

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

APRIL 15, 2003

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
CURTIS ETHERLY, JR.	Board Member
DAVID A. ZAIDAIN	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Commissioner
PETER G. MAY	Commissioner

BZA STAFF PRESENT:

BEVERLEY BAILEY	Office of Zoning
CLIFFORD MOY	Office of Zoning
JOHN NYARKU	Office of Zoning

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OTHER AGENCY STAFF PRESENT:

JOHN MOORE

Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

LORI MONROE, Esq.

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

9:53 a.m.

CHAIRMAN GRIFFIS: Let's call to order the 15th of April, 2003, public hearing of the Board of Zoning Adjustments of the District of Columbia.

My name is Geoff Griffis, I am Chairperson.

Joining me today is Mr. Etherly, who is sitting on my right. Representing the Zoning Commission with us this morning is Ms. Mitten.

And representing the National Capital Planning Commission is Mr. Zaidain. Copies of today's hearing are available to you. They are located at the table, where you entered into the hearing.

Ooh, we actually have this beautiful new display, so they are not on the table, but they are above the table. So, please take a note and look at that, if needed.

And if further copies are required, certainly you can give staff indication of that and we can make more available. Let me run through a few things that are very important to us.

First of all, all public hearings before the Board of Zoning Adjustments are being recorded. Therefore, we ask several things of you. First, while people are getting agendas for today's session, if you

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1 would, reach into your pockets and turn off all cell
2 phones and beepers at this time, so that we do not
3 disrupt the proceedings.

4 Also, if you are planning to testify or
5 present information in front of the Board, which would
6 be the same thing, you need to do one, several things.
7 First of all, you need to fill out two witness cards.

8 Witness cards are available at the table
9 in front of us, also the table close to where you
10 entered into the hearing room. Those two witness
11 cards are to be filled out prior to coming forward.
12 When coming forward, you need to give them to the
13 Recorder who is sitting on the floor to my right.

14 When addressing the Board, you will come
15 forward, have a seat, make yourself comfortable, and
16 you will need to turn on a microphone. We will give
17 instructions on that.

18 You will also need to, at the initial
19 presentation to the Board, give your name and address
20 for the record. The order of procedure today for,
21 well, the morning we just have appeals.

22 So, we, oh, I'm sorry, gosh, I'm already
23 skipping my schedule. I had four special exceptions
24 and variances. Special exceptions sworn, of course,
25 would be first the statement and witnesses of the

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1 Applicant.

2 Second would be government reports. Any
3 government reports attendant to the Applicant such as
4 Office of Planning, Department of Transportation,
5 etcetera.

6 Third would be the report from the
7 Advisory Neighborhood Commission. Fourth would be
8 parties or persons in support. Fifth would be parties
9 or persons in opposition.

10 And sixth, finally we will hear closing
11 remarks or any rebuttal testimony by the Applicant.
12 Cross examination of witnesses is permitted by the
13 Applicant and the parties in the case.

14 The ANC within which the property is
15 located is automatically a party in the case. All
16 records before this Board will be closed at the
17 conclusion of each case and hearing, except for, any
18 material that is specifically requested by the Board.

19 And we will be very specific on what is to
20 be, or hopefully we will be anyway, what is to be
21 submitted into the Office of Zoning and when it is to
22 be submitted.

23 After that information is received, of
24 course, it goes without saying that the record would
25 be closed and no further information would be accepted

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1 into the record.

2 The Sunshine Act requires that a public
3 hearing on each case be held in the open and before
4 the public. This Board may, however, consistent with
5 its rules of procedure and the Sunshine Act, enter
6 Executive Session during or after hearing on the case.

7 This would be for the purposes of
8 deliberating on the case or reviewing the record. The
9 decision of this Board and all contested cases must be
10 based exclusively on the public record.

11 Therefore, we ask people present today not
12 engage Board members in any conversation so that we do
13 not give the appearance of not deliberating solely on
14 the public record.

15 I think it is now time for considering any
16 preliminary matters. Preliminary matters are those
17 which relate to whether a case will or should be heard
18 today.

19 Such as request for postponement,
20 continuance or withdrawal, or whether proper and
21 adequate notice of the hearing has been given. If you
22 believe that the Board should not hear the case today,
23 or you are not prepared here to proceed with a case
24 today, or you have any sort of preliminary matter
25 before the Board, I would ask that you indicate such

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1 by coming forward and having a seat at the table and I
2 will call on you in just a brief moment.

3 Let me also say a very good morning to Ms.
4 Bailey, who is with the Office of Zoning, seating on
5 my very far right. Also, Mr. Moy, with the Office of
6 Zoning, ably staffing this Board.

7 And Ms. Monroe, with the Corporation
8 Counsel. This volunteer Board couldn't do what we do
9 without these folks. With that, I would ask staff if
10 there are any preliminary matters that they are aware
11 of that we can take up.

12 MS. BAILEY: Mr. Chairman, members of the
13 day, good morning. There is, Mr. Chairman, and it has
14 to do with two cases that were withdrawn this morning.

15 And they are Application No. 16980 of Scott R.
16 Gillis, and Application No. 17004 of Penny Platt.

17 Both applications were withdrawn, Mr.
18 Chairman.

19 CHAIRMAN GRIFFIS: Thank you.

20 MS. BAILEY: No additional information is
21 required, so may I please call the next case if, oh,
22 there is a preliminary matter.

23 CHAIRMAN GRIFFIS: Yes, sir. Could you
24 just touch the base of the microphone and the red
25 light will turn on. Perfect.

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1 MR. SNIDER: Good morning, my name is
2 Ronald Snider and I am here on Case 62974.

3 CHAIRMAN GRIFFIS: Indeed.

4 MR. SNIDER: And I have two separate
5 motions to dismiss.

6 CHAIRMAN GRIFFIS: Okay. And so they are
7 attendant to the application that we know as Tudor
8 Place, is that correct, Mr. Snider?

9 MR. SNIDER: This is correct.

10 CHAIRMAN GRIFFIS: Very well. In which
11 case, I'd like to take those preliminary matters up
12 after we call the case so that we're actually within
13 the case so that we can hear your motions.

14 MR. SNIDER: Thank you.

15 CHAIRMAN GRIFFIS: So with that, why don't
16 we call the case. You can remain there if you'd like
17 and we'll take them up. Except for the fact that
18 we're going to need to go through party status first,
19 if you have motions that concern the direct case and
20 if we proceed or not.

21 So what I'd like to do is go through the
22 party status and then we can have parties respond to
23 any motions and that will fill out the whole schedule.

24 That will take us to about lunch, and
25 we'll take a short break. I'm kidding, so, okay,

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1 let's call the case.

2 MS. BAILEY: Application Number 16974 of
3 Tudor Place Foundation, Inc., pursuant to 11 DCMR
4 3104.1, for a special exception to continue the
5 operation of a museum by a non-profit organization.

6 The application was last approved by BZA
7 Order Number 16477 and it was dated January 14th,
8 2000. The application is under Section 217. It's
9 located in the R-1B District.

10 The premises, 1644 31st Street, N.W., and
11 1617 31st Street, N.W. It also located in Square 1281
12 on Lots 827 and 830. All those persons wishing to
13 testify, would you please stand to take the oath.
14 Please raise your right hand.

15 (All witnesses sworn.)

16 CHAIRMAN GRIFFIS: Excellent. Okay.
17 First of all, we have, and Board members, if you would
18 follow with me and correct me if I'm missing any. And
19 I would ask for people present today, if I missed your
20 name.

21 But I have request for party status in my
22 notes by a Lee Morris, which is Exhibit No. 56. A
23 Stephen Wells, which is Exhibit No. 57. Frances
24 Snider, Exhibit 33, and Ronald Snider, I believe, may
25 be part of that in Exhibit 30.

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1 Don W. Crockett, Exhibit 32 and 45. And
2 Norton Katz, Exhibit No. 31. Richard P. Theis, I hope
3 I said that correctly, Exhibit 29 and 45. Are we
4 noting any, Board members, anything I am missing?

5 I, my understanding is Wells and Morris
6 are going to be represented by Mr. Snider. Is that
7 correct, Mr. Snider?

8 MR. SNIDER: That is correct. Mr. Wells
9 will also be testifying since he's here today.

10 CHAIRMAN GRIFFIS: How does that work?
11 You're going to call him as a witness?

12 MR. SNIDER: I will call him as a witness?

13 CHAIRMAN GRIFFIS: Okay.

14 MR. SNIDER: He knows his case better than
15 I do, his problems.

16 CHAIRMAN GRIFFIS: Indeed. Okay, should
17 we take them from the top. First of all, I don't know
18 if any or maybe all of you are familiar, as you filled
19 out your party status application, of course that's
20 exactly what we're looking at is how you satisfy the
21 requirements for that.

22 Number 6 on that application for party
23 status states how you, as the filler of the
24 application, how your interests would be more
25 significantly, distinctly or uniquely affected in

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1 character or kind by the proposed zoning action than
2 other persons in the general public.

3 To that, this Board, in its history has
4 looked at numerous applications for party status and
5 gone through each of the issues that each party brings
6 up.

7 Clearly, we have an awful lot of issues
8 here in terms of the commercial use and how that
9 impacts basically privacy, parking, etcetera. My
10 point being if we have ten applications for party
11 status and they're all talking about the same issue,
12 are we talking about being significantly or uniquely
13 impacted or affected.

14 So, what I would ask if there is anybody
15 here that has a request for party status and that has
16 talked to other parties that is entertaining joining
17 under one party and doing a presentation of a single
18 case on the issues, rather than having seven or so
19 parties?

20 MR. SNIDER: May I speak to that?

21 CHAIRMAN GRIFFIS: Of course.

22 MR. SNIDER: There have been some
23 preliminary meetings, and we have attempted to divide
24 out issues so that we will not be just saying the same
25 thing over and over again.

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1 CHAIRMAN GRIFFIS: Well, I can guarantee
2 that will be the case.

3 MR. SNIDER: Very good.

4 CHAIRMAN GRIFFIS: But, it's also a matter
5 of all of your time and the efficiency of this. You
6 know, if we have eight parties and each party does
7 cross examination, I can guarantee you we're going to
8 be in this for about six months.

9 So, if there is some efficiency, and I can
10 give you a couple of minutes to talk if people are so
11 inclined to do that. I think, first of all, it
12 creates a very efficient case before us.

13 This is not a court proceeding. This is a
14 quasi-judicial public hearing and so we will look
15 directly for the facts and the substance of things.
16 So I think that can be done very efficiently and
17 effectively by several people, not all, necessarily.

18 Now, the other important piece to talk
19 about with party status is the fact that everyone and
20 anyone can participate in the public hearing. You do
21 not need to be granted party status in order to
22 participate in this public hearing.

23 If you are here and you presented party
24 status, or put in an application for party status, and
25 just want to give testimony, that would be appropriate

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1 to tell the Board at this point.

2 And we will certainly have you give
3 testimony at the proper time, whether in support or in
4 opposition. It doesn't look like I'm persuading
5 anybody at this point.

6 If you want to talk, come on up, actually
7 I can't have you talk unless you're on a microphone.
8 Otherwise you won't be on the record.

9 MR. MILWEE: I am only a member of the
10 public who has an opinion on this subject. I do not
11 consider myself a party in that sense.

12 CHAIRMAN GRIFFIS: Did you put in an
13 application for party status?

14 MR. MILWEE: I put a card, no.

15 CHAIRMAN GRIFFIS: Oh, what's your name?

16 MR. MILWEE: Frank Milwee.

17 CHAIRMAN GRIFFIS: Okay. You didn't put
18 in an application?

19 MR. MILWEE: No.

20 CHAIRMAN GRIFFIS: Okay.

21 MR. MILWEE: But I do have something to
22 say as a member of the public.

23 CHAIRMAN GRIFFIS: Excellent.

24 MR. MILWEE: Okay.

25 CHAIRMAN GRIFFIS: Well, as soon as we

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1 pare down the party status, we can almost guarantee we
2 will get to you. Okay, is there any movement on this?

3 Yes, great. And if anyone, please, I will keep this
4 hopefully orderly and efficient, but I would ask, if
5 people need to address, just please come forward.
6 Yes, sir.

7 MR. CROCKETT: Mr. Chairman, good morning.
8 Good morning, members of the Board.

9 CHAIRMAN GRIFFIS: Good morning.

10 MR. CROCKETT: My name is Don Crockett. I
11 live at 3070 Q Street, N.W.

12 CHAIRMAN GRIFFIS: Yes, sir.

13 MR. CROCKETT: Which is across the street
14 from Tudor Place. I overlook the grounds. I have
15 made a party request on the grounds that these
16 proposed commercial events disrupt my life and those
17 of my neighbors with absence of parking, traffic jams
18 and noise from the events.

19 I think those are unique and meet the
20 requirements for party status. I am prepared today to
21 do some cross examination of Ms. Buhler, who is the
22 main witness of the proponent of Tudor Place and some
23 of the others.

24 I would like to be able to pursue that.
25 We have talked among ourselves. The others, nearby

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1 neighbors, who are in this proponents group and I'm
2 going to, I would like to take the lead on this.

3 And the other persons who have applied for
4 party status will not go into the same areas. They
5 may have other questions, but there would be no
6 repetition of any cross examination.

7 CHAIRMAN GRIFFIS: Okay. So in your
8 talking with --

9 MR. CROCKETT: Mr. Theis, Mr. Katz --

10 CHAIRMAN GRIFFIS: Right.

11 MR. CROCKETT: -- and, of course, Mr.
12 Snider.

13 CHAIRMAN GRIFFIS: You talked with
14 everybody. There is no efficiency in your mind to
15 join together all in one party, but rather to do
16 individual issues within the structure of numerous
17 parties?

18 MR. CROCKETT: Yeah, no, sir, and I think
19 it would be more efficient that way because --

20 CHAIRMAN GRIFFIS: Okay.

21 MR. CROCKETT: -- I'm not prepared to do
22 all of it.

23 CHAIRMAN GRIFFIS: All right. Well, that
24 being said, let's go through, I don't want to waste
25 any more time before we get into this. First of all,

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1 let's take them from the top as I have them. Is Lee
2 Morris present today? If he is, raise your hand.

3 MR. SNIDER: No, he is not.

4 CHAIRMAN GRIFFIS: Oh, that's right, you
5 are, you're representing those.

6 MR. SNIDER: Correct.

7 CHAIRMAN GRIFFIS: I'm getting too much
8 paper in here. Okay, let me just make notes on this
9 new sheet. Mr. Snider, you are doing this and you are
10 here.

11 Okay, let's take Morris and Wells first,
12 represented by Mr. Snider. Let me hear comments from
13 the Board, if there are comments, in terms of looking
14 at all of these. I think what we've heard is clearly
15 each of the parties think that they have unique issues
16 to them and do not feel that they will be redundant.

17 So, there has been issues in the past of
18 how each application of party status, if you have all
19 your neighbors applying, hinders the strength of you
20 evidencing uniqueness in character.

21 I think that we have clarified somewhat
22 that it is in the general parameters of the general
23 public, but again, that's the way I have looked at
24 this.

25 MR. ZAIDAIN: Just to make sure I

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1 understand.

2 CHAIRMAN GRIFFIS: Yes.

3 MR. ZAIDAIN: We're talking about two
4 separate parties represented by the same Counsel?

5 CHAIRMAN GRIFFIS: That's correct.
6 Actually we're going to take Morris and Wells as
7 combined, if that's appropriate --

8 MR. ZAIDAIN: Oh, okay.

9 CHAIRMAN GRIFFIS: -- Mr. Snider, as one
10 representative representing both of those individuals.

11 MR. ZAIDAIN: Well, looking at their
12 application, the applications are almost identical in
13 terms of the issues they're raising.

14 CHAIRMAN GRIFFIS: Of the two?

15 MR. ZAIDAIN: Of Wells and Morris, yeah.

16 CHAIRMAN GRIFFIS: Right, indeed. I think
17 we can look at it the one party represented by Snider.

18 MR. ZAIDAIN: Okay. If that's the case, I
19 have no objection.

20 CHAIRMAN GRIFFIS: Yes, sir, good morning.

21 MR. WELLS: I am Steven Wells.

22 CHAIRMAN GRIFFIS: Yes, sir.

23 MR. WELLS: I live at 1677 31st Street,
24 N.W.

25 CHAIRMAN GRIFFIS: Good.

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1 MR. WELLS: Just across the street and up
2 one house from the Dower House. And I, although I
3 have listed Mr. Snider as representing me, I do have a
4 statement I want to make.

5 CHAIRMAN GRIFFIS: What's the statement
6 about?

7 MR. WELLS: About the breadth of the
8 application primarily, due to places submitted.

9 CHAIRMAN GRIFFIS: Okay. Well, I don't,
10 there's no reason why Mr. Snider can't call you as
11 part of the presentation of the party's case to give
12 that statement.

13 Is that your concern, that you wouldn't
14 have an opportunity to give the statement?

15 MR. WELLS: I just wanted to make sure
16 that I had that opportunity.

17 CHAIRMAN GRIFFIS: Absolutely. Okay. And
18 the, then any difficulties with Morris -- let me also
19 ask if you want to take them all together or do we
20 want to go through these individually?

21 Whatever is the situation. Is the
22 representative from the Applicant here? Could I have
23 whoever is going to address these to the table?

24 MS. BUHLER: I'm Leslie Buhler, Executive
25 Director, Tudor Place Historic House and Garden, and

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1 the address is 1644 31st Street.

2 CHAIRMAN GRIFFIS: And?

3 MR. VON SALZEN: Eric von Salzen from the
4 law firm of Hogan and Hartson, Counsel for Tudor
5 Place, 555 13th Street, N.W.

6 CHAIRMAN GRIFFIS: Von Salzen?

7 MR. VON SALZEN: Von Salzen, correct.

8 CHAIRMAN GRIFFIS: Good.

9 MR. WILSON: I'm Gordon Wilson, also of
10 the law firm of Hogan and Hartson representing Tudor
11 Place, 555 13th Street, N.W.

12 CHAIRMAN GRIFFIS: Okay, Mr. Wilson. Who
13 is going to speak to the party's status. I'm going to
14 ask you whether there are any objections to granting
15 the party status to the Morris/Wells party,
16 represented by Mr. Snider. Is there any objection by
17 the representative of the Applicant?

18 MR. VON SALZEN: There is no objection.

19 CHAIRMAN GRIFFIS: Very well. Board
20 members?

21 MS. MITTEN: I just want to make a general
22 statement, Mr. Chairman. Which is I think the way
23 that the requests for party status have been evaluated
24 in the past, particularly when you have a number of
25 people that have the same, I mean each one, because of

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1 where they live, has a unique orientation to the
2 property, but no one has really made the case for
3 uniqueness.

4 And as I believe you were trying to say in
5 the beginning, the fact that, the more people that you
6 have coming forward claiming uniqueness on the same
7 grounds, undermines everyone's opportunity for party
8 status.

9 And I would say that in the interest, I
10 think there's going to be some efficiency sacrificed
11 if we name each of these folks parties. But I will
12 defer to the Chairman's judgment.

13 I would just like to say that also the
14 parties in opposition will be limited in their
15 presentation to the same time period for presentation
16 as the Applicant.

17 And so, in that sense, they must join
18 together in order to regulate themselves and their
19 time, and the time that they will take. So I guess I
20 would rather that the Chair would encourage a little
21 more strenuously that these people join together.

22 CHAIRMAN GRIFFIS: To make clarification
23 of what Ms. Mitten just said about timing, there is a
24 joining of the parties. If the Applicant presents a
25 case within 60 minutes and we have eight parties, we

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1 will divide 60 minutes by eight and that will be your
2 time for presentation of the case.

3 So if you have clearly a group together to
4 present the case, you could utilize a full hour.
5 Would anyone like a few minutes of recess to talk
6 about this?

7 MR. SNIDER: I have one other comment with
8 respect to the problem of party status. As you are
9 well aware, this is a very large property.

10 CHAIRMAN GRIFFIS: Yes.

11 MR. SNIDER: Those people at the top of
12 31st Street are very different people, problems, than
13 those people at the bottom of 31st Street. The top of
14 31st Street involves the Dower House, which is to, on
15 the proposal, be rented for certain functions up to 50
16 people, several or more times per month.

17 That affects the people up there. On the
18 other hand, the people down at the bottom of the
19 street get affected very much by a very large tent
20 that is often erected in the front lawn in order to
21 hold extremely large events, such as events up to 500
22 people.

23 They catch the noise and the problems from
24 them.

25 MS. MITTEN: Well, that sounds like a

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1 basis for two parties, then. Two distinctly different
2 orientations to the property.

3 MR. ZAIDAIN: Upper 31st and lower 31st.

4 MS. MITTEN: Or whatever the division
5 would be. But I think Mr. Snider has just pointed out
6 a basis of commonality among two different kinds of
7 neighbors. So I would urge that if we can't get
8 everybody into one party, that there would be two,
9 because there are two unique orientations to the
10 property and you are either in one or the other.

11 MR. SNIDER: Could we take a moment to
12 discuss this matter?

13 CHAIRMAN GRIFFIS: Excellent. You can
14 give an indication to staff, if we're not here.

15 MR. SNIDER: Oh, wait a minute, I have
16 another point. Yeah, I forgot about another group of
17 people, 32nd Street, the service entrance.

18 CHAIRMAN GRIFFIS: Right, exactly. We
19 have Q Street, 32nd and 31st. Okay. Well, we'll give
20 you a minute.

21 MR. SNIDER: We need two minutes to
22 discuss this which might speed things up there.

23 CHAIRMAN GRIFFIS: Excellent. We'll be
24 back.

25 (Whereupon, the foregoing matter

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1 went off the record at 10:16
2 a.m. and went back on the record
3 at 10:25 a.m.)

4 CHAIRMAN GRIFFIS: Are there new
5 developments?

6 MR. CROCKETT: Mr. Chairman, I'm Don
7 Crockett.

8 CHAIRMAN GRIFFIS: Yes, sir.

9 MR. CROCKETT: We conferred in the hall
10 and I think we're able to agree that we can have three
11 representatives as parties here. One, Mr. Snider,
12 representing 31st Street.

13 Myself representing Q Street. And Mr.
14 Norton Katz, representing 32nd Street. I would like
15 to say that we have discussed this and once, the way I
16 view it is, once a party, a person demonstrates that
17 he has a right to party status --

18 CHAIRMAN GRIFFIS: Umm hmm.

19 MR. CROCKETT: -- then he is not
20 restricted to going only to those issues which
21 personally impact him, but can go to any of the other
22 issues. The legal issues, the lot lines and so forth
23 and so on.

24 CHAIRMAN GRIFFIS: No, that's exactly
25 correct.

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1 MR. CROCKETT: And so with respect to
2 those issues, we have divided up the presentations
3 between ourselves as to those zoning issues. And
4 there are many zoning issues in this case. This is a
5 very unique and --

6 CHAIRMAN GRIFFIS: Okay. And to that, Mr.
7 Crockett, first of all, any of the other Applicants
8 for party status certainly can participate in terms of
9 putting together what is presented to the Board and to
10 that case.

11 They can also be called as a witness to
12 give testimony. Or, they could conceivably, well, I
13 think that would be the best case to do it that way.

14 MR. CROCKETT: That's right. And Mr.
15 Theis and I will represent Q Street and he may have,
16 he may have a few questions. I would like to, once I
17 finish my cross examination, if he has, I think he has
18 another line of questioning that would be more
19 efficient for him to do than for me.

20 CHAIRMAN GRIFFIS: Okay. We're going to
21 try to limit a lot of that, just for efficiency. But
22 clearly if you can divide, very clearly sever those
23 and we get it up and running, that will be excellent.

24 So, Ronald Snider, which is Exhibit No. 3
25 and Frances Snider, actually put in an application.

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1 So, I'm assuming that you are, and you can just tell
2 me if your objection to this joining with the 32nd
3 Street party.

4 We have the application then from the Q
5 Street party, represented by Mr. Crockett. And the
6 32nd Street party which will be Norton Katz. And
7 Theis, did you say, Richard and Roberta, is that how
8 you pronounce it?

9 MR. CROCKETT: It's pronounced Tice.

10 CHAIRMAN GRIFFIS: Tice? Tice, very well.

11 I will not get that right always. Tice. And Mr.
12 Crockett, you indicated that you would be working with
13 them on Q Street party?

14 MR. CROCKETT: Right.

15 CHAIRMAN GRIFFIS: Excellent. That sounds
16 very efficient and effective. Let's take it up, Board
17 members. I think we have clearly heard that there is
18 some consolidating on these party matters.

19 That does not, of course, go to the
20 granting of party status, but I believe that the
21 party's applications that have come in have evidenced
22 uniqueness in terms of numerous issues.

23 I think that each application is actually
24 substantiated and enforced with the fact that each of
25 the parties are looking at several unique issues, all

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1 of which relate to the zoning and the zoning
2 application.

3 I would like to take them up all together.

4 We have the party for 32nd, Q, and 31st Street. Is
5 there any concerns to the Board that they would like
6 to share with me at this time?

7 MR. ETHERLY: I have no objection to the
8 manner in which you have laid out how we deal with
9 party status, Mr. Chairman. I think the conversation
10 regarding the need for as much clarity and specificity
11 and absence of duplication will be something that we
12 will all do very well to keep in mind as we proceed
13 through the case, Mr. Chairman.

14 CHAIRMAN GRIFFIS: Excellent.

15 MR. ETHERLY: With that I'm prepared to
16 move forward.

17 CHAIRMAN GRIFFIS: Thank you very much.
18 And just to fill out my information, does the
19 Applicant's representative have any objection to the
20 party status requests on any of them and how we have
21 actually looked to create the three parties in
22 standing?

23 MR. VON SALZEN: No objection.

24 CHAIRMAN GRIFFIS: Excellent. Any
25 comments from the Board?

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1 MR. ZAIDAIN: I have no objection. Do you
2 need a motion?

3 CHAIRMAN GRIFFIS: Okay. Anything
4 further? Very well. Then let's grant party status to
5 the 32nd party, the Q Street party and the 31st Street
6 party. Those represented as we have laid out. Mr.
7 Snider on 31st, Mr. Crockett on Q Street and Mr. Katz
8 on the 32nd.

9 With that, let's go to the preliminary
10 matters. Mr. Snider, I believe you had motions for
11 the Board to consider. Is that correct?

12 MR. SNIDER: Yes, I have two preliminary
13 matters here today. I'd like to --

14 CHAIRMAN GRIFFIS: Excellent. You can
15 deliver those to the staff at the far end of the
16 Board. And actually, while you're there, would you
17 present it to the Applicant.

18 You also need, and anyone presenting
19 information to the Board will also need to serve the
20 party today, as we are all here and participating, I'd
21 like copies in everyone's hands.

22 MR. VON SALZEN: Mr. Snider, you need to
23 give us a copy, too.

24 CHAIRMAN GRIFFIS: Otherwise, we get that
25 kind of situation and we can't go anywhere.

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1 MR. SNIDER: Okay.

2 CHAIRMAN GRIFFIS: Before you, we
3 entertain that, as those are delivered out, let me
4 note it is going on 10:30. We will conclude this
5 hearing on this application by no later than 12:30
6 today.

7 With that, I'd like everyone to take that
8 into consideration that we have two hours. And if we
9 can get through this all today in two hours, clearly,
10 I think that would help everyone involved.

11 If we can't, we will set this for another
12 date. I can almost guarantee that next date will not
13 be for at least 30 to 45 days. So, that being said,
14 we can all keep our minds attuned to that.

15 Let's look at, first of all, the motion to
16 dismiss for failure to apply for Lot Number 835.

17 MR. SNIDER: Let me explain the situation.

18 CHAIRMAN GRIFFIS: Okay.

19 MR. SNIDER: Lot 835 is the lot that
20 covers the entire property. Attachment Number 1 shows
21 that back in March of 2000, previous Lots 830 and 827,
22 or 826, whatever they were, were combined to become a
23 new Lot 835.

24 This is from the Tax Assessors Officer --

25 CHAIRMAN GRIFFIS: Okay.

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1 MR. SNIDER: -- in response to the --

2 CHAIRMAN GRIFFIS: Mr. Snider, let me ask
3 you on your motion, how would you be prejudiced if, in
4 fact, there was an error in the lot indication? Did
5 you have an understanding of this as a different piece
6 of property?

7 MR. SNIDER: My personal understanding is
8 that it is supposed to be Lot 835 whereon one lot.

9 CHAIRMAN GRIFFIS: How does that prejudice
10 you in proceeding today with this application?

11 MR. SNIDER: It does not prejudice me in
12 proceeding today.

13 CHAIRMAN GRIFFIS: Okay, so --

14 MR. SNIDER: It does jeopardize, I think,
15 the whole case, though. The notice is bad now. The
16 notice went out on different lots.

17 CHAIRMAN GRIFFIS: Right. And I think for
18 this Board the important piece of notice is to make
19 sure that everyone knows what they are actually
20 looking at.

21 Do you think, is it your understanding
22 that your neighbors know this piece of property by the
23 lot numbers or the squares?

24 MR. SNIDER: To be perfectly frank with
25 you, I don't know how my neighbors understand --

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1 CHAIRMAN GRIFFIS: Okay, but you're
2 bringing the motion, so I have to ask you whether --

3 MR. SNIDER: I'm bringing the motion.

4 CHAIRMAN GRIFFIS: -- it would prejudice
5 you in anyway. Let me have the Applicant --

6 MR. SNIDER: If the Board wants to proceed
7 on Lot 835, that's fine with me. Because that's what
8 the real lot is.

9 CHAIRMAN GRIFFIS: Can I have the
10 Applicant address the motion to dismiss for failure to
11 apply for Lot Number 835.

12 MR. VON SALZEN: This is, I mean, this is
13 an interesting way of raising the issue on an
14 application that's been on file for quite some time.
15 I believe there's any, and I frankly don't know the
16 history of the lots here.

17 But the fact is there's no doubt in
18 anybody's mind what Tudor Place is. People know Tudor
19 Place, they don't necessarily know what tax lot Tudor,
20 lot or lots, Tudor Place is.

21 So, in the absence of any showing of
22 misunderstanding or prejudice, we would oppose the
23 motion to dismiss.

24 CHAIRMAN GRIFFIS: Board members? Let me
25 just go through the file. This was properly posted?

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1 MR. SNIDER: There is another separate
2 issue with respect to posting on 1670.

3 CHAIRMAN GRIFFIS: Indeed. Okay, so if I
4 understand this correctly -- boy, I've got to orient
5 myself here. Let's look at this. Mr. Snider you are
6 indicating that the lot in Square 1281 is actually Lot
7 835, not 830, and it's roughly 227,000 square feet.
8 Is that correct?

9 MR. SNIDER: That's what it shows on
10 Attachment One to my motion, yes.

11 MR. ZAIDAIN: Lot 835 encompasses Lot, the
12 previously existing 830 and 827?

13 MR. SNIDER: It encompasses prior Tax Lots
14 830 and 827.

15 MR. ZAIDAIN: Which is what the
16 application was filed for?

17 MR. SNIDER: The application was filed on
18 830 and 827.

19 CHAIRMAN GRIFFIS: Is there a difference
20 between the boundary lines of 830, 827 and 835?

21 MR. SNIDER: The outer perimeter is the
22 same.

23 CHAIRMAN GRIFFIS: Okay. Board members?

24 MS. MITTEN: Mr. Chairman, I think the
25 questions that you were asking earlier about, you

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1 know, is there any prejudice, I mean the property has
2 been posted.

3 You know, signs were put up on what may
4 now be former Lots 827 and 830. The addresses, I mean
5 the name of the property, all of that, I think put
6 people on notice.

7 And I think that there's probably a
8 technical issue that we, that the Applicant needs to
9 deal with in just amending their application. But I
10 don't think there's grounds for dismissal here.

11 CHAIRMAN GRIFFIS: Anything else from the
12 Board.

13 MR. ZAIDAIN: Well, I will add to that.
14 Just testify too that the perimeter of the property is
15 the same. So it's not even dealing with a smaller or
16 larger piece of property.

17 CHAIRMAN GRIFFIS: Anything else?

18 MR. SNIDER: Yes. The second motion
19 relates to the --

20 CHAIRMAN GRIFFIS: Let's the deal with the
21 first motion in front of us at this point. I would
22 move that we deny the motion to dismiss for failure to
23 apply for Lot Number 835. And I'd ask for a second.

24 MS. MITTEN: Second.

25 CHAIRMAN GRIFFIS: Any discussion?

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1 (No response.)

2 CHAIRMAN GRIFFIS: All those in favor,
3 signify by saying aye.

4 (Chorus of ayes.)

5 CHAIRMAN GRIFFIS: And opposed?

6 (No response.)

7 CHAIRMAN GRIFFIS: Very well. I would
8 also note on that, Ms. Mitten's comment, which I think
9 we were all going to is the fact that we will need
10 clarification submission into the record on the proper
11 lot, and if there was any or an indication by the
12 Applicant and representative of whether there was any
13 different if that has changed in number and any
14 difference in dimension, size, shape of lot, and we
15 will take that up at that point when we get it in.

16 Second motion, Mr. Snider, are you passing
17 that out also? Great. And also for efficiency, if
18 you have a stack of stuff, let's put it all in at the
19 same time. I need you to serve everybody.

20 I need you to serve parties. I need the
21 Applicant. It would be best, in my mind, and you may
22 not agree, if you give the Applicant, if you are a
23 party in opposition, the information first.

24 We take time to get ours up here so they
25 can take time to review it. So we don't have a lot of

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1 objections of being surprised and such. Okay, motion
2 to dismiss for failure to post notice.

3 This is very serious. Mr. Snider, do you
4 want to address the Board on this?

5 MR. SNIDER: Yes. Let me briefly explain.

6 In the affidavit of posting, which is your Exhibit
7 Number 59, it shows that the property at 1670 31st
8 Street, was not posted until April 2, 2003, at 3:00
9 p.m., which is late.

10 CHAIRMAN GRIFFIS: Have you reviewed
11 Exhibit Number 38?

12 MR. SNIDER: Exhibit 38 is a separate
13 affidavit of posting which relates to postings down on
14 1644, and they state that those postings were made
15 back on March 31.

16 But the posting on the building up at
17 1670, did not occur until later. That's why there are
18 two affidavits of postings in this record.

19 CHAIRMAN GRIFFIS: I have a date of
20 posting, January 24, 2003. What am I looking at there
21 on Exhibit 38?

22 MS. MITTEN: Our hearing was postponed
23 because of the snow.

24 CHAIRMAN GRIFFIS: No, I understand that.

25 MR. SNIDER: The January posting was also

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1 --

2 CHAIRMAN GRIFFIS: That's not the date he
3 gave, though. Yes.

4 MR. SNIDER: The January posting was also
5 bad and that was laid out in Exhibit Number 43, where
6 it was pointed out that there was no posting at all at
7 that time on 1670, either.

8 CHAIRMAN GRIFFIS: On 1670. Oh, I
9 understand.

10 MR. SNIDER: So 1670 never got posted
11 until April 2.

12 CHAIRMAN GRIFFIS: Does the Applicant
13 representative have, want to address this motion?

14 MR. VON SALZEN: As the affidavits that
15 have been referred to show, seven notices were posted
16 on March 31st, 2003, at various indicated locations on
17 the Tudor Place property.

18 Out of an abundance of caution, three
19 additional notices were posted on what, on the portion
20 of the Tudor Place property sometimes known as the
21 Dower House, two days later. But the --

22 CHAIRMAN GRIFFIS: What was the date on
23 the Dower House?

24 MR. VON SALZEN: April 2nd. And the main
25 posting was on March 31st. So Tudor Place, which is a

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1 single application, and a single property to anybody
2 going by, was thoroughly posted.

3 And anyone in the neighborhood, with any
4 interest in this matter, was certainly put on notice
5 by this posting of the hearing today.

6 CHAIRMAN GRIFFIS: Okay.

7 MR. SNIDER: I have a quick response.
8 Section 3113.15 says that there must be a posting on
9 the front of each building, and there clearly was not.

10 CHAIRMAN GRIFFIS: 3113.3?

11 MR. SNIDER: It's attached to the motion.

12 CHAIRMAN GRIFFIS: Yeah, I understand.

13 MS. BAILEY: Excuse me, Mr. Snider, could
14 you pull that microphone just a little bit closer to
15 you? The microphone, just pull it closer to you and
16 speak directly, thank you, sir.

17 CHAIRMAN GRIFFIS: Okay. Well, 3113.15,
18 in my reading of that, clearly is for a single lot,
19 single building. And so that would make sense that
20 you would post the property and post it on the
21 building or structure.

22 This is somewhat different than that. Is
23 that April 2nd? Okay, Mr. Snider, if you would not
24 mind addressing, first of all, how you understand this
25 to prejudice your ability to participate in this

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1 application.

2 Clearly, we have two forms of
3 notification. We have the written and the we have the
4 posted. I don't believe by, not that this is, in
5 fact, the total arbiter of this issue of notification,
6 but there certainly doesn't seem to lack for
7 participation for not knowing of this application. Do
8 you want to address that?

9 MR. SNIDER: You're not only talking about
10 me, you're talking about people who live on upper 31st
11 Street and on R Street, who never had a chance to see
12 any posting on 1670.

13 Not only that, this matters to the general
14 public. If you look back at the cases attached to the
15 original Exhibit 43 --

16 CHAIRMAN GRIFFIS: So you're saying there
17 are people out there on one of these avenues that
18 don't know that this application is going forward?
19 Although, we have over ten letters of support and in
20 opposition.

21 We've had the Office of Planning out there
22 and we also have a full letter of recommendation by
23 the ANC-2E, which obviously will have held a public
24 hearing on this, or a public meeting.

25 MR. SNIDER: Mr. Chairman, I fully

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1 understand your position. I'm just saying it is
2 contrary to the Court of Appeals decision that is
3 attached to the Exhibit 43, which is in the record.

4 CHAIRMAN GRIFFIS: All right. The Court
5 of Appeals action which is attached to your motion?

6 MR. SNIDER: No, no, it's in the back of
7 the Exhibit 40. That issue came up prior to the
8 hearing that got canceled.

9 CHAIRMAN GRIFFIS: Right.

10 MR. SNIDER: And at that time we really
11 moved for a postponement. So those papers are buried
12 right there. But the Court of Appeals was very clear
13 in a case that came out of the Alcohol Beverage
14 Commission or whatever it was, that failure to post
15 did not only just affect those in the neighborhood, it
16 affects anybody driving by.

17 And you cannot speculate on who would or
18 would not have seen. This is just the legal decision.

19 CHAIRMAN GRIFFIS: Yes, and I think that
20 does go, directed, if it was or was not posted. But
21 when we start trying to divide how many signs and
22 whether everyone had the opportunity to walk by the
23 particular sign, I think that's what's before us. How
24 many total signs were there posted by April 2nd, 2003?

25 MR. VON SALZEN: Mr. Chairman, there were

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1 seven signs posted by March 31st, and three additional
2 signs by April 3rd.

3 CHAIRMAN GRIFFIS: So there were ten total
4 signs. I think in deliberating on the motion, Board
5 members, I think we also need to factor in the reality
6 or common sense idea of what is the point of the
7 notification.

8 I think the point of notification is to
9 bring people to the public hearing so that we will get
10 the information and all the information for a full
11 rounded hearing, so that we might deliberate on it.

12 So I think, in large sense, except if my
13 colleagues disagree, in a large --

14 MR. SNIDER: Mr. Chairman?

15 CHAIRMAN GRIFFIS: Yes.

16 MR. SNIDER: May I be permitted one
17 additional comment?

18 CHAIRMAN GRIFFIS: To interrupt me? Okay.

19 MR. SNIDER: Yes, I thank you very much.
20 Visually, these properties are very separate. You
21 look at 1670, you're not going to know it's part of
22 1644.

23 CHAIRMAN GRIFFIS: No, I totally
24 understand, and I think it's a good point. Although
25 we had three additional posting by April 2nd, which

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1 doesn't make it exactly timely.

2 There it is. I don't want to spend a lot
3 of time because what we're doing is surgically
4 dissecting our regulations on posting. And so let me
5 hear from others.

6 MR. ZAIDAIN: Well, I've got a question
7 for Mr. Snider. You suggested that people on upper
8 31st Street, I think, would be, may not have known
9 about the case or whatever?

