
8 files. Thank you for your consideration.

9 CHAIRPERSON GRIFFIS: Thank you very much.
10 Two issues. Are you submitting into the record the
11 public meeting list of attendees or agenda topics?

12 MR. ROTHMAN: Are we? I don't know.

13 VICE CHAIRPERSON RENSHAW: It hasn't been
14 done yet I know.

15 CHAIRPERSON GRIFFIS: If we could get
16 that, it would be great. I would assume and tell me
17 if I'm correct that a lot of the adjacent property
18 owners across the alley were in attendance of that
19 meeting. Is that correct?

20 MR. ROTHMAN: There were several. I don't
21 know whether it was a majority or not.

22 CHAIRPERSON GRIFFIS: All right. We'll
23 figure that out. I can't imagine that alley issue
24 coming up by someone who didn't live right there.

25 MR. ROTHMAN: That's correct.

1 CHAIRPERSON GRIFFIS: Also, I'm intrigued
2 in terms of the participation in the surveys and the
3 design meetings. If there was a report written of
4 that, it would be very helpful to have in the record.
5 Board Members, any other questions at this time?

6 VICE CHAIRPERSON RENSHAW: There will be
7 questions later on.

8 CHAIRPERSON GRIFFIS: Yes. Indeed.
9 Unless you'd like to now. Actually, I'm sorry. Give
10 us a list again of the witnesses. Let me just see if
11 I can prioritize and make this more efficient if we
12 take Board questions after everybody.

13 MS. GOODSON: Remaining we have Carl
14 Skooglund, the architect and Nate Gross, the city
15 planner.

16 CHAIRPERSON GRIFFIS: Okay. That's fine.

17 MS. GOODSON: I would like to mention that
18 Mr. Kressley has another engagement this afternoon, so
19 if at all possible if he could receive questions now
20 that would be very helpful.

21 CHAIRPERSON GRIFFIS: I think that would
22 be appropriate. Any other questions of Mr. Kressley?
23 I think we're fine in that regard. We appreciate
24 your patience and participation. Okay. Then I'll
25 turn it to you to continue.

1 MR. SKOONGLUND: Good afternoon, Mr. Chair
2 and Members of the Board. Again, I am Carl Skooglund.
3 I am the design supervisor at Manna Incorporated and
4 the project architect for Temperance Row. I'd like to
5 talk to you about the proposed site plan, the building
6 elevations, and the floor plans.

7 As Ms. Goodson mentioned, the project area
8 is made up of two vacant lots bounded by 12th and 13th
9 Street and T and U Streets, N.W. The west lot is 47
10 and a half feet wide and 200 feet long. The east lot
11 is 57 and a half feet wide and 57.15 feet long. The
12 lots are surrounded by a series of alleys. The center
13 one is 25 feet wide. We proposed to rename that alley
14 Temperance Place.

15 There are also two ten foot wide alleys
16 running north-south here and here. (Indicating.) There
17 are two 15 foot wide alleys running east-west here and
18 here. To the south, there are existing two story row
19 houses. To the west, there are existing three story
20 row houses. To the north, there is a Metro entrance,
21 several small businesses, and the True Reformer
22 Building occupied by The Public Welfare Foundation.
23 To the east is the parking lot occupied by The Public
24 Welfare Foundation plus some new row houses currently
25 under construction.

1 CHAIRPERSON GRIFFIS: Are you aware of
2 what's anticipated at the Metro site?

3 MR. SKOUGLUND: A fairly large commercial
4 structure is to be built over at that site. The project
5 was presented to the Preservation Review Board just
6 before our project back in February.

7 CHAIRPERSON GRIFFIS: Are you aware of any
8 conflict with that development and yours?

9 MR. SKOUGLUND: Actually the Preservation
10 Review Board asked them to acknowledge that our
11 project may be going forward. The board asked them
12 not to provide a big, blank alley wall adjacent to our
13 potential development. So that's the only impact I'm
14 aware of.

15 CHAIRPERSON GRIFFIS: What about loading
16 on that alley?

17 MR. SKOUGLUND: None that I'm aware of.
18 I'm not that familiar with the project though.

19 CHAIRPERSON GRIFFIS: Okay. I only bring
20 that up because that project did come before this
21 Board if people recall. With that being said, let's
22 continue on.

23 MR. SKOUGLUND: Again, as Ms. Goodson
24 noted, we propose to build 12 new row houses; nine on
25 the west lot and three on the east. The widths of the

1 units alternate between 20 feet and 18 feet. We're
2 also proposing ten off street parking spaces; five
3 across the north alley right here, two across the
4 south alley, and then three in each of the three east
5 lots. (Indicating.)

6 CHAIRPERSON GRIFFIS: Is there any
7 defining elements for those parking outside of just
8 striping and on grade with the alley?

9 MR. SKOOG LUND: Not at this time.

10 CHAIRPERSON GRIFFIS: You don't anticipate
11 the nightclub crowd filling those spots.

12 MR. SKOOG LUND: You mean in terms of
13 signage or chains.

14 CHAIRPERSON GRIFFIS: Has it been a
15 thought?

16 MR. SKOOG LUND: We haven't gotten to the
17 point of thinking about that yet. That's a good point
18 though. So in addition to the ten off street parking
19 spaces, we also plan on requesting from the Department
20 of Transportation that Temperance Place be made one
21 way and that provision be made to provide additional
22 parallel parking spots along the west side of
23 Temperance Place. Right along here. (Indicating.) And
24 also to enhance pedestrian safety, we'd also like to
25 propose to the Department of Transportation that the

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1 northern alley be made one way and that a three foot
2 pedestrian foot path be created connecting 12th and
3 13th Streets and then going down into the project.

4 VICE CHAIRPERSON RENSHAW: So the public
5 alley to the north would be one way which way?

6 MR. SKOUGLUND: From 12th to 13th.

7 VICE CHAIRPERSON RENSHAW: And Temperance
8 Place would be going down.

9 MR. SKOUGLUND: One way going south, yes.

10 CHAIRPERSON GRIFFIS: Where are you in
11 discussions of having that implemented?

12 MR. SKOUGLUND: I haven't been involved
13 myself in discussions with DOT at this point, so I
14 can't really speak to that.

15 CHAIRPERSON GRIFFIS: But that's underway.

16 MR. SKOUGLUND: I think the idea has been
17 floated to them. I don't know what sort of response
18 we've received.

19 MR. GROSS: Nate Gross of Arnold and
20 Porter for the record. We did have a preliminary
21 meeting with the Department of Public Works probably
22 four months ago now. Several things were on the
23 agenda at that time. One was the notion of even
24 adjusting the paved width of the alley to have a
25 different set back arrangement of the houses and also

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1 discussed if the alley width was left at 25 feet which
2 is pretty wide for a pretty small development whether
3 parking on one side might be allowed.

4 And I think we may have preliminarily
5 brought up the questions of one way alleys. But I
6 think the other thought is the project is not on an
7 ultra fast track, so there will be time to work these
8 things out before construction. There's still some
9 financing details to get nailed down and so on.

10 CHAIRPERSON GRIFFIS: Indeed. My concern
11 is though and even just throwing out a hypothetical.
12 You're thinking that DDOT may entertain this is one
13 thing. We've had numerous cases just for example that
14 the Applicant has come in and indicated it would be
15 efficient to have one way alleys that are not in fact
16 improved.

17 So my caution would be is this successful
18 without. Clearly it's an interesting illustration.
19 To top that, personally looking at it, I don't see any
20 reason why it couldn't go one way, certainly the
21 access in outside of the development that is proposed
22 in the future. But other than that, it doesn't
23 service much that would need to go one way or the
24 other.

25 Once you get onto 13th Street, that is a

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1 two way street if I'm not mistaken, north-south. The
2 center Temperance Place I would probably not
3 anticipate it would be easily done to make it one way.

4 VICE CHAIRPERSON RENSHAW: It's whether or
5 not the residents would observe the one way
6 designation.

7 CHAIRPERSON GRIFFIS: That's the other
8 piece is how realistic is it to have one way alleys.

9 VICE CHAIRPERSON RENSHAW: We don't know.

10 CHAIRPERSON GRIFFIS: Okay.

11 MR. GROSS: Well, that's again a reminder
12 for us, Mr. Chairman, to proceed more expeditiously to
13 work this out with all parties.

14 VICE CHAIRPERSON RENSHAW: Did you get an
15 idea of how wide a length of lane you would need if
16 you're going to have parking on the Temperance Place?

17 MR. GROSS: No. We basically brought that
18 up.

19 VICE CHAIRPERSON RENSHAW: I'm just trying
20 to get an idea of how much left you have in the way of
21 alley width.

22 MR. SKOOG LUND: Typically we would provide
23 nine to ten feet. If you take that out of the 25, it
24 would leave you with 16 or 15 feet.

25 VICE CHAIRPERSON RENSHAW: Okay.

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1 CHAIRPERSON GRIFFIS: Okay.

