

GOVERNMENT
OF
THE UNITED STATES

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

JULY 6, 2004

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 2:41 p.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS,	Chairperson
CURTIS ETHERLY, JR.,	Board Member
RUTHANNE MILLER,	Vice Chairperson

ZONING COMMISSION MEMBER PRESENT:

CAROL MITTEN,	Zoning Commission
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OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY,	Acting Secretary
BEVERLEY BAILEY,	Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN COCHRAN,	Office of Planning
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D.C. OFFICE OF THE ATTORNEY GENERAL:

SHERRY GLAZER, ESQ.

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C-O-N-T-E-N-T-S

AGENDA ITEM

Preliminary Matters 8

APPLICATION OF DEBRA MOSS AND JERRY CRUTE

17177 ANC-6C 20

APPLICATION OF LOGAN II, LLC

17183 ANC-2F 51

Mr. Christopher Collins, Esq.
Holland and Knight, LLP
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006
(202) 955-3000 (phone)
(202) 955-5564 (fax)

WITNESSES:

Seth Potack 69
Steve Dickens 72
Michael Widomski 102
Ivo Jansen 109
Mr. Chung 115
Zorica Maric 117

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

2:41 p.m.

1
2
3 MR. GRIFFIS: Good afternoon, ladies and
4 gentlemen. Let me call to order the 6th of July
5 afternoon public hearing of the Board of Zoning
6 Adjustment of the District of Columbia. My name is
7 Geoff Griffis, Chairperson. With me today is the Vice
8 Chair Ms. Miller and also Mr. Etherly. Joining us this
9 afternoon for our case as the representative for the
10 Zoning Commission is Ms. Mitten.

11 Copies of today's hearing agenda are
12 available for you. They are located right where you
13 entered into the hearing room. I'm going to run by
14 this because I do appreciate everyone's patience with
15 us this afternoon. We are going to get through our
16 entire schedule this afternoon in a timely manner even
17 though we are starting late from a long and rigorous
18 morning session.

19 Let me note first that all procedures
20 before the Board of Zoning Adjustment are being
21 recorded. They are recorded in two fashions now. One
22 is the court reporter who is sitting on the floor to my
23 right who is creating the transcript. The second is we
24 are being broadcast live on the Office of Zoning's
25 website.

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1
2 Accordingly, we do ask that people reframe
3 from making any disruptive noises or actions in the
4 hearing room while we have our proceedings so that we
5 do not get distracted and you do not disrupt anybody
6 that is presenting for the Board.

7 I would also ask that people turn off cell
8 phones and beepers so they don't go off and also
9 disrupt any proceedings, and ask several things of all
10 of you. First, when coming forward to speak to the
11 Board, you will have needed to fill out two witness
12 cards. Witness cards are available on the table in
13 front of us where you will provide testimony. Also at
14 the table where you entered into the hearing room.
15 Those two cards go to the recorder sitting on the floor
16 to my right.

17 When coming forward I'm going to need you
18 to turn the microphone on and just state your name and
19 your address once for the record. That way, of course,
20 we can give you all the credit in all of our recording
21 devices for the important things you are telling us
22 today.

23 The order and procedure for variances and
24 special exceptions is, first, we start with the
25 applicant, their case presentation and witnesses.

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1 Second we'll hear from any Government agents reporting
2 attendant to the application. Third, we will hear from
3 the Advisory Neighborhood Commission within which the
4 property is located.

5 Fourth, we will have persons or parties in
6 support of the application. Fifth would be persons or
7 parties in opposition to the application. And, sixth,
8 finally, the last word goes to the applicant. That
9 would be, of course, for any rebuttal testimony or
10 closing remarks.

11 Cross examination of witnesses is
12 permitted by the applicant or parties in the case. The
13 ANC within which the property is located is
14 automatically a party in the case and, therefore, will
15 be able to conduct cross examination.

16 Nothing prohibits this Board, of course,
17 from giving instructions in cross examination, limiting
18 the time of cross examination, and scope of the cross
19 examination. If we get to that point, I will be much
20 more definitive and specific in my instruction in
21 conducting cross examination.

22 The record will be closed at the
23 conclusion of each case so two important things go to
24 that. First, make sure that you have put into the
25 record either written or orally on the record

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1 everything that you want us to deliberate on. We will
2 deliberate only on that which is established before us
3 today.