10 MR. SNIDER: Precisely.

11 MR. ZAIDAIN: What are the addresses --

12 MR. SNIDER: These people live across the
13 street --

14 MR. ZAIDAIN: Hold on, what are the
15 addresses up there?

16 MR. SNIDER: What?

17 MR. ZAIDAIN: What's the address range?

18 MR. SNIDER: The address in question?

19 MR. ZAIDAIN: Of the, no, what you're
20 talking about in terms of people up in upper 31st?
21 You're talking about --

22 MR. SNIDER: Essentially, anyone who's
23 address is above about 1650 31st Street. People
24 living up in that neighborhood.

25 MR. ZAIDAIN: Okay. Because, I mean, we

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1 usually evaluate these issues on practical affects in
2 terms of people being noticed. And there's a petition
3 submitted into the record listing people on the 1600
4 block of 31st Street, the 1600 block of 32nd, Q, P,
5 Scott Place, R Street.

6 All of which are aware of the case and are
7 signing letters in opposition. So, it seems to me
8 that there is not a lot of evidence that people up
9 that way were not aware of what was going on. Have
10 you seen this petition?

11 MR. SNIDER: Have I seen what?

12 MR. ZAIDAIN: Have you seen this petition?

13 MR. SNIDER: Oh, yes, I've seen the
14 petition and I'm aware of the signors, that there were
15 80 some odd signors on that petition.

16 CHAIRMAN GRIFFIS: Okay, I think that's an
17 excellent point, and again it goes to the substance of
18 what a notification is and the intent of the
19 regulations to require and also so that we have some
20 ability to measure whether it was properly and
21 adequately noticed.

22 Of course it is a very strong and a very
23 serious motion to dismiss. When, now recalling
24 reading the D.C. Appeals case, it was in fact, it was
25 in front of the ABC Board.

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1 But it was also for a renotification or a
2 notification of a continued hearing or a new date
3 hearing, is that correct?

4 MR. SNIDER: Correct.

5 CHAIRMAN GRIFFIS: Okay. Of which there
6 is some legitimacy to look to that and that is, again,
7 I think going to the substance of how you make sure
8 the public can participate.

9 So I think that's what's before us is
10 whether we are so strongly moved on this Board to
11 dismiss this case or, frankly, it would be not a
12 dismissal but a continuance for renotification or
13 reposting.

14 At least that's my opinion at this point,
15 looking at the motion. Whether we feel that there has
16 not been the proper and adequate notice, that has now
17 then prejudiced some of the general public in
18 participating in this case. Let me hear from Board
19 members. Ms. Mitten.

20 MS. MITTEN: Mr. Chairman, I think, as you
21 pointed out earlier, you know, posting is one form of
22 notice. There are two other forms of notice. People
23 that are within 200 feet of the property get an
24 individual mailing.

25 And the notice of hearing is published in

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1 the D.C. Register. And I think that, you know, to the
2 extent that anyone has been, if those other forms of
3 notice, and I don't believe there's any suggestion
4 that they were not properly executed.

5 I think the way that we can solve this is
6 merely to ask the Applicant to maintain the posting
7 for some additional period of time, leave the record
8 open, if we conclude today, to allow additional
9 submissions, and we can go from there.

10 I don't think that this is a fatal flaw as
11 the, as Mr. Snider has suggested. And we can
12 certainly repair what I think might be a very small
13 amount of damage by a little bit of additional
14 advertisement.

15 CHAIRMAN GRIFFIS: Okay, is that a motion,
16 Ms. Mitten?

17 MS. MITTEN: Sure. I move that we
18 dismiss, or that we deny the motion to dismiss based
19 on inadequate posting of the Dower House property.

20 CHAIRMAN GRIFFIS: Second? I'll second
21 it. Any discussion? Comments from the Board?
22 Questions, concerns, clarifications?

23 MS. BAILEY: Mr. Chairman, who seconded
24 the motion?

25 CHAIRMAN GRIFFIS: I did.

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1 MS. BAILEY: Thank you, sir.

2 CHAIRMAN GRIFFIS: Okay.

3 MR. ETHERLY: For discussion, Mr. Chair,
4 let me make sure I'm clear, if I could, in a question
5 to Mr. Snider.

6 CHAIRMAN GRIFFIS: Ooh, we're in the
7 middle of a motion.

8 MR. ZAIDAIN: We can't talk, because it's
9 a motion.

10 CHAIRMAN GRIFFIS: Can we clarify that for
11 --

12 MR. ETHERLY: Okay, let me clarify
13 internally. Let me clarify internally. Is the
14 substance of the motion that the notice has, the
15 notice for the rescheduled hearing date has not been
16 posted for the required 15 days or for the required
17 period of time? Is that the substance of the motion,
18 the substance of the motion that has been made by the
19 party, that my colleagues understand?

20 CHAIRMAN GRIFFIS: The substance of the
21 motion that I heard was that it wasn't properly posted
22 on the structure of 1670.

23 MS. MITTEN: Right, and that because it
24 was the 2nd and here we are at the 15th, that's not 14
25 days.

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1 MR. ZAIDAIN: And the posting will remain.

2 MS. MITTEN: Well, Mr. Etherly is just
3 trying to sort out what Mr. Snider is saying to us.

4 MR. ZAIDAIN: Oh, okay.

5 MR. ETHERLY: But it's my colleagues'
6 suggestion that we do, we take some additional steps
7 to satisfy any perceived defect --

8 MS. MITTEN: Yes.

9 MR. ETHERLY: -- by additional posting?

10 MS. MITTEN: Right. And I think we can
11 be, then we can assure ourselves that we've done,
12 we've cured whatever problem may have been created.
13 And I'm not sure that there has been, but to take, you
14 know, the most cautious route. Which we have done in
15 the past, I might add.

16 CHAIRMAN GRIFFIS: Further concerns,
17 deliberations, comments from the Board?

18 MR. ETHERLY: I'm inclined to support --

19 (Long pause.)

20 CHAIRMAN GRIFFIS: Any other comments,
21 concerns? Ms. Mitten?

22 MS. MITTEN: I'm going to ask Mr. Etherly
23 this question since he's an attorney and he has,
24 understands these words better than I do. But, I
25 mean, isn't there a distinction between the case

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1 that's been cited, the Alcoholic Beverage Control
2 Board case, in that these people were identified
3 already as people who had an issue with the
4 application for the liquor license, not just the
5 general public being notified.

6 But these were people who had already
7 staked a claim in the case not being notified. That's
8 what it appears to be, to me. Because it says on the
9 first page of Attachment B, in proceedings on
10 application for liquor license, District of Columbia
11 Alcoholic Beverage Control Board committed reversible
12 error in failing to comply with applicable statute by
13 giving notice of scheduled, of rescheduled hearing on
14 license application to known remonstrants and by
15 failing to post such notice on Applicant's premises.

16 I think it's a different standard there.

17 MR. ZAIDAIN: So there was no notice at
18 all?

19 MS. MITTEN: I think the point of this
20 case, in part, is that, this would be as if we, we
21 identified parties and then didn't tell some of them
22 that there was going to be another hearing date.

23 MR. ZAIDAIN: Oh, okay.

24 MS. MITTEN: That's a different standard,
25 I think.

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1 MR. ETHERLY: If I may, Mr. Chairman, I
2 think Ms. Mitten's effort to distinguish the case is a
3 good one. And I'm somewhat swayed. There are a
4 couple of things that I think give me a little bit of
5 comfort with moving forward.

6 Thank you, Ms. Mitten, for trying to work
7 that out, because Kopff was somewhat troubling to me.

8 But the fact that we have had the, as evidenced in
9 the record, at various exhibits, that we have had
10 substantial posting of the property prior to the
11 previously scheduled hearing date and then since that
12 date, I'm somewhat comfortable moving forward, despite
13 Kopff.

14 And then with the additional measures that
15 Ms., that my colleague, Ms. Mitten, has raised with
16 regard to continued, to continued posting, I would be
17 comfortable moving forward.

18 Mr. Chair, without belaboring this, I'm
19 comfortable moving forward with the additional
20 measures that were outlined by Ms. Mitten. I might
21 also suggest, I'm just trying to anticipate.

22 I think the spirit of Kopff and the spirit
23 of our notice proceedings are of course very critical.

24 I might also be inclined to note, perhaps, I don't
25 want to raise the specter of this but I'm trying to

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1 play worst case scenario here.

2 In that if we have additional members of
3 the public who conceivably might be out there and
4 might not have been aware of this particular hearing,
5 and might want to present themselves as potential
6 party Applicants.

7 Not so much so members of the public who
8 want to testify, but just individuals who might have
9 wanted to present themselves as parties, not having
10 notice to this opportunity, that we would also keep in
11 mind, perhaps, a somewhat more flexible openness to
12 subsequent -- actually, I'm not going to --

13 CHAIRMAN GRIFFIS: I think if we didn't
14 have any -- first of all we had no applications for
15 party status of which we have seven or eight,
16 depending on how they break out.

17 Secondly, if we didn't have so much
18 participation already, in terms of documentation and
19 issues, I think we may be stepping into irrevocable
20 errors in that the posting may not have encompassed
21 the entire property.

22 But the fact of the matter is not only
23 have we had ten postings, it's a large property, I
24 understand that. We have three major streets that it
25 fronts on.

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1 We have party status that have now been
2 grouped by the streets and are going to have the
3 particular issues. I would question whether we have
4 created errors that could not be remedied by the
5 continued posting of this if we don't finish by 12:00
6 today, and we are, of course, at 10:50 in the morning.

7 That being said, any other deliberations
8 or questions from the Board? We have a motion before,
9 it's been seconded for denying the motion to dismiss
10 for failure to post notice with, after the vote on the
11 motion, we'll have specific instructions as we
12 continue in this case.

13 I would ask, therefore, all those in favor
14 of the motion signify by saying aye.

15 (Chorus of ayes.)

16 CHAIRMAN GRIFFIS: And opposed?

17 MR. ETHERLY: Opposed.

18 CHAIRMAN GRIFFIS: Thank you, Mr. Etherly,
19 I appreciate that deliberation. Let's move ahead
20 then. Are there any other preliminary matters,
21 motions before the Board by the Applicant of parties
22 in this case? Applicant or parties? Nothing? Okay.

23 Very well. Then let's go to the
24 substance. We're getting a little bit of feedback, so
25 what I'm going to ask is could you turn that

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1 microphone off and then we'll just keep the
2 microphones off until you need to speak.

3 And we'll just keep one on, and that way
4 we won't all go crazy up here with that buzzing. With
5 that, I think we can turn it over to the Applicant for
6 the presentation of their case.

7 MR. VON SALZEN: Thank you, Mr. Chair,
8 members of the Board. Again, for the record, Eric von
9 Salzen of the law firm of Hogan and Hartson, Counsel
10 for the Applicant, Tudor Place Foundation.

11 We would like to call Leslie Buhler, the
12 Executive Director of Tudor Place as a witness on
13 behalf of the application.

14 MS. BUHLER: I'm pleased to be here to
15 represent the Board of Trustees and staff of Tudor
16 Place in its renewal application for a special
17 exception to operate as a museum.

18 Mr. Chairman, and members of the Board of
19 Zoning Administration, my statement this morning is a
20 supplement to the written one which was submitted with
21 the application.

22 Since coming to Tudor Place in June of
23 2000, I have made a commitment to being responsive to
24 our immediate neighbors, to be a presence in the
25 community in order to raise awareness of the

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1 importance of Tudor Place, historically, culturally
2 and architecturally.

3 And to build trust in Tudor Place as a
4 valuable asset to Georgetown. I am particularly
5 sensitive to the importance of Tudor Place respecting
6 the neighborhood because I live in the District and
7 have wrestled with zoning issues in my own
8 neighborhood and recognize the impact of zoning, the
9 importance of maintaining zoning.

10 Tudor Place is a young museum and has had
11 its growing pains. Over the last two and one half
12 years, I have worked to reorganize Tudor Place
13 operations in order to preserve the site and share its
14 rich history with the public.

15 We now have a small professional staff to
16 manage the diverse and extensive collections,
17 including a substantial collection of objects, the
18 largest collection of Mount Vernon objects outside of
19 Mount Vernon in public hands, and 200 year old trees
20 and shrubs.

21 We have recently received a Save America's
22 Treasures grant to address water infiltration, and a
23 grant from the Institute for Museum and Library
24 Services is pending to fund a Conditions Assessment
25 Report on our seven historic buildings and the site

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1 and five and a half acres of cultivated landscape.

2 We have an interpretation effort underway
3 to examine how to present Tudor Place to the public in
4 the most educational and accessible manner. We are
5 currently researching the slaves, free blacks and
6 servants who worked at Tudor Place, so that the full
7 story of the site can be told.

8 We are working with a class in Public
9 History at American University to do research and
10 conduct visitor surveys. We will also conduct focus
11 groups of people from across the District so the story
12 of Tudor Place is more accessible to a broader range
13 of people.

14 Since I've been at Tudor Place, we have
15 adhered to the Board's ruling of 1999. The conditions
16 under the renewal remain largely the same with a few
17 changes that clarify and further restrict the
18 activities of the foundation.

19 It is our intention to continue to build
20 neighborhood trust so that at some point we can apply
21 for a permanent exception. The proposed conditions
22 were developed through transparent process with
23 neighbors.

24 In October, 2002, Tudor Place sent a
25 letter to neighbors notifying them of our need to

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1 submit an application to the Board of Zoning
2 Adjustment and asking for any concerns they might
3 have.

4 Four positive responses were received
5 about current operations. In November, a draft of the
6 conditions was distributed to mailboxes of surrounding
7 homes. We then extended an invitation to a meeting to
8 discuss the conditions.

9 A group of nine people came to the
10 meeting, including Mindy Kotler, Ron Snider, Don
11 Crockett, Gretchen Handriger, Ross Watson, Marion
12 Golden and Jerry Rosen, and Peter Pulsifer and Jason
13 Hurdle from the Advisory Neighborhood Commission.

14 The group reviewed the draft conditions,
15 point by point, and made changes to them. The revised
16 conditions were distributed once again to neighbors
17 with a request for any concerns or questions.

18 None was received, although Mr. Snider did
19 call to offer to pay the prorated expense of the
20 application if we would agree to apply for three years
21 instead of five.

22 The conditions were posted on our website,
23 at the request of neighbors, and a notice was put in
24 the newsletter of the Citizens Association of
25 Georgetown about the posting. We encouraged people to

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1 call with questions and concerns, and if someone
2 wanted a copy of the conditions in print.

3 Both the Georgetown Current and the
4 Georgetowner ran editorials in support of our
5 application, and I would like to submit photocopies of
6 those editorials, as well as additional letters of
7 support from neighbors on 31st and 32nd and Q Streets,
8 letters from the Georgetown Garden Club, of which
9 there are 69 members, Charles Atherton of the
10 Commission of Fine Arts, and Dennis Pogue of Mount
11 Vernon, who is Vice President of Restoration.

12 The Advisory Neighborhood Commission voted
13 unanimously to support our application for a special
14 exception. In fact, one Commissioner who had attended
15 our meeting with neighbors to review the conditions
16 expressed dismay when he noted that several of those
17 opposing the application before the ANC had been at
18 our meeting.

19 The Commissioner noted how responsive
20 Tudor Place staff was to the recommendations and
21 suggestions of neighbors and questioned why the
22 opposition did not speak up then.

23 I am aware that those opposing the special
24 exception distributed a very misleading letter and
25 petition. The letter and petition opened with

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1 statements supporting Tudor Place and then went on to
2 say that we were violating the wishes of the last
3 owner. Which we are not.

4 And it asked signors to oppose disruptive
5 uses, which we are not proposing. Three neighbors who
6 received the letter and petition and who had also
7 attended the Tudor Place meeting, wrote to us. I'd
8 like to quote two of those letters.

9 Quote, I attended the November meeting you
10 called to gain additional neighborly input for the
11 pending BZA application. We all spent hours examining
12 the provisions, clarifying language and agreeing to
13 such neighbor's suggestions as the appointment of a
14 liaison committee and the dissemination of a calendar
15 events.

16 So we were certainly surprised when we
17 received a letter from the so-called friends and
18 neighbors of Tudor Place, that included persons who
19 also attended that meeting and nevertheless
20 misrepresented what had transpired there.

21 Another wrote the friends and neighbors
22 letter signors saying, quote, your letter is a wicked
23 interpretation of a meeting I attended at Tudor Place
24 about its application for a BZA special exception.

25 Tudor Place made every accommodation to

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1 its neighbors, often to the detriment of its mission
2 and survival. The range of programming by Tudor Place
3 clearly shows this institution is more than a mere
4 period house.

5 The restrictions that Tudor Place has
6 placed upon itself for its meeting and fundraising are
7 more reasonable than any other arts or institution in
8 the area, unquote.

9 Other people who signed the friends and
10 neighbors letter, such as Julia Pardoe, Sheila and
11 Edwin Weidenfeld, Frances Wilkinson, and Tia Cudahy,
12 all said that we could use their names, noting that
13 they are in favor of our application and felt misled
14 by the letter to friends and neighbors of Tudor Place.

15 I believe our presentation more than
16 satisfies the burden of proof under Section 3104 and
17 217 of the Zoning Regulations. Tudor Place will
18 continue to dedicate itself to preservation and to
19 providing educational services to the community and
20 the nation.

21 As two neighbors noted in their letter of
22 support, Tudor Place, quote, Tudor Place is not only a
23 national treasure, it is a Georgetown and neighborhood
24 asset of immeasurable proportion.

25 Its physical beauty graces our daily

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1 lives. It is a privilege to live in such proximity to
2 such historic events. On balance its acres of gardens
3 and sporadic events surely make the neighborhood less
4 congested, not more. That concludes my statement.

5 CHAIRMAN GRIFFIS: Thank you very much.

6 MR. VON SALZEN: May we submit, for the
7 record, the documents Ms. Buhler was referring to in
8 her statement?

9 CHAIRMAN GRIFFIS: Yes. And if you would
10 serve the parties first and then you can drop it off
11 for the Board. And if we can, in the meantime,
12 continue.

13 What I would like to do is get the full
14 presentation of the Applicant, all witness. We'll
15 take Board questions at that time of any witnesses
16 that are presenting testimony and then we'll go to
17 cross examination.

18 MR. VON SALZEN: The Applicant has no
19 further witnesses.

20 CHAIRMAN GRIFFIS: Can you turn on your
21 mic.

22 MR. VON SALZEN: Oh, I'm sorry. The
23 Applicant has no further witnesses.

24 CHAIRMAN GRIFFIS: Okay. That's the
25 entirety of your presentation and case, is that

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1 correct?

2 MR. VON SALZEN: That is correct, that is
3 correct.

4 CHAIRMAN GRIFFIS: Wow, indeed, we are now
5 then at the presentation, the total and entire
6 Applicant's case. I'm really going to have to be
7 precise here. Too bad my vision is fuzzy.

8 I think we're looking at 15 minutes. I'm
9 going to be generous there. Okay, that being said,
10 Board questions of the testimony heard. I have one
11 question, or actually several. But first, your last
12 statement indicated, based on the size of the property
13 itself and the street front is where it's going to is
14 that actually helps the street parking and that there
15 is not an increased demand created by the functions at
16 Tudor Place.

17 I think you're well aware, and obviously
18 there are issues. How have you seen or how have you
19 addressed, in the past, or present to address in the
20 future if this is granted to deal with the daily
21 traffic that is created by Tudor Place, of which there
22 is some, and then event, and any sort of event traffic
23 that may be there?

24 MS. BUHLER: Well, first of all we have
25 approximately, depending upon the size of the vehicle,

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1 32 parking spaces on the frontage of Tudor Place,
2 which is substantial.

3 CHAIRMAN GRIFFIS: But that's not where,
4 you have tour buses that come also that --

5 MS. BUHLER: And they leave, they do not
6 stay.

7 CHAIRMAN GRIFFIS: Right, and those do not
8 go into that parking.

9 MS. BUHLER: And we do not have tour buses
10 on a regular basis. They are primarily there during
11 April and May and in September and October, because
12 that's the times that people come to historic houses.
13 And we do not have --

14 CHAIRMAN GRIFFIS: And what is the
15 regularity with buses then, when you say --

16 MS. BUHLER: We maybe have one or two a
17 week.

18 CHAIRMAN GRIFFIS: One or two a week?

19 MS. BUHLER: A week.

20 CHAIRMAN GRIFFIS: I see.

21 MS. BUHLER: During those two months.

22 CHAIRMAN GRIFFIS: Okay.

23 MS. BUHLER: Particularly April and May.
24 We, during events of over a certain size, we have
25 valet parking service. And we use the Chevy Chase

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1 Bank lot and the Jelleff lot. We do not permit people
2 to park on the street.

3 And we also have parking in the rear of
4 our building, the buildings that we can use to stack
5 cars.

6 CHAIRMAN GRIFFIS: And you provide valet
7 for the events. Do you restrict parking? Do you post
8 that event attendees should not park or cannot park on
9 the street?

10 I don't think you can actually stop them
11 from doing it, but do you give any direction of that
12 or on invitations that go out or event notices,
13 anything of that sort?

14 MS. BUHLER: We say that valet parking is
15 available.

16 CHAIRMAN GRIFFIS: I see.

17 MS. BUHLER: But most of our events are
18 such a small number, that we, they are in the 15 to 20
19 to 30 range, then we don't. There's only one large
20 event that we've been doing over the last several
21 years.

22 CHAIRMAN GRIFFIS: I see.

23 MS. BUHLER: And we say valet parking and
24 people use that. We could certainly do that, but we
25 hadn't thought of it.

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1 CHAIRMAN GRIFFIS: Okay. Questions, Ms.
2 Mitten?

3 MS. MITTEN: What can you tell us about
4 the operation of the Liaison Committee and who has
5 been participating in it?

6 MS. BUHLER: The Liaison Committee has
7 met, as instructed by the Board of Zoning Application,
8 ruling in 1999, that we meet four times a year and
9 then twice a year.

10 And we've been meeting regularly, we've
11 been holding those meetings regularly. The people who
12 have come to those meetings, Ron Snider I think has
13 come to every single one of them.

14 And Victoria Ricksey, from the Citizens
15 Association of Georgetown has come. And periodically,
16 we've sent notices out to all neighbors about it and
17 have them come. And also we've had an ANC
18 representative come.

19 MS. MITTEN: And at those meetings --

20 MS. BUHLER: They've all been invited.

21 MS. MITTEN: At those meetings have you
22 had discussions about adverse impacts, at all, that
23 are created by your operation?

24 MS. BUHLER: When I first got there, we
25 had adverse, there was adverse impact from the, from

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1 some of the large rental events, the weddings
2 primarily. But that's been it.

3 MS. MITTEN: And did you make adjustments
4 to your operation to address those?

5 MS. BUHLER: Yes, yes.

6 MS. MITTEN: And can you tell us what
7 those adjustments were?

8 MS. BUHLER: I put a moratorium on all
9 weddings and rentals for two reasons. Number one,
10 because it clearly was an issue within the
11 neighborhood. And number two, it's an issue of
12 historic preservation.

13 MS. MITTEN: Okay. And then the Condition
14 11 said that you will notify affected area residents
15 of scheduled, large, evening functions by sending them
16 a calendar of such events.

17 How far of a range, who do you consider to
18 be affected?

19 MS. BUHLER: Well, we did not, I did not,
20 was not aware of this larger, that larger area, so
21 what we did was hand delivered notices to all the
22 affected, all the properties that are contingent in
23 any way to Tudor Place.

24 So up and around all the blocks.

25 MS. MITTEN: So that would include across

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1 the street?

2 MS. BUHLER: Yes, oh yeah, yes. Just not
3 down the street.

4 MS. MITTEN: I understand.

5 MS. BUHLER: We've also addressed, I have
6 to say that we've addressed, anytime a neighbor calls
7 with a complaint, we've addressed it. We have a
8 neighbor, one of the women that came to our
9 neighborhood meeting who lives directly across the
10 street from our service entrance and has been
11 concerned about our trash delivery.

12 We changed the times of our trash delivery
13 to meet, to accommodate her. We've also put up new
14 plantings, we've painted our trash containers. So
15 we've, I mean we've done all that.

16 Another neighbor has called a few times
17 that there are buses lingering on the street. They
18 are not all our buses that linger on the street.
19 We've chased away buses that have dropped people off
20 at other sites in Georgetown.

21 And the ones that we do have, we have
22 instituted very specific procedures. They get a
23 letter in advance. They get a card when they drive
24 up, and they are told where to go and what to do.

25 CHAIRMAN GRIFFIS: How do you chase buses

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1 off?

2 MS. BUHLER: You make, you just stand, you
3 go out and check and make sure that they actually left
4 the street.

5 CHAIRMAN GRIFFIS: So somebody from our
6 staff is physically going out there and talking to the
7 bus drivers?

8 MS. BUHLER: Yes, yes, oh yeah.

9 CHAIRMAN GRIFFIS: I see. Okay. Any
10 other questions from the Board?

11 MR. ETHERLY: Mr. Chair, very briefly,
12 just to follow up.

13 CHAIRMAN GRIFFIS: Yes.

14 MR. ETHERLY: In the vein that Ms. Mitten
15 was exploring, could you also speak to, Ms. Buhler,
16 briefly, the experience of the organization with
17 respect to the Tudor Place Duty Officer and the
18 Community Liaison. Were those two points of contact,
19 or I should say was the Community Liaison established,
20 and if so, who that individual is?

21 MS. BUHLER: Me.

22 MR. ETHERLY: Okay, you get to wear that
23 hat. And your experience with the Tudor Place Duty
24 Officer, so to speak, with regard to kind of acting as
25 point of contact for each event.

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1 MS. BUHLER: That is the person who is on
2 duty. And we only, we have one larger event that met
3 this requirement and it's been me.

4 MR. ETHERLY: Okay, thank you. Thank you,
5 Mr. Chair.

6 CHAIRMAN GRIFFIS: Anything else from the
7 Board? Any other questions? Good. Oh, I'm sorry,
8 Mr. Zaidain.

9 MR. ZAIDAIN: This is just kind of a
10 general question. I mean, and this is not to say
11 whether, not to judge whether it's effective or
12 ineffective at this point, but your presentation has
13 been rather short in terms of putting on an initial
14 case.

15 Is that because you feel that the
16 operation is essentially the same as it was under the
17 1999 Order and that all those issues -- I was looking
18 through the Order. There are references to traffic
19 analysis being done by Osborne George and Associates.

20 Do you feel that all that is still
21 applicable to this because nothing has changed in your
22 operation?

23 MS. BUHLER: Well, in fact, we have
24 reduced our number of activities for the larger events
25 and so we did not think it was absolutely necessary.

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1 Because this is a renewal.

2 MR. ZAIDAIN: Right. Okay. Well, I guess
3 I'll save some other questions for Office of Planning.

4 Because as you know, I mean, have you seen the Office
5 of Planning Report?

6 MS. BUHLER: No, sir.

7 MR. ZAIDAIN: Okay, well.

8 CHAIRMAN GRIFFIS: Anything else?

9 MR. ZAIDAIN: Not at this time.

10 MR. ETHERLY: One final question. With
11 respect to the somewhat expanded use of Dower House
12 that is part of this application, could you speak a
13 little bit to, I just want to make sure I'm clear,
14 part of your proposed conditions would be that you
15 would count any events at Dower House as being events
16 at Tudor Place --

17 MS. BUHLER: Yes.

18 MR. ETHERLY: -- and therefore they would,
19 that would go towards the overall count of some of the
20 existing limitational conditions --

21 MS. BUHLER: Yes, yes. And, yes.

22 MR. ETHERLY: Okay, thank you. Thank you,
23 Mr. Chair.

24 MS. MITTEN: Mr. Chairman, I did have one
25 additional question. In the, our Exhibit Number 8,

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1 which is entitled the Burden of Proof for Special
2 Exception, Detailed Statement of the Applicant.

3 Included in Proposed Condition Number 7,
4 it said in no event shall rental functions for the
5 purpose of weddings be permitted for 75 or more
6 guests. And I might have misunderstood you, but I
7 thought you said you had sort of just not, you don't
8 rent for weddings anymore at all.

9 MS. BUHLER: We have not rented for
10 weddings, no.

11 MS. MITTEN: So would you be willing to
12 just --

13 MS. BUHLER: With this new application
14 we're -- well, we did have, I have to count that,
15 excuse me. We had a wedding for a woman that had
16 cancer surgery for 20, that was going to have cancer
17 surgery and she had wanted to have a wedding for 20
18 people. And we let her have that.

19 So, I think that, and often neighbors call
20 us. I just had a call yesterday from a neighbor who
21 wants to have a small wedding and wants to have the
22 wedding at Tudor Place. And I said that we cannot do
23 it until this hearing.

24 CHAIRMAN GRIFFIS: But that's clearly what
25 is being asked for in this special exception.

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1 MS. BUHLER: Pardon?

2 CHAIRMAN GRIFFIS: Those types of events
3 are being asked for in this special exception?

4 MS. BUHLER: Yes.

5 CHAIRMAN GRIFFIS: Okay, and I'm just
6 going to interrupt you briefly and turn it back to
7 you, Ms. Mitten, just to clarify, of course, this is
8 not a renewal, but rather a brand new, stand alone
9 special exception of which its history is there is
10 prior special exception to this. Ms. Mitten.

11 MS. MITTEN: I just want to, maybe you can
12 just explain to us what's the nature of a wedding that
13 makes it sort of a different, I mean, I've been
14 married and I know what it is, but I don't know from
15 an impact standpoint, what makes it unique in terms of
16 why you decided not to have them anymore, in general.

17 MS. BUHLER: The weddings that were being
18 held were very large weddings.

19 MS. MITTEN: Okay.

20 MS. BUHLER: And they, I think, because of
21 their size and the noise and the activity generated by
22 them, they were again detrimental to the neighborhood,
23 as well as being detrimental to the historic site.

24 MS. MITTEN: Okay, so you think that by,
25 you can solve that by restricting the size of the

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1 wedding?

2 MS. BUHLER: Right.

3 MS. MITTEN: Okay.

4 MS. BUHLER: And basically what it, what
5 it would do would let people have a ceremony there and
6 then go somewhere else for a reception.

7 MS. MITTEN: Would you be willing to say,
8 in no event shall rental functions for, or have
9 something that says the ceremony as opposed to the
10 reception, to narrow it down?

11 MS. BUHLER: Sure.

12 MS. MITTEN: Okay. Thank you.

13 CHAIRMAN GRIFFIS: Mr. Etherly.

14 MR. ETHERLY: I'm not going to say one
15 final question, because I've said it twice already and
16 I've had follow up questions. But what I'm trying to
17 do is also anticipate some of the, some of the either
18 cross examination or some of the presentation we're
19 going to be hearing on the other side of the fence.

20 Clearly, there continue to be some
21 concerns about some of the operations on the property,
22 and so I want to kind of probe that a little bit, but
23 I don't want to lose the momentum we've gained by
24 having such a short and tight case presentation.

25 With respect to the Community Development

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1 Liaison, let me just ask briefly have you been, in
2 your capacity in that role, have you been keeping
3 track of complaints --

4 MS. BUHLER: Absolutely.

5 MR. ETHERLY: -- or concerns that have
6 been raised in written form, so to speak.

7 MS. BUHLER: Yes.

8 MR. ETHERLY: Meaning it's something that
9 you can kind of look back on at the close the year and
10 say, okay, here's what we've gotten?

11 MS. BUHLER: Yes.

12 MR. ETHERLY: Is that something that you
13 can make available to this Board?

14 MS. BUHLER: Yes.

15 MR. ETHERLY: Okay, thank you, that's it.
16 Thank you, Mr. Chairman. The reason why I ask is I
17 think that will be helpful and instructive as we hear
18 and review some of the issues that are going to be
19 raised by some of your adjacent neighbors.

20 CHAIRMAN GRIFFIS: Okay. And you seem to
21 indicate that you had it here with you, so you'd
22 present that today, is that the case?

23 MS. BUHLER: Well, I thought we did.

24 CHAIRMAN GRIFFIS: Well, we'll take it
25 today. Clearly, if not, we'll just leave it as

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1 something that will be submitted into the record and
2 we'll see how far we go with that. Any other
3 questions of the Board at this time? Very well, then
4 we can go to cross examination.

5 I know I don't need to tell this group,
6 necessarily, what cross examination is, but cross
7 examination is questions of the testimony that you've
8 heard or submissions on the record.

9 We are, yeah, indeed. Forgive me, I'm
10 getting some instruction from my Board members of
11 things that I should not forget. Cross examination,
12 this is obviously not the time to give presentation of
13 your case in party in opposition, but rather to
14 question the testimony that you have heard that might
15 in fact substantiate your case, make your case or, as
16 one might say, poke holes in the case presentation
17 that you've heard today.

18 We will also be vigilant and not have
19 redundant questions or try and get too caught in a
20 circle of questions and answers. So, I would ask that
21 questions be very explicit and direct. Answers to be
22 succinct and direct.

23 And, of course, the last piece I need to
24 say on this is that this is for our benefit in getting
25 the information. So, if you keep that in mind, we are

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1 the ones that need to understand it.

2 That being said, let's have the order as
3 Mr. Crockett, I believe you are at the table, present
4 and ready to fire. That being said, I will set the
5 order for cross examination and presentation of case
6 this way.

7 I'd like to go to the Q Street party, then
8 to 31st, then to 32nd and then to the ANC. Is there
9 an ANC representative today present? Excellent. Do
10 you mind being last, after the parties, sir?

11 Giving an indication of not, we'll keep
12 that order then. It is all yours, sir.

13 MR. CROCKETT: Thank you, Mr. Chairman.
14 Good morning, Leslie.

15 MS. BUHLER: Good morning, Don.

16 MR. CROCKETT: I wanted to first ask you
17 the question, did I ever give you the impression that
18 I agreed to the reinstatement of the commercial events
19 at Tudor Place, in the course of these meetings?

20 MS. BUHLER: No. The use of the term
21 commercial events always throws me, though.

22 MR. CROCKETT: Well, events that are not
23 part of the tour, the tour operation of Tudor Place?

24 MS. BUHLER: You've never defined
25 commercial events to me, Mr. Crockett.

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1 MR. CROCKETT: Okay, but my general
2 question is you didn't get the impression that I was
3 dropping any opposition that I had to these types of
4 events?

5 MS. BUHLER: No, sir. In fact, you told
6 me very specifically that you were opposed to no
7 matter what we did.

8 MR. CROCKETT: Now you testified that when
9 you arrived you put a moratorium on these events and
10 so there really haven't been any events for the past
11 two years?

12 MS. BUHLER: There have been no weddings.

13 MR. CROCKETT: Okay, what events have
14 there been?

15 MS. BUHLER: There have been special
16 fundraising events for Tudor Place, exhibition
17 openings.

18 MR. CROCKETT: How many of them?

19 MS. BUHLER: Over a certain size or the
20 number in total?

21 MR. CROCKETT: Well, the number in total
22 and the size?

23 MS. BUHLER: I can't recount that off the
24 top of my head. There's one large event that is up to
25 500 people, which is a fundraiser, which is a spring

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1 garden party which was held actually by the prior
2 owner every year.

3 And we have maintained that as a
4 fundraiser for Tudor Place. It is the one large
5 fundraising event that we have. We have one
6 exhibition a year, which is of educational purpose and
7 value.

8 And we have an opening for that. We do
9 have educational programs. We have, we've offered
10 those for children and adults and those are very
11 limited in number in a month.

12 MR. CROCKETT: Okay, now do you propose to
13 continue the same number of events as we've had in the
14 past two years, which have been minimal?

15 MS. BUHLER: That is my intent.

16 MR. CROCKETT: Are you aware that the
17 proposed order that you have submitted for entry by
18 the BZA gives Tudor Place the right to hold events for
19 up to 200 people, unlimited events, on any day or
20 night of the week, for up to 200 people. Are you aware
21 of that?

22 MS. BUHLER: Yes, I am.

23 MR. CROCKETT: If your intention is to
24 carry forward with only the minimal events that have
25 occurred in the last two years, why do you seek this

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1 broad authority to have an event for 200 people
2 anytime you want?

3 MS. BUHLER: I guess we live in America.
4 And I don't think that every thing is as prescribed.
5 I think that there needs to be some trust of an
6 institution, and I think that we've proven that trust.

7 I am not aware of, although I frankly
8 haven't looked at other permanent exceptions, but I
9 certainly know that there are permanent exceptions at
10 cultural institutions in the city that have far
11 greater latitude than we do.

12 CHAIRMAN GRIFFIS: Let me follow up on the
13 question, though, because it is going to something
14 that I'm interested in. You're saying that, in fact,
15 look, you don't, in the past two years you've had a
16 certain behavior pattern with the events.

17 MS. BUHLER: And that's what we will
18 maintain.

19 CHAIRMAN GRIFFIS: And you are certainly
20 continuing with that.

21 MS. BUHLER: Yes.

22 CHAIRMAN GRIFFIS: I don't think we're
23 questioning, first of all, thank goodness we are not
24 questioning this Board whether this is America or not
25 or trust. But rather why would you be asking for the

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1 ability?

2 Is it just pure flexibility so that you
3 might actually anticipate doing those events? Or
4 maybe one year you do, one year you don't? You
5 probably need to be a little more direct in your
6 answer.

7 MS. BUHLER: Okay, I can say, Mr. Chairman
8 and Mr. Crockett, that we, and the Board, we are a
9 museum that has a preservation and education purpose.

10 We took this application, which I thought
11 was a renewal, to, and went over it with our
12 neighbors, starting from the basis of what I inherited
13 and that the Board approved and ruled on in the past.

14 And we moved forward with it from there.
15 We did not look at putting every little, you know, we
16 will do, you know, this, this, this and this for the
17 next five years.

18 We looked at it from a very different, you
19 know, from the fact that this is what it was. That
20 this is how we were operating and therefore that's how
21 we would submit again.

22 CHAIRMAN GRIFFIS: Okay, and just for
23 clarity, it's your understanding that you took the
24 existing order and reused that because it was
25 successful. That in fact it --

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1 MS. BUHLER: Because it had been approved,
2 yeah.

3 CHAIRMAN GRIFFIS: Right. If, in fact, if
4 it was approved in the same shape and form as it had
5 been in the past, you are now testifying that there
6 would be some difference in actual practice and what
7 is allowed, is that correct?

8 MS. BUHLER: Yes.

9 CHAIRMAN GRIFFIS: Okay, so the order
10 might, if approved, allow you to do, I'm making
11 hypotheticals, ten events, you think you would do one.
12 And there would be a difference. Is that correct?
13 Practice order. This is a yes or no.

14 MS. BUHLER: Yes.

15 CHAIRMAN GRIFFIS: Good. Now, for the
16 straightforward aspect of this, that doesn't help us
17 that much. We're going to be looking at the impact of
18 what the order allows you to do.

19 So, rather than exploring a lot about, you
20 know, my full anticipation and trust me, we're going
21 to put it down in the order. And it will be
22 conditions, if it's approved, conditions that will be
23 looked at and enforceable and it will be based on a
24 deliberation that we believe does not create any
25 detriment to the overall community.

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1 So, if that helps focus where we're going
2 with this, I certainly hope so. It did for me,
3 anyway.

4 MR. CROCKETT: Thank you, sir.

5 CHAIRMAN GRIFFIS: All yours.

6 MR. CROCKETT: Ms. Buhler, you arrived in
7 June of 2000, and you placed the moratorium on the
8 events. Were you around for any of the events that
9 occurred that spring?

10 MS. BUHLER: No, sir.

11 MR. CROCKETT: Were you around for the
12 Glickman wedding?

13 MS. BUHLER: No, sir.

14 MR. CROCKETT: Were you aware of any
15 adverse impacts that, on the neighborhood from events
16 such as the Glickman wedding that spring?

17 MS. BUHLER: Prior to my coming to --

18 MR. CROCKETT: Prior to your coming?

19 MS. BUHLER: No, sir.

20 MR. CROCKETT: Okay. So you haven't ever
21 personally witnessed large traffic jams out on 31st
22 Street, or parking problems as a result of these
23 events?

24 MS. BUHLER: At Tudor Place, no.

25 MR. CROCKETT: Because there has been a --

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1 MS. BUHLER: Of other institutions, yes.
2 But not Tudor Place.

3 MR. CROCKETT: But not at this particular
4 one?

5 MS. BUHLER: Yes.

6 MR. CROCKETT: Okay. So you don't have
7 any information as to what problems neighbors might
8 have parking --

9 CHAIRMAN GRIFFIS: How is that pertinent?
10 She didn't testify to saying that the neighbors did
11 not have issues, but rather that she didn't create
12 them. But how would that help us whether she has the
13 knowledge?

14 MR. CROCKETT: Well, let me ask the
15 question this way, then.

16 CHAIRMAN GRIFFIS: Okay.

17 MR. CROCKETT: What evidence do you have
18 that there will be no adverse impact when you have,
19 say, a rental event for either 200 or 500 people?