2 MR. SKOOG LUND: Moving on to the
3 elevations. For the front and the side elevations, we
4 are proposing the use of multicolored split face
5 concrete masonry. The one element you see here is
6 painted steel channel running the length of the
7 elevation.

8 We're also proposing the use of aluminum
9 windows. The windows would be oversized and
10 horizontal in orientation to help recall a loft type
11 of development. There would be aluminum canopies over
12 the doors as well as painted steel stoops. As Mr.
13 Rothman mentioned, we've been to the Historic
14 Preservation Review Board with this and received
15 conceptual approval. That was in February.

16 In April, I met with Steve Colcot (PH) the
17 staff person for the HPRB assigned to this project.
18 We have in fact started to refine the design in
19 several respects. One of which is to provide a little
20 more of a visual demarcation between the units. That
21 was a concern of some of the board members. Although
22 we're trying to recall a loft type of development,
23 some of the board members were concerned that there
24 was not enough individuation between the units. So
25 we're going to work to respond to that comment.

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1 Also to achieve that end of a more
2 individualized type of unit we're going to be
3 individualizing the steel stoops themselves via
4 detailing of the steel stoops. Also in regard to rear
5 finishes the board was concerned about using vinyl
6 siding in the rear of the units. What we are
7 proposing now is to provide for at least the backs of
8 the eastern units a use of cement board siding rather
9 than the vinyl siding.

10 CHAIRPERSON GRIFFIS: So in HPRB's words,
11 where does the high quality vinyl siding go at this
12 point?

13 MR. SKOOG LUND: That would be on the backs
14 of the west units.

15 CHAIRPERSON GRIFFIS: So the ones that
16 abut the townhouses on 13th Street.

17 MR. SKOOG LUND: Right.

18 CHAIRPERSON GRIFFIS: What was the
19 rationale for that?

20 MR. SKOOG LUND: At the time that the board
21 met, this was still vacant land. So they were
22 concerned about having direct visual access to the
23 backs of the east units from 12th Street. Whereas the
24 backs of the west units face just other backs of other
25 units. So they allowed us to use high quality vinyl.

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1 CHAIRPERSON GRIFFIS: That's one that has
2 to be defined at some point but not for us. So HPRB
3 cared more about people going up and down 12th Street
4 than the people that lived on 13th.

5 MR. SKOUGLUND: I think just to the degree
6 that the east units were still visually accessible
7 from the street itself, not just from the back of
8 somebody else's unit.

9 CHAIRPERSON GRIFFIS: Got you. Okay.

10 MR. SKOUGLUND: Moving on to building
11 section and floor plans. This is a building section
12 of a typical west unit right here. (Indicating.) Here
13 is the location of the ten foot alley. We're
14 proposing a 12 foot six inch deep rear yard. The
15 building itself will be 28 feet six inches deep. The
16 front yard or the space between the front of the
17 building and Temperance Place will be six and a half
18 feet. Temperance Place itself of course is about 25
19 feet.

20 The angled dashed lines you see here
21 indicate the building limits described by the Zoning
22 Regulations. (Indicating.) We are again proposing a
23 combination of 20 foot wide units and 18 foot wide
24 units. Here's the 20 foot wide unit and the 18 foot
25 wide unit, first floor and second floor. The 20 foot

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1 unit we're proposing to be a two bedroom, den, one and
2 a half bath unit. The 18 foot wide unit will be a two
3 bedroom, one bath unit.

4 On the first floor of the 20 foot wide
5 unit, you have a living area here, an eat in kitchen,
6 a mechanical room and a half bath. (Indicating.) Going
7 up to the second floor, you have the master bedroom in
8 the front, the bathroom, the secondary bedroom, and
9 then the den. In the 18 foot wide unit on the first
10 floor, you have a combination living/dining area and
11 kitchen and the mechanical room. On the top floor of
12 the 18 foot wide unit, you have the master bedroom in
13 the front, the bath, and the secondary bed in the
14 back.

15 CHAIRPERSON GRIFFIS: I'm not
16 understanding why your height designation is an angled
17 line. Isn't it a factor of alley width and front yard
18 width to establish an actual height?

19 MR. SKOGLUND: My understanding is that
20 you'd take a 45 degree angle off of the opposite side
21 of the alley to define the building heights in this
22 condition.

23 CHAIRPERSON GRIFFIS: Well, we'll look at
24 that while you talk.

25 MR. GROSS: Which I believe, Mr. Chair, is

1 the same as you're saying. It's just that the width
2 of the alley plus one-to-one for any additional set
3 back from the alley.

4 CHAIRPERSON GRIFFIS: I see.

5 MR. GROSS: And I think the 45 degree
6 angle does exactly that.

7 CHAIRPERSON GRIFFIS: It's that fun math
8 stuff that you can do with the regulations.

9 MR. SKOGLUND: Right.

10 CHAIRPERSON GRIFFIS: Good. I think
11 you're probably below if I'm mistaken. In terms of
12 stories you are and perhaps on the height you're
13 there. Clearly you're under on the front porch.
14 Well, go ahead.

15 MR. GROSS: Actually, Mr. Chairman, we got
16 a determination from the zoning administrator that we
17 could use Temperance Court as the measuring point.
18 Legally the question of whether the ten foot alley is
19 at the rear of the roads raised any issue there.

20 CHAIRPERSON GRIFFIS: I see.

21 MR. SKOGLUND: That's all I wanted to
22 present.

23 CHAIRPERSON GRIFFIS: Okay. Questions
24 from the Board?

25 VICE CHAIRPERSON RENSHAW: I'll have some

1 questions for you later on.

2 CHAIRPERSON GRIFFIS: Okay. Let's
3 continue then.

4 MR. GROSS: Good afternoon, Mr. Chairman
5 and Members of the Board. I'm Nate Gross, a city
6 planner at the law firm of Arnold and Porter. I'll
7 address the variance questions. First, the
8 exceptional condition of the property that creates a
9 practical difficulty in using it or developing it
10 under existing zoning we believe is created by a
11 combination of factors including the existing H shaped
12 alley system, the small size of the existing alley
13 lots, and the limitations imposed by the Historic
14 Preservation Regulations.

15 Although our proposed subdivision of the
16 12 lots widens the lots and makes them larger because
17 they are framed by alleys at the front and the rear we
18 can't increase the depth of the lots. So there's a
19 physical constraint there. In terms of widening the
20 lots still further as Ms. Goodson mentioned in her
21 introductory statement to achieve the 1,800 square
22 feet, we believe that widening them to that extent
23 would make them out of character with the greater U
24 Street historic district and probably not approvable
25 by HPRB. That's not a definite, but in our opinion it

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1 would be out of character and an awkward layout as
2 well.

3 CHAIRPERSON GRIFFIS: That's if you widen
4 the lots did you say?

5 MR. GROSS: In other words, we have
6 created a proposed subdivision of 12 larger lots than
7 the old alley dwelling lots.

8 CHAIRPERSON GRIFFIS: Correct. I think
9 the Board would have the question why don't you just
10 subdivide it for conforming or more conforming lots.

11 MR. GROSS: Right.

12 CHAIRPERSON GRIFFIS: And you're saying
13 that one has already been submitted and that is it
14 doesn't get as many houses or bang for the buck.

15 MR. GROSS: There's that.

16 CHAIRPERSON GRIFFIS: Which isn't a very
17 strong argument for this Board in terms of what we
18 need to substantiate the case. But your other point
19 is that it wouldn't fit in character in the
20 neighborhood.

21 MR. GROSS: Right. Sure because in this
22 historic district the predominant development pattern
23 is row houses on narrow and deep lots. So we had to
24 go 35 feet I think wide to get to 1,800 square feet.
25 The other factor is that on the ends of the rows those

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1 are technically semi-detached houses requiring minimum
2 lot sizes of 3,000 square feet each. So you get to a
3 point of extreme impracticality to get to absolutely
4 conforming lots.

5 CHAIRPERSON GRIFFIS: Okay.

6 MR. GROSS: Then in turn the necessary lot
7 sizes means that on the row of nine on the west side
8 of Temperance Court if we put a parking space in each
9 rear yard a very high percentage of rear air would be
10 occupied and the amenity of a garden behind the house
11 for the residents would be lost. So what we have
12 proposed instead is the special exception to locate
13 the seven parking spaces for those nine units off-
14 site, specifically at the ends of the rows. We
15 believe that this will be quite workable given the
16 small units involved and will enhance the liveability
17 of the houses as well.

18 Then we have the variance from the
19 requirement for dwellings to have a minimum width of
20 alleys at least 30 feet wide reaching a public street.

21 In this case, the existing alleys are less than that
22 and are framed by lots and buildings so that it isn't
23 really feasible to widen the network to 30 feet wide.

24 That's the detailed subs on the practical difficulty
25 and the variances we're requested.

1 Then moving to the second and third tests
2 combined, namely that the requested relief can be
3 granted without substantial detriment to the public
4 good and without substantial and permanent zoning
5 plan. We believe that the proposed 12 houses are
6 unlikely to have any adverse effects on neighboring
7 properties or the neighborhood. The presence of
8 residents in the interior of the block will add eyes
9 on the street and enhance public safety.