4 Secondly, we will at the end of the
5 hearing if we so require ask for additional information
6 to be submitted into the record. That information must
7 be submitted when it is required into the Office of
8 Zoning. We will be very specific on what is to be
9 submitted and when it is to be submitted into the
10 Office of Zoning.

11 After that material is received, of
12 course, it should go without saying the record would
13 then finally be closed and no other information is
14 taken into the record.

15 The Sunshine Act requires that this Board
16 conduct all proceedings in the open and before the
17 public. This Board may, however, enter into executive
18 session both during or after a hearing on a case. This
19 would be for the purposes of deliberating and/or
20 reviewing the record on the case. That would be in
21 accordance with the Sunshine Act and also our rules of
22 procedure.

23 The Board's decisions in contested cases,
24 as I have stated, must be based exclusively on the
25 record that is made before us so we ask that people

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1 present today not engage Board members in conversation
2 so that we do not give the appearance of receiving
3 information outside of the record. We also ask that
4 you make sure that you get everything in that you want
5 us to deliberate on.

6 We will make every effort to conclude our
7 afternoon session by 6:00. I don't see any difficulty
8 with making that at this point. If it does come to
9 that, I will update the schedule and let you know how
10 our timing is going to be dealt with.

11 At this time the Board will consider any
12 preliminary matters. Preliminary matters are those
13 which relate to whether a case will or should be heard
14 today such as request for postponements, continuances,
15 or withdrawals, or whether proper and adequate notice
16 of an application has been provided.

17 If you are not prepared to go forward with
18 a case today or you believe the Board should not
19 proceed with a case on our afternoon agenda, I would
20 ask that you come forward and have a seat at the table
21 as an indication of having a preliminary matter. I'm
22 going to do two things first -- three things, actually.

23
24 I'm going to wish a very good afternoon to
25 the Office of Zoning Staff that's with us, Ms. Bailey

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1 on my very far right, and Mr. Moy. I'm going to have
2 everyone that is planning to testify today, thinking
3 about it, or is definitive about testifying if you
4 would please stand and give your attention to Ms.
5 Bailey.

6 She is going to administer the oath and
7 swear you in and then I will ask them if they have any
8 preliminary matters and then I will take up preliminary
9 matters. So if you would please stand and give your
10 attention to Ms. Bailey.

11 MS. BAILEY: Please raise your right hand.

12 Do you solemnly swear or affirm that the testimony you
13 will be giving this afternoon will be the truth, the
14 whole truth, and nothing but the truth?

15 WITNESSES: I do.

16 MR. GRIFFIS: Very well. Ms. Bailey, are
17 you aware of any preliminary matters for the attention
18 of the Board?

19 MS. BAILEY: Yes, Mr. Chairman, I am.
20 Good afternoon to everyone. It concerns Application
21 No. 17185 of James Firkser. There is a request for
22 postponement of this case, Mr. Chairman.

23 MR. GRIFFIS: Excellent. Thank you every
24 much.

25 Is this what your preliminary matter is

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1 relating to?

2 MR. FIRKSER: Yes.

3 MR. GRIFFIS: Excellent. If you wouldn't
4 mind stating your name and address for the record.

5 MR. FIRKSER: My name is James Firkser,
6 2130 Leroy Place, N.W., Washington, D.C. 20008.

7 MR. GRIFFIS: Okay. And who else do we
8 have?

9 MR. WIDOMSKI: Mine is regarding case
10 17183. My name is Michael Widowski, 1340 Q Street,
11 N.W., Apartment 13.

12 MR. GRIFFIS: Excellent. Okay. I'm going
13 to have you turn off your mike because we have such
14 horrible feedback, I'm not sure why, on these.

15 Why don't we start with you. I was just
16 handed it coming out and it's actually dated July 6th,
17 a request for continuance from you signed. I actually
18 haven't read it but will as you tell me what's in
19 there, too. Go ahead.

20 MR. FIRSKER: Okay. I was applying for a
21 variance for today to be heard before the BZA but I was
22 just informed about 12:00 today that there was a letter
23 of recommendation of denial from the Office of
24 Planning. That letter was not in the file.