20 MS. BUHLER: I don't. I have your
21 testimony and Mr. Snider's and Mr. Theis, who I met
22 with several times when I first came on board at Tudor
23 Place.

24 CHAIRMAN GRIFFIS: I'm not sure you
25 understood his question. His question is what

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1 evidence do you have that there will be no adverse
2 impact. And you've indicated that you have his
3 testimony and submissions?

4 MS. BUHLER: Well, I was not present when
5 those were occurring.

6 CHAIRMAN GRIFFIS: Okay.

7 MS. BUHLER: And since I have been there,
8 the large events that we have held, I have not heard
9 any complaints about the activity. We have not
10 received any complaints about spring garden party.

11 CHAIRMAN GRIFFIS: Okay. And as you
12 anticipate in this one or few events that we're
13 trusting that you'll have only, you've heard,
14 obviously, then there's going to be a lot of testimony
15 about that you, you, I would hope would anticipate
16 that conditions are created.

17 What are you doing that might mitigate any
18 impact, adverse impact that is being talked about by
19 the residents in opposition? What's your anticipation
20 of how you're going to deal with that?

21 One you've talked about. I'll give you
22 the example that is in your testimony and that's
23 buses, large buses, that's a complaint. Nobody wants
24 idling buses with all that fuel and the noise sitting
25 on a residential street.

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1 You go out, you move buses. You also
2 testified to the fact that they are not all attendant
3 to Tudor Place, and rather it seems to be a big
4 street, maybe that's where they hang out, I don't
5 know.

6 So, I think that question is eliciting a
7 little bit more than, you don't know. I'll restate
8 the question if you'd like.

9 MS. BUHLER: Okay, well we do have valet
10 parking.

11 CHAIRMAN GRIFFIS: Okay.

12 MS. BUHLER: And we do have people that
13 monitor and the valet parkers are giving strict
14 instruction for the large events. And the only thing
15 I can say is since I've been here, the large events
16 that we have had, Mr Chairman, we have had no
17 complaints on.

18 Now, I don't know how else to respond,
19 quite frankly.

20 CHAIRMAN GRIFFIS: That's fine. That's
21 fine. I just wanted to make sure you understood the
22 question.

23 MS. BUHLER: Yeah.

24 CHAIRMAN GRIFFIS: Anything further?

25 MR. CROCKETT: Oh, yes, sir. Now, Ms.

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1 Buhler, you say that we should trust you to do what
2 you've been doing in the past, and I guess, I for one
3 could say that I probably do trust you. But what
4 happens if you get another job and leave?

5 CHAIRMAN GRIFFIS: Yeah, actually I think
6 I've addressed that. We'll put it in the order. And
7 I think I'm clear there's a great consensus that,
8 first of all, this Board has worked very hard, this
9 current Board, do make conditions that are measurable,
10 recognizable and enforceable.

11 There is no way that we're stepping down,
12 because that is the exact issue. You may have an
13 intention, but the next person there does not have the
14 same.

15 So, we can move on beyond that.

16 MR. CROCKETT: Ms. Buhler, are you
17 familiar with the licensing requirements of DCMR, 19
18 Chapter, 19 DCMR, Chapter 3013?

19 CHAIRMAN GRIFFIS: And how does that get
20 us to 11 DCMR Zoning?

21 MR. CROCKETT: This is licensing for
22 outdoor events that involve music, dancing or singing.

23 CHAIRMAN GRIFFIS: Okay, but you're clear
24 on the fact that we have absolutely no jurisdiction
25 over 19 DCMR?

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1 MR. CROCKETT: I am clear that this Board
2 has not jurisdiction over that. Although, the last
3 Board seemed to think they did.

4 CHAIRMAN GRIFFIS: The last BZA?

5 MR. CROCKETT: The last BZA --

6 CHAIRMAN GRIFFIS: Interesting.

7 MR. CROCKETT: -- seemed to think that
8 they could override this. But we don't agree with
9 that.

10 CHAIRMAN GRIFFIS: Especially since it
11 doesn't have anything to do with us, no jurisdiction.

12 But --

13 MR. CROCKETT: It has to --

14 CHAIRMAN GRIFFIS: Right, indeed. What I
15 need to know, I mean, I think you can tie it, I don't
16 know where you're going with this. But I need it to
17 be tied into the regulation. I think 217 will
18 probably facilitate. Go ahead.

19 MR. CROCKETT: When you have a large event
20 at which there is going to be music, singing or
21 dancing outdoors, at a large event, does Tudor Place
22 go down and get a license for that type of
23 entertainment? Has that been your practice?

24 MS. BUHLER: I'm trying to think of music,
25 dancing --

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1 MR. CROCKETT: Anytime a wedding reception
2 with a dance band?

3 MS. BUHLER: I've not been here, I've not
4 been there for a wedding reception.

5 MR. CROCKETT: Have you had any events at
6 which you had an outdoor band and dancing?

7 MS. BUHLER: Band and dancing? Since I
8 have been there?

9 MR. CROCKETT: Or just a band, since
10 you've been there?

11 MS. BUHLER: No. No, sir.

12 MR. CROCKETT: Okay, so you wouldn't know
13 whether previously they had gone down to get a license
14 for that?

15 MS. BUHLER: I assume that they would
16 have, but I don't know. I can't answer that.

17 MR. CROCKETT: Now, with respect to
18 parking, are you aware of the parking survey that was
19 done by Tudor Place for the last hearing by Osborne
20 George?

21 CHAIRMAN GRIFFIS: Mr. Crockett, you're
22 introducing this evidence in cross examination?

23 MS. BUHLER: I'm aware of it. Have I read
24 it? No.

25 MR. CROCKETT: Any of these documents that

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1 I question her on, I would like to be put in the
2 record.

3 CHAIRMAN GRIFFIS: Indeed.

4 MS. MITTEN: I think on the issue of
5 Chapter 19, the Chair questioned the relevance and I
6 thought it was determined that Chapter 19 was not
7 relevant. So letting that into the record isn't
8 appropriate and I think there has to be, if the Chair
9 questions the relevance of something there has to be a
10 showing before we take --

11 CHAIRMAN GRIFFIS: Right. We just went
12 very brief on the Osborne George, which is the past
13 traffic analysis for the previous special exception.
14 Is that correct?

15 MR. CROCKETT: That's correct.

16 CHAIRMAN GRIFFIS: Okay. Now let me
17 address 19 DCMR, as Ms. Mitten has stated. Where your
18 question --

19 MR. CROCKETT: I'll withdraw that, I mean
20 it's --

21 CHAIRMAN GRIFFIS: Exactly. And I don't
22 think --

23 MR. CROCKETT: I mean it's in the statute,
24 so it doesn't matter.

25 CHAIRMAN GRIFFIS: We don't need it. And

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1 it does go to 217, of course, which is any adverse
2 impact. It talks about noise, but we don't need the
3 additional paperwork. So, we note the question.

4 Now, in terms of the traffic, Mr.
5 Crockett, do you want to just talk to me a little bit
6 about where we're going with this?

7 MR. CROCKETT: I would just like to
8 establish, from the point of view of Tudor Place, they
9 have also asked to extend tour hours into the
10 evenings. And we oppose the extension of tour, the
11 existing tour hours to the evening.

12 We have three points of opposition here.
13 The commercial events --

14 CHAIRMAN GRIFFIS: Okay. Without citing
15 all of this, tell me in reverse.

16 MR. CROCKETT: -- and the tour. So that's
17 what I'm going to.

18 CHAIRMAN GRIFFIS: So the traffic study is
19 going to show what?

20 MR. CROCKETT: The traffic study, there
21 were, Mr. George studied the traffic on weekdays and
22 on one Saturday. And just to make, I can get this, I
23 was going to ask Mr. Buhler this question, but, and I
24 can frame it in terms of a question.

25 That the previous Tudor Place traffic,

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1 parking study, showed that there was plenty of parking
2 on weekdays, during the day for the tours, which are
3 the regular tour hours. And that that was not a
4 problem.

5 But that on Saturday, when the special
6 events generally take place, and on weekends in
7 general, this parking survey showed that there were,
8 you know, there was only five spaces on 31st Street
9 from R all the way to Q at 1:00 on a Saturday.

10 And that when you have an event for 500
11 people or when you have an event for 200 people, or
12 even 50 people, there is just not enough parking.

13 CHAIRMAN GRIFFIS: Okay. No, I note your
14 point but I'm still not clear. I mean, can't you,
15 first of all, what year is the Osborne George study?

16 MR. CROCKETT: Osborne George --

17 MS. BUHLER: October, 1999.

18 MR. CROCKETT: Ninety-nine. So, in
19 introducing this you're saying that this still has
20 standing. You think that the traffic issues haven't
21 changed. So this is a current, reliable, traffic
22 engineering study?

23 MR. CROCKETT: I think so, and I would
24 just like to have Ms. Buhler's opinion on it.

25 CHAIRMAN GRIFFIS: Okay, are you familiar

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1 with this study? Have you looked at this, reviewed
2 it? Are you prepared to answer questions based on
3 this study?

4 MS. BUHLER: I've not reviewed it. I
5 didn't --

6 CHAIRMAN GRIFFIS: Has your
7 representatives reviewed? Has anyone?

8 MR. VON SALZEN: We're generally familiar
9 with the former application, but we certainly haven't
10 studied it in depth in preparation for this
11 proceeding.

12 CHAIRMAN GRIFFIS: Okay, there it is.
13 We're going to take it in. What I'm going to ask,
14 obviously, we're not going to get too far, because I
15 think she might logically answer I don't know to all
16 your questions regarding this.

17 MR. CROCKETT: Which is fine.

18 CHAIRMAN GRIFFIS: But if you can, in
19 fact, ask general questions that may be point of fact
20 to the relevancy of this, that would be pertinent.

21 MR. CROCKETT: Okay, let me, let me go to
22 --

23 MS. BUHLER: Can I simply respond that
24 most of our activities are in the -- the one garden
25 party that we have that is up to 500 people is during

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1 the week, and that the neighbors agreed, that came to
2 the meeting, agreed to the open evening and thought
3 that it was actually a good idea for accessibility to
4 Tudor Place.

5 MR. CROCKETT: The neighbors, except me.

6 MS. BUHLER: Except you. But there are a
7 lot of other neighbors.

8 CHAIRMAN GRIFFIS: Okay, all right. Let's
9 take the, if we could pass it down, if we have copies
10 up here, at this point, of the study, and we'll put it
11 into the record. And then we'll continue on in this
12 vein.

13 MR. CROCKETT: Can we go to valet parking.
14 Could you tell me what your contract, who you have a
15 contract with for valet parking?

16 MS. BUHLER: We use Atlantic Valet
17 Parking.

18 MR. CROCKETT: Does the contract require
19 them to park the cars off the streets?

20 MS. BUHLER: Yes, it does.

21 MR. CROCKETT: And what are the two
22 locations that you have?

23 MS. BUHLER: Chevy Chase Bank, we have
24 three locations. Chevy Chase Bank.

25 MR. CROCKETT: How many spaces?

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1 MS. BUHLER: I don't know that off the top
2 of my head.

3 MR. CROCKETT: About 20?

4 MS. BUHLER: I don't know that off the top
5 of my head. Jelleff.

6 MR. CROCKETT: How many spaces?

7 MS. BUHLER: I don't have that off the top
8 of my head.

9 MR. CROCKETT: And what else do you have?

10 MS. BUHLER: And we have the back, rear of
11 our property.

12 MS. MITTEN: Could you speak up a little
13 bit, I didn't catch --

14 MS. BUHLER: The back rear of our
15 property.

16 MS. MITTEN: Okay.

17 MR. CROCKETT: And how many cars can you
18 park in the back of your property? That's behind
19 1670, right?

20 MS. BUHLER: No. No. By the garage in
21 the back.

22 MR. CROCKETT: How many cars can you get
23 in there?

24 MS. BUHLER: About 30 or 40.

25 MR. CROCKETT: You can get 30 in there?

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1 CHAIRMAN GRIFFIS: What's the total
2 capacity of valet when you hire them? Do you have to
3 give them a number of invitees?

4 MS. BUHLER: We do give them a number and
5 we do it by how many people have responded that
6 they're coming to the event.

7 CHAIRMAN GRIFFIS: And they have, do they
8 give you an indication where they are going to park
9 these and how many they, and capacity?

10 MS. BUHLER: We tell them where to park
11 it. We tell them where to park. We get a key from
12 Chevy Chase Bank --

13 CHAIRMAN GRIFFIS: It sounds pretty
14 forceful. You tell them where to park it.

15 MS. BUHLER: No, we tell the Atlantic
16 Valet where to park it.

17 CHAIRMAN GRIFFIS: Right. Now in these
18 surface lots that you've indicated that they can use,
19 right? Are they the sole users of those? Have you
20 leased that --

21 MS. BUHLER: Yes.

22 CHAIRMAN GRIFFIS: -- for its entirety?

23 MS. BUHLER: Well, we are for Chevy Chase
24 Bank, yes.

25 CHAIRMAN GRIFFIS: I see. And not the

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1 others?

2 MS. BUHLER: And for our own property.
3 And for Jelleff there is sometimes additional parking
4 there that is, that people just park there.

5 CHAIRMAN GRIFFIS: And Chevy Chase had how
6 many spaces, 20?

7 MS. BUHLER: Twenty, it depends on how you
8 stack them. I don't know --

9 CHAIRMAN GRIFFIS: No, no, no, I'm asking
10 like zoning regulated striped parking spots, that will
11 give me a better indication. Okay, so we'll roughly
12 say approximately 20.

13 Clearly I would understand if you have
14 control of the total site and your valet, you're
15 stacking these cars in. And they may, I don't know,
16 these guys are masters at doing that, space
17 allocation.

18 They may fit, who knows how many. But
19 what we're trying to do and what the question is a
20 good one is, we're trying to elicit, all right, you
21 have 500 events, or 500 attendees to an event, how
22 many can these valet people actual take?

23 I think that's where he was going. At
24 least that's where I took it. Follow up?

25 MS. BUHLER: I should indicate that the

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1 bulk of the people that come to our spring garden
2 party are from Georgetown.

3 CHAIRMAN GRIFFIS: They don't drive?

4 MS. BUHLER: They don't drive.

5 CHAIRMAN GRIFFIS: Are you sure?

6 MS. BUHLER: Well, I can't answer for
7 sure, no.

8 CHAIRMAN GRIFFIS: That's going to be the
9 follow up question, you know. Can you prove they
10 don't drive to your events?

11 MS. BUHLER: No, most of them are from
12 Georgetown.

13 CHAIRMAN GRIFFIS: Gosh, I certainly hope
14 Georgetown folk walk. It's a pleasant neighborhood,
15 I've heard.

16 MR. CROCKETT: Let's take an example that
17 doesn't involve people in Georgetown. Let's take an
18 event for 500 that is not totally locally oriented.

19 And you have 500 people, 250 cars, where
20 do those 250 cars go?

21 CHAIRMAN GRIFFIS: I told you he'd come
22 back.

23 MS. BUHLER: We have valet parking. We
24 would go to Chevy Chase Bank. We would go to Jelleff.

25 If we have a large rental event like that, with

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1 people that a large part of whom were not walking, we
2 would ask that perhaps some of them come in by bus.

3 We have not had this happen since I've
4 been here.

5 CHAIRMAN GRIFFIS: Okay.

6 MS. BUHLER: Or we can rent the school
7 parking lot up on --

8 CHAIRMAN GRIFFIS: This is what the Board
9 is going to look for in a submission from you is the
10 capacity of your valet company that you, and they can
11 easily indicate the sites and they can, I would ask
12 that somehow you substantiate, fairly rigorously
13 substantiate how many cars and capacity that they
14 have.

15 IF that's the valet company saying we can
16 stack 50 cars on this site, we need to show what the
17 actual capacity is. That will give, obviously, an
18 idea of how many will be put on the street.

19 MS. BUHLER: Yes, sure.

20 MR. CROCKETT: Now, my, I drive by
21 Jelleff's every day and my impression is that that
22 parking lot is generally used by the patrons of
23 Jelleff's. And particularly on weekends when they
24 have events of their own, athletic events and other
25 events.

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1 CHAIRMAN GRIFFIS: Let's not get
2 impressions then, let's get definitive --

3 MR. CROCKETT: What kind of a contract do
4 you have with them, say, for weekends?

5 MS. BUHLER: We don't. We have not had to
6 use it on weekends.

7 MR. CROCKETT: And if you did, do you know
8 whether you could or not?

9 MS. BUHLER: Well, that's hypothetical, I
10 mean, I don't, I assume that we could.

11 CHAIRMAN GRIFFIS: So the answer to the
12 question is no you don't have any agreements to use it
13 on weekends?

14 MS. BUHLER: No, no.

15 CHAIRMAN GRIFFIS: Okay.

16 MS. BUHLER: I mean we don't have a
17 contract with Jelleff. We call them and they say that
18 we can use it. Or, you know, if they have an event,
19 if they were to have a large event, then we would go
20 to the school and rent the school spaces. But it
21 hasn't --

22 MR. CROCKETT: Which school lot are you
23 talking about?

24 MS. BUHLER: The one up across from
25 Safeway?

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1 MR. CROCKETT: Don't they run the
2 Georgetown Flea Market on the weekends?

3 MS. BUHLER: Yeah, but we're not talking
4 about weekends.

5 MR. CROCKETT: Okay, do you have a
6 contract with the school?

7 MS. BUHLER: We do not have a contract.
8 We do it on a per case situation, is what I've been
9 told.

10 MR. CROCKETT: Do you have an agreement
11 with them?

12 MS. BUHLER: You do it through the school
13 system and you do it, you don't have an agreement with
14 them, you do it as you need. You don't do it through
15 --

16 MR. CROCKETT: Have you ever done it?

17 MS. BUHLER: I inquired about it once when
18 I was concerned that we would not have enough parking
19 at Jelleff.

20 CHAIRMAN GRIFFIS: So we can include also
21 anything that you're anticipating in agreements or
22 sites that you've identified that are possible for
23 use.

24 MS. BUHLER: Absolutely.

25 CHAIRMAN GRIFFIS: And then please be

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1 specific in terms of, like the school you've just
2 given an indication. There's not written lease,
3 there's no written agreement. It is an understanding.

4 Whatever it is for you of what that
5 connection is with the surface parking lot and then
6 how many, the capacity of it. Okay.

7 MR. ETHERLY: And just to close off that
8 loop, with respect to Chevy Chase Bank, is that also
9 an understanding that you have with that particular
10 branch or is that a formalized agreement?

11 MS. BUHLER: Yes, it isn't, it is an
12 understanding.

13 MR. ETHERLY: Just an understanding.

14 MS. BUHLER: It's an understanding.

15 CHAIRMAN GRIFFIS: We're going to get a
16 great list of all these.

17 MS. BUHLER: Okay.

18 CHAIRMAN GRIFFIS: Straight down and it's
19 going to tell us little items underneath each and
20 every one of them, capacity, agreements, etcetera.
21 Next.

22 MS. BUHLER: That's fine.

23 MR. CROCKETT: I have passed down to you,
24 Ms. Buhler, a copy of an ad that was put in the
25 Georgetowner March 16, 2000, which was before you

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1 arrived. And also I'll represent to you behind that
2 is a paper which set out the Tudor Place Foundation
3 Special Events Basic Guidelines from the previous
4 hearing.

5 These numbers are the record numbers on
6 appeal. Are you familiar with that ad and this rate
7 structure that's shown on the Special Events
8 Guidelines?

9 MS. BUHLER: I may have seen this when I
10 first got to Tudor Place, but I'm not, had to use it,
11 so I haven't employed it. I've not used it. I may
12 have seen it.

13 MR. CROCKETT: You have asked --

14 MS. MITTEN: Mr. Crockett, Mr. Crockett,
15 I'm up here. I just, given that there's a limitation
16 now proposed, so the Applicant's proposal to the Board
17 is that there wouldn't be weddings permitted for more
18 than 75 guests and these guidelines are for something
19 much in excess of that, could you explain the
20 relevance of this particular exhibit to the proposal
21 that's before the Board.

22 MR. CROCKETT: Yes, I would, Your Honor,
23 two things. First, although weddings would be limited
24 to 75, other events are on, there are unlimited events
25 under the proposed order for up to 200.

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1 There are also ten events for up to 500,
2 regardless of whether they are weddings or anything
3 else. So that's what this goes to.

4 MS. MITTEN: So we're meant to view this,
5 we're supposed to just ignore the fact that this has
6 wedding written all over it and just use it as a
7 generic, sort of large event, that's the purpose?
8 You're going to explore something --

9 MR. CROCKETT: Yes, it says wedding
10 receptions, corporate events, business seminars,
11 private receptions, it's a general ad.

12 MS. MITTEN: Okay.

13 MR. CROCKETT: My question is, you have,
14 you're asking the BZA for permission to do ten events
15 for up to 500 people, and is this, do you have a rate
16 structure for that?

17 MS. BUHLER: No, sir, we do not. We have
18 put in the BZA the option request, the option to rent
19 the property twice for larger groups.

20 MR. CROCKETT: Now why would you, why
21 would you want to rent the property twice in the
22 summer to larger groups?

23 MS. BUHLER: Well, I don't know that it
24 would be in the summer, but if we, if the National
25 Trust for Historical Preservation held its annual

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1 meeting in Washington, and wanted to come see Tudor
2 Place in the evening, I would, I would want to be able
3 to host them.

4 It is a very significant historic site.
5 Perhaps the most significant historic house in
6 Georgetown, in Washington.

7 MR. CROCKETT: Okay. Would you be doing
8 that for revenue purposes?

9 MS. BUHLER: I would hope that they would
10 make a contribution, yes.

11 MR. CROCKETT: But, do you intend at this
12 point to earn revenue from renting out Tudor Place to
13 private events or than weddings?

14 MS. BUHLER: Large weddings and large
15 events?

16 MR. CROCKETT: Large, any events.

17 MS. BUHLER: I'm not sure what your
18 question is, for any events?

19 MR. CROCKETT: My question is in
20 reinstating these events, for which there has been a
21 moratorium over the last two years, is it the
22 intention of Tudor Place to earn money by renting the
23 place out to these private parties for these private
24 events?

25 MS. BUHLER: We expect to be able to have

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1 some rentals of our property. We have, we'd like, we
2 have alumni groups, we have, who, we'd like to have a
3 tour and reception at Tudor Place.

4 That usually is a number under 50. We
5 have also, as I mentioned, a neighbor that called that
6 wanted to have her wedding at Tudor Place. We have a
7 number of neighbors that want to do that, but would
8 like larger weddings.

9 We, and we always refer them to other
10 sites. We have --

11 CHAIRMAN GRIFFIS: Are these revenue
12 generating events?

13 MS. BUHLER: We do, we do ask for a fee,
14 yeah. We can't just --

15 CHAIRMAN GRIFFIS: Okay.

16 MS. BUHLER: -- I mean we've got a staff
17 of seven people.

18 CHAIRMAN GRIFFIS: So this isn't free.

19 MS. BUHLER: No.

20 CHAIRMAN GRIFFIS: You just sign up and
21 you go?

22 MS. BUHLER: Yes.

23 CHAIRMAN GRIFFIS: Okay.

24 MS. BUHLER: Yeah. We have another
25 neighbor --

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1 CHAIRMAN GRIFFIS: That's enough, I think
2 the answer is there.

3 MR. CROCKETT: Okay, let me ask you this
4 question. Over the last two years, where we've had
5 this moratorium on these commercial events, Tudor
6 Place has gotten along all right financially, hasn't
7 it?

8 CHAIRMAN GRIFFIS: Let me interrupt.
9 First of all, in your submission you explore that
10 extensively in terms of saying that there is no
11 revenue needed or additional revenue by these events.

12 And frankly, the case is not being
13 presented on the fact that there is some undue
14 hardship that they have to get the events for revenue.

15 MR. CROCKETT: Well, I would like to make
16 that clear from the witness herself, if I could.
17 That's all, that's the only --

18 CHAIRMAN GRIFFIS: I don't see how it
19 couldn't be clear in that she hasn't stated that
20 that's the case. Now, if you want to present the fact
21 that they don't need this, as you've done in your
22 written submission, in your case.

23 They don't need these, they are making
24 tons of money. Not your words, mine. They are
25 getting along just fine, why are they disturbing my

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1 peace, that's a great presentation of a case.

2 I'm not sure it's eliciting what you need
3 out of cross examination or is that effective. But,
4 go ahead.

5 MR. CROCKETT: Okay.

6 CHAIRMAN GRIFFIS: See, that's the thing
7 with this volunteer Board, we read everything we get.

8 MR. CROCKETT: That's good.

9 CHAIRMAN GRIFFIS: So don't assume that
10 you have to repeat all sorts of things. Even with
11 snow days involved, we're on top of it.

12 MR. CROCKETT: I have one further, I have
13 several further questions with respect to this
14 proposed order. In the proposed order you would raise
15 the limit for providing valet parking from 75 to 100,
16 for non-rental functions. Now, what is the purpose of
17 that?

18 MS. BUHLER: For, when we met with the
19 neighbors, we had a discussion of the valet parking
20 and the concerns that I have and that the neighbors
21 shared, it was decided that for events that were over
22 100, 100 and over, for Tudor Place events, that it was
23 fine if we had valet parking.

24 But if it was for the rental event, that
25 it should be 75 or under.

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1 MR. CROCKETT: And why was that? Why did
2 you make that proposal?

3 MS. BUHLER: Because valet parking is very
4 expensive and that if you're parking 75 cars it can
5 be, it's, it can be upwards to \$1,000.00.

6 MR. CROCKETT: Did you give consideration
7 in attempting to raise this limit to the burden on the
8 surrounding residents so that when they come in --

9 MS. BUHLER: This does not --

10 MR. CROCKETT: -- and 100 people are at an
11 event, that they can't find any place to park.

12 MS. BUHLER: This was not my, this was a
13 suggestion of a neighbor, who made the suggestion.

14 MR. CROCKETT: Not this neighbor.

15 MS. BUHLER: And everybody around the
16 table, when we were developing the proposals, this
17 application, agreed that that was the way we should
18 proceed.

19 CHAIRMAN GRIFFIS: So there was a
20 cost-benefit analysis limitedly that you conducted in
21 order to establish the number of valet attendees that
22 would kick in a valet requirement. Okay.

23 MS. MITTEN: Can I just clarify something?

24 CHAIRMAN GRIFFIS: Yes.

25 MS. MITTEN: Because I don't think that's

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1 what Ms. Buhler just said. I think she said that she
2 was trying to respond to one group or one neighbor or
3 group of neighbors who had suggested the change.

4 Now, not everybody agrees with that, but
5 she's trying to be, this did not come out of a
6 cost-benefit analysis that Tudor Place did. It
7 happens, perhaps, to be of benefit to them, but you
8 were trying to respond to a neighbor, right, in making
9 the change?

10 MS. BUHLER: A neighbor recommended the
11 change.

12 MS. MITTEN: Okay.

13 MS. BUHLER: Because I said that some
14 valet parking can --

15 CHAIRMAN GRIFFIS: Okay. Next.

16 MR. CROCKETT: Okay, I want to go, there
17 are a couple of other changes that I just would sort
18 of like to go through here, from the previous order.

19 CHAIRMAN GRIFFIS: If I could just
20 interrupt you, just briefly, just to get a schedule
21 together. How many more questions do you have, how
22 long do you think you're going to need?

23 MR. CROCKETT: I just have this little
24 list and it's not very much at all. I'd just like to
25 go through it.

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1 CHAIRMAN GRIFFIS: Did you start with the
2 big list and now we're at the little list?

3 MR. CROCKETT: Now I'm on the little list.

4 CHAIRMAN GRIFFIS: Okay, you have four or
5 five more questions?

6 MR. CROCKETT: Yes.

7 CHAIRMAN GRIFFIS: Okay.

8 MR. CROCKETT: You omit the requirement in
9 the order for a Traffic Director, why did you do that?

10 MS. BUHLER: At our meeting with neighbors
11 several people noted that the one time that there had
12 been a Traffic Director it had, and it was an off-duty
13 policeman, and it had made matters worse not better.
14 And that it was better not to have somebody there.

15 MR. CROCKETT: Okay, you also omit the
16 policy against double parking, why did you do that?

17 MS. BUHLER: The neighbors felt that
18 double parking was not something, that was something
19 that if we had the valet people out there watching,
20 that that would be sufficient and as well as Tudor
21 Place people going out to check the parking.

22 And that it was impossible to write this
23 into an order and you can't write everything into an
24 order and have it adhered to.

25 MR. CROCKETT: I'm not exactly clear on

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1 who these neighbors are that you are speaking of?

2 MS. BUHLER: I can read the list again, if
3 you'd like me to.

4 MR. CROCKETT: This all occurred at this
5 one meeting?

6 MS. BUHLER: Yes. As well as all the
7 conditions were sent out numerous times.

8 MR. CROCKETT: Now do you believe that
9 these neighbors that attended that meeting are
10 representative of the neighbors in the community?

11 MS. BUHLER: I believe that they were the
12 neighbors that were sufficiently concerned to attend
13 the meeting, yes.

14 MR. CROCKETT: Okay, why did you reduce
15 the frequency of the liaison meetings from quarterly
16 to semi-annually?

17 MS. BUHLER: I did that because I thought
18 that we were on sufficient terms with the neighbors to
19 do it semi-annually. I have no problem with doing it
20 quarterly. At most meetings, and I have records of
21 all the meetings that we've held of that group, the
22 Neighborhood Liaison Committee, I would only have one
23 person come.

24 MR. CROCKETT: Why did you add a provision
25 that would permit amplified music at indoor parties?

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1 MS. BUHLER: The amplified music indoors
2 was brought up by Mr. Snider, who was concerned that
3 it was possible to have amplified music indoors. And
4 that if we did have amplified music indoors, that all
5 the windows and doors should be closed. So that's why
6 it was included.

7 MR. CROCKETT: You have a provision that
8 expands the use of Dower House to allow unlimited
9 Tudor Place functions for up to 50 people and rental
10 functions four times a month. What was the purpose of
11 that?

12 MS. BUHLER: We use Dower House for
13 education events periodically and board meetings and
14 other, you know, staff meetings.

15 MR. CROCKETT: And you want, you want to
16 use it that frequently for those purposes?

17 MS. BUHLER: And we would like to be able
18 to use it on a, to be able to, we've had, we have tour
19 groups that come in that want to have lunch and if
20 it's raining we have no other place for people to have
21 lunch other than at Dower House.

22 MR. CROCKETT: Okay, thank you.

23 MS. BUHLER: We have no meeting room.

24 MR. CROCKETT: That's all I have.

25 CHAIRMAN GRIFFIS: That's it?

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1 MR. CROCKETT: That's it.

2 CHAIRMAN GRIFFIS: Very good. A lot of
3 information. We're going to take five minutes and
4 come back, and then we're going to continue with cross
5 examination.

6 And then what I'm going to ask, if people
7 could get together their ideas of how long or how many
8 questions, they can give me and I can gauge how long
9 cross examination is so I can give an indication of
10 where we're going and where we might end for today.
11 So, we'll be back in five minute.

12 (Whereupon, the foregoing matter
13 went off the record at 11:56
14 a.m. and went back on the record
15 at 12:08 p.m.)

16 CHAIRMAN GRIFFIS: We are at the 31st
17 Street party represented by Mr. Snider conducting
18 cross examination. And Mr. Snider, how many questions
19 do you have?

20 MR. SNIDER: I have a few questions and
21 I'm not going to use any documents. I'll hold those
22 until --

23 CHAIRMAN GRIFFIS: A few, less than ten?

24 MR. SNIDER: What?

25 CHAIRMAN GRIFFIS: Less than ten?

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1 MR. SNIDER: Probably ten.

2 CHAIRMAN GRIFFIS: I see. Okay. Whenever
3 you're ready.

4 MR. SNIDER: Ready. Mrs. Buhler, you
5 worked with the Board of Directors at Tudor Place?

6 MS. BUHLER: Yes, I do.

7 MR. SNIDER: Can you tell me who sets the
8 policy at Tudor Place?

9 MS. BUHLER: The Board of the Directors
10 approves the policies of Tudor Place, yes.

11 MR. SNIDER: And you do not, is that
12 correct?

13 MS. BUHLER: I work in concert with them,
14 but I set certain levels of policy, but general policy
15 is set by -- policies related to human resources,
16 personnel management, all of that, general directions,
17 the strategic plans and how Tudor Place is conducting
18 itself, etcetera, is set by the Board.

19 MR. SNIDER: Is that a business plan?

20 MS. BUHLER: We do not have a formal
21 business plan.

22 CHAIRMAN GRIFFIS: Is your direct question
23 who would set the number of events, the size of events
24 and what would occur? Would it be you or would it be
25 the Board of Directors?

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1 MS. BUHLER: It would be me.

2 CHAIRMAN GRIFFIS: You would set it with
3 the approval of your Board of Directors?

4 MS. BUHLER: Yes.

5 CHAIRMAN GRIFFIS: Is that clear?

6 MS. BUHLER: Yes.

7 MR. SNIDER: So the Board of Directors has
8 the final say in these matters?

9 MS. BUHLER: Yes.

10 MR. SNIDER: Okay. Now, if you leave,
11 what happens?

12 CHAIRMAN GRIFFIS: I think we've explored
13 that, haven't we?

14 MR. SNIDER: Okay, okay, let's ask the
15 question differently. Do you serve at the pleasure of
16 the Board?

17 MS. BUHLER: Yes, I do.

18 MR. SNIDER: I'd like to go to the date of
19 April 8, 2003, last Tuesday night. I noticed the gate
20 at 1644 was open. Can you tell me what was occurring
21 that night?

22 MS. BUHLER: There was an exhibition
23 opening.

24 MR. SNIDER: Do you know how many parking
25 places there were on 31st Street that night?

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1 MS. BUHLER: Did I go out, no, I did not
2 physically count them.

3 MR. SNIDER: I did. Between Q and R there
4 were none.

5 CHAIRMAN GRIFFIS: You can save it for
6 your case. Also, we let you go with that one, but
7 we're going to need to stick to the testimony that you
8 heard for cross examination.

9 MR. SNIDER: Earlier there was discussion
10 about provision of parking. It is my understanding
11 that you provide no parking for any group 50 to 75, is
12 that correct, according to the new order? If it's a
13 function for 50 to --

14 MS. BUHLER: I'm sorry.

15 MR. SNIDER: -- 75 persons, no parking
16 provided?

17 MS. BUHLER: Right.

18 MR. SNIDER: That's correct.

19 MS. BUHLER: Right.

20 MR. SNIDER: Now, let's talk about the
21 weddings and wedding receptions. Right now the order
22 reads weddings. My question is does that also lead to
23 wedding receptions? This has to be clear.

24 MS. MITTEN: I believe in response to a
25 question that I asked, Ms. Buhler said that she would

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1 agree to a limitation to have wedding ceremonies and
2 not have wedding receptions. Isn't that correct?

3 MS. BUHLER: Yes, yes.

4 MR. SNIDER: Okay, what about receptions
5 for other purposes, such as Bar Mitzvahs? Somebody
6 who got married last month over in Europe, would they
7 be in the order?

8 MS. BUHLER: If it were a smaller
9 reception, yes, we would be able to do that.

10 MR. SNIDER: And what is smaller?

11 MS. BUHLER: Under 75.

12 MR. SNIDER: And would that be at like
13 1670?

14 MS. BUHLER: Pardon?

15 MR. SNIDER: At 1670 31st Street?

16 MS. BUHLER: No, it would probably be in
17 the garden. I'm not sure, you can't, you wouldn't be
18 able to fit them all at 1670. I mean this is also
19 hypothetical, I'm not quite sure how to respond to
20 these things.

21 MR. SNIDER: Okay.

22 CHAIRMAN GRIFFIS: Well, if you can't
23 answer, you can't answer.

24 MR. SNIDER: To your knowledge, does Tudor
25 Place have any requirement that, for functions in

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1 excess of 50 or 75, if they have a tent?

2 MS. BUHLER: No, no. Do we have a
3 requirement that they have a tent?

4 MR. SNIDER: Yes.

5 MS. BUHLER: No.

6 MR. SNIDER: So that policy has changed
7 since 1999?

8 MS. BUHLER: I'm not sure what policy
9 we're referring to.

10 MR. SNIDER: A requirement on a renter of
11 Tudor Place that he engage in a tent.

12 MS. BUHLER: To engage a tent?

13 MR. SNIDER: Yes.

14 MS. BUHLER: There is no requirement, no.

15 MR. SNIDER: So if it rains it gets wet,
16 is that correct?

17 MS. BUHLER: Yes. Or we would have to
18 have a rain date.

19 MR. SNIDER: Okay, okay. It's been
20 mentioned previously and I was in attendance at the
21 meetings at Tudor Place, and I was a faithful
22 attendee. Did I agree to five years as opposed to
23 three years for the term limit on this application?

24 MS. BUHLER: After the meeting you told me
25 that when, you told me that you would not agree to it.

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1 MR. SNIDER: Thank you.

2 MS. BUHLER: After the meeting was
3 concluded.

4 MR. SNIDER: Was there a vote taken on
5 this point?

6 MS. BUHLER: Every, there was another
7 member, another person who was at that meeting, who is
8 present here today, who could address that issue.
9 There was, there was general consensus amongst the
10 group about the points that were discussed.

11 MR. SNIDER: There was no vote?

12 MS. BUHLER: There was no formal vote per
13 issue.

14 MR. SNIDER: Of the people attending,
15 which ones were from locations beyond the perimeter of
16 31st, Q or 32nd, such as the ANC members? That's two
17 people that I can think of.

18 CHAIRMAN GRIFFIS: How many total people
19 were in this meeting?

20 MR. SNIDER: Total.

21 CHAIRMAN GRIFFIS: We don't need to count.
22 How many people were in this meeting?

23 MS. BUHLER: Nine.

24 CHAIRMAN GRIFFIS: Just nine total people.

25 Okay, that gives an indication to the Board as,

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1 that's enough.

2 MR. SNIDER: And how many were from areas
3 away from Tudor Place?

4 CHAIRMAN GRIFFIS: That doesn't really
5 matter.

6 MR. SNIDER: Well, I'll testify to that.

7 CHAIRMAN GRIFFIS: I mean clearly we're
8 looking for substance of issues and impact. So, if
9 someone from two miles away has great knowledge and
10 evidences impact that crushes your case, so be it.

11 Or if they live across the street and they
12 support it, God bless. However, we are not going to
13 count votes and residents.

14 MR. SNIDER: I have no further questions.

15 CHAIRMAN GRIFFIS: Thank you very much.
16 Next, let's move to 32nd Street. Mr. Katz, I believe,
17 is that correct?

18 MR. KATZ: Yes, sir.

19 CHAIRMAN GRIFFIS: Excellent, thank you.

20 MR. KATZ: Deposit these cards here, sir?

21 CHAIRMAN GRIFFIS: Actually, to the
22 Recorder. Thank you.

23 MR. KATZ: Thank you, Chairperson and the
24 Board for permitting me to address you today. My name
25 is Norton N. Katz. My address is 1671 32nd Street,

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1 N.W., Washington, D.C.

2 I live, from a geographic standpoint, I
3 live about 20 yards north of Tudor Place, but on 32nd
4 Street. Which would be then to the northwest corner
5 of the entire premises.

6 The rear of my property is unimpeded
7 except for a couple of stockade fences between where
8 the events take place at Tudor Place.

9 CHAIRMAN GRIFFIS: You're going to get to
10 cross examination questions, right?

11 MR. KATZ: Yes, I just want to identify
12 myself --

13 CHAIRMAN GRIFFIS: Okay.

14 MR. KATZ: -- as a party in interest in
15 this matter.

16 CHAIRMAN GRIFFIS: And so it's been
17 granted.

18 MR. KATZ: Ms. Buhler, I appreciate and
19 commend, in fact, the work you've done with regard to
20 preservation and education at Tudor House. I've been
21 a neighbor of yours, so to speak, for over 25 years.

22 CHAIRMAN GRIFFIS: I'm sorry to interrupt,
23 but with precious moments, you have ample time to give
24 an opening statement. Let's get right to the
25 questions and then we can move on.

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1 MR. KATZ: All right. But I wish to
2 address the impact, Chairman's words, of the events
3 that take place at Tudor Place during the spring and
4 the summer and fall.

5 So my first question is, in terms of the
6 impact on the neighbors for the use of Tudor Place as
7 a quasi-convention center, I'd like to address the
8 consequences and see if you're aware of the following
9 consequences to these events.

