

GOVERNMENT

OF

THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

NOVEMBER 12, 2002

+ + + + +

The Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 10:29 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
ANTHONY HOOD	Board Member
DAVID ZAIDAIN	Board Member (NCPC)

COMMISSION STAFF PRESENT:

SHERI PRUITT	Secretary, BZA
BEVERLY BAILEY	Office of Zoning
CLIFFORD MOY	Office of Zoning
JOHN K.A. NYARKU	office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL PRESENT:

LORI MONROE, ESQ.

OTHER AGENCY STAFF PRESENT:

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KENNETH LADEN  
STEPHEN WARD  
JOHN MOORE  
KAREN THOMAS

Department of Public Works  
Office of Planning  
Office of Planning  
Office of Planning

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

(10:29 a.m.)

CHAIRPERSON GRIFFIS: I wish everyone a good morning. This is the 12th of November 2002 public hearing of the Board of Zoning Adjustments. My name is Jeff Griffis, and I am the Chairperson.

Joining me today is Ms. Anne Renshaw, Vice Chair, and Mr. Curtis Etherly is with us also, and Mr. Zaidain representing the National Capital Planning Commission.

Our Zoning Commission Member on the first couple of cases is in fact called out of town, but we will be joined later in the morning with a Zoning Commission Member.

Copies of today's hearing are available to you, and they are located at the table near the doorway where you entered into the hearing room. Please be aware that these proceedings are being recorded. So, we of course ask that everyone refrain from any disruptive noises or actions in the hearing room.

I would also ask that everyone turn off their cell phones, beepers, any sort of transmitting noise devices at this time so that we don't disrupt the proceedings, and specifically the people here

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1 presenting to the Board.

2 When coming to speak to the Board, you  
3 will need to speak into a microphone, and the  
4 microphone needs to be on. I will give you  
5 instructions on that. Also, anyone coming forward to  
6 give testimony or for whatever reason attendant to an  
7 application, you need to fill out two witness cards.  
8 Two.

9 Those witness cards are located at the  
10 table that you entered into, and they are also  
11 available at the table in front. Before leaving, and  
12 in fact best as you come forward to give testimony,  
13 those witness cards are to go to the recorder. The  
14 recorder is sitting to my right on the floor.

15 The order of procedures today for special  
16 exceptions and variances will be, first, statements of  
17 witnesses of the applicant. Second will be any  
18 government reports attendant to the application.

19 Third will be reports from the Advisory  
20 Neighborhood Commission. Fourth will be parties or  
21 persons in support of the application. Fifth would be  
22 parties or persons in opposition; and sixth would be  
23 closing testimony. That will be conclusions and  
24 rebuttal witnesses.

25 There is no need to memorize that. I will

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1 make sure that we will keep to that order. Cross-  
2 examination of witnesses is permitted by the applicant  
3 or parties. The ANC within which the property is  
4 located is automatically a party in the case.

5 The record in all cases will be closed,  
6 except for any material which is specifically  
7 requested by the Board. The Board will be very  
8 specific on what materials are to be submitted, and  
9 when they are to be submitted to the Office of Zoning.

10 Once that material is received, it goes  
11 without saying that the record will be officially  
12 closed, and no other information will be accepted into  
13 the record.

14 The Sunshine Act requires that the public  
15 hearing on each case be held in the open and before  
16 the public. The Board may, however, consistent with  
17 its rules of procedures and the Sunshine Act enter  
18 into executive sessions in order to review and  
19 deliberate on the case.

20 The decision of this board in all cases,  
21 and most importantly in contest cases, must be based  
22 exclusively on the public record, and therefore to  
23 avoid any appearance to the contrary, we ask that  
24 people present today not engage board members in any  
25 conversation.

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1                   The Board will now consider any  
2 preliminary matters. Preliminary matters are those  
3 which relate to whether a case will or should be heard  
4 today, such as requests for postpone, continuance, or  
5 withdrawal, or whether proper and adequate notice of  
6 the application and case has been provided.

7                   I would ask that anyone having preliminary  
8 matters for the Board come forward at this time and  
9 you can sit at the table and turn on a microphone. I  
10 would also again wish a great and good morning to the  
11 Office of Zoning Staff who is with us, Mr. Moy, and  
12 Ms. Bailey, and also representing the Corporation  
13 Counsel is Ms. Monroe.

14                   And Mr. Nyarku is with us, and he is ably  
15 assisting us in and out of the hearing room this  
16 morning.

17                   MS. BAILEY: Mr. Chairman, good morning.  
18 The staff has no preliminary matter at this time, and  
19 the first case is Humberto Gonzalez. Ms. Hubbard, if  
20 you will just give me a moment to call the case and  
21 then we can proceed with your preliminary matter if  
22 that is okay.

23                   CHAIRPERSON GRIFFIS: Excellent. I think  
24 that is very appropriate. Application Number 16823,  
25 of Humberto Gonzalez, pursuant to 11 DCMR 3103.2, for

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1 a variance from the use provisions to allow the  
2 expansion of an existing bed and breakfast, and this  
3 is a home occupation, from 6 sleeping rooms to 11  
4 sleeping rooms, under subsection 203.8, in an DCOD/R-  
5 5-D District at premises 1720 - 16th Street,  
6 Northwest, Square 178, Lot 800.

7 Mr. Chairman, this case was last heard on  
8 October 29th, and when we left at that time, we left  
9 that it would be continued today with Mr. Giordano,  
10 the applicant's attorney, making closing arguments and  
11 rebuttal.

12 And we also asked for questions to be  
13 submitted to DDOT, the Department of Transportation,  
14 and for questions today from Mr. Ken Laden, and Mr.  
15 Laden is in the audience, Mr. Chairman, and we are  
16 ready to go forward.

17 CHAIRPERSON GRIFFIS: Very well. What I  
18 would like to do is start, and I will hear any  
19 preliminary matters from the participants, and I think  
20 we have one submitted.

21 We will go to Mr. Laden to have brief  
22 cross-examination on the submitted information, and  
23 then we will move to the closing. Yes, please, you  
24 need to take a seat and turn on the microphone, and  
25 please introduce yourself for the record.

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1 MS. HUBBARD: Mr. Griffis, my name is  
2 Harriett B. Hubbard, and I represent a party in this  
3 case, and I am a party. And I would like to ask that  
4 this application be denied, or at any rate, not go  
5 forward today, because in addition to the Department  
6 of Transportation response being able to be cross-  
7 questioned today, there is also the response from the  
8 Department of Historic Preservation.

9 And I am in receipt of a letter, dated  
10 November 6th, from Steven Calcut, saying that he will  
11 be out of town today.

12 CHAIRPERSON GRIFFIS: Right.

13 MS. HUBBARD: And that he is not able to  
14 be here and to support what he says in the letter in  
15 person.

16 CHAIRPERSON GRIFFIS: Okay.

17 MS. HUBBARD: Specifically.

18 CHAIRPERSON GRIFFIS: Let's not get into  
19 specifics. I got your point. And I am just going to  
20 reiterate exactly what you said, that your point is  
21 that because Mr. Calcut cannot be cross-examined that  
22 we should dismiss this case of issues.

23 MS. HUBBARD: Well, considering how many  
24 times --

25 CHAIRPERSON GRIFFIS: You don't need to

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1 argue it. I hear your point. Are there other issues?

2 MS. HUBBARD: Well, this is the fault of  
3 the applicant that Mr. Calcut is not here.

4 CHAIRPERSON GRIFFIS: Okay. I am going to  
5 address that.

6 MS. HUBBARD: But on the hand --

7 CHAIRPERSON GRIFFIS: And let's move away  
8 from Mr. Calcut. Are there other issues?

9 MS. HUBBARD: Well, I don't believe that I  
10 have any other issues, except that I do believe that  
11 we must get a chance to cross-question Mr. Calcut.

12 CHAIRPERSON GRIFFIS: Excellent.

13 MS. HUBBARD: And I can give you the  
14 specific reasons why I think it should be in the  
15 record.

16 CHAIRPERSON GRIFFIS: No, I understand  
17 your point. Thank you very much. I would ask you to  
18 turn the mike off and you can take your seat. Board  
19 Members, it is my position that to dismiss this case,  
20 and to take up this motion in fact would be  
21 inappropriate.

22 First of all, I don't believe that this  
23 board has under a special exception with a bed and  
24 breakfast any jurisdiction to go inside the house and  
25 to deal with the preservation issue that Mr. Calcut is

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1 in fact bringing up.

2 I think it was additional to the case, and  
3 it was an important piece of the case, in terms of  
4 rounding out and it is part of the record, and it is  
5 something that we will in fact have to deliberate on  
6 in terms of its importance and its relevancy to the  
7 special exception case.

8 But whether Mr. Calcut feels that this is  
9 an entirely appropriate historic renovation, I think  
10 we have walked away or we have separated ourselves  
11 substantially from the economic issues, which I  
12 believe that's where it came to and created.

13 As I said, I think it fills out the entire  
14 application and environment of what is happening.  
15 Certainly I don't think that any board member is  
16 without understanding that this is a very significant  
17 structure, both in its historic perspective -- oh, and  
18 this is a variance.

19 I'm sorry, I keep calling it a special  
20 exception. So I would suggest that we in fact move  
21 on. We can take up the motion, and I would move that  
22 we deny the motion to motion to dismiss based on the  
23 lack of cross-examination availability of Mr. Calcut  
24 at this time.

25 MEMBER ZAIDAIN: Second.

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1 CHAIRPERSON GRIFFIS: Thank you very much.

2 Any other discussion? All in favor?

3 (Ayes.)

4 CHAIRPERSON GRIFFIS: We can record that.

5 MS. BAILEY: The motion was made by Mr.  
6 Griffis, and seconded by Mr. Zaidain; Mr. Etherly, and  
7 Mrs. Renshaw in support, and Mrs. Mitten is not  
8 present. And that is the motion to deny Mrs.  
9 Hubbard's request to dismiss the application because  
10 of the lack of appearance today of Mr. Calcut.

11 CHAIRPERSON GRIFFIS: Good. I have an  
12 additional motion before us, and that is for a  
13 representation from Mr. Salas, who is asking -- and I  
14 will just read it from the record for everyone's  
15 recollection.

16 He is asking in this letter to serve as a  
17 motion under D.C. Code 5-412 established in 1981 to  
18 request new counsel. Mr. Salas, a residential  
19 homeowner, has concerns that Ms. Margo Polivy,  
20 Esquire, does not fully represent his interests in  
21 this case.

22 And specifically that she is a business  
23 owner on this same street in question, and lives a  
24 couple of blocks down from the site where this bed and  
25 breakfast will be doing business. That is an

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1 interested tense to add into that letter.

2 Please forward all correspondence to Mr.  
3 Salas and not this firm regarding this issue. I have  
4 looked at in fact the -- well, I will briefly hear if  
5 you want to introduce yourself.

6 MS. POLIVY: Thank you, Mr. Chair. My  
7 name is Margo Polivy. Perhaps Mr. Salas has not  
8 noticed, but I live across the street from him on  
9 Riggs Place, and have done so for the last 33 years.

10 CHAIRPERSON GRIFFIS: Okay. Did he  
11 discuss this --

12 MS. POLIVY: No, he did not.

13 CHAIRPERSON GRIFFIS: Are you in receipt  
14 of this letter from the law firm?

15 MS. POLIVY: I received this letter at the  
16 hearing, at our last hearing.

17 CHAIRPERSON GRIFFIS: Did you find Mr.  
18 Salas was a participant and a party?

19 MS. POLIVY: Mr. Salas appears --

20 CHAIRPERSON GRIFFIS: Was he given the  
21 opportunity to participate in the preparation of the  
22 parties case?

23 MS. POLIVY: Oh, yes, he was, certainly.  
24 And I would just point out to the board that Mrs.  
25 Salas addressed the board at the last hearing session.

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1 CHAIRPERSON GRIFFIS: Yes.

2 MS. POLIVY: I have no explanation for Mr.  
3 Salas' suppositions or assumptions, but I hope that I  
4 represented the affected neighbors to the best of my  
5 ability, and I do live there.

6 CHAIRPERSON GRIFFIS: I understand. So as  
7 the representative of the party, your position on this  
8 motion is?

9 MS. POLIVY: Mr. Chairman, my position is  
10 that should the board wish to grant Mr. Salas' motion,  
11 that certainly is within their purview, but I would  
12 just say that the reason given for it should not be  
13 the basis for it.

14 CHAIRPERSON GRIFFIS: Is there an official  
15 position of the party? Do you support or do you not  
16 support the motion?

17 MS. POLIVY: We have no position on the  
18 motion.

19 CHAIRPERSON GRIFFIS: Thank you. Any  
20 other parties? The applicant does not have a position  
21 as indicated, and dos any other parties have a  
22 position on this motion?

23 VICE CHAIRPERSON RENSHAW: Is Mr. Salas in  
24 attendance?

25 CHAIRPERSON GRIFFIS: I don't see Mr.

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1 Salas coming forward. Is there someone to speak for  
2 Mr. Salas? Yes, good morning.

3 MS. SALAS: Good morning. I am Vicky  
4 Salas. I think that he is not here today because this  
5 was brought up before the last case, and he thought it  
6 would have been brought up then when he was here. So  
7 we didn't know that it was going to be -- we assumed  
8 that your answer was just no, because there was no  
9 acknowledgement of his letter.

10 CHAIRPERSON GRIFFIS: So his involvement  
11 in the case is ended because he can't be an individual  
12 party in the case?

13 MS. SALAS: No, he was unavailable this  
14 morning for the rebuttal, and thought it was over, and  
15 that he didn't have a chance, and you weren't going to  
16 give him a chance to have his own representation.

17 CHAIRPERSON GRIFFIS: Okay.

18 MEMBER ZAIDAIN: Mr. Chair, just some  
19 clarification. Is the motion -- the way that I read  
20 this, is it a motion to -- pardon me for being so  
21 blunt, but is the motion -- pardon me for being so  
22 blunt. Is the motion to in essence fire Ms. Polivy as  
23 the head of that?

24 CHAIRPERSON GRIFFIS: I would tell you  
25 that this is my interpretation of this limited letter.

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1 I think the motion is to remove Mr. Salas from the  
2 established party of which he is a part, and grant  
3 party status to him and allow him to be represented by  
4 counsel. I would say that our own counsel has  
5 investigated Section 5401.2 and found it not to be a  
6 relevant code section to this board.

7 This board has full jurisdiction to tear  
8 apart a party or hold it together. We have visited  
9 this issue not less than four times, and I think we  
10 have exhausted it. And I would in fact move that we  
11 deny the motion to establish new counsel to Mr. Salas  
12 at this time.

13 I think it has been adequately provided  
14 his ability to participate in this case, not only as a  
15 party, but we have also gone beyond and allowed his  
16 household to testify individually, and I think we have  
17 had sufficient information relayed to us and not  
18 prejudiced either the applicant or any of the parties  
19 in this case, and I would ask for a second.

20 VICE CHAIRPERSON RENSHAW: Second.

21 CHAIRPERSON GRIFFIS: Thank you very much.

22 Any discussion? Any discussion?

23 MEMBER ETHERLY: Mr. Chair, just as a  
24 matter of discussion, while I agree with you in  
25 principle, I am always just a little hesitant at

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1 handcuffing a party's decision with regard to  
2 representation, which I believe is a very crucial  
3 issue.

4 CHAIRPERSON GRIFFIS: Well, Mr. Salas was  
5 allowed the opportunity to.

6 MEMBER ETHERLY: No, understood. It is  
7 understood, and I think we are at the same place. I  
8 just think that as a matter of -- more on principle  
9 than anything else, I would be a little concerned at  
10 handcuffing him.

11 But I think we are at the same place,  
12 which is ultimately that it is not going to have any  
13 major impact on his ability to continue to  
14 participate, but I think just for clarity's sake that  
15 I would vote in support of the motion, but the  
16 original motion as offered by Mr. Salas.

17 CHAIRPERSON GRIFFIS: You would be  
18 inclined to support?

19 MEMBER ETHERLY: That is correct, Mr.  
20 Chair.

21 CHAIRPERSON GRIFFIS: That's fine. We are  
22 about to hear that then. Any other discussion? Very  
23 well. All those in favor of the motion signify by  
24 saying aye.

25 (Ayes.)

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1 CHAIRPERSON GRIFFIS: And opposed?

2 MEMBER ETHERLY: I am opposed.

3 CHAIRPERSON GRIFFIS: Very well. Why don't  
4 we record that.

5 MS. BAILEY: The motion is 3-1-1 to deny  
6 Mr. Salas' request. The motion was made by Mr.  
7 Griffis, and seconded by Mrs. Renshaw, and Mr. Zaidain  
8 is in support, and Mr. Etherly is opposed to the  
9 motion, and Mrs. Mitten is not present today.

10 CHAIRPERSON GRIFFIS: Thank you very much.  
11 Okay. Let us proceed. I would like to call Mr.  
12 Laden up to the table if he is so inclined at this  
13 time.

14 Good morning, Mr. Laden. We appreciate  
15 your patience this morning with the Board. If you  
16 wouldn't mind just introducing yourself.

17 MR. LADEN: Yes. My name is Ken Laden,  
18 and I am the Associate Director for Transportation  
19 Policy and Planning, D.C. Department of  
20 Transportation. And I am wondering if it would be  
21 appropriate for me to be sworn in as part of this  
22 process, or it is up to the Board.

23 CHAIRPERSON GRIFFIS: You were not  
24 previously sworn for this application; is that  
25 correct?

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1 MR. LADEN: No.

2 CHAIRPERSON GRIFFIS: Then it would  
3 probably be appropriate.

4 (Whereupon, Mr. Kenneth Laden was sworn.)

5 CHAIRPERSON GRIFFIS: Mr. Laden, have you  
6 had a opportunity to review the submitted questions by  
7 the parties?

8 MR. LADEN: I didn't receive anything  
9 formally from the Office of Planning or from the  
10 Board. I did receive by fax some information with  
11 questions on it from the -- I believe from the  
12 attorneys representing the applicant, or the applicant  
13 themselves.

14 So I am not sure if they form the formal  
15 list of questions, but I did receive seven pages of  
16 questions, which we did struggle through to answer  
17 late last week.

18 CHAIRPERSON GRIFFIS: Okay. Do you have  
19 those with you today?

20 MR. LADEN: I do have a list of questions.  
21 I have noticed going through it that it would require  
22 some minor editing to get to the Board, but I am  
23 prepared to try to answer whatever questions you have.

24 CHAIRPERSON GRIFFIS: Yes, indeed, and let  
25 me provide just a quick clarification, because I am

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1 ont sure, but did the applicant submit questions of  
2 the DDOT report? They are indicating no.

3 I think what you had actually was from the  
4 participants and parties in the case.

5 MR. LADEN: Correct. I am assuming they  
6 were.

7 CHAIRPERSON GRIFFIS: Oh, I see. So it  
8 was faxed by the applicant, which may give it --

9 MS. POLIVY: We never got copies.

10 CHAIRPERSON GRIFFIS: That's what I heard.  
11 The parties are saying that they have never received  
12 copies of questions.

13 MR. JADIN: Mr. Chairman, I just wanted to  
14 ask if the questions are the ones that I submitted,  
15 and that I sent to the Board, and I faxed them to the  
16 applicant. Are those the ones that Mr. Laden has  
17 received?

18 CHAIRPERSON GRIFFIS: It would appear so,  
19 yes. Okay. This is what I would like to do then.  
20 Mr. Laden, my understanding from you is that the fact  
21 that you have consolidated the questions in a concise  
22 way that you can address at this point?

23 MR. LADEN: Correct.

24 CHAIRPERSON GRIFFIS: Okay. Why don't we  
25 do that, and what we will do is I am going to be

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1 looking at the hard copy that I have of the specific  
2 questions. I will have cross-examination based on  
3 these, and clearly we don't want to revisit questions  
4 that are addressed, and I will give an indication that  
5 that is the case. So with that I will turn it over to  
6 you.

7 MR. LADEN: That's fine.

8 CHAIRPERSON GRIFFIS: Good. Do you have a  
9 statement, or do you just want to go through the  
10 questions that you have?

11 MR. LADEN: No, I don't really have any  
12 statement other than to go through the record of when  
13 we received the various documents, and what we are  
14 responding to. I just wanted to caution that while  
15 there were a series of questions appearing to come  
16 from the opposition, they were forwarded through  
17 another source.

18 CHAIRPERSON GRIFFIS: Right. Okay. And I  
19 think that everyone is clear on that.

20 MR. LADEN: At this point, I think we can  
21 go through the questions and answers that we have  
22 here.

23 CHAIRPERSON GRIFFIS: Very well. Do you  
24 want to proceed?

25 MR. LADEN: I will give it my best shot.

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1 CHAIRPERSON GRIFFIS: Excellent.

2 MR. LADEN: The first question that I had  
3 was does the applicant property have the physical  
4 configuration and capacity to accommodate all vehicles  
5 that require access to the proposed business.

6 Our response is that the applicant has, we  
7 believe, has adequate capacity to handle normal bed  
8 and breakfast functions. However, there may not be  
9 sufficient capacity to handle all of the proposed  
10 events or functions at that location.

11 The second question that we had was did  
12 DDOT verify the accuracy of the configurations and  
13 dimensions stated by the applicant. Is it DDOT's  
14 opinion that all vehicular activities of the bed and  
15 breakfast, and events facility can take place in the  
16 garage.

17 If the facility owner parks their car in  
18 the garage can the taxi and limousines still drop off  
19 passengers in the garage. My response is that DDOT  
20 did not verify the accuracy of the garage dimensions  
21 prior to our September 26th, 2002 written response.  
22 We believe that normal bed and breakfast facility  
23 functions could take place in the garage if carefully  
24 planned by the facility operator.

25 If a car is parked in the garage, however,

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1 it cannot be used for other purposes, such as  
2 deliveries. Am I hitting the right questions so far?

3 CHAIRPERSON GRIFFIS: Indeed.

4 MR. LADEN: I will continue then. The  
5 third question that I had is will the garage door be  
6 left open, and what options are available to an  
7 arriving guest if the garage door is closed -- block  
8 the sidewalk, double-park, block the alley, beep his  
9 horn. What are the impacts to the neighbors?

10 The response is that the applicant should  
11 be responsible for making arrangements to allow access  
12 to loading and unloading areas without blocking the  
13 alley, the sidewalk, or adjacent streets, or having to  
14 beep their horn.

15 The fourth question is what is the  
16 location of the proposed parking garage and how far is  
17 it from the Tutorsky Mansion. The Atlantic Garage  
18 referenced in the applicant's transportation plan is  
19 Atlantic Parking, located at 1776 Massachusetts  
20 Avenue, Northwest.

21 It is located on the south side of  
22 Massachusetts Avenue, between 17th and 18th Streets,  
23 and this garage is located approximately 8-1/2 blocks  
24 from the Tutorsky Mansion. I might add that these are  
25 somewhat short blocks, depending on which side of the

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1 street you are counting, and it is 7 or 8, or 6,  
2 blocks.

3 The next question is are alternate modal  
4 splits and other behavioral assumptions equally  
5 plausible as the applicant's assumptions. Would  
6 drivers most likely drop off passengers before driving  
7 to a proposed parking facility and then return on the  
8 shuttle?

9 Would a similar pattern occur after an  
10 event at the Tutorsky Mansion, and does not this  
11 result in two extra trips through the neighborhood. I  
12 would suggest that, yes, alternate modal splits are  
13 possible, or are equally plausible, depending again  
14 upon the type of event and where people are coming  
15 from for this event.

16 I believe that most drivers probably would  
17 drop off passengers, and then proceed through the  
18 parking garage. But I don't think that this  
19 necessarily generates additional trips, or two extra  
20 trips as I think it was described.

21 And that typically you would look for a  
22 parking spot in the neighborhood, and then after  
23 several attempts perhaps go and try to find a parking  
24 garage on one's own.

25 If people are given instructions as to

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1 where to park, and that there is limited parking on  
2 the street, my sense is that it would present a fairly  
3 efficient operation, and that people would be dropped  
4 off if there were families, children, and elderly  
5 people.

6 And then one individual would go directly  
7 to the garage, and that that doesn't really constitute  
8 an extra trip, because they would have to find parking  
9 anyway on the street.

10 CHAIRPERSON GRIFFIS: And just briefly, and  
11 on your first couple of questions, you are indicating  
12 that you find it sufficient for the operation of a bed  
13 and breakfast for that drop off procedure?

14 MR. LADEN: Correct, if it is properly  
15 coordinated by the applicant. Obviously they need to  
16 know what time their pastry deliveries or other  
17 deliveries are occurring, and arrange things so that  
18 they are synchronized properly or coordinated  
19 properly.

20 CHAIRPERSON GRIFFIS: Okay. The next  
21 question I had on the list is it reasonable to expect  
22 the shuttle bus to operate out of the garage. What  
23 happens if a deliver van or other vehicle is occupying  
24 the garage space.

25 Here again we think that the garage could

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1 potentially be used successfully for a shuttle bus  
2 operation, and we would assume that it would be under  
3 the control of the applicant to manage his garage  
4 space.

5 So, in other words, if there was an event  
6 scheduled on a given afternoon or evening, they would  
7 see to it that the deliveries were to occur and the  
8 vans out of there before guests would be expected to  
9 arrive. And then again they would have to manage that  
10 space very carefully to make sure that it was  
11 available for shuttle operations.

12 So we think it is potentially doable, but  
13 again would require careful management by the  
14 applicant.

15 CHAIRPERSON GRIFFIS: Good.

16 MR. LADEN: The next question I had was is  
17 it safe for shuttle buses to back into or out of the  
18 garage before or after events when the curb lane and  
19 sidewalks are crowded with competing uses, individuals  
20 milling around, et cetera.

21 Will the drivers view be obstructed by the  
22 adjacent brick wall. We went out and took another  
23 look at the site, and we found that the existing wall  
24 between the garage and the sidewalk does obstruct the  
25 driver's view, especially if they were backing out of

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1 the garage.

2           Therefore, we would recommend that the  
3 driver for the shuttle bus back into the garage space,  
4 which we think is a safer movement and has better  
5 visibility. And that they then exit the garage  
6 forward. The area we think should be brightly lit  
7 when in this type of use, and that the van should have  
8 backup horns so that when the van is backing up into  
9 the garage space that individuals know that it is  
10 backing up.

11           We might want to also consider if it would  
12 work for the placement of some convex mirrors on the  
13 wall or elsewhere that would help with driver  
14 visibility when backing in or pulling out.

15           The next question I had was has DDOT  
16 recently conducted traffic studies in the  
17 neighborhood, and do they include the local streets or  
18 alleys. What are the results. Would discussions with  
19 residents add to DDOT's understanding of the traffic  
20 problems in the neighborhood or of potential problems  
21 with the transportation plan.

22           Did DDOT contact any of the affected  
23 parties before making its report. The response is  
24 that, no, DDOT has not conducted a recent traffic  
25 study in the neighborhood.

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1                   Certainly discussions with residents would  
2                   have improved our understanding of the traffic  
3                   problems, and in hindsight I am wishing that we had  
4                   done a better job of contacting all of the parties in  
5                   this case to find out what the issues were.

6                   Again, DDOT did not contact any residents  
7                   or the applicant prior to submitting its September  
8                   26th, 2002 report. I wish we had. The next question  
9                   is how many private off-street parking spaces are  
10                  accessed by the alleys immediately north and south of  
11                  Riggs Place.

12                 How many on-street parking spaces are  
13                 there on Riggs Place. We went out and did a count  
14                 last week, and there are approximately 60 spaces  
15                 accessed from the alley on the south of Riggs Place,  
16                 and approximately 30 spaces accessed from the alley on  
17                 the north side of Riggs Place.

18                 Now, I am using the word approximately  
19                 because it is not clear. Some of the garages appear  
20                 to be two-car garages, and they may or may not be  
21                 garages at all. They may be stuffed with odds and  
22                 ends.

23                 Also, there were a number of places where  
24                 there appeared to be stack parking, and whether that  
25                 was occurring on a temporary basis, or whether that is

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1 a permitted and accepted use throughout the day, it is  
2 not clear.

3 CHAIRPERSON GRIFFIS: And was that on  
4 private property?

5 MR. LADEN: On the alley or in back of the  
6 private property.

7 CHAIRPERSON GRIFFIS: But parking in the  
8 alley?

9 MR. LADEN: Here again, I would have to go  
10 back and look at the boundaries for the alley. There  
11 appeared to be sections that were not blocking the  
12 alley space, but there were areas in the back of  
13 buildings accessed from the alley where there were 2  
14 or 3 cars parked behind each other.

15 There didn't seem to be any fence or  
16 obstructions in closing that space, but whether it was  
17 private property or alley space, I'm not sure.

18 CHAIRPERSON GRIFFIS: Okay.

19 MR. LADEN: But again there were  
20 approximately 60 spaces that appeared to be in use or  
21 available from the alley on the south side of Riggs  
22 Place and 30 spaces on the north side accessed from  
23 that alley.

24 CHAIRPERSON GRIFFIS: We did a count of  
25 the residential permit parking spaces, and on the

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1 north side of Riggs Place there appear to be 19  
2 parking spaces, and on the south side of Riggs Place  
3 there appears to be 23 residential permit parking  
4 places.

5 The next question was are you familiar  
6 with the residents experiences with having access to  
7 their private parking spaces being blocked by  
8 transients attending nearby club and social events,  
9 and the answer to that is, no, we were not aware of  
10 any of those experiences.

11 The next question is did you examine the  
12 proposed operation of the transportation plan from the  
13 perspective of the neighborhood. Do you think quality  
14 of residential life would be improved or degraded by  
15 the increased traffic demands.

16 In examining the transportation plan, we  
17 did try to look at it from both its operations with  
18 regard to the applicant's point of view, and we also  
19 did try to evaluate it in terms of what the impacts  
20 would be on the neighborhood.

21 Again, I think we feel that the normal bed  
22 and breakfast operations would not significantly  
23 affect traffic in the neighborhood or the quality of  
24 life.

25 There may be short disruptions of traffic

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1 while cars are backing in or pulling out, but no more  
2 so than you would experience from cars pulling in and  
3 out of driveways or pulling in and out of parallel  
4 parking spaces.

5           So again we think that function, if  
6 properly coordinated by the applicant, could work  
7 without significant disruption. We do think, however,  
8 that some special events could result in short term  
9 degradation of traffic conditions and quality of life  
10 in the neighborhood.

11           We can see that after having taken a  
12 second look at this that some of these special  
13 functions with 25 to a hundred guests could present  
14 some short term problems with respect to parking and  
15 traffic, and that that would have an impact on the  
16 quality of life.

17           The next question we have was from DDOT's  
18 experience does the regular and persistent occurrence  
19 of double-parking encourage any increase of more  
20 double-parking in adjacent streets and alleys.

21           I think our experiences are that  
22 persistent double-parking can contribute to an  
23 increase of double-parking on portions of that block  
24 segment.

25           However, persistent double-parking may or

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1 may not contribute to increased double-parking on  
2 adjacent streets or alleys. I think it largely  
3 depends on the kind of function that is occurring on  
4 the street.

5           Again, based upon personal experience  
6 throughout the city, there may be a blockbuster video  
7 or some other commercial operation, or post office, or  
8 some other function where there is persistent double-  
9 parking on a block, and that may cause other double-  
10 parking to occur on that block itself.

11           But a block away or on adjacent streets,  
12 it could be a very quiet residential street with no  
13 double-parking at all. So the one experience of  
14 double-parking doesn't appear to erode or spread out  
15 to other blocks other than that one block where the  
16 problem may occur.

17           CHAIRPERSON GRIFFIS: So it is not  
18 necessarily contagious?

19           MR. LADEN: Not necessarily contagious.  
20 It is more a function of what kind of land uses are  
21 there than proximity.

22           CHAIRPERSON GRIFFIS: Okay. And if I  
23 understand your point, double parking probably happens  
24 when people need to get in and out of a specific  
25 point. So it may not necessarily --

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1 MR. LADEN: A quick turnaround time.

2 CHAIRPERSON GRIFFIS: -- be an indication  
3 that there is unavailable parking, although there is  
4 probably unavailable parking directly in front of that  
5 use. So your point only is that it is not conclusive  
6 that that would increase it somewhere else, or  
7 decrease it somewhere else?

8 MR. LADEN: Correct. The next question I  
9 had was what aspects of the likely outcomes of the  
10 proposed transportation plan would be most disruptive  
11 or disturbing to residents; blockage of traffic or  
12 honking of horns.

13 And my response there is that the most  
14 disrupting or disturbing aspects would vary with each  
15 individual. Some people may be more excited about  
16 traffic and others may be more excited about horns.

17 CHAIRPERSON GRIFFIS: I see.

18 MR. LADEN: So unfortunately individual  
19 preference. The next question I had is it the  
20 District Government's policy to recommend approval of  
21 changes in land use from residential to business,  
22 where customers would be required to break traffic  
23 laws to access the business.

24 The answer to that is no. The next  
25 question is would many of the cited transportation

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1 problems be alleviated if vehicular functions could be  
2 accommodated off-street on the business property,  
3 rather than on public streets and alleys.

4 And the answer to that is obviously yes.  
5 The next question I had was can northbound vehicles on  
6 18th Street, Northwest, turn right eastbound on to our  
7 street to access the Tutorsky Mansion. I think the  
8 question was worded a little differently and I decided  
9 to state it this way.

10 CHAIRPERSON GRIFFIS: I like the ending of  
11 that, and whether they are going to make it to the  
12 wedding on time.

13 MR. LADEN: They could if -- the answer to  
14 that question is they could if they left early enough,  
15 and we are lucky enough when making that turn.

16 CHAIRPERSON GRIFFIS: Well said. But  
17 clearly it is a correction of a direction.

18 MR. LADEN: Yes. The real answer is no.  
19 The directions needed to be corrected and obviously  
20 our street is a one-way --

21 (Brief Interruption.)

22 (Whereupon, at 11:05 a.m., the hearing was  
23 recessed and resumed at 11:20 a.m.)

24 CHAIRPERSON GRIFFIS: All right. I would  
25 ask that we resume the meeting, and if I could have

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1 everyone's attention. I don't think that it is  
2 coincidental that the President has just pulled away  
3 and all of a sudden our sound system is back up.

4 But I am not a suspicious person. Mr.  
5 Laden. if you wouldn't mind continuing where you have  
6 left off, going through the questions that were  
7 submitted as cross-examination.

8 MR. LADEN: Yes, thank you. I believe  
9 that the question that we were interrupted on is who  
10 reviewed the transportation plan, and what are their  
11 qualifications. Please describe each person's role in  
12 preparing the response.

13 CHAIRPERSON GRIFFIS: And if you would, I  
14 would ask you just to be concise about your procedures  
15 in putting together a memo regarding an application,  
16 unless you have specific things that you want to  
17 evidence on this.

18 Okay. I plan to go through this fairly  
19 quickly, and if you have any clarifying questions, I  
20 will be happy to answer them.

21 CHAIRPERSON GRIFFIS: Okay. The first  
22 individual involved in the case was a Mr. Abdullah  
23 Bah. He is a transportation engineer in our office.  
24 He has 26 years of experience as a transportation  
25 engineer, and it was his responsibility to review the

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1 transportation plan submitted by the applicant, and  
2 prepare the response from our agency.

3 I was the other individual involved, and  
4 my name is Kenneth Laden, and again I am the associate  
5 director for transportation policy and planning.

6 CHAIRPERSON GRIFFIS: Very well.

7 MR. LADEN: I have 26 years of government  
8 experience and six years as supervisor of the  
9 transportation policy division. My role was to review  
10 and sign the September 26th response which went to the  
11 Board of Zoning Adjustment.

12 Typically I will leave it up to my staff  
13 to review the cases and bring to me any additional  
14 information they think is relevant. And again this  
15 case was -- we were sort of asked -- I think it was in  
16 late August -- to review the transportation plan.

17 The transportation plan was submitted to  
18 us on September 10, and we submitted a response back  
19 on September 26th. So there was not a lot of time to  
20 review and we did the best that we could within the  
21 time frame that we had.

22 The next question is on what facts or  
23 reports did DDOT rely to make an assertion that the  
24 valet parking plan as suggested by the applicant is  
25 used in New York or Boston and works beautifully.

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1                   What does the qualitative term "works  
2 beautifully" mean? In checking with the staff person  
3 that prepared the report, which I signed, the comment  
4 was based upon his personal experience in traveling to  
5 Boston and New York, where a similar kind of valet  
6 parking arrangement was available for guests at a bed  
7 and breakfast.

8                   And again I could state that I have had  
9 similar experiences in staying at different locations  
10 where parking is at a premium, and there is not  
11 available on-site parking.

12                   What we meant by the qualitative term of  
13 "works beautifully" is that the valet parking provided  
14 for the safe storage of vehicles in a congested urban  
15 area, where a guest might not be familiar with what  
16 kinds of alternatives are available.

17                   So that was part of the general context in  
18 which this comment was made, and it was not based upon  
19 any extensive studies, or reports, or further  
20 documentation. The next question is did you measure  
21 the distance between the door of the garage and the  
22 sidewalk. What is the distance.

23                   What is the width and height of the brick  
24 opening leading to the garage, and what is the size of  
25 an average passenger car, length and width, and what

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1 is the height of a standard van in a 16 foot delivery  
2 truck. I believe I have perhaps consolidated a couple  
3 of questions there, but here we go.

4 CHAIRPERSON GRIFFIS: Yes.

5 MR. LADEN: The distance from the garage  
6 door to the near edge of the sidewalk is 9 feet, 3  
7 inches. The width of the garage door itself is 13  
8 feet, 6 inches. However, the brick entrance at the  
9 edge of the sidewalk leading to the garage area is  
10 only 8 feet, 9 inches wide.

11 The height of the door on the garage is 8  
12 feet, 5 inches, and again the height of the brick  
13 opening is infinite. There is no roof or top  
14 structure on that that would block or in any way limit  
15 the height.

16 We went out and measured some delivery  
17 vans, and I also contacted U-haul to see what their  
18 van length was, figuring that was sort of a typical  
19 situation. In our measurement of various vans, we  
20 found that the average delivery van was approximately  
21 17 feet long, 6 feet, 3 inches wide, and 7 feet, 3  
22 inches tall.

23 An average 16 foot delivery truck -- and  
24 again we found that U-haul measured the capacity of  
25 the storage area at 16 feet. So the truck itself was

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1 20 feet in length, although again I think the body  
2 might be the same on a 16 foot.

3 But the dimensions we came up with were  
4 again 20 feet long for the 16 foot truck, and 7 feet,  
5 7 inches wide, and 9 feet, 10 inches tall. An average  
6 passenger car -- and again we measured a couple --  
7 were 17 feet long, and 6 feet, 3 inches wide.

8 The next question was in your experience  
9 how many minutes before an event such as a wedding do  
10 people arrive. Assuming 50 guests, how many cars  
11 would arrive for that event, and how many minutes  
12 would they arrive before the event.

13 How would they most likely be staged in  
14 their arrival time? Again, this is my personal  
15 opinion based upon past experience and in discussions  
16 with others, and I would come to the conclusion that  
17 guests would normally arrive up to 30 minutes before a  
18 wedding, or a similar type of an event, with most  
19 guests arriving 10 to 15 minutes before the event.

20 That may be adjusted slightly and that if  
21 guests have received notices that parking is an issue  
22 and they need time to plan for dropping a car at a  
23 garage, and getting people to and from that location.

24 And one might expect that people for that kind of a  
25 situation would perhaps arrive a little bit earlier.

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1 I know that my wife would have me arriving  
2 a little bit earlier if that were a requirement. I  
3 would anticipate with that kind of event, with 50  
4 guests as provided in the hypothetical here, that  
5 there would be approximately 30 to 35 vehicles, and  
6 that again I think that most weddings, or those types  
7 of events, people would arrive as couples or families.

8 So I am being generous I think in saying  
9 30 to 35. I am being conservative perhaps. Again,  
10 assuming that one-third or 10 to 12 of the vehicles  
11 would be arriving 15 to 30 minutes before the event,  
12 and the remaining two-thirds, or 20 to 23 vehicles,  
13 would be arriving 5 to 15 minutes before the event --  
14 and again one would hope that if you were given  
15 instructions about what the parking situation was at a  
16 location like this, you would perhaps adjust your time  
17 frame accordingly.

18 But I tried to provide what might be the  
19 worst case scenario. The next question is at the  
20 conclusion of an event how many cars would be expected  
21 to depart the event, and what would their staging be.

22 Here again in this particular instance, I  
23 don't think the plan was to have cars parked at or  
24 necessarily adjacent to the property. So I think what  
25 we are really talking about is what are the departure

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1 sequences, and how would people get to wherever their  
2 cars were parked, whether they were on the street, or  
3 whether they are at the recommended parking garage.

4 CHAIRPERSON GRIFFIS: But clearly I think  
5 the question is going to -- and common sense would  
6 tell you, that when the event is over that you would  
7 have all those people exiting the facility.

8 MR. LADEN: Correct.

9 CHAIRPERSON GRIFFIS: Okay.

10 MR. LADEN: But again my personal --

11 CHAIRPERSON GRIFFIS: And your point is  
12 that they are not all parked all right there on the  
13 block, and so they are not all getting into cars.  
14 They may be parked down at the garage. They may walk  
15 wherever there are other cars.

16 MR. LADEN: Correct.

17 CHAIRPERSON GRIFFIS: And also I found  
18 that for these types of events not everybody  
19 necessarily departs at the exact moment the event is  
20 over. We just recently attended a wedding where some  
21 of the guests departed after the wedding services and  
22 did not stay for the reception.

23 Others stayed for the reception, and left  
24 right after dinner. Others left right after the cake,  
25 and others stayed ot dance.

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1 CHAIRPERSON GRIFFIS: We can count on one  
2 car and some rice leaving the facility.

3 MR. LADEN: Yes, it is spread. Correct.  
4 So it may not be as bunched up as one might think.  
5 Departure could be more spread out, again depending on  
6 the type of event.

7 CHAIRPERSON GRIFFIS: I see. The next  
8 question which I think is important to go to, and that  
9 is the bus stop. What is the impact of that bus stop  
10 being adjacent to the property?

11 MR. LADEN: With the bus stop adjacent to  
12 the property on 16th Street, that is not available for  
13 standing, stopping, parking.

14 CHAIRPERSON GRIFFIS: Okay. So that  
15 limits in fact the availability of any sort of loading  
16 and unloading on the 16th Street side; is that  
17 correct?

18 MR. LADEN: It would be prohibited.

19 CHAIRPERSON GRIFFIS: Right.

20 MR. LADEN: I think that deals with the  
21 two questions that I had next.

22 CHAIRPERSON GRIFFIS: Yes.

23 MR. LADEN: And the next question I have  
24 on my list is with regards to Riggs Place. What are  
25 the specific parking and traffic rules on the street,

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1 and specifically on the side of the applicant's  
2 property.

3 There is on parking from the corner of  
4 Riggs and 16th Street, west on the north side of Riggs  
5 Street for approximately 30 feet due to just the  
6 intersection stand-off area.

7 On the north side of the street, there is  
8 then a residential parking permit availability from  
9 7:00 a.m. to 8:30 p.m., which would allow non-  
10 residents or non-stickered residents up to two hours  
11 of parking. That runs again from 30 feet from the  
12 intersection of 16th Street up to the entrance to the  
13 garage on the property.

14 Residential permit parking is also  
15 provided on the south side of Riggs Place, and the  
16 north side of Riggs place contains parking  
17 restrictions on Tuesday, from 9:30 a.m. until 11:30  
18 a.m. to offer mechanical street sweeping.

19 And a similar restriction exists on the  
20 north side of Riggs Place on Mondays, from 9:30 a.m.,  
21 until 11:30 a.m. The next question is that assuming  
22 that one space in the garage is not available for  
23 parking, what is DTOT's view of the delivery plan?

24 Where would the vans be expected to stop  
25 and make deliveries, and what are the implications on

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1 parking and traffic flow. The delivery van would  
2 present short term parking problems if the garage is  
3 not available.

4 DDOT would not recommend that delivery  
5 vans block the roadway, the alley, or a sidewalk  
6 during deliveries. The applicant should consider  
7 perhaps seeking a no-parking loading zone restriction  
8 on that portion of Riggs Place adjacent to their  
9 property.

10 However, again we think that the applicant  
11 could manage their garage space so that that would not  
12 be required, again for routine bed and breakfast kinds  
13 of operations.

14 And I was asked during the break to  
15 perhaps clarify what I meant by a routine bed and  
16 breakfast operations. And in this particular case,  
17 given the description of the property and its  
18 function, what I was referring to there was guests  
19 arriving and guests checking out, and also the  
20 delivery of their breakfast supplies -- pastries,  
21 whatever other groceries or other items were needed.

22 It is my understanding that the laundry  
23 operations were going to be conducted on site, and  
24 that there would not be other kinds of deliveries  
25 other than occasional repair trucks, et cetera, that

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1 may be required.

2 So basically we are talking about the  
3 checking in and checking out of guests, and deliveries  
4 related to their breakfast operations. Okay. The  
5 next question is in your experience with valet  
6 parking, how do cars arrive at the site. Do they  
7 arrive one at a time, or together in blocks of time.

8 Depending on the type of event, cars tend  
9 to arrive in groups close to the time that the event  
10 is scheduled to start. Again, given the instructions  
11 that would theoretically be given to persons coming  
12 for special events, they would hopefully adjust their  
13 times to be a little bit earlier. But that I think is  
14 the normal tendency.

15 The next question is what in the valet  
16 parking plan dealing with how cars will be handled  
17 when they arrive leads you to believe that the plan  
18 will work beautifully.

19 Again, I think as we said earlier, that  
20 comment we think was meant to indicate that for many  
21 restaurants or other kinds of special events  
22 throughout the city, valet parking can provide an  
23 effective way to park guest vehicles.

24 And we also understand that we have  
25 perhaps heard that the applicant may or may not be

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1 revising their plans as to how they are going to  
2 operate the valet parking.

3 But given the facts that we had in front  
4 of us, we feel that it can be a successful approach,  
5 although as we will get into I think later, a little  
6 bit later in our comments here, there are some  
7 potential issues here with respect to some types of  
8 events that they may be sponsoring.

9 The next question is if two valet parking  
10 staff are working, and three cars arrive together, how  
11 long will it take the staff to find parking spaces in  
12 the Dupont Circle neighborhood.

13 CHAIRPERSON GRIFFIS: Sounds like a  
14 question that I had on the LSATs. I think let's look  
15 at the 21, 22. and 23 combined, because I think it is  
16 going to the point of how is this going to operate. I  
17 don't want you to speculate if you have two valets and  
18 six cars show up. That does not get us anywhere.

19 MR. LADEN: Correct.

20 CHAIRPERSON GRIFFIS: But the basis is  
21 that you obviously understand the substance of the  
22 question is. Where are these cars pulling up and how  
23 are they going to move them quickly.