10 Traffic generation will be minor because
11 of the small number of units. The Metro Rail Station
12 is immediately adjacent so that many residents will be
13 able to use public transit for commuter trips and
14 possibly others. The appearance of the alley which is
15 currently run down and the pavement is partial and
16 broken up and there are a couple of chain link fences
17 there will be greatly improved.

18 We think that the conceptual approval of
19 the design by the Historic Preservation Review Board
20 speaks well of the visual and historic quality
21 additions to the neighborhood. Of course, in terms of
22 neighborhood issues that a lot of people in the
23 neighborhood are interested in include creating
24 affordable housing in a neighborhood that really has
25 had spectacular acceleration of housing, rents, and

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1 prices. It's a significant benefit and keeping with
2 comprehensive plan objectives.

3 I believe, Mr. Chairman, that concludes my
4 part of the presentation. We would submit that we
5 believe that the application qualifies for the special
6 exception and the variances requested and would
7 respectfully request approval. We're happy to answer
8 additional questions.

9 CHAIRPERSON GRIFFIS: Excellent. I think
10 the third task the zone plan of this clearly wouldn't
11 have any impact in terms of the use. It is going in
12 residential and I think that fits well within the map
13 and the zone plan. However, speak to me a little bit
14 more about the exceptional condition of it being an H
15 alley and that it's also an alley lot. It seems like
16 we're caught here in my mind.

17 You have what's unique about this is that
18 it's an alley lot. The regulations tell us we can't
19 build on an alley lot. Therefore, our uniqueness
20 gives us our practical difficulty which gives us our
21 relief. But I don't see the total connection there.
22 Is this an exceptional situation in this area?

23 MR. GROSS: Well, I think it's a situation
24 where there were originally alley dwellings on very
25 small lots only 11 feet wide. Those alley dwellings

1 were knocked down in the 1950s. The land area of
2 those lots is confined by the alley network.
3 Therefore, there are just some things under the R-4
4 regulations that we can't comply with. I don't know
5 if I'm addressing your question or not.

6 CHAIRPERSON GRIFFIS: I guess what makes
7 it exceptional? What's the exceptional condition that
8 this is bounded by four alleys?

9 MR. GROSS: Well, one is that the depth of
10 the lots can't be increased in size. So you can't get
11 up to the required land area of the lots by making
12 them deeper. As I said, we believe in terms of making
13 them wider to get up to 1,800 square feet and 3,000
14 square feet you run into historic preservation
15 standards.

16 CHAIRPERSON GRIFFIS: What's your reading
17 on the intent of 2507.2 which is the alley lots that
18 is requiring a 30 foot alley?

19 MR. GROSS: I think that's probably maybe
20 a question of vehicular accessability and parking. We
21 have a relatively small number of lots. We're only
22 requesting a variance of two parking spaces. Given
23 the relatively low income of the families who will be
24 there, we'll probably have a moderate automobile
25 ownership situation.

1 The fire department has agreed that
2 accessibility for fire service will work. I think
3 it's those kinds of considerations that the 30 foot
4 standard comes out of. I would also note there are
5 not a lot of situations in the city where the 30 foot
6 alley width can be complied with. There are some but
7 a lot more that just don't.

8 CHAIRPERSON GRIFFIS: And I would agree.
9 Obviously I'm pushing you to explore your case here.
10 But doesn't that reinforce the intent of the
11 regulations not to have alley lot development? By its
12 definition it's saying it's not allowed. Then it's
13 actually further restricting the dimension of alleys
14 which would not be a regular occurrence. Are you
15 familiar with any other specific alley lot
16 developments, either new or existing?

17 MR. GROSS: Yes. But I would admit I'm
18 rusty on them.

19 CHAIRPERSON GRIFFIS: Do you know how
20 property was developed with them?

21 MR. GROSS: I'm sure there are some. That
22 most recent case I was involved in actually involved
23 an alley network on Capitol Hill, F Street Terrace I
24 believe it was where there are a number of historic
25 warehouse-like garages there that are used for semi-

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1 commercial uses. In that case, the alley is somewhat
2 wider. DPW has actually striped a row of parking
3 along there. I suppose if you have the wider alley
4 you can do that. Even with the semi-commercial uses
5 there, the users of the buildings didn't seem to
6 identify any particular problems.

7 CHAIRPERSON GRIFFIS: Okay. And your
8 reading on the intent of the regulations to require
9 the 30 foot alley (1) to abut the property (2) to
10 access a street is for vehicular traffic.

11 MR. GROSS: And fire safety.

12 CHAIRPERSON GRIFFIS: Right. Although a -
13 - worth of truck a little smaller.

14 MR. GROSS: I guess, Mr. Chairman, you got
15 me. I might have to research that one but that's my
16 assumption. That's the original intent.

17 CHAIRPERSON GRIFFIS: Okay.

18 MR. SKOOG LUND: One thing in terms of fire
19 safety I might mention is that the buildings will be
20 full sprinkle red. I believe we've had discussions
21 with the fire department to provide a hydrant on the
22 street as well.

23 CHAIRPERSON GRIFFIS: On Temperance Place.

24 MR. SKOOG LUND: Yes.

25 CHAIRPERSON GRIFFIS: Okay. And that goes

1 beyond the jurisdiction. I think it's an important
2 piece of us understanding the regulations and why we
3 would have these dimensions, but we're not going to
4 get into your fire code or anything of that nature.

5 It wouldn't just be fire. I'm sure Ms.
6 Renshaw would gladly tell you there is an awful lot.
7 I'm going to hopefully curtail the lecture you're
8 about to get. It's the emergency vehicles for all
9 sorts of purposes that will come into that. I'm sure
10 she'll be more articulate than I am. That being said,
11 other questions?

12 MEMBER ZAIDAIN: I have a question very
13 quickly. Under the special exception as those go
14 there are certain criteria that need to be met for
15 each issue. In the application and on all the
16 subsequent documents, it references 2116 for the
17 parking spaces. I'm a little confused.

18 I don't know if you can help me or not.
19 Maybe Corporation Counsel can give me some direction.

20 As soon as the fact that these are one family
21 dwellings throws us out of 2116 and goes to 2117.9. I
22 don't know if you have the zoning code in front of you
23 there.

24 MR. GROSS: I don't, Mr. Zaidain.

25 MEMBER ZAIDAIN: The issue with locating

1 parking spaces off-site. It says in 2116.5 that one
2 family dwellings are exempt except in the case of
3 2117.9 which I think is where we need to be looking.
4 I'm just confused because all the documents site 2116.
5 I'll give somebody a chance to catch up. I just want
6 to make sure we're using the right criteria when
7 evaluating the special exception. I'm just wanting
8 some clarification from somebody.

9 CHAIRPERSON GRIFFIS: Well, as Applicant
10 would cite 2116, it would then -- 2117.9 but it's
11 still valid whether the Applicant has addressed all
12 the issues in 2117.9.

13 MEMBER ZAIDAIN: Right. Well, it's one of
14 those loops in the Zoning Regulations that's difficult
15 to describe. The citation isn't wrong. I just want
16 to make sure that the Board is looking at the right
17 criteria when evaluating the special exception.

18 CHAIRPERSON GRIFFIS: Right. In looking
19 at 2117.9, the case -- located on lot where there are
20 as many as three row dwellings on that lot are
21 continuous lot space at the street where access to
22 require parking spaces is only directly available from
23 street. No alternative access is available through
24 existing -- Oh my God. It's long.

25 MEMBER ZAIDAIN: Yes. I don't suggest you

1 read the whole thing. But I just want to make sure
2 that's the criteria we need to be looking at.

3 MR. GROSS: Well, I guess I would only say
4 without the regulations here that we do have a zoning
5 administrator's memorandum. He cited 2116 but there
6 was a cross reference to 2117.

7 MEMBER ZAIDAIN: Yes. I just want to make
8 sure we understand that. It would be better for them
9 to cite 2117.9, but I mean 2116 is fine because of the
10 cross reference. I just want to make sure everyone is
11 clear at what we're looking at for the special
12 exception because this is a little more tedious than
13 the general provisions of 2116.

14 CHAIRPERSON GRIFFIS: Right. Indeed.

15 MEMBER ZAIDAIN: That's your understanding
16 too, Mr. Gross.

17 MR. GROSS: What that there's a cross
18 reference to 2117?

19 MEMBER ZAIDAIN: That we should be looking
20 at 2117.9. I don't hear anybody objecting to me, so
21 I'll leave it at that.

22 CHAIRPERSON GRIFFIS: No. I think you're
23 correct.

24 MEMBER ZAIDAIN: Okay.

25 SECRETARY PRUITT: Mr. Chairman, are we

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1 amending the application?