25 When I came as of Friday, I spoke to the

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1 Office of Planning and they have not agreed that it was
2 not in the file on that date but they agree that
3 something happened and that they did not call me and
4 they didn't discuss the letter of denial. There's
5 about seven or eight pages that I felt it wouldn't be
6 productive if I wasn't prepared to address their
7 concerns.

8 MR. GRIFFIS: Okay. And your letter
9 states that you talked to a Jennifer. I would imagine
10 that's Ms. Steingasser in the Office of Planning?

11 MR. FIRSKER: Yes. We would meet and try
12 to resolve our differences because I do have letters of
13 support from the ANC, Lafont Trust Historic.

14 MR. GRIFFIS: And the Board did go through
15 your entire case and we did have that in our record, of
16 course, so we looked at it.

17 So, Board members, we have a request for
18 continuance in order to have sufficient time to address
19 the concerns as outlined in the Office of Planning's
20 Report and recommendation for denial. Are there any
21 questions? Any concerns? Any opposition to granting a
22 continuance? I think this would probably be a
23 productive time in looking at it, especially with the
24 concerns that the Office of Planning raises.

25 Mr. Moy or Ms. Bailey, do we have any

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1 dates that would be appropriate to set this in?

2 MS. BAILEY: September 21st, Mr. Chairman,
3 in the afternoon. That's one option. Or another would
4 be September 28th. 1:00 in the afternoons are not
5 filled as yet.

6 MR. GRIFFIS: How does that strike you?

7 MR. FIRSKER: Either are fine.

8 MR. GRIFFIS: Excellent. Let's set it for
9 the afternoon of the 21st then, September.

10 MR. FIRSKER: The afternoon?

11 MR. GRIFFIS: Yes. We have a much easier
12 day so far than we had today so we will probably start
13 somewhat timely.

14 MR. FIRSKER: Is there anything in
15 addition to this that I need to do? Will I get notice
16 from you all that it's been delayed until the 21st?

17 MR. GRIFFIS: No, this is the official
18 notice.

19 Ms. Bailey, am I correct? We're not going
20 to send out any other written notices?

21 MS. BAILEY: No, sir. No. Just that the
22 Office of Planning, once you've had your discussions
23 with them, if they would file a revised report, that
24 would be due seven days before the hearing.

25 MR. FIRSKER: Right. And that would be

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1 the plans so everyone would have it on time.

2 MR. GRIFFIS: Right. We'll keep the
3 record open obviously going into the 21st for any sort
4 of additional submissions that you have in terms of
5 your working with the Office of Planning and addressing
6 their issues. Other than that, obviously the agenda
7 will be posted on the Office of Zoning's website so
8 people will be aware of it. I think that would take
9 care of our requirements for scheduling and
10 postponement. Very well. Any other questions?

11 MR. FIRSKER: Thank you.

12 MR. GRIFFIS: Enjoy the afternoon. We'll
13 see you in September, 21 September.

14 Okay. Yes.

15 MR. WIDOMSKI: Thank you, Mr. Chairman.
16 It came to my attention this past week that the case
17 17183, which is located on 14th Street, over the past
18 week there was some demolition work that was being done
19 and the notice posted for this hearing was missing at
20 some point last week. There is some concern that there
21 may be some people in the neighborhood that may not
22 know about the hearing because it was unposted.

23 I had actually taken some pictures of the
24 construction site. While I was actually in there and
25 taking the pictures, I had actually found the notice.

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1 It was kind of rolled up and hidden and actually stuck
2 behind a fence. Apparently perhaps the contractors who
3 were working on it had taken it and realized it needed
4 to be posted or what have you but it was not there.

5 In some subsequent conversations I had
6 with some people in the neighborhood, one unit owner in
7 my building had indicated that he had not received a
8 written notice in the mail. I know that there was
9 somebody else moving in the neighborhood who had just
10 moved in this past Friday whether or not it's a concern
11 for them as well. Again, it's just a matter of
12 posting.

13 I know there are some people here who
14 might want to address this specific issue. Now,
15 whether or not the Board would want to either postpone
16 it or at least take testimony and delay issuing a
17 variance or something until they can be certain that
18 the neighborhood was --

19 MR. GRIFFIS: How long was it posted for?

20 MR. WIDOMSKI: I'm not sure when it had
21 gone up. I remember seeing it. I had walked down the
22 middle of last week at some point to see the exact
23 date, time, and the address which is the case when I
24 couldn't find it. It wasn't until Friday that I found
25 it hidden behind the fence. I'm not sure how long it

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1 was posted. Perhaps the developer here has a date on
2 when it was posted. I don't know all the rules and
3 requirements. I just wanted to bring it to the
4 attention of the Board.