24 MR. LADEN: Yes. The valet parking is an  
25 issue, and I think looking at this a second time, we

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1 feel that there may be come concerns here. Again, the  
2 logistics are that if more than two or three cars  
3 arrive at the same time, it is going to take a valet  
4 parker at least 15 minutes to drive the car to the  
5 Atlantic Parking Garage, and walk back or run back to  
6 collect the next car.

7 I am not going to assume that they can  
8 find curb side space any faster than that, than  
9 perhaps under unique circumstances during specific  
10 times of day.

11 CHAIRPERSON GRIFFIS: But often these  
12 valet parkings might or would have a manager that is  
13 there and then several attendants, and not just 2 or  
14 3.

15 MR. LADEN: Correct.

16 CHAIRPERSON GRIFFIS: Okay.

17 MR. LADEN: Correct, but in any event,  
18 there is a likelihood that with large events that the  
19 way the cars arrive could overwhelm a valet parking  
20 operation.

21 So therefore I think that if we were  
22 consulted as to what alternative solutions we would  
23 recommend, I think we would suggest that guests to  
24 special events in particular be required to do their  
25 own parking, and then use a shuttle service to come

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1 back to or walk back to the mansion, rather than rely  
2 upon a valet service as the primary method for  
3 handling that.

4 CHAIRPERSON GRIFFIS: So programmatically  
5 if I understand what you are saying, you could  
6 conceivably have someone there in front of the  
7 building as people pull off directing people to the  
8 parking garage, and then there would be a van that  
9 would shuttle people back up to the facility.

10 MR. LADEN: Correct, and I think in the  
11 correspondence that we saw from the Atlantic Parking  
12 Garage that they were prepared to enter into a  
13 contract with it, that they would provide a shuttle  
14 service coming back.

15 And again it is about a 7 or 8 block walk  
16 back, which is not unheard of, but I think it would be  
17 better to have as many cars as possible be responsible  
18 for parking themselves after having dropped off their  
19 guests.

20 CHAIRPERSON GRIFFIS: All right. And  
21 quickly did you look at where the van was supposed to  
22 drop those people off?

23 MR. LADEN: No, we did not. Again, we  
24 assumed that any sort of a van drop-off would occur in  
25 the garage area, and that the applicant would keep

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1 that garage area clear when they have special events,  
2 so that the van could use it exclusively.

3 CHAIRPERSON GRIFFIS: Okay.

4 MR. LADEN: Also, I did want to indicate  
5 that again because we did received these questions by  
6 fax from a party other than the opponent, and I wasn't  
7 sure whether in fact these were the only questions  
8 that the Board had or the opponents had, while I do  
9 have their responses here in draft form, I am prepared  
10 to complete them and forward them to the board this  
11 afternoon.

12 CHAIRPERSON GRIFFIS: That would be  
13 tremendous. I think that is exactly what you can do,  
14 and if you wouldn't mind distributing it to the Office  
15 of Planning at the same time. I would ask if it is  
16 not overburdening the Office of Planning to distribute  
17 it to all the parties and applicant so that every one  
18 has copies of their responses that we have just heard  
19 today.

20 Is there anything further that you have,  
21 Mr. Laden, at this time?

22 MR. LADEN: No, sir.

23 CHAIRPERSON GRIFFIS: Okay. There was --  
24 and in addition, I absolutely appreciate the time that  
25 you took to go through all of those and I think that

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1 those were excellent questions that have given the  
2 Board quite a lot of information.

3 We have the additional board members'  
4 submission by Ann Alvarez,, which I think in many  
5 respects ask the questions and answers them. I have  
6 proceeded through these and do not see any additional  
7 information that has not been already covered in the  
8 first two submissions of questions. Are there board  
9 questions for Mr. Laden at this time?

10 VICE CHAIRPERSON RENSHAW: Mr. Laden, you  
11 stated earlier that some special events could have  
12 degradation of the neighborhood. What kinds of events  
13 do you foresee would have that effect? Would it be  
14 the number of people or type of events, or both?

15 MR. LADEN: I was looking at it strictly  
16 from the transportation aspects and that would relate  
17 to the number of people arriving by automobile in a  
18 short period of time, and the congestion that might  
19 cause.

20 VICE CHAIRPERSON RENSHAW: All right.  
21 Thank you.

22 MEMBER ZAIDAIN: Just to touch on your  
23 responses to the questions about the wedding, and  
24 staging, and all of that. Was that just pretty much  
25 antidotal evidence that you were using, in terms of

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1 maybe even you attending weddings or whatever?

2 Or was there some sort of transportation  
3 manual or standards that you have used in terms of  
4 looking at that?

5 MR. LADEN: Strictly antidotal.

6 MEMBER ZAIDAIN: Okay.

7 CHAIRPERSON GRIFFIS:

8 MR. HANNAHAM: Very well. Does the  
9 applicant have any cross-examination of Mr. Laden?

10 MS. GIORDANO: No questions.

11 CHAIRPERSON GRIFFIS: No questions. Very  
12 well. Is the ANC representative here today? Oh,  
13 that's right. We let him loose to go Australia; is  
14 that correct? And we are expecting gifts when he  
15 returns.

16 Okay. Going down the order then, the  
17 Residential Action Coalition, Ms. Hubbard, did you  
18 have cross-examination?

19 MS. HUBBARD: Yes.

20 CHAIRPERSON GRIFFIS: Okay. And let me  
21 just -- while you come to the table, I am assuming  
22 that the -- and I will ask the other parties, but I am  
23 assuming that a lot of the questions that you were  
24 going to pose have been answered, and if there is  
25 brief follow-ups, I would certainly entertain that.

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1 But I would ask you to be succinct.

2 MS. HUBBARD: I am Harriett B. Hubbard,  
3 representing the Residential Action Coalition. Mr.  
4 Laden, earlier in your testimony you described the  
5 neighborhood and as you examined it, and you referred  
6 to the parking that abutted the alley as you go north  
7 from Riggs Place towards the street, and that was  
8 perhaps on the eastside there, behind the apartment  
9 buildings. Is that where you saw it?

10 MR. LADEN: What we did is we went up the  
11 alley to the north and down the alley to the south,  
12 and looked at all of the parking, and all of the  
13 garage spaces that we could see running from 16th to  
14 17th Street.

15 MS. HUBBARD: What about parking that is  
16 on open space behind buildings as you go north, did  
17 you notice any parking there behind buildings?

18 MR. LADEN: Yes, we did count spaces  
19 behind buildings. Again, I think as I mentioned in my  
20 testimony, it wasn't clear in that we didn't have  
21 property maps with us as to whether that was alley  
22 space or whether that was private property space  
23 behind those buildings.

24 CHAIRPERSON GRIFFIS: And that is what you  
25 illustrated as some of the stacked parking?

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1 MR. LADEN: Exactly.

2 CHAIRPERSON GRIFFIS: And you weren't  
3 clear where the property line was. Okay.

4 MR. LADEN: Correct.

5 MS. HUBBARD: All right. Now, let me ask  
6 you something, Mr. Laden. Were you aware of an  
7 apartment building on the edge of S and 16th at the  
8 end of the alley that is being remodeled, and that is  
9 where you saw the stacked parking?

10 MR. LADEN: I'm sorry, that would be --

11 MS. HUBBARD: On the corner of S and 16th.

12 MR. LADEN: That would be north of the  
13 property?

14 MS. HUBBARD: That would be north of the  
15 property.

16 MR. LADEN: Well, there were several  
17 different properties there that appeared to be in  
18 innovation, and I did notice that there were several  
19 properties --

20 MS. HUBBARD: That particular one I am  
21 talking about.

22 MR. LADEN: Well, again, I remember that  
23 there were several apartment buildings that appeared  
24 to have access off of the alley, and I don't remember  
25 a specific apartment building that had repair work

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1 going on, although there were a number of repair  
2 trucks in the alleys and on the streets on Riggs  
3 Place. So I am not sure which specific building you  
4 are talking about.

5 MS. HUBBARD: Now, if you are not sure of  
6 what specific building you are talking about, I would  
7 be willing to furnish the address and the description  
8 myself, Mr. Griffis.

9 CHAIRPERSON GRIFFIS: To what purpose?

10 MS. HUBBARD: So that I could -- he  
11 referred to something he says is a fact, and that he  
12 saw it as parking, and then he says he can't identify  
13 exactly where it is.

14 CHAIRPERSON GRIFFIS: But he didn't --

15 (Brief Interruption.)

16 CHAIRPERSON GRIFFIS: Okay. The issue  
17 that we were talking about. Mr. Laden had talked  
18 about the condition in the alley and the stacked  
19 parking, but he did not give testimony that it was  
20 attendant to any specific property.

21 In fact, his testimony is the fact that he  
22 was not sure where property lines were and so he could  
23 not identify --

24 MS. HUBBARD: Well, I can refer to that  
25 then as a fact myself.

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1 CHAIRPERSON GRIFFIS: But there is no fact  
2 to refute. I think you made a point, that he was not  
3 aware of the apartment.

4 MS. HUBBARD: All right. Now, let me ask  
5 you something. Is stacked parking legal in the  
6 District?

7 CHAIRPERSON GRIFFIS: And that is  
8 redundant, and in fact --

9 MS. HUBBARD: No, it's not. Mr. Griffis,  
10 please, he did not say whether or not it was legal  
11 parking. I am asking him if it was, and he is the one  
12 that is the traffic expert and is supposed to be able  
13 to tell me.

14 CHAIRPERSON GRIFFIS: Very well.

15 MS. HUBBARD: And that is what I am asking  
16 you, is stacked parking legal?

17 CHAIRPERSON GRIFFIS: If stacked parking  
18 is legal according to the Zoning Regulations.

19 MS. HUBBARD: Is that legal parking?

20 MR. LADEN: What I will need to do is go  
21 back and double-check and see what the requirements  
22 are with respect to private space. I would presume  
23 that --

24 MS. HUBBARD: It is private space.

25 MR. LADEN: -- not be allowed on public

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1 space and it may be allowed in private space under  
2 certain circumstances, but let me check with our  
3 parking regulatory folks, and our regulations, and I  
4 will include that in my comments back to the board  
5 this afternoon.

6 CHAIRPERSON GRIFFIS: Excellent. And just  
7 for clarification, Ms. Hubbard, what you are actually  
8 asking is if you have a piece of property are you  
9 allowed to cram in as many cars as possible to fit on  
10 the site. Is that correct? Those are my words.

11 MS. HUBBARD: Well, no, I am asking you if  
12 it is legal to have stacked parking.

13 CHAIRPERSON GRIFFIS: Are you clear on the  
14 question?

15 MS. HUBBARD: In the --

16 CHAIRPERSON GRIFFIS: I am asking Mr.  
17 Laden.

18 MR. LADEN: Yes, I believe so. The  
19 question I have is whether stacked parking is legal on  
20 private space.

21 CHAIRPERSON GRIFFIS: Good.

22 MS. HUBBARD: That's right.

23 CHAIRPERSON GRIFFIS: Actually, I'm sorry  
24 to interrupt you, because I want clarification on  
25 this, too, because one thing is legal, and --

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1 MS. HUBBARD: You ought to have known this  
2 by heart by now, Mr. Griffis. It is not legal.

3 CHAIRPERSON GRIFFIS: But you are not  
4 asking me the question. There is a fine line actually  
5 that just came up in the previous case, and that is,  
6 one, those may not be legal in terms of satisfying the  
7 requirement for parking in the regulations, in the  
8 zoning regulations.

9 The other second part of the question will  
10 be is it allowable for you to put cars on your private  
11 property as you wish.

12 MS. HUBBARD: No, stacked is what I am  
13 saying. Not as you wish, but as stacked.

14 CHAIRPERSON GRIFFIS: Well, that goes to  
15 the --

16 MS. HUBBARD: No, no, as you wish, that is  
17 a different thing. You might want something legal as  
18 you wish.

19 CHAIRPERSON GRIFFIS: I think you  
20 understand my point.

21 MR. LADEN: Yes, and I was going to answer  
22 the latter question.

23 CHAIRPERSON GRIFFIS: Okay.

24 MS. HUBBARD: All right.

25 MR. LADEN: Now let me ask you another

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1 thing, Mr. Laden.

2 CHAIRPERSON GRIFFIS: Your mike has gone  
3 off.

4 MS. HUBBARD: Mr. Laden, suppose for  
5 example the board in its wisdom grants this  
6 application and refers to this parking plan that you  
7 seem to think is okay as a condition.

8 Are you in a position to enforce any of  
9 these conditions in view of the fact that the Board  
10 here, and Mr. Griffis has repeated this over and over,  
11 that what he wants is a workable plan.

12 Let me ask you, Mr. Laden, whether or not  
13 you are dependent -- whether you yourself could go out  
14 and shut the place down if they were not using your  
15 traffic plan, or if you would have to rely on the  
16 police?

17 MR. LADEN: No, we would -- my office  
18 would not be responsible for shutting down the  
19 operations of that building if it were not to meet the  
20 requirements that the Board approves related to this  
21 case. We would as a department issue parking tickets  
22 if there were parking violations.

23 MS. HUBBARD: Would you do it or would the  
24 police do it?

25 MR. LADEN: I believe the Department of

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1 Transportation has -- I'm sorry, the Department of  
2 Public Works has parking enforcement staff that  
3 regularly tickets vehicles for illegal parking. Also,  
4 the Metropolitan Police Department has authority to  
5 issue tickets for parking violations.

6 CHAIRPERSON GRIFFIS: And let me follow  
7 that up with a question.

8 MS. HUBBARD: Where does your legal  
9 authority come from?

10 CHAIRPERSON GRIFFIS: Ms. Hubbard, if you  
11 don't mind, I want to follow up. The point of  
12 enforcement is always a relevant one for this Board.  
13 If in fact -- and clearly you would not be the agency  
14 that upheld or enforced a BZA order, and that would go  
15 the Zoning Administrator.

16 But if in fact there was an inspector, and  
17 there was an indication that the order was not in  
18 compliance with the facility, you would be -- and I  
19 would ask you this, but would you be available to go  
20 out with that inspector to inspect the transportation  
21 aspects of the order?

22 MR. LADEN: We could send staff out with  
23 parking enforcement or parking regulatory individuals  
24 to look at the situation and determine whether or not  
25 they are in compliance with whatever the zoning order

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1 was.

2 We have done that now on a number of cases  
3 where we worked with the ANC to monitor and if they  
4 are in agreement with the property owner.

5 CHAIRPERSON GRIFFIS: Good. So you do  
6 have a procedure for monitoring compliance.

7 MS. HUBBARD: Now, let me ask you another  
8 thing, Mr. Laden. Is your staff available on  
9 Saturdays and Sundays, and in the evening, or as with  
10 so many other regulatory agencies --

11 CHAIRPERSON GRIFFIS: Please keep them  
12 short. Are they available on Saturdays, Sundays, and  
13 holidays?

14 MS. HUBBARD: I just wanted to know if we  
15 should call you up on a Saturday night --

16 CHAIRPERSON GRIFFIS: He knows the  
17 question. You don't have to repeat it.

18 MS. HUBBARD: All right. Or a Friday.

19 CHAIRPERSON GRIFFIS: The answer to the  
20 question is what are your operating hours for people  
21 coming out?

22 MR. LADEN: With some prior notification,  
23 staff is available in the evenings and also on  
24 weekends. We do have emergency crews unavailable 24-  
25 7, but they normally wouldn't go out to a social event

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1 to see whether or not a valet parker was successfully  
2 coordinating their program.

3 But again if we were told in advance that  
4 a wedding was occurring on such and such a night, we  
5 could make arrangements perhaps to have somebody out  
6 there as long as it wasn't called during dinner time  
7 and ordered to come out.

8 CHAIRPERSON GRIFFIS: Indeed. Okay.

9 MS. HUBBARD: Now, let me ask you another  
10 question, Mr. Laden. Inasmuch as you ought to know in  
11 your capacity as a transportation administrator --

12 CHAIRPERSON GRIFFIS: Let's cut right to  
13 the question.

14 MS. HUBBARD: -- that stacked parking is  
15 illegal on private property why didn't you enforce the  
16 law and put a lot of tickets on them then?

17 CHAIRPERSON GRIFFIS: Well, that is a bit  
18 beyond the scope.

19 MS. HUBBARD: Well, I mean, he is supposed  
20 to know the law.

21 CHAIRPERSON GRIFFIS: And that is a fine  
22 discussion that you can have out in the hall. That  
23 doesn't have anything to do with our decision.

24 MS. HUBBARD: On the contrary, it does,  
25 because we are talking about a workable plan.

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1 CHAIRPERSON GRIFFIS: Okay.

2 MR. LADEN: Again, I don't have the  
3 authority to issue tickets, and just antidotally as we  
4 were there during our measurements, two parking  
5 enforcement people came through and were issuing  
6 tickets and talking to some of the people who were  
7 occupying the alley.

8 CHAIRPERSON GRIFFIS: Good. So we have  
9 established that there is enforcement in the area.  
10 Next question.

11 MS. HUBBARD: Well, that's news to me.  
12 Well, anyway, Mr. Laden, are you aware of the very  
13 last thorough and professional transportation study  
14 that has been made of this area and that was made by a  
15 nationally known firm, and considered --

16 CHAIRPERSON GRIFFIS: Be specific. Ask  
17 him so he can answer the question.

18 MS. HUBBARD: All right. It was made in  
19 1978 in Zoning Case 7624 by a nationally known traffic  
20 organization. Have you ever read that study?

21 CHAIRPERSON GRIFFIS: Are you aware of  
22 that study?

23 MR. LADEN: No, I am not aware of that  
24 study.

25 CHAIRPERSON GRIFFIS: Do you think a study

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1 done in 1978 would be timely for this application?

2 MS. HUBBARD: I certainly do since --

3 CHAIRPERSON GRIFFIS: I didn't ask you  
4 actually. I will ask you in a second, but I assume by  
5 your question that you do find it relevant. Mr.  
6 Laden, do you?

7 MR. LADEN: We would certainly need to  
8 take a look at it and see to what extent conditions  
9 might have changed over the years. It could be that  
10 the traffic conditions in this area have been fairly  
11 stagnant, or we could find that there has been  
12 significant changes.

13 So we would need to look at the numbers  
14 that were in that report and see to what extent they  
15 were -- what relationship they had with current  
16 conditions.

17 CHAIRPERSON GRIFFIS: Good. Ms. Hubbard,  
18 how big is this study?

19 MS. HUBBARD: Oh, well, it is quite big,  
20 and --

21 CHAIRPERSON GRIFFIS: Do you have copies  
22 of it?

23 MS. HUBBARD: I commissioned it and --

24 CHAIRPERSON GRIFFIS: My question is do  
25 you have a copy of it.

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1 MS. HUBBARD: I can refer to any zoning  
2 case in any hearing and it is up to you to get the  
3 copies and not me. They are right here in the office.

4 CHAIRPERSON GRIFFIS: Well said. Mr.  
5 Laden, the copies are available.

6 MS. HUBBARD: Copies are available --

7 CHAIRPERSON GRIFFIS: Next question,  
8 please.

9 MS. HUBBARD: -- in Case 7624.

10 CHAIRPERSON GRIFFIS: Okay.

11 MS. HUBBARD: All right. Now, let me ask  
12 you another thing since you referred to weddings as  
13 part of it antidotally. Have you ever been to a  
14 wedding where the bride got out of her limousine at  
15 the kitchen door?

16 CHAIRPERSON GRIFFIS: This is the one  
17 brief outside of scope tap as to your recollection of  
18 weddings, but I think it is a bigger question that you  
19 are asking. Are people actually going to be loading  
20 and unloading for weddings in the formal ceremonies in  
21 that back loading area. Is that your understanding?

22 MR. LADEN: Again, I think what we were  
23 looking at was the loading and unloading of equipment  
24 and foot supplies, and other kinds of material, well  
25 in advance of the event.

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1           And then during the course of the event,  
2 there would be shuttle service operations functionally  
3 out of that location. Now, again, individuals would  
4 be driving up and dropping off passengers presumably,  
5 and then going to the parking garage to park their  
6 cars.

7           With respect to how the bride arrives it  
8 is always kind of mysterious to me how they pop out at  
9 the end of the aisle and walk down the aisle. I  
10 assume that every facility has different arrangements  
11 as to how they manage that.

12           And I am sure that they will work out a  
13 situation here that works for them.

14           CHAIRPERSON GRIFFIS: But clearly Ms.  
15 Hubbard's question goes to the fact that -- and you  
16 have just said it, that there needs to be a program of  
17 how that happens, so that it is actually anticipated  
18 where the car and the limo will come, and where the  
19 bride and whoever else will pop out as you say.

20           MS. HUBBARD: And let me ask you again,  
21 Mr. Laden, are you aware that the applicant who drew  
22 up this parking plan actually testified here at the  
23 hearing that the bride is going to get out down there  
24 at the kitchen door, and walk up Riggs Place and  
25 around the corner, and then walk up the steps on 16th

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1 Street into the front entrance?

2 CHAIRPERSON GRIFFIS: The question, Mr.  
3 Laden, is whether he is aware of that is what was the  
4 testimony?

5 MS. HUBBARD: Yes, that was the testimony  
6 of the applicant.

7 CHAIRPERSON GRIFFIS: Yes, but that is a  
8 statement. What is the question? Is it that is what  
9 is the provision according to Ms. Hubbard of what  
10 happened?

11 MS. HUBBARD: According to the record.

12 MR. LADEN: No. I did not attend the  
13 hearing, and have not reviewed the record.

14 CHAIRPERSON GRIFFIS: Next question.

15 MS. HUBBARD: And you have not reviewed  
16 the record?

17 MR. LADEN: No.

18 MS. HUBBARD: Now, Mr. Laden, let me ask  
19 you another question. With regard to valet parking,  
20 and your antidotal evidence by another person who is  
21 not here, and that works in another city very well --

22 CHAIRPERSON GRIFFIS: We get the context.  
23 What is the question?

24 MS. HUBBARD: Well, in order for that type  
25 of evidence to be acceptable would you find -- and

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1 this is an identical situation to what the person who  
2 is not here actually saw in another city?

3 MR. LADEN: Well, again, I think what we  
4 were referring to in that one sentence in our report  
5 was that valet parking arrangements do work  
6 successfully in other jurisdictions, and at that time  
7 we thought that it could work fairly successfully at  
8 this location.

9 I think as I have indicated in my  
10 testimony today, in taking another look at it, and in  
11 reviewing it a little more carefully, we can see that  
12 a valet parking approach might present some problems.

13 And therefore we would recommend an  
14 alternate plan that would call for the individuals to  
15 drive directly to the garage perhaps after having  
16 dropped off guests.

17 CHAIRPERSON GRIFFIS: Okay. And, Mr.  
18 Laden, clearly your testimony today was that this was  
19 antidotally noticed by a person who did the memo in  
20 other urban areas, which seems to have set it up as  
21 similar.

22 But would you not agree that perhaps in  
23 the report it may well have been better served for  
24 everyone reading it if it was perhaps noted as an  
25 antidotal observance of the writer of the memo?

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1                   So     some     sort     of     note     that     this  
2     distinguishes it, because I think that is what Ms.  
3     Hubbard is going to, distinguishes it from an actual  
4     scientific, or transportation, or engineering survey?

5                   MR.    LADEN:        Absolutely.        You     are  
6     absolutely correct. It would have served us better if  
7     we had made that clear.

8                   CHAIRPERSON GRIFFIS:    Okay.    And in fact  
9     you have been giving specific references of what  
10    facilities in those different cities were.    Okay.    I  
11    think that's correct.

12                  MS.    HUBBARD:    Let me ask you one more  
13    question with regard to that.    You say that you have  
14    visited --

15                  CHAIRPERSON GRIFFIS:    Actually, I would  
16    rather not walk down that too far.    I think that --

17                  MS.    HUBBARD:    Well, if he is going to say  
18    if that has anything to do with the hearing.

19                  CHAIRPERSON GRIFFIS:    I said what I have  
20    just said is that probably it doesn't.

21                  MS.    HUBBARD:    I just want to ask you this  
22    because this is referring to the applicant's  
23    submission with regard to parking.

24                  CHAIRPERSON GRIFFIS:    Okay.

25                  MS.    HUBBARD:    It says here on page -- on

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1 Attachment C, that after you get out of your car, it  
2 says turn into the first driveway on the right and  
3 pull forward into the garage. That is on the Riggs  
4 Place side. This is the parking.

5 "After you get our of your car, proceed to  
6 the second side entrance door, door entrance, back  
7 towards 16th Street, and ring the bell. After you  
8 have checked in, we will send a staff person to  
9 collect your luggage and valet park your car."

10 "There is no on-site parking at the  
11 Tutorsky Mansion. However, we do have off-site  
12 parking arranged at a nearby commercial garage," and  
13 so forth.

14 Now, did you ever visit a bed and  
15 breakfast where they had an arrangement where you went  
16 into a garage and you walked around the corner and  
17 rang the bell, and then they went and got your  
18 luggage, and then they took your car to a valet  
19 parking garage?

20 Have you ever visited an apartment where  
21 you had --

22 CHAIRPERSON GRIFFIS: The question is  
23 clear. Mr. Laden, the answer?

24 MR. LADEN: Yes.

25 MS. HUBBARD: Where?

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1                   MR. LADEN:        One instance that is  
2 particularly memorable was in Pusitano, Italy, where I  
3 had to park in a very small alcove, and run up two  
4 flights of stairs to get the porter to come down, and  
5 collect our bags.

6                   And he had to run up two flights of stairs  
7 with the bags, and come back down, and park the rental  
8 car in a garage some distance from the hotel.

9                   CHAIRPERSON GRIFFIS: Is that in an urban  
10 area?

11                  MR. LADEN: I guess you could call it an  
12 urban area, yes. It is an Italian city. I have had  
13 other experiences in Italy and the U.S. where the  
14 parking facility has been some distance from the hotel  
15 or the bed and breakfast.

16                  CHAIRPERSON GRIFFIS: Okay. Who regrets  
17 being here on a cold Washington rainy day.

18                  MS. HUBBARD: Well, I will tell you that I  
19 have been to bed and breakfasts, and I would like to  
20 testify with regard to this myself antidotally.

21                  CHAIRPERSON GRIFFIS: If you don't mind,  
22 just direct questions to Mr. Laden at this point.

23                  MS. HUBBARD: All right. Now, let me see.  
24 I have some other little questions here with regard  
25 to the submission that they put in.

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1 CHAIRPERSON GRIFFIS: With the DDOT  
2 submission?

3 MS. HUBBARD: No, this is the submission  
4 by the applicant.

5 CHAIRPERSON GRIFFIS: Okay. But you are  
6 going to need to tie it directly to the testimony that  
7 you have just heard, or the memo that was submitted by  
8 Mr. Laden.

9 MS. HUBBARD: Remember that Mr. Laden is  
10 referring to the applicant's submission.

11 CHAIRPERSON GRIFFIS: I will give you  
12 directions.

13 MS. HUBBARD: And so I asking or taking up  
14 questions that he didn't take up. Let me ask you  
15 another question here, Mr. Laden. If you had a  
16 condominium use instead of --

17 CHAIRPERSON GRIFFIS: Was it what the  
18 applicant discussed, or was there an alternative use  
19 to this?

20 MR. LADEN: No, I believe the instructions  
21 that we had from the Board were to look at the  
22 transportation plan and to comment on it.

23 CHAIRPERSON GRIFFIS: Okay.

24 MS. HUBBARD: Well, I do believe that this  
25 is very relevant to this case, and that this question

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1 be answered by them, because the rule for a variance  
2 is -- well, you may say not, but look, the rule for a  
3 variance is that the matter of right use that he has  
4 already got would be less harmful to the neighborhood  
5 than what he is proposing. Remember, you are under  
6 the --

7 CHAIRPERSON GRIFFIS: Okay. I am going to  
8 give you --

9 MS. HUBBARD: You are supposed to have the  
10 most restrictive interpretative --

11 CHAIRPERSON GRIFFIS: You can't get an  
12 answer unless you let me talk.

13 MS. HUBBARD: All right. Well, let me  
14 talk, or you are supposed to have the most restrictive  
15 interpretation, and we want you to be right. So ask  
16 him that question yourself --

17 VICE CHAIRPERSON RENSHAW: Ms. Hubbard,  
18 what is your question, please.

19 MS. HUBBARD: Whether the matter of right  
20 use for a condominium or apartment houses would  
21 produce less traffic than a bed and breakfast with  
22 weddings and so forth.

23 CHAIRPERSON GRIFFIS: Can you answer that  
24 right now on the record, Mr. Laden? Do you know how  
25 many condos could fit into that building?

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1 Do you know what the parking requirements  
2 are for condos on an estimated number of units in that  
3 building would be?

4 MS. HUBBARD: None.

5 MR. LADEN: Not off the top of my head,  
6 and again I don't know what the nature is of how many  
7 condominiums would be in a building of this size.

8 CHAIRPERSON GRIFFIS: Okay. I understand  
9 where you are going, Ms. Hubbard, but I don't think he  
10 can answer it.

11 MS. HUBBARD: Well, the thing is that he  
12 knows that in historic districts that no parking is  
13 required if you alter a building.

14 CHAIRPERSON GRIFFIS: That is very well  
15 said, but you are asking about the impact. What would  
16 the impact on the traffic be, Mr. Laden, and can you  
17 answer if 10 condominiums were built in that building?

18 MS. HUBBARD: Ten?

19 CHAIRPERSON GRIFFIS: How many do you  
20 want, Ms. Hubbard?

21 MS. HUBBARD: I would say five.

22 CHAIRPERSON GRIFFIS: We had testimony  
23 actually by one of the parties that indicated that  
24 they could fit 9 to 10 units in that building.

25 MS. HUBBARD: It could, but he could also

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1 fit five.

2 CHAIRPERSON GRIFFIS: Yes, but if you are  
3 a developer wouldn't you do maximum best use? I  
4 would, and so therefore if it is 10 units can you  
5 assess the traffic and parking impact on that area?

6 MR. LADEN: Well, again, we would --

7 CHAIRPERSON GRIFFIS: I wouldn't  
8 speculate. It is either yes or no. If you can answer  
9 it, I will have you answer it.

10 MR. LADEN: No, I can't answer that right  
11 now. I would need to do some further investigations.

12 CHAIRPERSON GRIFFIS: And I think you  
13 would need further investigation. I think you would  
14 need in fact a fairly in depth look at the impact of  
15 that, Ms. Hubbard.

16 MS. HUBBARD: All right. Let me ask you  
17 another question. Are you aware, Mr. Laden, that any  
18 plan that is submitted by the applicant is forever,  
19 because it goes with the variance?

20 In other words, 20 years from now after  
21 Mr. Gonzalez is dead that will still be --

22 CHAIRPERSON GRIFFIS: Twenty years? Have  
23 you seen this man? He is living for more than 20, but  
24 the point is well taken. Mr. Laden.

25 MS. HUBBARD: Maybe he hasn't got as good

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1 genes as I have, but who knows.

2 CHAIRPERSON GRIFFIS: Indeed. We all hope  
3 we do. Mr. Laden, the point that Ms. Hubbard is  
4 asking you is are you aware that this variance runs  
5 with the property and not the owner?

6 MR. LADEN: Yes.

7 CHAIRPERSON GRIFFIS: Okay.

8 MS. HUBBARD: In other words, you are  
9 willing --

10 CHAIRPERSON GRIFFIS: No, no. He is  
11 aware.

12 MS. HUBBARD: After you are dead, it is  
13 going to go on?

14 CHAIRPERSON GRIFFIS: He is clear, and the  
15 board is clear. Next question.

16 MS. HUBBARD: Well, I just wanted to know.  
17 You talked about a workable plan.

18 CHAIRPERSON GRIFFIS: I need the next  
19 question.

20 MS. HUBBARD: Okay. A workable plan.

21 CHAIRPERSON GRIFFIS: I need the next  
22 question.

23 MS. HUBBARD: Well, I'll tell you what.  
24 That's all I've got.

25 CHAIRPERSON GRIFFIS: Thank you very much,

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1 Ms. Hubbard. It was very well done and good  
2 information. Other parties that did not have -- yes,  
3 come forward, and let's move this along.

4 And if you would just state for the record  
5 your name.

6 MR. JADIN: I am Ken Jadin, an S Street  
7 party.

8 CHAIRPERSON GRIFFIS: Okay. And, Mr.  
9 Jadin, you did submit written questions?

10 MR. JADIN: Yes, I did. So I think these  
11 are a follow-up to his testimony.

12 CHAIRPERSON GRIFFIS: Fabulous.

13 MR. JADIN: Okay. The first is that you  
14 cited 90 private public spaces off the alleys  
15 bordering Riggs Place, and 42 on Riggs Place. So  
16 would you consider then blocking access to the alley  
17 an adverse impact on the residential neighborhood?

18 MR. LADEN: Yes.

19 MR. JADIN: Now, you seem to indicate that  
20 you think that the normal operations of the bed and  
21 breakfast don't present traffic problems, but the  
22 events do. Is that correct?

23 MR. LADEN: I think my testimony was that  
24 routine bed and breakfast guest arrivals, and routine  
25 deliveries for a small bed and breakfast could be

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1 managed if the applicant properly coordinates his  
2 garage space usage, and that for special events that  
3 the available space would probably be challenged by  
4 the number of cars coming in.

5 MR. JADIN: Okay. So for the normal bed  
6 and breakfast here, the applicant is asking for 10  
7 rooms. Does that meet your definition of a small bed  
8 and breakfast?

9 MR. LADEN: Yes, it would.

10 MR. JADIN: And the way this operation,  
11 the operation of a bed and breakfast, don't you think  
12 that the loading and unloading, and transfer of the  
13 people and luggage from cars, is an inherent part of  
14 operating this business?

15 That this is a business that requires  
16 vehicular access, more certainly than a typical  
17 residence in a neighborhood?

18 MR. LADEN: Yes.

19 MR. JADIN: And the only place that the  
20 property or the current property has to operate this  
21 is this garage, right?

22 MR. LADEN: Yes.

23 MR. JADIN: So you are anticipating that  
24 all of the activity of a bed and breakfast, and its  
25 normal operations, could be handled in this garage?

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1 CHAIRPERSON GRIFFIS: It is somewhat  
2 redundant. He has addressed this, and asking the  
3 question more does not necessarily mean that the  
4 answer is going to be different.

5 MR. JADIN: Okay. So then I will ask some  
6 specifics about the garage.

7 CHAIRPERSON GRIFFIS: As long as we have  
8 not covered them.

9 MR. JADIN: He has not covered it. The  
10 applicant has stated that he is going to have guest  
11 parking in the garage, and that in fact it is not in  
12 his transportation, but that in previous testimony, he  
13 said that as the owner of the property that he is  
14 going to be parking his vehicle in the garage.

15 And if a vehicle is parked in the garage  
16 perpendicular to the alley, and it is typically 16  
17 feet long, how far is it going to intrude into the  
18 access way of any vehicle trying to enter from Riggs  
19 Place?

20 CHAIRPERSON GRIFFIS: Actually, why don't  
21 you tell him the dimension in your question, and ask  
22 him if he believes that is correct. How far is it  
23 going to intrude?

24 MR. JADIN: Would you concede that this is  
25 11 feet here?

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1 CHAIRPERSON GRIFFIS: You are pointing to  
2 what?

3 MR. JADIN: I am pointing to the garage  
4 plan that was in the applicant's transportation plan.

5 CHAIRPERSON GRIFFIS: Okay.

6 MR. JADIN: That is a vehicle was parked  
7 in here, how far would it block the access from  
8 somebody coming that way.

9 MR. LADEN: Well, again, we looked, and we  
10 did not have access to the carriage house to measure  
11 dimensions inside. What we looked at were the various  
12 openings that were available from the street and from  
13 the alley into the garage facility.

14 And again what we assumed was that if a  
15 car was able to pull into the driveway from Riggs  
16 Place, they would need to pull in far enough that they  
17 would not be blocking the sidewalk.

18 There is a little over 9 feet there, and  
19 so they would probably need to pull at least another 7  
20 or 8 feet into the garage space in order to not be  
21 blocking that sidewalk on Riggs.

22 CHAIRPERSON GRIFFIS: So clearly if a car  
23 was parked in the garage or a vehicle was marked in a  
24 garage, another one could not come in without  
25 projecting on to the sidewalk?

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1 MR. LADEN: Correct.

2 MR. JADIN: And then if a shuttle were  
3 arriving when there is a car driving in there, how  
4 would the shuttle get into the garage?

5 MR. LADEN: Again, I think as we stated,  
6 that if there is another car parked in the garage, the  
7 drop-off or shuttle service probably would not work  
8 effectively. So we recommend that again the applicant  
9 would have the ability to control that garage space,  
10 and make sure that was not happening during arrival  
11 times for special events.

12 MR. JADIN: Well, do you think -- and I  
13 get to the management of this. If there is any other  
14 vehicle in the garage can there be any maneuvering of  
15 any other vehicle? Like, for instance, do you think  
16 that a car can get out the alley entrance, or a van  
17 can get out of the alley entrance, which their  
18 certified engineer or civil engineer, says it is 13  
19 feet wide?

20 MR. LADEN: Well, again, we did look at  
21 the alley space and measured that, and we did look at  
22 the garage door opening on to the alley, but our  
23 assumption was, and our recommendation would be, that  
24 the deliveries and the shuttle service would operate  
25 primarily out of the garage entrance from Riggs Place,

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1 rather than the alley, and again we would recommend  
2 that the carriage house or garage area just be used  
3 for one operation at a time, and not be used for  
4 parking, as well as loading and unloading, in order to  
5 make sure that there was adequate space.

6 MR. JADIN: And so all vehicular access to  
7 the property, your recommendation is that these  
8 service vehicles would be backing into this garage; is  
9 that correct?

10 MR. LADEN: I think our testimony was that  
11 the safer of the two options available would be for  
12 the shuttle bus driver or the delivery person to back  
13 into that space so that they would have better sight  
14 distance or better sight lines pulling out.

15 MR. JADIN: And what effect of vehicles  
16 backing in to driveways, what effect does that have on  
17 traffic flow?

18 MR. LADEN: It could cause traffic to  
19 pause briefly, just as you would if you were backing  
20 into a parallel parking space on that street. About  
21 the same length of time.

22 MR. JADIN: Okay. You suggested if I  
23 heard correctly that the applicant consider an  
24 application for a loading and unloading zone in front  
25 of the property?

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1 MR. LADEN: I think what we said was that  
2 there was limited curb space there given the current  
3 residential permit parking regulations. There was no  
4 availability for parking on the north side. I'm  
5 sorry, on the 16th Street side.

6 And that again I think that the operation  
7 of the loading and unloading of gas, and the loading  
8 and unloading of deliveries related to the operation  
9 of the 11 room bed and breakfast, while it could be  
10 managed out of the garage if properly coordinated, it  
11 probably would not operate successfully given certain  
12 kinds of events that would have a number of guests  
13 arriving at the same time.

14 And that another alternative would be to  
15 create a loading zone that would allow for a certain  
16 number of minutes for vehicles to stand and load or  
17 unload, as perhaps another mechanism for dealing with  
18 the requirements of this property.

19 MR. JADIN: Do you think that if that in  
20 fact happened, the loading and unloading zone was  
21 given to the applicant, would that have an adverse  
22 impact on the residential neighborhood?

23 MR. LADEN: Yes, it might. The main  
24 negative would be that it would remove some of the  
25 residential permit parking spaces along that street.

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1 MR. JADIN: Now, in your report, this  
2 antidotal evidence of what works well in New York,  
3 this valet parking, in fact your report said that it  
4 works beautifully for customers of the bed and  
5 breakfast.

6 I take it that your testimony is that from  
7 your subsequent stuff that it really doesn't work  
8 beautifully for the neighborhood in this particular  
9 case.

10 MR. LADEN: Well, again, I think for  
11 guests arriving at the bed and breakfast who are not  
12 part of a special event, but just the routine  
13 operation of the 10 or 11 guest rooms there at that  
14 location, we thought that it worked well, and that it  
15 provides a mechanism for people who are perhaps not  
16 familiar with the area to be able to deposit their  
17 bags, and have their cars parked with a minimal amount  
18 of disruption on surrounding neighbors.

19 And that under the right circumstances if  
20 properly managed by the applicant that that would work  
21 well. With respect to the special events, where you  
22 have large numbers of vehicles potentially arriving  
23 within short periods of time, we have sort of  
24 reexamined the viability of a valet parking and if  
25 asked for our judgment now, would suggest that perhaps

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1 guests coming to events of that nature should perhaps  
2 park their own cars and use the proposed shuttle bus  
3 service from the garage to get to the Tutorsky  
4 Mansion.

5 MR. JADIN: Has your office studied at all  
6 the other bed and breakfasts in operation in this  
7 area, and specifically the Swann House just two blocks  
8 away?

9 MR. LADEN: No, we have not.

10 MR. JADIN: So you have not seen the cars  
11 backed up in their driveway yet?

12 CHAIRPERSON GRIFFIS: He has answered the  
13 question. It is moving a bit and far a field from his  
14 own testimony and asking him to compare the others.

15 MR. JADIN: With 10 customers, often here  
16 at the bed and breakfast for events and things, or for  
17 weekends, or whatever, do you think the capacity of  
18 this garage can handle 10 customers leaving at four  
19 o'clock on a Sunday afternoon?

20 CHAIRPERSON GRIFFIS: I think he has  
21 addressed that already.

22 MR. JADIN: Well, he said that good  
23 management can do it, and failing good management,  
24 where do the cars go?

25 CHAIRPERSON GRIFFIS: That point is well

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1 understood by the Board. You don't need to keep  
2 making it over and over again. And I think that it is  
3 an important point to bring up, and that it will have  
4 a lot to do with management, just like any impact, and  
5 it will be up to the board in its own deliberations to  
6 see whether that is actually feasible or not.

7 MR. LADEN: And again I think there will  
8 be worse case scenarios, where you have 10 guests who  
9 all want to leave at eleven o'clock, and that will  
10 present some problems. But again under normal  
11 circumstances people will be arriving and departing at  
12 different times and using different methods.

13 Not everybody is going to be driving.  
14 Some people will be arriving by taxis or other forms  
15 of transportation.

16 CHAIRPERSON GRIFFIS: Okay. Anything  
17 else?

18 MR. JADIN: Well, did you consider that in  
19 fact the neighborhood might be better off without a  
20 change of land use to a business use in this  
21 residential neighborhood?

22 MR. LADEN: No. We looked at the  
23 transportation plan to try to assess whether or not  
24 the transportation plan was adequate.

25 CHAIRPERSON GRIFFIS: It wouldn't be

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1 appropriate for you to do that; is that correct, Mr.  
2 Laden?

3 MR. LADEN: Yes, sir.

4 CHAIRPERSON GRIFFIS: Okay.

5 MS. GIORDANO: I just think it is  
6 important to address this while this issue is before  
7 us. On this issue of the loading area on Riggs Place.  
8 Are you aware that such a loading area would not  
9 remove residential spaces because there is no parking  
10 in that area now, posted no parking signs?

11 MR. LADEN: I believe that there is a no  
12 parking sign or regulations in existence from the edge  
13 of the driveway to the edge of the alley, and that in  
14 front of which is in front of the garage entrance.

15 There is residential parking from the  
16 entrance to the driveway to within 30 feet of the  
17 curb.

18 MS. GIORDANO: We can correct that on  
19 rebuttal.

20 CHAIRPERSON GRIFFIS: Okay. Is that it?

21 MS. POLIVY: I have some questions for Mr.  
22 Laden.

23 CHAIRPERSON GRIFFIS: Some questions?

24 MS. POLIVY: Yes.

25 CHAIRPERSON GRIFFIS: Let's go.

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1 MS. POLIVY: Thank you. Mr. Laden, my  
2 name is Margo Polivy, Riggs Place. I would like while  
3 we are on the subject of the loading zone, you have  
4 described Riggs Place coming from 16th Street, going  
5 towards 17th Street.

6 From the corner of 16th and Riggs Place,  
7 there is a no parking area that you described of about  
8 30 feet from 16th Street on to Riggs Place. Is that a  
9 required no-parking area under the District laws?

10 MR. LADEN: Yes, I believe that there is a  
11 no parking distance from curbs to allow for  
12 appropriate sight lines for cars turning into the  
13 street.

14 MS. POLIVY: Would it be permissible to  
15 turn such a no parking area into a loading zone?

16 MR. LADEN: Here again, that is not one of  
17 my areas of specialties, and so I would have to rely  
18 upon our curbside management folks and get their  
19 opinion as to whether or not that could be made a  
20 loading zone or not.

21 MS. POLIVY: How large is a loading zone  
22 normally? Is there a specific distance that is  
23 permitted for loading zones?

24 MR. LADEN: Here again, I would need to  
25 double-check with my staff. Off the top of my head, I

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1 don't happen to remember what the exact distances are,  
2 but I am sure that there is a specific distance.

3 MS. POLIVY: From the 30 foot offset from  
4 16th Street on Riggs Place, and going again towards  
5 17th Street on the north side of Riggs Place, you  
6 testified that from that point to the alley, or to the  
7 driveway, for the premises that we have been talking  
8 about, is residential parking; is that correct?

9 MR. LADEN: That's correct.

10 MS. POLIVY: From the alley, or I'm sorry,  
11 from the driveway, which I believe you said was 8 foot  
12 9 inches wide, there is another segment going again  
13 west from the driveway to the alley.

14 CHAIRPERSON GRIFFIS: What is your  
15 question? The applicant's representative has given  
16 photographs to Mr. Laden for his reference.

17 MR. LADEN: Yes. Again, there are no  
18 parking signs that begin at the eastern edge of the  
19 driveway, and that prohibits parking in front of the  
20 driveway to the garage and the alley.

21 MS. POLIVY: If you were turn that area  
22 into a loading one how much of an offset must you have  
23 to the entrance to the alley?

24 MR. LADEN: Here again, I would need to  
25 check with our curbside management people to get the

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1 appropriate distances.

2 CHAIRPERSON GRIFFIS: Okay. Are you aware  
3 that there might be a setback distance from a loading  
4 area to an alley?

5 MS. POLIVY: Well, there is a no parking  
6 sign there, and it is available now; is that correct?

7 MR. LADEN: Correct.

8 CHAIRPERSON GRIFFIS: Do you have any  
9 reason to believe that you can turn a no parking area  
10 for the turn into the alley into a loading zone?

11 CHAIRPERSON GRIFFIS: That is a bit  
12 redundant.

13 MR. LADEN: Well, again, I think I would  
14 need to check with our parking regulatory people who  
15 make these determinations as to whether or not in this  
16 specific instance what kind of a setback would be  
17 required to allow for safe turning into and out of the  
18 alley.

19 CHAIRPERSON GRIFFIS: Okay.

20 MS. POLIVY: Is it correct, Mr. Laden,  
21 that non-residents could begin parking on Riggs Place  
22 as early as 6:30 in the evening?

23 CHAIRPERSON GRIFFIS: Are we leading up to  
24 something major here? If you can combine all the  
25 small questions --

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1 MS. POLIVY: Yes, that they can park on  
2 the street. That is pretty major if you are trying to  
3 find a parking space when you come home.