2 CHAIRPERSON GRIFFIS: No.

3 MEMBER ZAIDAIN: No. The citation is
4 fine. It's just because it cross references something
5 it's just a little confusing and it just takes some
6 detailed reading of the regulations there to figure it
7 out. I just wanted to make sure everyone is on the
8 same page. Not hearing any comments, I assume
9 everybody is.

10 CHAIRPERSON GRIFFIS: I think you're
11 correct. I think we just need to evidence anything
12 and get a copy of the rights to the Applicant if we
13 discover something that needs to be addressed that
14 isn't already.

15 MEMBER ZAIDAIN: Okay.

16 CHAIRPERSON GRIFFIS: Other questions?

17 COMMISSIONER HOOD: I have been sitting
18 here. Mr. Gross, you have been around a while and
19 been in this process for a while. I guess what the
20 Applicant is applying for they will apply for. I'm
21 concerned for the Board of Zoning Adjustment and
22 moving in this direction in a variance on multiple
23 lots.

24 I don't know if it's been done in the
25 past, but again back to the Chair's question. Have

1 you seen this done before previously? In your
2 recollection over the years, has this been done before
3 this Board before? Unfortunately I know there can't
4 be a map of them and it doesn't fall under a PUD, but
5 it's a fine line as far as I'm concerned.

6 MR. GROSS: For direct precedence, I don't
7 have any off the top. I guess I would say in a lot of
8 interior alley you have the alley still intact. I
9 think what you are saying, Mr. Hood, is probably again
10 that if you want the housing on these lots it's way
11 too small for a PUD which requires I believe one acre
12 in R-4 zone or it may even be two acres. I forget.

13 That amendment would raise spot zoning
14 issues. Even at R-5-B you might have some lot
15 configuration questions. That might be under the
16 comprehensive plan designation of moderate density
17 residential here. I think R-5-B might be about as
18 much density as would be allowed and going to R-5-C a
19 mid-rise apartment house zone would probably be
20 considered out of character. So you do wind up in a
21 situation where if you want the development then you
22 have to find out a regulatory way to get there and the
23 bench process seems to be the only reasonable one.

24 COMMISSIONER HOOD: Okay. That's all I
25 have.

1 CHAIRPERSON GRIFFIS: Mr. Hood, you were
2 actually going to not just necessarily an alley
3 development but the application of numerous lots with
4 numerous variances and special exceptions attendant to
5 it and what the thought process was to come to this
6 Board rather than perhaps something in front of the
7 commission. Is that correct?

8 COMMISSIONER HOOD: Yes. Unfortunately
9 because of the air requirements as was stated by Mr.
10 Gross you can't do a PUD. In mapping them, you can't
11 do spot zoning. So obviously the Zoning Commission
12 has some work to do. This bothers me but then again
13 if there's no alternative or not a better way for you
14 to do it, that's why I wanted to ask you because I
15 know you've been doing this a while was there a better
16 way.

17 MR. GROSS: Sure.

18 COMMISSIONER HOOD: And you've stated that
19 there wasn't. To be frank, Mr. Chair, I really don't
20 have anything else to offer.

21 CHAIRPERSON GRIFFIS: Right. And I think
22 other Board Members have that same concern. Certainly
23 in the applications that we have numerous variances we
24 often look to is it correctly before us. I think it
25 would be a consensus of this Board that this although

1 interestingly in how much it's asking for may be
2 correctly in front of us because there doesn't seem to
3 be a process for which to bring it neatly in front of
4 the Commission. So with that said, let's continue on.

5 I would like to hear a little bit about
6 the placement of the surface parking. Was there any
7 investigation of actually trying to split? Let me
8 state my concerns and then see if you have looked at
9 and addressed it. First of all, I've named one.

10 It looks like those are just going to be
11 utilized by anybody and everybody that wants to which
12 will take away. This will be people coming in and out
13 of the area which is actually growing in its retail
14 and entertainment, returning it to what it used to be.

15 So you're having a large population come in. That's
16 the first concern.

17 The second is the end parking, wondering
18 how you would ever try and protect that for resident
19 parking. Was it ever looked at tucking the parking in
20 between some of the townhouses? That might be able to
21 be regulated or gated within the line of the property
22 fencing that you're putting up. Is that clear? Good.

23 MR. SKOGLUND: I can't answer yet how we
24 could effectively protect the parking spots from
25 people who are inhabiting U Street or any of the other

1 areas close by.

2 CHAIRPERSON GRIFFIS: Well, it's the
3 southern end, project south on your sheet, the two.
4 Say you move them up between two of the townhouses
5 which would also give you a face to -- put some
6 windows on it for some light. Those could be
7 protected. You could have them gated. They would be
8 in the line of the gate.

9 If you took four off of the top because
10 you would have ten feet separation between each of the
11 houses, you could get four more in the same row. Now
12 you've made more I think successful and real parking
13 spots than just having them at the ends. Did you ever
14 look at that?

15 MR. SKOUGLUND: Our intent was to try to
16 make as much of a block of houses as possible.

17 CHAIRPERSON GRIFFIS: I see.

18 MR. SKOUGLUND: Not the least of which
19 reason is to keep from building so many exterior
20 walls. Exterior walls are more costly to construct.
21 And it is a small development. It seemed too small at
22 least in my thinking right now to start to break up
23 into units, but it is an interesting idea.

24 CHAIRPERSON GRIFFIS: Yes. Well, I think
25 you're absolutely correct. It would add cost.

1 MR. SKOOGLELUND: For what it's worth too,
2 we had a plan before the one you see now in which we
3 were anticipating getting two lots or three lots that
4 fronted 12th Street and butted up against the southern
5 most alley. We had actually wanted to congregate most
6 of the parking there. When we couldn't obtain those
7 lots, the parking areas were relocated to the spots
8 you see them now.

9 CHAIRPERSON GRIFFIS: Okay. Frankly, in
10 my personal opinion, I'm not a strong, well, I
11 shouldn't say these things. I think any parking
12 that's actually provided should be at least designed
13 and protected for its intended purpose. I'm not a big
14 parking advocate. I mean, I'm not trying to get you
15 to get more, but what is there we ought to make sure
16 that it works. So we'll wrestle with that a little
17 bit. Ms. Renshaw, you had something.

18 VICE CHAIRPERSON RENSHAW: I just wanted
19 to clarify the property to the south end of the three
20 residential units. Is that open space? Is that part
21 of a parking lot or is there a building there?

22 MR. SKOOGLELUND: Is that part of the newly
23 constructed?

24 MS. DAVIS: No. I guess I'll point out
25 something. My name is Martha Davis with Manna. This

1 space here? (Indicating.)

2 VICE CHAIRPERSON RENSHAW: Yes.

3 MS. DAVIS: It's actually part of these
4 very deep lots running all the way from 12th Street.
5 There are two lots that are currently vacant. They
6 are the ones we attempted to buy and could not. So
7 they are vacant now. There is construction going on
8 here right now. (Indicating.) But these are vacant and
9 presumably will be sold for development.

10 CHAIRPERSON GRIFFIS: And what's being
11 constructed in what you just pointed out?

12 MS. DAVIS: Condominium row houses, duplex
13 condominiums.

14 CHAIRPERSON GRIFFIS: How many units? Do
15 you know?

16 MS. DAVIS: I'm pretty certain it's eight.
17 There are four lots, two units per lot.

18 CHAIRPERSON GRIFFIS: Are they providing
19 parking off the alley?

20 MS. DAVIS: Yes. Whatever parking there
21 is off of this little alley here. (Indicating.)

22 CHAIRPERSON GRIFFIS: Okay. Any other
23 question of the Applicant witnesses at this point?
24 Let us move on then to Office of Planning and their
25 report. Good afternoon, sir.

1 MR. LAWSON: Mr. Chairman and Members of
2 the Board, my name is Joel Lawson. I'm a development
3 specialist with the Office of Planning. I'll keep
4 this very short. I think most of the issues have been
5 raised and have begun to be discussed already.

6 I'll simply note that in the opinion of
7 the Office of Planning the proposal addresses a very
8 difficult location and lot configuration to provide a
9 family density of development that's in character in
10 the area and will provide a desirable and immediate
11 form of affordable housing. It would be consistent
12 with the comprehensive plan and the generalized land
13 use map. Due to the unique circumstances of this
14 site, we do not believe it would undermine the
15 integrity of the Zoning Regulations.

16 The Office of Planning recommends that the
17 BZA approve the variance and special exception request
18 subject to the design amendments of that recommended
19 by the HPRB. Other than that, I'll let the report
20 stand. I'll be available for questions.

21 CHAIRPERSON GRIFFIS: Board Members,
22 questions?

23 VICE CHAIRPERSON RENSHAW: Well, I'm going
24 to take up the issue of the fire department comment on
25 page seven, but I'd like to get through the ANC report

1 because it also mentions the fire department.

2 CHAIRPERSON GRIFFIS: Good. It's the
3 Office of Planning's position that the exceptional
4 condition is in fact the width and size of these lots
5 even though we're looking at a proposed new
6 subdivision.