5 MR. GRIFFIS: Let me understand. What is
6 your relation to the application?

7 MR. WIDOMSKI: My building is right across
8 the alley from where this is being developed which is
9 currently being developed under the Condo Association.

10 MR. GRIFFIS: I see. So you don't have
11 any ownership or development stake in this property?

12 MR. WIDOMSKI: No, I do not.

13 MR. GRIFFIS: Okay. So your concern is
14 actually some folks in your building and your
15 association didn't receive written notice.

16 MR. WIDOMSKI: Or in the neighborhood
17 itself in general may not have either received the
18 written notice --

19 MR. GRIFFIS: Did you?

20 MR. WIDOMSKI: I did receive written
21 notice, yes.

22 MR. GRIFFIS: Okay. Is there anyone here
23 that is concerned about that issue? Oh, boy. Please
24 have a seat.

25 MS. MARIC: My name is Zorica Maric and my

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1 address is 1330 Q Street, Apartment 32.

2 MR. GRIFFIS: Okay.

3 MS. MARIC: Washington, D.C. 20009.

4 MR. GRIFFIS: Did you receive written
5 notice about this?

6 MS. MARIC: No.

7 MR. GRIFFIS: How did you get here today?
8 How did you know?

9 MS. MARIC: Well, actually I was informed
10 by president of our association, Mr. Michael Widomski.

11 MR. GRIFFIS: Okay. Did you see the
12 posting on the property at all?

13 MS. MARIC: Not in the last seven days or
14 so.

15 MR. GRIFFIS: Yes.

16 MR. DORDEVICH: My name is Nenad
17 Dordevich.

18 MR. GRIFFIS: Turn that microphone on.

19 MR. DORDEVICH: Sorry. Nenad Dordevich,
20 1340 Q Street, Unit 22 as well. It's basically the
21 same story.

22 MR. GRIFFIS: So you heard by word of
23 mouth?

24 MR. DORDEVICH: Yes.

25 MR. GRIFFIS: You aren't aware of the --

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1 MR. DORDEVICH: Mr. Widomski informed us
2 about this meeting. I have not seen personally the
3 notification myself. It's only the word of mouth.

4 MR. GRIFFIS: So you weren't delivered one
5 in the mail?

6 MR. DORDEVICH: No.

7 MR. GRIFFIS: Do you own your unit?

8 MR. DORDEVICH: Yes.

9 MR. GRIFFIS: Okay. Yes, sir. Do you
10 want to tell me anything about the notice?

11 PARTICIPANT: I do have notice but it's
12 just concerning what's happening. Since the demolition
13 has --

14 MR. GRIFFIS: I'll take it up as notice
15 right now to see if we actually hear this case.

16 Can I have the applicant's representative
17 or something that can answer how it was posted, when it
18 was posted, why it fell down, if it fell down?

19 MR. COLLINS: Good afternoon, Mr. Chair.
20 Christopher Collins with Holland and Knight
21 representing the applicant in this case. The
22 application was -- notices were mailed by the Office of
23 Zoning pursuant to the list of owners of property
24 within 200 feet that was provided to this office by the
25 applicant and that list was gotten and prepared by the

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1 Office of Tax and Revenue using their computer
2 generated system.

3 MR. GRIFFIS: What about the posting the
4 property?

5 MR. COLLINS: Posting the property, just
6 bear with me a second. The property was posted on the
7 14th of June at 11:05 and was maintained in accordance
8 with the rules of this Board. An affidavit of
9 maintenance was filed and is date stamped July 2 in the
10 record in this case as well.

11 MR. GRIFFIS: So you are not aware during
12 any sort of demolition or any sort of work on the site
13 that these were rolled up or taken down or anything of
14 that nature?

15 MR. COLLINS: No, we are not aware of that
16 but the signs were intact every time that they were
17 checked and they were checked pursuant to the schedule
18 that's in the rule of procedure.