4 CHAIRPERSON GRIFFIS: Okay. That is  
5 fairly self-evident, and I am not sure what you are  
6 gleaning out of this cross-examination.

7 MR. LADEN: Again, the answer to the  
8 question --

9 MS. POLIVY: Well, how about letting me  
10 have an opportunity to --

11 CHAIRPERSON GRIFFIS: I will direct you,  
12 believe me.

13 MR. LADEN: The existing residential  
14 permit parking allows residential permit parking up to  
15 8:30 p.m. So theoretically non-resident permitted  
16 individuals could begin parking in that area at 6:31  
17 and not be ticketed.

18 MR. LADEN: So if you have a valet parking  
19 proposal that had two valet parkers, and a manager  
20 parking up to cars for 50 guests parking on the street  
21 then --

22 CHAIRPERSON GRIFFIS: That was the exact  
23 question that was written.

24 MS. POLIVY: You could then have --

25 CHAIRPERSON GRIFFIS: Is there a different

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1 point to the question?

2 MS. POLIVY: -- those cars parked on Riggs  
3 Place at 6:31. Is that correct?

4 CHAIRPERSON GRIFFIS: I cannot have the --  
5 all right. Go ahead, Mr. Laden. Can you park them  
6 after 6:00?

7 MR. LADEN: If there is available curbside  
8 space, cars could be parked after 6:30 and not be  
9 ticketed.

10 CHAIRPERSON GRIFFIS: Okay. I am trying  
11 to get to the substance here of these questions. We  
12 have limited time, and I want the information to be  
13 elicited. And so if you can, consolidate your  
14 questions and be specific so that we can have an  
15 expedited question and an expedited answer.

16 MS. POLIVY: Thank you, Mr. Chairman. I  
17 have no further questions.

18 MR. SALAS: Can you ask this question for  
19 me, please?

20 MS. POLIVY: I'm sorry, you can.

21 MR. SALAS: Can you just ask him that  
22 question?

23 MS. POLIVY: Why don't you ask him  
24 yourself.

25 MR. SALAS: There is my point.

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1 CHAIRPERSON GRIFFIS: Sit down, Mr. Salas.

2 MR. SALAS: What do you mean sit down?

3 CHAIRPERSON GRIFFIS: Ask the question,  
4 please.

5 MR. SALAS: Okay. Have you asked for a  
6 report of how many cars have been towed from that  
7 specific location?

8 MR. LADEN: No, I have not been asked to  
9 provide a report on how many cars have been towed from  
10 that location.

11 MR. SALAS: Do you know if that report  
12 exists or not?

13 MR. LADEN: I am not sure how our parking  
14 enforcement people collect information on towed  
15 vehicles. I can check with them and see if there is  
16 any information on how many cars have been towed from  
17 Riggs Place. Are you speaking of the alley adjacent?

18 MR. SALAS: No, that particular space. I  
19 am talking about that space right there from the curb  
20 to the alley, and in front of the garage that blocks  
21 -- sometimes they are towed because they block the  
22 garage. People can't get in and out of that garage.

23 MR. LADEN: Right.

24 MR. SALAS: So they are towed.

25 CHAIRPERSON GRIFFIS: Mr. Salas, let me

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1 reiterate. It is a pertinent question, and that is,  
2 is there any sort of reporting, in terms of  
3 enforcement. And we can get the answer to that when  
4 Mr. Laden puts his specific in, and if there is for  
5 that block, could you provide the report of the  
6 enforcement.

7 And, Mr. Salas, what time period are you  
8 looking for? In the past year or in the last five  
9 months?

10 MR. SALAS: Yeah, it would be great.  
11 Well, just in the last year would be great.

12 CHAIRPERSON GRIFFIS: We will see how  
13 those reports are done, and if they are done.

14 MR. SALAS: Well, would it surprise you if  
15 I told you that they are, and that I have seen them?

16 MR. LADEN: No, it wouldn't surprise me at  
17 all. I would just need to double-check with our  
18 parking enforcement people to try to get that.

19 MR. SALAS: And then for that particular  
20 space again, do you know if -- well, would it surprise  
21 you to know that there are also a report for the cars  
22 that have been ticketed in that space before?

23 CHAIRPERSON GRIFFIS: Do you have these  
24 reports?

25 MR. SALAS: I know that they exist. I

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1 don't have them.

2 CHAIRPERSON GRIFFIS: Okay. Well, good,  
3 and then clearly they exist and we can get them.

4 MR. LADEN: I will try to track them down.

5 CHAIRPERSON GRIFFIS: And then what I am  
6 going to do is have them submitted into the record.  
7 In fact, if Mr. Laden gives the Board the direction  
8 that he cannot find them, we will somehow contact the  
9 folks that need it.

10 And, Mr. Salas, you might be able to give  
11 the information to Mr. Laden to expedite this whole  
12 thing if you know where they are and who has them.

13 MR. SALAS: Sure.

14 CHAIRPERSON GRIFFIS: Anything else?

15 MR. SALAS: No, that is just on that  
16 question. Thank you.

17 CHAIRPERSON GRIFFIS: Thank you very much.  
18 Very well. I think we are complete on cross-  
19 examination if I am not mistaken. Is that correct?  
20 That said, Mr. Laden, thank you very much. We  
21 appreciate you being down here all morning.

22 We are now going to -- Ms. Giordano, if  
23 you don't mind, could you come up for a brief moment.

24 You are calling two rebuttal witnesses; is that  
25 correct?

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1 MS. GIORDANO: Yes, Mr. Chairman.

2 CHAIRPERSON GRIFFIS: Okay. And then you  
3 have your closing?

4 MS. GIORDANO: Yes.

5 CHAIRPERSON GRIFFIS: Okay. Knowing full  
6 well that we have cross-examination on the new  
7 testimony, let me just anticipate this. We have three  
8 other cases to finish in the morning. It is now  
9 getting on about 12:30. We will hear all these cases.  
10 However, there is no way that we are hearing them  
11 until two o'clock.

12 I would anticipate that we will finish up  
13 this case within a half-an-hour to 45 minutes, and we  
14 will need a brief recess for lunch and also to do our  
15 executive session work, which we will try and cram  
16 into as little time as possible.

17 But to give people an indication of what  
18 we are doing for this morning, I think that it would  
19 be -- and unless others disagree with me, not before  
20 2:00 before we call the 16942, and we will progress  
21 quickly with the rest of those.

22 So that being said, Ms. Giordano, are you  
23 ready to proceed?

24 MS. GIORDANO: Can we take a five minute  
25 bathroom break?

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1 CHAIRPERSON GRIFFIS: Absolutely.

2 (Whereupon, the hearing was recessed at  
3 12:34 p.m., and resumed at 12:46 p.m.)

4 CHAIRPERSON GRIFFIS: All right. Ms.  
5 Giordano.

6 MS. GIORDANO: Good afternoon, Mr. Chair,  
7 and Members of the Board. My name is Cynthia Giordano  
8 with Arnold and Porter for the record, representing  
9 the applicant. With me again is Mr. Gonzalez, the  
10 applicant, and Ms. Shaughn West, who has been  
11 qualified by the board as an expert in the operation  
12 of a bed and breakfast, specifically the Swann House  
13 where she was previously employed.

14 We are going to begin with some rebuttal  
15 testimony from Ms. West, and we have submitted some  
16 papers that she is referring to, to the board, and I  
17 believe that we provided copies to the other parties  
18 as well.

19 She is going to begin with some comments  
20 on the testimony of the opponents regarding the  
21 traffic management plan, and also will add some  
22 comments as a result of the testimony by Mr. Laden  
23 today.

24 MS. WEST: Hi, my name is Shaughn West,  
25 and I would first like to just draw your attention to

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1 the traffic plan itself. It starts out with the  
2 transportation plan outline.

3 You will note under the first heading of  
4 valet parking that there are two letters from --

5 MS. GIORDANO: Do the board members have  
6 that in front of them?

7 CHAIRPERSON GRIFFIS: It is on the package  
8 that you just handed out.

9 MS. WEST: No, it's not. It would have  
10 been submitted on September 10th.

11 CHAIRPERSON GRIFFIS: Right.

12 MS. WEST: That is what we have been  
13 talking about.

14 CHAIRPERSON GRIFFIS: Okay. We will get  
15 it in front of us. Go ahead.

16 MS. WEST: I am just trying to think if we  
17 have another couple of copies here. Anyway, it starts  
18 out with a letter from Atlantic Valet. Now, this is  
19 the letter that is pertinent to how we are going to be  
20 handling our parking with them. It is our sort of  
21 contractual agreement essentially.

22 And in the first paragraph from them, it  
23 states, "Special Event, Parking. All guests will be  
24 directed to park at the pre-arranged Atlantic Garage  
25 located at 1776 Massachusetts Avenue. Special event

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1 parking, everybody goes to Atlantic Garage."

2 CHAIRPERSON GRIFFIS: Okay. So as Mr.  
3 Laden had stated, they will drive directly to that  
4 parking garage and then they will be shuttled?

5 MS. WEST: We have made no provisions for  
6 having valet parkers for people arriving at the bed  
7 and breakfast. We covered that both in -- and I will  
8 direct your attention to how that is sort of covered  
9 in the plan itself.

10 Anyway, all guests will be directed to  
11 park at the prearranged Atlantic Parking Garage for  
12 events. And then the second paragraph in the same  
13 letter deals with overnight and weekend guest  
14 parking, and parking at the garage. But I will come  
15 back to that.

16 There has been some other information from  
17 Atlantic, but there is a second letter from Atlantic  
18 that is covered in the outline that -- let's see. Now  
19 I have lost my outline. That the outline calls, a  
20 letter from Atlantic, sent its first reply to request  
21 for information on parking.

22 This is how they would normally handle  
23 parking for anyone else in the neighborhood that might  
24 contact them for an event. If you recall, just before  
25 or when we had the August 6th hearing, I mentioned

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1 that I had contacted Atlantic, and I was expecting a  
2 letter from them.

3 This was actually the letter that they  
4 sent me in response, but it clearly didn't cover our  
5 needs. So I only put it in here as a sample of how it  
6 might have been handled for somebody else.

7 CHAIRPERSON GRIFFIS: All right. And that  
8 is the August 19th dated letter?

9 MS. WEST: No, that is the August 7th  
10 letter. It is in the parking plan. It is fifth item  
11 in the parking plan. It is covered on the  
12 transportation outline. And that is the letter that  
13 talks about if there are 50 guests, up to 25 guests,  
14 two valet parkers, plus a supervisor.

15 And it was put in there only as a sample.  
16 It has nothing to do with how we intend to handle  
17 parking.

18 CHAIRPERSON GRIFFIS: Okay. Attachment A  
19 in the transportation plan, dated August 7th, is used  
20 as an example.

21 MS. HUBBARD: August 7th.

22 CHAIRPERSON GRIFFIS: Okay. Please  
23 continue.

24 MS. WEST: So all the questions and  
25 answers by Mr. Laden, in terms of how valet parkers

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1 would arrive and also the objections that he covered  
2 or thought might be potential problems, had to do with  
3 us having valet parkers and cars arriving at the bed  
4 and breakfast, which has never been our intention.

5 CHAIRPERSON GRIFFIS: Okay.

6 MS. WEST: So I just wanted to make sure  
7 that was good and clear. Also in that first section,  
8 there is a sample confirmation letter. It is the  
9 fourth item under valet parking that covers that one  
10 of the ways in which we will address our contact with  
11 the guests. But again --

12 CHAIRPERSON GRIFFIS: And what is the  
13 heading on it? These aren't numbered and so you can't  
14 see --

15 MS. WEST: Well, it is a letter dated  
16 August 20th to Jack Smith. It is just a sample  
17 confirmation letter.

18 CHAIRPERSON GRIFFIS: Okay. And it  
19 outlines in bold arrival, date, time, and date of  
20 departure?

21 MS. WEST: Right. It also says that  
22 parking is by advanced reservation only. If you are  
23 driving and have not reserved parking, please contact  
24 us and it covers again the arrival information.

25 But again I want to stress that throughout

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1 the whole plan that a lot of it does pose on our  
2 communication with the guests, both with the guests  
3 who arrive on a daily basis, and also with event  
4 guests.

5 That we will have an opportunity to, for  
6 example, under the events section, in the  
7 transportation plan which is closer to the back, and  
8 in fact I think it says event parking or wedding  
9 parking. Parking for events.

10 CHAIRPERSON GRIFFIS: Yes.

11 MS. WEST: The first paragraph is about  
12 some advance information on the website, which up  
13 front already says that we will provide them with  
14 parking spaces.

15 CHAIRPERSON GRIFFIS: Okay. And the  
16 sample e-mail to event guests, that would go with a  
17 confirmation of a reservation?

18 MS. WEST: No, that would go to --  
19 whenever we have an event and we have people who are  
20 parking, then this would go -- I would have a list of  
21 people who were going to be driving. You know, that  
22 would be required from the event guests.

23 And then this e-mail would be sent to  
24 them. This is just a sample as a wedding. And the  
25 thing is, of course, is that if we find that the way

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1 that these are worded are not strong enough, we can  
2 always change that, and put in here that it is  
3 mandatory that you park in the garage, and do not come  
4 to the bed and breakfast for an event to drop people  
5 off. Please go directly to the garage.

6 It is a matter of communication, but the  
7 point is that we will be in close communication with  
8 all of these people.

9 CHAIRPERSON GRIFFIS: But that would  
10 assume that the person booking the event would provide  
11 you with all the attendance and their e-mail address  
12 and contact information.

13 MS. WEST: If you look at the next page,  
14 which states, "Sample Parking For a Wedding." We  
15 would have had -- you know, we would know how people  
16 were coming.

17 I would haver gotten a guest list from the  
18 bride, and we would have gone through and figured out  
19 who was going to be driving, and who was going to be  
20 taking a taxi, and so on and so forth. So that  
21 everybody was covered.

22 CHAIRPERSON GRIFFIS: Would they know that  
23 information?

24 MS. WEST: Well, first of all, you know if  
25 somebody is flying in and staying at the bed and

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1 breakfast. And by the way, the bride would already be  
2 inside in almost all cases. She arrives the day  
3 before because it is her wedding, and she stays there  
4 the night before so that she could get up and have --

5 CHAIRPERSON GRIFFIS: Okay. Let's just  
6 focus on what we are doing in this direction. That  
7 would be good.

8 MS. WEST: Yes. The bride would be there  
9 and she would have arrived the day before, and she  
10 would have gotten up the next morning and had  
11 breakfast with her family, and gotten dressed just as  
12 everybody else would in the family, and typically it  
13 is the people who are close to you that are staying  
14 there. There would be 20 people.

15 You know, the bride, the groom, the mother  
16 and father of the bride, and the mother and father of  
17 the groom, and so forth. So they would be there for  
18 any photographs or anything like that.

19 CHAIRPERSON GRIFFIS: Understood.  
20 However, if the reporting wasn't correct, and let's  
21 say you have a cousin that crashes the wedding, what  
22 happens as they pull up?

23 MS. WEST: Well, when we are expecting to  
24 have event guests arrive, we would have a staff  
25 member, one of our staff people, stationed out by the

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1 carriage house. They would help people depart from  
2 the vans, and help them out of the vans, and would help  
3 the van back out of the driveway.

4 CHAIRPERSON GRIFFIS: Somebody drives up  
5 and what happens?

6 MS. WEST: Well, there would be somebody  
7 there saying that you can't park here. There is no  
8 parking, and we would give them a map to Atlantic  
9 Valet.

10 CHAIRPERSON GRIFFIS: Okay. What else?

11 MS. WEST: Okay. Let's see. Anyway, the  
12 sample parking for a wedding down at the bottom sort  
13 of encapsulates the above information. And the point  
14 is really that we will have spoken with, and  
15 structured the information, and coordinated  
16 everything.

17 And also then on the next page, you will  
18 see that there is a letter from Joseph Carpenter and  
19 from Susan Gage that mentions in the last sentence of  
20 the second paragraph, and this is where the 16 foot  
21 truck comes from.

22 "For functions larger than these, we could  
23 use either two vans or a 16 foot truck." Well,  
24 clearly we would have them use two vans. And then  
25 under vendor requirements, again this would be covered

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1 with the vendors.

2 We are going to be using a limited number  
3 of vendors. You know, maybe 5 or 6 caterers, who in  
4 most cases also provide floral arrangements and  
5 everything. They will be familiar with the house, and  
6 they will be familiar with our procedures.

7 They will know that they need to have  
8 enough time to unload. Typically they have cell  
9 phones, and where it is the sort of cell phone walkie-  
10 talkie thing, so that they can be in communication  
11 with their own people.

12 And then once they have unloaded their van  
13 in the garage, then they will take the van down to  
14 Atlantic Valet. In other words, everything goes to  
15 Atlantic Valet. They love us.

16 CHAIRPERSON GRIFFIS: And you just stated  
17 that you would have two vans, rather than just one big  
18 one?

19 MS. WEST: Right.

20 CHAIRPERSON GRIFFIS: How would you  
21 accommodate two vans?

22 MS. WEST: We would have one van come and  
23 unload and leave, and then have the other one come and  
24 unload, and leave. But that would be done like two  
25 hours before.

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1           Typically anything being delivered for an  
2 event would still be again coordinated, and it even  
3 says here that at arrival that you must contact the  
4 event supervisor at least one week prior to an event  
5 in order to coordinate your arrival time.

6           And I would talk to all these people, and  
7 I would have all of this on a schedule. And anything  
8 delivered for the event would be done in two hours.  
9 They need time to set up, and they just don't like  
10 arrive at the same time the guests do. So again all  
11 of that is coordinated.

12           And obviously we wouldn't have furniture  
13 or something like that delivered when we had an event  
14 scheduled. It does repose on our ability to organize  
15 things.

16           CHAIRPERSON GRIFFIS: Okay.

17           MS. WEST: So there are a lot of questions  
18 that were in the questions that were submitted to DDOT  
19 that sort of covers that. There is 13, 14, and 15,  
20 and there is 18, 19, 20, 21, 22, and 23, that all sort  
21 of address something that won't be happening, which is  
22 either guests arriving at the bed and breakfast to  
23 park, or valet parkers being there. I mean, it just  
24 is not how it is designed.

25           If in fact -- let's see. And I did make

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1 it clear in the transportation plan that the garage  
2 door would be open when we were expecting guests to  
3 arrive.

4 And part of the thing that I gave to  
5 Beverly, the second page -- well, first of all, in the  
6 representation or the drawing of the courtyard, and  
7 the carriage house, I would just want to point out  
8 that this has already been submitted as part of the  
9 transportation plan.

10 And that I would want to point out that  
11 the carriage house is actually 21 feet by 27 feet. It  
12 is not 16 by 15. It is 21 by 27.

13 CHAIRPERSON GRIFFIS: Right.

14 MS. WEST: And that is adequate space to  
15 have a car and a van there. Another point that came  
16 up was whether or not Mr. Gonzalez would have his car  
17 there at night. That would depend on whether or not  
18 it was needed.

19 You know, he can also park his car at  
20 Atlantic Valet if we need to have the parking space  
21 available for a guest, which would only be for our  
22 convenience for the morning if someone was departing.

23 Which by the way the second page, where it says,  
24 Monday, Tuesday, Wednesday, we will have a guest  
25 tracker, or a bed and breakfast program that will

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1 actually printout an occupancy map for us.

2 This is kind of a feeble attempt to  
3 represent that without the proper computer program.  
4 But the point is that you can see that people don't  
5 come and go at the same time. You know, there is a  
6 flow to it.

7 Like one day I may have two departures,  
8 and one arrival. The next day I may have one  
9 departure and three arrivals. But they are all at  
10 different times. And the parking at the bottom, they  
11 are coordinated with guests there, and you can sort of  
12 look that over and see what my intention was, right?

13 CHAIRPERSON GRIFFIS: Yes. Are the board  
14 members clear? Any questions?

15 MS. WEST: Does that clear up how the  
16 guests will arrive and stuff?

17 CHAIRPERSON GRIFFIS: How they will, no;  
18 but times that they will, yes.

19 MS. WEST: Well, you can see how -- what  
20 we would expect would be 25 to 30 percent of the  
21 guests might be driving prior to the time. Again,  
22 they will be arriving by taxi, and they will have  
23 friends or family who will have picked them up at the  
24 airport. Anybody who is coming to drop people off  
25 other than taxis will be pulling into the garage.

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1 I mean, we can't dictate with the taxis.  
2 You can't even when you are in the car get them to  
3 stop for you where you want them to.

4 CHAIRPERSON GRIFFIS: Okay.

5 MS. WEST: Also, I have some photographs  
6 that -- and I would also point out that Mr. Laden is  
7 the one who brought up the possibility of a loading  
8 zone. I didn't even think of it.

9 CHAIRPERSON GRIFFIS: Okay.

10 MS. WEST: It might be worth looking into,  
11 but that --

12 CHAIRPERSON GRIFFIS: Well, let me be  
13 clear. Our deliberation won't be based on the  
14 possibility of putting an application in for that.

15 MS. WEST: Right. And neither was our  
16 transportation plan.

17 CHAIRPERSON GRIFFIS: Okay. I do have  
18 some pictures of my Explorer in the garage that just  
19 sort of gives you an idea of the amount of space  
20 around the door. This is probably the best one. But  
21 a van can fit in there. I just didn't pull my  
22 Explorer any further in because there is a cast iron  
23 bathtub in the middle and I wasn't about to get out  
24 and move it.

25 CHAIRPERSON GRIFFIS: Okay. I think it is

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1 clear on the dimensions also what you are trying to  
2 illustrate.

3 MS. WEST: Right. Right. There is more  
4 than adequate space there for a couple of vehicles  
5 without blocking the sidewalk, and without being a  
6 problem.

7 Also, our laundry room is right around the  
8 corner there. We are going to have people on-site all  
9 the time, and it is easy for us to sort of have an  
10 idea of who is coming and going. I mean, we are going  
11 to have quite a presence on the block in that sense,  
12 in terms of knowing what is going on around us.

13 I would also point out that the -- and  
14 particularly for overnight guests, that in my own  
15 experience I have -- and what Mr. Laden said in his  
16 antidotal stuff about how it is handled in Boston and  
17 New York, I have stayed at the Saint Maritz, which is  
18 on Central Park, and that is exactly how they handle  
19 it, is that you pull up and they take it to a garage.

20 And of course just as in New York, it is  
21 also true in D.C. I mean, wouldn't you rather have  
22 your car in a secured parking garage than on the  
23 street?

24 CHAIRPERSON GRIFFIS: So your point is  
25 that the guests would actually prefer to have it in a

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1 garage than just on the street?

2 MS. WEST: Oh, I would think so, because  
3 we do ask if there is off-street parking. We have  
4 guests who will ask that and will address that.

5 CHAIRPERSON GRIFFIS: Right.

6 MS. WEST: Also, we won't be charging for  
7 the parking; whereas, places like the Hilton charges  
8 \$19, and most of the local hotels charge \$19 to \$20,  
9 and Swann House charges \$12. They only will be paying  
10 if they are taking their car out.

11 CHAIRPERSON GRIFFIS: Okay. You are sure  
12 that you will never charge for that?

13 MS. GIORDANO: It's not that we won't  
14 charge. It will be included in the room.

15 MS. WEST: Right. There won't be a  
16 separate additional fee.

17 CHAIRPERSON GRIFFIS: There won't be a  
18 breakout. I see. Okay.

19 MS. WEST: I think that pretty much covers  
20 the transportation plans.

21 CHAIRPERSON GRIFFIS: Any questions?

22 VICE CHAIRPERSON RENSHAW: Yes, just a  
23 quick question. If your guests for an event come in a  
24 limousine, and for instance, they may be diplomats who  
25 are driven to the event at your location.

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1                   Those cars normally don't move.    They  
2                   won't go to a garage.  They wait for the diplomat, and  
3                   so how are you going to handle that?  Where are they  
4                   going to go?  Just hover in front?

5                   MS. WEST:  How do they handle it normally?

6                   VICE CHAIRPERSON RENSHAW:  They hover in  
7                   front.

8                   MS. WEST:  Well, I don't imagine there  
9                   will be any frontal hovering in the bus stop.

10                  CHAIRPERSON GRIFFIS:  The point being that  
11                  parking enforcement and the police would not allow  
12                  them to sit there.

13                  MS. WEST:  Yes, I would think not.

14                  VICE CHAIRPERSON RENSHAW:  Well, in New  
15                  York City that may be the case, because the mayor is  
16                  cracking down on diplomatic drivers.

17                  CHAIRPERSON GRIFFIS:  The old mayor  
18                  anyway.

19                  VICE CHAIRPERSON RENSHAW:  No, the new  
20                  mayor.

21                  CHAIRPERSON GRIFFIS:  Oh, good.

22                  MS. WEST:  I would assume that they have  
23                  cell phones and might be able to go directly to the  
24                  garage, and then we called them and let them know if  
25                  they were going to be picked up.  I mean, they are not

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1 going to wait overnight are they?

2 VICE CHAIRPERSON RENSHAW: I am just  
3 floating it out there because it is something that  
4 your operation would have to address.

5 MS. WEST: Right. I imagine that there  
6 are some things that I haven't addressed. There may  
7 be something like that, but I also think that when  
8 they come up that we will find a solution, and I don't  
9 expect this to be a hundred percent perfect.

10 There is no way to do that in life, but I  
11 expect it to be pretty darn close.

12 CHAIRPERSON GRIFFIS: Good. Any other  
13 questions? Ms. Hubbard, there is no reason to raise  
14 your hand. You will have cross-examination on the  
15 testimony that is given here. Yes?

16 MS. WEST: The next thing is the sample  
17 breakfast menu, and it just happened to come up that  
18 we were going to serve dried pastries, and I think if  
19 you take a look at it that you might be --

20 CHAIRPERSON GRIFFIS: It was dried out  
21 pastries wasn't it?

22 MS. WEST: Yes, dried out pastries.

23 VICE CHAIRPERSON RENSHAW: Don't talk  
24 about food when we our looking at lunch.

25 MS. WEST: Well, this is just to tempt

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1 you. You might want to grant this variance so that  
2 you can come over and have breakfast with us.

3 CHAIRPERSON GRIFFIS: Okay.

4 MS. WEST: You know, it is clear that we  
5 are not -- this doesn't require actually a lot of  
6 cooking. We will be having pastries delivered as it  
7 says in the plan from 5:00 in the morning until 7:00  
8 in the morning. They have to get there that early in  
9 order to be there for breakfast.

10 So that's when they come and that's why  
11 they are delivered at that hour to be fresh. We will  
12 be doing weekly shopping at Cosco to get items. You  
13 know, the rest of the items, but again that is done in  
14 the middle of the day typically when we don't have  
15 departures or arrivals, because people will be leaving  
16 by 11:00 and not starting to arrive usually until  
17 4:00.

18 And by far the majority of guests will  
19 come between 4:00 and 6:30, or 7:00.

20 VICE CHAIRPERSON RENSHAW: Is there a rule  
21 in the District or regulation over early morning  
22 deliveries in residential areas?

23 MS. WEST: Not that I am aware of.

24 VICE CHAIRPERSON RENSHAW: 6:00 or 7:00?

25 MS. WEST: It is 6:00 or 7:00?

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1 VICE CHAIRPERSON RENSHAW: Seven o'clock.

2 MS. WEST: That it has to come before  
3 7:00?

4 VICE CHAIRPERSON RENSHAW: Well, at least  
5 I would check it.

6 MS. WEST: Right. Well, when we fax the  
7 breakfast requests, it always says please deliver  
8 before 7:00 a.m. The truth is that the particular  
9 bakery that we use actually comes more about like  
10 6:00. That is just how their schedule is to that  
11 neighborhood.

12 CHAIRPERSON GRIFFIS: Okay.

13 MS. WEST: The other thing is some  
14 printouts of some of the other local bread and  
15 breakfasts that just cover --

16 CHAIRPERSON GRIFFIS: And the point of  
17 these are?

18 MS. WEST: It was brought up that most --  
19 the other gentleman who had managed their own bed and  
20 breakfast had said that the rates were \$160. You can  
21 see here that a lot of the rates run between \$225 and  
22 \$300. They were not accurate I guess is the point.

23 CHAIRPERSON GRIFFIS: Okay.

24 MS. WEST: And that may be it.

25 MS. GIORDANO: That concludes Ms. West's

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1 comments. We have some rebuttal testimony from Mr.  
2 Gonzalez, and if you would like to move on to that.

3 CHAIRPERSON GRIFFIS: Yes.

4 MS. GIORDANO: Okay.

5 MR. GONZALEZ: My name is Humberto  
6 Gonzalez. I am the owner of the property and I just  
7 wanted to make reference to some previous statements  
8 that we have made in reference also to contrasting  
9 some of the neighborhood statements as well.

10 I was not the listing agent of the  
11 property. The property had been on the market for  
12 four years with another agent.

13 CHAIRPERSON GRIFFIS: It was in your firm  
14 or brokerage house?

15 MR. GONZALEZ: It was within the same  
16 company, but I had still not seen the property until I  
17 showed it to that client in September of 2000.

18 CHAIRPERSON GRIFFIS: Okay. So that was  
19 just for clarification, and I am not sure that it was  
20 relevancy. Okay. Go ahead.

21 MR. GONZALEZ: And basically the other  
22 statement was that I did not purchase the property  
23 intending to make it into or to capitalize with the  
24 property.

25 I went in there with my clients, and my

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1 clients and I fell both in love with the property. We  
2 knew of another person at that time that was going to  
3 purchase the property, and turn it into condominiums.

4 And we both were like two little high school kids,  
5 and decided to try to save this house.

6 And I kind of wish she had bought it, but  
7 she was not able to buy it because the stock market  
8 plunged, and so we got together, both of us, and I  
9 decided to go ahead and purchase the property.

10 And I sold most of my investments to do  
11 this, and so -- and I'm sorry, and I don't mean to do  
12 this again, but I am just a little nervous and so bear  
13 with me.

14 And the other question was that -- well,  
15 not the other question, but they made reference to the  
16 fact that I wanted to do fund-raisers at the very  
17 beginning. I have always wanted to do fund-raisers  
18 from the very beginning.

19 I wanted to give back to the community,  
20 and I wanted to buy this house and have this house be  
21 restored, and I wanted this house to be a portion of  
22 D.C. that everybody could enjoy.

23 And it would have been better for me to  
24 turn it into condominiums, and it would have been a  
25 more profitable way to get rid of the house, in terms

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1 of financially.

2 But, no, I wanted to follow this step, and  
3 I still want to do the fund-raisers. We actually went  
4 down to two events per month, because we could not  
5 negotiate with the neighbors. We did negotiate  
6 finally to one agreement, and they stepped down from  
7 that agreement on the first day that we came into this  
8 hearing.

9 And all the other steps that we took with  
10 the neighbors that they have stated that we have  
11 changed our minds throughout there, there were never  
12 agreements. They were all negotiating factors.

13 And a lot of them were brought by them,  
14 and a lot of them were brought by us, and nothing was  
15 agreed upon until that one agreement that we came and  
16 brought before you, which they said they were ready to  
17 sign.

18 And the ANC was ready to sign, and the  
19 DCCA was ready to sign, and it was the neighbors that  
20 disagreed at the last minute here, and we ended up  
21 having to come back again and again in front of the  
22 board.

23 We have tried very hard, and we still do  
24 want to do fund-raisers, as well as events, but we  
25 have come down from 11 rooms to 10 rooms to try to

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1 meet them at some ground.

2 We have come down from a higher number of  
3 events that we had placed on the application form of  
4 no more than four events per month, to no more than  
5 two events per month. I feel like we have tried very,  
6 very hard and I think that we have researched a lot.

7 I thank Shaughn very much for doing the  
8 very hard work that she has done. We are going to try  
9 our best to run a very good business here.

10 MEMBER ZAIDAIN: Mr. Chair, I really hate  
11 to interrupt, but I just wanted to -- I completely  
12 understand. I mean, obviously this whole thing has a  
13 lot of emotion.

14 But I can see where this is going, because  
15 we are going to get into a cross-examination going  
16 back and forth of agreements, and neighborhood things,  
17 and I am concerned about the fact of time and where we  
18 are, and what we have heard up to this point, I really  
19 don't want to get into that.

20 CHAIRPERSON GRIFFIS: That's fine. If you  
21 could focus your rebuttal testimony. You can have  
22 closing remarks, and it seems what you are getting  
23 into is more appropriate for that.

24 MEMBER ZAIDAIN: Good point.

25 MR. GONZALEZ: Well, I think I covered

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1 most of the points already. Basically the other point  
2 is that I am going to be living in the house and using  
3 the main kitchen of the house, and it is going to be  
4 my house as well as other people that come in to visit  
5 as well.

6 CHAIRPERSON GRIFFIS: That is your primary  
7 residence; is that correct?

8 MR. GONZALEZ: It is my primary residence.

9 MS. GIORDANO: Right. And I think the  
10 point is that Mr. Gonzalez is not going to be hiding  
11 in the attic. He is going to be using the entire  
12 house. He is going to be using the living room, and  
13 the parlor, and --

14 CHAIRPERSON GRIFFIS: Is that correct, Mr.  
15 Gonzalez?

16 MR. GONZALEZ: That is correct, and  
17 sometimes I may not sleep in the attic. Sometimes I  
18 may sleep in another room.

19 CHAIRPERSON GRIFFIS: You don't want to be  
20 cross-examined about where you sleep.

21 MR. GONZALEZ: No.

22 CHAIRPERSON GRIFFIS: Okay. Anything else?

23 MS. GIORDANO: No more testimony. I have  
24 a closing statement.

25 CHAIRPERSON GRIFFIS: Indeed. Okay. Can

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1 I have the parties at the table then, and we are going  
2 to do cross-examination. No need to raise your hand,  
3 Ms. Hubbard. You need to come to the table.

4 Now, just to be very clear, the cross-  
5 examination that is about to be conducted is based  
6 exclusively on what you just heard. It is not on the  
7 entire case, and it is not on other information. It  
8 is on the new testimony that has just been provided.

9 MS. HUBBARD: Yes.

10 CHAIRPERSON GRIFFIS: Is everyone in  
11 receipt of the handouts of the parties?

12 MS. WEST: I have more if they are not.

13 MS. HUBBARD: I would like to ask Ms.  
14 Shaughnessy --

15 MS. WEST: Ms. West.

16 MS. HUBBARD: Ms. West. Ms. Giordano  
17 introduced you as an expert at the beginning. And  
18 didn't I hear you use that word, expert testimony?  
19 Were you qualified as an expert before this board?

20 MS. WEST: I believe at the last or the  
21 August 6th hearing that the board qualified me as an  
22 expert witness, which is what Ms. Giordano said.

23 MS. HUBBARD: Well, is that true? Is  
24 there any material in the record with regard to you  
25 being an expert that we could question?

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1 MS. GIORDANO: I think it is a little late  
2 for that, Ms. Hubbard.

3 MS. HUBBARD: I don't think so.

4 MS. GIORDANO: I think so. There was --

5 MS. HUBBARD: It is the first time that I  
6 ever heard it.

7 CHAIRPERSON GRIFFIS: Hold on. That's  
8 correct, is it not? It is my recollection that we did  
9 have that, and there was time for --

10 MS. HUBBARD: Well, anyhow, I never heard  
11 it.

12 CHAIRPERSON GRIFFIS: It was on the 6th?  
13 Is that the hearing date? I don't have my entire  
14 schedule in front of me. Ms. Hubbard, were you  
15 present on August 6th?

16 MS. HUBBARD: I certainly was, but I  
17 didn't hear that.

18 MS. MONROE: Mr. Chairman, they have gone  
19 to check the record. I wasn't here on August 6th, but  
20 they have gone to check it.

21 MS. HUBBARD: The question was whether you  
22 accepted her as an expert or not, and if there was any  
23 testimony presented as to being an expert.

24 MS. GIORDANO: She discussed her  
25 experience at the Swann House, Mr. Chair.

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1 MS. HUBBARD: Well, that may be, but that  
2 doesn't make you an expert.

3 CHAIRPERSON GRIFFIS: Very well. We are  
4 not going to argue the point. The Board has gone to  
5 get the record to get clarification.

6 MS. HUBBARD: I just wanted this not to be  
7 overlooked, and that an expert witness testified.

8 CHAIRPERSON GRIFFIS: Ms. Hubbard, you  
9 have been here enough and you should know with the  
10 back and forth that you should have her relationship  
11 down pat by now. I totally agree, and the staff has  
12 gone to get it and we will understand exactly what it  
13 is.

14 MS. HUBBARD: Now, could I ask you another  
15 question?

16 MS. WEST: Sure.

17 MS. HUBBARD: In your testimony, you  
18 described a great deal of the transportation plan that  
19 you originally submitted.

20 MS. WEST: No.

21 MS. HUBBARD: And referred to a letter of  
22 August 7th, as compared to another letter, which you  
23 had introduced also in that very same package. You  
24 said that one letter was right, and another letter is  
25 wrong.

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1 MS. WEST: No, what I said was that in the  
2 outline for the transportation plan that it described  
3 both letters, and the first one was our contractual --  
4 essentially our contractual agreement with Atlantic,  
5 and in the outline of the transportation plan, it says  
6 that the second letter was simply one that we had  
7 gotten at our first inquiry to Atlantic.

8 And I had only put that in there as a  
9 sample of how it would be done if someone else in the  
10 neighborhood called. It stated it very clearly in the  
11 outline of the plan.

12 CHAIRPERSON GRIFFIS: Okay.

13 MS. GIORDANO: Unfortunately, I think it  
14 was confusing, Ms. Hubbard.

15 MS. HUBBARD: Well, I want to know exactly  
16 what part of Mr. Laden's testimony you consider  
17 irrelevant.

18 MS. WEST: The part that had to do with  
19 having valet parkers at the bed and breakfast, or  
20 having event cars go to the bed and breakfast at  
21 first. That was not our intention in the plan.

22 It states in the letter from Atlantic that  
23 we will have all special event guests go directly to  
24 the garage and that is our intention.

25 MS. HUBBARD: What about the overnight bed

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1 and breakfast people?

2 MS. WEST: They will also go to the  
3 garage.

4 MS. HUBBARD: First?

5 MS. WEST: They will arrive at the bed and  
6 breakfast and then we will valet park their car at the  
7 garage.

8 MS. HUBBARD: No, but you did say that  
9 they wouldn't go to the bed and breakfast.

10 MS. WEST: No.

11 MS. HUBBARD: Or they are going to the bed  
12 and breakfast?

13 MS. WEST: No, I said event guests would  
14 go directly to the garage, and I said that the  
15 overnight guests would come to the bed and breakfast  
16 and we would valet park their car.

17 MS. HUBBARD: In other words, you see what  
18 I mean? In other words, you still are having the bed  
19 and breakfast --

20 CHAIRPERSON GRIFFIS: Don't ask the  
21 question again. I just polled my board and everyone  
22 is very specific on your issue.

23 MS. HUBBARD: Well --

24 CHAIRPERSON GRIFFIS: No, well, no. Next  
25 question.

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1 MS. HUBBARD: Well, what I mentioned in  
2 the previous testimony with regard to --

3 CHAIRPERSON GRIFFIS: Next question, Ms.  
4 Hubbard.

5 MS. HUBBARD: Now let me ask you another  
6 little question here. We get to the bride and groom  
7 again. Now, every single bride that you know is going  
8 to live right there in the bed and breakfast.

9 CHAIRPERSON GRIFFIS: Ms. Hubbard, I think  
10 it would be better if you asked the questions that go  
11 to how the transportation plan generally works, rather  
12 than specifically getting into bride and groom.

13 MS. HUBBARD: Well, she did testify that  
14 all these bride and grooms are going to stay overnight  
15 in the bed and breakfast, and that there are going to  
16 be 20 people, and for example, they are going to have  
17 lunch the next day there no doubt, and a whole lot  
18 more catering.

19 MS. WEST: No, I can clarify all of this.  
20 We will be selling wedding packages that will include  
21 two weekend nights that are either Friday and Saturday  
22 night, or Saturday and Sunday night.

23 So that the bride and the groom --  
24 sometimes the groom does stay at their own home and  
25 arrive the day of the wedding. So the bride and the

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1 groom don't sleep together the night before the  
2 wedding, which is traditional.

3 MS. HUBBARD: Well, with 10 rooms, it  
4 isn't necessary.

5 CHAIRPERSON GRIFFIS: All right. Let's  
6 move on.

7 MS. WEST: Well, that's up to them. I  
8 don't usually go into that with them, you know. What  
9 I stated was that they would be buying a package that  
10 would include all 10 rooms and two nights, and would  
11 also include the valet parking.

12 MS. HUBBARD: And how much would that  
13 cost?

14 MS. WEST: We have not determined that  
15 yet.

16 CHAIRPERSON GRIFFIS: That's irrelevant.  
17 next question.

18 MS. HUBBARD: Well, let me ask you again  
19 as that is very, very pertinent to my way of thinking.

20 MS. WEST: Well, then you can think that  
21 way.

22 MS. HUBBARD: I have been to a lot of  
23 weddings in my life, let me tell you, including three  
24 of my own.

25 CHAIRPERSON GRIFFIS: Okay. Next

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1 question, Ms. Hubbard. If you are finished --

2 MS. WEST: Good girl. You get them.

3 MS. HUBBARD: And I just wanted to tell  
4 you I know something about weddings.

5 CHAIRPERSON GRIFFIS: Ms. Hubbard, just  
6 out of respect to the three cases that are backing up,  
7 if you could keep asking questions.

8 MS. HUBBARD: All right. Now, let me ask  
9 you something. What about when the bride just  
10 occasionally happens to live in Washington? I live  
11 right across from a church where weddings are given  
12 almost every weekend, and on Sunday even.

13 MS. WEST: One of the biggest draws about  
14 having a wedding at the bed and breakfast is because  
15 of the logistics. In other words, all the people who  
16 are in the family typically stay in the bed and  
17 breakfast. They don't have to be gathered from  
18 several different hotels.

19 And everybody gets to spend some time,  
20 some quality time, together. In other words, they get  
21 to have breakfast that morning, because as guests of  
22 the bed and breakfast, that is always included.

23 Breakfast is included in their rate, and  
24 it is also included in the wedding package. But they  
25 do get to spend some quality time together.

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1 MS. HUBBARD: What about the bachelors  
2 dinner?

3 MS. WEST: Well, they have not consulted  
4 me about that.

5 MS. HUBBARD: No, no, let me ask you  
6 something. Isn't it usual for a big wedding to have a  
7 big party the night before?

8 CHAIRPERSON GRIFFIS: Okay.

9 MS. WEST: Anything extra to our typical  
10 wedding package would be sold separately, and usually  
11 happens someplace else. I mean, why would they want  
12 to have the bachelor party at the same place the  
13 family was staying. That doesn't make sense.

14 MS. HUBBARD: Well, that would require  
15 transportation, too, wouldn't it?

16 MS. WEST: Well, that would be up to them.

17 MS. HUBBARD: Well, anyway, let me ask  
18 another little thing with regard to your event plans.

19 On the weekends is the time when the violations of  
20 the transportation agreement have to be enforced by  
21 the transportation department would be when it would  
22 be most likely to occur wouldn't it?

23 MS. WEST: Well, I don't expect to have  
24 violations of the transportation plan and so I don't  
25 expect that to be an issue. After all, we are --

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1 MS. HUBBARD: Have you been in contact and  
2 have made arrangements with Mr. Gonzalez so that you  
3 can personally assure us of that for the rest of his  
4 life and his, too?

5 MS. WEST: I don't think that will be  
6 required.

7 MS. HUBBARD: You don't? Well, there are  
8 variances there that are required.

9 CHAIRPERSON GRIFFIS: Okay.

10 MS. GIORDANO: Ms. Hubbard, I can speak  
11 from experience that the zoning inspector --

12 MS. HUBBARD: And so can I.

13 MS. GIORDANO: -- with advanced warning  
14 about an event can be there on a weekend.

15 MS. WEST: Well, don't I know about that.

16 CHAIRPERSON GRIFFIS: Next question, Ms.  
17 Hubbard.

18 MS. HUBBARD: Well, you made a statement  
19 of fact, and I would like --

20 CHAIRPERSON GRIFFIS: Any other questions,  
21 Ms. Hubbard?

22 MS. HUBBARD: I would like for you to  
23 write out for this board --

24 MEMBER ZAIDAIN: Mr. Chair --

25 MS. HUBBARD: -- the numbers of times that

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1 you have seen a zoning inspector on the job on the  
2 weekend.

3 VICE CHAIRPERSON RENSHAW: Ms. Hubbard,  
4 questions only.

5 MS. HUBBARD: All right. She just  
6 testified to a fact and she is a lawyer, and she is  
7 not allowed --

8 CHAIRPERSON GRIFFIS: Next question,  
9 please.

10 MS. HUBBARD: All right. Now, Mr.  
11 Gonzalez, you talked about how you want to -- I mean,  
12 the Board has said that they are not going to consider  
13 the interior of the building at all.

14 CHAIRPERSON GRIFFIS: Next question.

15 MS. HUBBARD: Isn't that correct, Mr.  
16 Griffis? Am I mistaken?

17 CHAIRPERSON GRIFFIS: I am not questioned  
18 at this period, but --

19 MS. HUBBARD: But you are very interested  
20 in the interior of the building. Are you very  
21 interested in the historic --

22 MR. GONZALEZ: Yes, I am.

23 MS. HUBBARD: And just very recently in  
24 the last package that you gave, there is a letter  
25 saying that you intend to apply for the Federal --

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1 CHAIRPERSON GRIFFIS: Ms. Hubbard, that  
2 doesn't have anything to do with the --

3 MS. HUBBARD: Yes, it does, because he  
4 previously testified that he wasn't going to do it.

5 CHAIRPERSON GRIFFIS: That does not have  
6 anything to do with what he just testified.

7 MS. GIORDANO: He didn't testify to that  
8 today.

9 MS. HUBBARD: he submitted that in the  
10 record. It was handed out right with the package.

11 MS. GIORDANO: Oh, lord.

12 MS. HUBBARD: You can look at it and you  
13 will see exactly just what it says.

14 MS. GIORDANO: Ms. Hubbard, what is the  
15 question?

16 MS. HUBBARD: The question is that Ms.  
17 Giordano wrote a letter saying that your lender  
18 objected to the historic designation.

19 MS. GIORDANO: Ms. Hubbard, can I just  
20 clarify that?

21 MS. HUBBARD: Yes.

22 MS. GIORDANO: What I said was --

23 MS. HUBBARD: Let's have the facts from  
24 him.

25 MS. GIORDANO: What I said was that the

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1 lender -- no, you said that I said it, and I did. The  
2 lender had an issue with respect to an interior  
3 designation.