7 MR. LAWSON: The Office of Planning
8 believes that the proposed subdivision actually makes
9 the situation better than it is right now. The lots
10 right now are very small, very narrow. The proposed
11 subdivision would create lots that are of a size in at
12 least width terms that are appropriate in character
13 with the neighborhood that they are in. The width
14 generally of 18 to 20 feet seems to be more or less
15 consistent with what other lots in the area are.
16 Whereas 11 to 12 feet the current width is obviously
17 much smaller than what lots are.

18 CHAIRPERSON GRIFFIS: And you visited this
19 site. Correct?

20 MR. LAWSON: Yes.

21 CHAIRPERSON GRIFFIS: Did you walk around?
22 Are you familiar with the surrounding area? Are you
23 familiar with any other alley lots like this?

24 MR. LAWSON: I'm not actually even living
25 in this area. I haven't lived there long. I haven't

1 come across any other configurations quite like this.

2 It certainly doesn't mean that they don't exist, but
3 I'm not aware of anything like this at all.

4 CHAIRPERSON GRIFFIS: I'll take your word.

5 MR. LAWSON: I did take a look down some
6 of the adjacent blocks. Although some of the alleys
7 do continue into other blocks, they didn't seem to
8 lead to this kind of a configuration of internal lots
9 that I could see.

10 CHAIRPERSON GRIFFIS: Did you have a
11 conversation and refer this to DDOT?

12 MR. LAWSON: We referred the application
13 to DDOT. I don't believe we received comments back.

14 CHAIRPERSON GRIFFIS: I know you didn't.
15 Did you try and make any other contact with it? Have
16 you discussed this alley one way application that's
17 being proposed?

18 MR. LAWSON: I haven't.

19 CHAIRPERSON GRIFFIS: Do you have an
20 opinion on it?

21 MR. LAWSON: My opinion is that it would
22 probably be a desirable thing to have the alleys one
23 way. I don't believe that the proposal becomes in any
24 way unworkable if for some reason that's not approved.

25 I believe that the proposal is viable one way or

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1 another. But I think that for the future use of the
2 site, I like the idea of having the sidewalk running
3 along the side.

4 I believe that the parking on Temperance
5 Place makes sense particularly since that alley is
6 already used for parking. It's simply making official
7 what's already existing in the area. But other than
8 that, I think that even if DDOT did not believe it was
9 a good idea to make them one way I think the
10 development would work just fine.

11 COMMISSIONER HOOD: Mr. Chairman.

12 CHAIRPERSON GRIFFIS: I'm sorry. Just to
13 follow up, Mr. Hood. I was just trying to find the
14 cite on it. That is where you aware of the potential
15 to request parking on Temperance Place which would
16 diminish the 25 foot alley?

17 MR. LAWSON: That was mentioned in the
18 application, yes.

19 CHAIRPERSON GRIFFIS: Right. You stated
20 you didn't foresee any difficulties with that in terms
21 of implementation or in terms of long term viability
22 of the surrounding area.

23 MR. LAWSON: Well again, I believe it
24 would simply regulate a situation that would occur
25 anyway. The alley is fairly wide right now as alleys

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1 go. It's certainly wide enough to have parking and
2 still allow vehicles to pass. That's the situation
3 right now. I think that if parking was regulated on
4 the alley particularly if it could be regulated for
5 use by residents of the area that would probably be a
6 benefit to the residents over the existing situation.

7 CHAIRPERSON GRIFFIS: But it's not the
8 strongest argument to say just because they're going
9 to do it we'll legalize it. I mean, that's not what
10 you're saying.

11 MR. LAWSON: Well, I guess that's part of
12 what I'm saying. But the other part of what I'm
13 saying is that whether or not that parking is provided
14 on the alley the project would work well.

15 CHAIRPERSON GRIFFIS: Right. But do you
16 foresee any difficulties with the functioning of that
17 alley?

18 MR. LAWSON: I don't foresee any
19 difficulties, no.

20 CHAIRPERSON GRIFFIS: Okay.

21 MR. LAWSON: And I think part of that is a
22 product of the way that they have designed it by not
23 providing parking access in and out of the individual
24 units onto Temperance Place. It opens up Temperance
25 Place to be used for on-street parking. It takes away

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1 some of those traffic pressures.

2 CHAIRPERSON GRIFFIS: Okay. On the same
3 issue and then I'm going to let Ms. Renshaw tear into
4 you, the same issue I brought up with the Applicant,
5 when you were looking at the parking provision be it
6 on Temperance Alley, you're saying they're going to
7 park there anyway. There are probably people before
8 the fence went up that's in the photographs that
9 parked all over the thing. People park everywhere.

10 Did you have any discussions or do you
11 have any ideas from the Office of Planning of how
12 those might be regulated for residential use only?
13 I'll give you my strong opinion. A sign saying towed
14 at owner's whatever it is or resident parking only
15 isn't going to work.

16 MR. LAWSON: It wouldn't work any better
17 or any worse I guess than similar signs in other areas
18 where there is resident parking. I'm certainly not an
19 expert on this, but that doesn't hurt. Will people
20 ignore the sign? Probably some will but probably some
21 won't.

22 CHAIRPERSON GRIFFIS: Okay. Ms. Renshaw.

23 VICE CHAIRPERSON RENSHAW: Thank you, Mr.
24 Chairman. In talking about fire department issues, I
25 want to acknowledge that ANC-1B which is in support of

1 this project did mention concerns about access, both
2 pedestrian and fire department because the properties
3 as the ANC said are located within an interior block.

4 But before I launch into the fire department, I
5 wanted to ask the Office of Planning a question about
6 paving. Can this alley system support the amount of
7 traffic that will be generated within the alley with
8 this development?

9 MR. LAWSON: Once again, I'm not an expert
10 on alley paving. I would assume so. I would say that
11 mostly because again from my lookings of the site and
12 my wonderings around the site I don't believe that
13 there will be a significantly greater amount of
14 traffic on the alley than exists right now.

15 VICE CHAIRPERSON RENSHAW: Is this
16 something that you directed to the Department of
17 Transportation or did not direct?

18 MR. LAWSON: I didn't ask them that
19 specific question, no.

20 VICE CHAIRPERSON RENSHAW: All right.
21 This is something that I think we should inquire
22 about.

23 CHAIRPERSON GRIFFIS: Right.

24 VICE CHAIRPERSON RENSHAW: It is something
25 for the Applicant to look into because alley paving is

1 not what street paving is as I understand it. If
2 you're going to have some traffic even more than there
3 is now, the system may not support it, the paving
4 system of the alley.

5 CHAIRPERSON GRIFFIS: Ms. Renshaw, hold
6 on. You want to keep the record open to accept a DDOT
7 report. Is that what I'm hearing?

8 VICE CHAIRPERSON RENSHAW: Yes.
9 Definitely.

10 CHAIRPERSON GRIFFIS: Okay.

11 VICE CHAIRPERSON RENSHAW: Also I would
12 like to keep the record open to accept a better report
13 from the fire department because I think the fire
14 department's response through the Office of Planning
15 is very deficient. There is a one sentence line in OP
16 on page seven that the fire department notes no
17 concern provided the residential fire sprinklers are
18 installed in each unit. Mr. Gross said that the fire
19 department said that it's going to work.

20 I'd just like to inquire if you folks know
21 the width of a fire engine and fire truck because
22 we're talking about ten foot alleys and we're talking
23 about maybe a squeeze of two feet more making it into
24 12 foot alleys. So do you know the width of a fire
25 engine and fire truck?

1 MR. GROSS: I do not know the dimensions
2 of the fire trucks.

3 VICE CHAIRPERSON RENSHAW: This is part of
4 my lecture.

5 MR. GROSS: But I guess I would say that
6 the two 25 foot wide east-west alleys will provide
7 pretty good access to the roads with hoses running
8 down if needed.

9 VICE CHAIRPERSON RENSHAW: Well, there is
10 a --

11 MR. GROSS: I'm sorry 15.25.

12 VICE CHAIRPERSON RENSHAW: Right. When
13 you take off the parking. You have two 15 --

14 CHAIRPERSON GRIFFIS: Just for
15 clarification, let me just show Ms. Renshaw what you
16 are talking about. You have 15 foot alleys coming
17 east-west between 12th and 13th. So your issue is as
18 you choke this Temperance Place down and the rear side
19 ten foot alley which would access the rear of --

20 VICE CHAIRPERSON RENSHAW: You have nine
21 units off of a ten foot alley that are your property.

22 What I'm saying is that a truck and an engine are
23 approximately nine feet in width. Then you have to
24 allow two to two and a half feet per door on the other
25 side. So you're talking about a fire department

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1 apparatus needing at the outset, I mean, it's just the
2 very minimum of 13 or 14 feet across.

3 You need to get a fire truck in back of
4 these residences. You have to for public safety
5 reasons. So therefore, I feel that the fire
6 department's response to this makes me question
7 whether or not the fire department really looked
8 closely at these plans. I would ask that we send back
9 or the Office of Planning inquire again and ask them
10 to state for the record exactly how they are going to
11 respond because I don't see how they are going to
12 respond.