10 I appreciate the fact that you're fairly
11 new, but I'm sure records are available to you. Have
12 you considered the actual movement of the vast number
13 of automobiles in and around Tudor Place and in and
14 around the neighborhood?

15 For example, while you speak of the
16 adequacy of parking spaces, for these various events,
17 have you considered what the actual mechanics of the
18 use of those parking spaces are?

19 I'm addressing the fact that for each
20 automobile that arrives, there are two trips made by
21 each vehicle.

22 MS. MITTEN: Mr. Katz, why don't you, up
23 here.

24 MR. KATZ: I'm sorry.

25 MS. MITTEN: If you could, just really be

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1 direct with --

2 CHAIRMAN GRIFFIS: Succinct.

3 MS. MITTEN: -- your question and your
4 elaborating to the point of testifying. So if you
5 could just be a little bit more direct.

6 MR. KATZ: All right. With your valet
7 parking and with your parking spaces at Chevy Chase
8 and Jelleff, have you observed the impact of the
9 movement of each one of these cars making two round
10 trips to Tudor Place?

11 What happens on --

12 CHAIRMAN GRIFFIS: Let's let her answer.

13 MR. KATZ: -- 32nd Street, for example.

14 CHAIRMAN GRIFFIS: I understand. Do you
15 understand the question?

16 MS. BUHLER: Yes. I've observed cars, I
17 haven't observed every car at an event.

18 CHAIRMAN GRIFFIS: Okay, we understand
19 that.

20 MS. BUHLER: But I have observed cars,
21 yes.

22 MR. KATZ: That are attending the Tudor
23 Place --

24 MS. BUHLER: Yes.

25 MR. KATZ: -- and what happens to them

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1 when they get stacked up on 32nd Street and perhaps 20
2 or 30 cars on 32nd Street when they are coming from
3 the Jelleff parking lot down to reach Tudor Place?

4 MS. BUHLER: I have not seen that. I have
5 not gone over to 32nd Street. No, sir.

6 MR. KATZ: You are aware of the fact that
7 32nd Street provides the service entrance to Tudor
8 Place?

9 MS. BUHLER: Yes.

10 MR. KATZ: That's where the trucks that
11 are catering trucks, tent trucks, garbage trucks enter
12 your premise both before and after the event. Have
13 you observed the gridlock that occurs on 32nd Street
14 when these commercial vehicles double park and keep
15 their motors idling to the --

16 CHAIRMAN GRIFFIS: I think we get the
17 picture.

18 MR. KATZ: -- nuisance of the neighbors?

19 CHAIRMAN GRIFFIS: Can you answer the
20 question?

21 MS. BUHLER: I have never been aware of
22 that occurring and no one has ever called me or spoken
23 to me about that at all.

24 MR. KATZ: The next question, please.
25 When you have sent a staff member or yourself to have

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1 these idling buses that vibrate, as do the service
2 trucks, when you sent the buses away, do you happen to
3 have any idea where they go?

4 MS. BUHLER: We have instructions as to
5 where they are supposed to go. There is no bus
6 parking, as you know, in Georgetown. So there's, we
7 have, we give them the directions to where they are
8 supposed to go.

9 Most tour bus companies know where they
10 are permitted to park, but we give them a card telling
11 them where they should go.

12 MR. KATZ: Have you ever noticed the buses
13 circle the block and come right back to where they
14 were 15 minutes earlier?

15 MS. BUHLER: No, sir, I have not.

16 MR. KATZ: Or parking on 32nd Street and
17 Reservoir?

18 MS. BUHLER: No, sir, I have not.

19 MR. KATZ: You have not. Very well. All
20 right, as to the neighbors meetings to which you refer
21 and seem to rely on so heavily as to guidance, Ms.
22 Buhler, are the neighbors who are invited to these
23 meetings upon which you've relied so much, are the
24 neighbors selected for these meetings or is --

25 MS. BUHLER: No, sir.

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1 MR. KATZ: -- this a vast mailing to
2 everyone?

3 MS. BUHLER: No, sir. These are notices
4 that are put in everybody's door. They are delivered
5 by hand to each house.

6 MR. KATZ: Dropped on the front step or
7 through the mail slots?

8 MS. BUHLER: Through the mail slots.

9 MR. KATZ: Thank you, I appreciate that.
10 That's an extra cost that's certainly worthwhile. The
11 dates for such meetings with the neighbors, are they
12 selected in any way that might be detrimental to some
13 of the neighbors attendance prospects?

14 For example, many neighbors go away in the
15 summertime or they are away on the weekend or
16 something like that.

17 MS. BUHLER: No, they are not held in the,
18 these were not held, they were held in the, well, I
19 can't, going back the three years, I can't give you
20 all.

21 But they were supposed to be held, the
22 first two years, they were held every quarter. And
23 not, if I remember correctly, not during the summer.
24 Certainly these meetings regarding this application
25 were held in the fall.

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1 MR. KATZ: And finally, has it ever been
2 curious or have staff members who have been there much
3 longer than you, perhaps, because you said you have
4 seven staff members now. It seems to be growing each
5 time we meet here.

6 CHAIRMAN GRIFFIS: Okay, Mr. Katz, we get
7 the picture.

8 MR. KATZ: Have you ever wondered or has
9 the staff wondered why the attendance is so small? If
10 you send out this vast mailing and you get seven
11 members, neighbors to attend, has it ever been a
12 question in your mind as to perhaps you're doing
13 things the wrong way?

14 MS. BUHLER: Well, I can only say that
15 we've, the Neighborhood Liaison Committee meetings
16 that we have notified Georgetown Residence Alliance
17 and Ron Snider came faithfully.

18 CHAIRMAN GRIFFIS: That probably is a yes
19 or no question.

20 MS. BUHLER: Oh.

21 CHAIRMAN GRIFFIS: Do you think you're
22 doing something wrong?

23 MS. BUHLER: No.

24 CHAIRMAN GRIFFIS: Okay.

25 MR. KATZ: Do you approve or disapprove of

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1 the fact that the neighbors at large, the larger
2 number of neighbors beyond those who attend the
3 meetings, should have to rely on the expressions of
4 interest or support of a small number of neighbors who
5 attend the meeting?

6 Do you think the rest of us should have to
7 rely on that small number or do you think we ought to
8 rely on a detailed special exception issued by this
9 Board?

10 CHAIRMAN GRIFFIS: Let me interrupt, Mr.
11 Katz, and I'll take comments from the Board if needed,
12 but it doesn't really matter to me what she thinks in
13 terms of your question of whether we rely or not.

14 I think it's pretty evident in the fact
15 that there were nine members. Frankly, I'll give you
16 an indication. We have set up liaison committees and
17 have heard back and attendance is always very slim.

18 People are busy in this city. So again, I
19 will stress the fact that we will look at particular
20 substance and how it impacts. We have great ability,
21 maybe not great, but we have some ability of
22 understanding what impacts will be.

23 Whether we can show 100 people or just two
24 people, I think we can weigh the substance of each of
25 those. So, eliciting more from her --

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1 MR. KATZ: With that, I conclude my
2 questions.

3 CHAIRMAN GRIFFIS: Fabulous. Thank you
4 very much. I don't mean to rush anybody on cross
5 examination, but I do want to make sure that we get
6 direct and succinct things that we can use.

7 That being said, let's move to the ANC
8 representative, if they have any cross examination of
9 the testimony and submissions heard. Indicating not.
10 In which case that would conclude our cross
11 examination.

12 All right. I think so. We're going to
13 get through Office of Planning and then we'll have
14 cross examination of the Office of Planning after
15 their presentation and then we'll, and then I'll
16 reassess of where we are.

17 But we are getting close to 12:30. So,
18 with that, we welcome our Office of Planning
19 representative and have them introduce themselves.

20 MR. MOORE: There happen to be only one in
21 this case. Mr. Chairman, I'm John Moore, Office of
22 Planning. The Office of Planning, after reviewing the
23 application believes that the Applicant has
24 satisfactorily met the conditions of 3104 and 217.

25 And we recommend that the Board approve

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1 the application. This is being done in the essence of
2 time and efficiency, looking at your time frame of
3 12:30. If you'd like, I could go through some of the
4 components of 217, but I can tell you that according
5 to our judgment, the Applicant meets all the
6 conditions.

7 And as one who has viewed the site up
8 close and personal, on more than one occasion, I
9 compare that, as our report indicates, the application
10 is larger than the 10,000 square feet required.

11 The application site is in the historic
12 district, therefore, not having to meet certain
13 parking requirements and that this is a renewed
14 application from 1999. And if you look at, starting
15 at Page 9 of the Office of Planning's report, where
16 there are changes to the conditions previously
17 approved.

18 Such as, in Condition 1, you see in bold
19 we put the five years as opposed to the previous
20 three.

21 CHAIRMAN GRIFFIS: I see.

22 MR. MOORE: In each case, where there is a
23 change in the application as where the conditions were
24 approved before, we put that in bold. With that being
25 said, the Office of Planning will entertain any

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1 questions.

2 CHAIRMAN GRIFFIS: Excellent. Thank you,
3 Mr. Moore. First of all, let me make sure that the
4 Applicant has seen the Office of Planning memo and
5 report, is that correct?

6 MR. VON SALZEN: Yes, we have.

7 CHAIRMAN GRIFFIS: Okay. And the parties
8 in opposition and the ANC, are they all in possession
9 of the Office of Planning report? Excellent. Okay.
10 In which case, Board members, questions of the Office
11 of Planning? Mr. Zaidain.

12 MR. ZAIDAIN: I have actually one. On
13 Page 5, you say that there have been no reported
14 violations to the conditions of the original order by
15 the Applicant? Did you check with, how did you assess
16 that? Through DCRA?

17 MR. MOORE: Actually, with DDOT.

18 MR. ZAIDAIN: With DDOT, oh, okay.

19 MR. MOORE: Yes, since most of the issues
20 were transportation related.

21 MR. ZAIDAIN: Good point, okay. And the
22 conditions, just to make sure I'm clear, you worked on
23 these with?

24 MR. MOORE: No, if you'll notice, I think
25 we said that the Office of Planning concur and support

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1 the conditions approved by ANC 2E.

2 MR. ZAIDAIN: Okay.

3 MR. MOORE: And, which included the new
4 language, with respect to changes in it.

5 MR. ZAIDAIN: Okay. Okay.

6 CHAIRMAN GRIFFIS: Any other questions
7 from the Board?

8 MS. MITTEN: I just have one question.
9 Mr. Moore, in assessing the impact of the Tudor Place
10 operation and what they're requesting, did you have,
11 did you have an occasion to attend any of the events
12 or observe the conditions surrounding any of the
13 events that they hold at the property?

14 MR. MOORE: No. When I had a four and a
15 half hour tour of the property I think there were a
16 couple of small events going on. But I didn't
17 actually attend any.

18 MS. MITTEN: Okay. Or, but you saw at
19 least some of them being conducted on the property?

20 MR. MOORE: Yes, I did.

21 MS. MITTEN: I guess that's what I was
22 driving at, if you've seen some of the effects?

23 MR. MOORE: Yes, I did. And, of course,
24 my visit, I think I arrived at around 10:30 and I left
25 about 2:30, 3:00. There were, at that time, ample

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1 parking spaces on the west side of, I believe that's
2 31st, on the, right opposite the site. I parked there
3 myself.

4 But again, I must reference again, that
5 was midday, I was there from 10:30 to about 2:30,
6 3:00. But there were quite a few functions going on.
7 Fabulous site. If you haven't seen it, please go.

8 MS. MITTEN: Thank you.

9 CHAIRMAN GRIFFIS: Any other questions
10 from the Board? Cross examination from the Applicant?

11 MR. VON SALZEN: No cross examination,
12 thank you.

13 CHAIRMAN GRIFFIS: Indeed. Q Street party
14 in opposition?

15 MR. CROCKETT: Thank you. Mr. Moore, I
16 would just like to ask you a couple of questions about
17 the special events section of your report. First of
18 all, did the Office of Planning undertake any
19 independent investigation to determine whether or not
20 there were any adverse impacts on the neighborhood as
21 a result of these events for 200 or up to 500 people?

22 MR. MOORE: When you say adverse impact,
23 are you speaking in relationship to traffic?

24 MR. CROCKETT: To noise, traffic or
25 parking.

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1 MR. MOORE: The Office of Planning, in
2 this case, relied on the Department of Transportation
3 and the traffic study that you already quoted.

4 MR. CROCKETT: Okay, so you didn't, is the
5 answer to my question then that you did not do any
6 independent study?

7 MR. MOORE: No, we did not.

8 MR. CROCKETT: Did you look at any
9 evidence of impact prepared by the Department of
10 Transportation or anyone else?

11 MR. MOORE: No. Again, we relied on DDOT
12 for that information. And, yes, we did talk to DDOT.

13 MR. CROCKETT: Okay. Now you state down
14 here that at the, the last sentence of the first
15 paragraph in that section.

16 MR. MOORE: What page are you on, sir?

17 MR. CROCKETT: I'm on Page 7, I believe,
18 special events.

19 MR. MOORE: Okay.

20 MR. CROCKETT: Do you find that? The last
21 sentence, it says the Applicant justifies the need to
22 host special events as necessary to help finance the
23 means to maintain Tudor Place. Where did you get that
24 information?

25 MR. MOORE: From the Applicant.

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1 MR. CROCKETT: And who particularly told
2 you that?

3 MR. MOORE: The Director.

4 MR. CROCKETT: Okay. Did you, did the
5 Office of Planning look at the Zoning Regulations to
6 determine whether these special events that we're
7 talking about are permitted by the Zoning Regulations?

8 MR. MOORE: Of course we looked at the
9 Zoning Regulations, sir.

10 MR. CROCKETT: Does the Office of Planning
11 take the position that fundraisers by non-profit
12 corporations may be held in the R-1 Zone?

13 MR. MOORE: I believe that when the
14 previous application was approved, that question was
15 raised and we said that all of the commercial
16 functions taking place at Tudor Place was in the
17 context of a museum.

18 MR. CROCKETT: Well, you're not answering
19 my question. My question is did the Office, does the
20 Office of Planning take the position that fundraisers,
21 that the Zoning Regulation permit fundraisers by
22 non-profit corporations in R-1 Zones?

23 MR. MOORE: The Office of Planning took
24 the position that this Board could approve or reject
25 special activities that take place in an R-1B Zone.

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1 MR. CROCKETT: And on what did the Board
2 base that? I mean the Office of Planning. Just on
3 what the Board had said before?

4 MR. MOORE: From the previous application,
5 yes. The previous approved application.

6 MR. CROCKETT: So you were just relying
7 upon the previously approved application and nothing
8 more?

9 MR. MOORE: We didn't do an analysis about
10 special events, sir, in an R-1B Zone for this case,
11 no.

12 MR. CROCKETT: Did you do an analysis with
13 respect to the request by the Foundation to expand the
14 hours of tours into one evening a week?

15 MR. MOORE: Yes, we did.

16 MR. CROCKETT: And what was, what evidence
17 did you look at and what was your analysis?

18 MR. MOORE: We looked at the one day, we
19 asked what day would that one day event be held and
20 what was the extended hours in the community, at
21 night, given the impact of late hours. And we
22 reviewed the ANC's position on that matter.

23 MR. CROCKETT: Did you check with the
24 residents to see what the parking situation was in the
25 evening?

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1 MR. MOORE: We believe, wrong or right,
2 that the ANC does reflect the community.

3 MR. CROCKETT: So you're just relying on
4 the ANC's approval?

5 MR. MOORE: We did not do inventories of
6 everybody in the community, no.

7 MR. CROCKETT: So as far as the Office of
8 Planning is concerned, you don't know whether there
9 would or would not be an adverse impact from extending
10 the tours into the evening?

11 MR. MOORE: From all that we saw in our
12 evaluation, we didn't think there was.

13 MR. CROCKETT: That wasn't my question.
14 My question was whether the Office of Planning had any
15 evidence one way or the other as to whether there
16 would be adverse impact from extending the hours into
17 the evening?

18 MR. MOORE: From the information we had,
19 that is the traffic analysis done by an expert and the
20 community representatives, being the ANC, we concluded
21 that there wouldn't be adverse impact.

22 MR. CROCKETT: Now you've confused me.
23 You're talking about a traffic expert. Who was that?

24 MR. MOORE: No, I'm not confusing you, I
25 just mentioned that. The traffic report that you

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1 referenced.

2 MR. CROCKETT: You mean the traffic report
3 from the previous --

4 MR. MOORE: Yes, I do.

5 MR. CROCKETT: Well, the only thing I can
6 say about that, that was for daytime. Those surveys
7 were done during the daytime. And I'm asking you a
8 question about parking in the evening after 6:00.

9 MR. MOORE: For the one day event, that's
10 what you're asking, I think.

11 MR. CROCKETT: Well, one day a week.

12 MR. MOORE: Yes.

13 MR. CROCKETT: Did the Office of Planning
14 have any evidence, whatsoever, as to what the status
15 of parking was in the neighborhood after 6:00 p.m.?
16 Or what the impact would be by allowing tours after
17 6:00 p.m.?

18 MR. MOORE: As one who visited the site,
19 even in the evening, as I indicated already, with my
20 own visit, my personal visit to the site. And the
21 fact that the ANC supported it and we believe the ANC
22 is a true representative of the community.

23 And with the Department of
24 Transportation's traffic expert saying that there
25 would be no negative impact, we concurred in the

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1 Office of Planning.

2 MR. CROCKETT: Was there a report by the
3 Transportation Department saying there was no negative
4 impact?

5 MR. MOORE: No, I got them to fax me some
6 information with regard to their view of the
7 application.

8 MR. CROCKETT: Is that in the record?

9 MR. MOORE: I said I got them to fax it to
10 me. I would be glad to get them for you.

11 MR. CROCKETT: I would appreciate it.

12 MR. MOORE: Sure.

13 MR. CROCKETT: I have no further
14 questions.

15 CHAIRMAN GRIFFIS: Thank you.

16 MR. SNIDER: Mr. Moore, I would like to
17 refer to Page 3 of your report. It's the aerial
18 photograph. In the aerial photograph, right above
19 where the letters are that say Square 1281, there's a
20 big white thing in the front yard. What is that?

21 CHAIRMAN GRIFFIS: While he's getting
22 ready to answer that, can we move the mic closer to
23 you. Thank you.

24 MR. SNIDER: Right above where it says Sqr
25 1281, along the border of Q Street, there's a white --

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1 CHAIRMAN GRIFFIS: Do you see what he's
2 talking about, Mr. Moore?

3 MR. SNIDER: -- structure in the front
4 yard.

5 CHAIRMAN GRIFFIS: Okay. Do you know what
6 that is, Mr. Moore?

7 MR. MOORE: That's a building.

8 MR. SNIDER: It's a building?

9 MR. MOORE: It looks like a building to
10 me.

11 MR. SNIDER: Are you sure it's not a tent?

12 MR. MOORE: I would doubt it.

13 MR. SNIDER: It's a structure?

14 MR. MOORE: It's a structure.

15 CHAIRMAN GRIFFIS: Okay.

16 MR. SNIDER: Is this structure part of the
17 rest of the plan of Tudor Place or is it a temporary
18 structure?

19 MR. MOORE: I couldn't answer that. As a
20 matter of fact, it could even be a Dower House.

21 CHAIRMAN GRIFFIS: Maybe a big quilt on
22 the lawn or something.

23 MR. MOORE: It could be.

24 MR. SNIDER: Are you aware that, excuse
25 me, do you know the date of this particular

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1 photograph? Can you tell from looking at it?

2 MR. MOORE: I believe this photograph is
3 probably 1998.

4 CHAIRMAN GRIFFIS: And, Mr. Moore, just
5 for clarification, you say that because this is taken
6 off of the base aerial photographs of the District of
7 which you pull all your aerial photographs. And it
8 was roughly 1998?

9 MR. MOORE: I believe it was. I'd have to
10 check the date.

11 CHAIRMAN GRIFFIS: Okay. So you didn't
12 personally do a fly-by and take this?

13 MR. MOORE: No, I didn't, we can't fly by
14 that area, Homeland Security.

15 MR. SNIDER: I'd like now to refer to Page
16 1.

17 MR. MOORE: Okay.

18 MR. SNIDER: This photograph of Tudor
19 Place. Do you see a, in this photograph, do you see
20 the same white structure?

21 CHAIRMAN GRIFFIS: How about, let's
22 consolidate. Where are we going with this structure?
23 Do you want him to --

24 MR. SNIDER: The structure is the source
25 of the noise. The structure is the source of --

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1 CHAIRMAN GRIFFIS: All right, well get to
2 a question that will elicit that from him.

3 MR. SNIDER: In your report then, did you
4 consider this structure in considering the adverse
5 impacts on the neighborhood?

6 MR. MOORE: Let me make sure I understand.
7 Are you saying this structure?

8 MR. SNIDER: No, the one on Page 3 that
9 appears to be white.

10 MR. MOORE: I thought you carried me to
11 Page 1.

12 MR. SNIDER: No, I'm on Page 3.

13 MR. MOORE: Okay. Now, say that again.

14 MR. SNIDER: Page 3, the two white pieces
15 in the front yard, did you consider that structure in
16 determining whether there were adverse impacts in the
17 area or on the neighborhood?

18 MR. MOORE: I couldn't answer that
19 question.

20 MR. SNIDER: Thank you, that concludes.

21 CHAIRMAN GRIFFIS: Mr. Moore, to follow up
22 on that, let's assume your aerial photograph shows a
23 large tent. You can scale it off the building. You
24 know the size of the building because you've been
25 there, correct?

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1 MR. MOORE: Yes.

2 CHAIRMAN GRIFFIS: Yeah, so you know that,
3 let's say that's a tent, whether it is or isn't. That
4 would accommodate quite a few people. Does that
5 change your reporting or any indication that you, as a
6 representative of the Office of Planning, take to this
7 application?

8 Noting that that would probably fill with
9 a lot of people on that yard?

10 MR. MOORE: Absolutely not.

11 CHAIRMAN GRIFFIS: I see. Okay.

12 MR. ZAIDAIN: Also, just to help me
13 clarify in terms of the orientation of the site, would
14 that be in the rear yard of the building? Looking at
15 the circular drive, I would assume that's the front.

16 MR. MOORE: It seems to be the south end
17 of the building, of the property.

18 CHAIRMAN GRIFFIS: How about, why don't
19 you point to, put it in relation to your photograph on
20 Page 1.

21 MR. ZAIDAIN: Right, would it be --

22 MR. MOORE: That would be --

23 CHAIRMAN GRIFFIS: So the tent would be,
24 or that structure that we're seeing would be on this
25 side of the --

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1 MR. MOORE: It would be south of this
2 building.

3 MR. ZAIDAIN: Okay. Yeah, on the Q Street
4 side, okay.

5 CHAIRMAN GRIFFIS: Indeed, okay. Sorry,
6 Mr. Katz, am I correct? Any cross examination of the
7 Office of Planning? Does the ANC have any questions
8 of Office of Planning? Indicating no.

9 Very well. Board members, any follow up?
10 Everyone getting hungry? Okay. Actually, I did miss
11 one opportunity, and that is for you to redirect your
12 witness.

13 So, I'm going to ask a question that may
14 elicit more testimony which may mean we go into a last
15 quick round of cross examination. But, there was a
16 question that came up in terms of the commercial
17 entrance and the commercial vehicles into Tudor Place.

18 And my understanding is that that's off of
19 32nd Street. Is that correct?

20 MS. BUHLER: Yes, it is.

21 CHAIRMAN GRIFFIS: Do you know roughly how
22 wide 32nd Street is?

23 MS. BUHLER: No, sir.

24 CHAIRMAN GRIFFIS: Is it a single lane, is
25 it a two-way street?

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1 MS. BUHLER: I know there is parking on
2 one side of the street.

3 CHAIRMAN GRIFFIS: There's parking on one
4 side. It's a two-way street?

5 MS. BUHLER: It's a one-way street.

6 CHAIRMAN GRIFFIS: It's one-way south?

7 MS. BUHLER: Yes.

8 CHAIRMAN GRIFFIS: Okay. And so when you
9 are serviced, and that's trash and all the other
10 vehicles that were talked about, they come south on
11 that, hopefully, right? That would be legal.

12 MS. BUHLER: We get trash picked up twice
13 a week.

14 CHAIRMAN GRIFFIS: Twice a week. And they
15 pull in. When they leave 32nd Street, turning into
16 Tudor Place, how far off do they go from the street to
17 conduct their business?

18 For instance, let's use an example of the
19 trash. How far in are the dumpsters where they pick
20 up the trash? Three car lengths, ten car lengths,
21 half a car length?

22 MS. BUHLER: I would say four car lengths,
23 five car lengths, four?

24 CHAIRMAN GRIFFIS: Okay. So, yeah, maybe
25 we'll get there. I mean that would indicate -- is it

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1 a straight, I think what I'm leaning to is perhaps
2 getting a more, a site plan for understanding of this.

3 Because what you're indicating is 80 to
4 100 feet off of 32nd Street. In which case you're
5 going up and possibly not a straight driveway, is that
6 correct?

7 MS. BUHLER: Do you want me to draw, I can
8 draw --

9 CHAIRMAN GRIFFIS: No. Actually, I would
10 rather have a submission of a site plan that indicated
11 all that.

12 MS. BUHLER: Certainly.

13 CHAIRMAN GRIFFIS: Okay. And then have
14 you seen any difficulty, have you any evidence of
15 difficulty based on the traffic going down 32nd Street
16 or the size, dimension of 32nd Street, with
17 maneuverability?

18 Or do they have trouble getting out on the
19 street? Are there different times that the commercial
20 vehicles have trouble getting out on 32nd Street?
21 Have they ever had great difficulty pulling out of
22 your driveway?

23 For instance, if there's a parked car
24 directly across your driveway, would that be parked
25 legally?

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1 MS. BUHLER: I think that it's not easy to
2 get out.

3 CHAIRMAN GRIFFIS: Actually, answer that
4 first question first.

5 MS. BUHLER: Yes.

6 CHAIRMAN GRIFFIS: You pull directly out
7 of your driveway on 32nd Street. Is there a legal
8 parking spot right across the, right on that street?

9 MS. BUHLER: Yes.

10 CHAIRMAN GRIFFIS: Okay, so conceivably
11 there's a legal --

12 MS. BUHLER: There's a stop sign, too.

13 CHAIRMAN GRIFFIS: There's a stop sign at
14 your driveway?

15 MS. BUHLER: Well, no, at the end of the
16 street. Our driveway is about --

17 CHAIRMAN GRIFFIS: That I understand.
18 Okay. So you've got legal spaces parking right
19 outside your driveway which limits the dimension of
20 32nd Street.

21 MS. BUHLER: Of the turn radius?

22 CHAIRMAN GRIFFIS: Right.

23 MS. BUHLER: Yes.

24 CHAIRMAN GRIFFIS: Your trash truck comes
25 out. What's the biggest commercial vehicle you have

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1 servicing the Tudor Place?

2 MS. BUHLER: A trash truck.

3 CHAIRMAN GRIFFIS: You've never had a
4 catering truck bigger, moving trucks, any sort of
5 event trucks, tents?

6 MS. BUHLER: Not since I've been there.

7 CHAIRMAN GRIFFIS: Rock and roll band
8 wagon, none of that stuff?

9 MS. BUHLER: No, no, not since I've been
10 there.

11 CHAIRMAN GRIFFIS: Okay. So a trash truck
12 is a dimension of a size of which we are familiar with
13 that we can say is pretty much the largest. They've
14 never had difficulty pulling out. Is there a Hum-V
15 that parks on that driveway or 32nd Street at all?

16 Is there a wide car? Maneuverability is
17 what I'm pushing here.

18 MS. BUHLER: Right. I think that they
19 would, I think that they do, I mean they have to, they
20 can't just drive in and drive out. I think they need
21 to take turns to get in and out.

22 CHAIRMAN GRIFFIS: Okay. Great. Any
23 redirect to the witness?

24 MR. VON SALZEN: No, thank you, Mr.
25 Chairman.

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1 CHAIRMAN GRIFFIS: Excellent. Any cross
2 examination of the new testimony that's now been
3 elicited? Very well. Okay, we are up to the point at
4 which we would go to -- actually, I don't know, I
5 don't have any other official government reports on
6 this.

7 We did mention that DDOT is given the
8 opportunity, the application is referred to Department
9 of Transportation for their memo. I think, depending
10 on where we go with this, and dates, we may ask for
11 DDOT to revisit submission on that.

12 Yes, indeed. Okay. Is there anyone here
13 representing Council Member Evans office today? How
14 about the United States Department of the Interior,
15 the National Park Service?

16 Okay. Going to government reports, of
17 course that's what we look for, the official
18 reportings on this and then those two indications of
19 government agencies. The Council Member Jack Evans,
20 of course, that's in the record, I assume everyone has
21 that.

22 I will reiterate those. I wanted just to
23 see if we had people to give testimony so that we
24 might be able to get through all government reports,
25 which would lead us to the point at which we would

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1 have -- where can we start on these?

2 Well, we'll start at the date set with the
3 ANC. The ANC will present their case with their
4 report. We will then go into the testimony in support
5 of the application.

6 Then we will go to the case of the parties
7 in opposition. Then we will go to the people to give
8 testimony in opposition. And then we will go to
9 closing.

10 So, it looks like, depending on, depending
11 on the presentation of the case, but we have a total
12 of 15 minutes to split between the three. The ANC is
13 not part of that.

14 The ANC would make their presentation and
15 their report with that. I'll get questions, let me
16 just go through everything and then I'm going to ask
17 everybody about ten times, you'll be very frustrated
18 at the end, if everyone understands.

19 So, so people understand that's where we
20 are. I would imagine that we need another morning
21 session or half an afternoon session to get this done.

22 I would like to ask Ms. Bailey to give us dates for
23 that.

24 And then what we're going to do is run
25 through dates, availabilities, time and submission of

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1 materials that we've asked. We have several things,
2 and I don't think that that's that cumbersome.

3 The gentleman, yes, sir, you -- good, and
4 let me reiterate again. What we'll do is we'll have,
5 ANC will give their presentation of their memo, which
6 is the official document from the ANC. We will then
7 go to the parties, rather the persons in support for
8 testimony.

9 Then I'll go to parties in opposition, the
10 presentation of parties in opposition case. And then
11 parties in opposition testimony. So basically it's
12 parties, testimony, parties, testimony. So, yes,
13 we'll absolutely have time, and then closings.

14 MS. BAILEY: Mr. Chairman, we have
15 something available, but that would be too soon, I
16 would imagine. So the next available date after that
17 would be May 13th.

18 CHAIRMAN GRIFFIS: Let's start with the
19 too soon.

20 MS. BAILEY: April 22nd, Mr. Chairman.

21 CHAIRMAN GRIFFIS: What do we have in the,
22 is that afternoon session?

23 MS. BAILEY: Morning, it would be the
24 third case in the morning.

25 CHAIRMAN GRIFFIS: It would be the what?

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1 MS. BAILEY: The third case on April 22nd.
2 Which is --

3 MR. MOY: It would be the second case in
4 the afternoon, sir.

5 MS. BAILEY: No, it would be the third
6 case in the morning, based on my discussion with the
7 Director this morning, Mr. Chairman.

8 CHAIRMAN GRIFFIS: Okay. Let's see the
9 next date.

10 MS. BAILEY: May 13th, Mr. Chairman. And
11 again, that would be the third case in the morning on
12 May 13th.

13 CHAIRMAN GRIFFIS: Okay. How many people
14 present today are going to give testimony, not
15 parties, testimony. Not parties. Mr. Snider, put
16 your hand down. All right, we have one, two, three,
17 four, five, six, seven, eight, nine.

18 Mr. Katz, you're a party also. So we'll
19 have ten, roughly ten. We'll be allowing three
20 minutes per persons. Just to give you an
21 understanding, three cases in the morning.

22 Persons will give, that will take, if
23 there are ten, three minutes, it will take about 45
24 minutes. And then the party presentation will be 15
25 and then cross examination. We need two and a half,

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1 three hours, I would think to fully conclude this.
2 That's the entire morning. Let me, let me --

3 MS. BAILEY: We can keep going. June 3rd
4 or June 10th. Again, those would be the tail end of
5 the mornings on both of those dates.

6 CHAIRMAN GRIFFIS: What do you think?

7 MS. BAILEY: And of course, Mr. Chairman,
8 we always have June 17th, which is open right now.
9 June 17th, there isn't anything scheduled at this
10 time.

11 CHAIRMAN GRIFFIS: Okay, what I'd like to
12 do is go back to April 22nd. First of all, I
13 understand everyone's schedule and we don't want to
14 come back here numerous times. So I want to try and
15 accomplish everything we need to as quickly as
16 possible and in one more additional session.

17 I also don't want to carry this very long.
18 One, and frankly all I care about is how difficult it
19 is for us. But to review everything, I like to
20 continue when it's fresh, we have everything that's
21 been stated.

22 So let me hear any objections to the 22nd,
23 and what I would do is put that in the last of the
24 morning and I will go late into the afternoon. Which
25 means we wouldn't start our afternoon session until,

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1 you know, conceivably two or three o'clock.

2 That will not necessarily give a full two
3 and a half hours to finish this. It may just be an
4 hour and a half or two. So, what we need to
5 understand is whether you want to take the risk of
6 getting in and finishing, but potentially not and
7 setting for a third.

8 Otherwise, if we want to secure a third,
9 we're going to June. So, I would ask availabilities on
10 the 22nd of April, and we will go through submissions
11 for that.

12 Let me start with the Applicant. Are you
13 available in the morning of the 22nd?

14 MR. VON SALZEN: Yes, we are.

15 CHAIRMAN GRIFFIS: Okay. the parties?
16 Anyone not available on the 22nd in the morning?
17 Okay, there is indication, and sir, you are here to
18 give testimony, is that correct? As a person? I'm
19 sorry, we didn't recognize you as a party?

20 (Someone is speaking to Chairman off
21 microphone.)

22 CHAIRMAN GRIFFIS: What is your name, sir?

23 Mr. Theis, okay. As none of what you've said is on
24 the record, I will repeat. Mr. Theis, you are
25 indicating that you would have difficulty in

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1 availability on the 22nd and are a party, a party
2 represented.

3 And so let me hear from others that would
4 have difficulties in, with the 22nd? Not seeing any,
5 okay, I think we should grab that date, noting with
6 the amount of participation that we wouldn't have
7 everyone, perfect amenability to it.

8 It will be the third, I think we wouldn't
9 call it any earlier than 10:00, if that helps people's
10 schedule. Submissions.

11 MS. BAILEY: Mr. Chairman, did you want me
12 to repeat or at least try to identify the items and
13 maybe that would give some, some direction as to the
14 date that you would want that to be submitted,
15 sometime this week I would assume?

16 CHAIRMAN GRIFFIS: Yeah.

17 MS. BAILEY: You had asked the Applicant
18 to provide clarification or explanation of the lots,
19 whether they were advertised correctly or properly in
20 the public hearing notice.

21 You also indicated that the Applicant
22 should maintain the posting for an additional period
23 of time. I'm not quite sure if that, of the specific
24 time frame was indicated. However, no written
25 submission, I would imagine, or I'm not quite sure,

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1 you hadn't completed that part of the hearing as yet.

2 Letters of complaint. The Applicant is to
3 provide letters of complaint that were submitted to
4 them. The capacity of valet parking. The location
5 and the number of spaces.

6 Mr. Moore is to provide information that
7 was faxed to him from the Department of
8 Transportation. And the last thing you asked for, Mr.
9 Chairman, was a site plan to show the layout of the
10 property, specifically access to the service area.
11 And those are the items that I have right now, Mr.
12 Chairman.

13 CHAIRMAN GRIFFIS: Excellent. Additional
14 items that the Board is aware of? I think that's
15 comprehensive. Let me just indicate, first of all the
16 posting.

17 We would ask that it be properly posted or
18 maintain its posting to the next hearing. So if you
19 can keep those up and in proper condition.

20 MS. BUHLER: Mr. Chairman, should they be,
21 the posting signs that we got from the Office of
22 Zoning had the two different lot numbers. How, but
23 Mr. Snider said that it was one lot number.

24 CHAIRMAN GRIFFIS: Right.

25 MS. BUHLER: So how do we --

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1 CHAIRMAN GRIFFIS: You're going to clarify
2 the lots for us, but no, that's not going to change
3 the posting. The site plan, I think, what I'm trying
4 to do is identify what would be important to get in by
5 next meeting, April 22nd.

6 And I think any site plan that you have,
7 I'm sure you have them actually, would be appreciated.

8 And I would suggest that, okay, my concern is this.

9 If you can get, I would ask that
10 everything come in that is of your responsibility.
11 The valet parking and that issue, one, I want that
12 comprehensive.

13 So, if it's, and I'll take, consider the
14 Board members, but I don't want it half finished to
15 come in, because it opens up to huge arguments of
16 which, none of which will be able to be addressed for
17 this Board.

18 So I want you to push to get that done by
19 the 22nd. If it isn't done, again, I stress we will
20 need it comprehensively and completely done, and then
21 we would take it into the record at that point.

22 If we ended up doing that and not having
23 it here and we finish, then it would be served on all
24 the parties. The parties would then be allowed to
25 give essentially cross examination in writing and we

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1 can take that in written submission.

2 So, it helps everybody if it's here and
3 complete on the 22nd, otherwise we'll go from there.
4 Anything else? Are we missing anything, Ms. Bailey?

5 MS. BAILEY: Did you want to give a date
6 or are we just going to leave it open-ended for the
7 submissions, Mr. Chairman?

8 CHAIRMAN GRIFFIS: Oh, for the
9 submissions?

10 MS. BAILEY: Yes.

11 CHAIRMAN GRIFFIS: Oh, man. Right,
12 exactly. We're pushing this to get everyone in. What
13 I would suggest is obviously if it's done, submit,
14 serve and we can get that done. But it's due at the
15 date of the hearing.

16 So, if, and note the difficulty if you
17 bring it along and distribute it. Now obviously if it
18 is served that day it will be served to the parties.
19 The parties will then be given the opportunity, either
20 if they are available at that moment to deal with it,
21 or we will again make accommodations that everyone can
22 address that information.

23 Okay, anything else? Okay. Also note if
24 you think that it's important that the Board see any
25 information that's submitted, it probably should be in

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1 here by Wednesday, which would be tomorrow, wouldn't
2 it?

3 Because, as we are not employees of this
4 office, we have work outside. Our packages are
5 delivered to us and they go out Thursdays. So, if you
6 are wanting us to see it before the meeting or the
7 morning of, that's just a little hint. Maybe some
8 inside information, who knows.

9 Okay, what else? Any question,
10 clarifications? Is everyone clear on dates, times,
11 submissions and responsibilities? Yes. Excellent. I
12 thank you all very much for your patience with us this
13 morning. And we can adjourn the morning session of
14 April 15, 2003.

15 (Whereupon, the foregoing matter
16 went off the record at 1:00 p.m.
17 and went back on the record at
18 1:53 p.m.)

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

1:53 p.m.

CHAIRMAN GRIFFIS: Good afternoon, ladies and gentlemen, I'm going to call to order the 15 April, 2003, public hearing of the Board of Zoning Adjustments of the District of Columbia.

My name is Geoff Griffis, I am Chairperson. Joining me today is Mr. Etherly, on my right, representing the National Capital Planning Commission, is Mr. Zaidain and representing the Zoning Commission this afternoon with us -- oh, my goodness, I am tired -- is Mr. May.

Forgive me, lost in thought there for a quick moment. Copies of today's hearing are available to you. They are located in the new holder at the door where you entered into the hearing room.

Please take a copy, and if there are additional copies that are needed, you can let the Office of Zoning staff next door, and they will provide more copies.

Please be aware that all proceedings before the Board of Zoning Adjustments are recorded.

Therefore, we ask several things. First of all, I'd ask everybody to turn off their cell phones and beepers, so we do not disrupt the proceedings.

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1 Second, when coming forward to testify
2 you will need to fill out witness cards, if you have
3 not done so already, and give them to the Recorder
4 who sits on the floor to my right.

5 When coming forward, you will need to
6 speak into a microphone. It should be on, of course,
7 and we would ask that you introduce yourself, name
8 and address when first addressing the Board, so that
9 we have a record.

10 The order of procedures for this
11 afternoon will be, we have several or we have a
12 continuation case, we'll update you on where we are
13 with that. But for special exceptions and variances
14 starting off, we will have first, statements of
15 witnesses and the Applicant.

16 Second would be government reports,
17 attendant to the application. That is Office of
18 Planning, Department of Transportation, and any other
19 attendant agency reports.