4 MS. HUBBARD: That's right.

5 MS. GIORDANO: Not the tax credit.

6 MS. HUBBARD: Well, the tax credit goes  
7 with the interior designation.

8 MS. GIORDANO: No, they are separate and  
9 apart.

10 MS. HUBBARD: No, I --

11 MS. GIORDANO: You don't need an interior  
12 designation to get the tax credit.

13 MS. HUBBARD: Yes, you do.

14 CHAIRPERSON GRIFFIS: Okay. We have a  
15 difference of opinion.

16 MS. HUBBARD: Okay. But you personally  
17 want to preserve the interior and presented plans to  
18 our Department of Historic Preservation. As a matter  
19 of fact, that was part of your last letter that you  
20 put in. Remember the big mess with yellow all around  
21 that you put in that you were going to preserve all  
22 that? What is your intention --

23 CHAIRPERSON GRIFFIS: Let him answer the  
24 question.

25 MS. HUBBARD: Well, let me ask you --

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1 CHAIRPERSON GRIFFIS: You just asked him a  
2 question and let him answer.

3 MS. HUBBARD: Well, all I want to ask is  
4 this. If he is so interested in preserving the  
5 interior --

6 CHAIRPERSON GRIFFIS: What did I just say,  
7 Ms. Hubbard?

8 MS. HUBBARD: If he is so interested in  
9 preserving --

10 CHAIRPERSON GRIFFIS: No, what did I say?  
11 Did you hear what I said?

12 MS. HUBBARD: What did you say?

13 CHAIRPERSON GRIFFIS: Indeed. Perhaps --  
14 I have listened to you very intently, and perhaps you  
15 should listen to me intently also.

16 MS. HUBBARD: All right.

17 CHAIRPERSON GRIFFIS: You have asked a  
18 question. Mr. Gonzalez, can you answer the question?

19 MR. GONZALEZ: Yes. I am interested in  
20 preserving the interior of the property.

21 CHAIRPERSON GRIFFIS: Good. Next  
22 question.

23 MS. HUBBARD: All right. Why don't you  
24 include it with your Federal tax deduction application  
25 then if you are so interested in preserving the

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1 interior?

2 CHAIRPERSON GRIFFIS: Okay. I don't see  
3 the relevancy of that.

4 MS. HUBBARD: I do.

5 CHAIRPERSON GRIFFIS: I understand that.  
6 Next question, please.

7 MS. HUBBARD: I am touch with them down  
8 there and they think that --

9 CHAIRPERSON GRIFFIS: I am sure you are,  
10 and I am not questioning that. But next question,  
11 please.

12 MS. HUBBARD: All right. I don't think I  
13 have any more questions for you. Oh, except for one  
14 thing.

15 CHAIRPERSON GRIFFIS: Indeed.

16 MS. HUBBARD: On your financial  
17 difficulties, what --

18 CHAIRPERSON GRIFFIS: Where did that come  
19 in the --

20 MEMBER ZAIDAIN: I don't think he  
21 testified to that today.

22 MS. HUBBARD: Well --

23 MS. GIORDANO: He has testified --

24 MS. HUBBARD: He did say that he could not  
25 buy the whole thing himself, and that he had to bring

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1 in somebody else and sold all his other property.

2 MS. GIORDANO: No, he didn't. He did not  
3 say that.

4 CHAIRPERSON GRIFFIS: I did not hear him  
5 say that.

6 MS. GIORDANO: He bought the property  
7 himself..

8 MS. HUBBARD: He bought the property  
9 himself, and that may be.

10 CHAIRPERSON GRIFFIS: Anything else, Ms.  
11 Hubbard?

12 MS. HUBBARD: I would like or I would  
13 prefer if you would ask him, Mr. Griffis, this  
14 question.

15 CHAIRPERSON GRIFFIS: What is the  
16 question?

17 MS. HUBBARD: How much money he has got to  
18 spend on the property.

19 CHAIRPERSON GRIFFIS: Okay. I will take  
20 that under advisement.

21 MS. HUBBARD: I mean to say that I would  
22 like to have it presented in writing exactly what his  
23 budget is, and why he doesn't have an architect, and  
24 why isn't there somebody in here showing us how he is  
25 going to preserve the back yard and the inside, and

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1 all of these things.

2 I mean, in one hearing he says this, and  
3 the next hearing he says that.

4 CHAIRPERSON GRIFFIS: Indeed.

5 MS. HUBBARD: And how he says this, and  
6 now he says that.

7 CHAIRPERSON GRIFFIS: All right Ms.  
8 Hubbard, I will take that under advisement. If I  
9 understand and my board directs me to ask that  
10 question, we will ask for a response in writing.  
11 Next.

12 MR. JADIN: Okay. Mr. Gonzales, you say  
13 that the agreement that was brought to an earlier  
14 hearing, you commented that it was not agreed to  
15 because of the neighbors. Did you sign that  
16 agreement?

17 MR. GONZALEZ: I couldn't sign that  
18 agreement because we were all supposed to sign that  
19 agreement here in front of the board of zoning with --  
20 that was our agreement that we were all coming here to  
21 sign the agreement together.

22 MR. JADIN: Did you sign the agreement?

23 MR. GONZALEZ: No, I did not sign the  
24 agreement.

25 MR. JADIN: Okay. Were you aware that

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1 your lawyer that morning was asking or telling parties  
2 that there were changes to the document that was  
3 developed the night before.

4 MR. GONZALEZ: I did not get that  
5 information from my lawyer.

6 MR. JADIN: Did the ANC sign the  
7 agreement?

8 CHAIRPERSON GRIFFIS: Are we talking about  
9 an agreement that isn't signed and isn't in the  
10 record?

11 MR. JADIN: Well, he is saying that it  
12 isn't signed only because of the neighbors. It is not  
13 signed, but it somehow did get entered into the  
14 record.

15 CHAIRPERSON GRIFFIS: All right. There is  
16 a copy of it. Okay.

17 MR. JADIN: And it is going to the  
18 rebuttal testimony.

19 CHAIRPERSON GRIFFIS: That's fine. I am  
20 just trying to understand what you are doing.

21 MR. JADIN: Okay. So did the ANC sign the  
22 agreement?

23 MR. GONZALEZ: No, the ANC did not sign  
24 the agreement.

25 MR. JADIN: So you had mentioned that it

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1 would have been easier for you to develop this  
2 property as condominiums?

3 MR. GONZALEZ: it would have been more  
4 profitable. I didn't say easier, but more profitable.

5 MR. JADIN: It would have been more  
6 profitable. Okay. And now a question about the --  
7 and I guess this may be directed to Ms. West. You say  
8 you are going to leave the garage door open when you  
9 are expecting guests to arrive or customers to arrive?

10 MS. WEST: We will have a very short time  
11 window when we expect people to come. I also have  
12 stated I believe in testimony that we would have their  
13 cell phones, and we would be in contact with them so  
14 that we would know when they were arriving, and would  
15 be able to leave it open for 5 or 10 minutes.

16 I mean, I can have somebody go out there  
17 and stand at that garage door and welcome them.

18 MR. JADIN: So you are going to rely on  
19 cell phones to communicate the difference in traffic  
20 patterns that the customers are going to be using and  
21 saying when they are going to be there?

22 MS. WEST: No, I am going to rely on what  
23 is appropriate. I may rely on cell phones, and the  
24 example being if somebody tells us they are going to  
25 come between 4:00 and 4:15, and ask them if they are

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1 delayed to call us so that we know.

2 MR. JADIN: But normally you do realize  
3 the sort safety questions involved in leaving the  
4 garage door open?

5 CHAIRPERSON GRIFFIS: Is there a  
6 regulation that prohibits the garage door being left  
7 open?

8 MR. JADIN: No, but just maybe common  
9 sense in the neighborhood.

10 CHAIRPERSON GRIFFIS: I see. I get the  
11 point.

12 MS. WEST: Well, one of the things that is  
13 already --

14 CHAIRPERSON GRIFFIS: Next question.

15 MR. JADIN: Did she answer it?

16 CHAIRPERSON GRIFFIS: Your question was  
17 whether she was concerned about and how she was going  
18 to program keeping the garage door open.

19 MR. JADIN: Yes.

20 MS. WEST: Well, one of the things is, for  
21 example, that I stated already that when most of the  
22 guests would be arriving, and typically they will  
23 arrive as early as possible, which is around 4:00 or  
24 5:00.

25 CHAIRPERSON GRIFFIS: And you will expect

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1 them in a window or a time frame for arrival?

2 MS. WEST: Right. And I might have one of  
3 our housekeeping staff go out and sweep the sidewalk  
4 at that point, and do sort of a daily maintenance  
5 around the corner. I mean, there is lots of ways to  
6 handle it so that it works.

7 CHAIRPERSON GRIFFIS: Okay. Next  
8 question.

9 MS. POLIVY: Ms. West, you gave us a  
10 document that you said was --

11 MS. WEST: An occupation map. That is how  
12 it is referred to so of in the business.

13 MS. POLIVY: -- showing when people are  
14 coming and going. And at the bottom of that page  
15 there are three parking designations. Could you tell  
16 me what they represent?

17 MS. WEST: Well, it was just sort of --  
18 the document is designed to --

19 MS. POLIVY: I am just asking about the  
20 three parking designations.

21 MS. WEST: It represents parking spaces at  
22 Atlantic Valet.

23 MS. POLIVY: These are all --

24 MS. WEST: At Atlantic Valet.

25 MS. POLIVY: -- at Atlantic Valet?

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1 MS. WEST: That's correct.

2 MS. POLIVY: And these are not parking at  
3 the bed and breakfast?

4 MS. WEST: No, they are not parking spaces  
5 at the bed and breakfast. No, I have already covered  
6 that, that all of those guests will be parking at  
7 Atlantic Valet.

8 MS. POLIVY: Now, as I understand your  
9 parking plan for the bed and breakfast, people are  
10 going to arrive at a designated hour, and one of your  
11 staff is going to come out and either greet them or  
12 meet them.

13 And to take their car, and take it over to  
14 Atlantic Valet, or Atlantic Parking, and then run back  
15 and assume other duties. Now, you have made up a  
16 schedule which is just hypothetical.

17 MS. WEST: Yes, it is hypothetical. But  
18 it is based on my experience at a bed and breakfast.

19 MS. POLIVY: Excuse me, but it could be  
20 that five people arrive at once, or in one day, is  
21 that not correct?

22 MS. WEST: That would be so rare and that  
23 has not ever happened in my experience.

24 MS. POLIVY: Well, is it just as likely as  
25 the --

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1 MS. WEST: No, why would people all come  
2 at the same time? They are all coming from different  
3 places, and they don't know each other, and there is  
4 no reason for them to arrive at exactly the same time.

5 MS. POLIVY: They might come on the same  
6 day.

7 MS. WEST: They might come on the say day.

8 MS. POLIVY: Ms. West, this is just  
9 something that you made up; is that correct?

10 MS. WEST: But it is based on my  
11 experience that people do not come at the same time.  
12 There is usually quite a range between the time that a  
13 guest arrives.

14 MS. POLIVY: Now getting to the events.  
15 It was your testimony that -- let's assume you have a  
16 wedding of 110 guests. You will require each one of  
17 those people to give you their name, address, e-mail?

18 MS. WEST: The bride will have a guest  
19 list that I can easily get.

20 MS. POLIVY: And you are going to have  
21 again one of your employees standing out there  
22 directing people when they arrive; is that correct?

23 MS. WEST: If someone should come in  
24 error, then yes, we would have somebody when we were  
25 expecting event guests to arrive, yes.

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1 MS. POLIVY: How many employees do you  
2 intend to have during events?

3 MS. WEST: No more than what we would  
4 normally have.

5 MS. POLIVY: Which would be?

6 MS. WEST: Well, I believe our conditions  
7 state that we would have no more than four staff  
8 people on site at one time. Don't forget that most of  
9 the events is actually run by the caterer.

10 MS. POLIVY: Well, we are just talking  
11 about the people arriving and coming to the event, and  
12 that the caterer doesn't have anything to do with  
13 that.

14 MS. WEST: No, they don't.

15 MS. POLIVY: So one of your employees is  
16 going to be outside catching the people who haven't  
17 told you before that they were coming, or that they  
18 were coming in a different way?

19 MS. WEST: Actually, why I would have them  
20 out there would be to help people come in and get in  
21 and out of the vans and stuff if somebody happened to  
22 come by.

23 MS. POLIVY: But you wouldn't have any  
24 employees to do that?

25 MS. WEST: No.

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1 MS. POLIVY: Are you aware that it  
2 violates the regulations to have deliveries made  
3 before seven o'clock in the morning in that area?

4 MS. WEST: Before or after seven o'clock?

5 MS. POLIVY: Before.

6 CHAIRPERSON GRIFFIS: Yes or no, are you  
7 aware?

8 MS. POLIVY: Are you aware?

9 MS. WEST: I am not aware of what the  
10 legal --

11 MS. POLIVY: Now, you testified that it would  
12 take caterers or the caterers would be coming two  
13 hours before to set things up?

14 MS. WEST: That's correct.

15 MS. POLIVY: That would mean that if your  
16 event starts at 8:30, that means that your caterers  
17 would be coming at 6:30.

18 MS. WEST: Typically we are not going to  
19 have a wedding start at 8:30.

20 MS. POLIVY: Yes or no.

21 MS. WEST: That is a non, because we are  
22 not going to have an event that starts at 8:30 that is  
23 going to require that kind of a breakfast. What kind  
24 of event would need to have something at 8:30 in the  
25 morning?

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1 CHAIRPERSON GRIFFIS: Clearly your  
2 anticipation is that you would be in compliance with  
3 any regulations that I have no other questions.

4 MS. WEST: Yes, we would expect to be in  
5 compliance.

6 MS. POLIVY: That you, Mr. Griffis. Now,  
7 also your caterers, how long do they take to break  
8 down and leave at the end of an event?

9 MS. WEST: We allow for an hour-and-a-  
10 half, but typically they will only take like half-an-  
11 hour to 45 minutes. You would be amazed at how good  
12 they are at this. You would be amazed.

13 MS. POLIVY: Excuse me, but if your event  
14 ended at 10:30 at night, then you would contemplate  
15 that your caterers would be out by no later than  
16 midnight?

17 MS. WEST: Typically the caterers will be  
18 just about ready to leave at the same time an event is  
19 over, because let's say you have a four hour event,  
20 where they start serving the reception. And let's say  
21 the event starts at 1:30.

22 They have the wedding reception, and they  
23 start serving at, I'll say, 2:30 or what not. Buy the  
24 time that you have gotten through that four hour  
25 period, they have served everything, the cake and all

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1 of that, and all they have to do is put it in the car  
2 at the end of the event.

3 They are not going to be loading up tables  
4 and chairs, or things like that. So they are going to  
5 be out of there lickety-split at just about the same  
6 time the event is over.

7 MS. POLIVY: I don't have any more  
8 questions.

9 CHAIRPERSON GRIFFIS: Thank you. Anything  
10 else?

11 MS. GIORDANO: No, I just have a closing  
12 statement at this time, unless there are questions  
13 from the Board. In closing -- and I thought we would  
14 never get here -- I just wanted to remind the board  
15 first of all that the issue in this case is a 10 room  
16 bed and breakfast, as opposed to a six room bed and  
17 breakfast, which is permitted as a matter of right in  
18 the subject property.

19 I would also like to remind the board that  
20 the D.C. Court of Appeals ruled in an appeal case  
21 involving the nine room Swann House B&B, and that was  
22 an appeal from the special exception approval that  
23 this board granted, that guest-sponsored social  
24 gatherings, including weddings, are a permitted  
25 accessory use to a B&B as a matter of right.

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1           At issue here is an additional four guest  
2 rooms in what is an exceptionally large historic  
3 residence. By square footage or by room count, I  
4 think it is clear that this is an exceptionally large  
5 residence in this area.

6           Also at issue is an increase in the number  
7 of employees permitted for a B&B, and the flexibility  
8 to regulate that number of employees based upon the  
9 number of employees working on site at any one time.

10           As a mitigating factor the applicant has  
11 offered to submit this B&B operation to regulation in  
12 accordance with detailed conditions, including  
13 conditions which regulate the number, frequency, and  
14 timing of events, the use of the courtyard, and the  
15 implementation of a traffic management plan.

16           None of these would be required as a  
17 matter of right for a six room B&B. Is this a fair  
18 trade-off for the additional rooms and employees? The  
19 opponents argue no, but not because they are fairly  
20 considering the issue of a 10 room B&B, as opposed to  
21 a 6 room B&B.

22           The answer is no, because the opponents  
23 prefer a condominium conversion of the subject  
24 property. They assume that a BZA denial of the  
25 variance will force the applicant to abandon his B&B

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1 plan for the property, and that the property might be  
2 sold for condominium conversion.

3 I guess we can draw from this that the  
4 opponents believe that a serious hardship would result  
5 from a strict application of the zoning regulations to  
6 this property.

7 They argue, however, that that hardship is  
8 self-imposed. Here their reasoning fails. The unique  
9 and exceptional condition that creates the undue  
10 hardship in this case is the exceptionally large  
11 nature of this structure, and the undisputed quality  
12 and integrity of its interior.

13 This is not a condition that was created  
14 by the applicant, and certainly it would not be good  
15 policy for the board to dictate that an applicant's  
16 desire to preserve such a high quality interior  
17 consistent with public interests is a self-created  
18 hardship, which is unworthy of consideration of a  
19 variance.

20 The applicant's (sic) reliance in the  
21 Stewart case in this case is also misguided. The  
22 primary condition asserted which created the hardship  
23 in the Stewart case, and I was involved in that case,  
24 and I actually represented the adjacent property owner  
25 who opposed one of the variances in that case.

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1           The self-imposed hardship that the board  
2 determined that existed here was the applicant's  
3 assertion that they paid too much for the property.  
4 That was not a claim that was made in this case.

5           The Board did grant a variance to allow  
6 the use of that entire existing structure for office  
7 use. What they did not approve was a variance to add  
8 an addition to the property for additional office  
9 space.

10           Our case is consistent with that case, and  
11 we are attempting to use the entire building here. I  
12 indicated in my submission on behalf of the adjacent  
13 property owner in that case that we supported that  
14 variance to use the entire property, and indeed that  
15 is a garden variety variance type case, where the  
16 board has in many cases established a precedent that  
17 it is not good public policy to have an under-  
18 utilization of a property.

19           That it is a better policy to fully  
20 utilize a property, even if it is an extension or an  
21 expansion of a use which is permitted as a special  
22 exception ordinarily.

23           The Stewart case did grant that variance.

24           The Board did grant that variance, and it was only  
25 the addition, and in this case there is no addition.

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1 The opponents argue that the proposed additional four  
2 rooms in this case nullify the home occupation nature  
3 of this B&B.

4 The facts in this case indicate otherwise.

5 Mr. Gonzalez's actions to date are consistent with  
6 the home occupation. First, the circumstances by  
7 which he acquired this building. It was basically an  
8 impulsive acquisition to save a historic house to  
9 which he had become attached.

10 Mr. Gonzalez's business is actually the  
11 sale and purchase of condominiums and townhouses in  
12 the Dupont and Logan Circle areas. If his motives  
13 were primarily profit driven, he would have purchased  
14 this property for condominium development, an end to  
15 which the opponents and their expert agree is both  
16 feasible and economic.

17 But Mr. Gonzalez took the hard path here.

18 He divested almost his entire real estate portfolio,  
19 which he had spent years building, to put together a  
20 downpayment to purchase this property.

21 He also sold his residence, moving in with  
22 friends to await the restoration of this new home in  
23 the mansion. The B&B use here was a means to an end,  
24 a means to preserve and maintain an oversized historic  
25 mansion which exceeds the size of a typical personal

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1 residence.

2 Next, he painstakingly went through the  
3 process of obtaining a CFO for a six room B&B, and  
4 then he himself filed this application with the Board  
5 to permit the use of the additional rooms.

6 All the while, he has been overseeing the  
7 restoration of this building, researching its historic  
8 significance, taking on the interior design and  
9 decorating work himself and serving as his own general  
10 contractor.

11 This is consistent with what someone would  
12 do in a home occupation. It was only after that he  
13 realized that he could not answer all of the detailed  
14 operational questions about the operation of the B&B  
15 that he finally sought expertise to complete the  
16 project and to operate it.

17 In short, Mr. Gonzalez was not a B&B  
18 operator or a B&B owner shopping for a suitable  
19 property. In fact, it was the reverse. He bought the  
20 property for all the emotional reasons that we  
21 typically buy a personal residence, and he has pursued  
22 his dream of restoring this old home, probably against  
23 his better business judgment, as a means -- and the  
24 B&B as a means to preserve it and to live in it.

25 Perhaps it is this underlying irrational

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1 nature of his quest that makes some of his neighbors  
2 distrust his motivations. Ms. Alvarez cites numerous  
3 changes in Mr. Gonzalez's proposal and the  
4 negotiations over the last year.

5 Yes, there have been changes, and some as  
6 a result of Mr. Gonzalez's own personal inexperience  
7 in the B&B business, and some, and many in fact as a  
8 result of his attempts to please the neighbors and to  
9 reach an agreement.

10 We are convinced that no matter what the  
11 terms of any agreement, we cannot get the support of  
12 all of the neighbors adjacent to this property. That  
13 is because fundamentally that it is their clear  
14 preference to have a condominium on this property and  
15 not a six room B&B, or a seven room B&B, or a eight  
16 room B&B.

17 Given this entrenched opposition, both the  
18 ANC and the DCCA were hard-pressed to support this  
19 application. However, if you look clearly at their  
20 positions, they do support almost all of the  
21 conditions that have been proffered by the applicant  
22 in this case.

23 Two key ones which they advocated  
24 including were a prohibition on the expansion of the  
25 mansion, and a prohibition on the applicant's or the

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1 owner of the property's ability to obtain a liquor  
2 license.

3 And we have no problems with either of  
4 these conditions, but it was our impression -- we did  
5 not add them, because we did not think that they were  
6 really within the authority of the BZA to mandate.

7 With respect to the historic preservation  
8 conditions, we have worked very hard to formulate a  
9 condition which we put together in coordination with  
10 the City's Historic Preservation staff, which would  
11 offer strong enforcement mechanisms for the City.

12 We believe that it should be clear,  
13 however, that even in the absence of a condition like  
14 the one that we proffered, based upon the  
15 documentation in the record, and the observations of  
16 the Office of Planning staff, and the Historic  
17 Preservation staff, that these interiors are being  
18 preserved.

19 In addition, the owner has retained the  
20 services of a qualified firm recommended by the  
21 Historic Preservation staff to prepare the Tax Act  
22 application, and we provided a letter today to just  
23 update you on the status of that.

24 Finally, we have contacted the Dupont  
25 Circle Conservancy, who has expressed an interest in

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1 exploring the possibility of accepting an interior  
2 easement for the building, and that is something that  
3 we would be happy to enter into.

4 But finally as a condition to an approval  
5 of a 10 room B&B, the Board could simply provide in  
6 the order that the B&B would be used in accordance  
7 with the plan submitted by the applicant.

8 And the plans clearly denote where the  
9 guest rooms would be located and that the first floor,  
10 or the majority of the first floor, the majority of  
11 the first floor would be devoted to living room,  
12 dining room, parlor space, et cetera.

13 That would go a long way to ensuring the  
14 preservation of those interiors. So, in closing, I  
15 believe that we have met our burden. I believe that  
16 this applicant has gone to great lengths to develop  
17 conditions, to regulate the operation of this B&B, to  
18 mitigate any adverse impacts that might occur.

19 I think that there has been clear  
20 testimony that the adverse impacts that might result  
21 from a 10 room B&B, as opposed to a 6 room B&B, are  
22 probably minimal.

23 And that certainly there are adverse  
24 impacts associated with condominium development with  
25 no parking required on this historic site. Thank you,

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1 Board Members, for your patience in this case. We  
2 appreciate all of your consideration.

3 CHAIRPERSON GRIFFIS: Thank you very much.

4 Okay. Let us set this for a decision-making. I  
5 would ask the staff if we could do this on the 7th of  
6 January. It appears to me to be fairly open at this  
7 time.

8 With that, let's move back and see what we  
9 need. At this point, I think we would only need  
10 findings and conclusions from the applicant and the  
11 parties. We have an additional submission that will  
12 go into the record from the Department of  
13 Transportation, and that as we have indicated will be  
14 distributed, but we will just fill out the record.

15 That is all that I have at this time in  
16 terms of submissions.

17 MR. MOY: That sounds good, Mr. Chair, to  
18 have this regular public meeting on the 7th of  
19 January. What we could do if it is acceptable is we  
20 could have any findings of fact with a deadline of  
21 December 16th, and for requested information by  
22 December 2nd. Is that acceptable? It will be late  
23 November for the transcripts to arrive.

24 CHAIRPERSON GRIFFIS: Indeed. DDOT is not  
25 going to have any sort of response and so if they get

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1 it in when they get it in, I think it is appropriate  
2 as long as it is timely to send it to the board. Yes?

3 (Brief Pause.)

4 CHAIRPERSON GRIFFIS: Okay. I will repeat  
5 everything. So we have set this for a decision making  
6 on January 7th, and it will be called at nine o'clock.

7 Clearly the public hearing portion of this  
8 application is complete, and that is our public  
9 meeting at that time for deliberation on this.

10 We will have submissions of facts and  
11 conclusions of law by all parties and the applicant,  
12 and that is to be submitted by the date of --

13 MR. MOY: December the 16th.

14 CHAIRPERSON GRIFFIS: December the 16th.  
15 Very well. Is everyone clear on what is requested?  
16 In which case -- Ms. Hubbard?

17 MS. HUBBARD: I would like to ask you a  
18 question, and if you would be so kind --

19 CHAIRPERSON GRIFFIS: Is it relating to  
20 this case?

21 MS. HUBBARD: Yes.

22 CHAIRPERSON GRIFFIS: Very briefly,  
23 please.

24 MS. HUBBARD: Mr. Griffis, my question  
25 relates to historic preservation.

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1 CHAIRPERSON GRIFFIS: Yes.

2 MS. HUBBARD: As you know the Department  
3 was not here today, and we couldn't cross-question  
4 him.

5 CHAIRPERSON GRIFFIS: Well, we have dealt  
6 with that.

7 MS. HUBBARD: All right. Now, on the  
8 other hand, they gave conflicting information about  
9 their position on historic preservation. They said  
10 that they were going to ask for an easement on the  
11 interior.

12 CHAIRPERSON GRIFFIS: Okay. What is the  
13 question to me?

14 MS. HUBBARD: Then they said that they  
15 were going to get this Federal thing, but not have the  
16 interior included.

17 CHAIRPERSON GRIFFIS: Bring me up to the  
18 question.

19 MS. HUBBARD: The thing is that there is  
20 an enormous difference. You can take out the  
21 interior, and --

22 CHAIRPERSON GRIFFIS: Okay. I still don't  
23 hear a question.

24 MS. HUBBARD: Well, what I mean is that  
25 the facts between the difference of having the

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1 interior protected by a Federal statute, and by the  
2 local statute, are enormously important.

3 CHAIRPERSON GRIFFIS: I understand where  
4 you are going. It would be appropriate for you to put  
5 that in your findings of facts and conclusions of law.

6 MS. HUBBARD: Well, how can I do it since  
7 there has been no testimony on it by the applicant.

8 CHAIRPERSON GRIFFIS: It is going to have  
9 to be based on the record.

10 MS. HUBBARD: I mean to say can I refer to  
11 the -- to what it says in the law, and what I said in  
12 experience in getting the --

13 CHAIRPERSON GRIFFIS: If it is in the  
14 facts of the case. I really by my own regulations  
15 cannot walk you through how you conduct your case.

16 MS. HUBBARD: I know that you can't.

17 CHAIRPERSON GRIFFIS: The staff can help  
18 you prepare for that.

19 MS. HUBBARD: But it seems to me that it  
20 is not clear from the record.

21 CHAIRPERSON GRIFFIS: Listen, Ms. Hubbard,  
22 if I could have your attention for a second. Do you  
23 want what I was going to say or are you done?

24 MS. HUBBARD: Yes, I do.

25 CHAIRPERSON GRIFFIS: I would suggest that

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1 you sit with staff and go through and ask the Office  
2 of Zoning staff of how you prepare, and whether things  
3 are acceptable or not, and then you make your own  
4 judgment. Next question.

5 MS. POLIVY: Mr. Chairman, did I  
6 misunderstand you earlier? I thought you said earlier  
7 in this session that the interior of the house was not  
8 a question within the ambit of what the Board of  
9 Zoning Adjustment was to consider.

10 CHAIRPERSON GRIFFIS: We will consider  
11 what is in the record. My point was that I didn't  
12 find it prejudicial that Steve Calcut, the Historic  
13 Preservation staff, could not be cross-examined based  
14 on the application and of his work.

15 His work, I have found, and I think that  
16 my Board is in agreement with me as I polled them,  
17 that we will not review the historic preservation work  
18 that happens on the interior portions of that.

19 It is certainly as I talked about part of  
20 the global application that is before us, but this use  
21 variance does not turn independently and individually  
22 on the preservation of the interior.

23 I have found it sufficient information in  
24 the record so that we can deliberate indicating the  
25 importance or non-importance, the success or non-

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1 success of this application. Good. Thank you all  
2 very much. I appreciate everybody's patience, and  
3 that would conclude the first case of the morning.

4 We are going to take a 15 minute break for  
5 lunch, and we will be back at 2:05. However, before  
6 we do that, I am wondering if the representative of  
7 the first case of the afternoon is here, and that is -  
8 -

9 MR. ROSS: The first event for the  
10 afternoon?

11 CHAIRPERSON GRIFFIS: That's correct.

12 MR. ROSS: That would be our case, but  
13 then the other gentleman stepped out, and so I was  
14 just curious.

15 CHAIRPERSON GRIFFIS: Which is your case?

16 MR. ROSS: Ventura, which I think is  
17 16941.

18 CHAIRPERSON GRIFFIS: I understand. Maybe  
19 my schedule is a little bit different, but what I want  
20 to hear the Kuri Brothers case.

21 UNIDENTIFIED PERSON: We are just seeking  
22 a continuous.

23 CHAIRPERSON GRIFFIS: Okay. Let me -- I'm  
24 sorry, but everyone sit down here. Let me be  
25 absolutely clear on where we are and what we are

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1 doing. I have a preliminary matter with the case that  
2 is first in the afternoon.

3 We are then going to take a very, very  
4 brief lunch break, and then we will come back to the  
5 Application of the Government of the District of  
6 Columbia Office of Aging. I would imagine that we  
7 would be hearing that case at 2:05 to 2:10. So we are  
8 moments away from hearing that and so no one go  
9 anywhere.

10 Okay. What do I have to do with the Kuri  
11 Brothers here? Is there a request for a continuance;  
12 is that correct?

13 MR. ROSS: Yes, there is. My name is Dave  
14 Ross, and I am an associate in the law firm or the Law  
15 Offices of Stanley H. Goldschmidt. Tamir Denari, who  
16 is the lead attorney on this matter, is out of the  
17 country for two weeks, and for that reason we  
18 requested over a month ago a small continuance.

19 CHAIRPERSON GRIFFIS: Okay. And it is my  
20 understanding that the letter came in requesting a  
21 continuance approximately a week after we had  
22 announced the date of the new hearing.

23 MR. ROSS: That's true, sir.

24 CHAIRPERSON GRIFFIS: Okay. And then the  
25 record is fairly complete that that was evidenced.

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1 Board Members, questions of the submissions? Okay. I  
2 would be -- Ms. Perry, you are at the table, correct?

3 MS. PERRY: Yes.

4 CHAIRPERSON GRIFFIS: Could you introduce  
5 yourself briefly?

6 MS. PERRY: My name is Karen Perry from  
7 Advisory Neighborhood Commission 3-F.

8 CHAIRPERSON GRIFFIS: And does ANC-3F have  
9 an objection to the continuance?

10 MS. PERRY: ANC-3F would like to see the  
11 case go forward if we could. It has dragged on now  
12 for 13 years, and we would like to see it completed.

13 CHAIRPERSON GRIFFIS: Don't we know it.  
14 Which gives us some perspective in the long case in  
15 the morning doesn't it though? And, yes, sir, do you  
16 want to introduce yourself, please?

17 COMMISSIONER BARDIN: I am ANC  
18 Commissioner David Bardin from ANC-3F.

19 MR. GREEN: And my name is Matthew J.  
20 Green, Junior, and I am from the Department of  
21 Consumer and Regulatory Affairs.

22 CHAIRPERSON GRIFFIS: That's correct, sir,  
23 and I should have addressed you first, and if you will  
24 forgive me for that.

25 MR. GREEN: That's quite all right.

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1 CHAIRPERSON GRIFFIS: Do you have an  
2 objection to the continuance, sir?

3 MR. GREEN: We have some concerns. We  
4 would like it further stated for the record what do we  
5 have here. Is this a law firm, or is this an  
6 individual who is renting an office space?

7 It appears as though you have a law firm,  
8 but the whole idea of a law firm is if you have an  
9 individual who can't make it, the other gentleman  
10 steps in or lady steps in and takes that person's  
11 place. We would like to know what is going to happen  
12 in the future i this thing.

13 CHAIRPERSON GRIFFIS: Well, I can tell you  
14 from the Board's perspective that we are going to set  
15 this for a new date if this is successful, and we will  
16 call it no matter what.

17 MR. GREEN: All right.

18 CHAIRPERSON GRIFFIS: I agree with you and  
19 I understand that if there is a law firm that one  
20 might take up one or have a replacement. In the fact  
21 that it was clear the moment that we announced this  
22 that there was a request for a continuance.

23 I would also, and not being a lawyer, but  
24 I would assume that a specific attorney that works and  
25 prepares a case would be more successful in continuing

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1 and presenting that exact case, and certainly that  
2 would be the best case scenario.

3 And I would find it prejudicial in fact if  
4 we called it today, not having the representative who  
5 had asked several weeks ago for a continuance. But I  
6 think it would be clear that we would not entertain  
7 anything else.

8 So with that, can I hear any objections to  
9 pursuing that in that vain? I take it that it is the  
10 consensus of my board then that we will grant the  
11 continuance.

12 VICE CHAIRPERSON RENSHAW: But, Mr.  
13 Chairman, we are granting just one continuance.

14 CHAIRPERSON GRIFFIS: Yes, at this point.

15 (Brief Pause.)

16 CHAIRPERSON GRIFFIS: Very well. Let me  
17 ask the applicant's representative who is here today  
18 that for November 26th, I am scheduling it for the  
19 afternoon, and it is the second case in the afternoon.

20 MR. ROSS: Okay.

21 CHAIRPERSON GRIFFIS: Be sure. That is a  
22 hundred percent okay.

23 MR. ROSS: If I have a choice, let me  
24 check my calendar.

25 CHAIRPERSON GRIFFIS: Sir? Let me go

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1 around the table.

2 MR. GREEN: Sir, November 26th?

3 CHAIRPERSON GRIFFIS: That's correct.

4 MR. GREEN: I don't have my calendar in  
5 front of me.

6 VICE CHAIRPERSON RENSHAW: A Tuesday.

7 MR. GREEN: All right.

8 MR. ROSS: That would work for us.

9 CHAIRPERSON GRIFFIS: Good. And the ANC,  
10 you are available?

11 MR. BARDIN: I may not be available, but  
12 if I am not available, Commissioner Perry will handle  
13 this neatly. I do want to raise a related preliminary  
14 matter, Mr. Chairman, when you finish with the  
15 continuance.

16 MR. GREEN: I would like to come back to  
17 that and revisit this 26th, Mr. Chairman. I believe  
18 -- I know that this is a personal problem, but my wife  
19 is going in the hospital around that time frame, and I  
20 am not certain of the exact date, and whether it is  
21 the 26th or the -- I know that it is around the  
22 Thanksgiving time frame.

23 And I would like at least 10 minutes to go  
24 off and make a telephone call, or in the alternative  
25 contact the parties --

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1 CHAIRPERSON GRIFFIS: You want a 10 minute  
2 break to make a phone call?

3 MR. GREEN: Well --

4 CHAIRPERSON GRIFFIS: Well, I think that's  
5 fine. Let's break for lunch and actually you had one  
6 other preliminary matter.

7 MR. BARDIN: The ANC would like your  
8 confirmation that we are a party. We filed a paper  
9 this morning and we believe that we are a party.

10 CHAIRPERSON GRIFFIS: The property is  
11 located in your ANC, is that correct?

12 MR. BARDIN: Yes, it is.

13 CHAIRPERSON GRIFFIS: Our regulations  
14 state that you are a party in the case.

15 MR. BARDIN: Second, Charles E. Smith  
16 Realty filed a paper with you this morning asking to  
17 intervene. They own and manage properties immediately  
18 adjacent to this facility.

19 I promised their counsel, Mr. Patrick  
20 Brown, that I would call him as you approached. I  
21 didn't realize how this would work out, or I would  
22 called him and he would have been here.

23 CHAIRPERSON GRIFFIS: I see.

24 MR. BARDIN: And the ANC supports the  
25 petition to intervene. He has given his explanation

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1 of why he couldn't file until today.

2 CHAIRPERSON GRIFFIS: Okay. And that's  
3 fine. I am not in receipt of that letter, and if it  
4 came in today, we would not have had it unless it was  
5 delivered up to us. In that we have continued until  
6 the 22nd (sic), there is ample time for them and for  
7 the board to take that up. We could take that up as a  
8 preliminary matter on the 26th whether we grant  
9 intervenor status to Smith, W.E. Smith you said?

10 MR. BARDIN: Charles E. Smith.

11 CHAIRPERSON GRIFFIS: Is that sufficient?

12 MR. BARDIN: I guess so. If not, I guess  
13 he will have to let you know that. We will call him  
14 during your lunch break.

15 CHAIRPERSON GRIFFIS: That is the only  
16 alternative that we have. And this is what I am going  
17 to do. We are going to take this up -- as it now  
18 stands, it is the 26th of November, the second case in  
19 the afternoon.

20 And that covers our requirement for public  
21 publication on the record. Clearly if it changes  
22 based on a telephone conversation, we will notify the  
23 ANC and we will burden them with trying to disseminate  
24 that information and also the parties in the case.

25 So to reiterate, thank you all very much.

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1 We will take 10 minutes, and we will be back, and we  
2 will go directly into 16942, and believe me the pace  
3 is going to pick up substantially.

4 (Whereupon, at 2:00 p.m., a luncheon  
5 recess was taken.)  
6

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

(2:27 p.m.)

CHAIRPERSON GRIFFIS: Okay. For Case Number 16947, November 26th is not a good date, and a new date has been set. If the staff would just announce that date for us.

MS. BAILEY: January 28th, Mr. Chairman, and that would be the afternoon session on January 28th, of 2003.

MS. PERRY: Mr. Griffis.

CHAIRPERSON GRIFFIS: Yes.

MS. PERRY: That is kind of like a long delay. Is there anyway that we could squeeze it in? Like from November 26th to January 28th is two whole months.

CHAIRPERSON GRIFFIS: Yes, indeed. The difficulty is that our schedule is published and announced and what we don't like to do is get into cases like we are today, where we have continued cases that are fit in and go way beyond the time that we have.

In reviewing the schedule with the staff, that is what we have. All of January and December have been publicized and are very full at this point. And what I have done for the convenience of the Kuri

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1 case that we are talking about at this point is  
2 blocked out an entire -- are we talking about an  
3 entire afternoon?

4 MS. BAILEY: Yes, Mr. Chairman.

5 CHAIRPERSON GRIFFIS: We blocked out the  
6 afternoon, and so we will call this and finish it in  
7 that afternoon, and that way we won't have to deal  
8 with rescheduling everyone's schedule.

9 So it is not the best case scenario, and I  
10 totally understand. This is an appeal of -- well, I  
11 won't say that. There it is. It is an appeal. With  
12 that, everyone is okay with that date and clear on  
13 what we are doing? It is at one o'clock that we will  
14 call it, and we will see you when it is colder than it  
15 is today.

16 MR. ROSS: Thank you very much.

17 CHAIRPERSON GRIFFIS: That you all.

18 MR. GREEN: Thank you, Mr. Chairman.

19 CHAIRPERSON GRIFFIS: Indeed. Let's call  
20 the next case, please.

21 MS. BAILEY: Application Number 16942 of  
22 the Government of the District of Columbia Office on  
23 Aging, pursuant to 11 DCMR 3104.1, for a special  
24 exception to establish a Senior Wellness Center in the  
25 Old Hayes School Building, under Section 205, and the

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1 property is located in an R-4 District at premises  
2 1035 - 5th Street, Northeast, Square 830, Lot 816.

3 All those wishing to testify, please stand  
4 to take the oath. All those testifying on the  
5 Wellness Center, please stand to take the oath.

6 CHAIRPERSON GRIFFIS: Is there anyone here  
7 testifying for this application? If you would stand.  
8 Very well.

9 (All witnesses were sworn.)

10 CHAIRPERSON GRIFFIS: Thank you all very  
11 much. I am going to turn it directly over to you, and  
12 I am just going to ask that you turn on your mike on,  
13 and if you would not mind introducing yourself for the  
14 record with your name and your address.

15 MS. PACE: Good afternoon. I am E.  
16 Veronica Pace, Executive Director of the D.C. Office  
17 on Aging. My office is located in this building on  
18 the 9th Floor.

19 CHAIRPERSON GRIFFIS: Please proceed.

20 MS. PACE: Thank you. You had indicated  
21 earlier, and I am old enough and wise enough to pay  
22 attention to the Chair, that the pace would be picked  
23 up and you know that my name is Pace, and so I am  
24 going to move through this very quickly, because I  
25 could take all afternoon, and I don't think you would

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1 want me to do that, to talk about what is very close  
2 and very dear to the mission of the Office on Aging.

3 And it really is our mission to plan, to  
4 develop, to implement, and to monitor programs and  
5 services for people who are 60 years of age and over.

6 We are a funding agency for about 20 community-based  
7 agencies in the community which serve as focal points  
8 for aging programs and services, which means that we  
9 don't do everything out of our office here.

10 In fact, most of the direct services are  
11 done right there at the community level. What we have  
12 come before you today is a special exception, because  
13 we want to include a wellness center at the Old Hayes  
14 School on 5th Street.

15 We have experience in doing wellness  
16 centers, and we have three others in the city. We  
17 came to you once before to get relief in order to do  
18 the one that we recently opened in Ward 8.

19 And I dare to say that it is a real  
20 beacon, a real special place in the community, and we  
21 can't keep the doors open long enough. It has been  
22 the most exciting thing to happen in Ward 8 in a long  
23 time.

24 We are a good neighbor, and we have always  
25 been a good neighbor. We intend to be a good neighbor

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1 now. We strive very hard in fact to do the right  
2 thing the first time around, and in accordance with  
3 seeking this special exception, we have had about five  
4 encounters with the community, and done so  
5 purposefully.

6 We have also talked with historic people  
7 because this is a building that has significant  
8 history in the community, and what we are asking to do  
9 is to -- or what we propose to do certainly is to have  
10 three levels in the building.

11 We will have a lower level, a ground  
12 level, a second level, and an upper level. And along  
13 with the services and programs for seniors that will  
14 operate out of that building -- and just seniors by  
15 the way.

16 We will primarily be a day time operation,  
17 and no overnight or extended care of any kind, and to  
18 also co-locate the headquarters if you will of the  
19 Office on Aging that is responsible for oversight.

20 We are the State and area agency for the  
21 District of Columbia as it relates to aging programs  
22 and services. That is who we are and what we do, and  
23 I am available to answer any questions that you might  
24 have.

25 We had a number of people from the

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1 community supporting us that were here this morning.  
2 Some of them are still here. Not all of them were  
3 able to remain. Our architect is still here as well,  
4 as well as our project manager from the City.

5 We have included in the package that was  
6 sent to you various letters of support, and statements  
7 from the government side as well. I stand ready to  
8 answer any questions that you might have.

9 CHAIRPERSON GRIFFIS: Very good and thank  
10 you very much. First of all, where are you in the  
11 process of historic preservation review?

12 MS. PACE: We are not bound by a historic  
13 preservation review, but we did have a discussion  
14 early on, and because of just a preliminary  
15 discussion, we did move to retain the west facade of  
16 the building.

17 An initial option open to us was to tear  
18 down the entire structure and to do as we did in Ward  
19 8, where we had vacant land and to build from the  
20 ground up.

21 But in response to the concerns of those  
22 who wanted to retain some aspect of the building, we  
23 moved to do that, and we will retain the west facade  
24 with the two towers and the front entrance of what was  
25 then the Hayes School.

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1 CHAIRPERSON GRIFFIS: Okay. And there are  
2 several issues that I think you are aware of. First  
3 of all, that there was an issue arising with the fact  
4 that you have proposed to put the headquarters as you  
5 just limitedly described in this building?

6 MS. PACE: Yes.

7 CHAIRPERSON GRIFFIS: And do you have an  
8 opinion as to how that would fit under this special  
9 exception and not be a variance in this case?

10 MS. PACE: Yes. Simply because quite  
11 frankly that 75 percent of the building will be used  
12 for and on behalf of seniors. And it really is the  
13 top level in which the Office on Aging staff will  
14 occupy the premise.

15 CHAIRPERSON GRIFFIS: Okay. So if I  
16 understand you correctly, you are indicating that in  
17 fact the headquarters aspect is accessory use to the  
18 wellness center?

19 MS. PACE: We think so, yes.

20 CHAIRPERSON GRIFFIS: And we have just be  
21 handed actually a letter from the zoning  
22 administrator, Robert Kelly, dated November 8th. Are  
23 you in receipt of this letter?

24 MS. PACE: Yes, we did receive a copy as  
25 well.

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1 CHAIRPERSON GRIFFIS: And it would appear  
2 on my very quick glance that he would agree with your  
3 statement that this would be accessory use. A couple  
4 of other issues that came up, and perhaps I think you  
5 had some boards, and we may just need to take a very  
6 quick look at them.

7 MS. PACE: And you certainly may. If I  
8 might, Mr. Chairman, this is in essence what the Hayes  
9 School looks like. This is really just a rendering of  
10 such.

11 And what we are retaining is this portion  
12 here, the west facade on 5th Street. This will be new  
13 construction, and in fact we went to some considerable  
14 expense to modify the windows to keep them in the  
15 Paladin shape, more in the motif of existing windows,  
16 and that came from a community meeting, where one  
17 person said, well, I don't like the windows that you  
18 have proposed.

19 And I said, well, whatever it takes, we  
20 want to come out of this meeting with a win-win. So  
21 that is our philosophy in working with the community.

22 We know that this will be a good thing, and we may  
23 not be able to satisfy everybody all the time in every  
24 way, but we will do our darneest to try to please  
25 people, and to certainly meet them more than halfway.

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1 CHAIRPERSON GRIFFIS: Good. Well, I think  
2 that is clearly appreciated by the community, putting  
3 emphasis on the design. It is in fact addressing  
4 205.6 of which you are under for a special exception,  
5 and that is the board's jurisdiction to overlook the  
6 design and any issues relating to that to mitigate the  
7 adverse impacts. Mr. Zaidain, did you have a  
8 question?