13 CHAIRPERSON GRIFFIS: The direct question
14 Ms. Renshaw is asking is for reaction from the fire
15 department of how these structures and the 13th Street
16 town houses would be accessed in case of an emergency.

17 VICE CHAIRPERSON RENSHAW: Yes.

18 CHAIRPERSON GRIFFIS: That seems to be a
19 very straightforward and direct question. I think
20 what we'll do is put the burden on Office of Planning
21 to do it which doesn't preclude the Applicant of
22 making the same phone call to the Fire Chief.

23 VICE CHAIRPERSON RENSHAW: To the Fire
24 Marshall.

25 CHAIRPERSON GRIFFIS: Indeed. The Fire

1 Marshall. Don't bother the Chief. Is that what she
2 means?

3 VICE CHAIRPERSON RENSHAW: Not at this
4 time.

5 CHAIRPERSON GRIFFIS: Okay. That's clear.
6 Other questions of the Office of Planning?

7 VICE CHAIRPERSON RENSHAW: And also just
8 one more thing on the fire department. When you go
9 back to the Fire Marshall, please bring forth the
10 issue that there probably will be parking along the 25
11 foot alley that's going to lessen that alley to about
12 15 feet or so just so that they are aware that
13 parallel parking is in the works, I mean, it's in your
14 planning.

15 COMMISSIONER HOOD: Mr. Chairman, I also
16 just wanted to ask Mr. Lawson a question. I notice
17 that the Parks and Recreation responded in an e-mail
18 that they had no concerns. Was there anything more
19 than just a normal reference that you had given them
20 and they responded back? Or was there a particular
21 issue that they had of interest?

22 MR. LAWSON: They didn't raise any other
23 issues. They note that the proposed development is
24 not in close proximity to any DPR parkland. The
25 closest recreation to the development is Harrison

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1 Recreation Center on V Street between 13th and 14th.
2 That's it.

3 COMMISSIONER HOOD: Okay. Thank you.

4 VICE CHAIRPERSON RENSHAW: Just another
5 question for the Office of Planning. You had a note
6 on page seven about WASA. It has a question about the
7 load on the storm and sanitary sewer. Is that how I'm
8 reading this?

9 MR. LAWSON: I believe it's not so much a
10 question as they require the Applicant to prove out
11 that the existing systems can take this additional
12 development. That would be standard with any
13 development.

14 VICE CHAIRPERSON RENSHAW: All right.
15 Thank you.

16 CHAIRPERSON GRIFFIS: And that's going to
17 come in the permit submission. Is it not?

18 MR. LAWSON: That's correct.

19 CHAIRPERSON GRIFFIS: Okay. I think
20 lastly perhaps on page six in terms of the alley lots,
21 2507.2. Again, I would also ask you the question I
22 asked the Applicant. How did you view this as an
23 extraordinary, exceptional situation? You state that
24 the proposed subdivision as you've also orally stated
25 increases and improves the lots themselves. But you

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1 state it cannot address the issue of nonconforming
2 access to alley width. Is that part of its uniqueness
3 that is doesn't conform to the Zoning Regulations?

4 MR. LAWSON: Well, certainly in my opinion
5 its uniqueness is that these are small existing lots
6 currently essentially bordered on all sides by an
7 alley. The Applicant can do nothing to address that
8 situation which makes it not only somewhat unique.
9 Well, I guess I'll just stick with unique, yes.

10 CHAIRPERSON GRIFFIS: Okay. Others?

11 VICE CHAIRPERSON RENSHAW: Another
12 question for the Office of Planning. Who pays for the
13 fire hydrant?

14 MR. LAWSON: To be honest, I'm not sure.
15 I've never dealt with a request where one was
16 required. I would assume, and certainly in other
17 jurisdictions I've worked in, the Applicant would pay
18 for that. I'm not sure if that's the case in
19 Washington or not though to be honest. I'm sorry.

20 VICE CHAIRPERSON RENSHAW: Mr. Gross, do
21 you have any comment about that?

22 MR. GROSS: I don't know.

23 MR. SKOGLUND: I think it would depend on
24 whether the hydrant is located in public space or on
25 private space. I think we would lobby for it to be

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1 located on public space.

2 CHAIRPERSON GRIFFIS: Well, don't count on
3 them not exacting something out of you.

4 MR. SKOOG LUND: Right.

5 VICE CHAIRPERSON RENSHAW: This is another
6 issue that should be reviewed by the fire department
7 for us.

8 CHAIRPERSON GRIFFIS: There's going to be
9 a cost of getting the water service from the street
10 back to the alley. I would imagine that there would
11 be some fee associated as the Pepco fee is done.
12 Okay. Again, a bit far from our jurisdiction but well
13 worth the discussion and bringing up the point. Is
14 there an ANC representative here today? ANC-1B did
15 submit a recommendation. It's Exhibit 30. We need a
16 waiver if I'm not mistaken. Any objection to waiving
17 in the report?

18 MEMBER ZAIDAIN: No objection.

19 VICE CHAIRPERSON RENSHAW: No.

20 CHAIRPERSON GRIFFIS: Go ahead.

21 VICE CHAIRPERSON RENSHAW: The letter from
22 ANC-1B is signed by Glen Melcher (PH) the chair. It's
23 dated October 1. The ANC had a meeting on June 10 at
24 which a quorum, seven members required of eight, were
25 present. They voted unanimously to support the

1 application for several variances and a special
2 exception to build the 12 single family row houses.

3 The letter noted issues of concern. I
4 mentioned two of them previously; pedestrian and fire
5 department. Further, the letter goes on "Members of
6 the community expressed concern with regard to the
7 size of the row houses." Others expressed concern
8 with regard to the proposed set back from the alley
9 and the existing row houses along 13th Street.

10 Mr. Melcher said that a few members of the
11 community expressed the view that the project would be
12 more appropriate having been developed along 12th
13 Street, the current location of The Public Welfare
14 Foundation's parking lot with the parking there moving
15 to the row house area. Then finally he says certain
16 members of the commission expressed strong support for
17 whatever variances or special exceptions were
18 necessary to bring needed affordable housing to the
19 community. So the ANC asks that we approve the
20 application to build 12 single family row houses on
21 the 1300 block of Temperance Court.

22 CHAIRPERSON GRIFFIS: Good. Any comments
23 from the Board on the ANC? Does the Applicant have
24 any questions?

25 MS. GOODSON: No, Mr. Chair.

1 CHAIRPERSON GRIFFIS: Good. Are you in
2 receipt of that letter?

3 MS. GOODSON: Yes.

4 CHAIRPERSON GRIFFIS: Okay. That's the
5 list. That's it for the submissions. Why don't we
6 move on to testimony at this time.

7 MR. SKOOG LUND: I would like to mention
8 one more thing in regard to the specification for the
9 alley. I've just been reminded that we do have in our
10 construction budget at this time repaving the alley.

11 CHAIRPERSON GRIFFIS: How much of it?
12 Temperance Place and the 10th Street all the way out
13 to 13th?

14 MR. SKOOG LUND: I can't say. There is
15 some provision for that though.

16 CHAIRPERSON GRIFFIS: Okay.

17 VICE CHAIRPERSON RENSHAW: I'd like to ask
18 the Applicant if you have entered into any discussions
19 with the ANC about a construction agreement. Not at
20 this time?

21 MR. GROSS: The answer is no.

22 VICE CHAIRPERSON RENSHAW: Thank you.
23 Will you do so?

24 MR. GROSS: With their total support, what
25 would you suggest would be in it?

1 VICE CHAIRPERSON RENSHAW: It is just
2 clarification for the ANC as to how you are going to
3 move the trucks, what kind of digging are you going to
4 do, where the dirt is going to go, the truck access
5 routes, the timing of the construction. So I'm just
6 inquiring whether you have worked this out with the
7 ANC.

8 MR. GROSS: Okay. That hasn't been done.
9 We'll take that under advisement though. Sure.

10 VICE CHAIRPERSON RENSHAW: Thank you.

11 CHAIRPERSON GRIFFIS: Good. Let us hear
12 from people present today to give testimony. Is
13 anyone going to give testimony today? Very good.
14 We'll give you some room at the table.

15 MR. SPALDING: Hi. My name is Philip
16 Spalding. I reside at 1929 13th Street, N.W. which is
17 in the western side on the 13th Street, the next to
18 the top. I'll show you. (Indicating.)

19 On that property, I'm also the lone
20 candidate for the Single Member ANC District in which
21 this is located. I'm also a member of a number of
22 committees on the Cardozo-Shaw Neighborhood
23 Association.

24 CHAIRPERSON GRIFFIS: Let me interrupt you
25 for a second.

1 MR. SPALDING: Sure.

2 CHAIRPERSON GRIFFIS: Does that mean
3 you're looking positively in a successful election to
4 the ANC?

5 MR. STEPHENS: Since no one is running
6 against me, I think the odds are good, but since
7 everyone has been taught to use number two pencils
8 recently it isn't guaranteed.