20 Third would be the Advisory Neighborhood
21 Commission. Fourth would be parties or persons in
22 support of the application. Fifth would be parties
23 or persons in opposition to the application.

24 And fifth would be closing remarks by the
25 Applicant. Cross examination of witnesses is

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1 permitted by the Applicant and the parties in the
2 case.

3 The ANC within which the property is
4 located is automatically a party in each case. The
5 record will be closed at the conclusion of each case
6 except for, any materials that we've specifically
7 requested.

8 And we will be very specific on what is
9 to be submitted and when it is to be submitted into
10 the Office of Zoning. After the receipt of that
11 information, of course, it goes without saying that
12 the record would then be officially closed and no
13 other information would be accepted into the official
14 record.

15 The Sunshine Act requires that all
16 hearings on cases before the Board of Zoning
17 Adjustments be made in the open and before the
18 public. This Board may, however, consistent with its
19 own procedures and regulations enter Executive
20 Session during or after a public hearing on each case
21 in order to review the record or deliberate on the
22 case.

23 Decisions of the Board in contested cases
24 must be based exclusively on the public record, and
25 so we ask people present today not engage Board

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1 members in any type of conversation so that we do not
2 give the appearance of not deliberating solely on the
3 record and that information into it.

4 I would ask that, of course, as we
5 proceed that everyone refrain from any disruptive
6 noises, actions or screams about how hot or cold it
7 is in the hearing room, so that we don't disrupt the
8 proceedings and those, of course, people that are
9 giving testimony in front us, which is very
10 important.

11 We will be concluding by 6:00 today, as
12 we will lose a quorum at that time. So, I would like
13 to jump right into the cases and get through them as
14 expeditiously as possible.

15 At this time, we will be able to
16 entertain any preliminary matters. Preliminary
17 matters are those which relate to whether a case will
18 or should be heard today.

19 Such as request for postponement,
20 continuance or any withdrawals. If you are not
21 prepared to forward with a case today, or if you
22 believe the Board should not proceed with a specific
23 case, it would mean that you have preliminary matter.

24 And I would ask that you come forward and
25 having a seat in front of us as an indication of a

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1 preliminary matter. First, let me wish a very good
2 afternoon to Ms. Bailey, sitting to my very far
3 right, representing the Office of Zoning.

4 Also, Mr. Moy and Ms. Monroe, with the
5 Corporation Counsel. And I would ask if they are
6 aware of any preliminary matters for the Board.

7 MS. BAILEY: Mr. Chairman, good
8 afternoon, and also to the other members of the
9 Board. And staff does not have any preliminary
10 matters at this time, Mr. Chairman.

11 CHAIRMAN GRIFFIS: Good, thank you. And
12 no one has approached, so I take that as no one
13 having preliminary matters this afternoon. In which
14 case, let's call the first case in the afternoon.

15 MS. BAILEY: The first case of the
16 afternoon is an Appeal and it's Number 16935 of
17 Southeast Citizens for Smart Development, Inc.,
18 pursuant to 11 DCMR 3100 and 3101 from the
19 administrative decision of David Clark, Director,
20 Department of Consumer and Regulatory Affairs,
21 allowing the construction of four single family
22 dwellings allegedly in violation of the side yard
23 requirements under Subsections 45.9 and 775.2.

24 Location parking space provisions under
25 Subsection 2116.1, parking space accessibility

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1 provisions under Subsection 2117.4. The site is
2 located in a C-2B District at premises 1308, 1310,
3 1312 and 1314 Potomac Avenue, S.E.

4 And it's also located in Square 1045 on
5 Lots 134, 136, 137 and 138. Mr. Chairman, this is a
6 continuation. The witnesses have all been sworn in.

7 I don't believe there is anyone who will be
8 testifying today who has not been sworn in
9 previously.

10 CHAIRMAN GRIFFIS: My recollection is
11 last we left off we were coming back together to do
12 closings, closings by SCSD, if I'm not mistaken.

13 MR. PARKER: Mr. Chairman, if I could
14 address the Board.

15 CHAIRMAN GRIFFIS: Yes.

16 MR. PARKER: Arthur Parker on behalf of
17 the Office of Corporation Counsel. I just, I'm
18 making a motion for relief from your rules. When we
19 were last here --

20 CHAIRMAN GRIFFIS: Thank goodness, let's
21 throw them out the window.

22 MR. PARKER: -- we were sort of rushing
23 to close things by 5:00 and I was fairly focused on
24 trying to get Mr. Kelly out of here because it was
25 his last day with the office.

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1 CHAIRMAN GRIFFIS: I see.

2 MR. PARKER: I did not focus on the fact
3 that the procedure here is to not only present your
4 witnesses, but also present your argument within your
5 case.

6 And I was suffering under the
7 misapprehension there was going to be a round of
8 argument after all witnesses were in. So I did not
9 present any argument within our case.

10 I have about five minutes of argument
11 that I would like to put in our case. So I'm, at the
12 point, I'm asking to reopen the case just to allow me
13 to put the argument in and then, certainly, they will
14 be on notice of what to rebut.

15 I don't think it's going to raise
16 anything that hasn't already been addressed.

17 CHAIRMAN GRIFFIS: Okay. In terms of, we
18 don't need to open the case because we're at a
19 continuation of the hearing, so it is all part of the
20 record.

21 MR. PARKER: Right.

22 CHAIRMAN GRIFFIS: Let me hear from Board
23 members. And you estimate your presentation and
24 closing total is about five --

25 MR. PARKER: Five to eight minutes.

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1 CHAIRMAN GRIFFIS: Okay. Any strong
2 concerns from the Board. I don't hear any. Let me
3 hear from the Southeast Citizens Board of Smart
4 Development. Any --

5 MS. WITHUM: Yes, just one clarification.
6 You will recall when we were here on April 1st,
7 because we ran out of time, we didn't have time for
8 rebuttal. And we have just some very brief, about
9 five minutes of some rebuttal testimony specifically
10 dealing with about two issues that the Zoning
11 Administrator's testimony had touched upon. It will
12 be very brief and then closing.

13 CHAIRMAN GRIFFIS: Right. Indeed. And
14 we're prepared for that rebuttal testimony and then
15 closings from you. Okay. Is there anyone else, any
16 opposition from the Owner's Representative?
17 Signifying no, let's move ahead.

18 MR. PARKER: Thank you. The Board will
19 recall that prior to the presentation of evidence at
20 the last hearing, there was again the renewal of the
21 motion to dismiss and the Board had asked me, as
22 Representative of the Zoning Administrator, whether
23 we had taken a position on that motion.

24 At that time I said we did not. And the
25 primary reason for that was because we had not yet

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1 put in the record Mr. Kelly's testimony about what
2 the base, whether there was a, a consideration of the
3 side yard issues at the time of the first set of
4 permits.

5 And the, you will recall that some of the
6 testimony that was provided by Mr. Kelly was that
7 that matter, based on the footprint of the building
8 and the permits that were provided in the application
9 that was provided, was considered at that time.

10 Based on that testimony, I then would, at
11 this point, take the position that there is a basis
12 in the record for you to determine that that issue,
13 that the side yard issues were in play at the time of
14 the first set of permits and at the first set of
15 appeals.

16 And that you should rule the subsequent
17 appeal based on the side yard issue is untimely. I
18 know we've been through this before and the matter,
19 as I understand it, was left, was dismissed without
20 prejudice.

21 I know in other matters, particularly the
22 Waste Management versus BZA matter, which I
23 participated in, we actually filed motions to dismiss
24 and had a complete hearing on the merits.

25 The ultimate decision was a conclusion

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1 that the matter was untimely. So I don't think
2 you're precluded from readdressing that issue. And
3 we would, at this point, just state our position more
4 clearly than we did before.

5 I was reluctant to state a position when
6 there wasn't, when we're arguing what somebody did
7 and there wasn't anything in the record to as yet
8 support that.

9 On the issue with regard to the knowledge
10 of the Appellant, I think it's implicit that in their
11 first initial appeal, the thrust of their challenge
12 was that these matters were presented as separate
13 structures and buildings, instead of one
14 residential-based community facility.

15 So I think the thrust of their initial
16 appeal recognizes that these were separate, detached
17 structures, and therefore they are on notice as to
18 what that, all of the issues that that entails.

19 So that is our position on that. With
20 regard to the merits themselves on the side yard
21 issues, I start with one of the arguments, one of the
22 issues that the Zoning Regulations themselves deal
23 with is trying to assure light, access, air, safety,
24 these kind of considerations.

25 And as I, as we reviewed the testimony of

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1 the Zoning Administrator, it seems that we come up
2 with convening views on semi-detached dwellings.

3 We either have a view that says you can
4 build on the lot line and you have one side yard.
5 Or, you have the view that says you can only do that
6 if it's connected to a structure that already exists
7 or is being built concurrently.

8 And if you don't have that, then a
9 semi-detached building means you have to have two
10 side yards and the building is no longer attached to
11 anything.

12 Now we would submit that that is not
13 consistent with the Board's, one of the Board's
14 functions in interpreting the regulations, which is
15 to give meaning to all the regulations where
16 possible.

17 We look to the definition in 11 DCMR 191,
18 of the semi-detached building where it talks about a
19 structure on the lot line or common wall. We note
20 the use of the disjunctive word or and not and.

21 And we would submit that if you come up
22 with a conclusion that a semi-detached building can
23 only be built if there's a, if there is an existing
24 or concurrently built common structure next to it,
25 that you've taken, you have turned that definition

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1 from or to and.

2 We also would draw your attention to Mr.
3 Kelly's, what I would call his empty lot different
4 owner analysis.

5 CHAIRMAN GRIFFIS: Where were you going
6 to in the definition?

7 MR. PARKER: Of the semi-detached
8 building.

9 CHAIRMAN GRIFFIS: It's definition of
10 semi-detached?

11 MR. PARKER: Yes, I believe --

12 CHAIRMAN GRIFFIS: In 199?

13 MR. PARKER: Yes.

14 CHAIRMAN GRIFFIS: Okay. Go ahead.

15 MR. PARKER: Okay, his different lot, or
16 his empty lot different owner analysis. It seems
17 clear that if a semi-detached dwelling requires two
18 side yards, then the owner, who comes on to the empty
19 lots, he has one of two choices.

20 He either has to build with two side
21 yards, or he has to build a townhouse. I'm sorry, a
22 row house. And that seems to eliminate the entire
23 category, at least for that construct of having a
24 semi-detached structure.

25 And if you have a single lot owner who

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1 can build on a lot line and then have only one side
2 yard, it would seem inconsistent to impose a
3 requirement on a multiple lot owner, which is the
4 case here.

5 In other words, if we say, well, if
6 you're a single lot owner, you can build on a lot
7 line if there's nothing around, and you can have one
8 side yard.

9 But, if you're a common lot owner, the
10 only way you can build a semi-detached home or
11 structure is to put it with a common structure and
12 build at the same time.

13 That would seem to be inconsistent also.

14 And then the last issue is that when you set up
15 these kinds of distinctions, as I said before, I
16 don't believe it gives a meaning to the regulations
17 as a whole, particularly the definitions.

18 And it's difficult to discern, on a
19 rational basis, if the point of what you're trying to
20 do with these various distinctions is to assure
21 light, access, air and safety.

22 If the owner, if you have a 20 foot lot,
23 if you're the owner of a 20 foot lot and your only
24 choice is you can either build a row house or you can
25 build a four foot structure because you have to have

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1 side yards on two sides, that seems to be not very
2 rational.

3 And the choice is between these
4 structures which have an eight foot side yard and a
5 row house, it seems at least these structures provide
6 more access, more air, more light, more ability for
7 safety, either the fire or police to gain access to
8 them, than it does to impose the requirement to build
9 a row house.

10 Which, even per the Appellant's expert,
11 was that this structures could have been built as row
12 houses. So I don't know where that gets the city, if
13 we're going to create a ruling that says we're going
14 to do away with semi-detached buildings built on a
15 lot line in favor of making you build row houses.

16 Because what we're looking for is light,
17 air, access, safety. I think those are primarily the
18 points I wanted to reemphasize, based on Mr. Kelly's
19 testimony. Thank you.

20 CHAIRMAN GRIFFIS: Thank you. Questions
21 from the Board?

22 MR. MAY: When it comes to the definition
23 that you cite under 199, does that definition
24 establish the requirements for building a
25 semi-detached property or house, with regard to side

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1 yard, rear yard or anything else?

2 Does it establish any requirements?

3 MR. PARKER: I think only implicitly
4 because it defines what the structure is and then all
5 of the rest of the regulations flow from that
6 definition.

7 MR. MAY: So the regulations all flow
8 from the definition. Is it conceivable that the
9 definition is simply there and includes the either or
10 condition simply as a way of describing what is
11 existing and that there are already semi-detached
12 properties that are lot lines, as opposed to implying
13 that you are allowed to build them now?

14 MR. PARKER: It would be my understanding
15 of what the regulation, the purpose of the
16 regulations is to establish what can be built, not to
17 define what's already been built.

18 MR. MAY: Not necessarily what already,
19 but cover everything. Cover what's built and what's
20 not built. The reason I ask is that there are a
21 number of nonconforming conditions that already
22 exist.

23 MR. PARKER: Right.

24 MR. MAY: And if the definitions were
25 limited to what is possible to build, then you would

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1 not be able to write a complete code.

2 MR. PARKER: Well, I understand the
3 regulations to be what's possible to build without
4 variance of special exception process. In other
5 words, they define out what's matter of right, among
6 other things.

7 MR. MAY: The definitions define the
8 matter of right?

9 MR. PARKER: Well, not the definitions,
10 the regulations in total.

11 MR. MAY: The regulations do in total,
12 right. I guess the point I'm getting to is I don't
13 see the inconsistency if, in fact, what, you know,
14 the definitions themselves, which in my book, don't
15 actually establish requirements with regard to side
16 yard.

17 It may imply certain things, certainly,
18 but it doesn't actually establish them. Those are
19 established by other regulations or other passages
20 within the overall regulations.

21 I mean it's quite conceivable that it's
22 not inconsistent at all if it's just trying to
23 describe the full realm of what exists. What exists
24 and what could exist.

25 MR. PARKER: I don't disagree with that

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1 as a general proposition. But I understand it to be,
2 what's being presented by the Appellant, is that they
3 are asking you to make an interpretation of that
4 regulation which now says that unless you build a
5 semi-detached property to an existing property on the
6 lot line, or build another one at that same time,
7 that that category evaporates.

8 You have to now have side yards on both
9 sides. And I'm suggesting to the Board that that is
10 not consistent with the definitions that are there
11 for semi-detached buildings.

12 MR. MAY: Okay, thank you.

13 MR. PARKER: Thank you.

14 CHAIRMAN GRIFFIS: Anything else? Very
15 well, let's move on to the Southeast Citizens.

16 MS. WITHUM: Mr. Griffis, we did get the
17 amended motion to dismiss and essentially that's what
18 the District was arguing. Would you like me to
19 respond to that?

20 CHAIRMAN GRIFFIS: Not necessarily.

21 MS. WITHUM: Okay.

22 CHAIRMAN GRIFFIS: Do you plan to respond
23 in writing?

24 MS. WITHUM: Well, actually I just have a
25 couple of points I'd like to make because he did

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1 raise, he emphasized a specific issue as to the
2 timing of when that determination of the
3 semi-detached dwellings was made.

4 And I think that's very important because
5 it relates to the timeliness of our appeal.

6 CHAIRMAN GRIFFIS: Okay. I mean you can
7 draft it all in the same, you don't need to pull it
8 out. Let me actually get some indication in the
9 motion that we have, that we did have, we stated and
10 clarified.

11 What I'm going to do is at the end of
12 this, depending on where we are, set a date that we
13 pick, set this for decision making. And the first
14 will be when we entertain the motion.

15 So I would not anticipate that we're
16 doing motions today, but we can accept them.

17 MS. WITHUM: Well, then let me just file
18 the response and we can deal with that later.

19 CHAIRMAN GRIFFIS: Okay, that might be
20 more prudent. Okay.

21 MS. WITHUM: Okay, as a rebuttal witness,
22 well, first of all, you had asked that Mr. Schauer
23 provide a resume --

24 CHAIRMAN GRIFFIS: Oh, good.

25 MS. WITHUM: -- of his qualifications.

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1 So I have that and we will file that. Also, I'd like
2 to, and Ms. Oppen-Weiner will do some rebuttal
3 testimony, just very briefly. Come on up.

4 Ms. Oppen-Weiner, just a couple of
5 questions to follow up from the Zoning
6 Administrator's testimony. First of all, the Zoning
7 Administrator, when he looked at the plans, indicated
8 that at the structure for 1314, he indicated that the
9 projection on the east side of the structure was a
10 front door. Is that correct?

11 MS. OPPEN-WEINER: Not according to the
12 plans that we reviewed, which I believe are the same
13 plans. The doorways are on the front of the building
14 and in the back of the building, and that appears to
15 be listed as a mud room and is enclosed. So there is
16 no door on that projection.

17 MS. WITHUM: Okay.

18 CHAIRMAN GRIFFIS: Isn't that the one
19 where, I didn't pull the plat, I can. But there was
20 a pathway to it, is what the Zoning Administrator
21 talked about that went right into that. And you're
22 saying there's no entrance, no door to it?

23 MS. OPPEN-WEINER: Not on the plan.

24 MS. WITHUM: It's not a -- go ahead.

25 MS. OPPEN-WEINER: Not on the plans. And

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1 I have not observed a door at all, and I have
2 observed that property on a number of occasions.

3 CHAIRMAN GRIFFIS: Okay.

4 MS. WITHUM: The Zoning Administrator
5 testified that the houses at issue, 1310, 1312, 1314,
6 were determined to be semi-detached dwellings at the
7 time the first permits were issued on September 6th,
8 2001. When did the Southeast Citizens first learn
9 that the, that the determination was made that these
10 were deemed to be semi-detached structures?

11 MS. OPPER-WEINER: I believe that would
12 October 21st, letter that we received from David
13 Clark, 2002, was the first mention of any of the
14 communications that we received in response to our
15 many requests for information.

16 So that was the first time that word
17 semi-detached appeared on anything, including the
18 permit applications, the permits, the drawings. That
19 word just didn't surface.

20 And Mr. Kelly did not produce any
21 documents, not only to us, but to this Board, to
22 support that statement.

23 MS. WITHUM: Let me just run through,
24 very briefly, would you hand out those exhibits,
25 please, if you would? I'd like to, focusing on the

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1 permits that are at issue here, when was the first
2 time that Southeast Citizens requested information
3 from the DCRA files on these permits?

4 MS. OPFER-WEINER: Are you talking about
5 the single family home permits?

6 MS. WITHUM: Yes.

7 MS. OPFER-WEINER: We, I actually, I
8 wrote a letter on July 12th, 2002, that was a Freedom
9 of Information Act request.

10 MS. WITHUM: That's included in the
11 materials you're just being handed. And did you
12 receive a response from this?

13 MS. OPFER-WEINER: Yes. I did receive a
14 response dated, let's see, from Mr., on August 21st,
15 2002, I received a response from Mr. Robert Hendry,
16 who is identified as the Freedom of Information
17 Officer.

18 MS. WITHUM: Did that include information
19 from the files of DCRA?

20 MS. OPFER-WEINER: Yes, it did.

21 MS. WITHUM: What, if anything, did it
22 include?

23 MS. OPFER-WEINER: Well, we received
24 copies of the permits that had been issued. We
25 received correspondence since December, 2002, to the

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1 present, received by DCRA related to this case.

2 All correspondence since December, 2002,
3 to the present date sent by DCRA to whomever. And
4 then we had requested interagency communications
5 between DCRA and each and every D.C. agency.

6 Actually, the only things we received in
7 that were the permits. Is that right? My
8 recollection is that although we requested those, per
9 the July 12th, letter, that we really only received
10 copies of the permits.

11 MS. WITHUM: Here is the letter.

12 MS. OPPER-WEINER: Oh, I see. I see, so
13 that's what he did enclose, okay, I'm sorry. I'm
14 changing my mind here. Okay, we requested, in
15 response to your request we are enclosing all
16 documents as located.

17 We have not included copies of the site
18 plan that you viewed during a previous DCRA visit.
19 These documents are still available.

20 MS. WITHUM: When you reviewed these
21 documents was there anything in there that discussed
22 these structures as semi-detached dwellings?

23 MS. OPPER-WEINER: No, there was nothing
24 at all.

25 MS. WITHUM: Did you have an opportunity

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1 to look at the permits, plans and the applications
2 for this?

3 MS. OPFER-WEINER: Yes, I did. I did a
4 thorough review of the entire file, down at DCRA as
5 well.

6 MS. WITHUM: Was there anything in the
7 permits, plans or the applications for the permits
8 that indicated that these were semi-detached
9 dwellings?

10 MS. OPFER-WEINER: I did not see
11 anything.

12 MS. WITHUM: I'd like you to turn to
13 Exhibit 12, please. Can you just identify this
14 document?

15 MS. OPFER-WEINER: Yes, this is a letter
16 dated October 9th, 2002, that was a second Freedom of
17 Information Act Request signed by our Chair, Mr. Will
18 Hill. And I would like to point out we asked for,
19 whatever we asked for, we had not yet received.

20 Number 2, for example, asks for notes,
21 writings, legal analyses, administrative decision
22 making, internal memoranda, correspondence and so
23 forth, in attempt to get a basis of information for
24 the decision making.

25 And then I'd like to point out on Page 2

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1 of Exhibit Number 12, in the first full paragraph at
2 the very bottom it says specifically we ask that your
3 office provide any evidence of any decision making by
4 the Zoning Administrator or other delegated official
5 determining that the noted structures conformed with
6 the requirements of single family homes, and thus
7 were deemed eligible by DCRA for the noted permits.

8 MS. WITHUM: I'd like you to turn now to
9 Exhibit 15, please, and just identify that document,
10 if you can.

11 MS. OPPER-WEINER: Yes, that was also
12 another Freedom of Information Act dated December
13 16th, 2002, where we again reiterated, because we had
14 not yet received Number 2 on that first page,
15 decision making, if any, by the Zoning Administrator
16 or other Zoning Official, on whether the reissued
17 Phase 1 applications met the zoning requirements.

18 MS. WITHUM: Did you receive any
19 documents in response to this?

20 MS. OPPER-WEINER: No, we did not. And
21 then, finally, at the very bottom of the letter, at
22 the end of the last full paragraph, we asked if the
23 D.C. Government produces at the BZA hearing, any
24 documents responsive to our FOIA Request, which are
25 not produced to us before the deadlines imposed by

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1 BZA rules, we will move to have the documents
2 stricken from the record in that proceeding.

3 We were attempting to make sure that we
4 were fully prepared for this hearing and that we
5 didn't want any surprises at the 11th hour, that
6 there was something that may have been found that had
7 not been produced to us.

8 So this was again a reminder and, in
9 fact, we never received anything further from DCRA.

10 MS. WITHUM: One last question. If you
11 could look at Exhibit 7-B, which is a July 15th,
12 letter from Denzel Noble to you, which was, explained
13 --

14 MS. OPFER-WEINER: I believe that's a
15 numbered Exhibit 33 in the BZA file, by the way.

16 MS. WITHUM: Did that, what, if anything,
17 did that indicate about these structures complying
18 with the zoning regulations because they were
19 semi-detached dwellings?

20 MS. OPFER-WEINER: Well, on July 15th,
21 2002, Mr. Noble responded to my earlier letter and
22 basically didn't mention a word about semi-detached.
23 It mentions one family, but nothing is mentioned at
24 all with regard to these being identified or defined
25 as semi-detached dwellings.

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1 MS. WITHUM: Okay, thank you, Ms.
2 Opper-Weiner.

3 MS. OPFER-WEINER: Thank you.

4 CHAIRMAN GRIFFIS: Questions from the
5 Board? You indicated that you did a thorough review
6 of the plans down at DCRA, and that's this, the
7 permit under this appeal, is that correct?

8 MS. OPFER-WEINER: Yes, I did.

9 CHAIRMAN GRIFFIS: And how did you
10 determine what these buildings were to start your
11 zoning analysis?

12 MS. OPFER-WEINER: Well, I'm not capable
13 of doing a structure zoning analysis, that's not my
14 expertise. What I was doing is wanting to be sure
15 that we were familiar with what it was that had been
16 approved and proposed and whether or not there was
17 any difference.

18 And really what it was, I am no expert at
19 all. I mean, I wouldn't even begin to say that I
20 understand how to read plans. But we didn't want to
21 purchase the plans, we wanted to sort of, I was
22 nominated to go and take a look and just to see what
23 it was.

24 CHAIRMAN GRIFFIS: Were you out of the
25 room when they volunteered you to do that?

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1 MS. OPFER-WEINER: Maybe I was, I don't
2 know.

3 CHAIRMAN GRIFFIS: Did you have an
4 indication, I mean, so you didn't even think about
5 it. But what I'm hearing is a lot of testimony on
6 how you were looking for some sort of official
7 decision from DCRA that this was semi-detached single
8 family or something.

9 MS. OPFER-WEINER: No, actually I was not
10 looking for that. What I was looking for is what,
11 whether or not there had been any difference in what
12 was proposed --

13 CHAIRMAN GRIFFIS: Right.

14 MS. OPFER-WEINER: -- for this particular
15 single family application. Which we did understand,
16 we did have an attorney working for us at that
17 moment. We're not in compliance with the zoning
18 regulations and so I was looking to see what, if
19 anything, was different from the prior plan, as best
20 as I could tell on their face.

21 CHAIRMAN GRIFFIS: And that's
22 understandable and let me go back to that. But what
23 I kept hearing you say is, and again, there was no
24 mention of semi-detached houses, I think you said,
25 dwellings is what the definition would be.

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1 So am I not correct, you were looking for
2 them to give you some sort of official designation?

3 MS. OPFER-WEINER: Well, I'll tell you
4 that that issue has been raised after the fact.

5 CHAIRMAN GRIFFIS: Okay.

6 MS. OPFER-WEINER: We knew nothing about
7 that terminology until we got Mr. Clark's letter. I
8 made this visit down there before we got a response.

9 We were desperately trying to get some answers as to
10 why these permits were issued on July 8th, in such
11 haste, and whether, what kind of review had been
12 done, that's Number 1.

13 Number 2, we, there was never any Stop
14 Work Order issued based on the BZA decision which
15 became final, in our counting, on July 5th.

16 CHAIRMAN GRIFFIS: Right. No, I
17 understand that issue. Now you said that you were
18 down looking for differences from the previous
19 duration and the current permit.

20 And when you looked at the structures,
21 what were the differences that you saw?

22 MS. OPFER-WEINER: I don't think I noted
23 any differences. In fact, what I was told was that
24 these were the same plans. They were stamped July
25 8th, 2002.

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1 CHAIRMAN GRIFFIS: I see.

2 MS. OPFER-WEINER: Which was a
3 difference. That these were basically a repeat and a
4 resubmission.

5 CHAIRMAN GRIFFIS: Okay. Any other
6 questions from the Board? Cross examination?

7 MR. PARKER: I just have one question.
8 You referred to an exhibit in which you talked, I
9 think it was one of the earlier FOIA requests where
10 you used the term single family structure. What
11 exhibit was that again?

12 MS. OPFER-WEINER: Oh, are you talking
13 about our request or the response to our request?

14 MR. PARKER: I think the request. I'm
15 trying to get what, when that request was made.

16 MS. OPFER-WEINER: One letter was July
17 12th, that term is not used. Let me check Exhibit
18 12, I believe, yeah.

19 MR. ETHERLY: I think you might be
20 referencing the second page of the October 9th,
21 letter. The first full paragraph, reading down
22 somewhat, with respect --

23 MS. OPFER-WEINER: Yes.

24 MR. PARKER: And the date of that, again,
25 please?

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1 MS. OPPER-WEINER: This is the October
2 9th, letter to David Clark.

3 MR. PARKER: 2002?

4 MS. OPPER-WEINER: 2002, yes. And single
5 family homes is what it says. Because that was what
6 these permits were issued for.

7 MR. PARKER: And, I guess, my only
8 question is in terms of the plans themselves, the
9 Appellants were the same Appellants, obviously the
10 Appellants today are the same Appellants in the first
11 appeal?

12 Somebody reviewed the plans on behalf of
13 the Appellants in the first appeal, is that correct?

14 MS. OPPER-WEINER: Yes.

15 MR. PARKER: All right, I don't have any
16 further questions.

17 CHAIRMAN GRIFFIS: Any other?

18 MR. SULLIVAN: Marty Sullivan for Father
19 Flanagan's Boys Home. And just a quick follow up
20 question. The person that reviewed those plans, or I
21 guess I'll just phrase it this way.

22 You did have, hire a zoning expert for
23 the first appeal, is that correct?

24 MS. OPPER-WEINER: Yes.

25 MR. SULLIVAN: And he was qualified as an

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1 expert witness before the Board?

2 MS. OPPER-WEINER: Yes.

3 MR. SULLIVAN: And he presumably did
4 review those plans and was fully involved in the
5 first BZA appeal?

6 MS. OPPER-WEINER: I can't answer what
7 actually he did, because I don't recall whether or
8 not he reviewed them or whatever.

9 MR. SULLIVAN: Thank you.

10 CHAIRMAN GRIFFIS: Thank you very much.

11 MS. WITHUM: Can I just have one follow
12 up question?

13 CHAIRMAN GRIFFIS: Sure.

14 MS. WITHUM: Was there ever any
15 discussion, since we're going back to zoning experts
16 in the first hearing, was there ever any discussion
17 about these dwellings being considered semi-detached
18 dwellings in the first hearing?

19 MS. OPPER-WEINER: Not that I can recall.
20 That term came to us the first time in that October
21 21st letter that was, 2002, that was received from
22 David Clark.

23 CHAIRMAN GRIFFIS: Cross on the redirect?

24 MR. PARKER: No, thank you.

25 CHAIRMAN GRIFFIS: Okay.

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1 MS. OPFER-WEINER: Okay, thanks so much.

2 MS. WITHUM: Are you ready for closing?

3 CHAIRMAN GRIFFIS: Absolutely.

4 MS. WITHUM: Okay. I have a closing
5 argument I'd like to read, it's about ten minutes.
6 This way I won't miss anything. And I'll hand you a
7 copy so you can follow along.

8 CHAIRMAN GRIFFIS: Excellent. You can
9 start in on it, we'll catch up.

10 MS. WITHUM: Okay. Southeast Citizens
11 for Smart Development, Inc., joined by co-Appellant,
12 ANC-6B, have met their burden and the appeal should
13 be granted.

14 The testimony and evidence supporting
15 this appeal demonstrate that the zoning regulations
16 applicable to semi-detached dwellings were not met,
17 such that the building permits for 1310, 1312 and
18 1314 Potomac Avenue, S.E., were reissued in error and
19 should be revoked.

20 Before getting into the specifics of the
21 testimony and evidence presented, we need to discuss
22 scope. During the hearing the Board asked a number
23 of hypothetical questions involving the potential
24 application of the side yard regulation at issue
25 here, that is 11 DCMR 405.3

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1 Most of those questions centered on the
2 construction of row house dwellings and how the side
3 yard regulations would apply if only one of a series
4 of row houses were built or if a middle one of a
5 series were missing and sought to be built.

6 The apparent concern of the Board would
7 be that it could be flooded with these cases
8 involving the relevant regulation if it grants this
9 appeal.

10 For several reasons, we do not believe
11 that this would result. First, the reality of
12 current development in the city is that when row
13 houses are built it is generally an entire row built
14 at the same time, thus not involving 405.3.

15 Next, and more importantly, we believe
16 that the Board can decide this case without making a
17 sweeping decision. Clearly, this is not a case
18 involving row houses.

19 And row houses do not need to be brought
20 into this decision. The Board's analysis here should
21 be limited to the application of the side yard
22 regulations to semi-detached structures, as that is
23 the structure, the structures at issue here.

24 In fact, the only time that the question
25 now before the Board arises in the context of

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1 semi-detached structures is when they are built with
2 no common division wall.

3 When a common division wall is built,
4 then the regulation is not applicable. Indeed, when
5 questioned about this type of construction, the
6 Zoning Administrator testified that hundreds of these
7 structures were permitted for construction in the
8 city without side yards required by 405.3.

9 On cross examination, however, the Zoning
10 Administrator was unable to site even one example out
11 of the hundreds claimed in his testimony. We
12 believe, in fact, that few, if any, semi-detached
13 single family dwellings, similar to the unique
14 structures at Potomac Avenue, have been permitted for
15 construction.

16 By definition, a semi-detached dwelling
17 generally envisions construction in pairs with a
18 common division wall. The semi-detached structures
19 at issue here, however, are not common as they have
20 been constructed as separate units.

21 For this reason we believe it is
22 appropriate for the Board to confine its decision
23 only to semi-detached dwellings with no common
24 division wall, which are specifically at issue here.

25 A decision, which is limited in scope to

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1 such semi-detached dwellings, will rectify the errors
2 made by the Zoning Administrator in this case, while
3 also addressing the Board's concern about creating a
4 potentially large number of cases by this decision.

5 We further believe that it is the Zoning
6 Commission that needs to look over these regulations
7 and straighten them out once and for all, in
8 instances where their application may, under certain
9 circumstances, such as when dealing with row houses,
10 be unclear.

11 As the Board knows, the zoning
12 regulations have evolved over time so that certain
13 unanticipated situations arise as further regulations
14 are added.

15 The Board's hypothetical questions about
16 405.3 in the context of row houses are a good example
17 of this issue. For this reason, the Zoning
18 Commission needs to pick up on this issue through a
19 general review and then define specifically their
20 application to row houses, for example, as opposed to
21 semi-detached structures.

22 With this in mind, we ask the Board to
23 consider the specific merits of this case. At the
24 hearing, Mr. Lyle Schauer testified as an expert
25 witness on the applicable side yard zoning

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1 regulations.

2 Mr. Schauer testified that the structures
3 at 1310 through 1314 Potomac Avenue, did not meet the
4 side yard requirements pursuant to 11 DCMR 405.3,
5 because they lacked an eight foot side yard on the
6 side with the lot line wall.

7 He testified that the lot line walls here
8 constitute free-standing walls, thus activating the
9 side yard requirement of 405.3. Mr. Schauer
10 testified that the Zoning Administrator's
11 determination that only one side yard was necessary,
12 on the east side of the structures, did not comply
13 with the zoning requirements for semi-detached
14 dwellings.

15 Mr. Schauer also noted in his testimony
16 that the projection to the east side yard of 1314
17 Potomac Avenue, reduced that side yard to two feet,
18 which fails to comply with zoning regulations.

19 Even under the Zoning Administrator's
20 flawed theory of side yard zoning compliance, the
21 structure does not comply. When asked about this
22 projection during cross examination, the Zoning
23 Administrator stated that he thought it was a front
24 door.

25 Review of the plans belies this

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1 interpretation and shows that 1314 Potomac Avenue
2 fails to comply with side yard zoning requirements on
3 either side.

4 Mr. Schauer further testified on the
5 application of the side yard zoning regulations as
6 interpreted and applied by the Board in the recent
7 case of Pritchard, BZA Number 16811.

8 In that case this Board determined that
9 the lot line wall constituted a free-standing wall
10 requiring an eight foot side yard pursuant to 11 DCMR
11 405.3.

12 Mr. Schauer also testified that since the
13 Potomac Avenue properties did not provide the eight
14 foot side yards required by the zoning regulations,
15 DCRA should have advised the Developer to seek zoning
16 relief through the special exception process before
17 reissuing the building permits on July 8th, 2002.

18 DCRA failed to do this. Mr. Schauer also
19 testified that the Pritchard decision was issued in
20 the Board's public hearing on June 4th, 2002, more
21 than one month before the DCRA reissued the permits
22 for this site.

23 As a party to that appeal, the Zoning
24 Administrator was on notice through the public
25 hearing, deliberation and vote of the BZA members on

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1 June 4th, 2002, that this Board rejected the Zoning
2 Administrator's prior, incorrect interpretation of a
3 free-standing wall.

4 Therefore, on June 4th, DCRA was fully
5 aware that its previous interpretation and
6 application of the side yard requirements set forth
7 in 405.3, was inconsistent with the Board's
8 interpretation and should not be applied to future
9 cases such as for the Potomac Avenue permits here.

10 Because it is the duty of this Board, and
11 not the Zoning Administrator to interpret the zoning
12 regulations, the Zoning Administrator was obligated
13 to apply those regulations, not ignore them as you
14 did here.

15 Moreover, when applying those
16 regulations, the Zoning Administrator must do so
17 consistent with their plain meaning and consistent
18 with the interpretation and decisional guidance
19 provided by this Board.

20 In contrast to Mr. Schauer's testimony,
21 the Zoning Administrator testified that 405.3 did not
22 apply here. Instead of applying that regulation, as
23 interpreted by this Board, the Zoning Administrator
24 testified that the lot line walls here did not
25 constitute free-standing walls and thus the

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1 regulation did not apply.

2 Curiously, this application of the
3 regulation by the Zoning Administrator was consistent
4 only with the interpretation urged by then Acting
5 Zoning Administrator Toye Bello in his testimony in
6 the Pritchard case.

7 But that interpretation and application
8 was flatly rejected by this Board and should not have
9 been applied to this case. In an effort to justify
10 his incorrect interpretation and application of the
11 regulation, the Zoning Administrator further
12 testified that his office has approved hundreds of
13 permits for comparable structures with lot line walls
14 without the requirement for an eight foot side yard.

15 Although he claimed that hundreds of
16 semi-detached dwellings have been approved for
17 construction and exist in the city with such lot line
18 walls and no side yards, he was unable, during cross
19 examination, to identify a single example.

20 Instead, he relied upon the vague
21 assertion that hundreds exist throughout the city.
22 Because this assertion lacks any foundation other
23 than his unsupported statement, and expressly
24 contradicts the plain meaning of the regulation, his
25 claim must be discounted by this Board and not given

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1 any weight.

2 The Board also must consider the
3 statement presented by the co-Appellant, ANC-6B.
4 According to zoning regulations, the statements of
5 the ANC must be given great weight by this Board when
6 considering the merits of the case.

7 In the present case the ANC, after due
8 consideration and deliberation of the facts and
9 issues presented in Executive Session and at its
10 subsequent regular meeting, open to the public, the
11 ANC voted to join the appeal.

12 Like the Southeast Citizens, ANC-6B
13 believes that the DCRA reissued the permits without
14 correctly applying the relevant side yard zoning
15 requirements.

16 In addition to the merits of the side
17 yard regulation appeal that Mr. Schauer explained
18 during the hearing, the testimony of Ms. Ellen
19 Opper-Weiner showed that the appeal was timely.

20 She testified that the Southeast Citizens
21 attempted repeatedly, to little avail, to obtain the
22 basis of the Zoning Administrator's decision as to
23 the zoning compliance of the four structures at
24 issue, in view of the Board's written decision, in
25 BZA Number 16791, issued only weeks earlier.

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1 Only after filing a timely appeal to this
2 Board, within 60 days of the reissued permits, the
3 Southeast Citizens and ANC-6B received a written
4 rationale from DCRA as to the alleged zoning
5 compliance.

6 According to Ms. Opper-weiner, the
7 decisions dated October 17th and 21st, 2002,
8 constituted the first time that DCRA provided a
9 rationale for the zoning compliance based upon the
10 structures constituting semi-detached dwellings.

11 Ms. Opper-Weiner further testified that
12 all prior applications and permits revealed no prior
13 indication of the September 6th, 2001, determination
14 that these constituted semi-detached dwellings, as
15 alleged by the Zoning Administrator.

16 The Zoning Administrator, by contrast,
17 testified that the semi-detached dwelling
18 determination was made at the time of the first
19 permit issuance, September 6th, 2001.

20 Notably, the Zoning Administrator's
21 assertion was unsupported by any documentation, DCRA
22 records or direct knowledge, as the testifying Zoning
23 Administrator was not even employed by the DCRA at
24 the time of the alleged determination.

25 His testimony was based solely on hearsay

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1 evidence and lacked any credibility. The Zoning
2 Administrator brought no files, evidence or anything
3 tangible to support his testimony.

4 His lack of factual knowledge involving
5 the September 6th, 2001, decision and the July, 2002,
6 decision was evident due to his lack of specific
7 information and therefore should not be given any
8 weight.

9 Accordingly, we ask that this Board of
10 Zoning Adjustment grant the appeal, deem the reissued
11 permits, as issued in error, and grant such other and
12 further relief as the Board deems appropriate. Thank
13 you.

14 CHAIRMAN GRIFFIS: Thank you.

15 MS. WITHUM: I'd also like to move the
16 new pages that we provided into evidence as well.
17 The ones we provided earlier. And Mr. Schauer's
18 resume, as well into evidence.