9 MEMBER ZAIDAIN: Yes, I had just a very  
10 quick question. Going back to the issue with the  
11 special exception and how the remaining percentage of  
12 your use falls within that. Can you give a little  
13 more detail on -- you said that 75 percent will be the  
14 child --

15 MS. PACE: No, no, not child now.

16 MEMBER ZAIDAIN: Well, the zoning  
17 regulations say child, but --

18 MS. PACE: Because there is no category  
19 for a wellness center. The lower level, it will not  
20 be a true basement. It is lower level and there will  
21 be window light and what not associated with that if  
22 you think perhaps of what some people call an English  
23 basement. But it really is a lower level.

24 And on the lower level would be the  
25 fitness area, and will be the showers, will be the

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1 lockers and on one end will be two classrooms, with  
2 computers that will be available for folks, as well as  
3 for smaller training.

4           There will be line dancing and some weight  
5 lifting. You see, you are young yet, but those of us  
6 who still have to carry our own groceries from stores  
7 such as Safeway, it is important to have that  
8 strength, and muscle, and stuff, to remain  
9 independent.

10           And that is all that we do, is about  
11 responding to the issue of longevity. We now have  
12 more centenarians than we ever have, but we have  
13 centenarians that are still able to -- we just honored  
14 one a hundred years old that just stopped driving.

15           So age is very personal, and we do know  
16 that the more that we do to strength our muscles, to  
17 strengthen our mental capacity, to focus on staying  
18 well, as opposed to dealing with acute illnesses.

19           And to be ambulatory, and to be able to  
20 walk, and to be able to do things for yourself, that  
21 in the long run we are doing a greater effort for the  
22 city, for the government, for the community, and  
23 certainly for the people who are going to be served.

24           And that is what will happen on the lower  
25 level or ground level if you will, and again we gave

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1 consideration to accessibility, and what would be most  
2 accessible to people, we will have a one stop service  
3 center so that anyone who wants to come in and find  
4 out about employment, and perhaps get some assistance  
5 with resume preparation, and get some classes on job  
6 orientation and preparation.

7 Seniors are able to still work, and want  
8 to work, and many of them to. Many of them just part-  
9 time. There will also be a large room that can hold  
10 seated tables and at many of our sites we do have  
11 nutrition sites, and we do a lot of nutritional  
12 counseling.

13 That is our formula, fitness and  
14 nutrition, education and counseling, and a couple of  
15 smaller rooms where our Commission on Aging, or  
16 another Commission might meet, or even an ANC meeting  
17 or something like that might take place.

18 But again public use of space. On the  
19 next level, there will be two elevators by the way,  
20 and will be a Caregiver Institute, One stop service is  
21 for those people who want to come in and can get  
22 brochures, and maybe look at if they weren't able to  
23 get us on the web, preliminary information.

24 But if you need to actually sit down and  
25 talk with someone about getting home care, or more

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1 extended care, or transportation, or day care, it  
2 won't be there. It will be elsewhere. But then you  
3 need more one on one type of assistance and counseling  
4 that you wouldn't do any one-stop center.

5 At the Caregiver Institute, you will be  
6 able to come for support groups, and for training  
7 perhaps and learning how to properly lift a loved-one  
8 that you are taking care of; and what is involved in  
9 doing 24 hour care, and keeping someone at home, as  
10 opposed to institutionalization.

11 And just getting the kind of support that  
12 you need. Care giving is a 24 hours endeavor. If you  
13 have ever done it, then you know that, but we also  
14 know that caregivers are the true backbone of our  
15 health care system, and we want to keep people in the  
16 community, and not in institutions, as long as  
17 possible.

18 Then on the third level, the top level,  
19 will be administrative spaces, where my office will  
20 be, and where other staff people -- finance, grants  
21 management, operation, project development, planning,  
22 and that kind of thing.

23 MEMBER ZAIDAIN: And so the third level  
24 accounts for the 25 percent of your program?

25 MS. PACE: Absolutely, yes.

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1                   MEMBER ZAIDAIN:   And everything else you  
2 described was the 75 percent, right?

3                   MS. PACE:     Right.    And had we moved to  
4 just -- you know, eliminate the building, and build  
5 from scratch, we probably would have done what we do  
6 elsewhere, and do just the ground level of a 10,000  
7 square foot building.

8                   In reality, and in fact our largest  
9 wellness center, and now newest one, is about 11,000  
10 square feet, but in reality public space will receive  
11 considerably more than the 10,000.

12                  CHAIRPERSON GRIFFIS:   Okay.    Thank you  
13 very much.   Mr. Hood, did you have something?

14                  COMMISSIONER HOOD:     Ms. Pace, I just  
15 wanted to ask you for a little bit more clarification  
16 on one-stop service.   Basically from what I gather  
17 from your testimony, it is basically going to be an  
18 informational area.

19                  MS. PACE:     It is information.   It is  
20 information and referral, and we are required to do  
21 that.   All of your State agencies on aging in every  
22 State in the union is required to provide information,  
23 and referral, and assistance.

24                  COMMISSIONER HOOD:   So if I come and get  
25 information from this center, I may have to go

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1 elsewhere to be able to get the relief or whatever  
2 care that I may want or need?

3 MS. PACE: Oh, you would have to go  
4 elsewhere, but we would connect you with that service,  
5 and that's why it is one-stop, so that you don't have  
6 to go -- we fund most of your community-based  
7 agencies.

8 I am a funder for UPO and for family and  
9 child services, and for the Barney House, and for the  
10 senior citizens council and delivery. We fund most of  
11 your community-based services if they are doing  
12 anything in the area of aging programs and services.

13 We don't do it ourselves, but I have a  
14 responsibility by law for oversight, for monitoring,  
15 for assessment, for planning, and for development.  
16 And those are the primary functions of the Office on  
17 Aging.

18 COMMISSIONER HOOD: Ms. Pace, I have just  
19 one other question. The historic piece that the  
20 Chairman touched on earlier, do you know anyone who  
21 has already put in a petition to designate this school  
22 as a historic landmark?

23 MS. PACE: No, I am not aware of that, and  
24 probably as you know at any point in time one could do  
25 that. We would hope though that we have worked

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1 through some of that.

2 We have worked very hard at trying to keep  
3 the integrity of the design.

4 COMMISSIONER HOOD: Well, let me say this,  
5 because I looked for something with someone who had  
6 already tried to designate this as a historic  
7 landmark. My hat is off to you for even taking that  
8 under consideration, even though right now there is no  
9 petition.

10 MS. PACE: No, there is not, and this is  
11 not in a historic district, and it has not been  
12 designated historic. but it is an old building, and  
13 we know that it is important to protect old buildings.

14 We feel that way, too.

15 But in order to accomplish the higher and  
16 the better good, in terms of what the mission of our  
17 agency is, we are doing what we need to do. And by  
18 the way, we had to purchase this building. It came  
19 out of my capital authority.

20 So this isn't something that we would just  
21 hand it on a plate and say work with. We want to be  
22 in the community, and we chose to do this. We are  
23 community, and we feel very strongly about that.

24 COMMISSIONER HOOD: Thank you.

25 CHAIRPERSON GRIFFIS: Thank you. We

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1 appreciate the work that you do, and clearly your  
2 program is not up for our approval or disapproval, but  
3 just the special exception to occupy this building.

4 To that, let me just quickly say that this  
5 is a self-certification, and it is your self-  
6 certification that it is new construction that is  
7 being built within the limits, and that is 40 feet in  
8 height; is that correct?

9 MS. PACE: Absolutely.

10 CHAIRPERSON GRIFFIS: Okay. And then  
11 these parking spaces as you have calculated them, the  
12 minimum required is 41 and you are providing 42?

13 MS. PACE: That is correct.

14 CHAIRPERSON GRIFFIS: And if I am not  
15 mistaken, there is two handicapped spaces that are --

16 MS. PACE: That is correct.

17 CHAIRPERSON GRIFFIS: Are those adequate  
18 for your program?

19 MS. PACE: Yes, we think so, and generally  
20 for wellness, most people that come to wellness  
21 programs are ambulatory people. We have day care  
22 centers, and I have responsibility for a nursing home,  
23 and I have responsibility for a transportation system  
24 that operates out of a different plant and operation  
25 in Northeast D.C.

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1 CHAIRPERSON GRIFFIS: Okay. Going to the  
2 parking, it has been evidenced in the record of some  
3 of the agencies who have talked about the requirements  
4 for 5 percent landscaping on surface parking. Are you  
5 aware of that?

6 MS. PACE: We are willing to do that, yes.

7 CHAIRPERSON GRIFFIS: All right. Do you  
8 have a plan at this point that shows what it might be?

9 MS. PACE: We do, and the plan, the  
10 preliminary design sort of shows some landscaping. My  
11 project manager is here, Virgil Green, who is an  
12 architect, and

13 MR. GREEN: and he may want to speak to  
14 that. But we are willing to work with the Office of  
15 Planning and to do what is necessary. We take no  
16 issue there. We think we have spoken to it and  
17 addressed it in the plans.

18 CHAIRPERSON GRIFFIS: And those aren't  
19 part of the plans that were submitted in the record to  
20 the board though; is that correct? I have not seen a  
21 landscape plan.

22 MS. PACE: Not completed, no.

23 CHAIRPERSON GRIFFIS: Well, I think we  
24 will go that way, and what I would like to do is just  
25 run down 205.2 as the basis of your case, and I think

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1 we can take a look at that quickly. We will get to  
2 the government reports.

3 Clearly, or it is your assertion that the  
4 center is capable of meeting all applicable code and  
5 licensing requirements?

6 MS. PACE: Absolutely.

7 CHAIRPERSON GRIFFIS: And it is designed  
8 so as not to create any objectionable traffic  
9 conditions or unsafe conditions for pick-up and drop-  
10 off of clients?

11 MS. PACE: Absolutely, yes.

12 CHAIRPERSON GRIFFIS: And that is done  
13 with the on-site, but adjacent, surface parking?

14 MS. PACE: Yes.

15 CHAIRPERSON GRIFFIS: And there is  
16 adequate entrance off of that parking?

17 MS. PACE: Yes, there will be.

18 CHAIRPERSON GRIFFIS: That also goes to  
19 205.4, which is sufficient off-street parking. The  
20 outdoor play area I think was addressed sufficiently  
21 for your needs. I don't think 5.6 -- it does give the  
22 board jurisdiction for special treatment, and we can  
23 address that if needed.

24 Do you have knowledge of any other elderly  
25 or child development centers within a thousand feet of

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1 this property?

2 MS. PACE: Not that I am aware of, and  
3 certainly not elderly.

4 CHAIRPERSON GRIFFIS: Okay. Why don't we  
5 take a look at your landscape plan that has been  
6 proposed at this point.

7 (Brief Pause.)

8 CHAIRPERSON GRIFFIS: If you would just  
9 give me your name and your address, please.

10 MR. BRYANT: My name is Charles Bryant,  
11 and my address is 4201 Connecticut Avenue, Northwest.

12 CHAIRPERSON GRIFFIS: Mr. Bryant, you put  
13 up plans, three plans, starting from the bottom of the  
14 board that you put up, the two are identical to the  
15 submission that you put into the record; is that  
16 correct?

17 MR. BRYANT: Yes, they are.

18 CHAIRPERSON GRIFFIS: Okay. Those are the  
19 four plans, and then above those is -- do you want to  
20 describe what that is?

21 MR. BRYANT: The plan above is the site  
22 plan which shows the footprint area for the new  
23 building. It shows the actual site, which is bounded  
24 here, and the site at K Street and 5th Street is a  
25 corner site, which has a substantial setback on both

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1 streets.

2 In responding to the issues that were  
3 raised with respect to landscaping, we have a strip of  
4 landscaping along the north boundary of the site, and  
5 we have a patch of landscaping in this area, and  
6 landscaping here, and landscaping there.

7 That landscaping totals 1,000 square feet  
8 of landscaping, which is in excess of the 5 percent of  
9 landscaping required to be a part of the parking area  
10 within the boundary of the site.

11 In addition to that required landscaping,  
12 in public space the setback on public space for both  
13 5th Street and K Street is substantial, and that  
14 setback area will also be landscaped in a way to serve  
15 as an amenity to this development.

16 Another issue that was raised was that we  
17 proposed to provide a 4 foot high, 12 inch, masonry  
18 screen fence around the open areas of the site  
19 bounding the parking area on this side of the building  
20 along the alley of the building at this point.

21 Portions are actually party wall  
22 adjournments at this point and in that area.

23 CHAIRPERSON GRIFFIS: So the north  
24 elevation, the north side of that parking area is a  
25 party wall on that side?

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1 MR. BRYANT: On the north side,  
2 approximately from this point back to the edge is  
3 party wall and there is an opening.

4 CHAIRPERSON GRIFFIS: Indeed. I think  
5 that is very clear. And the landscaping along that  
6 line is on grade, and it is just sort of vegetation  
7 brush?

8 MR. BRYANT: The thinking is that it could  
9 be small trees, but we would not recommend trees that  
10 would grow to be very large there.

11 CHAIRPERSON GRIFFIS: Indeed, but just for  
12 my understanding, you will have a planting strip  
13 there, is what it is.

14 MR. BRYANT: Yes, there is a planting  
15 strip, and it is five feet wide.

16 CHAIRPERSON GRIFFIS: Okay. And then  
17 other areas that are not bounded by a property wall on  
18 the property line will as you have just indicated be  
19 enclosed and defined by a 40 inch brick or masonry  
20 wall; is that correct?

21 MR. BRYANT: Yes.

22 CHAIRPERSON GRIFFIS: Is it brick?

23 MR. BRYANT: A brick wall, yes.

24 CHAIRPERSON GRIFFIS: Okay. Excellent.

25 Questions, Board Members? I think that is very clear.

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1 Thank you very much. And just for the record, of  
2 course, you will need to submit that into the case  
3 file.

4 MR. BRYANT: Indeed.

5 CHAIRPERSON GRIFFIS: Okay. Anything  
6 else? Ms. Pace, anything else that you would like to  
7 present at this point?

8 MS. PACE: No, thank you.

9 CHAIRPERSON GRIFFIS: Then let us move on  
10 then to the Office of Planning and have them review  
11 them report. Ms. Pace, are you in possession of the  
12 Office of Planning's report?

13 MS. PACE: Yes, I am.

14 CHAIRPERSON GRIFFIS: Good.

15 MR. WARD: Good afternoon, Chairman, and  
16 Members of the Board. I am Steven Ward with the Office  
17 of Planning. This is with reference to BZA  
18 Application 16942, for the D.C. Office of Aging at 103  
19 - 5th Street, Northeast.

20 This application is for the establishment  
21 of an elderly development center by the D.C. Office on  
22 Aging, pursuant to Section 205 of the Zoning  
23 Regulations, to be operated as a senior wellness  
24 center.

25 The application also proposes to locate

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1 the headquarters of the D.C. Office on Aging into the  
2 building. Office use though by themselves are not  
3 permitted within the R-4 district. The subject  
4 property is located at the northeast corner of 5th and  
5 K Streets, Northeast, and is located within the R-4  
6 district.

7 The building on the site, which is now  
8 vacant, was originally constructed as the Hayes School  
9 in 1897. The applicant proposes to construct a new  
10 building on basically the same footprint as the  
11 existing building, while retaining a portion of 5th  
12 Street and K Street facades.

13 The parking lot is proposed to be located  
14 within what was the school's outdoor playground to the  
15 north and east of the existing building. The  
16 application and significant forms for the criteria  
17 contained within Section 205, elderly development  
18 centers, is as follows.

19 The D.C. Office on Aging has indicated  
20 that the proposed center is capable of meeting all  
21 applicable code and licensing requirements of the  
22 District of Columbia, and the site plan does not  
23 provide for pick-up or drop-off areas, and the  
24 application indicates that most of the patrons will  
25 arrive by public transportation, reducing the

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1 potential of traffic congestion associated with the  
2 use, or can park in the lot.

3 The application also indicates that  
4 activities will be staggered throughout the day,  
5 further reducing the potential for traffic congestion.

6 Adequate parking is proposed to be located on-site as  
7 defined by the zoning regulations.

8 No outdoor activity spaces is proposed and  
9 the proposed building will not have any objectionable  
10 impacts on nearby properties as it will be located on  
11 basically the same footprint as the existing 105 year  
12 old building.

13 The parking lot is required under Section  
14 2117 to provide screening and landscaping, and the  
15 site plan submitted as part of the application does  
16 not provide for these.

17 No off-site play area is proposed, and the  
18 board has not approved any other elderly development  
19 centers within the subject square, and the Office of  
20 Planning is unaware of any within 1,000 feet of such  
21 property.

22 The staff report serves as the written  
23 report of the Office of Planning for the District, and  
24 the Department of Transportation indicated that the  
25 application did not contain sufficient information for

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1 them to evaluate the application, and no comments were  
2 received from the department of health.

3 The Department of Human Resources  
4 indicated that they do not license facilities of the  
5 Office on Aging. The Office of Planning recommends  
6 approval of the application subject to the following.

7 That the Office of Planning work with the  
8 D.C. Office on Aging and Zoning Administrator to  
9 clarify the issue regarding the office space for the  
10 Headquarters of the D.C. Office on Aging, and that a  
11 proposed parking lot plan be submitted prior to Board  
12 Action that conforms with the requirements of Section  
13 2117.9, and that concludes the presentation of the  
14 Office of Planning.

15 CHAIRPERSON GRIFFIS: Thank you very much,  
16 and the last two conditions, have you found that they  
17 are adequately addressed in today's hearing? The two  
18 issues would be the November 8th, 2002 letter by mr.  
19 Robert Kelly, who is the Zoning Administrator.

20 And who indicates that under Section 199,  
21 which is actually the definition of this, puts it to  
22 essentially an accessory use, and therefore is  
23 appropriately before us under a special exception.

24 And, second, with the landscape plan that has just  
25 been walked through at this point.

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1 MR. WARD: I would say that the two  
2 conditions have been met by the applicant.

3 CHAIRPERSON GRIFFIS: Okay. Excellent.  
4 And in which case your recommendation would not be  
5 conditional, but it would be to approve?

6 MR. WARD: Yes.

7 MEMBER ZAIDAIN: So you don't think they  
8 need additional relief from the office requirement?

9 MR. WARD: Based on the letter from the  
10 Zoning Administrator.

11 VICE CHAIRPERSON RENSHAW: Mr. Ward, I was  
12 faxed a corrected page six of the OP report, and from  
13 what I could see, the one sentence that is different  
14 is that the corrected page six reads that it is the  
15 Office of Planning's conclusion that the applicant has  
16 not satisfactorily met the criteria for special  
17 exception relief of Section 205.

18 MR. WARD: That is correct.

19 VICE CHAIRPERSON RENSHAW: That is  
20 correct.

21 MR. WARD: That was the one correction.

22 VICE CHAIRPERSON RENSHAW: That is a  
23 correction?

24 MR. WARD: Yes, and that was put in there  
25 because at the time of that review the landscaping

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1 plan had not been submitted, and we were not in  
2 receipt of the letter from Robert Kelly.

3 CHAIRPERSON GRIFFIS: I see.

4 MEMBER ZAIDAIN: So what you are saying is  
5 that it didn't meet the one aspect of 205?

6 MR. WARD: Correct.

7 VICE CHAIRPERSON RENSHAW: Okay.

8 MEMBER ZAIDAIN: Very direct.

9 MR. WARD: Thank you.

10 CHAIRPERSON GRIFFIS: Is everyone clear?

11 VICE CHAIRPERSON RENSHAW: Yes.

12 VICE CHAIRPERSON RENSHAW: Ms. Pace, is  
13 this going to be called the Hayes School Wellness  
14 Center?

15 MS. PACE: It will be called -- we will  
16 leave the name as it is. We will certainly not take  
17 down the name of the Hayes School. After all that is  
18 a historical fact there, and we will leave that there.

19 But it will be the Office on Aging and it  
20 will be the wellness center. Perhaps we will let the  
21 seniors designate what they want to actually call the  
22 wellness component of it.

23 VICE CHAIRPERSON RENSHAW: But the Hayes  
24 School as shown on the picture that you have provided  
25 will remain?

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1 MS. PACE: We will leave that, yes.

2 VICE CHAIRPERSON RENSHAW: And what are  
3 the hours of operation?

4 MS. PACE: It is a former President, you  
5 see.

6 VICE CHAIRPERSON RENSHAW: Yes, and what  
7 are the hours of operation?

8 MS. PACE: The operations of operation,  
9 most of your centers run from about 10:00 to 4:00.  
10 The Office on Aging, of course, is 8:15 to 4:45. Now,  
11 you will find staff there certainly and many evenings  
12 I am there at 7:00 and beyond. But you are talking  
13 about a couple of people.

14 Most older people as you know, unless they  
15 are very civic-minded, or ANC people, or elected  
16 officials, really like to be home before dark.

17 VICE CHAIRPERSON RENSHAW: I can  
18 understand that. We are not going to meet that today,  
19 those of us up here.

20 CHAIRPERSON GRIFFIS: Okay. Let us move  
21 on then if there are no further questions. Do you  
22 have any questions of the Office of Planning?

23 MS. PACE: No, but I would just say that  
24 we don't win them all, but it is not because we don't  
25 try. And if there is any reason that we need to do

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1 something else to satisfy you, we are more than  
2 willing to do that.

3 CHAIRPERSON GRIFFIS: Okay. With that  
4 comment, I think we need clarification, The Office of  
5 Planning officially is recommending approval of this  
6 application; is that correct?

7 MR. WARD: That's correct.

8 CHAIRPERSON GRIFFIS: Is that understood,  
9 Ms. Pace?

10 MS. PACE: Yes.

11 CHAIRPERSON GRIFFIS: Okay. Let's go to  
12 the Department of Transportation. We do need to waive  
13 in the report that was submitted. If there is no  
14 opposition to waiving in the report, I take it as a  
15 consensus of the board to do so.

16 Very well, let's waive in the report. Can  
17 you cover this? Ms. Renshaw will walk us quickly  
18 through it.

19 VICE CHAIRPERSON RENSHAW: Very quickly.  
20 We have a report from Kenneth Laden, the Associate  
21 Director for Transportation and Planning, dated  
22 November 7th, 2002, and it states that DDOT reviewed  
23 the application and it tells about the property where  
24 it is located and states that the property is zoned  
25 residential R-4, and is presently vacant, and used to

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1 be part of a school.

2 And that the owner is requesting a special  
3 exception to convert the present use of the property  
4 into a senior wellness center; and 150 people at  
5 maximum will be using the facility, and Mr. Laden goes  
6 on to say that 42 parking spaces are provided off-  
7 street as required.

8 The application does not show that 5  
9 percent of the off-street parking is landscaped. The  
10 applicant has assured DDOT that the required landscape  
11 will be provided.

12 DDOT's inspection of the facility  
13 indicates that the proposed center will not adversely  
14 affect traffic flow in the vicinity. And from a  
15 transportation standpoint, DDOT has no objection to  
16 the proposal.

17 CHAIRPERSON GRIFFIS: Good. Thank you  
18 very much, Ms. Renshaw. Ms. Pace, did you have any  
19 questions on the Department of Transportation's  
20 report?

21 MS. PACE: No.

22 CHAIRPERSON GRIFFIS: Are you in receipt  
23 of that report?

24 MS. PACE: Yes.

25 CHAIRPERSON GRIFFIS: Very good. Let me

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1 walk through -- actually, Ms. Renshaw, do you have the  
2 ANC report in front of you?

3 VICE CHAIRPERSON RENSHAW: Yes, hot off  
4 the press, Mr. Chair. We have a report from ANC-6A,  
5 dated November 6th.

6 CHAIRPERSON GRIFFIS: Which means that it  
7 needs to be waived in.

8 VICE CHAIRPERSON RENSHAW: It does.

9 CHAIRPERSON GRIFFIS: Any opposition?  
10 Very well. A consensus of the board to waive in the  
11 report is accepted from the ANC.

12 VICE CHAIRPERSON RENSHAW: The letter is  
13 co-signed by Daniel Pernell III, Vice Chairman, of  
14 ANC-6A.

15 CHAIRPERSON GRIFFIS: If you want to  
16 address the board, you need to come forward and  
17 introduce yourself, and give me your name and address,  
18 and turn on a mike.

19 COMMISSIONER PERNELL: My name is  
20 Commissioner Daniel Pernell, and I am Vice Chairman of  
21 ANC-6A. At that particular meeting, they voted to  
22 side the chair, Mr. Keith Jerrell, and I become the  
23 presiding chair.

24 Even if I was not the chair, I still would  
25 have the official to sign to sign that, which is

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1 required under D.C. law.

2 VICE CHAIRPERSON RENSHAW: That's right.

3 CHAIRPERSON GRIFFIS: Is there a problem  
4 with the report then?

5 COMMISSIONER PERNELL: No, there is no  
6 problem with the report. I just want to state that I  
7 am not the co-signer. I am the signer. The co-signer  
8 is the subcommittee, Mr. Gregory Ferrell.

9 VICE CHAIRPERSON RENSHAW: I was  
10 mentioning that because your two names are on this.

11 COMMISSIONER PERNELL: Right, and I just  
12 wanted to clarify that. I understand.

13 VICE CHAIRPERSON RENSHAW: All right.  
14 Very good. Well, how about Mr. Pernell giving the  
15 report since you are here?

16 COMMISSIONER PERNELL: Sure. Thank you.  
17 Good evening everyone. It has been a lot wait for me  
18 this morning, but I appreciate the assistance from the  
19 staff of the BZA who have given me all of their  
20 condolence and support during this time.

21 My name is Daniel Pernell, and I am the  
22 Vice Chairman of the ANC-6A, and I am here today to  
23 support the request for a special exception to allow a  
24 wellness center for senior citizens in the near  
25 northeast community of Ward 6, an R-4 zoning

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1 community, at the premise of 1035 5th Street  
2 Northeast, in Lot 816, Square 830.

3 On December 18th, 2001, the matter of the  
4 wellness center came before the Near Northeast  
5 Citizens Against Crime and Drugs with senior citizens  
6 and community members present.

7 The executive director, E. Veronica Pace,  
8 of the D.C. Office on Aging, presented her plans for  
9 the Hayes School, along with the architect, Mr. Virgil  
10 Green, at Calvary Episcopalian Church, at 820 6th  
11 Street, Northeast.

12 A second meeting was called that same day  
13 in the evening at J.O. Wilson Elementary School, at  
14 630 K Street, Northeast, for those who could not  
15 attend the first meeting.

16 The surrounding community of Near  
17 Northeast Members, young and old, shared their  
18 concerns and suggestions to the representative of the  
19 D.C. Office on Aging, and the architect of the  
20 property. On October 9th, 2002, at 7:00 p.m., at 900  
21 G Street, the D.C. Office on Aging and the architect  
22 came before the ANC Zoning and License Subcommittee  
23 for consideration.

24 The ANC-6A Zoning and License Subcommittee  
25 established a quorum with 10 members present. After

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1 the subcommittee heard and considered all input from  
2 members present, I made the motion to support the D.C.  
3 Office on Aging BZA application for a use variance for  
4 a wellness center, and the vote was unanimous.

5 The unanimous vote on October 9th, 2002,  
6 went before the ANC-6A Commission on November 7th.  
7 The Advisory Neighborhood Commission 6A convened this  
8 regularly scheduled monthly meeting at Miner  
9 Elementary School located at 15th and Gale Street,  
10 Northeast, at 7:00 p.m. with an established quorum of  
11 10 members present out of 14, and whereas everyone --  
12 and I was the presiding chair.

13 After the ANC-6A Commission had taken care  
14 of the official business, we considered the matter  
15 requested by the Office on Aging before the BZA  
16 regarding a use variance.

17 The issue concerning external improvement  
18 of the building was entertained and modification to  
19 the existing windows. The Office on Aging indicated  
20 that at the December 18th, 2001 meeting the Near  
21 Northeast Members had made suggestions and had come  
22 concerns about the modification.

23 During their presentation before the  
24 Zoning and License Subcommittee meeting on October 9th  
25 with the Office on Aging and the architect to consider

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1 the changes and satisfy the community concerns.

2 Mr. Ernest Postell, senior representative  
3 of Ward 6, and other seniors who receive services from  
4 the D.C. Office on Aging were in attendance and  
5 expressed their approval to have both the senior  
6 wellness center and the administrative office of the  
7 D.C. Office on Aging in the Near Northeast Community.

8 Members of the BZA, I support the D.C.  
9 Office on Aging philosophically (sic) to sustain  
10 meaningful roles for our older persons in their homes  
11 and in their community, to promote healthy lifestyles  
12 and positive aspects of aging.

13 The proposed use to have a wellness center  
14 in the Near Northeast Community will be a thrust of  
15 the D.C. Office on Aging for this community. As a  
16 single member district representative and  
17 commissioner, and vice chairman of the ANC-6A, I went  
18 to say after all input from the ANC-6A Commission and  
19 members of the surrounding community that was  
20 considered, and we made the motion to support the BZA  
21 Application 16942 for a special request exception for  
22 a use variance for a wellness center in the Near  
23 Northeast Community of Ward 6.

24 And to have the D.C. Office on Aging  
25 office there also to be approved. The vote was

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1 unanimous. And I want to say for the record that the  
2 Office on Aging came to me in the early part of  
3 December of 2001, and I argued with Ms. Pace and  
4 Courtney Williams, and said that they wanted the  
5 proposed meeting to be December 18th, and I said that  
6 is just a few days before Christmas, and everyone was  
7 shopping.

8 But Ms. Pace's diligent representation of  
9 the Office on Aging said we don't want to lose this  
10 project, and we need to move forward. And I also want  
11 to say for the record that this project came to a head  
12 in '91, and it failed on the Randall Robertson Trans-  
13 Africa, and then in '96, Ms. Dorothy Heights came to  
14 us, and all these people failed us in the Near  
15 Northeast to develop this project.

16 Now we have an opportunity to have a  
17 wellness center. Therefore, I went to the G.O. Wilson  
18 School to have the second meeting, and which we now  
19 have to fill out a form for being on their property,  
20 and I received their response on December 11th, and  
21 all of this is for the Board.

22 And they gave me permission to have the  
23 meeting there that afternoon for those individuals who  
24 was getting off at 5:00 p.m. in the evening to attend  
25 the meeting and have an input on the architecture and

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1 the intent of the Hayes School.

2 The Office on Aging put out this notice in  
3 the surrounding community, and I put out this notice,  
4 in the surrounding community, and we had about three  
5 or four pages.

6 The seniors were outstanding. They turned  
7 out and I was very proud of them, and they turned out  
8 to this meeting, and I was very proud of my seniors.  
9 Now, according to law, ANC responsibility is to notify  
10 the applicant and the architect of the property, which  
11 I did September 16th, 2002, and they responded and  
12 asked Mr. Virgil Green, the architect, and they both  
13 responded that they would be at the October 9th  
14 meeting.

15 CHAIRPERSON GRIFFIS: You are indicating  
16 that you are going to submit all of that for the  
17 record?

18 COMMISSIONER PERNELL: Right. But I just  
19 want to say for the record that if there is any  
20 opposition, that they understand the position of the  
21 ANC. A lot of people still don't know the position of  
22 the ANC. ANC-6A has a number -- you have heard this  
23 every time we come before you that ANC-6A never has a  
24 quorum.

25 But I function as a commissioner and a

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1 professional commissioner, regardless of the  
2 astrosphere of not having a quorum. I personally paid  
3 for my mailing lists of 133 people, and organizations  
4 within the area to be notified, and I had it notarized  
5 for this committee.

6 And I went on to say that I notified --  
7 when we got our unanimous approval for the Office on  
8 Aging wellness center for October 9th, we went  
9 forward, and I sent out another letter to inform the  
10 community that they would attend the ANC of the whole,  
11 and we had an outstanding meeting, and this is going  
12 to end.

13 We got a unanimous vote. Now, I am one of  
14 the first commissions to get a unanimous vote in the  
15 sublevel and also in the committee, after not having a  
16 quorum for about 3 or 4 months.

17 So I think I did pretty good and I also  
18 have letters from different churches in the area  
19 because they were notified and they fully support it,  
20 and I have that for the record.

21 CHAIRPERSON GRIFFIS: Okay.

22 COMMISSIONER PERNELL: And of course you  
23 have my November 6th, and you have my statement in the  
24 file, and I am through.

25 CHAIRPERSON GRIFFIS: And you can put all

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1 of that into the record and the board will absolutely  
2 look at it.

3 COMMISSIONER PERNELL: Absolutely. And I  
4 just wanted to say that my record is concluded and I  
5 move forward that this project is supported, and move  
6 forward, because this is the first time the Near  
7 Northeast, we have had 1,100 killings in the Near  
8 Northeast in and around that Hayes School.

9 And to bring forth a wellness center for  
10 the seniors, and a place for them to go, and after  
11 October 9th, I had to break down and cry because  
12 people wanted to knock on it. This is the first time  
13 that we have had to move forward in the Near Northeast  
14 and I praise the Office of Aging for giving us that  
15 opportunity.

16 CHAIRPERSON GRIFFIS: Okay. I appreciate  
17 that. Ms. Pace, do you have any cross-examination of  
18 the ANC?

19 MS. PACE: No.

20 CHAIRPERSON GRIFFIS: Does the board have  
21 any questions of the ANC at this time? If not, very  
22 well. Unfortunately, I am going to have to conduct an  
23 executive session. We are going to recess for 10  
24 minutes.

25 We have a technical question that needs to

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1 be answered, and it will be much more efficient if we  
2 do that in our board room, and I guarantee you that we  
3 will be no longer than a few moments. So thank your  
4 for your patience.

5 COMMISSIONER PERNELL: And I reserve the  
6 right to come back for cross-examine (sic).

7 (Whereupon, the hearing was recessed at  
8 3:12 p.m., and resumed at 3:21 p.m.)

9 CHAIRPERSON GRIFFIS: Okay. The Board  
10 will now reconvene. I appreciate everyone's patience  
11 with the Board. Clearly we have very complex issues  
12 at times, and I think it was expeditious for us to  
13 take a quick break for an executive session.

14 Ms. Pace, if I could have you up at the  
15 table, please, and this is what we would like to do.

16 We have a couple of quick questions for you, and then  
17 I will state what we have just been discussing.

18 Then we will go to all of the testimony,  
19 and then we will or I will let you have closing. So  
20 that being said, there was an issue as we first  
21 brought up with the fact of whether a use variance  
22 would be required for the headquarters.

23 And the Board is looking at it, and we  
24 have now had an opinion from corporation counsel, and  
25 the issue is this. With the headquarters it is hard

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1 for us to understand it as a pure accessory use to the  
2 program, the wellness center itself, because the  
3 headquarters actually is on the third floor, but it  
4 doesn't really matter.

5 The total percentage is actually working  
6 with -- its function is far reaching and outside of  
7 the building and the program itself. So with that,  
8 what I would like you to do is to walk through if you  
9 are prepared, and the board is prepared, essentially  
10 to direct you to what you need to, but you need to  
11 discuss and address a use variance at this time.

12 Clearly, there are three things, and I  
13 will be very general with this, but if you wouldn't  
14 mind just identifying some of the uniqueness of the  
15 property, and the hardship, the hardship of what and  
16 why you can't use it for a matter of right use.

17 And then the last would be, of course, if  
18 it would impair the intent and integrity of the zone  
19 map and plan. So those three things, are you prepared  
20 to address those at this time?

21 MS. PACE: I think so, certainly with my  
22 project manager is here, and property management, and  
23 my community planner. They can join me.

24 CHAIRPERSON GRIFFIS: Very well. Good.  
25 Oh. Go ahead. Whenever you are ready.

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1 MS. PACE: Okay. Do you want to hear  
2 something from me?

3 CHAIRPERSON GRIFFIS: Yes. I think the  
4 first thing you could address is how this property is  
5 unique, and that uniqueness will go to its -- the  
6 creation of the hardship. What makes it hard for you  
7 to develop this as a matter of right use.

8 And a matter of right use in this zone  
9 would be residential use. So what is unique about  
10 this property that keeps you or makes it hard for you  
11 to create residential units in it.

12 MS. PACE: The property was a school  
13 building to begin with, okay? Subsequent to that  
14 various community groups had operated out of there.  
15 If memory serves me correct, I believe some art  
16 offices. We did seek to define that as a matter of  
17 record, and the school system does not have it.

18 But certainly the community knows that it  
19 has been used for a variety of sundry things,  
20 including the homeless living in it if you want to  
21 talk about residential.

22 CHAIRPERSON GRIFFIS: I see.

23 MS. PACE: But it has been used for  
24 offices, and certainly all schools have offices in  
25 them.

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1 CHAIRPERSON GRIFFIS: What I am going to  
2 do is keep interrupting you so we can refine it and  
3 make sure that my understanding of what you are saying  
4 is correct.

5 MS. PACE: Please do. Exactly. Exactly.

6 CHAIRPERSON GRIFFIS: First of all, one of  
7 the unique aspects of this is that it was built as a  
8 non-residential use.

9 MS. PACE: Exactly.

10 CHAIRPERSON GRIFFIS: And if I can  
11 understand that correctly, a school in fact is not the  
12 same type of footprint perhaps for a residential  
13 building would you say?

14 MS. PACE: I would agree with you on that.

15 CHAIRPERSON GRIFFIS: And that would in  
16 fact go to its size?

17 MS. PACE: Absolutely.

18 CHAIRPERSON GRIFFIS: Okay. And then also  
19 in its uniqueness, it's actual past use as a school  
20 was not converted to a matter of right residential,  
21 but actually was put together from as you say  
22 community organization use.

23 MS. PACE: Yes.

24 CHAIRPERSON GRIFFIS: And what of that  
25 uniqueness and those aspects would create a hardship

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1 for you in returning it to or creating residential  
2 units? It is somewhat redundant I think.

3 MS. PACE: Well, it is. It seems to me  
4 that in the history of the building that there was  
5 never any intent for its use to be residential. And  
6 we have no need for residences there.

7 CHAIRPERSON GRIFFIS: Okay. Perhaps you  
8 could answer it or one of your team could answer the  
9 fact that based on the size and its uniqueness of  
10 size, would it be a hardship to create residential  
11 units on it based on the dimensions and the footprint  
12 itself?

13 MS. PACE: Are you speaking in addition to  
14 what we are proposing to do? Just as a separate --

15 CHAIRPERSON GRIFFIS: Not separate; one or  
16 the other. It is instead of the wellness center.

17 MS. PACE: But that is not our mission.

18 CHAIRPERSON GRIFFIS: I understand that.  
19 But in order to make a case for a use variance, of  
20 which we are now entertaining, you need to make the  
21 case that it could not be --

22 MS. PACE: Let me ask my project manager  
23 to respond to that.

24 MR. GREEN: I am Virgil Green, and I am  
25 with the Office of Property Management. I think that

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1 in keeping with the program that the Office on Aging  
2 implements, the establishment of residential type  
3 units is not in keeping with that program, and  
4 therefore --

5 CHAIRPERSON GRIFFIS: Yes, that I  
6 understand. However, the case for a use variance  
7 doesn't have anything to do with a particular  
8 developer and what they want to do, or what fits  
9 within their performance criteria.

10 It goes directly and that is where we are  
11 stuck. We are stuck with just the zoning regulations,  
12 and the zoning regulations tell us that this case has  
13 to be made by that there is a uniqueness to this  
14 property, right?

15 And out of that uniqueness creates a  
16 hardship which does not allow you to use it for a  
17 matter of right use. This is in a residential zone  
18 and therefore the matter of right use is residential.

19 So the case to present is based on its uniqueness,  
20 its size, its shape, its typography, that you could  
21 not -- that anyone could not develop it as  
22 residential.

23 MR. BRYANT: The basic problem with the  
24 building that makes it a hardship to use as a  
25 residential facility goes to the fact that the

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1 building is functionally obsolete, which means that  
2 the characteristics of the building, the physical  
3 characteristics of the building, make it uneconomical,  
4 and not functionally easy to be used in any other --  
5 certainly not in any kind of residential use.

6           Functional obsolescence means that the  
7 basic approach to the design and construction for the  
8 facility's original use are completely are completely  
9 at variance with the considerations that might be or  
10 make a lot more sense today.

11           This functional obsolescence is an issue  
12 that creates a great deal of difficulty in reusing  
13 facilities that still have some life left in them.  
14 The functional obsolescence has to be overcome in  
15 order to get operational efficiency within the  
16 facility and the uses that can be identified to ally  
17 with a new direction need to be carefully selected.

18           And at best that functional obsolescence  
19 haunts the users of the building as they move forward,  
20 in terms of building efficiency, which means the yield  
21 of net useable space available to you for your  
22 activity is greatly reduced in a functionally obsolete  
23 structure, which causes you to -- and I think we are  
24 all aware of that.

25           Many very excellent older structures

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1 continue to be used and we tolerate great high  
2 ceilings which are inconsistent with modern heating  
3 and air-conditioning requirements, and which do not  
4 allow the best circulation movements within the space.

5 So I think that the key word is that term,  
6 functional obsolescence of the facility, and that  
7 creates a hardship, unless very specific uses are  
8 chosen as we move forward with it.

9 CHAIRPERSON GRIFFIS: Good. Thank you  
10 very much. Let me ask a quick question, Ms. Monroe,  
11 because I may have mis-spoken in terms of the total  
12 use. If we are entertaining a use variance, we are  
13 actually entertaining a use variance as programmed now  
14 for the third floor.

15 So if I am understanding you correctly, an  
16 extension of what you just said, not only is the  
17 existing building functionally obsolete, but in fact  
18 it may be even an additional hardship if you had to  
19 use a portion or a third based on three levels, a  
20 third or a quarter of the building for residential or  
21 a matter of right use?

22 MR. BRYANT: That is correct.

23 CHAIRPERSON GRIFFIS: Okay. So the  
24 difficulty, and clearly a hardship of creating a mixed  
25 use with the wellness center and the residential or

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1 open-market residential units, would be a hardship; is  
2 that correct?

3 MR. BRYANT: That is correct, and  
4 particularly when you take into account the necessary  
5 life safety issues that must be incorporated.

6 CHAIRPERSON GRIFFIS: Okay. Board  
7 Members, any questions of the testimony that you just  
8 heard?

9 VICE CHAIRPERSON RENSHAW: Was the option  
10 of residential use of the building discussed at  
11 community meetings?

12 MS. PACE: No.

13 VICE CHAIRPERSON RENSHAW: So the  
14 community did not have a chance to vote as to whether  
15 they would prefer it to be residential versus a  
16 wellness center?

17 MS. PACE: We have met with a number of  
18 people in the community and that issue never surfaced.

19 People want a wellness program, and want the Office  
20 on Aging there. Now, we are talking about people that  
21 live right there at the facility and will use it.

22 VICE CHAIRPERSON RENSHAW: But there is a  
23 use for old schools insofar as living quarters for  
24 seniors, or just apartments, or condos, and that has  
25 been done in many communities. Isn't that so, Mr.

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1 Bryant?

2 MR. BRYANT: It is so, and it can be  
3 explored in specific instances. A key ingredient as  
4 to the viability of going in that direction is related  
5 to the kind of structural system that has been used in  
6 the facility.

7 VICE CHAIRPERSON RENSHAW: Is it your  
8 testimony though that what makes this unique and  
9 extremely difficult is coordinating the two uses, the  
10 wellness center and the space needed for a wellness  
11 center, plus residential? That the mix would not be  
12 right and could not be accommodated?

13 MR. BRYANT: No, I was addressing the  
14 problems that would ensue if use as a residential  
15 facility is pursued. In that case, then the  
16 structural system in place in the building, where the  
17 prospects of dividing the space becomes an issue, and  
18 the ceiling heights become an issue.

19 And to work through those concerns, and to  
20 end up with a modern functional facility creates some  
21 very difficult economic and planning problems. I  
22 might also add to that, that in your typical school  
23 building situation that school buildings sometimes  
24 have a bit more land associated with the property than  
25 you would have for some other kinds of facilities.

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1                   So that the efficient utilization of the  
2 land becomes a part of the economic addressing of the  
3 problem there.

4                   CHAIRPERSON GRIFFIS:    Okay.    Any    other  
5 questions from the Board?    Yes.

6                   MEMBER ZAIDAIN:    Mr. Chair, I think we  
7 need a formal motion to amend the application to  
8 include the use variance, and I will make such a  
9 motion at this time.

10                  CHAIRPERSON GRIFFIS:    Is there a second?

11                  MEMBER ETHERLY:    Seconded, Mr. Chairman.

12                  CHAIRPERSON GRIFFIS:    Thank you very much.  
13                  Is there any discussion on it?    Very well.    The  
14 motion is before us and has been seconded to amend the  
15 application to include a use variance for that portion  
16 utilized by the headquarters in the wellness center.

17                  All those in favor?

18                  (Ayes.)

19                  CHAIRPERSON GRIFFIS:    And opposed?

20                  (No response.)

21                  CHAIRPERSON GRIFFIS:    Okay.    Thank you all  
22 very much.    Let us go to the testimony at this time.  
23 And can I see a show of hands for the people who are  
24 giving testimony today?

25                  (A show of hands.)

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1 CHAIRPERSON GRIFFIS: Okay. And as you  
2 come forward, I am going to have everyone come to the  
3 table at the same time. I think we can accommodate  
4 five, and four if people are comfortable. And if you  
5 have not been sworn in yet, when you come up to the  
6 table you can just remain standing and Ms. Bailey will  
7 swear you in. Has everyone giving testimony today  
8 been sworn in? Okay. Good.

9 Gentlemen, I am going to start on my left,  
10 and I am going to have you introduce yourself, name,  
11 and address, and then we will just proceed down the  
12 way. We do have a limit of persons giving testimony  
13 to 3 minutes.

14 I am not going to turn the timer on, and  
15 so I am going to have you self-monitor yourselves.  
16 And whenever you are ready, you can turn on your mike  
17 and proceed.

18 MR. WALKER: My name is Elder Walker,  
19 Ronald Walker, and I live at 503 Quintana Street,  
20 Northwest. I am presently on the staff of the Way of  
21 the Cross Church of Christ, and that has been in the  
22 community for 75 years.

23 And we are in favor of this acceptance of  
24 the Hayes Wellness Center, and it would be very vital  
25 in this 21st century to continue to support senior

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1 citizens, and providing them with wholesomeness, which  
2 means physically, spiritually, and also just being  
3 informative to help them in these times.

4 And we are very supportive of that. My  
5 pastor is not here today because he is sick, but I am  
6 a representative of him to say that we are favorable  
7 of this amendment.

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

10 COMMISSIONER POSTELL: Good afternoon, Mr.  
11 Chairman, and Board of Commissioners. My name is  
12 Commissioner Ernest Postell, Senior, of Ward 6. And I  
13 live at 1418 E Street, Northeast, Washington, D.C.  
14 2002, and I have resided there for 40 years as a  
15 resident.

16 And I support the wellness center. May I  
17 read something? At the monthly meeting held October  
18 the 19th, we had a mini-commission made up of about 13  
19 senior citizens, young and old. The Ward 6 Commission  
20 on Aging agreed to support the Office of Aging's  
21 application to construct a senior citizen wellness  
22 center at 1035 5th Street, Northeast, at the Old Hayes  
23 Elementary School.