19 MR. GRIFFIS: Okay.

20 MR. COLLINS: The affidavit is in the
21 record.

22 MR. WIDOMSKI: Mr. Chairman.

23 MR. GRIFFIS: There are two points of
24 notification and this, of course, is placed on the
25 placard on the property. Then the second is the

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1 mailing. What you are about to be handed is the
2 mailing list that was produced and all that were mailed
3 out so we can pass it around.

4 What we have found in the past, especially
5 with notifications in the mail, some people open them
6 up, scan it, and throw them out and kind of forget that
7 they got them. There's no way that we can make sure
8 that they were delivered or whatever but in order to
9 comply with our procedural regulations, that list has
10 to be mailed out.

11 That list is provided to the Office of
12 Zoning. Once they put that in that secures the fact
13 all those have gone out. What we'll do is just verify
14 that everyone's name is on that and then we'll figure
15 out why if it isn't there why it wasn't there. The
16 other concern I have is just the posting we now have is
17 sufficient for our rules and regulations, what Mr.
18 Collins has just laid out.

19 They have to provide an affidavit of
20 posting which is in the record, Exhibit No. 25 and, as
21 stated, 6/14 at 11:05 it was posted. Then there is the
22 photographs of where it's posted. It seems like it's
23 all up in order for us in terms of the file. Tell me
24 what you know.

25 MR. WIDOMSKI: I just wanted to submit

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1 copies of the photos that I had taken at the end of
2 last week, July 2nd, that shows that there is no
3 posting whatsoever on this building.

4 MR. GRIFFIS: Okay.

5 MR. WIDOMSKI: Should I give that to you?

6 MR. GRIFFIS: Excellent. Yes, give it to
7 staff down here. They are going to give you an exhibit
8 number and it will go into the official record. Do you
9 have any copies of those? Okay. Why don't you let Mr.
10 Collins look at them first and then we'll put them into
11 the record and that way they can go make copies for
12 everybody out here and we will put it in the record.

13 This is what I would like to do just in
14 order for, first of all, all of your schedule. You
15 have already spent some quality time with us, two
16 hours. What I would like to do is if there aren't any
17 other preliminary matters, take this under
18 consideration as we go through this.

19 If we find that there is more people that
20 are coming up that need to be brought down to testify,
21 or at the conclusion of the hearing we feel like it's
22 not all done, we can set this off either for a
23 continuance, we can keep the record open for written
24 remarks, however we want to deal with it I think we can
25 get through.

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1 It looks like it was posted for a certain
2 amount of time. It may have lost a couple of days or
3 so. We also, of course, have the ANC report which
4 means it was publicly noticed to the ANC. There seems
5 to be a lot of ways that things have gotten out, not
6 least to mention word of mouth.

7 If there's no major objections at this
8 time -- although you are not a party in the case you
9 can bring objections and concerns. I would propose
10 that we proceed and why don't you put those in as
11 evidence and we can make sure that gets into the
12 record.

13 MR. WIDOMSKI: Absolutely. I appreciate
14 it. Thank you.

15 MR. GRIFFIS: Okay. Thanks. And you do
16 notice, lastly, you won't get those back.

17 MR. WIDOMSKI: Yeah, that's fine. Thanks.

18 MR. GRIFFIS: Thank you. Are there
19 questions or concerns from the Board? Any questions?
20 Very well then. I suggest we proceed and call the
21 first case in the afternoon then. We'll pick this up
22 as we get to it in our schedule for the afternoon.

23 MS. BAILEY: And that is Application No.
24 17177 of Debra Moss and Jerry Crute, pursuant to 11
25 DCMR 3101.2, for a variance from the lot occupancy

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1 requirements under Section 403, a variance from the
2 rear yard requirements under Section 404, and a
3 variance from the nonconforming structure requirements
4 under Subsection 2001.3, to construct a three story
5 rear addition to an existing single-family row dwelling
6 in the CAP/R-5-B District at premises 304 Maryland
7 Avenue, N.E. (Square 783, Lot 37).

8 MR. GRIFFIS: Good afternoon. I'm going
9 to have you introduce yourself. We're going to jump
10 right into this.

11 MR. HOUSTON: My name is Andre Houston.
12 I'm the architect for the project.

13 MR. GRIFFIS: Excellent. First, I have a
14 couple of notes here. It appears that several analysis
15 of this indicates that there may be a variance from the
16 FAR under Section 402 required. Have you looked at
17 that at all?