19 CHAIRMAN GRIFFIS: Okay, any
20 clarification on points? Let me, well, there it is.

21 Okay, I think that then concludes. In which case,
22 let's go through some schedule and some submissions
23 of what we are going to be asking. Ms. Bailey, do
24 you have, you have something cooked up for us, right?

25 MS. WITHUM: Can I have just one

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1 clarification?

2 CHAIRMAN GRIFFIS: Yes.

3 MS. WITHUM: Have those new documents I
4 submitted been accepted into evidence?

5 CHAIRMAN GRIFFIS: We didn't reject them,
6 right?

7 MS. WITHUM: I'm just asking for
8 clarification.

9 CHAIRMAN GRIFFIS: Yeah, I think, we
10 don't have any, there's no objections. I don't see
11 any difficulty with that, so yeah, absolutely. We
12 usually don't look at it if we're going to accept it.

13
14 So, if it's sitting up here in front of
15 us, that's a good indication. Okay. Good.

16 MS. BAILEY: Did you want to put this on
17 the May 6th meeting agenda, Mr. Chairman?

18 CHAIRMAN GRIFFIS: Indeed. Let's set
19 that and then see if we have enough time to get
20 everything in. I would like to have everyone move as
21 hard as they can to do that so we can get this --

22 MS. BAILEY: The only submission that I
23 have, that would be outstanding, Southeast Citizens
24 had asked that they provide written response to the
25 motion to dismiss. That's the only submission that I

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1 have. I'm assuming, Mr. Chairman, you --

2 CHAIRMAN GRIFFIS: And that's one that
3 just came in, is it not?

4 MS. WITHUM: That's what I just provided,
5 exactly.

6 MS. BAILEY: Oh, okay.

7 CHAIRMAN GRIFFIS: Right, excellent.

8 MS. BAILEY: So there are no other
9 submissions, unless we're asking for findings of fact
10 and conclusions of law.

11 CHAIRMAN GRIFFIS: Board members? That
12 doesn't help us, well, what do we have? Two weeks?

13 MS. MONROE: Mr. Chairman, you still have
14 a motion to dismiss on the table which has to be
15 decided. You may want to decide that first, one way
16 or the other, and then either you continue with the
17 case and then you'd have findings of fact and
18 conclusions of law at the end.

19 Or, if you end up dismissing it, you
20 don't need them. I mean, we'll deal with preliminary
21 matter first.

22 CHAIRMAN GRIFFIS: We're such a spoiled
23 Board. We want it all and then we'll decide it.
24 Unless you see any difficulties that we're entering
25 into, this is what my anticipation would be.

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1 Is that on the 6th the first, the first
2 deliberative action would be on all motions that were
3 before us. Of which will all have been in, I think
4 we have one right now.

5 And we would dispense with that. But I
6 don't see any reason, or do you think there's legal
7 complications with us having findings of facts, going
8 through a motion to dismiss, and then depending on
9 that outcome either we're done or we continue with
10 deliberation on the appeal?

11 MS. MONROE: You can do it if you want
12 to. I don't know if it's necessary. I mean there's
13 nothing saying you can't.

14 CHAIRMAN GRIFFIS: Okay. That would be
15 the best case scenario. That would be you gracing us
16 with findings and conclusions. And so we will look
17 for those and we will take that up, as I said, the
18 order of deliberation will be on the motion and then
19 on the appeal if we get there. Yes.

20 MS. BAILEY: Mr. Chairman, while Mr.
21 Sullivan is coming to the table, I'm not quite sure
22 if this is going to be what he's going to ask about,
23 but should we set that for the, at least give the
24 Applicant until May 2nd to respond to give them at
25 least a good two weeks?

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1 CHAIRMAN GRIFFIS: Well, there won't be
2 any responses.

3 MS. BAILEY: I'm sorry, to, I'm sorry, I
4 didn't mean to respond, to file.

5 CHAIRMAN GRIFFIS: Yeah, just to file.

6 MS. BAILEY: Right.

7 CHAIRMAN GRIFFIS: Yeah, we'll push it
8 off as far as possible. I mean I don't see any
9 reason for us to get it until we absolutely need it.
10 Question.

11 MR. SULLIVAN: Yes, Marty Sullivan, for
12 Father Flanagan. Would the Board like separate
13 findings of fact and conclusions regarding the motion
14 and the merits?

15 CHAIRMAN GRIFFIS: No.

16 MR. SULLIVAN: Okay.

17 CHAIRMAN GRIFFIS: I think we have what
18 we need unless anyone has additional pieces. I think
19 the motion is what it is and we have responses to it.

20 I think we're looking at the base. I
21 think, Ms. Monroe, if I understand you, because I
22 think I'm getting a little confused by your comments.

23 You are saying that why are we putting people
24 through this whole thing when we should decide the
25 motions first, right? Okay.

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1 MS. MONROE: Essentially, yes.

2 CHAIRMAN GRIFFIS: Okay.

3 MS. MONROE: Because if you decide to
4 dismiss, you don't need findings and fact and
5 conclusions of law.

6 CHAIRMAN GRIFFIS: Like I said, being
7 spoiled we want everything. It will be a little bit
8 of Christmas for us, early. Christmas in April I
9 thin is what it will be, but May 6th.

10 I'd rather do, frankly, and realistically
11 that will push our schedule way off, because we're
12 not going to deliberate on the motion today. We
13 would set it to the 6th, which means, depending on
14 that outcome, we'd set it again.

15 Unless people feel differently, I think
16 we can do it all on the 6th.

17 MR. ZAIDAIN: That's fine, and I do want
18 to say, for the record, that I was not present at the
19 last meeting, April 1st, and so I will be --

20 CHAIRMAN GRIFFIS: Right, we're going to
21 get transcripts.

22 MR. ZAIDAIN: -- reviewing the
23 transcripts and everything so I can fully deliberate
24 on all the motions and the case itself, if we get
25 that far.

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1 CHAIRMAN GRIFFIS: Okay, excellent. All
2 right, let's run through. Everyone clear? Everybody
3 just come up with questions.

4 MS. WITHUM: So you want proposed finding
5 of fact and conclusions of law by May 2nd?

6 CHAIRMAN GRIFFIS: That's correct.

7 MS. WITHUM: And what time is our hearing
8 on the 6th, morning or afternoon?

9 CHAIRMAN GRIFFIS: I won't be a hearing,
10 it will be a public meeting.

11 MS. WITHUM: I don't mean hearing, public
12 meeting.

13 CHAIRMAN GRIFFIS: And deliberations will
14 be, where are we stacking on the 6th, Ms. Bailey?
15 Wow.

16 MS. BAILEY: This will be the fifth case,
17 Mr. Chairman, for decision.

18 CHAIRMAN GRIFFIS: So, on about 3:00.

19 (Laughter.)

20 MS. WITHUM: Well, it just seems to me
21 that this is, I mean two weeks quick turnaround time
22 to the proposed findings of fact and conclusion of
23 law, especially if it turns out that we are going to
24 be, you know, we've got five or six ahead of us and
25 we're going to be at the bottom of the stack. We may

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1 not even get to us.

2 CHAIRMAN GRIFFIS: Well, first of all, we
3 don't continue decision making unless there is a
4 reason to continue it. I mean we continued one today
5 because of the problems with the application.

6 But, you know, our public meeting takes
7 precedent and we go until it's done. So, it wouldn't
8 get pushed off, necessarily. I mean we'll just have
9 disgruntled Applicants in the afternoon.

10 But that's what we have to do. I mean
11 that's what our schedule continues to be. Unless we,
12 here it is, let's make this decision in a matter of
13 moments here.

14 We do the motions on the 6th, and then we
15 set it for a special public meeting. You know, it's
16 getting difficult. Our May is absolutely packed.

17 I mean we're stacking up four and five
18 applications in the morning or which, you know,
19 they'll each run an hour and we start our afternoons
20 like we did today, which was more timely than it's
21 ever going to be this month, for the next month.

22 So I don't think there's a better case
23 scenario. Yeah, you guys know better? Okay,
24 questions, clarifications? Is everyone okay with
25 that still?

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1 MS. WITHUM: So, what time, 3:00 on the
2 6th?

3 CHAIRMAN GRIFFIS: Yes, yes. I don't
4 know how you --

5 MR. MAY: Three o'clock, we're not
6 actually setting a time for a decision making at
7 3:00, it's just going to start in the morning and --

8 CHAIRMAN GRIFFIS: No, I will actually
9 correct my humor before we leave the room.

10 MS. WITHUM: So we need to be here in the
11 morning, is what you're saying.

12 CHAIRMAN GRIFFIS: Yes, but realistically
13 we start our public meeting on the 6th at 9:30, and
14 we will have one, two, three, and I guess there's
15 four now, we have another one on the 6th. So it
16 would not be anywhere before --

17 MS. BAILEY: Mr. Chairman, Pablo
18 Martinez, if I'm not mistaken, was added today.

19 CHAIRMAN GRIFFIS: Yes, exactly, which
20 may be -- I would say it's no earlier than 10:30.
21 Again, this is a public meeting, so this isn't a
22 hearing, so don't confuse the fact that we're going
23 to have cross examination going endless.

24 This is total deliberation. There are
25 two that I think will take some time. There are

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1 three that may not take a lot of time. Don't anyone
2 look at the schedule and try an assess what I'm
3 meaning on those.

4 But, so we'll be timely. But I would
5 think, and unless others feel differently, I think
6 10:30 is fairly realistic to be timing to be down
7 here.

8 And we will be out of that morning
9 session by 1:00. So it will certainly be before
10 that. Okay, what else, anything else? Submissions,
11 everyone clear what's happening? Yes. All clear?
12 Fabulous. We'll see you on the 6th then in the
13 morning session for our public meeting for
14 deliberation on this.

15 I thank you all very much. Have a
16 pleasant afternoon. You are luckier than us, you get
17 to enjoy the sunshine outside this afternoon. Yes,
18 indeed. Okay, with that, let's call the next case in
19 the afternoon.

20 MS. BAILEY: Application Number 16967 of
21 the Government of the District of Columbia, pursuant
22 to 11 DCMR 3103.2, for special exception from the
23 penthouse set-back provisions under Section 411, and
24 a variance from the building height requirements
25 under Section 840, to allow the construction of a

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1 two-story building used for trash truck storage and
2 the administrative office space in the C-M-1 District
3 at premises West Virginia Avenue and 15th Street,
4 N.E., Square 4092, Lot 5.

5 Please stand to take the oath. The two
6 people behind you, will they be testifying, sir? No?

7 Okay, thank you. Okay, Mr. Spriggs, do you solemnly
8 swear or affirm that the testimony you are about to
9 give in this proceeding will be the truth, the whole
10 truth and nothing but the truth?

11 MR. SPRIGGS: Yes.

12 MS. BAILEY: Thank you very much.

13 CHAIRMAN GRIFFIS: Good afternoon. If
14 you wouldn't mind, just turn your microphone on.

15 MR. SPRIGGS: The packers storage
16 facility is proposed to be located at the West
17 Virginia Avenue campus of the Fleet Management
18 Administration of the D.C. Government.

19 The site is currently zoned C-M-1.
20 Packers, which are trash storage trucks, are
21 currently stored at the facility. Some of the city's
22 packers are.

23 The purpose of the facility is to reduce
24 the owning and operating costs of these vehicles. To
25 extend the life of the vehicles by having them parked

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1 overnight in an indoor, enclosed facility.

2 And by parking the packers in a facility,
3 we will also reduce the amount of emissions required
4 because the vehicles will be much easier to start.

5 If it pleases the Board, I have larger
6 drawings available, if you would like for me to use
7 those?

8 CHAIRMAN GRIFFIS: Why don't we do that.

9 I think we can be, first of all, there's no one else
10 that rose to give testimony on this. I'm not showing
11 in my records any note of opposition. Is that
12 correct? Other Board members, are you seeing
13 anything?

14 MR. MAY: I think there's just some
15 question about the ANC, and what they have to say
16 about. But all I see are questions, I don't see any
17 resolution.

18 CHAIRMAN GRIFFIS: Right. Is there an ANC
19 representative here today, ANC-5B? Not seeing any
20 indication of that, I think what would be expeditious
21 is to get right into the issues.

22 Point us out to where and what creates
23 the variances, the special exception and then we'll
24 just go right to the test.

25 MR. SPRIGGS: That will be fine.

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1 CHAIRMAN GRIFFIS: And then we can wing
2 it from there. What do you think? Oh, do we have
3 any easels? Are you going to, is that all right?
4 Okay, fabulous.

5 MR. SPRIGGS: The facility will be
6 located between West Virginia Avenue and 15th Street.
7 The zoning issue is that --

8 CHAIRMAN GRIFFIS: Let me, actually, I'm
9 sorry, Mr. Spriggs, could you turn on a mic close to
10 you, just so you get recorded.

11 MR. SPRIGGS: The facility will be
12 located along West Virginia Avenue between Fenway
13 Street and 15th Street, and will cover all of the
14 frontage along West Virginia Avenue between those two
15 streets.

16 The zoning issue is that at the rear of
17 the building we have an automobile ramp which takes
18 automobiles up to the top of the facility for rooftop
19 parking.

20 We conform to all of the zoning
21 requirements and restrictions as far as setbacks are
22 concerned, with the exception of the cover over the
23 automobile ramp.

24 The cover over the automobile ramp will
25 extend 15 feet above the roof, and therefore, as you

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1 can see, coming from Fenway Street, driving up the
2 ramp, a portion of the roof at the top, will not
3 conform to the zoning height limitations.

4 So, therefore, we are asking for a
5 variance to allow the cover of the roof to be
6 constructed all the way up to -- we're asking for a
7 variance for the cover of the roof over the
8 automobile ramp, to extend all the way up to rooftop
9 parking, so that from a life safety standpoint, it
10 will be much safer for vehicles to traverse the
11 distance from grade to the roof in inclement weather
12 and during snow.

13 And we will have a much better life
14 safety situation. The ramp are will be completely
15 covered and protected from snow, from freezing rain
16 and those issues.

17 CHAIRMAN GRIFFIS: So the ramp covers not
18 an architectural embellishment that wouldn't go to
19 building height?

20 MR. SPRIGGS: Yes, it does.

21 (Laughter.)

22 CHAIRMAN GRIFFIS: All right, I'm not the
23 ZA, so I can't give that interpretation.

24 MR. SPRIGGS: The other thing, though, is
25 that the ramp is located at the rear of the building.

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1 CHAIRMAN GRIFFIS: Right.

2 MR. SPRIGGS: And the only, the
3 contiguous property is the Mt. Olivet Cemetery. So,
4 therefore, there are no other active uses or
5 activities that are occurring at the rear of the site
6 other than at the cemetery.

7 CHAIRMAN GRIFFIS: Okay.

8 MR. SPRIGGS: The only other issue that
9 may be an issue, and I'm not really certain it is and
10 I did state it in the application, is that under the
11 zoning regs, under rooftop, controlling rooftop
12 penthouses, it does state that rooftop structures,
13 mechanical, HVAC structures should be co-located.

14 Because of the size of the building, 465
15 feet long, and the fact that we have some
16 administrative office area on one end of the
17 building, it would be rather costly to co-locate all
18 of the HVAC.

19 However, under 411.17, it does state that
20 those penthouse structures which are less than five
21 feet above the roof or the parapet are not
22 applicable. So I do believe under those, that
23 particular regulation, that the HVAC equipment, which
24 is less than five feet above the parapet at the roof,
25 really don't apply.

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1 So my interpretation is that the only
2 issue at hand is the fact that a portion of the
3 automobile ramp extends above the height limitation
4 of C-M-1.

5 MR. ZAIDAIN: Can you show which portion
6 of the ramp goes above the height limit? I mean is
7 it just like the top apex of it?

8 MR. SPRIGGS: It would be --

9 MR. ZAIDAIN: Like a slice of it?

10 MR. SPRIGGS: It would be a slice of it,
11 yes.

12 CHAIRMAN GRIFFIS: Well, let's be clear.
13 The parapet that's showing on the structure, that's
14 to the maximum height?

15 MR. SPRIGGS: The parapet, under C-M-1
16 the height is defined from the first floor to the
17 roof of the upper floor. We are 37 feet, four inches
18 from the first floor to the roof of the second floor.

19 CHAIRMAN GRIFFIS: Okay.

20 MR. SPRIGGS: So we conform.

21 CHAIRMAN GRIFFIS: So, we can kind of see
22 that on that elevation, Mr. Zaidain, the southeast
23 elevation that's being held up. If I'm not mistaken,
24 I can't read the dimensions, but on the far right
25 there's a dimension line, the top line?

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1 MR. SPRIGGS: Yeah, actually in the
2 information we submitted --

3 CHAIRMAN GRIFFIS: Right, I know we have
4 it here.

5 MR. SPRIGGS: -- it's about 15 feet high.
6 I have not really calculated at what point we rise
7 above the 40 feet, but it would basically be in here,
8 which would be somewhere in the nature of
9 approximately half way down the structure.

10 And under the zoning regs, if it were, if
11 the variance were denied, then the facility could be
12 constructed with half a roof. But of course from the
13 life safety standpoint, there are other issues
14 involved, as I've stated.

15 CHAIRMAN GRIFFIS: Okay. So, if I
16 understand you, Mr. Spriggs, clearly you're laying
17 out the fact of the uniqueness to this is one, the
18 requirements for its own use, right, which is an
19 allowable use in this zone.

20 MR. SPRIGGS: Yes, yes.

21 CHAIRMAN GRIFFIS: The size, the size of
22 the vehicles coming and going. And the practical
23 difficulty is creating something that is of safety in
24 all types of weather, taking those large trucks up
25 this ramp.

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1 MR. SPRIGGS: No, sir. The trucks will
2 only park inside the building. The roof is for
3 automobile parking only.

4 CHAIRMAN GRIFFIS: I'm sorry, okay,
5 right, for the automobiles, okay.

6 MR. SPRIGGS: Yes, yes, that's correct.

7 CHAIRMAN GRIFFIS: So then when you talk
8 about safety with automobiles it goes to what?

9 MR. SPRIGGS: It goes to the fact that we
10 can have rooftop parking, as a matter of right, and
11 we're only saying that allowing us to extend the
12 cover over the parking --

13 CHAIRMAN GRIFFIS: Right. No, I
14 understand that, but you're talking about the cover
15 provided some sort of safety. It's safety from, that
16 that's not some ice sheet, so the cars --

17 MR. SPRIGGS: Safety from ice, from snow,
18 from --

19 CHAIRMAN GRIFFIS: I see.

20 MR. SPRIGGS: -- vehicles having
21 accidents in, during inclement weather.

22 CHAIRMAN GRIFFIS: Right, okay.

23 MR. SPRIGGS: And that's the only issue
24 that's really involved.

25 MR. ZAIDAIN: How high is the parapet?

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1 MR. SPRIGGS: The parapet is three feet,
2 10 inches high, at the roof.

3 MR. ZAIDAIN: Okay.

4 MR. SPRIGGS: And I have a section
5 through the building, if you'd like to see that.

6 MR. ZAIDAIN: I think that's in the
7 submittal, actually.

8 CHAIRMAN GRIFFIS: And are there stairs
9 down from the roof parking?

10 MR. SPRIGGS: Yes, there are.

11 CHAIRMAN GRIFFIS: And it's part of the
12 parapet or the penthouses?

13 MR. SPRIGGS: Yes, there are. There are
14 four stairs from the roof down to grade, and the
15 setback requirements are met on all of the stairs.

16 The stairs closest to the top of the
17 automobile ramp also includes several elevators, as
18 well.

19 CHAIRMAN GRIFFIS: Right.

20 MR. SPRIGGS: Well, the stair enclosure.

21 MR. MAY: Does the co-location
22 requirement, doesn't apply to the stair?

23 CHAIRMAN GRIFFIS: No, it does, but I was
24 asking more about stairs because remembered seeing
25 the sections. But it goes to the height, I mean, for

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1 the covering on a stair for access off of that level,
2 it's obviously going to have to be --

3 MR. MAY: Right.

4 MR. SPRIGGS: The maximum height is what,
5 18 feet, six?

6 CHAIRMAN GRIFFIS: No, I understand that,
7 but you were indicating that you weren't coming above
8 four feet above the parapet, is that correct?
9 And are parapets like three? I was just making sure.

10 MR. SPRIGGS: Well, I was only speaking
11 about HVAC equipment, when talked of four feet.

12 CHAIRMAN GRIFFIS: Oh, I see.

13 MR. SPRIGGS: I indicated that we had
14 HVAC --

15 CHAIRMAN GRIFFIS: Now I'm clear.

16 MR. SPRIGGS: -- equipment in several
17 locations on the roof.

18 CHAIRMAN GRIFFIS: Now I'm absolutely
19 clear. So you're not removing the need for the
20 special exception for a single penthouse under 411.
21 You're just clarifying the fact that we may not need
22 to look at all the mechanical equipment?

23 MR. SPRIGGS: Well, I'm saying I believe,
24 and of course your word is the final one. Under
25 411.17, any penthouses that do not extend five feet

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1 above the parapet --

2 CHAIRMAN GRIFFIS: Right. That's where I
3 was just going with the stairs. Whether we're
4 getting up to that close.

5 MR. SPRIGGS: -- don't apply. So
6 therefore, I believe that the HVAC issue is void.

7 CHAIRMAN GRIFFIS: Right. No, I
8 understand that. Okay. This is one of the snow day
9 applications, wasn't it.

10 MR. SPRIGGS: Yes, I've got some other
11 points.]

12 CHAIRMAN GRIFFIS: I keep having these
13 flashbacks.

14 MR. MAY: How ironic.

15 (Laughter.)

16 CHAIRMAN GRIFFIS: Very well. Mr. May.

17 MR. MAY: Yeah, I have several questions.
18 I guess I'd have to spend more time with 411, but I
19 don't really understand that the stairs shouldn't
20 necessarily be co-located.

21 CHAIRMAN GRIFFIS: Let's be clear about
22 that, Mr. Spriggs, is that what you're saying?

23 MR. SPRIGGS: No, I'm not --

24 CHAIRMAN GRIFFIS: That the special
25 exception does not --

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1 MR. SPRIGGS: -- I was not speaking, no,
2 I don't think the stairs --

3 MR. MAY: But is there a roof over the
4 stairs that rises above the roof of the building?

5 MR. SPRIGGS: Yes, but it is setback so
6 that it rises no higher than it is in distance from
7 the street.

8 CHAIRMAN GRIFFIS: Okay, so it's an
9 angled cover over the stairs.

10 MR. SPRIGGS: Yes, it's sloped, it's
11 sloped. I sloped it so I do conform.

12 MR. MAY: There's not a requirement for
13 them, for it to be co-located with other mechanical
14 --

15 CHAIRMAN GRIFFIS: Right.

16 MR. SPRIGGS: No, not egress stairs, I
17 don't think so.

18 MR. MAY: Okay, well that's what I,
19 that's what I'm not familiar with.

20 MR. SPRIGGS: I don't think, I'm pretty
21 sure egress stairs do not apply. They don't apply.

22 CHAIRMAN GRIFFIS: Yeah, I disagree. I
23 disagree.

24 MR. MAY: You disagree, you believe they
25 do have to be co-located?

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1 MR. SPRIGGS: Egress stairs?

2 CHAIRMAN GRIFFIS: Yes.

3 MR. MAY: Elevator cores have to be
4 co-located.

5 CHAIRMAN GRIFFIS: I think 411 is pretty
6 clear in its ridiculousness of having a single
7 penthouse, which is why we have so many, which is why
8 we have so many special exceptions under 411 for
9 residential buildings, because based on building
10 codes you have to separate your stairs.

11 And then you have --

12 MR. MAY: But not all the stairs have to
13 have access to the roof.

14 CHAIRMAN GRIFFIS: Well, no, but then you
15 get your residential rec requirement, so you put a
16 pool and a terrace up and all of a sudden you've got
17 stairs across the building and you've got a big
18 penthouse to run through it.

19 MR. MAY: Right.

20 MR. SPRIGGS: Well, the, this building is
21 465 feet long. So that I could not meet the building
22 code requirements if I co-located all of the stairs.

23 CHAIRMAN GRIFFIS: We're making your
24 case, Mr. Spriggs, don't worry about that.

25 MR. MAY: It's a question of, we want to

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1 make sure that you are asking for the right things.

2 CHAIRMAN GRIFFIS: Right, exactly.

3 MR. MAY: And that you get the things
4 that you need. Or else, we don't want you to have to
5 come back.

6 CHAIRMAN GRIFFIS: We're going to move
7 ahead under 411, I don't want to remove it from the
8 application.

9 MR. MAY: Yeah, I think we have to
10 consider it.

11 CHAIRMAN GRIFFIS: Let's go to, let's
12 find it right now. Give us two seconds. 411.3, all
13 penthouses and mechanical equipment shall be placed
14 in one enclosure and shall harmonize with the main
15 structure in architectural character, material or, or
16 rather and color.

17 MR. SPRIGGS: That doesn't talk about
18 stairs.

19 CHAIRMAN GRIFFIS: Well, penthouse,
20 penthouses and mechanical equipment.

21 MR. ZAIDAIN: Okay, but we're talking
22 about stairs.

23 CHAIRMAN GRIFFIS: You have a stair
24 penthouse.

25 MR. ZAIDAIN: Okay.

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1 MR. SPRIGGS: Under 411.1, it indicates
2 clearly on the second line, for mechanical equipment,
3 stairways and elevator penthouses. So stairways are
4 described separately, I believe, from penthouses.

5 CHAIRMAN GRIFFIS: Yeah, but I don't see
6 how you read that as it removing it from a penthouse.

7 MR. ZAIDAIN: Is there a definition for
8 penthouse?

9 MR. MAY: No, I think, in fact, to the
10 contrary it folds it in.

11 CHAIRMAN GRIFFIS: Yes. I think if you
12 look at 411 and the intent of 411, which I don't
13 agree with, but it is to create a commercial office
14 building penthouse.

15 You have your building straight up, you
16 set it back and it's the top of a cake. Of which
17 never works for residential, but anyway, I've seen,
18 just in my time here, in so many cases, that
19 absolutely elicit that and a lot of it comes with the
20 stairs.

21 Okay, so there we are. So it may or may
22 not be the rooftop units, the AC units that are there
23 that are below, although one would argue something on
24 that. But nonetheless, I think we've maintained
25 relief from 411.3, which is a special exception which

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1 was advertised correct before.

2 Okay, other questions, clarifications,
3 small arguments we can start ourselves?

4 MR. ZAIDAIN: So the relief is still the
5 same?

6 CHAIRMAN GRIFFIS: Yes.

7 MR. ZAIDAIN: Special exception under 411
8 and then the variance for the height for the ramp
9 enclosure?

10 CHAIRMAN GRIFFIS: That's correct.

11 MR. MAY: I have a building height
12 question. The, you said before that the height is 40
13 feet measured from the first floor to the roof. And
14 --

15 MR. SPRIGGS: Well, the, under, unless
16 I'm wrong, under the definition of height --

17 MR. MAY: Under building height it's the
18 grade at the front of the building --

19 MR. SPRIGGS: Well, yes, but --

20 MR. MAY: -- to the underside of the top
21 level on a 40 story, I mean a 40 foot building.

22 MR. SPRIGGS: It's to the top ceiling.

23 MR. MAY: Right.

24 MR. SPRIGGS: Of the ceiling of the top
25 floor.

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1 MR. MAY: Right.

2 MR. SPRIGGS: And that is less than 40
3 feet, right, 37 feet, four inches.

4 MR. MAY: Is that, but you said before it
5 measured from the first floor. This is not measured
6 from the first floor.

7 MR. SPRIGGS: Measured from the first
8 floor to the ceiling --

9 MR. MAY: No, but it's not measured from
10 the first floor, it's from the grade.

11 MR. SPRIGGS: Well, the grade at the
12 front of the building is approximately the same as
13 the building elevation.

14 MR. MAY: Okay, that's what I wanted to
15 --

16 MR. SPRIGGS: Which is 85. It should
17 show somewhere on this. The entrance to the building
18 is on the 15th Street side and I don't have, it does
19 not show, in the information that I have provided,
20 but the grade is fairly close to 85.

21 MR. MAY: Which is the floor elevation.

22 MR. SPRIGGS: On the 15th Street side of
23 the building where the entrance is located. The
24 grade on the entrance side of the building, which is
25 15th Street, is fairly close to an elevation 85,

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1 which is --

2 MR. MAY: The grade of the first floor?

3 MR. SPRIGGS: Yes.

4 CHAIRMAN GRIFFIS: Well, you're showing
5 it here on your site plan, if I'm not mistaken. We
6 have 85 at the front that is fairly close to the
7 center of the front of the building on 15th.

8 And I have two elevation marks, is what I
9 think I'm reading here, on the interior first floor.

10 MR. SPRIGGS: Well, we do show, yeah, we
11 do show 85 over there, that's right, on the site
12 plan. On the partial, well a partial site plan of
13 the first floor, yes.

14 CHAIRMAN GRIFFIS: Now is that actually a
15 drive in access there, right on that?

16 MR. SPRIGGS: Yes, yes.

17 CHAIRMAN GRIFFIS: So it would make some
18 sense that we didn't have a major grade change or a
19 step.

20 MR. SPRIGGS: That is correct. And what
21 really happens is that, just to go over the project a
22 little more, very quickly, vehicles come in on Fenway
23 Street.

24 They go through the site, through a,
25 they'll go through a truck wash, and then come down

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1 along the site and come into the building to park on
2 the first and second floor.

3 CHAIRMAN GRIFFIS: I see.

4 MR. SPRIGGS: When they leave in the
5 morning, they will come back down the ramp and come
6 out onto 15th Street. So we're not really changing
7 the street grade here because we have to get out to
8 15th Street.

9 CHAIRMAN GRIFFIS: Right, okay.

10 MR. MAY: So the ramp that serves the --

11 MR. SPRIGGS: The ramp that serves the
12 automobiles is in the rear of the property.

13 MR. MAY: Okay. So we have two different
14 ramps? Okay.

15 MR. SPRIGGS: That is correct. The ramp
16 for the packers is located on the 15th Street side of
17 the facility. And the ramp for automobiles is
18 located on the Fenway side at the rear of the
19 building.

20 CHAIRMAN GRIFFIS: And it looks so easy
21 right here in the plan, it's a complicated little
22 structure.

23 MR. SPRIGGS: Well, it will certainly
24 increase the owning and operation, reduce the owning
25 and operating costs of these expensive packers.

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1 CHAIRMAN GRIFFIS: Right, and that, in
2 all seriousness, that's exactly the reasoning for
3 doing something of this nature.

4 MR. SPRIGGS: Yes, that is correct.

5 CHAIRMAN GRIFFIS: Which makes a lot of
6 sense and serves everyone in the District of
7 Columbia. Okay, other questions, clarifications?

8 MR. MAY: Yeah. The calculations of,
9 were somewhere here I the application on lot
10 occupancy.

11 MR. SPRIGGS: That will, lot occupancy.
12 Existing lot occupancy is 19.85 percent, and the
13 proposed construction will make it 53.52 percent.

14 MR. MAY: But that doesn't, and that
15 doesn't include the proposed new building, the
16 inspection facility or whatever this is?

17 MR. SPRIGGS: Truck wash? I did this
18 sometime ago. This has been going on for months. I
19 really, I would have to go back and review the
20 calculations.

21 MR. MAY: I don't think we're over
22 anything.

23 MR. SPRIGGS: I don't think we're over on
24 any, in any way.

25 MR. MAY: Yeah, I don't think you're over

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1 with this, and if the inspection facility is built,
2 then it will have to be recalculated when the permit
3 if applied for. It just, it seemed low. And that's
4 --

5 MR. SPRIGGS: Well, if my memory serves
6 me, I believe I included it, but I'm not, it's been
7 too many months and I don't remember.

8 MR. MAY: Okay.

9 MR. SPRIGGS: But I do know that in
10 looking at both of these issues, I was pretty assured
11 myself that both of those facilities would be within
12 the, because it's a large lot.

13 MR. MAY: I think that's right. What is
14 the, there's a lot of parking. A lot of parking on
15 the roof here.

16 MR. SPRIGGS: Well, this --

17 MR. MAY: And we're going, we're doing a
18 special exception here essentially to create this
19 expansive parking lot, which, I mean obviously far
20 exceeds the requirements if it were an office.

21 For industrial use it's higher, but --

22 MR. SPRIGGS: Well, they, as you know,
23 many sites where the city currently parks vehicles
24 have been taken for commercial activities. And so,
25 and there are, there are a lot of different agencies

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1 that operate out of this particular West Virginia
2 site.

3 And one of the advantages of the rooftop
4 parking is that I believe it makes the facility a
5 much better neighbor to the surrounding area.
6 Because, in fact, if we did not have more parking on
7 the roof, those vehicles would spill out onto the
8 city streets.

9 So, in that way, I think, again, it's a
10 win/win situation in that we will take some cars off
11 the street.

12 MR. MAY: So I guess, I mean what you're
13 saying, though, is that the intention is to park more
14 than just the vehicles for the people who need to
15 operate the facility or the packer trucks. Is that
16 right?

17 MR. SPRIGGS: Well, umm --

18 MR. MAY: It's just, it's just such a
19 huge amount of parking and it's --

20 MR. SPRIGGS: There's a huge amount of
21 parking there already. In fact --

22 CHAIRMAN GRIFFIS: But, let me, because
23 what's driving, the parking count isn't driving the
24 size of the building, it's the requirements for the
25 trucks that you have the roof.

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1 MR. MAY: And I'm not objecting to that.
2 I guess what I'm, I'm trying to be something of an
3 advocate for the neighborhood. Which if you tell a
4 neighborhood that you're going to put in a huge
5 parking lot like this, in most neighborhoods there
6 would be people lining up with their own traffic
7 experts complaining about creating that much parking
8 here.

9 And so when I see a building like this
10 that has such a huge amount of parking, that it looks
11 like it's not just a packer storage facility, it's
12 actually a personal vehicles storage.

13 MR. SPRIGGS: If you drive out there now,
14 you'll notice that the whole site is full already.

15 MR. MAY: So who parks there now?

16 MR. SPRIGGS: All of the various
17 agencies' employees park there. The traffic ticket
18 people park there.

19 MR. MAY: Where do they go from there,
20 though, when they park, once they are done parking?
21 I mean they park there car there and then they get --

22 MR. SPRIGGS: The park their cars there,
23 they get in one of these government cars and go
24 around and, you know.

25 MR. MAY: So where are the other

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1 government cars? I mean is there a lot more to this
2 whole complex, whole other fleets of vehicles are
3 there?

4 MR. SPRIGGS: This complex, this is a
5 C-M-1 complex at which there are currently many
6 maintenance, vehicle maintenance activities already
7 occurring.

8 That is a major location where all
9 city-owned vehicles are repaired. So that you have
10 the normal kinds of C-M-1 activities, which include
11 parking for the people who are there now.

12 As well as the fact that there are also
13 packers there now and we're just going to be able to
14 provide a location for, you know, for parking the
15 packers and for accommodating all of the drivers who
16 will be driving their personal vehicles to the site.

17 So that what we're doing, in essence, is
18 to provide parking within the enclosure which, if we
19 did not have rooftop parking, those vehicles are
20 obviously going to park somewhere.

21 Everybody who comes to this site will
22 park his car, as we know, that happens every day to
23 all of us. They are going to find a spot and they
24 will, they now spill out into the community and I
25 think there will even, there will be more of that.

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1 So I think that the rooftop vehicle
2 parking, automobile parking is really a win/win
3 situation.

4 MR. MAY: That may well be the case and
5 that's not really what I'm getting at. I'm just
6 trying to understand why you have so much parking
7 associated with this particular building.

8 And it is apparent to me that what you're
9 building is not just a packer storage facility, but
10 you are actually building a parking lot for the rest
11 of the fleet, whatever fleet of vehicles the District
12 is operating out of that base.

13 You're providing parking for more than
14 just the users of this building.

15 MR. SPRIGGS: Well, I don't happen to
16 know the number of people who work there. I know I'm
17 over there quite often and I know that when I come I
18 can hardly find a parking space myself.

19 CHAIRMAN GRIFFIS: Okay, I think you're
20 right, Mr. May, because I don't think there's really
21 any question that there's additional cars that are
22 parked there.

23 And now we know where the ticket writers
24 park their cars. So if we want to take the occasion
25 to visit them while they are off running around. But

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1 the issue, I don't think, unless you see something,
2 it doesn't kick in any sort of review process, it's
3 just an understanding for the project.

4 MR. MAY: It goes into, you know, we're
5 focusing on this building through a relatively narrow
6 being here. We've got blinders on to the rest of
7 what's going on with the fleet.

8 And we're, you know, we're being asked to
9 grant a building height variance for the sake of this
10 parking structure. Now, if this parking, the rooftop
11 parking, if the actual need for it were, you know,
12 were for 50 vehicles and you could put those 50
13 vehicles on a nicely landscaped lot within that, the
14 rest of that site, the heck with everything else.

15 Then, you know, then it may be serving
16 the neighborhood better. Because frankly, you know,
17 even for the people who were looking at this from the
18 cemetery side, and people do go to the cemetery.

19 I mean looking at that large ramp with
20 this, you know, this roof structure leading up to it,
21 it's not necessarily the most attractive building in
22 the world.

23 And not to mention the fact that you have
24 170 some cars coming and going from this building and
25 driveway on a daily basis and we don't have a traffic

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1 study.

2 I mean it's, we're missing part of the
3 picture and I'm not sure that we can fully understand
4 the impact on the neighborhood. And this parking
5 ramp and this area for parking is directly tied to
6 that.

7 CHAIRMAN GRIFFIS: Okay. You bring up
8 excellent points. Let me tell you, first of all Mr.
9 Spriggs, is there any reorganization of the site for
10 parking?

11 Is there any reduction of surface
12 parking, any landscaping provided on the lot?

13 MR. SPRIGGS: There will be, obviously, a
14 reduction of, there will be a reduction of surface
15 parking which is now occurring within this area.

16 CHAIRMAN GRIFFIS: Right.

17 MR. SPRIGGS: Within the footprint of the
18 building.

19 CHAIRMAN GRIFFIS: Okay.

20 MR. SPRIGGS: That will be reduced and,
21 in essence, that which is reduced, in some respects,
22 is added at the roof.

23 CHAIRMAN GRIFFIS: Let me go to that.
24 And you've seen the photographs that are in the site,
25 Mr. May, and I understand what you're trying to do,

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1 is put into a large perspective, how this is dealt
2 with in the community.

3 Which goes to the third test that you
4 have to prove, that there wouldn't be any adverse
5 impact, essentially, my words. But let's do that.
6 IF we look at the current condition, we have a
7 surface parking lot on that, on the avenue, West
8 Virginia Avenue.

9 That, to me, is one of the most
10 destructive, urban views you can ever have. And now
11 you've put a structure that holds that sidewalk and
12 actually adds some green on West Virginia.

13 I would, rather than you, Mr. May,
14 because your comment was if you landscape surface and
15 put parking in, I would any and every day advocate
16 for parking underground or on top of a building.

17 I don't want to see the cars when they
18 sit there all day. So it actually, I think, serves
19 to hide and to frame that site better. And it is
20 almost duplicating or replacing the parking that is
21 now surface, on top of the roof.

22 The other piece of the cover, yeah, look,
23 you know, I think Mr. Spriggs has done an excellent
24 job of trying to animate this as best as possible,
25 for what it is.

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1 Certainly we're not, well there it is.
2 And the cover to me, actually, starts to lend itself
3 more to integration as the entire structure, than
4 having just a sidewalk poured concrete ramp that you
5 saw cars coming and going all the time.

6 So I think some of the issues you are
7 bringing up are very important and that's how I see
8 these things happening. What was the other issue? I
9 think that's all I had.

10 MR. SPRIGGS: If I may --

11 CHAIRMAN GRIFFIS: The traffic study and
12 traffic. Again, when we're replacing, as I saw it,
13 and I'm glad you brought that up again. I mean if
14 you're taking a surface and putting it on the roof,
15 I'm not sure we're having additional traffic impact.

16 In which case, I guess, it would have
17 evidenced itself if there were community issues with
18 that. Although we do have some of that with the ANC.

19 MR. MAY: I think all of your points are
20 very well taken and I don't mean to say that what's
21 being proposed here would not be, in many ways, far
22 more attractive than what's there right now.

23 I mean I think, you know, for the most
24 part it will be. And again, I would also advocate,
25 if you're going to park a lot of cars, you know, on

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1 the roof or underground, absolutely it is preferable
2 to staring at a large parking lot.