24 The Ward 6 Commission on Aging was  
25 creating an order to efficate for a senior wellness

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1 center in this ward. This has been a main objective  
2 for the commission for over 3 years, and thus we look  
3 forward to making this a reality.

4 The Ward 6 mini commission also supports  
5 the modification that will be made to the structure to  
6 meet the criteria necessary for the senior wellness  
7 center.

8 The center will serve as a positive force  
9 for our seniors. Furthermore, it will help to improve  
10 the overall appearance of the area where there have  
11 been neglected property in the community for a long  
12 time.

13 The center will serve as a source to help  
14 keep seniors in our neighborhood well informed in  
15 terms of health promotion, fitness, nutrition  
16 information. It will provide them with the necessary  
17 health tools and techniques to prevent or delay costly  
18 hospitalization or institutionalization due to health  
19 condition.

20 Most importantly, the center will provide  
21 service that will improve the overall health of our  
22 seniors in the area. As a representative committee  
23 for citizens from different parts of the ward, we  
24 fully understand the urgency to go forward with this  
25 wellness center project.

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1                   Thus, the Ward 6 mini-commission fully  
2 supports the senior wellness center for our community.

3                   Again, we ask the BZA to approve this special  
4 exemption for Application 16942 this date.

5                   And I would like to say, Mr. Chair, the  
6 important urgency of this wellness center. You know,  
7 in 2001, as of July 3rd, my wife and I have been  
8 married for 49 years, and we had no difficulty at all.

9                   But one morning she woke up and she couldn't move her  
10 right arm, and she couldn't move her leg.

11                   She suffered a stroke, and so as you know  
12 the impact of hospitals here in the District of  
13 Columbia and as we went to one hospital's  
14 rehabilitation center, it was so crowded there, and  
15 they only allow you but a few hours.

16                   And so I had to take her there back and  
17 forth, and so I became a caregiver, because there is  
18 no one else to do it, and no one in the area. And so  
19 I look at our thousands of our senior citizens, who  
20 are poor and don't have no ways of getting  
21 information, don't have no ways of taking high blood  
22 pressure, or nutrition values, and have no way of  
23 learning how to take their sugar and whether it is  
24 high or low.

25                   We have this with people who don't have no

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1 money at all. They don't have no insurance at all.  
2 Now, the wellness center would come in handy to those  
3 people. It would be a miracle of health to have that  
4 wellness center there.

5 That is what our citizens want, and they  
6 are out there now trying to find which way to go, and  
7 are at a crossroad. And so they rely on us as their  
8 representatives to see that they have a healthy life,  
9 and a full life, and that is why we want this wellness  
10 center. Thank you, sir.

11 CHAIRPERSON GRIFFIS: Thank you very much.

12 And we do appreciate, first of all, you being down  
13 here and being patient, and giving that great  
14 testimony.

15 I don't think that the Board has any  
16 apprehensions about the program and the provisions of  
17 services that have been outlined before us today.  
18 Good afternoon, sir.

19 MR. MINOR: Good afternoon, Mr. Chair, and  
20 your staff. Good evening to each and every one of  
21 you. My name is Joshua R. Minor, and I live at 505  
22 Tennessee Avenue, Northeast, Washington, D.C., and I  
23 have been there for the last 45 years.

24 And I have come here today to sit and hear  
25 all the testimony from everybody, and to give my

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1 testimony on behalf of the wellness center at 5th and  
2 K Streets, Northeast, and I am 100 percent for it.

3 I would like to give my support to Mr.  
4 Postell and the rest of the members that have come  
5 before you today, and I fully support them. And I  
6 have been a member with them for the last 10 years or  
7 maybe more, and I would love to have that wellness  
8 center there. And I thank you.

9 CHAIRPERSON GRIFFIS: Good. Thank you very  
10 much. Board Members, any questions? Does the ANC or  
11 the applicant have any cross-examination of the  
12 testimony that you just heard? Very well. Gentlemen,  
13 thank you very much and have a pleasant afternoon.

14 If I could have the other two come up,  
15 please.

16 MR. BROOKS: For some reason, I forgot to  
17 speak, and I am going to say that I feel like a little  
18 kitten that has been turned loose with a bunch of wild  
19 lions.

20 CHAIRPERSON GRIFFIS: I hope that provides  
21 you --

22 MR. BROOKS: And the reason for this is  
23 that I am a life-long District resident, and I retired  
24 from the government with 32 years, and I want to start  
25 off by saying about the wellness center.

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1                   Mr. Postell called me five years ago when  
2 I told him that I was trying to get the Hayes School  
3 for a wellness center.

4                   CHAIRPERSON GRIFFIS:   Indeed.

5                   MR. BROOKS:   And he told me -- and I told  
6 him, Mr. Hayes (sic), I would not like to talk to the  
7 people in your area.   First of all, I am Charles I.  
8 Brooks, and I am from the Capital Hill Towers, which  
9 is a high-rise two blocks away from where this  
10 wellness center is supposed to be.

11                   And in my building, we have 206 seniors  
12 and handicapped.   Right across a few blocks from me,  
13 we have Fort Lincoln, which has over a thousand  
14 seniors and handicapped.

15                   We have been trying, and I have been  
16 trying on my own with my seniors from Capital Hill  
17 Towers to get the Hayes School for a senior wellness  
18 center.   It couldn't be done.   Ms. Pace came to our  
19 building and she told us that it wasn't feasible.

20                   She told us that we could be bussed to  
21 start it, and I didn't go along with it, and I still  
22 tried to get the school, and I am going to come up,  
23 and we invited Sharon Pratt Kelly or Sharon Ambrose to  
24 our building, and this is on June 20th, 2002.

25                   Ms. Sharon Ambrose could not tell us

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1 anything about the Hayes School and the Wellness  
2 Center. We invited the Mayor there, and this is the  
3 flyer that tells that the Mayor is coming to Capital  
4 Hill Towers.

5 When the Mayor came on October 27th, he  
6 said he would come out and talk with us while he was  
7 campaigning for his position. And when he came out to  
8 talk to us, Ms. Pace also came. Ms. Pace did not let  
9 the Mayor speak when I asked about he Hayes School for  
10 a wellness center.

11 She jumped in and the Mayor sat back down.

12 The Mayor finally got tired of listening to Ms. Pace  
13 and she told her to sit down and let me see what I can  
14 say. He still didn't give any news.

15 I went to the ANC meeting on October 9th,  
16 and that was the first, the first, that I had heard  
17 that there was going to be the Office on Aging moving  
18 in that building. That was the first.

19 No tenant in my building knew about it. I  
20 read in this document wherein Ms. Pace is saying that  
21 she had community support. She had community meetings  
22 with the businesses and churches. I am a senior and I  
23 live in a senior and assisted building. I invited her  
24 there to tell us about it.

25 Not up until this meeting where Bryant

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1 came in and brought the drawings did we know that  
2 there was going to be an Office on Aging.

3 CHAIRPERSON GRIFFIS: Sir, from my  
4 understanding, are you in opposition to the  
5 application?

6 MR. BROOKS: I am not in opposition to the  
7 application for a wellness center, but I am in  
8 opposition to the Office on Aging being in the  
9 wellness center, slash. And I also told Ms. Pace  
10 this.

11 CHAIRPERSON GRIFFIS: I see.

12 MR. BROOKS: It is like putting a police  
13 boys club in the basement of a police station, and she  
14 is giving us -- if you look at the drawings that you  
15 have in your office, and in your drawings they say  
16 that this building is going to consist of 29,000 feet,  
17 or 23,900.

18 CHAIRPERSON GRIFFIS: Yes.

19 MR. BROOKS: Of that, and I don't know if  
20 you have this document that I have, but 4,445 are  
21 going to go to the wellness center. The rest of it is  
22 going elsewhere to whom. They are playing with  
23 numbers or they are playing with something.

24 When she says 75 percent, and when she  
25 wrote this letter saying that 75 percent of this

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1 building would be used by the Wellness Center, I can't  
2 see it when you are talking about 23,900 and giving us  
3 in this book that I have here, this paper that I have  
4 here, 4,445.

5 And I brought some extra copies so that I  
6 could share them with you if you would like to pass  
7 them among you and read them. I have made a couple of  
8 extra copies.

9 CHAIRPERSON GRIFFIS: You can give it to  
10 staff and they will distribute it.

11 MR. BROOKS: And I told Ms. Pace that I  
12 think that she is putting a sham on us. And if you  
13 are going to spend \$2.2 million to renovate that  
14 building to use for the Office on Aging, then you are  
15 using the seniors' money, the money that is earmarked  
16 for the senior citizens.

17 And if you are going to use that money  
18 that you could take half of it, and take a vacant  
19 building on 8th Street, K Street, anywhere else, and  
20 build us a wellness center that would be nothing else  
21 but a wellness center.

22 CHAIRPERSON GRIFFIS: Okay. So the square  
23 footage that has been actually proposed is not  
24 sufficient in your opinion?

25 MR. BROOKS: Let me say this and then I

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1 will close up. When we have events at a wellness  
2 center, you are going to have buses pulling up to pick  
3 up tenants, and the Office of Aging will be serving  
4 people throughout the Metropolitan area, the District  
5 of Columbia, in and out, in and out all day long.

6 The seniors want room enough to have food,  
7 have maybe a fashion show in the day, and not having  
8 to go through this. But if you look at your drawing,  
9 the third floor has an office up there for the  
10 manager, a conference room, more space on the third  
11 floor going to her office. You have a staff of 26  
12 people.

13 The 26 people are going to take up 26 of  
14 those parking spaces of the 40, two of them for  
15 handicapped. I am handicapped, and if I came there  
16 and parked my car there, there wouldn't be but one  
17 more space.

18 And I think that you are putting the jam  
19 on us at the expense of the school, or the Office on  
20 Aging, and I think that is very, very unfair when we  
21 have been fighting this for almost 10 years, and I can  
22 see us how being shut in the building, and sent  
23 downstairs to the basement.

24 In the basement, you have got your pipe  
25 work, and you have got your furnaces, and you have got

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1 all of this, and you have got a small area tot he left  
2 of the building that will be used for exercise. It  
3 won't accommodate 50 people.

4 But yet at the same time you are calling  
5 it a wellness center. This is not a wellness center.

6 This is the Office on Aging and we are going to let  
7 you old folks use a little bit of it. I think the  
8 board needs to look at this seriously, and we could  
9 better if it is money for the seniors for a wellness  
10 center, and not money for the Office on Aging as that  
11 would come under capital improvements.

12 And the Office for the Seniors for a  
13 wellness center, give us half of the \$2.2 million, and  
14 we will get a vacant lot on 8th Street, and build a  
15 building from the ground up. Brand new.

16 CHAIRPERSON GRIFFIS: Okay. Good. Is  
17 part of your statement that you handed in --  
18 excellent. We appreciate you coming down and giving  
19 us that information.

20 MR. BROOKS: I would think that you would  
21 please reconsider before you approve this, and see  
22 that the two can't work. Buses coming in during the  
23 day and picking up seniors, and we want to meet there  
24 at 10 o'clock in the morning to go out to an affair  
25 somewhere, and the buses are all in the front, and we

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1 are bringing in food to have a little function.

2 CHAIRPERSON GRIFFIS: I understand.

3 MR. BROOKS: Then you have staff coming in  
4 throughout the entire city to go take care of that  
5 business. That office will run from 8:00 to 4:30  
6 every day.

7 CHAIRPERSON GRIFFIS: I understand.

8 MR. BROOKS: Every day.

9 CHAIRPERSON GRIFFIS: I think your point  
10 is very clear. Board Members, any questions of the  
11 testimony at this time? Actually, before you leave,  
12 Ms. Pace, do you have any cross-examination?

13 MS. PACE: No, because we would be here  
14 all night, but I do -- well, may I rebut what he has  
15 said?

16 CHAIRPERSON GRIFFIS: You can after we  
17 hear all of the testimony and then rebuttal.

18 MS. PACE: All right. That is what I  
19 choose to do, because I need to correct the record.

20 CHAIRPERSON GRIFFIS: Very good. Does the  
21 ANC have any cross examination?

22 COMMISSIONER PERNELL: Board Members, I  
23 reserve the same right. I want to rebut also on what  
24 I just heard.

25 CHAIRPERSON GRIFFIS: Well, our formal

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1 procedures actually don't have that provision for the  
2 ANC or party to present rebuttal or rebuttal  
3 testimony.

4 MR. BROOKS: You know, I watch Oprah  
5 Winfrey yesterday evening, and she had a man on her  
6 show named Charles Barkley, and he wrote a book --

7 CHAIRPERSON GRIFFIS: Hold on.

8 MR. BROOKS: -- and I think you should  
9 read it. The name of it is, "I May Be Wrong, But I  
10 Doubt It."

11 CHAIRPERSON GRIFFIS: Excuse me, sir, if I  
12 could interrupt you. We are going to try and move  
13 this along very quickly because we are still on the  
14 morning session.

15 COMMISSIONER PERNELL: I will be very  
16 quick. Ms. Renshaw, you mentioned about whether the  
17 community members ask about residential. We did in  
18 '91 and we did in '96.

19 CHAIRPERSON GRIFFIS: Okay. I need to  
20 interrupt you. Cross-examination at this point is  
21 questions of the testimony that you just heard. If  
22 there is a way to rebut the testimony that you just  
23 heard by --

24 COMMISSIONER PERNELL: Well, I would just  
25 like to say that this talk on the wellness center has

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1       been going on a good while. We moved to 900 G Street  
2       in 1994 to accommodate the seniors in that building  
3       and we have been there ever since.

4               And we have the full concerns of those  
5       seniors in that building, and there is always someone  
6       who has never gotten an opportunity to hear what we  
7       are doing. We are always there the second Wednesday  
8       of the month since 1994.

9               CHAIRPERSON GRIFFIS: Good. Thank you  
10       very much, Mr. Pernel. Okay.

11              COMMISSIONER HOOD: Mr. Chairman, I just  
12       wanted to ask Mr. Brooks one quick question.

13              CHAIRPERSON GRIFFIS: Yes, sir.

14              COMMISSIONER HOOD: What is going on in  
15       the building right now?

16              MR. BROOKS: In which building?

17              COMMISSIONER HOOD: In the Hayes School.  
18       What is going on there right now?

19              MR. BROOKS: There is nothing. The  
20       building has been vacant for over 10 years. I live  
21       right there in the area, and I have been there and  
22       have lived there all my life. I worked in the  
23       government and worked right at the Safeway at 6th and  
24       H for 15 years as a part-time employee.

25              So I know the residences in the area, and

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1 I know the community, and I know the make-up. On  
2 Sunday, I went to the Imani Temple, and three other  
3 churches to ask the seniors did they know anything  
4 about a wellness center coming to 5th and K.

5 The majority of answers that I got was no.

6 They knew about no wellness center that was coming,  
7 and they Office on Aging, I talked to one lady right  
8 here in your meeting today while we were outside  
9 having lunch, and she is here.

10 I asked her did she know that the Office  
11 on Aging was moving in that building, and she lives on  
12 Tennessee Avenue, and the lady told me no.

13 CHAIRPERSON GRIFFIS: Excuse me, but  
14 before we --

15 COMMISSIONER HOOD: Mr. Chairman, Mr.  
16 Brooks has answered my question.

17 MR. BROOKS: And she never heard of it.

18 CHAIRPERSON GRIFFIS: Please, excuse me,  
19 Ma'am. If I could have everyone's attention, believe  
20 me that the Board has been here sine eight o'clock  
21 this morning -- Ma'am, please, if I could have your  
22 attention.

23 I cannot have outbursts. It is disruptive  
24 to the proceedings, and we are way behind schedule  
25 here. Ma'am, please, if you could give me your

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1 attention, please. I think, Mr. Hood, that your  
2 question has been answered?

3 COMMISSIONER HOOD: My question has been  
4 answered, and I don't think I am going to ask anymore.  
5 Thank you.

6 (Laughter.)

7 CHAIRPERSON GRIFFIS: Very well. I  
8 believe we had one other person indicate that they  
9 were going to give testimony. Is that true? Is there  
10 anyone else giving testimony in this application?  
11 Okay. Not seeing any indication, Ms. Pace, I would  
12 give you an opportunity to do closing remarks.

13 MS. PACE: Thank you so much, and we  
14 certainly -- let me assure you that Mr. Brooks is a  
15 senior and we honor Mr. Brooks' right to come and  
16 speak his mind.

17 Unfortunately, some of what he said just  
18 is not true. When he says that he invited me to the  
19 building 5 years ago, I had never encountered Mr.  
20 Brooks or anyone else at Capital Hill Towers.

21 I think that he may have confused me with  
22 -- there was a period of time when I was not at the  
23 Office on Aging. I took early out in '91.

24 CHAIRPERSON GRIFFIS: Let me just  
25 interrupt you here for a second. The Board is not

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1 going to be concerned about --

2 MS. PACE: Well, I just wanted to assure  
3 you that is not true.

4 CHAIRPERSON GRIFFIS: If I could finish.  
5 It is for your benefit and for my benefit, and for the  
6 others here today. We don't -- the basis of the  
7 variance and the special exception that is now before  
8 us is not how the communication went.

9 Clearly we want a supported application,  
10 and it makes it easier for us. This is not a  
11 popularity contest. So we cannot and should not delve  
12 into who said what when, and who invited who where.

13 But there are very substantive issues that  
14 have come up with the testimony that we have heard,  
15 and it is about the use variance, and that is about  
16 where Mr. Brooks has indicated issues of how seniors  
17 are going to access this building, and the proportion  
18 of use in this building, all of which I think are very  
19 pertinent to the application.

20 So with that, I would turn it back to you  
21 to continue your closing remarks.

22 MS. PACE: Well, let me clarify, and I  
23 thank you, Mr. Chair, for that clarification, but I  
24 see that the transcriber is there, and so I do know  
25 that certain things are on the record and I just

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1 wanted the record to reflect that he has gotten me  
2 confused with the former director.

3 I came back to direct the Office on Aging,  
4 but there was a period of five years when there was  
5 another director, Jerilynn Williams. And that may  
6 have happened under her watch. But certainly not  
7 under mine.

8 Now, to go back to the use of the  
9 building. Indeed, public space will occupy 75 percent  
10 of the building. Now, when the application was first  
11 done, there were some figures, some proposed figures  
12 put in the application, and this process has been  
13 going on for some time.

14 And the picture is not quite as it  
15 appears, in terms of the numbers that he read. Like  
16 he said 4,000 square feet. And that just is not true,  
17 and in fact if there was a need for a day time fashion  
18 show, there is on the first floor if you look at the  
19 drawings, there is a multi-purpose room that includes  
20 a kitchen area.

21 That is the space that 150 -- when we say  
22 150 people at any given time could occupy the building  
23 at once, we are talking about all of that usage. So  
24 that is not true.

25 The fitness portion is one area that is on

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1 the lower level, and two training rooms are on the  
2 other end near the lockers. But if you look at the  
3 first level where you see the one stop center, and  
4 where you see the nutrition and multipurpose area,  
5 that is indeed a very, very large area.

6 As well as on the next level, and there  
7 are two elevators. The Caregiver Institute is a  
8 public program that serves caregivers. You heard Mr.  
9 Postell talk about what his life has been as a  
10 caregiver, where caregivers can be supported.

11 That is public use space as well as a  
12 conference room. If you look at how our spaces are  
13 used currently here in the Office on Aging, where we  
14 don't have any programs. Quite frankly, my conference  
15 room is used more by the public than it is by my  
16 staff, including the ANC assembly, and including the  
17 Gay-Lesbian and Transgendered group.

18 A number of groups use the conference  
19 room. We are very, very public, and very proponent in  
20 doing things with the public and with the citizens.  
21 So I do want to say that just is not true.

22 Seventy-five percent of the space will be  
23 used by seniors and for seniors, and for public use.  
24 I might also add that Mr. Brooks indeed lives about  
25 six blocks from the facility in Capital Hill Towers,

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1 and not two blocks, and Sherwood Recreation Center, a  
2 new center by the D.C. Department of Recreation, is  
3 being built there, directly across the street.

4 And that will offer for seniors in that  
5 building space as well for multi-use and for  
6 therapeutic activity and recreational activity.

7 CHAIRPERSON GRIFFIS: Good. Anything  
8 further?

9 MS. PACE: No, I thank you.

10 CHAIRPERSON GRIFFIS: Good. Thank you  
11 very much. We do appreciate that.

12 MR. BROOKS: May I say one other thing?

13 CHAIRPERSON GRIFFIS: Actually not.

14 MR. BROOKS: It will not take that much  
15 time.

16 CHAIRPERSON GRIFFIS: I understand that,  
17 but according to our procedures, we have processed  
18 through the testimony and we have now had closing  
19 remarks by the applicant. I now need to set this for  
20 a decision making, and I would set this for January  
21 7th.

22 In that we have amended the application  
23 today for a use variance, what I would like to do is  
24 keep the record open for 30 days for the submission of  
25 any responses attendant to that. Our ANC member and

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1 party in the case is here today, and can respond to  
2 that.

3 And, Ms. Pace, you are aware of it also.  
4 Let me just verify with the staff that that date that  
5 I just picked is something that I am able to do. Can  
6 we fit it in for decision making, and while we look at  
7 that, Mr. Hood, did you have a comment?

8 COMMISSIONER HOOD: Mr. Chairman, I was  
9 just going to ask a selfish thing. Hopefully we can  
10 put this case first, because I don't think I am going  
11 to be serving that day, and so where I can come in and  
12 get out, and I won't have to spend all day. Not that  
13 I don't mind, but --

14 CHAIRPERSON GRIFFIS: All right.

15 MR. MOY: Yes, Mr. Chair, January 7th  
16 looks good. I did want to remind the board that we  
17 have the Tarrifa case now the Gonzalez case also for  
18 that morning of January 7th.

19 CHAIRPERSON GRIFFIS: Do we have any  
20 public hearings set for that?

21 MR. MOY: Yes, we have in the afternoon.

22 CHAIRPERSON GRIFFIS: No, I mean in the  
23 morning.

24 MR. MOY: Oh, in the morning? No, sir.

25 CHAIRPERSON GRIFFIS: Good, and we will

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1 not. There it is then. It is set for decision making  
2 on January 7th. Board Members, is there anything  
3 specific outside of keeping the record open for a  
4 response based on the change in the application,  
5 specific information that we will ask from the  
6 applicant?

7 Clearly we are going to have the landscape  
8 plan submitted into the record.

9 VICE CHAIRPERSON RENSHAW: Mr. Chairman.

10 CHAIRPERSON GRIFFIS: Yes.

11 VICE CHAIRPERSON RENSHAW: Could we get  
12 into the record the exact amount of square footage  
13 that the Office of Aging is going to use? Ms. Pace  
14 says now 25 percent, and in the Office of Planning  
15 report it states 27 percent, or 6,538 square feet. Is  
16 that going to hold -- is that the square footage?

17 MS. PACE: Yes, that is an approximation,  
18 but we have the architect here that can speak to that.

19 MR. BRYANT: The square footage is  
20 sometimes misleading because we do not always say net  
21 square footage, versus gross square footage when we  
22 are addressing the issue.

23 I believe that the document that was shown  
24 in most instances addressed net square footage, which  
25 has to be increased by a substantial factor in order

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1 to let it represent its occupant part of the building.

2 In this particular distribution of space,  
3 the gross area attributable to activity by the  
4 wellness center is greater than the gross area,  
5 substantially greater than the gross area being used  
6 by the Office on Aging.

7 CHAIRPERSON GRIFFIS: Let me interrupt  
8 you. And I think it would be more efficient in fact  
9 with the submission of the landscape plan if you  
10 wanted to do a breakdown. You have a breakdown that  
11 was submitted, and if you wanted to revisit that in  
12 terms of the issues that are brought up today, and  
13 that is strictly administrative and then go to public  
14 and wellness center, an break it out that way.

15 That way the board can look at it in terms  
16 of square footage and deliberate on it at that point.

17 MR. BRYANT: All right. Would you like me  
18 to do that at this point?

19 CHAIRPERSON GRIFFIS: No.

20 MR. BRYANT: Then I would be glad to  
21 submit supplementary information clarifying that.

22 MS. PACE: We will submit that.

23 CHAIRPERSON GRIFFIS: A quick memo along  
24 with the landscape plan would be tremendous.

25 MR. BRYANT: All right. Very good.

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1 CHAIRPERSON GRIFFIS: All right. Other  
2 information from the Board that would need to be  
3 required at this time? Very well. Ms. Pace, of  
4 course you are, and the ANC, is allowed to submit any  
5 conclusions of law and findings of facts for our  
6 deliberation.

7 If there is nothing further, we will hear  
8 this again on the 7th of January for our decision  
9 making, and so we won't have any additional testimony,  
10 but it is expected that everything will fulfill the  
11 record by that point. That said, anything else that  
12 we need to cover? Very well. Thank you very much.

13 MS. PACE: Thank you very much.

14 CHAIRPERSON GRIFFIS: We appreciate you  
15 coming down and we appreciate everybody coming down  
16 for this pending case. Let's call the next case.

17 MS. BAILEY: Application Number 16940 of  
18 El Rinconcito Cafe II, pursuant to 11 DCMR 3103.2.,  
19 for a variance from the use provisions to allow a 75  
20 seat restaurant under Subsection 330.5, and a variance  
21 from the off-street parking requirements under  
22 Subsection 2101.1.

23 The site is located in an R-4 district at  
24 the premises 1326 Park Road, Northwest, Square 2843,  
25 Lot 35. Please stand to take the oath.

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1 (Witnesses sworn.)

2 CHAIRPERSON GRIFFIS: Good afternoon.

3 MR. GELL: Good afternoon.

4 CHAIRPERSON GRIFFIS: Do you want to  
5 introduce yourself.

6 MR. GELL: Yes, Mr. Chairman, I am Stephen  
7 Gell, representing the El Rinconcito Cafe II, which is  
8 a Mexican-Salvadorian restaurant at 1326 Park Road.  
9 With me is Mr. Mauricio Arias, who is the owner of the  
10 restaurant.

11 CHAIRPERSON GRIFFIS: And, Mr. Gell, we  
12 are in receipt of your submission, and the Board has  
13 read it, and I think that it is very clear and very  
14 straight forward. I would like to know if you would  
15 like to stand on the record barring one issue, and I  
16 will illuminate that.

17 That issue would be seating. Seating has  
18 come up, and I am wondering first of all if you are  
19 prepared to present a floor plan to show us or discuss  
20 where the additional seating is being proposed.

21 MR. GELL: I do have floor plans and I  
22 would be happy to show them to you. We did not make  
23 them part of our earlier submission, The restaurant  
24 operates on two levels, the basement and the first  
25 floor of the building, and the seating would be on

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1 both levels.

2 CHAIRPERSON GRIFFIS: And the drawings  
3 that you are about to submit, that shows the clear  
4 layout and it shows the kitchen and all of that?  
5 Where are the cooking facilities; is it in the  
6 basement level?

7 MR. ARIAS: In the basement level.

8 CHAIRPERSON GRIFFIS: And the main seating  
9 and the 50 seats, I think you can address it verbally  
10 if we need to look at that, but the 50 seats, and  
11 clearly, Board Members, we can see in the illustration  
12 and in the photographs that this a typical townhouse  
13 type architecture. So on the first level you have how  
14 many seats?

15 MR. ARIAS: On the first level there is 39  
16 seats.

17 VICE CHAIRPERSON RENSHAW: Is that the  
18 existing number, 39, or is that a proposed number?

19 MR. ARIAS: No, that is 39 on the first  
20 level and 36 in the basement.

21 CHAIRPERSON GRIFFIS: And the cooking  
22 facility is at the lower level, basement level?

23 MR. ARIAS: Yes.

24 CHAIRPERSON GRIFFIS: And how do you get  
25 from the basement level to the first floor?

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1 MR. ARIAS: From a stairway.

2 CHAIRPERSON GRIFFIS: There is one  
3 stairway?

4 MR. ARIAS: Yes.

5 CHAIRPERSON GRIFFIS: And is there egress  
6 and exit out of the basement level? Can you walk out  
7 on to the street from the basement?

8 MR. ARIAS: Yes.

9 CHAIRPERSON GRIFFIS: Can you walk out of  
10 the rear?

11 MR. ARIAS: Yes.

12 CHAIRPERSON GRIFFIS: Okay. Board  
13 Members, clearly I think you recall reading this, and  
14 there was a mistake by the District of Columbia in  
15 terms of the exact zoning classification of this.

16 There was an existing CFO for a  
17 restaurant. When this property was purchased by the  
18 current applicant, they relied on that documentation  
19 and actually built out a restaurant until it was  
20 noticed going for CFO that in fact it had been  
21 classified as incorrect.

22 They are under a one year extension. Mr.  
23 Gell, you can correct me if anything that I say is  
24 wrong. But a one year CFO is pending on the  
25 application that is before us.

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1                   So we have a past use that is very similar  
2                   and there is just some issue. In terms of the past  
3                   CFO, if I am not mistaken, was for 50 seats, and the  
4                   application before us right now is for 75.

5                   MEMBER ZAIDAIN: And how many currently  
6                   are in there?

7                   MR. GELL: He currently has a CFO for 50  
8                   seats. But it is a temporary CFO.

9                   MEMBER ZAIDAIN: Right, and how many seats  
10                  are in there currently? I thought I heard him say 39  
11                  on the first floor, and --

12                  MR. GELL: I think that is what he is  
13                  proposing.

14                  MEMBER ZAIDAIN: And then 30 -- did I hear  
15                  you say 30?

16                  VICE CHAIRPERSON RENSHAW: That equals 75.

17                  MR. ARIAS: It is 36 on the bottom floor,  
18                  and 39 on the top floor.

19                  MEMBER ZAIDAIN: Okay.

20                  VICE CHAIRPERSON RENSHAW: But my question  
21                  was how many seats are there now since you are  
22                  operating under a 50 limit?

23                  MR. ARIAS: Right now, 50.

24                  VICE CHAIRPERSON RENSHAW: Divided how?  
25                  How many on one floor, and how many on the other

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1 floor?

2 MR. ARIAS: About 25 on the bottom floor  
3 and 20 or 25 on the top floor.

4 MEMBER ZAIDAIN: Also, what you were just  
5 saying when you said 39 and 36 is what you want to do,  
6 as opposed to what you are doing now; is that correct?

7 MR. ARIAS: Right.

8 MEMBER ZAIDAIN: Okay.

9 CHAIRPERSON GRIFFIS: Okay. Any other  
10 questions of the applicant at this time? I noticed in  
11 your submission also just for the record that we do  
12 have the letters from the Zoning Administrators, and  
13 also a petition of support, which has -- I don't know  
14 how many signatures, and I am not going to count them,  
15 but --

16 MR. GELL: It was either 23 or 30. I am  
17 not sure which.

18 CHAIRPERSON GRIFFIS: Okay. Two dozen or  
19 so. And most of the addresses are from the  
20 surrounding area to some extent, or well outside the  
21 area, but perhaps are patronage to the restaurant.  
22 That said, any other questions of the applicant at  
23 this time?

24 MR. GELL: Mr. Arias just wanted to say a  
25 word about where people are coming from who use the

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1 restaurant.

2 CHAIRPERSON GRIFFIS: Outside of Columbia  
3 Heights, and Mount Pleasant, and what was the other  
4 neighborhood?

5 MR. GELL: We are talking about walking  
6 distance.

7 MR. ARIAS: From Columbia Heights, and  
8 Mount Pleasant, and probably Columbia Road.

9 CHAIRPERSON GRIFFIS: Okay.

10 MR. ARIAS: But it is actually four  
11 neighborhoods.

12 CHAIRPERSON GRIFFIS: So based essentially  
13 on your business proforma, you are looking at drawing  
14 people that are in the surrounding area, and that  
15 actually walk to the restaurant?

16 MR. ARIAS: Yes.

17 CHAIRPERSON GRIFFIS: And how long have  
18 you been open?

19 MR. ARIAS: Four months.

20 CHAIRPERSON GRIFFIS: And have you found  
21 that to be true, that your customers walk to the  
22 restaurant?

23 MR. ARIAS: Yes.

24 CHAIRPERSON GRIFFIS: And are from the  
25 surrounding neighborhood?

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1 MR. ARIAS: Yes.

2 CHAIRPERSON GRIFFIS: Okay. Anything  
3 else? Mr. Gell, anything else?

4 MR. GELL: Well, we did have a word to say  
5 about the Advisory Neighborhood Commission. Mr. Moore  
6 had mentioned in his report that the ANC did not deal  
7 with the issue of 75 seats, and we had some testimony  
8 to rebut that, which I was going to have Mr. Arias say  
9 a word about.

10 But I will just say that it was mentioned  
11 to the ANC when we presented our case, and it was part  
12 of the package that they received. It was also stated  
13 very clearly in a very brief precis that was sent out  
14 by the zoning office.

15 So they had in front of them the fact that  
16 it would be at 75 seat restaurant, and we believe that  
17 means that they knew what they were doing, even though  
18 there may not have been discussion at the time.

19 CHAIRPERSON GRIFFIS: Okay. And there was  
20 an authorized Commissioner to present this report, but  
21 I do not believe that he is in the hearing room. If I  
22 am mistaken, he can come to the table. That being  
23 said, let's go to the Office of Planning, and if there  
24 is additional information on that, we can address it.

25 MR. MOORE: Good afternoon, Mr. Chairman,

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1 and Members of the Board, I am John Moore of the  
2 Office of Planning. And we will stand on the record  
3 with respect to the report presented. I would like to  
4 make one comment.

5 CHAIRPERSON GRIFFIS: That would be good.

6 MR. MOORE: I did call the ANC chairperson  
7 back after I received the resolution done by the ANC.

8 CHAIRPERSON GRIFFIS: That would be Ms.  
9 McIntyre?

10 MR. MOORE: Yes. And I mentioned to her  
11 that there was no mention of the number of seats, and  
12 she said that they did not take that up.

13 CHAIRPERSON GRIFFIS: They did not take  
14 that up or it was not an issue?

15 MR. MOORE: They did not take it up.

16 CHAIRPERSON GRIFFIS: I see.

17 MR. MOORE: I reminded her that it was an  
18 application to increase the seating.

19 CHAIRPERSON GRIFFIS: Okay. Where  
20 wouldn't you implicitly -- no, you wouldn't?

21 VICE CHAIRPERSON RENSHAW: With the ANC  
22 that would have had to have been reflected in the  
23 letter, and it is not reflected in the letter from the  
24 ANC about the increase in seating.

25 MR. MOORE: There is no mention of the

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1 increase. There is simply an approval of the  
2 application, which clearly states that we are moving  
3 from 50 to 75 seats. It was in our original  
4 application as well, which they had a copy of.

5 CHAIRPERSON GRIFFIS: Yes, how would they  
6 not know as it went to the ANC that this was a use  
7 provision to allow a 75 seat restaurant?

8 VICE CHAIRPERSON RENSHAW: Well, you can  
9 only take the letter at its face value.

10 CHAIRPERSON GRIFFIS: Indeed.

11 VICE CHAIRPERSON RENSHAW: And that is a  
12 variance that they are approving, and approving a  
13 variance for restaurant use in a residential zone.

14 CHAIRPERSON GRIFFIS: Indeed.

15 VICE CHAIRPERSON RENSHAW: And that is  
16 what they voted on.

17 CHAIRPERSON GRIFFIS: Indeed, and I would  
18 agree. It is a unanimous vote in support of the  
19 application, which is to allow a restaurant and it is  
20 the restaurant I would say as advertised.

21 VICE CHAIRPERSON RENSHAW: Not  
22 necessarily.

23 CHAIRPERSON GRIFFIS: Okay. Two issues  
24 that I have, Mr. Gell. Go ahead.

25 MEMBER ZAIDAIN: Mr. Moore, can you just

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1 give the Board some discussion on why you want to  
2 limit the seating to 50 just so we can get a  
3 discussion going on that? I think that is pretty much  
4 going to be the main issue here.

5 MR. MOORE: First, it is not easy to admit  
6 that there is some culpability on behalf of the  
7 government, which is normally perfect. But we have --

8 CHAIRPERSON GRIFFIS: Yes, we know the  
9 feeling.

10 MR. MOORE: The government erred in this  
11 case by identifying the property as being commercial  
12 on the application, and the applicant had every reason  
13 to proceed in that regard.

14 But it doesn't mean that we want to then  
15 compound the issue by adding 50 percent more seats  
16 than are already there in an area which it shouldn't  
17 be in in the first place to put it succinctly.

18 MEMBER ZAIDAIN: Okay. So OP views this  
19 as kind of being an expansion, as opposed to just  
20 keeping what is there legal performing?

21 MR. MOORE: We are just looking at the  
22 more intensification of a use that shouldn't be in the  
23 area in the first place.

24 MEMBER ZAIDAIN: Okay. I am trying to  
25 recall from your report what -- is this in

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1 predominantly a residential block?

2 MR. MOORE: Yes, it is.

3 MEMBER ZAIDAIN: Are there non-residential  
4 uses also there?

5 MR. MOORE: At least two others.

6 MEMBER ZAIDAIN: Two adjacent to it in the  
7 same block?

8 MR. MOORE: Well, actually, about two  
9 doors to the east of this facility.

10 CHAIRPERSON GRIFFIS: Anything else, Mr.  
11 Zaidain?

12 MEMBER ZAIDAIN: Well, I just wanted to  
13 compliment you on your good pictures.

14 CHAIRPERSON GRIFFIS: But if you go to the  
15 aerial map, it indicates a zone, and am I correct that  
16 this is essentially across the street from a C-3-A  
17 zone?

18 MR. MOORE: Yes, it is across from the  
19 Tipoli site.

20 CHAIRPERSON GRIFFIS: Is that a new  
21 zoning?

22 MR. MOORE: No.

23 CHAIRPERSON GRIFFIS: Was that a map  
24 amendment?

25 MR. MOORE: There is a C-3-A west of this

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1 property at 14th and Park Road.

2 CHAIRPERSON GRIFFIS: Across the street to  
3 the Tipoli site that we are talking about, was that  
4 always in the past five years totally C-3-A?

5 MR. MOORE: I don't think it was, sir.

6 CHAIRPERSON GRIFFIS: I believe it may  
7 have been a map amendment.

8 MR. MOORE: A map amendment, I believe.

9 CHAIRPERSON GRIFFIS: Well, did the Office  
10 of Planning support that map amendment?

11 MR. MOORE: Yes.

12 CHAIRPERSON GRIFFIS: That brings the  
13 commercial zone all the way down or halfway down Park  
14 Road, which is essentially adjacent to this property.

15 MR. MOORE: Right.

16 MEMBER ZAIDAIN: Would you consider this  
17 area to be a kind of transitional area, going from  
18 commercial to residential?

19 MR. MOORE: Very transitional.

20 VICE CHAIRPERSON RENSHAW: Is there a big  
21 box store going in right at the corner of 14th and  
22 Park in that vicinity?

23 MR. MOORE: Not that I am aware of. I  
24 think the site is owned by Metro. I am not aware of  
25 what is going in.

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1 COMMISSIONER HOOD: Mr. Chairman, are you  
2 referencing the PUD? I am not following what your  
3 question was. I don't believe it was a map amendment.

4 CHAIRPERSON GRIFFIS: It wasn't?

5 COMMISSIONER HOOD: It was a PUD.

6 CHAIRPERSON GRIFFIS: The Tipoli site was  
7 a PUD?

8 COMMISSIONER HOOD: That whole site was a  
9 planned unit development.

10 CHAIRPERSON GRIFFIS: And it changed the  
11 zoning ont he entire site?

12 COMMISSIONER HOOD: I don't know if -- Mr.  
13 Moore, I guess that will go back to you. Is this the  
14 underlying zoning?

15 MR. MOORE: Yes, I believe it is.

16 COMMISSIONER HOOD: Okay. So that is the  
17 underlying zoning.

18 CHAIRPERSON GRIFFIS: All right.

19 COMMISSIONER HOOD: Well, let me just say  
20 this, Mr. Chairman. I am too in favor of the comments  
21 of the Office of Planning, even though I know that the  
22 City made a mistake or somebody make a mistake.

23 I would not be in favor of making that  
24 mistake larger than what it already is, unless my  
25 colleagues feel differently, and unless the testimony

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1 results to something else. I am not in favor of  
2 increasing the mistake that has already been made.

3 CHAIRPERSON GRIFFIS: Well, this is where  
4 I -- yes, Mr. Etherly.

5 MEMBER ETHERLY: Just an additional  
6 question perhaps if it is appropriate, Mr. Chair, and  
7 a question directed to Mr. Gell. Mr. Gell, what is  
8 your -- it sounds like a substantial portion of the  
9 patronage comes from the surrounding community, and  
10 hence a number of the customers are walking to the  
11 subject property.

12 MR. GELL: Yes.

13 MEMBER ETHERLY: Does your client for  
14 those patrons who may drive, where do they park? Do  
15 they park on the street or on off-street parking? I  
16 think the Office of Planning report indicates that  
17 there is no off-street parking provided for the  
18 subject property.

19 MR. GELL: Yes, the site has no parking at  
20 all. It never has, and as far as we know there is no  
21 way to create it. There is no way to bring an alley  
22 in the back, although there is some land there. That  
23 simply is not practical.

24 I might point out that while there is no  
25 parking, it is also true that there is no requirement

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1 for parking in a C-2-A zone, which is what the zoning  
2 administrator thought this was when he originally  
3 granted it, because the restaurant is under 3,000  
4 square feet.

5 So that the zoning commission in its  
6 regulations had determined that for that size of a  
7 commercial use that it was not necessary to have  
8 zoning. Now it is a bit more complicated because this  
9 is an R-4, and not a C-2-A.

10 But what the zoning office looks to is the  
11 closest district where there is a parking requirement,  
12 and that parking requirement is met essentially by not  
13 having.

14 MEMBER ETHERLY: Well, that point is not  
15 lost to me, but I think you hear kind of hear where  
16 the rock and the hard place is here. My colleague,  
17 Mr. Hood, said it well, and you heard the Office of  
18 Planning say it, which is while perhaps not wanting to  
19 penalize your client for a mistake on the part of the  
20 government, do we by chance or per chance compound it  
21 by authorizing an intensification of the use.

22 And I am struggling with that very  
23 sensitive question as well. So I wanted to get a  
24 sense of what the landscape looked like. From many of  
25 the pictures that were presented in the OP report, as

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1 well as some of the pictures that were provided in  
2 your submission, it appears that you have basic beyond  
3 street parking, and that is probably zoned residential  
4 to a significant extent.

5 And that could be used by any patrons who  
6 are driving to the restaurant, and would it be your  
7 belief that those additional 25 seats also are  
8 probably going to be filled by individuals who would  
9 be walking to the restaurant?

10 CHAIRPERSON GRIFFIS: We really have not  
11 had a chance to talk about why Mr. Arias would like ot  
12 have the additional 25 seats.

13 MEMBER ETHERLY: Well, I am willing to  
14 pause right there. Why the intensification? That  
15 question is on my mind. I am happy to hear that  
16 business is going so well that it would be great to  
17 just provide even a further opportunity for the  
18 community to take advantage of this resource. But why  
19 the intensification?

20 MR. GELL: We really don't expect 75 walk-  
21 in customers any night of the week, even on a Saturday  
22 night, which is the busiest night. But he did want to  
23 have an opportunity if people wanted to have a  
24 gathering of 25, or 12, or 15 people, to be able to  
25 seat them somewhere, and still have enough

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1 availability for his regular customers.

2 And that would be mostly on the weekend  
3 and so that was essentially why he wanted to do it.  
4 We don't think the restaurant is going to be that busy  
5 all the time or even normally.

6 And his notion was that that might not  
7 happen anymore than 20 or 24 times a year, and in fact  
8 if you wanted to put an addition on that that would  
9 limit it to that, we could accept such a condition,  
10 because we don't think that is going to be necessary  
11 that he is going to need that much more space.

12 MEMBER ETHERLY: All right. I appreciate  
13 it. Thank you.

14 MR. GELL: The one other additional point  
15 is that there is an enormous parking lot going in  
16 across the street for the Giant, which I know can't be  
17 taken into account legally as giving us the parking,  
18 but it is obviously a resource that some people will  
19 take advantage of.

20 CHAIRPERSON GRIFFIS: How sure are you  
21 that that is happening?

22 VICE CHAIRPERSON RENSHAW: Mr. Chairman, a  
23 question for Mr. Moore.

24 MR. GELL: Of what is happening?

25 CHAIRPERSON GRIFFIS: The development

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1 across the street?

2 MR. MOORE: Everything that I hear says  
3 that Giant is going in and putting in a parking lot,  
4 unless I missed something.

5 CHAIRPERSON GRIFFIS: Okay. Ms. Renshaw,  
6 you had a question?

7 VICE CHAIRPERSON RENSHAW: Yes. Mr.  
8 Moore, there are no other restaurants in this block  
9 face?

10 MR. MOORE: No, there isn't.

11 VICE CHAIRPERSON RENSHAW: All right. And  
12 do you feel that by increasing the number of seats  
13 then that it will weaken the R-4 district?

14 MR. MOORE: I feel that increasing the  
15 number of seats as I have already mentioned basically  
16 would compound an issue that already shouldn't be  
17 allowed.

18 Second, when you look at the spacing of  
19 the seats that are already in the restaurant, to put  
20 more additional seats in with no additional space, I  
21 think that it at some point would violate the amount  
22 of space that one should have between tables in the  
23 restaurant for safety purposes.

24 I think that the Fire Department would  
25 look at this, and you would tell them that you are

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1 going to put additional seats in there, and they would  
2 say no to it because of the emergency exits.

3 VICE CHAIRPERSON RENSHAW: So there would  
4 be too many people in the building too close together?

5 MR. MOORE: In the existing space.

6 VICE CHAIRPERSON RENSHAW: In the existing  
7 space, and there is no chance to enlarge this space?

8 MR. MOORE: Well, actually, he has got  
9 plenty of space in the rear of the property if he  
10 chose to develop it. It is just going to access from  
11 the alley to the rear.

12 MR. GELL: May I say a word?

13 VICE CHAIRPERSON RENSHAW: Just one  
14 additional question. On the petitions that have been  
15 handed in in support of the restaurant, could you  
16 discern whether the immediate neighbors and those on  
17 that block face had signed that petition?

18 MR. MOORE: I have not seen the petition.  
19 I can say that when I talked to the ANC Chair that  
20 she highly recommended that I even use the restaurant  
21 and that it was a good facility, but she still had not  
22 dealt with the issue of increasing the seats. So  
23 apparently you have got a good product.

24 VICE CHAIRPERSON RENSHAW: Okay. Thank  
25 you.

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1 CHAIRPERSON GRIFFIS: Mr. Gell, have you  
2 had a code review of this to establish the occupancy?

3 MR. GELL: I have been told, and Mr. Arias  
4 can confirm this, that the Fire Department did in fact  
5 look at this space and concluded that 75 seats was  
6 permissible.