9 CHAIRPERSON GRIFFIS: Stranger things have
10 happened in the ANC. My point is you are not a
11 current ANC member.

12 MR. SPALDING: No I am not. I was at the
13 meeting when this was discussed.

14 CHAIRPERSON GRIFFIS: Good. Okay.

15 MR. SPALDING: I would like to refer back
16 to Anne Renshaw's comments about fire access. That is
17 a concern to a number of residents along 13th Street.

18 They have indicated that they are going to extend the
19 width of that alley to 12 feet, but a number of the
20 residents in the row houses along 13th Street think
21 that's probably inadequate for fire access to the back
22 of both the 13th Street residences and the back of the
23 proposed development in the Temperance lots.

24 I was also one of the people who was
25 bringing up the question about since Public Welfare is

1 the land owner in a number of the spots in this
2 development why they hadn't put the housing in its
3 traditional space along 12th Street. They wouldn't
4 have had any of these problems with your zoning
5 variances. But I think it may have gone too far.
6 Those are the only comments I have at this time.

7 CHAIRPERSON GRIFFIS: To establish how you
8 are testifying today, are you in favor or opposition
9 of the application?

10 MR. SPALDING: Personally or speaking for
11 the residents?

12 CHAIRPERSON GRIFFIS: Well, if you decide
13 to speak for the residents, we're going to need some
14 justification in that.

15 MR. SPALDING: Absolutely.

16 CHAIRPERSON GRIFFIS: I would speak for an
17 individual.

18 MR. SPALDING: As an individual, I don't
19 know why this project has proceeded to this point when
20 The Public Welfare Foundation owns the land on 12th
21 Street which is where they put a surface parking lot
22 which is historically three and a half story
23 residential buildings. They do have five lots there
24 that are 17 feet wide and 90 feet long.

25 They are the same size as the four lots

1 that are being developed by Robertson next in line
2 there. Those don't seem to be having any difficulties
3 in getting approvals or height restrictions. There is
4 equally as much buildable surface territory to build
5 along 12th Street where the traditional residences
6 were. Then they don't have the difficulty in the
7 center of the lot with access and a number of other
8 problems. So you're asking what my personal reaction
9 is. This should have been built on 12th Street.

10 CHAIRPERSON GRIFFIS: Okay. Any other
11 issues in terms of the application or the testimony
12 that you've heard today?

13 MR. SPALDING: Nothing in terms of what I
14 heard today, no.

15 CHAIRPERSON GRIFFIS: Okay. Actually let
16 me then explore. When you say "this should have been
17 built on 12th Street" you said because it's more
18 appropriate to have residential on 12th Street. So
19 say they built this and they built housing on 12th
20 Street. Is that satisfactory to your point of view?

21 MR. SPALDING: Well, I think they're still
22 going to face the same problems that Ms. Renshaw has
23 brought up with building inside the alleys. But yes I
24 would approve of both buildings if that were a
25 possibility. I think if you look at the historic

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1 development of this block, 0274, it just doesn't make
2 sense that undeveloped land along a street frontage,
3 12th Street, is being given over to a surface parking
4 lot.

5 You're attempting to wedge residential
6 buildings into what's a fairly unattractive central
7 lot exposure when the four story office building is
8 built over the subway along U Street. You're still
9 going to have the Metro air cooler as their eastern
10 exposure. You'll have the back yards of the T and
11 13th Street lots as to other exposures. It's not a
12 very attractive place to build, and it brings up
13 certain very real difficulties that Ms. Renshaw has
14 brought up.

15 CHAIRPERSON GRIFFIS: Okay. Very well.
16 Questions?

17 VICE CHAIRPERSON RENSHAW: Mr. Spalding,
18 do you have any thoughts about the one way designation
19 that has been proposed?

20 MR. SPALDING: I do have a couple
21 questions about that. I do think it's going to be
22 difficult for current owners especially along 13th
23 Street. I know that most of them are going to ignore
24 the one ways because it's going to be difficult for
25 them to get access that isn't as easy as it is right

1 now. The other question I would have is on the
2 sanitary trucks coming in and out. They are large.
3 Moving them around the neighborhood in different
4 directions may present difficulties too.

5 CHAIRPERSON GRIFFIS: So the trash trucks,
6 what? Turning radius or just the width of the alley.

7 MR. SPALDING: Turning radius and where
8 they enter and exit. Most of them are coming in off
9 of 13th Street now, but they're going to need to come
10 in off of 12th Street and whether that creates
11 problems I'm not sure. I haven't studied it. But it
12 is something that I think people should consider.

13 CHAIRPERSON GRIFFIS: Okay. Other
14 questions from the Board?

15 VICE CHAIRPERSON RENSHAW: For Mr.
16 Spalding, behind your homes, is there alley parking
17 now in that ten foot alley behind your house?

18 MR. SPALDING: There is no alley parking.
19 Occasionally somebody will park in the alley. It's
20 generally a workman who's working on one of the
21 buildings in that strip. A number of the owners of
22 properties along 13th Street have built out to the
23 alley. Not moved, they've just built walls out and
24 put garage doors in front of them. So a number of
25 them are very concerned about access even with the 12

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1 foot alley.

2 VICE CHAIRPERSON RENSHAW: Can you comment
3 on illegal parking in the alley from the entertainment
4 business along U Street?

5 MR. SPALDING: Actually that has improved
6 immensely since Manna and Public Welfare fenced off
7 the interior where the western part of their
8 development is going to be. They put up a chain-link
9 fence surrounding that particular territory. That has
10 really discouraged the club parking. There is still
11 some going on in Temperance Court. But because that's
12 isolated, unlit, and has been prone to auto theft,
13 it's not a popular spot anymore especially since it's
14 isolated from the rest of the parking.

15 VICE CHAIRPERSON RENSHAW: Can you access
16 from your property directly onto the alley in the
17 back?

18 MR. SPALDING: Yes I can.

19 VICE CHAIRPERSON RENSHAW: How about the
20 other houses along there?

21 MR. SPALDING: They can all access the ten
22 foot alley.

23 VICE CHAIRPERSON RENSHAW: From the rear
24 of the property.

25 MR. SPALDING: From the rear of the

1 property. There is one property down at the far
2 southern end that somehow built well beyond the 60
3 percent limits but is obviously been grandfathered and
4 doesn't have any lot so they don't.

5 CHAIRPERSON GRIFFIS: You mean the
6 structure.

7 MR. SPALDING: The structure comes all the
8 way out. There are also structures like that along
9 the T Street alley too. Unfortunately, I don't know
10 how you rectify that.

11 VICE CHAIRPERSON RENSHAW: You have your
12 work cut out for you as an ANC commissioner. Don't
13 you?

14 MR. SPALDING: I guess I do.

15 VICE CHAIRPERSON RENSHAW: All right.
16 Thank you for that overview of your neighborhood.

17 CHAIRPERSON GRIFFIS: Anything else?
18 Other questions? Very well. Thank you very much. I
19 appreciate your participation today. I'm sorry.
20 Actually, does the Applicant representative have any
21 questions of the testimony we just heard?

22 MS. GOODSON: I believe the most
23 appropriate person to respond to the comments about
24 location --

25 CHAIRPERSON GRIFFIS: Okay. Let me just

1 ask. Do you have any cross examination?

2 MS. GOODSON: I don't have any questions
3 of him at this time. Thank you.

4 CHAIRPERSON GRIFFIS: Okay.

5 MS. GOODSON: But I believe Mr. Kressley
6 would probably be the best person to speak as to The
7 Public Welfare Foundation's decision making process.
8 We'll supplement the record as appropriate in that
9 way.

10 CHAIRPERSON GRIFFIS: Okay. In which
11 case, is anyone else here to give testimony today? I
12 think we've covered everybody that's here then. If
13 the Board has any final questions or clarifications?
14 Good. Why don't we turn to closing remarks by the
15 Applicant then.

16 MS. GOODSON: Mr. Chair and Board Members,
17 we're going to let the record stand as it is and just
18 ask that you grant the requested special exception and
19 variances. Thank you.

20 CHAIRPERSON GRIFFIS: Thank you very much.
21 Okay. I would like to set this for decision making.
22 Two weeks? Let's hold that date. I'm going through
23 the submissions that we're going to be requesting.
24 We're going to see if that's realistic for that to
25 happen.

1 The last one we just stated, I'm sure you
2 can get that in very timely in terms of the lot choice
3 and why in order to address the comment by the
4 adjacent neighbor why this is being chosen and could
5 it not be facilitated on 12th Street and do away with
6 having to put up with us frankly. Then we're also
7 looking for the Fire Marshall to address the issue of
8 accessing the proposed structures. We're also looking
9 for DDOT to address the new issues that have come up
10 and the entire application.