18 MR. HOUSTON: I think we included that. I
19 have to refresh my --

20 MR. GRIFFIS: Okay. You are prepared to
21 address that. Is that correct?

22 MR. HOUSTON: Yes, exceedingly allowed
23 floor area ratio resulted. Yes.

24 MR. GRIFFIS: Okay. It may just not have
25 been advertised correctly. The other is are you

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1 prepared to present additional floor plans, elevations,
2 or graphic representations today or are we going to go
3 without them in the file?

4 MR. HOUSTON: No, we have those floor
5 plans.

6 MR. GRIFFIS: You do?

7 MR. HOUSTON: Yes.

8 MR. GRIFFIS: Excellent. Okay. Do you
9 have copies of them to submit?

10 MR. HOUSTON: Oh, no, I don't. I just
11 have to present one copy.

12 MR. GRIFFIS: Okay. Let's go. Let's see
13 what you have then.

14 MR. HOUSTON: This is a lot on Maryland
15 Avenue. As you can see, it is close to the corner and
16 like many lots close to the corner, it's been scrunched
17 so that the corner can be turned. This is not
18 uncommon, although some corners don't work out like
19 this. This happens not to be a corner lot itself but
20 one of them which is set in two from the corner but
21 it's this lot which bears the brunt of the geometry
22 which is exacerbated by the fact that it's an acute
23 angle as well, Maryland Avenue.

24 MR. GRIFFIS: You're pointing to lot 37?

25 MR. HOUSTON: I'm pointing to lot 37, yes.

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1 MR. GRIFFIS: Okay. It may be easier to
2 see Exhibit No. 8 on the second page which is an
3 enlargement of a base atlas that Mr. Houston is
4 pointing to.

5 MR. HOUSTON: That's true. As you can see
6 from that map, it is the smallest lot on the block.
7 All the other lots are big enough to either have, and
8 they do have, three-room-deep houses or they have
9 enough room to permit as a matter of right three-room-
10 deep houses.

11 The exception is this lot right here in
12 the middle of 2nd Street. This lot about 10 years ago
13 was the subject of a variance for very similar reasons.

14 The lot was too small, didn't have a kitchen. It was
15 a particularly small lot. It was granted a variance.
16 This is a similar situation.

17 It's very difficult -- it's not possible
18 to put a house that is appropriate for a family with
19 children in a townhouse which is only two rooms deep.
20 You've got the living room traditionally, the dining
21 room, and the kitchen. If you split those on different
22 floors, it becomes a hardship for people to live in
23 them. If you eliminate one of them, you've got a house
24 which is too small for children.

25 This house now does have a kitchen.

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1 There's a small addition. We're not sure when it was
2 added onto the back of the house. This accommodates a
3 very small kitchen which goes a little bit into the
4 main part of the house. Incidentally, the house is a
5 two-room deep 32-foot-deep house by 18 feet wide.

6 The kitchen addition results in an
7 unnaturally small kitchen. In addition to that, we had
8 a structural engineer look at the addition and there is
9 a copy of his report. He recommended for a number of
10 reasons that you can look at that the structure ought
11 to be ripped down. It was not structurally sound.
12 That would leave the applicant without any kitchen.

13 Presently there's a porch which comes, as
14 you can see -- a deck which comes to here. What we are
15 asking to do is to extend the house to about the same
16 distance as the porch adding a third room and making
17 similar than to most of the other houses on the block
18 and, indeed, in capital hill three rooms deep.

19 Because this is -- I can't remember what
20 the district is -- CAP/R-5-B, it runs into an area
21 variance, an FAR variance and a rear yard variance.
22 These are all variances. They are not -- because we
23 are exceeding 70 percent of lot occupancy they are not
24 able to be considered special exceptions.

25 In addition I want to call your attention

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1 to the fact that the lot is surrounded on all sides
2 here and here by blank party walls which you can see
3 from the photographs. On this side here it's open to
4 the street two lots over across the yards and the
5 neighboring house -- the two neighboring houses, one of
6 them already projects out as far as the addition we are
7 proposing to put on.

8 The other one does not project as far but
9 if you'll notice, the property line bends away from
10 that property owner so that any addition would be out
11 of -- would be pushed away from his sight line and be
12 less problematic for him than a typical addition.