7 CHAIRPERSON GRIFFIS: Okay.

8 MR. GELL: And I might just say that  
9 obviously we are not going to be able to do what we  
10 can't do. This is just not the place where I think  
11 there can be a conclusion as to whether that is  
12 possible, and with all due deference, obviously we  
13 have to have one of the officials from the Fire  
14 Department -- Mr. Arias, didn't they come out to look  
15 at the space?

16 MR. ARIAS: Yes.

17 MR. GELL: Before he got the approval for  
18 the 50 seats on a limited basis, they actually came  
19 out and looked. Did they look at the 75?

20 MR. ARIAS: Yes.

21 CHAIRPERSON GRIFFIS: Well, this is my  
22 inclination in looking at this and in reviewing the  
23 entire record. First of all, I am not that stuck on  
24 the mistake that was made in the past. I am looking  
25 at this essentially on the face of the application,

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1 and clearly that creates part of the case of the  
2 uniqueness and the hardship that has been created.

3 And that I think is very solid. In terms  
4 of increasing the seating and tables, I think it is  
5 important to, one, we have not had any evidence that  
6 that increase in population will somehow create a  
7 detriment, or somehow be negative to the zone plan or  
8 map, or in any way have any opposition to that  
9 seating, aside from OP, which OP, with all due  
10 respects, is a little tentative about their hesitation  
11 of not supporting a mistake in the past and actually  
12 increasing it.

13 When it comes down to me, I would need to  
14 look at the block itself, and the functioning of it,  
15 and whether that restaurant would create a bad  
16 situation, and I don't see it in fact.

17 And the only reason why -- and both Mr.  
18 Gell and the Office of Planning reference this  
19 supermarket that is going across the street with this  
20 supposed parking.

21 Here we can talk about a huge commercial  
22 retail use that clearly will be large enough to be a  
23 draw from surrounding the city, if not beyond, clearly  
24 beyond the neighborhood.

25 And then we can look at a neighborhood

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1 restaurant that wants to serve the neighborhood and  
2 the walkability of the community, and say no, we can't  
3 have this. This will clearly overburden our block or  
4 create some sort of negative impact.

5 So in that respect I think we ought to  
6 rely more on the building code and the fire code in  
7 order to establish whether up to 75 can actually be  
8 maintained or not,

9 And I think we ought to move ahead with  
10 this application. Others.

11 VICE CHAIRPERSON RENSHAW: However, we  
12 don't want to weaken existing zoning, and this area,  
13 as Mr. Moore has said, is kind of in a transition.  
14 But it is still R-4 and restaurants are not compatible  
15 so Mr. Moore says in an R-4 area.

16 So if we increase the seating, then we are  
17 thus kind of more undermining the R-4.

18 CHAIRPERSON GRIFFIS: I think that is a  
19 valuable argument if we were increasing the actual  
20 useable square footage. If we were looking at that  
21 this building was taking on three first levels of the  
22 adjoining townhouses, it would be substantially  
23 different than looking at two floors that are  
24 currently used for the restaurant.

25 And what we are trying to do is maintain

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1 and limit the numbers of tables and chairs in the  
2 building.

3 VICE CHAIRPERSON RENSHAW: I have a  
4 solution. Well, a suggestion more than a solution  
5 perhaps, but Mr. Gell mentioned earlier when we asked  
6 about the seating, he said that the restaurant doesn't  
7 expect 75 people to walk in.

8 But the 75 is being asked for gatherings  
9 and to have gatherings, in addition to allowing for  
10 the regular patrons of the restaurant. So I am  
11 wondering could we have 50 as the normal seating, but  
12 if there is a gathering, to be able to go up to the  
13 75, but only if there is a gathering?

14 CHAIRPERSON GRIFFIS: Well, I appreciate  
15 you offering that.

16 VICE CHAIRPERSON RENSHAW: I think that is  
17 a stunning solution.

18 CHAIRPERSON GRIFFIS: It gets us into  
19 micromanaging the operations of a restaurant. I mean,  
20 who in fact is going to be coming in and counting the  
21 tables, and where those 10 or 25 tables go. I just  
22 think it is too much.

23 I mean, I think we ought to take a look at  
24 the actual application, and if there is not support  
25 for 75, then so be it. But I would be fully and a

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1 hundred percent in support of doing that.

2 I think at this point -- Mr. Hood, you had  
3 a comment?

4 COMMISSIONER HOOD: Mr. Chairman, I would  
5 say that after hearing the discussion and as one of  
6 those who did vote on the project that you referenced,  
7 and in dealing with the neighborhood issue of going to  
8 75, I would withdraw my comments that I made earlier.

9 Again, the restaurant use is in an R-4 due  
10 to the mistakes and I have really would have to think  
11 about whether I would want to limit it to 50 seats.  
12 I really don't think that is an issue now that I think  
13 about it after hearing that discussion.

14 CHAIRPERSON GRIFFIS: I appreciate that

15 COMMISSIONER HOOD: But I would also ask  
16 that we have something from the Fire Department. I  
17 don't know if we do in this packet. But I would feel  
18 more comfortable in going forward with something --  
19 the testimony was that they had the support of the  
20 Fire Department.

21 So if we can just get that in writing for  
22 the record, then I would be fine in moving forward.

23 VICE CHAIRPERSON RENSHAW: And, Mr. Hood,  
24 as the Zoning Commission Member, you don't see  
25 additional seats as weakening or undermining the R-4?

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1                   COMMISSIONER HOOD:     Well, here is the  
2     issue.  The issue is again someone made a mistake, and  
3     I don't want to say the government, but someone made a  
4     mistake.

5                   The restaurant is already there in an  
6     R-4, and so the amount of seats I think is a moot  
7     point.  At this point, it doesn't matter as far as I  
8     am concerned the way I am looking at it.

9                   And actually in hearing the comments from  
10    the Chair person, I can kind of see that 50 to 75 is  
11    irrelevant.  The bottom line is the restaurant, if  
12    approved, would be there.

13                  VICE CHAIRPERSON RENSHAW:  Regardless.

14                  COMMISSIONER HOOD:  Regardless.

15                  CHAIRPERSON GRIFFIS:  And it will occupy  
16    the two floors.  Mr. Hood, I that is very well said.  
17    The other point is, Mr. Gell, and forgive me if I  
18    don't recollect, but it struck me that the uniqueness  
19    of the actual zoning, and how the C-3-A actually cuts  
20    down Park Road where this restaurant is, and abuts an  
21    R-4, the R-4 is surrounded on essentially two sides,  
22    the zone itself, with that higher commercial use.

23                  MEMBER ZAIDAIN:  Right, and I am kind of  
24    in the same boat.  I am a little mystified.  I have  
25    never seen the zoning here, and all the activity with

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1 the Tivoli, and the proposed grocery store, and what I  
2 do know of the 14th Street area, it is amazing that it  
3 goes from commercial zoning straight to residential  
4 when you usually see a type of mixed use zoning  
5 applied there.

6 And it seems that the block is acting as a  
7 mixed use zone, even though it is not zoned for it.

8 CHAIRPERSON GRIFFIS: Unless the mistake  
9 was actually in the C-3-A, but that is out of the  
10 picture or a discussion for the zoning commission  
11 perhaps. But I think it is an excellent point.

12 COMMISSIONER HOOD: Just for your record,  
13 the zoning commission, we don't make any mistakes.

14 CHAIRPERSON GRIFFIS: That's true. That  
15 is very true.

16 MEMBER ZAIDAIN: Mr. Chair, I would be  
17 prepared to move forward in support of this petition.

18 CHAIRPERSON GRIFFIS: I appreciate that.  
19 Let me just run through this. We have heard from the  
20 Office of Planning, and we have gone through the ANC.  
21 Actually, did we formally do the ANC letter? It is a  
22 submission, and it is Exhibit --

23 VICE CHAIRPERSON RENSHAW: Exhibit 24.

24 CHAIRPERSON GRIFFIS: Exhibit 24. Mr.  
25 Gell, did you have anything additional to address as

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1 to the ANC?

2 MR. GELL: Just one item that I want you  
3 to ignore, and that is that we made an assumption  
4 originally that we would not need any kind of a  
5 variance for parking. I think that is still the case.

6 And if you ignore it, that's fine. But if  
7 you felt that there was something that we had to ask  
8 for, at least it has been notified, the community has  
9 been notified of it.

10 CHAIRPERSON GRIFFIS: Okay. And for  
11 clarification, I do not believe that we are ignoring  
12 it. And I think the next question would go to what is  
13 the total square foot, or did you do a parking  
14 calculation of requirements on the retail?

15 MR. GELL: It is about 2,400 or 2,500  
16 square feet.

17 CHAIRPERSON GRIFFIS: Total use by the  
18 restaurant?

19 MR. GELL: By the restaurant.

20 CHAIRPERSON GRIFFIS: And according to my  
21 regulations, the -- well, that's where we get into  
22 trouble. Okay. We are going to figure that out  
23 before we make the final motion. Is there anyone here  
24 giving testimony today attendant to this application?

25 Yes, sir? Why don't you come forward. Yes, sir, if

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1 you wouldn't mind giving your name.

2 MR. VENTURA: I am Gustavo M. Ventura, and  
3 I am a resident right now at 1334 Fairmont Street,  
4 working on a project at 1336 Fairmont. I am the head  
5 of the Fairmont Street Neighborhood Group, which the  
6 Department of Works currently recognizes and  
7 Councilman Graham has asked us to become a civic  
8 association.

9 So we are in that process now with Mr.  
10 New. This is the only sitdown restaurant in our  
11 neighborhood, and they have done a wonderful job  
12 renovating their building, and there are three  
13 projects to one side of you, and three to another.  
14 They are future condominiums from the same contractor.

15 Both have been using the restaurant rather  
16 extensively while they have been working there, and we  
17 are hoping the Tivoli development will also enhance  
18 some of our retail capacity.

19 There is a laundromat and I believe a  
20 beauty salon also immediately next to this facility,  
21 and there is a large apartment complex across the  
22 street, and on the corner of 13th and Park.

23 So aside from that, we are looking at very  
24 little life currently on this block and they have done  
25 an exceptional job, and have been a good neighbor. So

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1 we very much are in support of this restaurant.

2 CHAIRPERSON GRIFFIS: Good. Thank you  
3 very much. Do the Board Members have any questions?  
4 Mr. Gel, do you have any cross-examination?

5 MR. GELL: No, none whatsoever. I did  
6 want to ask --

7 CHAIRPERSON GRIFFIS: Thank you very much.  
8 I think we are going to be seeing you shortly if I am  
9 not mistaken with the recollection of your name on an  
10 application that is coming ot us today. Yes, Mr.  
11 Gell.

12 MR. GELL: Just technically I did want to  
13 ask for a bench decision and summary order if that is  
14 possible.

15 CHAIRPERSON GRIFFIS: We re working on it,  
16 which we are going to do here. Let me ask you again,  
17 Mr. Gell. Did you do a parking calculation?

18 MR. GELL: We did not submit any parking  
19 calculation because there is --

20 CHAIRPERSON GRIFFIS: Did you do one?

21 MR. GELL: Yes. There is no requirement  
22 for parking for the restaurant. There is a  
23 requirement for one car for the three units. But it  
24 is grandfathered in as having -- in other words, it is  
25 credited with a space anyway simply because it existed

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1 before '58.

2 CHAIRPERSON GRIFFIS: Would you not think  
3 if we were looking to try and find and establish for a  
4 use variance in the R-4 a parking requirement for a  
5 restaurant that we would go to the closest zone where  
6 it was first permitted?

7 MR. GELL: That's what I understand is the  
8 rule. In fact, I checked that with Mr. Bellow just a  
9 few minutes ago, and that is what they normally do.

10 CHAIRPERSON GRIFFIS: Okay. And does that  
11 yield the same calculation?

12 MR. GELL: It does, because 3,000 square  
13 feet is free of the requirement of any parking, and  
14 they have less than 3,000 on both floors.

15 CHAIRPERSON GRIFFIS: Okay. And from my  
16 understanding then, what you are saying is that if we  
17 go to a commercial use that maybe it is a C-1? I am  
18 not sure which one it first directs as a matter of  
19 right use. But the calculation for the parking is one  
20 space per 3,000 square feet of restaurant use; is that  
21 correct?

22 MR. GELL: No. It is no spaces for the  
23 first 3,000, and one space for each 300 after the  
24 first 3,000.

25 CHAIRPERSON GRIFFIS: Right. You are

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1 exactly right. I was thinking that and said it  
2 incorrectly. That the first 3,000 square feet are  
3 exempt, and therefore you are below actually the 3,000  
4 for the restaurant itself.

5 So that the attendant parking would be on  
6 an R-4 requirement for the townhouse itself, which  
7 would be one, and you are saying that you would be  
8 exempt based on the fact that it is an existing  
9 building. Is that correct?

10 MR. GELL: That is correct.

11 CHAIRPERSON GRIFFIS: Okay. The  
12 clarification, and it is in excess of 3,000 square  
13 feet. In excess, meaning that you subtract the first  
14 3,000 square feet, and then for each 300 square feet  
15 above that, you have one.

16 MR. GELL: Exactly.

17 CHAIRPERSON GRIFFIS: Does corporation  
18 counsel have an opinion on the parking?

19 MS. MONROE: Now that I found it, yes, I  
20 agree. It is in excess of 3,000. One for additional  
21 300 feet.

22 CHAIRPERSON GRIFFIS: Okay. So on that  
23 establishment, we actually -- would it be your opinion  
24 then that a variance from the parking requirement  
25 would not be required or is one still required?

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1                   VICE CHAIRPERSON RENSHAW:   Mr. Gell, how  
2 many square feet is in the restaurant?

3                   MR. GELL:   It is 2,200 square feet.  That  
4 includes both floors.

5                   MS. MONROE:   Yes, I think you would not  
6 need to have a variance for the parking because it is  
7 under 3,000 square feet.

8                   CHAIRPERSON GRIFFIS:   Very well.  Mr.  
9 Gell, do you have closing remarks?

10                  MR. GELL:   No, just thank you very much  
11 for your attention and your deliberations.

12                  CHAIRPERSON GRIFFIS:   Thank you very much.  
13                  With that then, Mr. Gell, we appreciate your case  
14 presentation today, and I would move for approval of  
15 Application Number 16940 for the El Rinconcito Cafe  
16 II, and that is for a variance from the use provisions  
17 to allow a 75 seat restaurant under Subsection 330.5  
18 at the premises of 1326 Park Road, Northwest.  And I  
19 would ask for a second.

20                  VICE CHAIRPERSON RENSHAW:   Second.

21                  CHAIRPERSON GRIFFIS:   Thank you very much,  
22 Mr. Renshaw.  I think it is clear in the oral  
23 testimony today and in the written submission that the  
24 case has been clearly made for this use variance.  I  
25 would make note in my comments on the motion that

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1 clearly we were not approving or would not have  
2 jurisdiction to approve the seating and occupancy  
3 above and beyond other review purposes, and that being  
4 the fire and building code occupancy limits.

5 But we found that in fact the difference  
6 between 50 and 75 based on the square footage, which  
7 was not changing, would not have an impact of any  
8 substantial nature. And I would hear others speak to  
9 the motion if need be.

10 COMMISSIONER HOOD: Mr. Chairman, I would  
11 just go to the testimony of Mr. Gell that he did  
12 confer with the Fire Department, and they had no  
13 problems with the increase in the seating, and that  
14 was his testimony.

15 MR. GELL: That is what I understand, but  
16 obviously they are going to have to come out again and  
17 look at it to make sure. I understand that they  
18 looked at it, and that they assured the zoning  
19 administrator that it was all right.

20 CHAIRPERSON GRIFFIS: Well, based on the  
21 fact that you have a temporary CFO, you are going to  
22 have to reapply for a CFO, and it is now going to have  
23 an occupancy to it, and that is going to be 75. That  
24 would invoke the review from those regulatory agencies  
25 in order to make it permissible for your occupancy.

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1                   And if I am not mistaken, and I don't  
2 necessarily know, but this restaurant may have to have  
3 a posted occupancy based on that certificate of  
4 occupancy. Is that your understanding, Mr. Gell?

5                   MR. GELL:     Yes, he would have to go  
6 through that process.

7                   CHAIRPERSON GRIFFIS:   Does that address  
8 your question, Mr. Hood?

9                   COMMISSIONER HOOD:   Yes.

10                  CHAIRPERSON GRIFFIS:   Okay. Others to the  
11 motion? Very well. I would ask for all of those in  
12 favor signify by saying aye.

13                  (Ayes.)

14                  CHAIRPERSON GRIFFIS:   And opposed?

15                  (No response.)

16                  CHAIRPERSON GRIFFIS:   Thank you all very  
17 much. Mr. Gell, thank you, and good luck, sir. Okay.  
18 I am going -- yes, sir?

19                  MR. GELL:     Mr. Chairman, I have a case  
20 that comes two after.

21                  CHAIRPERSON GRIFFIS:   Indeed, and we are  
22 going to take 10 minutes while we have the next  
23 application come up, and that will be discussed in  
24 that time period.

25                  (Whereupon, at 4:45 p.m., the hearing was

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1 recessed and resumed at 5:00 p.m.)

2 CHAIRPERSON GRIFFIS: If I could have  
3 everyone's attention. As this day is panning out, we  
4 clearly have unpredictable circumstances that have  
5 arised or arisen I suppose is correctly stated.

6 And to that, unless people aren't clear,  
7 we have not finished our morning schedule, and it is  
8 five o'clock. I do not think it is fair, and I  
9 probably should have done this beforehand, and so  
10 please forgive me.

11 But if the applicant for Bass is here, I  
12 am proposing that we reschedule on the continuation of  
13 this case to November 26th in the afternoon. It would  
14 be the second case of two cases in that afternoon, and  
15 we will ensure that it maintains that way.

16 If there is anyone who has an objection to  
17 that. Mr. Gell, there you are. Yes.

18 MR. GELL: We are okay with it. I have  
19 talked to the principals, and we will be here.

20 CHAIRPERSON GRIFFIS: Okay. Are the  
21 parties present in that case? Let me just state that  
22 none of the parties are, but the attorney representing  
23 the party is present, and there is no objection to a  
24 continuance to the 26th of November.

25 Hearing no objection, believe me when I

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1 say I do appreciate your patience and your  
2 consideration of this, and we had great and high hopes  
3 to get through everything today, but clearly things  
4 have gone beyond our control. So, thank you for your  
5 patience and I regret having kept you here so long.  
6 But with that, we will see you on the 26th.

7 And so if I am not mistaken, we can call  
8 our next case of the morning.

9 MS. BAILEY: Application Number 16943, of  
10 Thomas P. Brown III, and James C. Brown, and Raymond  
11 K. Brown, pursuant to 11 DCMR 3103.2, for a variance  
12 from the closed court requirements under Section 776,  
13 to permit the construction of an office building in  
14 the C-4 District at the premises of 1121 14th Street,  
15 Northwest, Square 247, Lots 868 and 869. All those  
16 wishing to testify, please stand to be sworn.

17 (Witnesses sworn.)

18 CHAIRPERSON GRIFFIS: Very well. Good  
19 afternoon.

20 MR. GLASGOW: Good afternoon, Mr. Chairman  
21 and Members of the Board. For the record, my name is  
22 Normal M. Glasgow, Junior, of the law firm of Holland  
23 and Knight. Here with me are Mr. Dennis Hughes in the  
24 first row of the same law firm, and Mr. Dautenhahn,  
25 the representative of the owner, and Mr. Steven Shur,

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1 land planner with the firm of Holland and Knight.

2 I am going to offer Mr. Shur as an expert  
3 witness, and he has been accepted by this Board on  
4 many occasions as an expert.

5 CHAIRPERSON GRIFFIS: Board Members, why  
6 don't we take that up as we go. Any objection to Mr.  
7 Shur? I have reviewed him numerous times. I will  
8 take that as a consensus that Mr. Shur is an expert  
9 witness in land use zoning.

10 MR. GLASGOW: All right. Thank you. With  
11 the permission of the Board, I would like to proceed  
12 with a brief opening statement. First, I would like  
13 to confirm that the Board Members have received a copy  
14 of the statements, and the applicant's statement,  
15 which was filed October 29th.

16 CHAIRPERSON GRIFFIS: Yes, we are in  
17 receipt and have read it thoroughly.

18 MR. GLASGOW: Thank you. The Board  
19 Members, as I understand it, should also be in receipt  
20 of a report in support of the application and a  
21 supplemental report from the Office of Planning, and a  
22 letter in support of the application from Advisory  
23 Neighborhood Commission Number 2-F.

24 CHAIRPERSON GRIFFIS: What is the date of  
25 the supplemental report of OP?

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1 MR. GLASGOW: The supplemental report is  
2 dated November 7th, 2002. It is a one page report  
3 with a one page E-mail attachment printed out. And it  
4 is stamped received by the Office of Zoning on  
5 November 8th, at 5:03 p.m. It is Exhibit Number 28.

6 CHAIRPERSON GRIFFIS: I don't have that,  
7 and in fact it is not in the official file that is  
8 before me at this point. Unless I am looking at the  
9 wrong file. Okay. We are now in receipt, and we will  
10 clearly review that, and obviously the Office of  
11 Planning is here today.

12 MR. GLASGOW: Sure. Then also there is  
13 the report of Advisory Neighborhood Commission 2-F,  
14 and that is in the record.

15 CHAIRPERSON GRIFFIS: November 7th,  
16 correct.

17 MR. GLASGOW: Yes, sir. In reviewing the  
18 statement of the applicant, the applicant submits that  
19 the property is unique and affected by several  
20 exceptional situations or conditions. One, the size  
21 and shape of the property.

22 It is a C-4 zone piece, which is  
23 approximately only a 8,900 square feet lot area. It  
24 has a non-rectangular shape, and is encumbered by a  
25 restrictive covenant, which provides that no above

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1 grade structure will be constructed in a portion of a  
2 public alley previously closed.

3 And it is shown in yellow on a board that  
4 Mr. Shur has in front of him. The rest of the lot is  
5 out is outlined in blue on that piece. That is a copy  
6 of a survey that is in the record, but we can get  
7 another copy of that for the record also.

8 The covenant was placed on the site in  
9 connection with an alley closing, thereby creating a  
10 situation where the application, through the provision  
11 of additional open space, requires variance relief,  
12 where there is no requirement under the zoning  
13 regulations to provide open space at that location.

14 Absent the covenant, the applicant could  
15 build in this area and no relief would be necessary  
16 from the Board. But there is a covenant on the  
17 property and we are sending back, and we are complying  
18 with the provisions of the covenant.

19 This situation results in a practical  
20 difficulty to the applicant because there is C-4 zoned  
21 property for which taxes are being paid, which may  
22 not otherwise be used absent the granting of variance  
23 relief.

24 The granting of the relief, as will be  
25 testified to by the witnesses, does not result in any

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1 substantial detriment to the public good and will not  
2 impair the intent, purpose, and integrity of the zone  
3 plan.

4 We note the support of the Office of  
5 Planning and the Advisory Neighborhood Commission, in  
6 proceeding forward with this project with the granting  
7 of the variance relief.

8 We also have a series of exhibits, and I  
9 believe that most of those are self-explanatory, and  
10 particularly when viewed in relation to the plats.  
11 Exhibit C is a survey of the property, on which it is  
12 shown as Lots 868 and 869 an area that was previously  
13 a public alley closed, for which there is the easement  
14 that is shown. That is Lot 869 on that plat.

15 And that was also shown on the plat that  
16 Mr. Shur had, and it is much easier to read as it is  
17 highlighted. Exhibit D is a plat of the alley closing  
18 previously referenced that shows the 5 foot strip of  
19 alley closed which will not be built over.

20 Exhibit E is a set of plans for the  
21 building, and Exhibit F is a non-exclusive easement  
22 for a vehicular ingress and egress, which is a  
23 covenant running with the land restricting the use of  
24 the property.

25 That property is referred to as the Brown

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1 property in the covenant and has a series of  
2 restrictions that run with it, saying that it can't be  
3 built on and it is used as a setback area.

4 Exhibits G, H, and I, are outlines of  
5 testimony of the witnesses. If there are no  
6 preliminary questions, I would like to proceed with  
7 the testimony of the witnesses.

8 CHAIRPERSON GRIFFIS: Just a reiteration  
9 of what you just said in the submission. Basically, a  
10 court is not required in this development and on this  
11 site. However, would the easement that has been in  
12 place as attendant to the alley that was closed, it  
13 actually creates this non-conforming court.

14 MR. GLASGOW: That is correct.

15 CHAIRPERSON GRIFFIS: And that is why you  
16 are here?

17 MR. GLASGOW: Yes, that is why we are  
18 here. If it wasn't for the covenant, we wouldn't be  
19 here. We would build over that space and proceed as a  
20 matter of right.

21 CHAIRPERSON GRIFFIS: Okay.

22 MR. GLASGOW: All right. Thank you. I  
23 would like to now call the first witness, Mr. Jim  
24 Dautenhahn. Would you identify yourself for the  
25 record and proceed with your testimony.

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1 MR. DAUTENHAHN: Yes. Mr. Chairman, and  
2 Members of the Board, my name is Jim Dautenhahn, and I  
3 am a senior vice president with DR Partners. I reside  
4 in suburban Maryland, 3739 Foxhall Drive, in White  
5 Plains, Maryland.

6 I apologize today that the architect could  
7 not be with us. We had intended for him to be here,  
8 but the day was long, and the project that we have,  
9 the architect has done a good job in the design, and  
10 that his massing is very similar to everything else on  
11 K Street.

12 MR. GLASGOW: On 14th Street.

13 MR. DAUTENHAHN: On 14th Street, correct.  
14 We believe that the design of the building that you  
15 have received creates no impact on the adjacent  
16 properties.

17 The particular property in question does  
18 have the exceptional conditions. The size is fairly  
19 small, and it is less than a 9,000 square foot lot.  
20 The shape is irregular at the rear part of the  
21 property up against the alley, and there is the  
22 existence of a covenant which creates the 5 foot area  
23 which we cannot build upon that creates the open area  
24 in question.

25 The practical difficulty is really with if

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1 we were obligated to comply with the court  
2 requirements, it would dig into the development of the  
3 building and would basically create a development  
4 project that is not economically feasible.

5 We believe that there is no detriment to  
6 the public here. I personally attended the two ANC  
7 meetings, and we spent a lot of time explaining the  
8 location and the orientation of the building to the  
9 neighboring buildings, and I believe what I heard was  
10 that there was no significant objection from those  
11 folks for the scale.

12 And other than that, I appreciate the  
13 opportunity today to present to the board and welcome  
14 any questions.

15 CHAIRPERSON GRIFFIS: Any questions from  
16 board members? If I understand the submission,  
17 essentially the court now is a couple of hundred  
18 square feet, and the requirement for a conforming  
19 would be upwards of several thousand.

20 And as you stated, the uniqueness of its  
21 small size and shape, that would create a practical  
22 difficulty in the footprint, and the useable footprint  
23 of the building; is that your testimony?

24 MR. DAUTENHAHN: That is correct.

25 CHAIRPERSON GRIFFIS: Okay. I don't have

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1 any other questions, unless others do. Very well.

2 Thank you very much.

3 MR. GLASGOW: Mr. Shur, would you please  
4 identify yourself for the record and proceed with your  
5 testimony.

6 MR. SHUR: Mr. Chairman, and Members of  
7 the Board, good morning/good afternoon/good evening.  
8 My name is Steven E. Shur, the director of zoning and  
9 land use services with the law firm of Holland and  
10 Knight, LLP.

11 And I begin my presentation with apologies  
12 to the board for just having had my outline handed to  
13 you at the moment. It just didn't happen two weeks in  
14 advance this time, and I have been getting better, but  
15 this one just didn't.

16 So I apologize at the outset for that. I  
17 actually didn't get finished until bright and early  
18 this morning, which is why it got handed to you today.

19 As Mr. Dautenhahn has indicated, we have a total site  
20 area of approximately 8,938 square feet, and again  
21 referring to the colored version of the plat, north  
22 being up 14th Street on the left, and L Street being  
23 about down here on the bottom, the site is -- I call  
24 it an L shaped site.

25 It has 79 feet of frontage on 14th Street,

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1 but at the back you have got this piece that is only  
2 36 feet wide, and this is where the rear yard is  
3 located. Then you have this piece here which is 5  
4 feet wide, and which is where the court was created by  
5 the easement which prevents construction on that.

6 As the Chair stated, and as Mr. Glasgow  
7 stated, there is no requirement to have a court, and  
8 if the easement were not there, you could build right  
9 to that line and then you wouldn't have an issue.

10 But as we get to a little bit later, if  
11 you have to put a court there it really hits this site  
12 hard because of the size and configuration of the  
13 site. The site is bordered by an 11 foot, 4 inch  
14 alley on the south, and a 30 foot public alley on the  
15 east and access to the building for service and  
16 unloading functions in the garage is off the 30 foot  
17 alley at the rear.

18 And sort of skipping right to the heart of  
19 what is before the board, on the bottom of page 4,  
20 what we are here for are for variances on the minimum  
21 width and area requirements for the closed court.

22 And with the height of the building at 130  
23 feet and 3 inches per foot, that would be a minimum of  
24 32-1/2 feet required for the width of the court. What  
25 is proposed is five. So instead of having that much,

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1 we would have that much.

2 The minimum area required is twice the  
3 square of the minimum width, which works out to be  
4 2,112-1/2 square feet, and we have 213 square feet.  
5 Again, thousands and hundreds difference.

6 As to what qualifies the site for a  
7 variance, again it is the unusual configuration of the  
8 lot, and the fact that it is a relatively small size  
9 compared to a typical or ideal condition for the  
10 office building, and the easement across what was the  
11 alley which ran up here, and then went on out to 14th  
12 Street.

13 The rear yard for this site is provided  
14 here adjacent to the alley, the furthest most rear  
15 lot line of the site.

16 CHAIRPERSON GRIFFIS: And it is a  
17 conforming rear yard?

18 MR. DAUTENHAHN: It is a conforming rear  
19 yard and it measures to the center line of the alley  
20 and then the building is set back on the property  
21 above 20 feet. So we don't have any issue with  
22 respect to the rear yard, and that was an issue raised  
23 by the Office of Planning, originally suggested as an  
24 issue by the Zoning Administrator, and then ultimately  
25 everyone agreed that this is the proper

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1 interpretation, and there is no rear yard.

2 We are in conformance with the rear yard  
3 requirements. Let me just state it that way. This is  
4 a closed court, because there is no alley at this  
5 point. So these are private property lines on two  
6 sides and the sides of buildings on the other two  
7 sides.

8 The width of a closed court is the lesser  
9 horizontal dimension. So sine this dimension is  
10 approximately 40 some odd feet, we would have to have  
11 a 32-1/2 foot dimension in the east-west direction.

12 That would impact the office footprint for  
13 a substantial part of the back part of the building.  
14 It would reduce this depth to less than -- it would  
15 reduce the east to west dimension from the front to a  
16 depth of less than 70 feet.

17 That is an inefficient layout. In  
18 addition, it impacts the design of the court of the  
19 building. I don't have that mounted, but if you look  
20 at Sheet A-2.04, or any other --

21 (Brief Interruption.)

22 MR. SHUR: If you happen to look at any of  
23 the floor plans, that happens to be the second floor  
24 plan level, and you see that there is a dimension of  
25 approximately 27 feet, 3 inches, which would be in

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1 addition to the 5 feet from the back of the building,  
2 which would be about the depth that that court would  
3 have to be, and it cuts right into one of the two  
4 means of egress stairs for the building, and otherwise  
5 impacts on the central court for office functions.

6 Given the width of this property, your  
7 court is not going to be in the middle. It has got to  
8 be on either one side or the other side, and because  
9 of the driveway ramps and access below grade, your  
10 court can't be on the south side. It is going to be  
11 on the north side.

12 And as a consequence, having that court at  
13 the minimum required depth that would meet the  
14 requirements creates a problem for the layout of the  
15 building on the upper floors.

16 CHAIRPERSON GRIFFIS: So to put it another  
17 way, if you cut this building back, you would  
18 eliminate part of the court, and especially the egress  
19 stair, and that would create a practical difficulty if  
20 it is located there.

21 MR. SHUR: Well, you couldn't eliminate  
22 it. But you would have to just shift the whole thing  
23 further forward, which really messes up the floor  
24 plate on the front part of the building, where you  
25 would otherwise be having office space.

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1 CHAIRPERSON GRIFFIS: Right. If you took  
2 it literally, and you stepped that building back, it  
3 would eliminate that egress stair?

4 MR. SHUR: If you just chopped it off  
5 given the present design, yes.

6 CHAIRPERSON GRIFFIS: Right, and therefore  
7 you would have to relocate it somewhere else.

8 MR. SHUR: Yes.

9 CHAIRPERSON GRIFFIS: And your point is  
10 that you have ramps on the other side and that may  
11 make it difficult to have a functioning egress there.

12 MR. SHUR: Right, on the south side. So  
13 your course has got to be on the north side.

14 CHAIRPERSON GRIFFIS: Okay.

15 MR. SHUR: With respect to the third part  
16 of the variance test, which is the detriment to the  
17 public good, as the board is well aware, and I did not  
18 go through all of the surrounding buildings, the hi-  
19 rise construction is typical in the area, and the east  
20 wall of this building is in the same location as it  
21 would be if the alley had remained open.

22 If there had been no closing of the alley,  
23 we would have built right to where this thing would  
24 have gone, and it would not have made any difference.

25 There clearly will be sufficient light for the office

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1 building windows, and there is sufficient distance to  
2 the nearest building, which is the Thomas House, which  
3 is located northeast of the property.

4 You can see the Thomas House is a building  
5 which is both parallel and perpendicular to the  
6 frontage on Massachusetts Avenue. The windows in the  
7 Thomas House which face southwest, and which face the  
8 property and face this area where the court would be,  
9 the closest windows facing in that direction are 150  
10 feet away, basically fronting mostly over the Thomas  
11 House property.

12 But also fronting over the property of the  
13 parking lot to the north, which is ultimately going to  
14 be developed with something as a matter of -- well, I  
15 won't say as a matter of right.

16 It is ultimately going to be developed  
17 under the C-4 zone, which applies to this, and this,  
18 and this as well. The windows in the Thomas House,  
19 which are in this wing that is perpendicular to Mass  
20 Avenue, basically face northwest and do not look into  
21 this site.

22 The closest point of the Thomas House  
23 Building to the closest corner of this building is  
24 approximately 50 feet. But none of those windows in  
25 this part -- this wall -- and I am referring to the

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1 southwest facing wall at the rear -- is blank. It has  
2 no windows in it.

3 It is a completely blank wall, and you can  
4 see that in the photographs that were submitted as  
5 part of the application, and not in the pre-hearing  
6 statement, but in the application itself.

7 So the windows in this wing which face  
8 northwest do not look in the direction of where this  
9 building is going to be. It will be something else on  
10 this private property that will ultimately intervene  
11 between here and here.

12 So for all those reasons, we believe that  
13 the applicant has met the test under the regulations  
14 that the property is affected by, and exceptional  
15 situation and conditions as described.

16 That the strict applications would require  
17 a very large court, which in fact would occupy almost  
18 one quarter of the lot area, and that the variance can  
19 be granted without substantial detriment, and you  
20 should do so.

21 MEMBER ZAIDAIN: Mr. Shur, referring to  
22 this, is this the blank wall that you were referring  
23 to that faces the property?

24 MR. SHUR: Yes.

25 MR. GLASGOW: I think, Mr. Zaidain, that

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1 there is one more photograph that even shows it more  
2 clearly.

3 VICE CHAIRPERSON RENSHAW: So just to be  
4 clear, this is Thomas House?

5 MR. SHUR: Yes.

6 VICE CHAIRPERSON RENSHAW: And of course  
7 that is the Holiday Inn.

8 MR. SHUR: They make it pretty clear.

9 VICE CHAIRPERSON RENSHAW: Absolutely.  
10 What an amazing revelation.

11 MR. SHUR: I don't want to leave any doubt  
12 about that.

13 CHAIRPERSON GRIFFIS: Okay. Any other  
14 questions? In terms of the last issue that you talked  
15 about, detriment to public good or impairing the  
16 intent, and purpose, and integrity of the zoning plan,  
17 it was in the written submission, but I just wanted to  
18 highlight again for my clarification that clearly you  
19 are here for the court, and this is in compliance with  
20 all FAR requirements, and the height?

21 MR. SHUR: Yes.

22 CHAIRPERSON GRIFFIS: So it is in fact  
23 looking like or as one might say from a pedestrian  
24 standpoint, the sidewalk looking like a conforming  
25 building for a C-4 zone?

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1 MR. SHUR: Yes. Certainly from the front,  
2 you wouldn't see the difference. It is a 130 foot  
3 building, 10 FAR, and meets the parking requirements,  
4 and loading requirements, and rear yard, and the only  
5 issue we are here on is the court.

6 CHAIRPERSON GRIFFIS: Okay. Good. If  
7 there is nothing further, we can move on. Anything  
8 else, Mr. Glasgow?

9 MR. GLASGOW: No, sir. That concludes the  
10 direct.

11 CHAIRPERSON GRIFFIS: Let's move to the  
12 Office of Planning that had their original and also  
13 supplemental report.

14 MS. THOMAS: Good evening, Mr. Chairman,  
15 and Members of the Board. My name is Karen Thomas,  
16 and at this time, OP would just like to stand on the  
17 record.

18 CHAIRPERSON GRIFFIS: Very well. I would  
19 just make note for the board members that the  
20 supplemental report is actually addressing the rear  
21 yard, and that is as was given to us with the oral  
22 testimony.

23 The Office of Planning is in fact of the  
24 understanding that it is a compliant rear yard.

25 MS. THOMAS: That's correct.

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1 CHAIRPERSON GRIFFIS: Excellent. And  
2 therefore the recommendation from the Office of  
3 Planning is for approval of the variance relief from  
4 the closed court requirements. Thank you very much.  
5 ANC-2F. Is the ANC member present today? Ms.  
6 Renshaw, do you have that report in front of you?

7 VICE CHAIRPERSON RENSHAW: This has to be  
8 waived in, I believe.

9 CHAIRPERSON GRIFFIS: When did we receive  
10 it?

11 VICE CHAIRPERSON RENSHAW: It was in our  
12 packet, and the letter is dated November 7.

13 CHAIRPERSON GRIFFIS: How many times have  
14 we left 2-F out? Well, if there is no objection, we  
15 could waive the report in, and not seeing the ANC, we  
16 would take it as a consensus, and waive in the report.

17 VICE CHAIRPERSON RENSHAW: The letter is  
18 from ANC-2F, and is signed by Helen Kramer, the Chair,  
19 and she states that at its regularly publicized  
20 monthly meeting on November 6th, a quorum was present,  
21 and 2-F voted four to nothing to accept the  
22 recommendation of the ANC's community development  
23 committee to support the application for the area  
24 variance, relief from the closed-court requirement in  
25 a C-4 district in order to construct an 11 story

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1 office building.

2 And she points out that there were  
3 residents from the Thomas House at the meeting, and  
4 had ample opportunities to obtain information and  
5 express their opinions.

6 And she states that a review of the '93  
7 alley closing, and the agreements among the abutting  
8 property owners established the requirement for a  
9 variance arising from the applicant's agreement with  
10 Thomas House that there would be the setback of any  
11 above-grade improvements five feet from the property  
12 line.

13 And the ANC recognizes the impracticality  
14 of the desires of some of the residents of Thomas  
15 House who would prefer that the subject property  
16 remain unimproved, or that the applicant not realize  
17 the matter of right height and density of the C-4  
18 district.

19 And the ANC urges the board therefore to  
20 approve the application, and asks for the BZA to waive  
21 in the ANC's view.

22 CHAIRPERSON GRIFFIS: Good. Thank you  
23 very much, Ms. Renshaw. Any comments or questions,  
24 Mr. Glasgow, on the ANC report?

25 MR. GLASGOW: No, sir.

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1 CHAIRPERSON GRIFFIS: You are in receipt  
2 of it?

3 MR. GLASGOW: Yes, we are.

4 CHAIRPERSON GRIFFIS: Excellent. Board  
5 Members, any comments or clarifications? Very well.  
6 If not, I think we are ready for testimony. Is there  
7 anyone attendant to this application giving testimony  
8 today either in favor or in opposition, and if you  
9 would come forward at this time.

10 If you would, Ma'am, give me your name and  
11 your address?

12 MS. TRIMBLE: Miriam Trimble, 1330  
13 Massachusetts Avenue, Thomas House, Washington, D.C.  
14 20005.

15 CHAIRPERSON GRIFFIS: Thank you.

16 MS. TRIMBLE: And this is my colleague,  
17 and she can introduce herself later. This is a  
18 statement. By the way, I am a Commissioner-Elect at  
19 the ANC.

20 CHAIRPERSON GRIFFIS: Congratulations.

21 MS. TRIMBLE: Thank you.

22 CHAIRPERSON GRIFFIS: I think.

23 MS. TRIMBLE: I think also. I didn't know  
24 whether to celebrate or lament, but anyhow, I am. So  
25 my colleague here will say some other things, but I

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1 want to read a statement.

2 CHAIRPERSON GRIFFIS: Very well.

3 MS. TRIMBLE: And it has mostly to do with  
4 the impact of this building on us at the Thomas House.

5 It is time that we looked at the consequences of an  
6 exact and narrow interpretation of the zoning laws and  
7 regulations of the District of Columbia.

8 We should examine the major impact of a  
9 proposed 11 story, 140 foot high, office building at  
10 1121 - 14th Street, and I give square so and so, and  
11 lot so and so, near the Thomas Circle Holiday Inn will  
12 have on the Thomas House, a continuing care and  
13 residential community, designed as a CCRC, one of only  
14 three in the District.

15 Thomas House is a 10 story, 90 foot high  
16 building, at 1330 Massachusetts Avenue, while the  
17 front of the building faces Mass Avenue, many of the  
18 apartments in the T-shaped building looking out on to  
19 14th Street.

20 There is a -- and I want to give you an  
21 idea of the building and how we live in it to really  
22 make it personal. There is a basement, a garage, and  
23 on the lower level, there are offices, conference  
24 rooms, and gathering areas for residents, and  
25 ambulatory patients, and a small grocery and a beauty

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1 parlor are available for those too frail to go  
2 outside.

3 The first floor is a lobby, a dining room,  
4 meeting rooms, an exercise area, and a post office.  
5 In short, it is home to approximately 125 long term,  
6 tax-paying elderly residents, living on floors 4  
7 through 10.

8 On the second floor is a 50 bed licensed  
9 nursing home facility. A fund-raising campaign was  
10 inaugurated in October of this year to raise \$800,000  
11 for an assisted living unit on Floor 3. This unit  
12 will house 30 additional patients with special needs.

13 Over 200 people are projected to live in  
14 Thomas House when all those beds are filled.  
15 Approximately 125 people are employed at Thomas House  
16 to care for those residents.

17 The facility is undergoing a thorough  
18 internal renovation of the public areas and apartments  
19 at great cost. And the marketing office has initiated  
20 a strong campaign to attract new residents, using a  
21 large and well-known advertising firm.

22 In summary, the costly expansion of much  
23 needed services to residents and potential consumers  
24 will be greatly hampered by an office building  
25 blocking the sky. Approximately 70 residents face

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1 14th Street, and 65 face the Massachusetts Avenue  
2 side.

3 A viable and essential non-profit, church-  
4 sponsored health facility for the elderly is being  
5 jeopardized. It should be protected against  
6 commercial development. Perhaps a transitional  
7 compromise could be devised.

8 In addition to that, a bill to license  
9 CCRCs, continuing care retirement communities, went  
10 before the City Council on November 7th sponsored by  
11 Mr. Fenty, and co-sponsored by Mr. Kontanya, and Mrs.  
12 Schwartz.

13 It is designed to license CCRCs and to  
14 protect the elderly. In addition, beautification of  
15 Thomas Circle now in progress affords D.C. the  
16 opportunity to be innovative, and put an attraction of  
17 merit along Thomas Circle streets. One more office  
18 building fails to meet the test. That is the sum of  
19 my report.

20 CHAIRPERSON GRIFFIS: Thank you very much.

21 MS. TRIMBLE: And it is available if you  
22 would like it.

23 CHAIRPERSON GRIFFIS: Good, yes, and in  
24 fact you should submit the hard copy into the record.

25 MS. TRIMBLE: Okay.

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1 CHAIRPERSON GRIFFIS: Let me ask you a  
2 question of how you would define an attraction of  
3 merit.

4 MS. TRIMBLE: Well, it seems to me that an  
5 attraction of merit would be an attractive building,  
6 and not just necessarily a very mundane looking office  
7 building. I don't know. I t could even be something  
8 for consumers, you know, that would have stores, a  
9 theater, things that the area could use to improve it.

10 And not just another office building of  
11 people driving there and driving away, and paying  
12 their taxes in Maryland and Virginia. It is a cold  
13 proposition, and when they put one next to it, we will  
14 be totally blocked.

15 And where I am located, I have an  
16 apartment on the 9th floor, and there are 10, and it  
17 looks directly down -- I can see down to L Street. I  
18 can see the CVS, which isn't very attractive either,  
19 across the street. It is a blank wall from the corner  
20 all the way halfway through the block.

21 CHAIRPERSON GRIFFIS: Right.

22 MS. TRIMBLE: And it seems to me that they  
23 are putting money in the area and redoing the  
24 underpass at Massachusetts Circle, and the Circle  
25 itself, and I would consider something of merit to be

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1 a better looking building, a building more responsive  
2 to the residential part of the neighborhood, which is  
3 right over on Mass Avenue.

4 CHAIRPERSON GRIFFIS: Okay. Have you  
5 reviewed the elevations that were submitted and the  
6 materials in the elevations?

7 MS. TRIMBLE: Well, I want to tell you  
8 that I went to that ANC meeting, and we were kind of  
9 quiet and well-behaved, and we didn't have a lot of  
10 opportunity to comment.

11 We didn't really see any plans. They  
12 didn't have those that they brought here to you today.

13 They had something rolled up which we couldn't see,  
14 even though I sat on the front row.

15 And I couldn't see anything but that  
16 blueprint, and it was only of that building, and if  
17 you look at the one that they prepared for you, you  
18 can see the T-shape of Thomas House and its abutment  
19 to the Holiday Inn, and it is directly in the line of  
20 view of a lot of us.

21 CHAIRPERSON GRIFFIS: Yes. With that  
22 understanding, first of all, I think you should afford  
23 yourself the opportunity today if the elevations are  
24 here on the board to take a look at them.

25 Secondly, I appreciate in terms of the

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1 building of something of merit or attraction.  
2 However, for this board, what we are looking at is  
3 actually a matter of right height and use. This is a  
4 commercial use.

5 So talking about requiring the change of  
6 that, that would actually be a non-conforming use on  
7 this lot, and they would have to come here for  
8 approval for it if I am not being too complex, because  
9 sometimes I get confused myself.

10 MS. TRIMBLE: No, I am aware.

11 CHAIRPERSON GRIFFIS: And then when you  
12 talk about a lot of those uses, I think clearly those  
13 are very urban and very important uses, but if I am  
14 not mistaken, just north of this area is a  
15 concentration of those types of uses. Am I correct?