3 However, what, what, we don't have
4 anything in evidence about in, this case, is what the
5 actual need for that parking is. Whether it's driven
6 by the occupants in this facility.

7 Whether it's driven by external needs
8 inherent in the management of the entire fleet that
9 gets parked in the vicinity or what have you. And,
10 you know, there is absolutely no discussion of that,
11 either on the part of the neighborhood raising
12 objections about it or even the Office of Planning
13 saying anything about how this fits into the overall
14 plan for that area.

15 I mean the entire area could use some
16 attention to some of these questions, and it doesn't
17 seem like it's occurring.

18 CHAIRMAN GRIFFIS: I see.

19 MR. MAY: And that's kind of what I'm
20 getting at. Because I'd like to see that the overall
21 issues are being addressed, and I do have to say,
22 frankly, without having a strong neighborhood voice
23 here, you know, it's, I'm trying to hear something
24 that should be there and is there on other cases like
25 this.

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1 I mean if you put a, build a building
2 like this in so many other neighborhoods in the city,
3 there would, people would be lined up out the door to
4 talk about things like the traffic plan.

5 Even if there was no increase in the
6 parking. And things like the construction management
7 plan, which is going to displace every one of the
8 cars that's parked there while this thing is built.

9 Yet, there is no indication, I mean nor
10 are you required to out of, you know, at the
11 beginning to say how the construction is going to
12 occur. It's just that's the sort of debate with the
13 neighborhood and with the public that we're not
14 hearing here right now.

15 And I just feel very concerned about
16 that.

17 MR. ZAIDAIN: I understand Mr. May's
18 point, but looking at the zoning relief request,
19 which is the height, first of all, and please chime
20 in if I'm wrong, anybody.

21 They can have this parking lot, they
22 could have these parking spaces as a matter of right.

23 They have it now. They could do this, they could
24 have these parking spaces on top of this roof matter
25 of right, if they did need the height variance.

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1 So, in looking at, is it the parking
2 that's driving the height variance? In my mind it's
3 not. To me it's the interior program. And what they
4 need, I mean is there any possible way that you can
5 lower this building to meet the height requirement
6 and still have the interior programming that you
7 need?

8 MR. SPRIGGS: It would be difficult to
9 lower the building, because of the height of the
10 packers. And the fact that the packers are very high
11 and because of our floor, the floor height
12 restrictions.

13 It would really be very difficult to
14 reduce the height of the building.

15 MR. ZAIDAIN: How high are the packers?

16 MR. SPRIGGS: The packers are, well the
17 entrance doors are 15 feet high.

18 MR. ZAIDAIN: Okay.

19 MR. SPRIGGS: Packers are coming in as
20 much as 14 feet. So that, and with our deep
21 structure, which is three, three and a half feet, we
22 really can't reduce, we can't dampen the building
23 down.

24 We're, I've, we've designed it as tight
25 as we can. If I may add one other thing, and I know

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1 I'm probably biased with respect to this, but, as you
2 know, this is a very large facility.

3 A very large facility, a long facility.
4 But we've taken great pains in terms of the design
5 and in terms of what happens along West Virginia
6 Avenue, to design a facility that while it is an
7 industrial facility, has a good scale to it.

8 It has a lot of light to it, a lot of
9 glass. It doesn't not add a very massive, heavy
10 structure to West Virginia Avenue, although it is a
11 large facility.

12 So we've paid a lot of attention to scale
13 and a lot of attention to what's going to happen
14 along West Virginia Avenue. And I think that when
15 you look at the photographs of what's going on there
16 now, from the pictures we took, that clearly if we
17 can get these facilities in an enclosed structure and
18 if we can get some of the rooftop, some of the
19 existing surface parking, which is all over the lot,
20 as a pun, on the roof, and from West Virginia Avenue,
21 you will not see that rooftop parking. So, that's
22 where we are.

23 MR. ZAIDAIN: And to further flush out, I
24 think, Mr. May's issue, and I'm trying to follow
25 what's in the file, you were supposed to present this

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1 to the ANC January 9th, 2003? Did that happen?

2 MR. SPRIGGS: We've had maybe as many as
3 three meetings with the ANC. There was one meeting
4 which the ANC indicated we did not attend, but I sent
5 a letter in and I clearly stated that we were not
6 invited.

7 There have been no community meetings of
8 any kind, by anybody, that we have not attended or
9 have indicated any hesitancy in attending. The
10 meeting in question is a meeting to which we were not
11 invited.

12 CHAIRMAN GRIFFIS: Right, and we received
13 that letter. Okay.

14 MR. MAY: That was some time ago, have
15 there been subsequent meetings or invitations?

16 MR. SPRIGGS: There have been no
17 additional meetings. I'm sure the ANC is aware of
18 the hearing today and maybe they had decided that
19 this is a betterment for the community.

20 Obviously, if they chose to --

21 CHAIRMAN GRIFFIS: I don't know if we
22 want to speculate what they thought. But, there it
23 is. Mr. May brings up excellent points but without,
24 well, I think there's enough information that we know
25 we can deliberate on. Last comment on that, Mr. May,

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1 is of course C-M-1 zones are not prevalent all over
2 the city.

3 And so, yes, you can speculate that on
4 some active neighborhoods this would be a huge fight,
5 and I don't think that those neighborhoods would
6 necessarily find that type of zoning.

7 MR. ZAIDAIN: Yeah, I don't know.

8 CHAIRMAN GRIFFIS: Okay, I think Mr. May
9 is pushing us to give a good perspective, though, and
10 so it's well said. Let's move on then. Anything
11 else Mr. Spriggs, that you want to bring to our
12 attention?

13 MR. SPRIGGS: No, sir. No, sir.

14 CHAIRMAN GRIFFIS: Any other questions
15 from the Board? Very well, let's go on to Office of
16 Planning. Pardon me? Right, which are not present
17 today. Mr. Spriggs, have you seen the report from
18 the Office of Planning?

19 I'll review it and then get that answer
20 on the record. Office of Planning is recommending
21 approval of the application. Are there highlights,
22 notes that Board members want to bring to everyone's
23 attention?

24 Mr. May, in one of your issues do you
25 find any solace in the comprehensive plan paragraph

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1 at the end of the Office of Planning's memo?

2 MR. MAY: Well, yes, I mean it is zoned
3 appropriately for this kind of facility and from a
4 comprehensive plan point of view this is the right
5 place to be.

6 But, I guess, you know, I'm looking for
7 greater comfort that the way that it's being done is,
8 is supported or acceptable to the neighborhood.

9 CHAIRMAN GRIFFIS: Right.

10 MR. MAY: And furthermore, frankly, you
11 know, I'd like to be able to ask OP some questions
12 about this and it's unfortunate that they are not
13 present to be able to answer those questions.

14 Because normally they have this
15 conversation with the community, and if they know
16 what's going on with it then they could certainly
17 address it. They would hopefully be able to answer
18 some of my questions about what else is going on in
19 the neighborhood, in terms of the rest of the fleets
20 of vehicles that would be there.

21 CHAIRMAN GRIFFIS: Yes, indeed. And I
22 don't think, I, drawing that your attention, I do not
23 think that, that you have debatable points. You
24 know, I absolutely agree. So, no, I don't think I'm
25 trying to persuade you, I just think we're trying to

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1 search for other information in the directive that we
2 have.

3 It is very uncharacteristic for OP not to
4 be here, so we will certainly look to them for
5 others. And perhaps that will address where we move
6 from today.

7 ANC-5B, of course, as it has been
8 indicated, we have quite a bit of communication,
9 written submissions from the ANC. Are my notes
10 correct, we don't actually have an official word from
11 them?

12 I know they had requested several things
13 from us, rescheduling and continuing hearings. I
14 think, Mr. May, this underscores again your point of
15 it would have been encouraging or helpful for this
16 Board to have the ANC to at least have had a letter
17 submission that could have been given great weight.

18 Or to have a representative here from 5B
19 that could have spoken for the ANC. Not having that,
20 we do have their submission, we do have their
21 letters, some of which did indicate some issues.

22 So we can take that for, for our own
23 deliberation. That's all of the attendant
24 information and submissions that I am aware of in
25 reviewing the application or fully reading the

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1 application.

2 Are the Board members aware of any other,
3 Mr. Spriggs, are you aware of any other submissions
4 on this application that we have not highlighted?

5 MR. SPRIGGS: No.

6 CHAIRMAN GRIFFIS: Okay. Oh, my God.
7 Mr. Spriggs, do you know off hand what the square
8 foot estimate cost of this is?

9 MR. SPRIGGS: Yes.

10 CHAIRMAN GRIFFIS: I only bring this up
11 because --

12 MR. SPRIGGS: The square footage is
13 approximately 127,000 square feet.

14 CHAIRMAN GRIFFIS: Yeah, indeed.

15 MR. SPRIGGS: And the cost will be 18
16 million, maybe a little less, if we can get it down.

17 CHAIRMAN GRIFFIS: Yeah, that's the only
18 reason why I'm asking that. I would not usually ask
19 that, because it's not germane to what we do.

20 MR. SPRIGGS: Yes.

21 CHAIRMAN GRIFFIS: But having had that
22 put into the record of 18 million dollars, that does
23 rise to the question of wow. Okay. Board, anything
24 further, Mr. Spriggs, last comments, closing remarks?

25 MR. SPRIGGS: No, sir. No, sir.

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1 CHAIRMAN GRIFFIS: Any further questions?
2 Is the Board prepared to move ahead with this today?
3 Let me hear any opposition or comments.

4 MR. ETHERLY: No opposition, Mr.
5 Chairman.

6 MR. MAY: Yeah, I really do want to hear
7 more from OP about transportation, about fleet
8 parking, and I'd like to find out what conversations
9 they had with the community before I vote on this.

10 MR. ZAIDAIN: Mr. Chair, I'm prepared to
11 move forward today, but if we want to keep it going
12 to get some more information from Mr. May and the
13 ANC, I have no objection.

14 MR. MAY: Is there a reason why it has to
15 be decided today? Is there some deadline being faced
16 in the construction of this? Or funding that's --

17 CHAIRMAN GRIFFIS: Well, I think it's
18 only our deadlines and keeping to our schedule.

19 MR. ETHERLY: Yeah, and you know, just in
20 response to Mr. May. I understand where Mr. May is
21 coming from, but I just don't hear it. The
22 opportunity has been there for the community, I
23 think, to weigh in.

24 I think there was some indication on the
25 record that there was a presentation provided at one

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1 of the centers in Trinidad, the Trinidad Recreation
2 Center on February 13th, which was attended by a
3 Department of, a Department of, DPW Representative,
4 let's put it like that.

5 Clearly, it's unfortunate that we don't
6 have that ANC report or some sense of what the ANC
7 discourse was at their public hearing. But I just
8 found myself very swayed by the overhead picture, the
9 overhead photograph that's provided by with the OP
10 report, when you look at what the surface atmosphere
11 looks like at this location.

12 I think a building which endeavors to
13 incorporate much of that parking in the interior of
14 its set up, with the landscaping that was alluded to
15 in the representations provided by the Applicant, I
16 think lend themselves to give me greater comfort
17 about this being an improvement over what the current
18 situation is.

19 Hence, my comfort in moving forward
20 today, Mr. Chair.

21 MR. MAY: I'd like to hear from the
22 Applicant to understand whether in fact there is an
23 urgent need for a decision at this time, or whether
24 we can get further information from the Office of
25 Planning about some of the questions that I have.

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1 CHAIRMAN GRIFFIS: Right, I understand
2 that. That's perfectly fine, we can ask Mr. Spriggs.
3 But my highest concern is actually our schedule and
4 when we could actually reschedule this if there's a
5 strong feeling that we have what was required to be
6 submitted.

7 But, Mr. Spriggs, the construction
8 schedule, is there anything detriment to moving this
9 for a short continuation for additional information?

10 MR. SPRIGGS: Well, we're certainly
11 available and amenable to postponing if you choose.
12 However, I really can't speak for the city with
13 respect to the schedules and the way that they want
14 to move, it would have to be from a city
15 representative.

16 I'm only the architect and I'm a
17 consultant. I'm not a city employee.

18 CHAIRMAN GRIFFIS: Right.

19 MR. ZAIDAIN: Well, I guess what we need
20 is to have OP down here and, Mr. May, are you looking
21 for something official from the ANC or you just want
22 to allow them more time?

23 MR. MAY: No, I wouldn't, I would not
24 want to hold us up on the basis of an ANC --

25 MR. ZAIDAIN: I mean, you just want OP

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1 down here?

2 MR. MAY: -- we know that sometimes they
3 are just simply not responsive.

4 MR. ZAIDAIN: Right.

5 MR. MAY: But, you know, there are enough
6 questions in my mind that I at least would like to
7 find out what OP knows about this beyond what's in
8 the report.

9 In other words, did they have any
10 conversation with the neighborhood? I mean, are
11 there other issues with the fleet parking there, to
12 start with?

13 You know, if the neighborhood is simply
14 treating this as a fait accompli, then, you know, I'm
15 not really excited at the prospect of simply voting
16 on it because they've resigned themselves to being
17 the trash truck parking area.

18 CHAIRMAN GRIFFIS: Well, let's see it
19 from a different direction, Mr. May. If we call the
20 vote now, how would you deny it? What would you deny
21 the variance for height and special exception for a
22 penthouse?

23 I'm not going to put you on the spot.
24 You can answer, that's fine. But I think it's a
25 logical way to think, rather than somehow projecting

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1 that there may well be opposition to this, of which
2 we don't necessarily, we do not base our total
3 deliberation just on if we can mount a force of
4 opposition in the hearing room.

5 Let me do this, though. April 22nd, Ms.
6 Bailey, do you have the schedule in front you? Am I
7 correct we have two sessions in the morning, two
8 applications in the morning? That's next week, if I'm
9 not mistaken.

10 Oh, we just slipped something in there,
11 didn't we? So we've got three now. Okay. Ooh,
12 first thing in the afternoon, we hear from Office of
13 Planning on the 22nd.

14 MS. BAILEY: That's an appeal in the
15 afternoon, Mr. Chairman?

16 CHAIRMAN GRIFFIS: That's right.

17 MS. BAILEY: But you wanted to hear it
18 before that appeal?

19 CHAIRMAN GRIFFIS: Yeah, I'd put it first
20 in the afternoon.

21 MR. MAY: I would be satisfied with a
22 written response from OP. Not necessarily requiring
23 that they come down and testify.

24 CHAIRMAN GRIFFIS: That's going to take
25 longer, I bet. And the other thing, Mr. May, if

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1 there's additional information that they provide, you
2 know, so be it, but they ought to be available for
3 cross examination also and sort of questioning.

4 So, is it amenable we set this for the
5 last inclusion of Office of Planning on the 22nd?
6 And I would fully prepare, and I think the Board
7 would be ready to take action at that time.

8 So we would be looking, we'll have Office
9 of Planning representative in here to answer a few
10 questions in the first of the afternoon on the 22nd.

11

12 And then we will move ahead with this,
13 how the Board might be. Mr. Spriggs, any concern
14 with that?

15 MR. SPRIGGS: No, that, I'll certainly
16 conform with that schedule.

17 CHAIRMAN GRIFFIS: Okay. And you're
18 available at 1:00?

19 MR. SPRIGGS: I will be available at
20 1:00. On the 22nd.

21 CHAIRMAN GRIFFIS: What did we just put
22 at 10:00 on the 22nd?

23 MR. ZAIDAIN: The previous case.

24 CHAIRMAN GRIFFIS: What was the previous
25 case?

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1 MR. ZAIDAIN: Wasn't it?

2 CHAIRMAN GRIFFIS: I'm sorry, I have
3 something that I noted. Thank goodness, I don't keep
4 the schedule.

5 MR. ZAIDAIN: I may, just to expedite the
6 follow proceeding on this, is there anyway we can
7 communicate to OP exactly what the concerns are and
8 have them get an updated status of the neighborhood
9 situation there?

10 CHAIRMAN GRIFFIS: That's a very good
11 point and it doesn't necessarily need to be on the
12 record, but, yes, we are going to be making direct
13 contact with the Office of Planning.

14 We will be letting them know what are
15 concerns are and what they should address and be
16 prepared to address. With that, they will also be
17 presenting their memo.

18 So, Mr. Spriggs, you'll be here, you'll
19 have all opportunity to cross examine Office of
20 Planning if they come up with anything outside of
21 their report.

22 MR. ETHERLY: And Mr. Chair, I'm
23 comfortable with proceeding in this manner, out of
24 deference to my colleague, Mr. May, otherwise I'd be
25 very close to saying if we don't get the satisfactory

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1 response from the Office of Planning I would
2 nevertheless be very inclined to move forward and get
3 this thing off the books.

4 Because I don't think we're far away from
5 being able to dispose of this matter in the
6 appropriate way and getting it taken care of. So I
7 want to be sensitive to Mr. May's concerns.

8 Always we want to be sure the community
9 has an opportunity to weigh in, but at the same time,
10 when there is no indication that that opportunity has
11 not been satisfactorily afforded, we need to keep the
12 business of city moving forward.

13 So, I look forward to taking care of this
14 next week. Thank you, Mr. Chair.

15 CHAIRMAN GRIFFIS: Absolutely, thank you.

16 And well said. I'm perfectly prepared to move ahead
17 with this also, but look forward to hearing from
18 Office of Planning.

19 MS. BAILEY: Mr. Chairman, just so that I
20 can be clear, because more than likely I'm the one
21 who has to tell the Office of Planning. The Board is
22 looking for a written submission from the, oral
23 submission from the Office of Planning, which is to
24 indicate parking and --

25 CHAIRMAN GRIFFIS: Let's just do it this

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1 way.

2 MS. BAILEY: Okay.

3 CHAIRMAN GRIFFIS: First of all, we're
4 asking them to come and present their staff report,
5 the memo.

6 MS. BAILEY: Okay.

7 CHAIRMAN GRIFFIS: And secondly, to
8 address the issue of the community concerns, their
9 involvement with the community, and any sort of
10 communication on this issue. Is that correct, Mr.
11 May?

12 MR. MAY: Yeah, the other thing I'd like
13 to be able to address is the broader issue of parking
14 and who is going to be parking in the facility and
15 what's happening with parking and other fleets in the
16 immediate vicinity, since that somehow figures into
17 the planning of this particular facility.

18 CHAIRMAN GRIFFIS: Okay.

19 MS. BAILEY: Thank you.

20 MR. MAY: Thank you.

21 CHAIRMAN GRIFFIS: Very well. Do you
22 know who worked on this from the Office of Planning?

23 MR. SPRIGGS: Ms. Ray.

24 CHAIRMAN GRIFFIS: Ms. Ray?

25 MR. ZAIDAIN: Who is no longer there.

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1 MR. SPRIGGS: Ms. Ray.

2 CHAIRMAN GRIFFIS: Okay, well, she's
3 going to have to be, someone is going to pick up her
4 file, which the reasoning why they are not here.
5 Okay, thank you very much, Mr. Spriggs.

6 Let's do this, let's, the last case, am I
7 right, the last case in the afternoon is 17006, Ellis
8 House addition. Am I correct, Ms. Bailey?

9 MS. BAILEY: Yes, Mr. Chairman.

10 CHAIRMAN GRIFFIS: Very well. You've got
11 it here ready to go? Fabulous. What do we have?
12 Okay, sorry, I was, the, there we are. The paperwork
13 is together. Good afternoon. I'll just have you
14 turn on the mic when you speak to us.

15 If you wouldn't mind just introducing
16 yourselves for the record with a name and address.

17 MS. BAILEY: Mr. Chairman, not to
18 interrupt, but is it okay for me --

19 CHAIRMAN GRIFFIS: Oh, why don't you call
20 the case so we can actually get through with it.

21 MS. BAILEY: Sorry. Application No.
22 17006, of William and Lena Ellis, pursuant to 11 DCMR
23 3103.2, for variance from the closed court area and
24 width requirements under Section 406.

25 A variance from the lot occupancy

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1 requirements under Section 772. A variance from the
2 rear yard requirements under Section 774.
3 Interference from the non-conforming structure
4 provisions under Subsection 2001.3, to allow an
5 addition to an existing single family dwelling in the
6 C-2-A District at premises 1832 11th Street, N.W.,
7 Square 4, I'm sorry, this is Square 306, Lot 4.
8 Please stand to take the oath.

9 The lady in the green, are you testifying
10 on this case? Okay, please stand so you can be sworn
11 in, and please raise your right hand. Do solemnly
12 swear of affirm that the testimony you are about to
13 give in this proceeding will be the truth, the whole
14 truth and nothing but the truth?

15 WITNESS: Yes.

16 MS. BAILEY: Thank you. Mr. Chairman, as
17 was just indicated, there is a request for party
18 status in this case.

19 CHAIRMAN GRIFFIS: Okay, Board members
20 let take up the party status request. It is Exhibit
21 No. 22 in the application, or the record, rather.

22 MR. ZAIDAIN: Mr. Chair, I have no
23 objection to the party status. Although I just
24 provide some comment to make sure that we keep
25 everything focused on the zoning issues and not

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1 really get into Number 5.

2 CHAIRMAN GRIFFIS: Right, the permits and
3 building codes?

4 MR. ZAIDAIN: Well, yeah.

5 MR. MAY: I guess there is something of a
6 question as to whether this particular neighbor of
7 the property is more significantly, distinctively or
8 uniquely affected. I mean a next door neighbor is
9 uniquely affected.

10 If somebody is across the alley, well,
11 are they any more uniquely affected than the one
12 that's across the alley and one door up or down or
13 what have you.

14 I mean I agree that they are pretty much
15 affected, and if in fact it was everybody across the
16 alley and in some sort of a group, ad hoc group that
17 was formed around it, I would say that it is uniquely
18 affected.

19 CHAIRMAN GRIFFIS: Good point. Mr. May,
20 however, I would go further on in 6, and look to the
21 significantly, distinctly, uniquely affected more so
22 than any other person in the general public.

23 So as this application is here, it
24 actually is talking about the specific impact on
25 that. And, in fact, we had a lot of this discussion

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1 this morning.

2 But if we had everyone in the block
3 coming in saying I'm uniquely affected, more so, then
4 it does water down, it does diminish the uniqueness
5 status.

6 One can focus on individual issues and
7 how an individual issue. My concern went more to all
8 the issues being stated. I wasn't sure, you know, in
9 terms of use and privacy and air and green space.

10 Based on the location of this property, I
11 wasn't really sure how that was actually impacted.
12 But I think taken in the whole, when you start
13 looking at, first of all, the sharing of the alley
14 and some of the issues in the alley that is being
15 talked about with the party application.

16 I think I would tend to agree with Mr.
17 Zaidain's recommendation of granting this. I think
18 we will also give some very good direction on issues
19 that we can talk about and how they can be
20 substantiated.

21 But unless there's any concern other than
22 that, Mr. May, anything else or an objection to
23 granting party status in this application?

24 MR. MAY: Well, when you started, when
25 you diverged from my point into your own point, I

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1 thought that you were going to end up objecting to
2 party status.

3 CHAIRMAN GRIFFIS: Oh, interesting. No.

4 MR. MAY: No, I don't think it's the
5 strongest case for it, but I'm not, I will not
6 object.

7 CHAIRMAN GRIFFIS: Okay. Any other
8 advice, Mr. Zaidain?

9 MR. ZAIDAIN: No.

10 CHAIRMAN GRIFFIS: Very well, then I
11 would grant Ms. Wallace party status in this
12 application. Ms. Wallace, let me lay out the fact
13 that there is nothing precluding you from testifying
14 as a person and being a participant in this case.

15 The, now having granted party status, you
16 are a participant in this case. You will be granted
17 cross examination privileges of all witnesses and
18 testimony.

19 You will also be obliged and obligated to
20 provide submissions to the Board if we give so, such
21 direction in terms of submissions that are required.

22 I'm not sure if that, and probably should
23 have said that before we took official action. But
24 whether that was actually your intention of
25 establishing party status or whether you were just

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1 here to participate in the case, do you feel like
2 addressing that at this point?

3 MS. WALLACE: I'm here mostly to
4 participate. CHAIRMAN GRIFFIS: Okay,
5 hold on. If you're going to say anything more than a
6 yes or no, I'm going to need you up at the mic. With
7 that being said, you're here, you're participating
8 and we do have a party status and you, therefore, do
9 have that standing.

10 Let's move on then. Are there any other
11 preliminary matters that I should be aware of, Ms.
12 Bailey?

13 MS. BAILEY: No, Mr. Chairman. I just
14 wanted to make sure that the record is clear that
15 this property is located in Square 306 on Lot 4.
16 Those numbers were transposed in the public hearing
17 announcement. So, again, it's Square 306, Lot 4, not
18 the other way around.

19 MR. ZAIDAIN: But it was posted
20 correctly? The affidavits?

21 MS. BAILEY: In all likelihood it was
22 posted the way it's written on the public hearing
23 announcement.

24 CHAIRMAN GRIFFIS: We seem to have themes
25 some days around here, don't we.

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1 MR. ZAIDAIN: So the wrong lot and square
2 number was --

3 MS. BAILEY: It's not incorrect, it was
4 just transposed.

5 CHAIRMAN GRIFFIS: They got the square
6 and the lot mixed up. It was posted on the correct
7 property, wasn't it?

8 MS. BAILEY: Let's hope so.

9 CHAIRMAN GRIFFIS: I don't see any
10 difficulty, Mr. Zaidain, unless you see great
11 difficulty in that. As I've said before, I don't
12 think the common person of which the notification is
13 intended to announce necessarily knows exactly the
14 lot and square that they are looking.

15 Nor would that, I do not think, in the
16 general public, lend itself to some confusion. The
17 address is always labeled on it.

18 MR. ZAIDAIN: The address was correct?

19 MS. BAILEY: The address is correct, Mr.
20 Zaidain. And while we're at it, Mr. Chairman, if
21 you, it was posted one day late, so --

22 CHAIRMAN GRIFFIS: Oh, indeed. Okay,
23 let's go to that.

24 MS. ELLIS: May I say something?

25 CHAIRMAN GRIFFIS: Yes.

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1 MS. ELLIS: It was, what happened was --

2 CHAIRMAN GRIFFIS: Can you give me your
3 name and address, for the record?

4 MS. ELLIS: I'm Lena Ellis.

5 CHAIRMAN GRIFFIS: Okay.

6 MS. ELLIS: I', you know, anyhow, we
7 picked it up on a Monday, the 31st, and we did post
8 late that night. But I, when I filled out the thing,
9 I was thinking it wasn't a full day, so I put down
10 April 1st. So that was my mistake. Whatever that is
11 worth, you know.

12 CHAIRMAN GRIFFIS: I see. So it was
13 actually posted on March 31st?

14 MS. ELLIS: Yeah, but it was late, so I
15 thought, well, you know, it's not a full day. I
16 wasn't really thinking.

17 CHAIRMAN GRIFFIS: Okay, does that comply
18 with the regulations, Ms. Bailey, in your
19 understanding?

20 MS. BAILEY: That's at the Board's
21 discretion, Mr. Chairman.

22 CHAIRMAN GRIFFIS: How about that. Does
23 the party opponent have any opinion on the affidavit
24 for posting, posting on the 31st in the afternoon,
25 which would conceivably render it, if argued such,

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1 untimely? Okay, no opinion? Okay, no opinion stated
2 by the party in opposition.

3 Very well, any major concerns Mr.
4 Zaidain?

5 MR. ZAIDAIN: I have a little bit of
6 concern with the square and lot numbers. I think
7 that they, but since the address was correct and the
8 timing was correct, we can proceed.

9 CHAIRMAN GRIFFIS: Well, what's your
10 concern?

11 MR. ZAIDAIN: Well, I, well --

12 CHAIRMAN GRIFFIS: There will just be
13 confusion?

14 MR. ZAIDAIN: Yeah, I mean I think, and
15 I'm just noting it. I don't think we should hold up
16 the proceeding based on that, but I'm just noting it
17 because timing is one thing, advertising for the
18 wrong property is another, in my mind.

19 And, in this sense, the address was
20 correct, so it's a minor flaw. But I think, I'm just
21 kind of putting that out there in case there is any
22 other postings that come in and have a different
23 address, different lot, different square number, I
24 think that's a legitimate concern if that ever
25 happens in the future. But I don't see any need to

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1 hold up the proceedings at this point.

2 CHAIRMAN GRIFFIS: Right. No, I would
3 agree. Especially as it is advertised and published
4 in the D.C. Register, it would be, if you were doing
5 any sort of search or looking for it.

6 Okay, I think we should note that
7 objection and look for the correction of that in the
8 future or not the same mistake to be made. And with
9 that, let's proceed. I think we should jump right
10 into it, unless there's other preliminary matters to
11 be brought to the Board's attention, we can turn it
12 over to you for the presentation of your case.

13 MR. ELLIS: I am William Ellis. My wife
14 and I are co-owners of --

15 CHAIRMAN GRIFFIS: Have a seat and make
16 yourself comfortable.

17 MR. ELLIS: I'm Willis Ellis. Lena and
18 I, my wife, we're co-owners of this property. We
19 bought this property, I guess, a little over two
20 years ago.

21 And partially because we knew that it was
22 a historic business in there. The old Chesley Flower
23 Shop, and that business had been in this space that
24 we're arguing over for, we gather, more than 50
25 years.

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1 Some people think it may up to as many as
2 80 years. And even if someone wanted to tear that
3 building down or alter it in any way, I don't think
4 that there is any way that the historic people,
5 especially not after the likes Butch Sykes, that you
6 probably know about, come in and testify to save that
7 structure.

8 I don't think it ever would be allowed
9 for anything to happen there other than what we're
10 doing, which is put the building back in more or less
11 exactly the form that we found it in.

12 Only to, making it less of an eyesore,
13 and we have before and after pictures we can show you
14 about what, you know, it looked like before we
15 started tinkering with it.

16 I might also add that we are like weekend
17 hobbyist renovators, not big time developers or
18 anything. And we don't have any real arguments, I
19 guess. You should just look at what we have
20 presented.

21 I think you have before and after
22 pictures. You have a page there showing that most,
23 all the neighbors, I think there are only two
24 neighbors who disagreed. One who is here and one
25 other one.

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1 MS. ELLIS: We circulated a petition.

2 MR. ELLIS: And everyone we talked to
3 said, oh geez, it would be good to get rid of that
4 eyesore. There are some questions on this case,
5 though, mainly in that it's zoned for commercial, but
6 it's, probably the Chesley Flower Shop never had an
7 occupancy permit.

8 And downtown I think it's still showing
9 as flats or residential or something, but it actually
10 has been mixed use, as far as we can see, or from
11 talking to people, one of the employees that lived in
12 part of the second level.

13 And I don't really have a lot more to
14 say. If you have any questions, I would be happy to
15 respond.

16 CHAIRMAN GRIFFIS: One quick question and
17 I'm going to give you some direction. Did you
18 indicate that the future use of the building is yet
19 to be determined?

20 MR. ELLIS: Well, it is, well we had to
21 state something to get your building permits. But,
22 who knows exactly what, we don't, it's going to be a
23 rental property and we can't say in a crystal ball
24 with certainty that this is going to be what happens
25 here.

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1 We have to go to the market to see who we
2 can get.

3 CHAIRMAN GRIFFIS: But the drawings that
4 we're showing look like it's residential.

5 MR. ELLIS: Yeah, yeah, they are showing
6 residential. But I, it could also be commercial if
7 someone go for an occupancy permit for that, because
8 it is permitted under the zoning.

9 CHAIRMAN GRIFFIS: Right, okay. So
10 you're thinking that clearly, depending on what the
11 market is, you'd bring a matter of right use into
12 this structure if granted?

13 MR. ELLIS: Yes.

14 CHAIRMAN GRIFFIS: Okay, the second,
15 which is of more concern to me. First of all, you
16 just made the comment that you don't really have any
17 arguments to it.

18 If we were a Design Board or perhaps, how
19 did the Zoning Commission put it when they
20 reprimanded us? One that looks for the popularity
21 and swayed by the major votes.

22 My issue, very seriously and very
23 directly, is that we have the regulations for the
24 test of variance. There are three tests of which you
25 need to address and you need to address to full

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1 satisfaction for the regulations, otherwise we cannot
2 grant it, no matter how spectacular, in fact, the
3 project may be or we think it may be.

4 That is first. There needs to be
5 establishment of how this property is unique in some
6 way. The shape, size, something unique about it. In
7 that uniqueness, outgrowth of that uniqueness there
8 is a practical difficulty or some sort of peculiar
9 circumstance that's created that makes it difficult
10 to comply with the zoning regulations.

11 You have this uniqueness to this property
12 that creates your problem that you have to, you
13 cannot comply with the zoning regulations. And the
14 third and final is that this would not, if granted
15 relief, impair the intent or the integrity of the
16 zone planner map.

17 Basically, it won't have any adverse
18 impact to the zoning in the area and to the adjacent
19 properties. Is that clear?

20 MR. ELLIS: Let's see, unique and no,
21 what were the first two? You said you must show
22 uniqueness. But there were two things before that.

23 CHAIRMAN GRIFFIS: Well, uniqueness is
24 the first.

25 MR. ELLIS: Oh.

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1 CHAIRMAN GRIFFIS: There has to be some
2 uniqueness.

3 MR. ELLIS: Okay, all right.

4 CHAIRMAN GRIFFIS: Out of that uniqueness
5 there has to be some --

6 MR. ELLIS: The uniqueness is that it is
7 built over more than the lot than it should be built
8 over. And when we bought it we did go down to look
9 at drawings downtown showing, the plat drawings.

10 And they showed that they had made
11 drawings of this building over that much of the lot.

12 We assumed then that we, this is the building we'd
13 get to restore, because either use as it is or
14 restore. We knew we had to put a roof on it.

15 CHAIRMAN GRIFFIS: Okay, let's address
16 that one at a time, just so we're all clear what is
17 happening here. You're saying that when you
18 purchased the building you had an existing
19 non-conforming building --

20 MR. ELLIS: Correct, not correct, sir.

21 CHAIRMAN GRIFFIS: Okay. And there would
22 be nothing precluding you from, although, I can't say
23 that totally. That's an interesting point. You are
24 going beyond the scope of just repairing or altering
25 the existing structure and the existing lot occupancy

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1 that may, that would be non-conforming.

2 MR. ELLIS: I'm sorry. If, could you
3 repeat that, please?

4 CHAIRMAN GRIFFIS: How do I say that
5 better? Anyone have another -- you're altering the
6 structure beyond the original.

7 MR. ELLIS: We did not change the
8 footprint and neither did we change the skyline, as
9 we can see. And we did go over this, by the way,
10 with the historic preservation guys and we showed
11 them all the drawings and everything and they did
12 approve of what we -- they signed off on this
13 project.

14 MR. ZAIDAIN: It's my understanding that
15 there's, it's being advertised, looking at this, to
16 allow an addition to an existing single family
17 dwelling.

18 MR. ELLIS: It's wrong. It's wrong.
19 There was already an addition. And some people who
20 --

21 MR. ZAIDAIN: So you're not expanding the
22 --

23 MR. ELLIS: -- stepped in to make the
24 complaint, they filed it as if we were building on to
25 this, making, you know, an original --

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1 MR. ZAIDAIN: You're not expanding the
2 footprint?

3 MR. ELLIS: No, no, not at all.

4 MR. ZAIDAIN: Are you expanding the
5 height?

6 MR. ELLIS: No.

7 CHAIRMAN GRIFFIS: What's the
8 construction currently that is shown in the
9 photographs in the rear of the building?

10 MR. ELLIS: We have a photograph of that
11 here, if you like?

12 CHAIRMAN GRIFFIS: I have them up here.
13 What is it?

14 MR. ELLIS: Well, that's current, I don't
15 know if you have, do you have one that looks like
16 this?

17 CHAIRMAN GRIFFIS: Let me see that one.

18 MR. ELLIS: Okay, at the bottom is prior,
19 yeah.

20 MR. ETHERLY: So Exhibit No. 5, is a
21 series of colored photographs and it appears to be a
22 series of five pages of colored photographs. And the
23 first page appears to be the former or the existing,
24 the property as it existed with the original
25 structure on it.

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1 And then subsequent pages reflect what
2 appears to be the beginning stages of a replacement
3 of that addition at the rear of the property.

4 MR. ZAIDAIN: Well, if I could turn the
5 Board's attention to the, and maybe this is where we
6 start. Let's try to figure this out.

7 If you look at the ZA's notes and
8 computation sheet, because this was kicked out by the
9 ZA, it does say under the lot occupancy row that
10 there is an addition of 200 or 400, I can't talk, 240
11 square feet, to the existing 852 square feet.

12 So what is that 240 square feet?

13 MR. ELLIS: That's, I think they though
14 that there was nothing on the space before.

15 MR. ZAIDAIN: And, well, and then along
16 with that, then along with that you've got a rear
17 yard and a court. So what is reducing the rear yard?

18 MR. ELLIS: Yeah, there was never --

19 MR. ZAIDAIN: You're saying nothing, the
20 original footprint was like that.

21 MR. ELLIS: Yeah, there's some mistake in
22 the --

23 MR. ZAIDAIN: I guess I'm at a loss.

24 CHAIRMAN GRIFFIS: Yeah. Ms. Monroe, is
25 it your understanding that -- oh, man, that this,

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1 there would have to be some relief for a non, an
2 addition or would there be? We need to establish
3 whether there is an addition here, is that correct?

4 Otherwise, I'm not sure why they'd be
5 here. And once they do get here, if there is relief
6 under non-conforming structure provision, then would
7 we necessarily grant variances for all the existing,
8 non-conforming issues?

9 MR. ZAIDAIN: It seems like, I mean, it's
10 almost considered a renovation, as opposed to a
11 zoning issue.

12 CHAIRMAN GRIFFIS: It seems like it's a
13 new construction.

14 MR. ZAIDAIN: Or new construction.

15 MS. MONROE: I think, if it's
16 non-conforming, it's torn down and made conforming.
17 If you then rebuild, you are now constructing a
18 greater non-conformity and you would need a variance
19 from 2001, for adding more of a non-conformity.

20 Adding a non-conformity to a now
21 conforming structure because the original
22 non-conforming portion was torn down, making it
23 conforming. Do you see what I'm saying?

24 Even if it only is conforming for a
25 month, if you are going to add on again, you're

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1 making it non-conforming now. That's why they need
2 the variance for 2001. If that is the situation.

3 MR. ZAIDAIN: Well, let me make sure I
4 understand. Because they are tearing down to the
5 foundation and then rebuilding within that
6 foundation?

7 MS. MONROE: If it was nonconforming --

8 MR. ZAIDAIN: Right.

9 MS. MONROE: -- and they changed it to
10 make it conforming.

11 MR. ZAIDAIN: Okay, is it because they
12 are tearing off an addition which is going to make it
13 --

14 MS. MONROE: Now it's conforming.

15 MR. ZAIDAIN: Hold on -- in the process
16 of building, of restoring an addition, they are
17 removing the addition which for a second is going to
18 make it conforming, and then --

19 CHAIRMAN GRIFFIS: You can't restore if
20 you remove it.

21 MR. ZAIDAIN: Oh, okay.

22 MR. ELLIS: May I add something?

23 CHAIRMAN GRIFFIS: Certainly.

24 MR. ELLIS: When all of that structure
25 was never removed at one time. There were always

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1 some of the old walls were there. We thought we
2 would save them, we would build, you know, rebuild
3 the ones that looked the worst and then we'd go, oh,
4 that's got to go.

5 So it was slowly, typical weekend
6 renovator method that we use. We never took it all
7 away at one time.

8 CHAIRMAN GRIFFIS: That's a heck of a lot
9 of CMU construction for a weekend renovator, but --

10 MR. ELLIS: Well, it's been years.

11 CHAIRMAN GRIFFIS: -- nonetheless, how
12 did you progress this far without permits?

13 MR. ELLIS: Well, we had a permit for the
14 roof, to remove the roof and some various other
15 things. And we never thought these walls were coming
16 down. So it really was like a surprise to us.

17 MR. ZAIDAIN: What was a surprise to you?

18 MR. ELLIS: That the walls cracked when
19 we went to remove, replace the roof.

20 MR. ZAIDAIN: Okay, so you had to replace
21 the walls?

22 MR. ELLIS: Yes.

23 MR. ZAIDAIN: And that's where you got,
24 then you went to get permits for that?

25 MR. ELLIS: Yes.

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1 MR. ZAIDAIN: And that's where all this
2 started?