13 We are in the fortunate position of being
14 able to rectify this hardship of only having two rooms
15 deep, a house with only two rooms deep and, at the same
16 time, by adding a third room and at the same time that
17 third room will not interfere with the enjoyment of
18 anyone else's property because their blank party wall
19 is facing it or because they bend away from that
20 person's property.

21 I have been asked to submit plans of the
22 existing house and what we propose to build. These are
23 the plans of the existing house. As you can see on the
24 main level here, there is a living room, a dining room,
25 and then here is the shed and there's a little kitchen

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1 snuck in there.

2 What we are proposing to build is a living
3 room, a dining room, and then a regular-size kitchen.
4 This will leave a court still in the back, although it
5 doesn't meet the requirements for zoning. Please keep
6 in mind --

7 MR. GRIFFIS: You mean a court or a rear
8 yard?

9 MR. HOUSTON: A rear yard. Sorry, a rear
10 yard. This here is a diagram showing the neighboring
11 houses, the addition, and the impact. Particularly I
12 want to call your attention on this neighboring house
13 here the yard bends away so it's not in their face.
14 This one here only goes out as far as the neighbor's
15 yard.

16 There's also a perspective which shows
17 what the addition might look like. This is going to
18 have to be reviewed by the Landmark Historic
19 Preservation so we anticipate further design on this.
20 Obviously it will be reviewed by them.

21 This view is the same as a photograph
22 which you have which is this photograph here. You can
23 see in the present view what you see from 2nd Street is
24 that little shed in the back of the house. The little
25 shed will be removed and the addition will be what you

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1 see over two people's yards. That is the only way it's
2 visible from a public alley.

3 The owners have been very good about
4 notifying their neighbors and working with the various
5 neighborhood committees and I want them to speak to
6 that aspect.

7 MR. GRIFFIS: Okay. First before we get
8 too far along with that, there's a couple of things
9 that I would like to clarify. I understand that you
10 made the case, and I'll assume that the record that's
11 submitted, this is an oddly shaped strange dog leg of a
12 piece of property that actually narrows in the back
13 which has an existing lot area of about 938 square
14 feet. Is that correct?

15 MR. HOUSTON: That's correct.

16 MR. GRIFFIS: So that's pretty big or
17 pretty small?

18 MR. HOUSTON: No, that's about half of
19 what it's supposed to be by zoning.

20 MR. GRIFFIS: Half of what it wants to be.

21 MR. HOUSTON: Right.

22 MR. GRIFFIS: So it's a small 938 square
23 feet which gives you difficulty in complying with the
24 required lot occupancy as the existing is beyond the
25 lot occupancy. Is that correct?

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1 MR. HOUSTON: That's correct.

2 MR. GRIFFIS: Okay. And the rear yard, of
3 course, the existing is compliant but based on the
4 shape and what you need to accommodate, just an
5 additional room, to make this building functional, it's
6 going to encroach on the rear yard.

7 MR. HOUSTON: Yes, it does.

8 MR. GRIFFIS: Okay. And the FAR --

9 MR. HOUSTON: Is the same story.

10 MR. GRIFFIS: -- is based on the fact that
11 the lot area is so small that obviously your FAR is
12 going to be a small cap hood from that.

13 MR. HOUSTON: Yes, it constricts the
14 amount of space.

15 MR. GRIFFIS: One question I have. You
16 indicated in the back the rear yard is surrounded by
17 blank party walls.

18 MR. HOUSTON: Yes.

19 MR. GRIFFIS: What is a blank party wall?

20 MR. HOUSTON: A masonry wall with no
21 windows in it.

22 MR. GRIFFIS: Oh, so it's an enclosing
23 wall on the property line?

24 MR. HOUSTON: Yes. As far as we know,
25 it's on the property line.

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1 MR. GRIFFIS: Okay.

2 MR. HOUSTON: I suppose they maybe face on
3 line walls. You can see these in the photograph.

4 MR. GRIFFIS: Yes. Okay. I just wanted
5 to clarify your terminology.

6 MR. HOUSTON: Actually, one of the walls
7 actually does have a small window in it and that
8 neighbor has been -- I'll let the owners talk to that
9 point.