16 MS. TRIMBLE: It is coming down that way.  
17 You mean of apartment buildings?

18 CHAIRPERSON GRIFFIS: Well, more of  
19 retail, theaters.

20 MS. TRIMBLE: Well, on P Street, and the  
21 streets crossing. Mostly on the other side of the  
22 circle, yes.

23 CHAIRPERSON GRIFFIS: Okay. But I am just  
24 trying to get a handle on what your perfect picture of  
25 what this should be. Clearly, you are talking about

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1 perhaps a possibility of blocking light into your  
2 building, correct?

3 MS. TRIMBLE: And air.

4 CHAIRPERSON GRIFFIS: And air, and what  
5 has just been shown to us is a hundred foot separation  
6 between the buildings, but also I would reiterate the  
7 fact that they are building to a matter of right  
8 height.

9 Is it your contention that if we actually  
10 required the conforming courtyard that that would  
11 somehow diminish the mass of the building and allow  
12 more light?

13 MS. TRIMBLE: I don't think so. I don't  
14 think I understand how large a conforming courtyard  
15 would be. Are you talking about the 5 feet?

16 CHAIRPERSON GRIFFIS: No, that would be  
17 the non-conforming aspect. This is the way that I  
18 would view it, and you see if you are of the same  
19 mind. We have had a description of this building as  
20 L-shaped. It is kind of fatter on one end and thinner  
21 on the other.

22 MS. TRIMBLE: Yes. Sort of.

23 CHAIRPERSON GRIFFIS: But if you look at  
24 the southern edge of that building, if the court were  
25 to take away the mass of that top part, you still have

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1 the mass of the southern portion of the building which  
2 would have -- and when I say mass, would have the  
3 height.

4 MS. TRIMBLE: Well, the people on the  
5 floors lower than I would certainly be obscured by a  
6 lower building, too. But they still might be able to  
7 look up.

8 CHAIRPERSON GRIFFIS: I guess my point is  
9 that we don't have any jurisdiction to reduce the  
10 height of this building.

11 MS. TRIMBLE: I know that you don't. I  
12 really wrote this -- we had an opinion of a lawyer,  
13 and I was told that this was a dead issue. You really  
14 can't do anything, but I thought maybe perhaps if  
15 people would see what the impact on a large number of  
16 people, and on a special number of people, and an  
17 institution providing special services, maybe the laws  
18 could be changed or bent because of the special nature  
19 of our facility.

20 As for something innovative, I think it  
21 would take an architect to do something, and I  
22 personally am not that innovative or qualified to do  
23 that.

24 CHAIRPERSON GRIFFIS: Okay.

25 MS. TRIMBLE: We need some relief from

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1 this situation, and ideally it would be to start  
2 again.

3 CHAIRPERSON GRIFFIS: Okay.

4 MS. TRIMBLE: That was sort of a throw  
5 away line, Mr. Chairman.

6 CHAIRPERSON GRIFFIS: That's okay. I  
7 appreciate your comments today. Mr. Glasgow, did you  
8 have any cross-examination of that testimony?

9 MR. GLASGOW: Only one question. Ms.  
10 Trimble, it is my understanding that Thomas House  
11 retained its own independent counsel to review this  
12 project?

13 MS. TRIMBLE: Yes, Mr. Hitchcock.

14 MR. GLASGOW: Okay. Thank you.

15 MS. TRIMBLE: I said that the lawyer is  
16 strictly interpreting the law, and we are of the  
17 opinion that unless the law were changed that the  
18 building conformed.

19 CHAIRPERSON GRIFFIS: Okay.

20 MS. TRIMBLE: But it is going to be a  
21 terrible impact and I really think they are not going  
22 to be able to rent the apartments on that side.

23 CHAIRPERSON GRIFFIS: I see.

24 MS. TRIMBLE: It is going to have a  
25 terrible financial impact. I don't think that people

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1 want to live in a prison type atmosphere.

2 CHAIRPERSON GRIFFIS: Good. Thank you  
3 very much. Yes, Ma'am.

4 MS. KATZ: I am Mildred Katz, and I, too,  
5 live at Thomas House, and I guess I attended an  
6 entirely different meeting on the 6th than the people  
7 who were here, because there was a large delegation of  
8 Thomas House people there, and we were told that we  
9 had approved this, where as a matter of act almost  
10 without exception Thomas House people are opposed to  
11 this building, because for several reasons.

12 One is the chance to have fresh air. If  
13 you open your window and see the sky, and another  
14 reason is because of the financial impacts that it  
15 will be on those of us who remain there.

16 No one is going to rent an apartment that  
17 is dark. My apartment happens to be very light now,  
18 but if the building goes up, it won't be, and nobody  
19 in their right mind would rent there.

20 So there will be a financial problem for  
21 all of us who remain there, because we have nowhere  
22 else to go. And I think that impact should not be  
23 ignored.

24 And there are other questions. On L  
25 Street, they are building an office building. I can't

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1 tell you how many nights I have had to take a sleeping  
2 pill because of the pounding to get down to bedrock,  
3 and now that they are through with that and they  
4 finally reached bedrock, we can't get past the stuff  
5 in the street.

6 And there will be dust, and there will be  
7 dirt, and there will be noise, and there are people in  
8 our building who are very, very ill, and this can do  
9 them absolutely no good. It can hasten their end.

10 I think that these are things that are  
11 worth considering. I also would hope that it is  
12 understood clearly that we did not agree with the  
13 Chairman of the meeting on the 6th that this was a  
14 good idea, and that she gave us almost no chance to  
15 say anything. She told us, and not we her.

16 CHAIRPERSON GRIFFIS: How often does your  
17 building meet that would be identical to the 6th  
18 meeting? Do you have regularly-standing meetings that  
19 you take up issues?

20 MS. TRIMBLE: Yes, we have a residence  
21 organization and we meet the third Thursday of every  
22 month.

23 CHAIRPERSON GRIFFIS: And that  
24 organization has officers?

25 MS. KATZ: Yes.

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1 MS. TRIMBLE: Yes.

2 CHAIRPERSON GRIFFIS: Okay. And then you  
3 did take -- do you follow procedures for your  
4 organization?

5 MS. TRIMBLE: Pretty much.

6 MS. KATZ: Yes.

7 MS. TRIMBLE: We do. We have officers,  
8 and we have --

9 CHAIRPERSON GRIFFIS: Do you pretty much  
10 or do you follow the standard procedures of the  
11 organization?

12 MS. TRIMBLE: You mean Roberts Rules?

13 CHAIRPERSON GRIFFIS: Well, whatever  
14 adopted procedures you have for your organization.

15 MS. TRIMBLE: We have regular procedures.  
16 We notify the people, and they arrive, and they come  
17 en masse. The executive director speaks when invited.  
18 It is our organization actually.

19 But we have very good relations with him  
20 generally, and he is usually pretty informative, but  
21 we never did see a copy of this plan with Mr. Glasgow  
22 said they sent.

23 CHAIRPERSON GRIFFIS: Oh, I see.

24 MS. TRIMBLE: At least not the one that  
25 shows how the building really impinges on our sight

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1 lines. But we do have an organization. Do you  
2 suggest that we do something --

3 CHAIRPERSON GRIFFIS: No, what I am trying  
4 to get a handle on is whether there was something  
5 different about this meeting and this decision than  
6 any other meetings, or was it a standard procedure.

7 MS. TRIMBLE: Well, that was the ANC, and  
8 17 of us went.

9 MS. KATZ: Yes, 17 of us went tha time,  
10 and there were 30 the time before.

11 MS. TRIMBLE: The ANC is a different  
12 meeting than our Thomas House meeting.

13 CHAIRPERSON GRIFFIS: That I understand.

14 MS. TRIMBLE: So only the ones interested  
15 in that sort of thing or those that could even get  
16 out. You know, these people are not all mobile. They  
17 are mostly immobile.

18 CHAIRPERSON GRIFFIS: I see.

19 MS. KATZ: We are the healthy ones.

20 MS. TRIMBLE: Yes. You are looking at the  
21 youthful vibrant ones.

22 CHAIRPERSON GRIFFIS: Indeed, we are.  
23 Very good. Any other questions from the Board? Very  
24 well. Thank you both very much.

25 MS. TRIMBLE: Thank you. We hope that you

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1 will view this favorably.

2 CHAIRPERSON GRIFFIS: Yes.

3 VICE CHAIRPERSON RENSHAW: I just wanted  
4 to thank all of you for coming out today in bad  
5 weather and sitting through a very long day to make  
6 your presentation before the Board.

7 I think it has been very enlightening for  
8 all of us, and very important for us to hear your  
9 comments. So I just applaud you for being with us  
10 today and making sure that we hear your sentiments.

11 CHAIRPERSON GRIFFIS: Very well. Is there  
12 anyone else attendant to this application that would  
13 like to provide testimony today, either in support or  
14 in opposition to the application?

15 Seeing no responses to that, Mr. Glasgow,  
16 I would ask that you provide any rebuttal testimony  
17 and/or closing remarks at this time.

18 MR. GLASGOW: Just some closing remarks  
19 and clarification. I think you can see from the plat  
20 that was drawn up that shows the Thomas House in  
21 relation to the subject building.

22 The dimension that is from the south side  
23 of the T-bar that is parallel to Massachusetts Avenue  
24 to the very closest part of the building is 150 feet  
25 to the corner.

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1           And you are approaching close to 200 feet  
2 to this bar edge. The right of way from Massachusetts  
3 Avenue is 160 feet. So the view angle to this part of  
4 the building is only 10 feet less than the view that  
5 residents would have from the front side of Thomas  
6 House across Massachusetts Avenue. It is essentially  
7 the same.

8           Then of course with respect to this bar of  
9 the building and these windows, they look this way.  
10 They look to the northwest and we are to the southwest  
11 of the property.

12           CHAIRPERSON GRIFFIS: I understand.

13           MR. GLASGOW: So you can see all of that.  
14 This portion of the building does not have any  
15 windows as we have shown before.

16           CHAIRPERSON GRIFFIS: Right. Well, what  
17 is interesting to me and perhaps you want to tilt that  
18 for the persons present today while I discuss this, is  
19 that the real impact is going to come on the adjacent  
20 property when that perhaps comes to development.

21           Because if you look at it the property  
22 line of that adjacent property, and not this  
23 applicant, is actually having the -- could conceivably  
24 have the impact on the light and air of your building,  
25 of the Thomas House.

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1           And I think -- and just to be totally  
2 clear of what is before us, we are dealing with only  
3 the court at this point. Before us is not the height,  
4 the mass, or even the design of the building, although  
5 I would love to get involved in that.

6           But nonetheless what we have to focus on  
7 is just this court variance. So I don't -- and  
8 although I perfectly understand the concern for the  
9 light and air into the Thomas House, I am not sure how  
10 making a conforming court, and in fact I am not  
11 convinced at all that that would either in the  
12 positive or negative change the light and air into  
13 Thomas House.

14           And I think that in addition to that, with  
15 the adjacent property and the property line showing on  
16 this diagram and site diagram, that will have in fact  
17 the impact, whether positive or negative, depending on  
18 how that building is massed, will have the impact on  
19 the Thomas House.

20           MS. TRIMBLE: Is it possible for anybody  
21 to come to visit?

22           CHAIRPERSON GRIFFIS: We are actually  
23 precluded from doing site visits as Board Members when  
24 an application is before us.

25           MS. GERVER: It is my understanding that

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1 the front of Thomas House is residential, and I  
2 understand that there was at one time an area between  
3 residential and commercial that precluded that type of  
4 building.

5 MS. TRIMBLE: And that is an excellent  
6 point, and what I am now going to need you to do is to  
7 come forward and give me your name and address for the  
8 record, and give two witnesses cards to the recorder  
9 before you go.

10 But I think it is an important point, and  
11 it brings up this issue, and I think it needs to be  
12 made very clear that this is a commercial zoned  
13 property. It is a C-4.

14 Now often times zoning overlays do create  
15 buffer zones and let's say transition into areas, but  
16 this is a building that is being proposed in terms of  
17 height, and in terms of lot coverage, as a matter of  
18 right. It is allowable under the existing zoning that  
19 the site is in a C-4.

20 MS. GERVER: It is clear. Let me ask you  
21 since this is your area, and this is your purview, we  
22 are really more concerned as you point out about the  
23 next piece of property.

24 CHAIRPERSON GRIFFIS: Yes.

25 MS. GERVER: We are going to be very

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1 proactive in trying to stop the other building being  
2 developed in quite the same way. One of our members  
3 has run for the ANC and won, and it is one of the ways  
4 that we have tried to ameliorate some of the problems  
5 that we see in the future. Have you any other  
6 suggestions for us?

7 CHAIRPERSON GRIFFIS: Okay. First of all,  
8 based on our regulations, I can't entertain questions  
9 of that nature. However, I will do this. I would ask  
10 you to talk to staff before you leave, and they can  
11 certainly give you some idea of how that could happen.

12 You have excellent attorneys here that you  
13 might see after this application, too, and you might  
14 touch base with them. And with that, we would wish  
15 you great luck.

16 VICE CHAIRPERSON RENSHAW: Mr. Glasgow, we  
17 were just whispering back here as the parties were  
18 changing at the table that there is no chance for any  
19 retail in this building? Don't you have some  
20 customers right here?

21 MR. GLASGOW: There would probably be some  
22 on the first floor. You would prefer to have retail  
23 on the ground floor if you can get it.

24 VICE CHAIRPERSON RENSHAW: Is that going  
25 to happen? We would like to have these good people

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1 leave with some good news.

2 MR. GLASGOW: The market would have to  
3 drive that. Our marketing perspective for the  
4 building is in the association headquarters. You  
5 know, the American Dental Association is right next  
6 door, and given the location, it serves itself for a  
7 non-profit association headquarters.

8 It is a smaller building that can  
9 appreciate the window line and the smaller footprint.

10 If an association did it, they may very well want a  
11 conference center or some other use that is not retail  
12 on the first floor.

13 Certainly if it was a multi-tenant office  
14 building, we would applaud and certainly be looking  
15 for retail amenities for the community and on the  
16 first floor. But for right now, if it is an  
17 association that purchases and occupies the majority  
18 of the building, we need to keep that first floor  
19 available for some ancillary use that they may have  
20 that is their curb appeal and what they are all about.

21 CHAIRPERSON GRIFFIS: Good. And for  
22 additional clarification the submitted first floor  
23 plan is basically laid out to provide for a smaller  
24 retail area. In fact, it is actually labeled as  
25 retail

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1                   And your point is basically that if a full  
2                   tenant buys the building that they may have different  
3                   uses for that, but you are actually looking for and  
4                   actively marketing for a potential retail on the first  
5                   floor?

6                   MR. GLASGOW:   That's correct.

7                   CHAIRPERSON GRIFFIS:   Okay.    So the  
8                   building and the design itself has not precluded a  
9                   retail street frontage?

10                  MR. GLASGOW:   Right.

11                  CHAIRPERSON GRIFFIS:   Good.    Anything  
12                  else?

13                  MS. GERVER:   My name is Edith Gerver and I  
14                  live at 1330 Massachusetts Avenue, Washington, D.C.,  
15                  and I am a resident of Thomas House.

16                  CHAIRPERSON GRIFFIS:   Excellent. Thank you  
17                  very much.

18                  VICE CHAIRPERSON RENSHAW:   Just one last  
19                  thing. Mr. Glasgow, would it be necessary for the new  
20                  ANC Commissioner and the residents of Thomas House to  
21                  put something in writing to you about their wishes for  
22                  some retail operation at that building just to have it  
23                  on the record?

24                  MR. GLASGOW:   Yes, I think that it would  
25                  be helpful if they would send it to us.

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1 VICE CHAIRPERSON RENSHAW: Very good.

2 MS. GERVER: We can do that.

3 VICE CHAIRPERSON RENSHAW: Mr. Glasgow is  
4 suggesting that you write to him and he will receive  
5 all of these requests for retail.

6 CHAIRPERSON GRIFFIS: I think that makes a  
7 lot of sense. Mr. Glasgow represents the developer,  
8 and he will obviously give it to the developer, and it  
9 will be in there control. That being said, I believe  
10 that we have exhausted the testimony on this, and I  
11 would turn it over to you for additional closing  
12 remarks.

13 MR. GLASGOW: Yes, sir. With respect to  
14 the closing remarks, I do believe that we have met the  
15 burden of proof on the application. I think that it  
16 has been a good exchange and getting some feedback  
17 from the residents of the Thomas House.

18 We have been out to the community on a  
19 couple of occasions and we did work with the ANC on  
20 this. I believe that the testimony and the evidence  
21 of record does establish all the elements for the  
22 granting of a variance that we have, and I think that  
23 we have demonstrated with the testimony today that  
24 there is no adverse impact with respect to the Thomas  
25 House with the relationship of the two buildings.

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1                   And with that, if the Board is able to, I  
2 would like to get a bench decision and a summary  
3 order.

4                   CHAIRPERSON GRIFFIS: Thank you very much,  
5 Mr. Glasgow. I am prepared to move ahead today or at  
6 this point unless there is any objection to that.  
7 Very well then. I would move approval of application  
8 16943, Thomas Brown, et al, for the variance from a  
9 closed court requirement under Subsections 776, which  
10 would permit the construction of an office building at  
11 1121 14th Street, Northwest, and I would ask for a  
12 second.

13                   MEMBER ETHERLY: Seconded, Mr. Chair.

14                   CHAIRPERSON GRIFFIS: Thank you, Mr.  
15 Etherly. I am going to start first of all with the  
16 testimony that we just heard, which I take to heart.  
17 I think I laid out in my comments on the case, and  
18 though the impact I do not believe is before us that  
19 we could diminish the mass of this building in  
20 substantial degree that would in fact increase the  
21 light and air in the Thomas Circle, it is zoned a C-4,  
22 which means that predominantly it is being designed  
23 and constructed as a matter of right.

24                   I think it is a very strong case based on  
25 the easement of the covenant that required the closing

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1 of the alley and as the record shows all the history  
2 with that, that actually creates this requirement for  
3 a non-conforming court, which creates the practical  
4 difficulty of this smaller footprint for its own  
5 useability.

6 I think what we have seen is clearly an  
7 impact of urban development, and the Zoning Commission  
8 in laying out a C-4 clearly thought that this was an  
9 appropriate size and use for this avenue, and for this  
10 area.

11 And as I have stated, even if we were  
12 persuaded to move in the direction to change this, we  
13 do not have the jurisdiction to do so. But rather are  
14 required to look only at this closed court and the  
15 small area.

16 I would hope that there would be a  
17 creative way to develop the adjacent site, but again  
18 that is also not before us, and perhaps we will see  
19 that at some point.

20 I am encouraged also with the fact of the  
21 flexibility that the developer has indicated today,  
22 and actually as evidenced in the plans that were  
23 submitted that there is an effort to retain some sort  
24 of retail, some sort of interactive street frontage on  
25 this building.

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1                   There was a comment about having this as  
2                   emeritus or an attractive or an attraction building,  
3                   and I think what it was really going to was more use  
4                   than design, and again as I say, we don't or this is a  
5                   matter of right use coming before us.

6                   In terms of the design, I did want to just  
7                   speak to that briefly, because I think the material  
8                   and actually the elevation is not, one might say, a  
9                   low grade Washington, D.C. building.

10                  But it seems to me from the elevation that  
11                  this will be a fairly attractive building on the  
12                  avenue which it faces. One would hope that it details  
13                  out the same way, but I am sure that it will noting  
14                  the architecture firm. With that, I can hear other  
15                  discussion on the motion.

16                  COMMISSIONER HOOD:     I think you have  
17                  captured it, Mr. Chair.

18                  CHAIRPERSON GRIFFIS:    Good. Thanks very  
19                  much, Mr. Hood. Then I would ask for all of those in  
20                  favor to signify by saying aye.

21                  (Ayes.)

22                  CHAIRPERSON GRIFFIS:    And opposed?

23                  (No response.)

24                  CHAIRPERSON GRIFFIS:    We can record that  
25                  vote.

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1 MS. BAILEY: The vote is recorded as 5-0-0  
2 to approve the application, motion made by Mr.  
3 Griffis, and seconded by Mr. Etherly, and Mrs.  
4 Renshaw, Mr. Zaidain, and Mr. Hood, are in support.  
5 And is this a summary order, Mr. Chairman?

6 CHAIRPERSON GRIFFIS: I don't see any  
7 reason why it would not be a summary order, unless  
8 there is any objection from the board. Then, very  
9 well, I think we can make it a summary order.

10 MR. GLASGOW: Thank you.

11 CHAIRPERSON GRIFFIS: Good. Thank you all  
12 very much. Now, if I am not mistaken, I can adjourn  
13 the morning session of the 12th of November 2002 and  
14 simultaneously call the afternoon session of the  
15 public hearing of the Board of Zoning Adjustment for  
16 the District of Columbia.

17 And nothing that the afternoon case has  
18 been probably sitting here and is familiar with us, I  
19 will for the record just give an opening statement,  
20 and introduction.

21 The Board will maintain the same, and Mr.  
22 Hood has joined us from the Zoning Commission, and I  
23 am Jeff Griffis, Chair, and representing the National  
24 Capital Planning Commission is Mr. Zaidain.

25 But the core of the group is our Vice

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1 Chair, Ms. Renshaw, and to my right, Mr. Etherly, and  
2 we couldn't do anything without our Office of Zoning  
3 staff, which is sitting to my far right, Ms. Bailey,  
4 Mr. Moy, and our corporation counsel has taken a brief  
5 break, but Ms. Monroe will be joining us again.

6 I am going to skip over the order of  
7 procedure for exceptions and variances, because I will  
8 walk you through it, and clearly cross-examination is  
9 allowed by all parties in the ANC in which the  
10 property is located.

11 I will go through in fact and indeed  
12 through materials and anything that we might specify  
13 from the Board, and clearly we will tell you when and  
14 the date when the case and record will be closed.

15 Pertinent to us is the Sunshine Act, and  
16 the Sunshine Act requires that all public hearings on  
17 each case be held in the open and before the public.  
18 However, we may consistent with your rules of  
19 procedure and the Sunshine Act enter into executive  
20 session, as in fact you have seen today.

21 And those executive sessions are for the  
22 purposes of reviewing or deliberating on a case.  
23 Decisions of all cases before the Board and our  
24 decisions must be based exclusively on the public  
25 record, and therefore we ask that everyone present who

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1 is left with us today not engage the Board in  
2 conversation.

3 I don't think I need to tell you to turn  
4 off cell phones and beepers. We will conclude at the  
5 end of this case, I believe, and with that, I am  
6 assuming that you are all testifying, I am assuming  
7 that you all have filled out witness cards, two  
8 witness cards, and they go tot he record.

9 You only have had about 5 hours to get  
10 that done, and in which case, why don't we call the  
11 first case in the afternoon. Actually, we had dealt  
12 with the Bass case, and so that has cleared that up  
13 for the afternoon, and the Kuri Brothers, do we need  
14 to take action on the Kuri Brothers?

15 MS. BAILEY: We did, Mr. Chairman.

16 CHAIRPERSON GRIFFIS: We did? And on the  
17 record I bet.

18 MS. BAILEY: Yes, we did.

19 CHAIRPERSON GRIFFIS: It was a while ago.  
20 Very well. Then we can call the first and last case  
21 of the afternoon.

22 MS. BAILEY: Application Number 16941 of  
23 Gustavo M. Ventura and John Malone, pursuant to 11  
24 DCMR 3104.1, for a special exception to allow the  
25 construction of a rear addition to a single family

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1 dwelling under Section 223, not meeting the open  
2 court, at Section 406, the lot width, Section 401, and  
3 non-conforming structure, and that is Subsection  
4 2001.3 provisions.

5 The property is located in an R-4 District  
6 at the premises of 1334 Fairmont Street, Northwest,  
7 Square 2861, Lot 37. Please stand to take the oath.

8 (Witnesses sworn.)

9 CHAIRPERSON GRIFFIS: Okay, Would you  
10 introduce yourselves for the record.

11 MR. VENTURA: My name is Gustavo Ventura,  
12 and I want to make one quick correction. The actual  
13 property that is under construction is 1336 Fairmont.

14 We live at 1334 Fairmont in the basement next door  
15 while we are doing construction.

16 CHAIRPERSON GRIFFIS: I see. The building  
17 was posted though, correct, 1336?

18 MR. VENTURA: That is correct.

19 CHAIRPERSON GRIFFIS: Okay. Good.

20 MR. VENTURA: One other note that we also  
21 wanted to make is that we attempted to contact the  
22 ANC, Ms. Katherine Hammond, which is our current ANC  
23 Commissioner, with no response.

24 Unfortunately, I understand that she has  
25 not even been able to attend some of the ANC meetings

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1 most recently. Redistricting now puts us in Charles  
2 Guralt's district, and we received no response from  
3 the Chair's voice mail when we alerted him when we  
4 first filed that we were going to be going for a  
5 variance.

6 CHAIRPERSON GRIFFIS: Okay. And part of  
7 our notification notifies the ANC, and so you weren't  
8 contacted by the ANC either?

9 MR. VENTURA: Not at all.

10 CHAIRPERSON GRIFFIS: Very well. So you  
11 did not have an opportunity to present to the ANC at  
12 some point?

13 MR. VENTURA: No, we did not.

14 CHAIRPERSON GRIFFIS: Okay. Very well.  
15 Clearly we are here for a special exception under  
16 Section 223. I might note just as a brief pause,  
17 because it is six o'clock and I will take a little  
18 liberty, but noting your military uniform. Were you  
19 aware that the President of the United States was in  
20 the building today?

21 MR. VENTURA: No. Actually, that's quite  
22 impressive. We didn't see the excessive security that  
23 we are accustomed to seeing.

24 CHAIRPERSON GRIFFIS: Well, he was here in  
25 the morning, believe me. Okay. That being said, the

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1 special exception is under Section 223, and this Board  
2 is very well aware of 223 and why it was created. Our  
3 Zoning Commission member is even more familiar with  
4 it.

5 And that is the fact of how we accommodate  
6 single family residents and how they build out to  
7 reflect current and modern uses. And I think we have  
8 a clear case of that.

9 So what I will ask you to do is obviously  
10 walk through what you are doing and the test for the  
11 special exception, and I would ask the Board Members,  
12 and we will interrupt you just as to specific  
13 questions, and I think we can get through this fairly  
14 quickly.

15 MR. VENTURA: We were quite fortunate to  
16 actually buy the property fairly intact. A lot of the  
17 original woodwork was inside the home, and its single  
18 family status had been preserved.

19 And the intent of our restoration has been  
20 to maintain a single family residence, with a rental  
21 unit in the basement, which we received permission for  
22 during the permit process.

23 However, with going through the actual  
24 layout of the single family home, we encountered the  
25 kitchen space, which was originally designated as a

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1 pantry area, and the main cooking area was in the  
2 basement, and that we were looking at hoping to get a  
3 bigger space for the kitchen, and family space for  
4 appliances and the rest.

5 Looking towards the interior of the  
6 building, we encountered the chimney and two steel  
7 beams resting on a brick wall towards the back of the  
8 building, which actually holds up two floors of the  
9 building.

10 And that going in that direction to give  
11 the kitchen some space was going to be very cost  
12 prohibitive, if not impossible. Going out to the side  
13 we couldn't do because we would block access to the  
14 basement rear egress.

15 And so our last option was to go out to  
16 the rear, which we wanted, and we were favorable with  
17 doing, but did not want to lose the tree, which is one  
18 of the few green spaces in the alley, and the car  
19 parking area that is on the other side of the tree.

20 So we finally decided on what you see  
21 before you, which is a 12 foot extension of the same  
22 width as the current kitchen space, and it stops well  
23 before the tree. And actually the steps for it come  
24 out alongside the tree and go out to the designated  
25 parking area.

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1           We have received support from our neighbor  
2 to the open court side, Mr. Damon Downing, who we  
3 included in our list as we were fairly new to the  
4 area, and he has been there since 1996, was quite  
5 helpful and supportive.

6           We also spoke with Mr. Eric Piersma, who  
7 owns the home to the next of us, which is a multi-  
8 unit, and we have two concerns that he raised with us.

9           One was the security of his tenants' cars, as we  
10 obviously had to work with the fencing along the party  
11 wall, and the other one was that the contractor doing  
12 the work be a recognized and bonded contractor in the  
13 event that something happened to the vehicles or to  
14 the property.

15           And we have with us a representative from  
16 Four Seasons Contracting, which is a recognized firm,  
17 and could address any of those concerns.

18           CHAIRPERSON GRIFFIS:   Okay.   And is it  
19 your testimony today that this addition in fact  
20 maintains harmony with the zoning?

21           MR. VENTURA:   Absolutely.   We see it as an  
22 opportunity for the single-family residence to support  
23 a family, and the new kitchen space allowing for food  
24 preparation areas, and for appliances, for which the  
25 original space did not.

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1                   As well as actually adding some visibility  
2 to the back, the back alley way, which there currently  
3 is none. And I think these black and white pictures  
4 show some of the actual space that we are working  
5 with.

6                   CHAIRPERSON GRIFFIS:     Indeed. And you  
7 have not seen any evidence, and it is your testimony  
8 today that this addition won't tend to affect  
9 adversely the adjoining or adjacent neighbors outside  
10 of this fence issue that you just brought up?

11                  MR. VENTURA:     That is correct. It will  
12 not be an adverse effect.

13                  CHAIRPERSON GRIFFIS:    Okay. And it won't  
14 adversely affect because as you have stated in your  
15 written submission, there is the non-conforming court,  
16 but this addition is not adding to that non-conformity  
17 in terms of its width, in terms of the distance away  
18 from the property line; is that correct?

19                  MR. VENTURA:     The issue was that under the  
20 original open courts setback would have allowed for 4  
21 feet, and then it was modified to 6 feet. The  
22 original kitchen extension, which was built when the  
23 house was first designed, is a 4 foot setback from the  
24 property line.

25                                   This extension conforms with the original

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1 design, but obviously would be in violation of the new  
2 setback, which is the additional 2 feet. And as we  
3 noted in the application, the new structure would be  
4 within 22 inches of the new six foot setback.

5 CHAIRPERSON GRIFFIS: So it doesn't  
6 totally align with the existing structure?

7 MR. VENTURA: It aligns totally with the  
8 current kitchen, but the law was changed after the  
9 current kitchen was designed.

10 CHAIRPERSON GRIFFIS: Right. Indeed.  
11 That I understand. And when it goes to clearly the  
12 point of having that setback, if there is a court  
13 created, it is for light and air. The structure that  
14 you are proposing to put there, if this is a  
15 successful application, is actually primarily glass;  
16 is that correct?

17 MR. VENTURA: That is correct.

18 CHAIRPERSON GRIFFIS: So clearly the light  
19 won't be necessarily impeded. It may be fractured a  
20 little bit as it goes through.

21 MR. VENTURA: Refracted.

22 CHAIRPERSON GRIFFIS: Refracted is what I  
23 guess it does. And Mr. Downing's property abuts the  
24 courtyard?

25 MR. VENTURA: Yes, sir. His is the property

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1 with the open court that also faces our open court.

2

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1 E-V-E-N-I-N-G S-E-S-S-I-O-N

2 (6:00 p.m.)

3 CHAIRPERSON GRIFFIS: And Mr. Piersma then  
4 of course is on the other side?

5 MR. VENTURA: He would be -- looking at  
6 the picture, he would be the one to the right.

7 VICE CHAIRPERSON RENSHAW: And I am  
8 looking at Exhibit Number 4, and the next door  
9 neighbor we are talking about would be in the white  
10 brick building?

11 MR. VENTURA: It is a white stucco facade.

12 VICE CHAIRPERSON RENSHAW: Stucco facade?

13 MR. VENTURA: Yes, Ma'am.

14 VICE CHAIRPERSON RENSHAW: And you spoke  
15 to your next door neighbor about the fact that this  
16 being a glass enclosed addition, there would be  
17 additional light in the ceiling area that may impact  
18 on his property?

19 MR. VENTURA: As far as the reflection?

20 VICE CHAIRPERSON RENSHAW: Reflection,  
21 illuminating, because he has got some windows back  
22 there that would look out on the roof line.

23 MR. VENTURA: Let me have the contractor  
24 address that.

25 MR. FORD: My name is Adam Ford, 1325 18th

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1 Street, Northwest, D.C. 20036. I represent 4 Seasons  
2 Sunrooms and Woodcraft Builders. In terms of  
3 reflectivity, this is a double pane glass and so it is  
4 going to be a little more reflective than single pane  
5 glass, which if you look at the window behind you, it  
6 is going to be the same reflectivity.

7 It is not going to be any different than  
8 regular glass. Well, it wouldn't be a nuisance if  
9 that is your question.

10 CHAIRPERSON GRIFFIS: Is there a tint to  
11 it?

12 MR. FORD: There is a slight tint to it.

13 CHAIRPERSON GRIFFIS: And what is the  
14 color?

15 MR. FORD: It is a silver color.

16 CHAIRPERSON GRIFFIS: Okay. Any other  
17 questions?

18 COMMISSIONER HOOD: Mr. Ventura, from  
19 looking at the photographs, I guess the addition is --  
20 I don't want to say hidden, but it is not really  
21 intrusive as far as along the corridor of the alley  
22 way. Does it stand out or does it kind of fit right  
23 into place?

24 MR. VENTURA: It actually fits right  
25 between the current line that the kitchen is currently

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1 ends at, and before the tree. So as you are looking  
2 back straight into the property from the alley, it  
3 doesn't come out any further than the tree itself  
4 does.

5 COMMISSIONER HOOD: So if I am standing at  
6 the end of the alley on 13th Street, and I am looking  
7 up the alley --

8 MR. VENTURA: Actually, the alley itself  
9 only has one entry point and it comes off of Fairmont  
10 Street itself, and then it bends and basically comes  
11 down behind the houses on Fairmont Street and Euclid  
12 Street, and then dead-ends.

13 COMMISSIONER HOOD: And so if I am  
14 standing on the side, and I think there is a church  
15 somewhere up in that area, but anyway, if I am  
16 standing on that side of the street looking up the  
17 alley, I can't see it?

18 MR. VENTURA: You won't be able to because  
19 at the end of the alley towards 13th Street, there is  
20 the Warner Apartment Complex, and it blocks off the  
21 alley from -- and actually it is a fairly sizeable  
22 building, and so there is no view from 13th Street  
23 down our alley.

24 COMMISSIONER HOOD: So I would actually  
25 have to be a neighbor that lives right around there or

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1 actually have a reason to come up in there to even  
2 notice it to begin with?

3 MR. VENTURA: Yes, sir. That's correct.

4 MEMBER ZAIDAIN: And the tree line down  
5 the alley will buffer it?

6 MR. VENTURA: I beg your pardon, sir?

7 MEMBER ZAIDAIN: The tree line, the tree  
8 that you keep referring to, will kind of hide it?

9 MR. VENTURA: Absolutely. The reason that  
10 we wanted to keep the Mimosa was for shade effect, as  
11 well as for greenery, because there is very few trees  
12 now back in the alley since there has been some  
13 development, and they have cut them down.

14 And this will actually over-canopy the  
15 glass conservatory, and actually provide some shade.

16 MEMBER ZAIDAIN: What is the estimated  
17 distance that you have between the tree and the  
18 curb?

19 MR. VENTURA: I believe it is 3 feet.

20 VICE CHAIRPERSON RENSHAW: How are you  
21 going to protect the roots of the tree during  
22 construction?

23 MR. VENTURA: I am going to pass this over  
24 to the contractor, but the actual flooring for the  
25 conservatory is an elevated flooring, and so it is not

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1 a concrete poured flooring.

2 MR. FORD: When we dig our support posts,  
3 we don't use drills. We actually sever the root,  
4 which we found does not destroy the root. If you use  
5 a drill, it rips the end of the root, which causes  
6 problems. The root can't grow back.

7 Whereas, if it is a clean splice -- you  
8 know how they prune trees? It is like that. When we  
9 splice it, it doesn't do -- it does a little bit of  
10 damage, but it won't be traumatic to the tree.

11 MEMBER ZAIDAIN: It won't kill the tree.

12 MR. FORD: Right, like a drill would.

13 VICE CHAIRPERSON RENSHAW: Do you have an  
14 arborist on your staff to give you counsel? We are  
15 just thinking of how healthy this tree is.

16 CHAIRPERSON GRIFFIS: How big is this  
17 tree?

18 MR. VENTURA: It is a mimosa tree, and  
19 currently up about 15 feet high I would say, or about  
20 12 actually. Well, between 12 to 15 feet high. And  
21 we have been pruning it back and trying to get some  
22 growth on it. It has been fairly healthy, despite  
23 some of the drought conditions that we had this year.

24 We have a good root system, and I  
25 mentioned this to USAA, which is going to be our

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1 insurance coverage, and more from the concern of the  
2 tree falling on the conservatory. And they felt as  
3 long as the root systems were protected, and there is  
4 no concrete slab being poured for the base of the  
5 conservatory.

6 It is an elevated structure and so there  
7 is actually more free range under this structure than  
8 a conventional extension.

9 CHAIRPERSON GRIFFIS: I think Ms.  
10 Renshaw's point that she is about to make is an  
11 excellent one, and that is that it is worth a couple  
12 of hundred bucks to get an arborist in there to root,  
13 to map the roots, and then you can get your post  
14 locations based on that and do the frame accordingly.

15 And for a tree that size, it will not be  
16 extremely complicated.

17 MR. FORD: The way the support structure  
18 is set up for this conservatory, there is only one  
19 post that would be required anywhere near that tree,  
20 and it will be right up against the house.

21 The first post is going to be right up  
22 against the house, and then there is going to be  
23 approximately a 7 foot gap between the two posts.

24 CHAIRPERSON GRIFFIS: Right.

25 MR. FORD: And I agree that if we need to

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1 get an arborist in there, we definitely will. But I  
2 think the 7 foot gap will provide more than enough  
3 space for the tree.

4 CHAIRPERSON GRIFFIS: I think it is a  
5 hundred bucks towards good insurance on that.

6 COMMISSIONER HOOD: I would agree with  
7 that, Mr. Chairman, because the testimony that I have  
8 always heard down here from arborists is that  
9 sometimes it takes up to 5 years to know that you have  
10 done some damage.

11 CHAIRPERSON GRIFFIS: Correct.

12 COMMISSIONER HOOD: It doesn't happen  
13 immediately, and so I think the Chair's comments are  
14 definitely in order.

15 MR. VENTURA: I don't want it falling on  
16 the conservatory and so that would be good to know.

17 CHAIRPERSON GRIFFIS: Right. Exactly. It  
18 is for the property owner's benefit frankly. Okay.  
19 Anything else? Other issues? Anything else that you  
20 would like to present?

21 MR. VENTURA: No, sir, unless there are  
22 any other questions or concerns.

23 CHAIRPERSON GRIFFIS: Not at this time.  
24 My records indicate that we don't have an OP report on  
25 file. Has one come in?

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1 MS. BAILEY: No, Mr. Chairman, I am not  
2 aware of one.

3 CHAIRPERSON GRIFFIS: Well, you are in big  
4 trouble then. The ANC has noted and also did not have  
5 a file, and did not have any request for parties, and  
6 we have letters for support from the adjacent  
7 neighbor, Exhibit Number 8, and testimony today about  
8 the support of the western abutting neighbor; is that  
9 correct?

10 MR. VENTURA: Yes.

11 CHAIRPERSON GRIFFIS: Okay. Let's talk  
12 just briefly about that, in terms of the fence. I  
13 didn't understand your comment about security of  
14 parking for the adjacent neighbor.

15 MR. VENTURA: The structure requires a  
16 firewall obviously since it is on the property line,  
17 and it a masonry wall on that side. Therefore, the  
18 existing fence between the two parties, the neighbor,  
19 Mr. Piersma, was concerned that while it was being  
20 worked on that there might be access to his back yard.

21 CHAIRPERSON GRIFFIS: I see.

22 MR. VENTURA: And his request was that  
23 security be maintained.

24 CHAIRPERSON GRIFFIS: So there was a  
25 concern about the temporary construction period.

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1 MR. VENTURA: Yes, sir.

2 CHAIRPERSON GRIFFIS: And you have  
3 mitigated that?

4 MR. VENTURA: Yes, sir. We are actually  
5 working with the contractor to make sure that is  
6 always secured at the end of the work day.

7 CHAIRPERSON GRIFFIS: Okay. I think that  
8 would probably make only common sense, because frankly  
9 they are probably going to be more interested in the  
10 contractor's tools and equipment than the neighbors'  
11 cars.

12 VICE CHAIRPERSON RENSHAW: Mr. Chairman,  
13 on Exhibit Number 4, and I am holding up that picture  
14 again, that would be on this side?

15 MR. VENTURA: That is correct, Ma'am.

16 VICE CHAIRPERSON RENSHAW: So it is what  
17 direction?

18 CHAIRPERSON GRIFFIS: West.

19 VICE CHAIRPERSON RENSHAW: The west  
20 direction?

21 MR. VENTURA: Yes, Ma'am.

22 VICE CHAIRPERSON RENSHAW: All right.  
23 Thank you.

24 CHAIRPERSON GRIFFIS: Excellent. Anything  
25 else? Am I missing anything else that was submitted

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1 into the record that the Board Members know of, or the  
2 applicant is aware of?

3 Any other questions of the applicant at  
4 this time? In which case, I would turn it over to you  
5 to give closing remarks if required.

6 MR. VENTURA: Sir, I served as a planning  
7 commissioner for Arlington County, and so I not only  
8 understand, but very much appreciate the day you have  
9 put in today and the challenges you face. So we thank  
10 you very much for actually hearing us today on such a  
11 long day.

12 CHAIRPERSON GRIFFIS: Well, thank you very  
13 much and we appreciate your patience and  
14 understanding. I would move for the approval of  
15 Application 16941 for a special exception allowing  
16 construction of a rear addition as shown in their  
17 submission, and the record, for a single family  
18 dwelling, and this is under Section 223.

19 And the nonconforming aspects of an open  
20 court lot width, and creating a nonconforming  
21 structure at 1336 Fairmont Street, Northwest, and I  
22 would ask for a second.

23 MEMBER ZAIDAIN: I will second that, Mr.  
24 Chair.

25 CHAIRPERSON GRIFFIS: Thank you very much,

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1 Mr. Zaidain. I think it has been fairly clearly laid  
2 out in the application that this is maintaining  
3 harmony with the general intent purpose of the  
4 underlining zoning, and the regulations, and we have  
5 had no evidence, and I think we have explored any  
6 possibility of any adverse impact to the enjoyment of  
7 the use or other aspects of the adjoining neighbors.  
8 And with that, let other speak to the motion.

9 MEMBER ZAIDAIN: I would agree and I would  
10 like to thank the applicant, Mr. Ventura, for moving  
11 into the District from Arlington County obviously.

12 VICE CHAIRPERSON RENSHAW: And bringing  
13 along his expertise and we note that you are the  
14 President of a budding citizens group?

15 MR. VENTURA: Yes, Ma'am, the Fairmont  
16 Street Neighborhood Group is now evolving into as I  
17 understand is going to be either College Hill or  
18 Columbian Plains Neighborhood Civic Association, which  
19 will right up to the Metro Station, and over to I  
20 believe Sherman Avenue, over to 16th, and then we abut  
21 Alta Vista on Clifton.

22 MEMBER ZAIDAIN: Which means we will  
23 probably see you again, I'm sure.

24 MR. VENTURA: Yes, sir, that is probably  
25 the truth.

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1 VICE CHAIRPERSON RENSHAW: You are being  
2 very responsive to your community.

3 COMMISSIONER HOOD: Mr. Ventura, what is  
4 the name of the two organizations that it may --

5 MR. VENTURA: Alta Vista is the new  
6 association south of us, and Pleasant Plains is north  
7 of us. Meridian Hill is west of us, and currently  
8 there is an unidentified space east of us beyond  
9 Georgia Avenue where Howard University is.

10 COMMISSIONER HOOD: Okay. Thank you.

11 CHAIRPERSON GRIFFIS: Interesting.

12 VICE CHAIRPERSON RENSHAW: Very good.  
13 Well, I think that this addition is going to vastly  
14 improve the property. This is a very narrow piece of  
15 property.

16 MR. VENTURA: Yes, Ma'am.

17 VICE CHAIRPERSON RENSHAW: At least so the  
18 pictures tell us. And I think that this is going to  
19 be a needed expansion, but be an expansion that does  
20 not impact in a negative way on the light that should  
21 be afforded your property, and should be afford to  
22 your neighbors' property.

23 MR. VENTURA: Hopefully it will draw it  
24 in.

25 VICE CHAIRPERSON RENSHAW: Hopefully it

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1 will draw it in and enhance it we might say from in  
2 and out.

3 MR. VENTURA: Yes, Ma'am.

4 VICE CHAIRPERSON RENSHAW: So we look  
5 forward to perhaps driving by some day from the back,  
6 from the alley, and taking a peak at what should be a  
7 very pretty addition.

8 MR. VENTURA: Thank you, Ma'am.

9 MEMBER ZAIDAIN: Thank you.

10 CHAIRPERSON GRIFFIS: Good. Anything  
11 further?

12 MEMBER ZAIDAIN: Call the roll, Mr. Chair.

13 CHAIRPERSON GRIFFIS: Indeed. Then all in  
14 favor signify by saying aye.

15 (Ayes.)

16 CHAIRPERSON GRIFFIS: And opposed?

17 (No response.)

18 CHAIRPERSON GRIFFIS: Very well. Would  
19 you record the vote. I am assuming that you would  
20 like a summary order on the bench decision?

21 MR. VENTURA: Yes, sir, if possible,  
22 please.

23 CHAIRPERSON GRIFFIS: I don't see any  
24 reason why we couldn't accommodate that if there is no  
25 objection from the board, and we can make tha ta

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1 summary order.

2 VICE CHAIRPERSON RENSHAW: And could our  
3 summary order just include our strong suggestion and  
4 recommendation for an arborist to be involved.

5 MR. VENTURA: Absolutely.

6 CHAIRPERSON GRIFFIS: I think we can do  
7 that.

8 VICE CHAIRPERSON RENSHAW: A few words.

9 CHAIRPERSON GRIFFIS: Good.

10 MS. BAILEY: The vote is recorded as 4-0-1  
11 to approve the application; motion made by Mr.  
12 Griffis, and seconded by Mr. Zaidain, and Mr. Hood,  
13 and Mrs. Renshaw to approve, and Mr. Etherly is not  
14 present and not voting.

15 CHAIRPERSON GRIFFIS: Good. Thank you  
16 very much, and I thank you all very much. If I am not  
17 mistaken that is all of the business that we have  
18 before us today.

19 MS. BAILEY: Yes, Mr. Chairman.

20 CHAIRPERSON GRIFFIS: Very well. Then we  
21 can in fact adjourn the afternoon session for 12  
22 November. Thank you all and enjoy.

23 (Whereupon, at 6:20 p.m., the meeting was  
24 concluded.)

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