11 Those are clearly the one way, the parking
12 feasibility. The fire hydrant I think they could
13 handle too. They'll know what else to look at. Then
14 Office of Planning will clearly direct them in the
15 right direction. That's what I have. We were having
16 the submissions of the public meetings that were
17 conducted by Manna. There were two. We were looking
18 for attendees to that with addresses and any sort of
19 minutes or reports that came out of that and also for
20 The Public Welfare Foundation, their meetings and
21 report and participants in those design meetings.

22 MEMBER ZAIDAIN: Mr. Chair?

23 CHAIRPERSON GRIFFIS: Yes.

24 MEMBER ZAIDAIN: We discussed the issue
25 with the special exception. During OP's testimony I

1 had some discussion with the Office of Zoning Staff.
2 It seems I still have some confusion on where the
3 special exception is going unless I can get a
4 definitive answer from somebody on Staff right now.

5 CHAIRPERSON GRIFFIS: You mean the special
6 exception for parking. Is that where you are?

7 MEMBER ZAIDAIN: Yes. For the off-site
8 parking. What I was just going to request if we can't
9 reach a consensus now is to just get something
10 submitted from the Applicant.

11 CHAIRPERSON GRIFFIS: You think they are
12 exempt?

13 MEMBER ZAIDAIN: No. I just want to make
14 sure that we're going to the 2117.9. If I understood
15 Staff in the intermediary here, that I was incorrect.
16 Please somebody correct me.

17 CHAIRPERSON GRIFFIS: I think you are
18 absolutely right.

19 SECRETARY PRUITT: I spoke with Mr. --
20 2117.9 is C does apply.

21 MEMBER ZAIDAIN: Okay.

22 SECRETARY PRUITT: Only C though.

23 MEMBER ZAIDAIN: It's only C. Okay. When
24 we were talking, I just wanted to make sure I
25 understood.

1 CHAIRPERSON GRIFFIS: Right. 2117.9 A and
2 B don't make the requirements.

3 MEMBER ZAIDAIN: Right.

4 SECRETARY PRUITT: Right.

5 CHAIRPERSON GRIFFIS: If you look at
6 2117.9 C it's almost identical to the other issues
7 that are laid out.

8 MEMBER ZAIDAIN: Exactly.

9 CHAIRPERSON GRIFFIS: That is in fact and
10 I think has been somewhat addressed. I'd certainly
11 leave the record open for the Applicant to take a look
12 at that and respond to anything they feel that has
13 been lacking in the record.

14 MEMBER ZAIDAIN: Fair enough.

15 SECRETARY PRUITT: The original 2116
16 actually is general. It refers you to that one.

17 MEMBER ZAIDAIN: Right. I understand. I
18 just thought when you and I were discussing that I got
19 the wrong impression, but I think we're okay.

20 SECRETARY PRUITT: Okay.

21 CHAIRPERSON GRIFFIS: It does as one of
22 its requirements say the application of separate
23 parking shall be submitted to the District of Columbia
24 Department of Public Works which of course now is
25 DDOT's record of review and report.

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1 MEMBER ZAIDAIN: Right.

2 CHAIRPERSON GRIFFIS: That was done.

3 MEMBER ZAIDAIN: It was but we'll get a
4 report from them to satisfy that.

5 CHAIRPERSON GRIFFIS: Right. Well said.

6 MR. GROSS: Mr. Chairman, I had one last
7 thing. That was on the one way alley system. Manna
8 is not totally committed that we believe that the
9 alley system can work from both ways. We would hope
10 that the referral to DDOT wouldn't make that a
11 requirement because that's something that Manna may
12 explore for this.

13 CHAIRPERSON GRIFFIS: I think it's a good
14 point to bring up. I don't think we're looking for
15 DDOT to impose a requirement.

16 VICE CHAIRPERSON RENSHAW: No.

17 CHAIRPERSON GRIFFIS: You've proposed that
18 we're going to require it. What I wanted is just a
19 reaction.

20 MR. GROSS: Sure.

21 CHAIRPERSON GRIFFIS: Once we get their
22 reaction, they're either going to be in favor of doing
23 this or they're saying it's a bad idea. We can take
24 it up at that point. If it's a bad idea, I would
25 certainly think you might be prepared to address that

1 depending on where it is which gets us to the point of
2 can we swing all of this in two weeks.

3 SECRETARY PRUITT: Actually it would be
4 less than two weeks. We would need it before then.
5 The meeting is actually in two weeks.

6 CHAIRPERSON GRIFFIS: Indeed. We're
7 setting this for then a special public meeting. I
8 think we need to give DDOT at least three weeks. Does
9 the Office of Planning have an opinion on that? Do
10 you think you could turn around DDOT's report to us?

11 MR. LAWSON: I can guarantee nothing. But
12 whatever date you set, we'll make sure that it's here.
13 It would be difficult I think to get it back in two
14 weeks.

15 CHAIRPERSON GRIFFIS: You think you need
16 three.

17 MR. LAWSON: I would suggest three, yes.
18 That should be fine.

19 CHAIRPERSON GRIFFIS: Let's set the
20 submissions for three weeks.

21 SECRETARY PRUITT: If we set it for three
22 weeks, that would be November 19.

23 CHAIRPERSON GRIFFIS: Just for
24 submissions.

25 SECRETARY PRUITT: Submissions, yes.

1 Response would be November 26 which is the week of
2 Thanksgiving. I just wanted to let you know there's a
3 holiday there. Sometimes folks leave. Would you want
4 the responses then and then that would mean the public
5 meeting is the very next week?

6 CHAIRPERSON GRIFFIS: Done.

7 SECRETARY PRUITT: Okay.

8 CHAIRPERSON GRIFFIS: Well, do you see a
9 difficulty in responding to the submissions in the
10 week of Thanksgiving?

11 MS. GOODSON: No I don't.

12 CHAIRPERSON GRIFFIS: Okay.

13 SECRETARY PRUITT: So submissions will be
14 due on November 19, responses on the 26th.

15 CHAIRPERSON GRIFFIS: Whatever you say.

16 SECRETARY PRUITT: Would you like draft
17 orders also?

18 CHAIRPERSON GRIFFIS: Okay.

19 SECRETARY PRUITT: It pushes it up one
20 more week then for everything.

21 CHAIRPERSON GRIFFIS: No. I don't think
22 we're going to request that. In order to expedite
23 this unless you think you can pull it all off in the
24 timeframe that we're looking. I'll reiterate the
25 time. But in order for three weeks to get the

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1 submission from DDOT we're giving a week for responses
2 for that.

3 I don't want to push that time anymore up
4 because I think it's valuable to have this
5 information. If we have to add more time in order to
6 get draft submissions. This will be clear enough.
7 The opposition isn't extraordinary in this. The
8 issues are complex but I think we can handle it.

9 SECRETARY PRUITT: We could actually if
10 you'd like, and this puts a burden on Staff, but if
11 you could get it in to us on Monday or Friday after
12 Thanksgiving, it gives you a couple of days to have
13 all the information at one time. I don't know if
14 that's what you want to do, but that's an option.

15 CHAIRPERSON GRIFFIS: All right. It has
16 come to my attention that the 3rd which would be the
17 day will be problematic. We won't be able to do it
18 then. We're going to have to set this for the 10th.

19 SECRETARY PRUITT: Do you want to do it at
20 a special public meeting? We could set one for that.

21 CHAIRPERSON GRIFFIS: Absolutely.

22 SECRETARY PRUITT: Let's look at the
23 dates.

24 CHAIRPERSON GRIFFIS: We'll set this for a
25 special public meeting which means this will be on at

1 9:00. We'll have our deliberation. I'm sure your
2 advocates in this case are well aware of this.
3 However, it's not required that persons are present
4 for that. We will not be taking any further
5 testimony.

6 SECRETARY PRUITT: You don't want any
7 public meeting.

8 CHAIRPERSON GRIFFIS: We won't be. It
9 will be straight deliberation of the Board and action
10 will be taken at that point. Anything else the Board
11 thinks that we will require at this time from the
12 Applicant? Any other submissions?

13 VICE CHAIRPERSON RENSHAW: No.

14 CHAIRPERSON GRIFFIS: Okay. We'll just
15 restate the dates for submissions again. We're
16 keeping the record open.

17 MS. BAILEY: Mr. Chairman, the submissions
18 I have dates are November 19 for all the submissions,
19 the responses, findings of fact on November 26 with
20 the decision at a special public meeting on December
21 10.

22 CHAIRPERSON GRIFFIS: Excellent.

23 SECRETARY PRUITT: I was just going to say
24 that in looking at December 3 you have St. Patrick's
25 on there but nothing else. And you would like to keep

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1 it that way.

2 CHAIRPERSON GRIFFIS: Absolutely.

3 SECRETARY PRUITT: Okay. That's all I
4 wanted to verify.

5 CHAIRPERSON GRIFFIS: Good. Everyone
6 clear on dates, submissions. Any other questions we
7 can answer attendant to this application? Very well
8 then. Thank you all for spending the day with us.
9 This will adjourn the October 22, 2002 afternoon
10 public hearing. Off the record.

11 (Whereupon, the above-entitled matter
12 concluded at 5:37 p.m.)

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