3 MR. ELLIS: Yes.

4 MR. ZAIDAIN: Okay.

5 MR. MAY: But somehow you replaced the
6 walls already?

7 MR. ELLIS: Yes.

8 MR. MAY: So you had a permit to replace
9 the walls?

10 MS. ELLIS: No, not to replace, no.

11 MR. ELLIS: No, no.

12 MS. ELLIS: No.

13 MR. ZAIDAIN: Well, I guess that, I guess
14 to add to the confusion if you look through the
15 plans, the sheets, all the exterior walls are noted
16 in the key, existing to remain.

17 MR. ELLIS: Because those drawings were
18 made, you know, prior to knowing that these walls
19 would be cracking.

20 CHAIRMAN GRIFFIS: Who did these
21 drawings?

22 MS. ELLIS: Greg Taylor.

23 MR. ELLIS: Yeah, Gregory Taylor. I
24 think it said Gregory V. His initials are GVT, it
25 looks like. He's actually an Engineer.

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1 CHAIRMAN GRIFFIS: With this paperwork
2 you would probably want an Engineer more than
3 anything else. Okay, we've got a little confusion
4 here.

5 MR. MAY: Can you indicate, on the plans
6 that we have, which walls actually were replaced, in
7 the end?

8 MR. ELLIS: May I come up and show you?

9 MR. MAY: Well, if you can, I mean you
10 can hold it up and point to the plans. Do you have a
11 set of the plans, there?

12 MR. ELLIS: Well, all of the cinder
13 block.

14 MR. MAY: Yeah, it's most helpful to see
15 it in terms of the plans.

16 MR. ELLIS: And the old building starts
17 here, that's up front, it's not on this drawing.
18 Initially we took down that one and this one.

19 MR. MAY: What sheet are you on?

20 MR. ELLIS: That's A4. Well, it's the
21 same walls there. Okay, and the existing, the older
22 part of the building is up off, this is only the rear
23 that you're looking at.

24 Initially we took this wall and that one.
25 Subsequently, we removed this one and that.

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1 MR. MAY: All the way to where?

2 MR. ELLIS: To where the red part shows
3 on your photograph.

4 MR. MAY: Okay, on the plan, to where it
5 says the line between Area A and Area B?

6 MR. ELLIS: Yes.

7 MR. MAY: Okay, so all of that.

8 MR. ELLIS: The last part was down at the
9 bottom here, going from, back from the old building
10 back to where the garage, where the back would start.
11 This was the very last thing.

12 MR. MAY: Okay, so the side wall to the
13 garage there, to the right of your pen?

14 MR. ELLIS: Yeah.

15 MR. MAY: That was not replaced?

16 MR. ELLIS: Oh, we have now replaced it
17 all, but we did it in different times. And I'm just
18 showing you --

19 MR. MAY: Okay. All of, so basically
20 everything in Area B --

21 MR. ELLIS: Everything you see there now,
22 it has been redone.

23 MR. MAY: On this plan, has been
24 replaced?

25 MR. ELLIS: Yes, yes.

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1 CHAIRMAN GRIFFIS: Okay, why don't you
2 continue on and tell us more about this situation.
3 Anything, do you have anything in addition to
4 present?

5 MR. ELLIS: Well, we have tried to make
6 the exterior walls tasteful. You can see there are
7 false windows on the exterior, holes that will get
8 glass blank walls. Anything to keep it from being a
9 long cinder block wall.

10 And it will be stucco. It will have a
11 tin roof on the upper part. The deck on the rear will
12 get a nice fence. The historic guy said we could go
13 up with maybe four more levels of cinder block, but
14 we don't want to do that.

15 Just so that more light, we did have this
16 light idea in mind, so we would put an iron fence
17 instead of going up higher with cinder block. The
18 open rear will have tasteful Andersen Windows or
19 something.

20 It's not going to be any of that
21 plasticity-look, we want to make it work that we can
22 feel proud of.

23 MR. ZAIDAIN: Just for the Board's
24 benefit, usually the Office of Planning, who didn't
25 submit a report, and we'll deal with that in a little

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1 bit. The usually submit like an aerial photo of the
2 location of where this is and kind of talk about the
3 surrounding neighborhood and uses.

4 What's the immediate surrounding land
5 uses here?

6 MR. ELLIS: The surroundings, this is the
7 U Street, the historic U Street, first of all. And
8 there is a mixed bag of things going. A few empty
9 lots, one with an old service station, and probably
10 the tanks still in the ground.

11 There was a church, in fact, a mosque
12 next door to this particular building. They are gone
13 now. A lot of development. On the block, mostly
14 offices, a consulting firm, I think, has, owns four
15 or five of the buildings on that block.

16 All of the block is zoned commercial, I
17 believe. There is nothing behind the, across the
18 alley that's zoned commercial. So, of course, those
19 people would have --

20 MR. ZAIDAIN: So you're saying, it sounds
21 like it's generally a mixed use neighborhood?

22 MR. ELLIS: Mixed, yes.

23 MR. ZAIDAIN: Okay.

24 MR. ELLIS: But it's very close to the
25 Metro stop and --

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1 MR. ZAIDAIN: To the U Street, Metro
2 stop?

3 MR. ELLIS: Yeah, it's like three blocks
4 or less. And there is a bit of a problem when you
5 have all of this expenditure on public utility and
6 you don't let the tax office people build on the
7 space so the government can get, collect tax.

8 It really is nice to have it historic,
9 but at the same time, the government needs to make,
10 to raise revenue. So you can't say, ah, you know,
11 don't do anything here, keep it as it is.

12 There are financial realities, even for
13 --

14 CHAIRMAN GRIFFIS: That goes beyond our
15 jurisdiction. You know, we like to meddle in a lot
16 of things. That probably wouldn't be one we could
17 take on.

18 (Laughter.)

19 MR. ZAIDAIN: That whole thing would
20 explain my parking ticket from yesterday.

21 CHAIRMAN GRIFFIS: Exactly, right.

22 (Laughter.)

23 CHAIRMAN GRIFFIS: Okay.

24 MR. MAY: Now you know where the parking
25 ticket people park.

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1 MR. ZAIDAIN: Yes. So I should have been
2 the one raising a lot of issues with that, right.

3 MR. ELLIS: Can I just add that when we
4 went around with the petition, all of the people were
5 so happy. Even people who live like ten feet. The
6 neighbor to one person who I think two doors, oh,
7 we're so happy to see you get rid of those --

8 MR. ZAIDAIN: Yeah, I think you submitted
9 a petition today.

10 MR. ELLIS: Yeah. And there are many, I
11 think at least ten other people we, or ten other
12 people, property owners that we're quite sure we
13 could get their signatures if we tried a bit harder.

14 CHAIRMAN GRIFFIS: Okay, well we do have,
15 I need some clarification on what is this, this
16 closed court that I guess you're filling in with
17 glass block?

18 MR. ELLIS: Yeah, the opening, the
19 opening on the side. There will be no openings on
20 the side. It looks like it's an opening, but --

21 CHAIRMAN GRIFFIS: It starts on A3. I'm
22 not sure why I don't see it on, it doesn't, the
23 window well or the court doesn't go down to the first
24 floor, or it originally didn't?

25 MR. ELLIS: It originally didn't. So

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1 actually, if they would like, we could build it back.

2 It would be more space for us. But it would be less
3 light for the neighbors.

4 CHAIRMAN GRIFFIS: More space for you.

5 MR. ZAIDAIN: So that's kind of --

6 MR. ELLIS: The airway, I mean.

7 MR. ZAIDAIN: So that little cut in the
8 building is only on the second floor?

9 MR. ELLIS: Right. And that will get
10 windows and what have you.

11 MR. ZAIDAIN: What would you, what would
12 that be considered?

13 CHAIRMAN GRIFFIS: That's a closed court.

14 MR. ZAIDAIN: Even though, even though
15 it's on the second floor?

16 CHAIRMAN GRIFFIS: It's nonconforming.
17 Yeah, courts can occur anywhere.

18 MR. ZAIDAIN: Really, they don't have to
19 be straight to the ground?

20 CHAIRMAN GRIFFIS: That's true, just open
21 to the sky.

22 MR. ZAIDAIN: Oh, okay, I didn't know
23 that.

24 MR. MAY: Was that courtyard, that
25 narrow, enclosed space, was that already there, it

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1 was already there to the second floor?

2 MR. ELLIS: This is exactly the way it
3 was. These walls you see, there were already walls
4 like this.

5 MR. MAY: There were already walls there
6 defining the three sides of that?

7 MR. ELLIS: Yes, yes.

8 CHAIRMAN GRIFFIS: So you're not changing
9 that in any shape?

10 MR. ELLIS: No, no.

11 CHAIRMAN GRIFFIS: Man. So where is
12 there a variance on closed court coming from?

13 MR. ELLIS: We don't ever understand
14 about the court either.

15 CHAIRMAN GRIFFIS: Okay, let's get
16 through this as much as we can today. Do what? No,
17 exactly. Do you want, is there anything else you
18 want to bring to our attention in the presentation of
19 your case?

20 What I'm going to do after this is go
21 through all the government reports that we have on
22 this application. We'll note the ones that we need
23 and don't have.

24 We'll go to the ANC and then we're going
25 to go to the parties and testimony and then we'll

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1 return to you for a conclusion. All that will take
2 about 25 more minutes.

3 MR. ELLIS: We did get unanimous approval
4 from the ANC.

5 CHAIRMAN GRIFFIS: Right, ANC-1B.

6 MR. ELLIS: Yes.

7 CHAIRMAN GRIFFIS: Okay.

8 MR. ELLIS: All right, that should be it.

9 CHAIRMAN GRIFFIS: Very well, thank you.

10 Office of Planning has indicated it doesn't have a
11 report in. I think we would, if this doesn't
12 conclude today, ask for their submission into the
13 record.

14 ANC-1B, is there anyone here representing
15 ANC-1B today? Would you come forward, sir, and
16 introduce yourself for the record.

17 MR. ZAIDAIN: I thought he was just a
18 spectator. He's been here all day.

19 CHAIRMAN GRIFFIS: We're going to have to
20 readjust our schedule to accommodate ANC-1B.

21 MR. SPALDING: Phil Spalding, ANC-1B02.
22 I live at 1929 13th Street. There was enormous
23 confusion at our ANC meeting when this came up.
24 Since it's my single member district, I did go down
25 and observe what was going on there, and I did talk

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1 to one of the neighbors, which is a commercial
2 neighbor.

3 And they didn't seem to have any
4 difficulty with the rebuilding. I did, in viewing
5 the building, build a case myself for the ANC that
6 this was well beyond normal lot occupancy, and would
7 be troublesome bringing it to BZA.

8 But at the ANC meeting, the Ellis'
9 explained that they had been working with the
10 Historic Preservation Office, and that they could
11 show a history of working with the Historic
12 Preservation Office.

13 And that the instructions that they got
14 from the Historic Preservation Office, were to
15 rebuild in place. Which I think leads to part of the
16 confusion over who controls this issue.

17 Is it a Board of Zoning Adjustment's case
18 or is it something for the Historic Preservation
19 Review Board.

20 CHAIRMAN GRIFFIS: Yeah, that seems to be
21 a mounting disagreement, misunderstanding on
22 Preservation's point. Mr. Ellis, could you come up
23 for a second? Who are you working with at Historic
24 Preservation?

25 MR. ELLIS: Steve Calcott.

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1 CHAIRMAN GRIFFIS: Steve Calcott? Steve
2 Calcott told you to do things, to rebuild in place?
3 Can you turn your mic on?

4 MR. ELLIS: We were not to change the
5 footprint.

6 CHAIRMAN GRIFFIS: I'm listening.

7 MR. ELLIS: He was very strong that we
8 were not to change the footprint.

9 MR. SPALDING: Mr. Griffis, after our ANC
10 vote, I did call Steve Calcott and asked specifically
11 about that, because it seemed very confusing to me.

12 And his instructions to me were that he
13 had been meeting with the Ellis'. That he had
14 explained to them that if they did have to tear down
15 the walls, they would have to rebuild in place.

16 So, I think that the Ellis' were getting
17 the impression from the Office of Historic
18 Preservation, that they could perform this and that
19 it would not be a BZA issue.

20 I think the BZA thing took them blind
21 side. I think they thought working with the Historic
22 Preservation Office, they were complying with the
23 law. Now it may not be the case.

24 CHAIRMAN GRIFFIS: Okay. Even with
25 replacement in kind or existing, which I don't, I

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1 have my other issues with what this is evidencing.
2 But, even if doing that, it was not your
3 understanding that you would need a permit to do such
4 a thing?

5 MR. ELLIS: We did, for the big job. We
6 still haven't started the major job, which is to
7 renovate the whole building. We were trying to get
8 into a position so we could start.

9 CHAIRMAN GRIFFIS: I understand. But
10 when you started to embark on this rebuild in place,
11 you were doing major structural modifications to keep
12 it within the allowable zoning regulations.

13 So you're structurally modifying and
14 upgrading the existing building. You didn't
15 anticipate you'd need permits for that?

16 MR. ELLIS: We did and we were fully
17 intent on getting all the permits. But right now,
18 we've got a wall that's cracked and you get it up
19 before, you know, what else may start.

20 CHAIRMAN GRIFFIS: Okay, we've got a
21 little bit of a timing issue in some things here.
22 There's no way -- well, anyway. Okay. Let's go back
23 to the ANC.

24 MR. SPALDING: In getting the testimony
25 from the Ellis' that they had been working with Steve

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1 Calcott in the Office of Historic Preservation, most
2 of the concerns about normal BZA issues were put
3 aside, because the Commissioners were swayed by the
4 fact that they had a continuing relationship with the
5 Office of Historic Preservation.

6 That the Office of Historic Preservation
7 had told them that they could rebuild in place on the
8 footprint, which was a concern to some of the
9 Commissioners.

10 So we did vote to support this contingent
11 upon the Ellis' providing proof that they had had
12 that relationship. And the Ellis' did provide that
13 proof and I also checked with Office of Historic
14 Preservation.

15 MR. ZAIDAIN: Was it your, was it your
16 initial intent, when you were working on this project
17 to, I guess, bring, bring the structure into zoning
18 conformity but with the way HPRB told you to rebuild
19 in place, that was not an option anymore?

20 MR. ELLIS: We never thought we'd be
21 taking, those walls would come out. We thought we
22 were going to put on a new roof and start renovating
23 the inside.

24 MR. ZAIDAIN: The interior?

25 MR. ELLIS: Yeah, because we are not into

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1 building. We're, you know, renovators.

2 MR. ZAIDAIN: Well, Mr. Chair, I think
3 we've obviously touched on a big issue here. I know
4 from, I know HPRB is represented within Office of
5 Planning, so this might be --

6 CHAIRMAN GRIFFIS: No, it absolutely
7 underscores the fact that we need a little bit more
8 coordination with Office of Planning. There's a lot
9 of issues, perhaps larger issues than directly this
10 case.

11 But it does give some concern to me. And
12 my concern immediately is just timing. Well, first
13 of all, I think it's helpful to understand that
14 actually the existing footprint and the essential
15 massing is not changing.

16 And I think I'm correct in saying that.
17 Although, I can't tell exactly from the photographs
18 because the photographs are from different angles.

19 MR. ELLIS: Yeah, you could say, probably
20 from your personal experience.

21 MR. SPALDING: I also have photographs
22 that I took of the building, and it does seem to be a
23 replacement in place.

24 CHAIRMAN GRIFFIS: Okay. Okay. Right,
25 anything else ANC can provide in their report? We

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1 can --

2 MR. SPALDING: Well, I've addressed the
3 major concern that we had I mean we've, we were
4 caught on the horns of the larger dilemma, which I
5 think you understand, between Historic Preservation
6 and your dominance over zoning issues.

7 There were concerns brought up at the
8 meeting, but when we knew of Historic Preservations
9 work with the Ellis', you know, everyone was cowed.

10 MR. ZAIDAIN: Well, just to get your
11 position clear. You obviously -- I haven't seen the
12 resolution, but you voted to approve this.

13 MR. SPALDING: Yes, we did.

14 MR. ZAIDAIN: Was that based because the
15 ANC generally feels that this, the design and
16 replacing the building with the foundation where it
17 is and rebuilding the walls as they are is what
18 you're in favor of?

19 MR. SPALDING: No.

20 MR. ZAIDAIN: You just didn't --

21 MR. SPALDING: No.

22 MR. ZAIDAIN: You're not in favor of
23 that?

24 MR. SPALDING: No.

25 MR. ZAIDAIN: You voted to approve

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1 because of HPRB's recommendation?

2 MR. SPALDING: Exactly.

3 MR. ZAIDAIN: Well, that's a bigger
4 issue, I guess, I don't know.

5 CHAIRMAN GRIFFIS: And so where are you
6 with the Historic Preservation Review? You said you
7 had a signoff, but who signed off? Did you ever
8 present this --

9 MR. ELLIS: I think we gave a copy --

10 MR. ZAIDAIN: It got passed around.

11 MR. ELLIS: Yeah, you have it in your --

12 CHAIRMAN GRIFFIS: Today?

13 MR. ELLIS: Yeah.

14 CHAIRMAN GRIFFIS: No, no, no. This is,
15 this is just a permit application. This sends it up
16 for Historic Preservation Review. Oh, man. Have you
17 ever presented, have you taken this project to the
18 Historic Preservation Review Board?

19 MR. ELLIS: Not to a board of people,
20 just to --

21 CHAIRMAN GRIFFIS: Did Mr. Calcott tell
22 you you were on the consent calendar in front of the
23 Review Board?

24 (Asides.)

25 CHAIRMAN GRIFFIS: Okay, this what I'd

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1 like to do for today, to utilize the time that we
2 have. And I'm sorry, actually, that you're caught,
3 somewhat caught in this situation.

4 And I'm going to try and make it as easy
5 as possible to shake out for the substance and the
6 facts of this. Right now I don't see an application
7 that we can deal with on this Board.

8 And so we're going to need a little
9 additional clarification at minimum. So what I'd
10 like to do with this is get through the party in
11 opposition presentation today, anything that you can
12 present.

13 We can have cross examination, actually,
14 we'll have cross examination right now, if you want
15 to do that, or you can go straight to the
16 presentation of your case.

17 Then, I'm going to ask the Office of
18 Planning to report on this. In that, I'm going to
19 ask Office of Planning to -- did you, have you ever
20 talked to an Office of Planning representative?

21 MR. ELLIS: I don't think so.

22 CHAIRMAN GRIFFIS: Okay. What we need to
23 do is get an Office of Planning Rep to work with you
24 and what I want them to do is start to coordinate
25 with Historic Preservation.

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1 I want to know if this is going to the
2 Board. If this is going the Historic Preservation
3 Review Board, I would suggest this. It would be much
4 more efficient and effective for you to go present
5 that and to at least get concept design approval from
6 them and come back to us.

7 Or at least provide the fact of whether
8 it's on consent calendar or something.

9 MR. ELLIS: Yeah, we showed them plans
10 and photographs and it's our understanding that the
11 Review Board did see what we were doing before they
12 signed.

13 MR. SPALDING: I would like to interject,
14 because I have talked to Mr. Calcott about this and I
15 don't think they ever have been before the Historic
16 Preservation Review Board and I don't think they are
17 scheduled to.

18 They do have a piece of paper from BLRA
19 explaining that, you know, this complies and there's
20 a signoff from Historic Preservation.

21 CHAIRMAN GRIFFIS: What, on this
22 transmittal letter, Historic Preservation Review
23 Board, gives you an indication that it complies?

24 MR. SPALDING: I would say subject to
25 final review. That would certainly indicate to me

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1 that they have seen initial plans. They would
2 understand that it was replacing in whole on the
3 footprint as it was.

4 CHAIRMAN GRIFFIS: Well, if you look at,
5 for one, submit final review, that's under the zoning
6 division. Here's my understanding of what this
7 transmittal is.

8 You put your application in and often
9 times you put a concept, a historic concept package
10 together and you go down to DCRA and they give you
11 this which establishes your accompanying HPA, the
12 Historic Preservation Act case number.

13 In that you are in a historic district,
14 this gives you a case number that gets you on the
15 docket for processing through the Historic
16 Preservation Review. And that starts your whole
17 process.

18 MR. SPALDING: In my talks with Steve
19 Calcott, that's not the understanding I had.

20 CHAIRMAN GRIFFIS: What did Steve say,
21 though?

22 MR. SPALDING: That he had been working
23 with the Ellis' and --

24 CHAIRMAN GRIFFIS: That's fine, you can
25 work and then submit. You usually submit --

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1 MR. SPALDING: Okay.

2 CHAIRMAN GRIFFIS: -- the two, three
3 Thursdays before the Board presents.

4 MR. SPALDING: Then, in essence, this
5 shouldn't have come up before BZA, it should have
6 come up before HPRB?

7 CHAIRMAN GRIFFIS: It can. It can come
8 before us at any time, but in light of all this
9 information, and frankly, the difficulty we're having
10 with this, it's probably better to go through HPRB
11 first, and get the design approved and then come back
12 and we'll figure out what we're doing.

13 But there's a first, beginning step.
14 We're going to have Office of Planning report on
15 this. Office of Planning is going to clarify where
16 or what you have to do at Preservation.

17 You've been signed off on, maybe you got
18 the great big stamp from the Board that says this is
19 the best Historic Preservation they've ever seen in
20 the entire city, believe me, I want a copy of that
21 because I have cases I'll take to them with it.

22 But, nonetheless, clarification for your
23 case, for your particular needs, that that can come
24 to us. So the small step is working with Office of
25 Planning.

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1 Let's go, because we do have the party in
2 opposition here today and first let me ask, is there
3 cross examination you want to do of the testimony
4 you've heard now or do you want to just present?

5 Can you have a seat with a mic? I'm
6 sorry, anything you say in the room has to be on the
7 record and so you have to say within, on a
8 microphone. Okay, say that again, please?

9 MS. WALLACE: Well, my big question is
10 what was there previously versus what is there now?
11 In my mind, they've built extensively beyond what was
12 there previously.

13 CHAIRMAN GRIFFIS: Okay, and let me be
14 direct with you. It's totally up to you. You can
15 present that to us right now or you can cross examine
16 the Ellis', whatever you think is more efficient and
17 effective for your case.

18 MS. WALLACE: Can it be some of both?

19 CHAIRMAN GRIFFIS: No.

20 MS. WALLACE: I'd like to see the site
21 plan that they received, probably at settlement,
22 which showed the footprint of what was there.

23 CHAIRMAN GRIFFIS: The plat?

24 MS. WALLACE: Yeah.

25 CHAIRMAN GRIFFIS: Okay, if I would ask

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1 you two to come up or one who is going to speak for
2 you. I would like to ask you to conduct cross
3 examination. Those would be types of questions that
4 you could ask.

5 Get the information that you need and
6 then we'll go through the presentation of your
7 information.

8 MS. BAILEY: Excuse me.

9 CHAIRMAN GRIFFIS: The first question,
10 Mr. Ellis, is do you have, do you have a certified
11 plat, plan for this property?

12 MS. BAILEY: Mr. Chairman, please excuse
13 me, but Mr. Ellis, just for the record, would you
14 please identify yourself so the record can know who
15 you are.

16 MR. ELLIS: Oh, I am William Ellis --

17 MS. BAILEY: No, sir, Ms. Ellis, I don't
18 --

19 MS. WALLACE: Wallace.

20 MS. BAILEY: I'm sorry. Ms. Wallace.

21 MS. WALLACE: Jane Wallace, 1833 12th
22 Street, N.W.

23 CHAIRMAN GRIFFIS: Oh, there we go.
24 Okay. Certified plat?

25 MR. ELLIS: I don't know if we have a

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1 certified one, but I would think we could get one.
2 There were some -- what does certified mean? Yeah,
3 you don't see something in the --

4 CHAIRMAN GRIFFIS: Mr. Wallace, in the
5 record is this plat from the Office of Surveyors.
6 Have you seen this in the record?

7 MS. WALLACE: No.

8 CHAIRMAN GRIFFIS: Do we have any other
9 copies of this? Someone is going to bring it out to
10 you, Ms. Wallace.

11 MR. ELLIS: Now, I thought there was also
12 a very, old, old drawing in there, penciled.

13 MS. WALLACE: It doesn't look like, this
14 doesn't look like what I recall was there. Do you
15 also have the photographs submitted by the Applicant
16 of the before pictures?

17 CHAIRMAN GRIFFIS: All right, I'll tell
18 you what, why don't we do this. Let's take five
19 minutes. Ms. Wallace, what I'm going to ask you to
20 do is look at the, look at the file that's on the
21 record.

22 Take out what you need, make copies of
23 it, and then get it back here. I can tell you this,
24 in all seriousness and directness, if we had gone as
25 scheduled today with the other application, in any

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1 application, we don't take as much time to do this.

2 In fact, we're pretty brutal in terms of
3 getting what's needed, what the process is, how it's
4 presented and we move on. We have thrown out huge
5 buildings on the fact that they don't have a case and
6 don't have anything to present on it.

7 And I'm saying that only to put it in
8 context. But I think it's going to be prudent, so
9 frankly we don't get in trouble either with our
10 lawyers. I'll hand you the record, you take a quick
11 look at it and there is availability to make copies
12 next door.

13 And then we will come back in and then we
14 can start to do cross. And then we'll get to the
15 presentation of your case. Is that clear, Ms.
16 Wallace?

17 MS. WALLACE: Yes.

18 CHAIRMAN GRIFFIS: Okay.

19 (Whereupon, the foregoing
20 matter went off the record at
21 4:42 p.m. and went back on the
22 record at 5:00 p.m.)

23 CHAIRMAN GRIFFIS: Okay, we're just
24 waiting for Ms. Wallace. There is the computation
25 table, are you aware of what I'm speaking? Do you

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1 want to hold that up for their identification? Did
2 you fill that out?

3 MR. ELLIS: No, the zoning --

4 CHAIRMAN GRIFFIS: The Zoning
5 Administrator filled that out?

6 (Asides.)

7 CHAIRMAN GRIFFIS: It's attached to the
8 memo, isn't it?

9 MR. ELLIS: That was prepared by someone
10 down at 40, or is it 400 North Capitol.

11 CHAIRMAN GRIFFIS: 841?

12 MR. ELLIS: 840, 841.

13 CHAIRMAN GRIFFIS: Okay, we're talking
14 about Exhibit Number 3. Okay, here's the issue. That
15 also needs to be recalculated, because it's not
16 correct. So, here we are, Ms. Wallace --

17 MR. ELLIS: Okay, notes and computations.

18 CHAIRMAN GRIFFIS: Yeah, what you need to
19 do is just take a look at that again and it would be
20 probably be advantageous -- actually, you need to
21 show that to the Office of Planning Representative
22 who will be working you and they can facilitate
23 getting that corrected.

24 Ms. Wallace, you've had an opportunity to
25 look through the file. And, taking a moment myself,

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1 realizing I don't think it's worth proceeding today,
2 because I think what you're going to do is present
3 things and there is a heck of a lot more that's going
4 to come in.

5 The whole entire substance of this looks
6 like it may change. In which case, you are going to
7 be arguing twice, and we're going to be putting you
8 through all that.

9 I think we're going to be better off, now
10 you have established party status. Anything that is
11 now submitted into the record, and Mr. Ellis, just to
12 make sure that you are clear on this.

13 Anything submitted into the record, must
14 be served on the party, Ms. Wallace, served. It also
15 needs to be evidenced that it's served. So anything
16 that comes in that is attendant to this file, goes to
17 Ms. Wallace.

18 Ms. Wallace, I would give you the
19 direction also, just to double check, as we get close
20 to our new hearing date, the official file that's in
21 the office next door, the Office of Zoning, and the
22 staff there will be very helpful in pulling it for
23 you and showing it.

24 And you should look at that. There is on
25 every file, and in this particular file, a legend of

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1 exhibits, the numbers of exhibits and when they were
2 submitted.

3 Make sure that you have everything that
4 was submitted, just to double check. This what I
5 think we should do, is let's set this for a date. We
6 will be contacting directly the Office of Planning.

7 The Office of Planning should put
8 somebody on their staff in charge of this application
9 and contact you, Mr. Ellis. I would suggest, and we
10 will make this suggestion and we will give, Ms.
11 Wallace, your name and contact information to the
12 Office of Planning as a party in this case.

13 This is a little upside down on how we're
14 proceeding with this, but I think it's advantageous.

15 I think it would be worthwhile and I would assume
16 that the Office of Planning would contact you also.

17 They do site visits, they walk around,
18 they'll do a whole report on this. And so you should
19 both be involved in that, obviously. I've never seen
20 anything like this, and we've seen a lot of
21 interesting things here.

22 And let me just, let me just state for
23 the fact of, I would love to proceed. It doesn't
24 help us at all setting this and trying to fit this
25 into our schedule.

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1 Just on what we have, there's nothing to
2 proceed on. I don't know how we could even begin to
3 act on this. So, I'd like to get some clarity with
4 that.

5 There seems to be a problem from the
6 Zoning Administrator to perhaps Historic Preservation
7 and so I don't think we want to continue making
8 mistakes and add the BZA to that list.

9 So, with that, is there any questions so
10 far on what's happening, Mr. Ellis?

11 MR. ELLIS: The next move would be for us
12 to wait for a notice from the Office of Planning?

13 CHAIRMAN GRIFFIS: Yes, I think that's
14 the best case.

15 MR. ELLIS: Okay, mail or phone?

16 CHAIRMAN GRIFFIS: The Office of
17 Planning?

18 MR. ELLIS: Yes.

19 CHAIRMAN GRIFFIS: I certainly hope
20 they're going to call you sometime very soon. But we
21 don't give them directions. We're just volunteers.

22 MR. ELLIS: And the next hearing here,
23 how would that, we would have to come back for a
24 hearing here?

25 CHAIRMAN GRIFFIS: That is correct.

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1 Before you leave we are going to give you a date when
2 this hearing will be conducted again.

3 MR. ELLIS: Unless we start from scratch
4 again with this hearing?

5 MS. ELLIS: With the public notice,
6 etcetera?

7 CHAIRMAN GRIFFIS: No, notice has been
8 provided. We will announce which will give our
9 requirements for announcements of a continuation of a
10 case today, the schedule.

11 I think it would be advantageous for you
12 to maintain the posting of the property. But in
13 terms of mailing a notification, that would not be
14 required. Ms. Wallace, you had a question?

15 MS. WALLACE: Yes, I have two questions.
16 One is given that there is an existing building that
17 was torn down completely to grade, then it becomes a
18 new construction, does it not, and then it has to
19 comply with all the current codes and zoning,
20 etcetera, etcetera?

21 CHAIRMAN GRIFFIS: Generally speaking, as
22 I imagine that may be the presentation of the case
23 that you will give us. generally speaking, yes. If a
24 nonconforming building was taken down, the lot then
25 become essentially conforming or must conform in its

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1 new construction.

2 I'm not sure this lot is conforming in
3 size, is it? Mr. May, did you look at that?

4 MR. MAY: It's not 18 feet wide.

5 CHAIRMAN GRIFFIS: Right, it's not 18
6 feet. There are inherent non-conformities to this
7 even when the structure is removed.

8 MS. WALLACE: Right.

9 CHAIRMAN GRIFFIS: But, that goes beyond
10 your question. Anything else? If this were
11 approved, why is there no parking required as
12 commercial space.

13 MR. ZAIDAIN: That would be contingent
14 upon HPRB.

15 (Laughter.)

16 CHAIRMAN GRIFFIS: Yeah, let's have HPRB
17 understand the parking requirement. First of all,
18 it's hard to answer your question, which is my
19 hesitation because of the precariousness of what's
20 happened.

21 If there was an existing nonconforming
22 building, first of all, within a historic district --
23 first, well, if it was an existing building that did
24 not provide a parking space, one would be
25 grandfathered.

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1 As it was built before the zoning
2 regulations were enacted, we cannot, we don't come
3 back and say, okay, now all these were built but our
4 zoning says you have to provide parking, so you will
5 have one parking space grandfathered.

6 Now it goes different if you go into the
7 commercial, as this is a commercial zone and a
8 commercial is one, is two, that would have to be
9 established.

10 I can't answer that to the specific of
11 this case. I can tell you that it would be good
12 evidence to bring of what the commercial requirement
13 for parking would be under 2100, Chapter 21 in the
14 Zoning Regulations.

15 I mean that does open up a whole other
16 issue of what the actual use is, yeah. And you know
17 what might be of help also, Ms. Wallace, and the
18 Ellis', is to look at, if you have a moment before
19 you leave, is to have the staff pull the file and
20 look at an Office of Planning's report.

21 And you're going to understand that the
22 Office of Planning goes through all those issues as
23 the staff report and as it reports to this Board of
24 all those issues.

25 It should talk about the fact of what

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1 uses will be, the parking, and any other issues.
2 Again, that's something to talk to Office of Planning
3 about is issues that they may not necessarily be
4 immediately aware of.

5 Okay, what else? Let's look to dates and
6 then you can formulate other questions as they come
7 up, before we leave today.

8 MS. BAILEY: Mr. Chairman, I would assume
9 you want to schedule this at least a month out,
10 possibly the first available date in June? Or do you
11 want it sooner than that?

12 Because the Office of Planning,
13 obviously, is going to need some time to --

14 CHAIRMAN GRIFFIS: That's true. Mr.
15 Spalding, are you anticipating that the ANC may have
16 further submissions on this?

17 MR. SPALDING: I'm not sure that we can.
18 It's still the same case and our -- that's a good
19 question, can we rescind our approval? Can we
20 revisit this? A vote was taken on this.

21 CHAIRMAN GRIFFIS: You know, you mean in
22 terms of your own ANC regulations?

23 MR. SPALDING: In terms of general ANC
24 regulations. Is, it's not normal course for an ANC
25 Commission to vote unanimously for a proposition and

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1 then come back two months later and say that you're
2 opposed to it.

3 CHAIRMAN GRIFFIS: That's true. That's
4 true. Well, we have seen it and I don't know what
5 the ANC's regulations and procedures are, but, well,
6 we have seen it if an application substantially
7 changes then it often is brought back. Ms. Monroe.

8 MS. MONROE: That's just what I was going
9 to say. I was going to say if there's new
10 information that comes up, say, OP says they don't
11 need the four variances they were looking for, they
12 need these two variances.

13 Or instead of that, the need x, y, z. I
14 mean, I think based on new information, new facts
15 that have arisen, you could rediscuss it and revote.

16 I think, you know, I don't the
17 regulations of your particular ANC, but I think it
18 would kind of like a new case, essentially, if things
19 change.

20 MR. ZAIDAIN: But you testified that the
21 reason why the ANC voted the way it did was because
22 of HPRB. And if that all changes, it seems to me --
23 well, maybe that's a political discourse, but, I mean
24 there's --

25 MR. SPALDING: There may be a scheduling

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1 conflict. It will depend on what Ms. Bailey comes up
2 with as a time. Because we have to inform you seven
3 days before?

4 CHAIRMAN GRIFFIS: Right, that's correct.

5 MR. SPALDING: So our meeting would have
6 to be congruent with what you come up with.

7 CHAIRMAN GRIFFIS: Okay, well what we're
8 going to do is set it to our schedule, in that I
9 understand that you are saying that, no, the ANC is
10 not aggressively pursuing reviewing this.

11 So, I don't think we need to factor that
12 in to accommodating. That would set us off about
13 three months just to make sure. And realistically,
14 for, to get on a schedule and to present to the ANC,
15 I suggest that we set to June 17th, and we can put
16 this in the, Ms. Bailey, it is up to you, morning or
17 afternoon?

18 MS. BAILEY: June 17th. I would suggest
19 the morning, Mr. Chairman, simply because it will
20 give Ms. Wallace to be here first thing so she won't
21 lose a whole day of work.

22 MS. WALLACE: I think later in the day is
23 better for me.

24 MS. BAILEY: Afternoon or morning?

25 MS. WALLACE: Afternoon.

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1 MS. BAILEY: One o'clock, Mr. Chairman?

2 CHAIRMAN GRIFFIS: Mr. Ellis, are you
3 available at 1:00 on June 17th?

4 MR. ELLIS: Well, we had not planned a
5 day, but I think we better change our minds. We were
6 planning to be on vacation.

7 CHAIRMAN GRIFFIS: Are you back by the
8 24th?

9 MR. ELLIS: We were going to be back by
10 July, the beginning of July.

11 CHAIRMAN GRIFFIS: Do you want to move
12 this to July?

13 MR. ELLIS: Or earlier in June, say the
14 first week.

15 MS. BAILEY: There is a June 3rd, Mr.
16 Chairman. The last case of the day?

17 MR. ZAIDAIN: That's a lot to get
18 together in a month. I'd hate to, just for their own
19 good, I'd hate to put that -- I mean it seems to me,
20 six weeks? What did I say, a month? Okay.

21 CHAIRMAN GRIFFIS: June 3rd, last of the
22 afternoon?

23 MS. BAILEY: Yes, sir.

24 CHAIRMAN GRIFFIS: We have two cases in
25 that day?

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1 MS. BAILEY: This would be the third.

2 CHAIRMAN GRIFFIS: Yeah, I mean we have
3 two cases scheduled already?

4 MS. BAILEY: Two previous, yes.

5 CHAIRMAN GRIFFIS: So it would be the
6 third case in the afternoon on June 3rd.

7 MS. BAILEY: Yes.

8 CHAIRMAN GRIFFIS: Are you available June
9 3rd, Ms. Wallace?

10 MS. WALLACE: Do you know what day is
11 Father's Day?

12 CHAIRMAN GRIFFIS: I should. Let me get
13 my calendar out. No, I think it's later on. Isn't
14 it the 17th?

15 MS. MONROE: June 15th.

16 MS. WALLACE: What day then, the 17th, is
17 what, a Tuesday?

18 CHAIRMAN GRIFFIS: Right, all these are
19 Tuesdays, we only meet on Tuesdays. June 3rd is what
20 we're looking at right now in the afternoon.

21 MS. WALLACE: Okay, I could do that also.

22 CHAIRMAN GRIFFIS: Okay. And Mr. Ellis,
23 you indicated you could do that also?

24 MR. ELLIS: Yes.

25 CHAIRMAN GRIFFIS: Okay. This will be the

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1 third case in the day.

2 MR. ELLIS: Okay.

3 CHAIRMAN GRIFFIS: So, my advisement is
4 that it won't be called immediately at 1:00, but it
5 is part of the afternoon session and we will get to
6 it on the 3rd. There it is. What else?

7 MS. BAILEY: Mr. Chairman, May 20th, if
8 the Applicant intends to provide any new submissions.

9 CHAIRMAN GRIFFIS: Mr. Ellis, if you
10 could give your attention to Ms. Bailey, she's giving
11 you instructions.

12 MS. BAILEY: Excuse me, May 20th, sir, in
13 case you intend to provide any new materials.

14 MR. ELLIS: Deadline May 20th?

15 MS. BAILEY: May 20th. And the Office of
16 Planning and the ANC, that would be seven days prior
17 to June, and that would be May 27th.

18 MR. ELLIS: Okay.

19 MS. BAILEY: And then lastly, Ms.
20 Wallace, where is our file?

21 MS. WALLACE: It's right here.

22 MS. BAILEY: Okay. Thank you very much.
23 Thank you, Mr. Chairman.

24 CHAIRMAN GRIFFIS: Is that it? Good.
25 No, I'm sorry, is that all, I should say. Okay,

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1 everyone clear? Dates, submission times?

2 MR. ELLIS: Essentially, we need to bring
3 a new computation to get it into the record on that,
4 the page that you showed us?

5 CHAIRMAN GRIFFIS: Yes. And what that's
6 going to be based on, I mean it all ties together. I
7 would suggest that you meet with OP first and once
8 you start looking at what the reality of what that
9 is, then that computation is one of the pieces that
10 needs to be put together.

11 And so we'll look for a resubmission on
12 that. But it won't be done in isolation, it's going
13 to be done with everything else that's happening on
14 this.

15 MR. ELLIS: Could we approach OP, rather
16 than wait for them to --

17 CHAIRMAN GRIFFIS: Absolutely.

18 MR. ELLIS: We can. Is there anyone you
19 think might be good person?

20 CHAIRMAN GRIFFIS: Andy Altman.

21 (Laughter.)

22 MR. MOY: I'll give you a phone number
23 after this. I'll meet with you after this.

24 MR. ELLIS: Okay.

25 CHAIRMAN GRIFFIS: Good, anything else?

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1 Fabulous. All right. Well, I appreciate everybody's
2 patience. I hope this is, although not perfect, but
3 accommodates everybody. And I can then adjourn the
4 15 April, 2003, afternoon session of the BZA.

5 (Whereupon, the foregoing
6 matter was concluded at 5:16
7 p.m.)

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