10 MR. GRIFFIS: Does that concern us?

11 MR. HOUSTON: No. They have agreed that
12 it's not a problem for them.

13 MR. GRIFFIS: You mean you're going to
14 close it up?

15 MR. HOUSTON: Yes. That window,
16 incidentally, is not supposed to be there. It's a
17 bootleg window. You're not supposed to have a window.

18 MR. GRIFFIS: Where is the window coming
19 from?

20 MR. HOUSTON: A bathroom.

21 MR. GRIFFIS: Of the adjacent house?

22 MR. HOUSTON: Yes.

23 MR. GRIFFIS: Oh, okay.

24 MR. HOUSTON: They weren't supposed to put
25 it there but they don't object to this project even

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1 though they know --

2 MR. GRIFFIS: Okay. The other concern I
3 have is you made a statement as you showed one of your
4 perspective sketches of this is what it might look
5 like. The difficulty for us is that we need to be
6 fairly precise. Obviously you are going through the
7 Historic Preservation Review Board and they are going
8 to review the design aspects and the materials and all
9 that.

10 MR. HOUSTON: That's right.

11 MR. GRIFFIS: Let them have all the fun.
12 What we need is the dry stuff. I want to know exactly
13 where that wall is going in the back.

14 MR. HOUSTON: Yes.

15 MR. GRIFFIS: I want to know is this a
16 precise calculation that we're looking at for the rear
17 yard? What is the FAR calculation? Is this an
18 approximation?

19 MR. HOUSTON: No, this is not. We are
20 asking for --

21 MR. GRIFFIS: Okay. Then let me be
22 absolutely clear. Do you know if we approve this this
23 afternoon we would attach plans. Those plans would
24 have to go to permitting and you have to build from
25 them.

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1 MR. HOUSTON: I know.

2 MR. GRIFFIS: Do we have those plans in
3 the record?

4 MR. HOUSTON: Yes.

5 MR. GRIFFIS: I don't. I have the record
6 in front of me and I don't have those. Those are the
7 ones you held up?

8 MR. HOUSTON: These are copies. Let me
9 see.

10 MR. GRIFFIS: Am I missing something?
11 Does somebody else have what I don't have?

12 MR. HOUSTON: No. In fact, what you have
13 is our diagrams. You're correct. The diagrams do not
14 show the complete plans but they will go to permit.

15 MR. GRIFFIS: These diagrams?

16 MR. HOUSTON: They will be part of the
17 permit drawings, yes.

18 MR. GRIFFIS: You can't get a permit on
19 these.

20 MR. HOUSTON: No, I know. We will need
21 additional plans. I just didn't submit them with the
22 package.

23 MR. GRIFFIS: You have them. You held up
24 plans. Right? Why can't I have those?

25 MR. HOUSTON: You can have these. You can

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1 certainly have these.

2 MR. GRIFFIS: That's all I'm asking for.

3 MR. HOUSTON: Yes, you can certainly have
4 these.

5 MR. GRIFFIS: I like seeing plans,
6 especially hand-drawn plans. You do have additional
7 copies that you can provide the Board now?

8 MR. HOUSTON: I don't have additional
9 copies.

10 MR. GRIFFIS: Do you have some that can be
11 copied?

12 MR. HOUSTON: I can copy them and give
13 them to the Board. Do you want them now? I can't copy
14 them right now.

15 MR. GRIFFIS: I think I would have a hard
16 time convincing Board members to continue with this
17 unless we have something.

18 Do you have time, Mr. Moy?

19 If you would hand it to Mr. Moy, it can
20 make a quick copy.

21 MS. MITTEN: Mr. Chairman, I think we need
22 a floor plan on each level, not just the first floor.
23 This is a three-story addition.

24 MR. HOUSTON: Yes.

25 MR. GRIFFIS: Now, will those be coming to

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1 us. I noticed in the diagram also in the rear there is
2 a walkout so there's an easement to access out the rear
3 yard?

4 MR. HOUSTON: Yes, there is.

5 MR. GRIFFIS: Obviously there's no -- am I
6 correct that there's no alley access or parking?

7 MR. HOUSTON: Except for that easement.

8 MR. GRIFFIS: Right. That's the only way
9 you go out. That's how you bring trash out and all
10 that. I see. Okay. Let's move ahead. I think it is
11 fairly clear in terms of what we're looking at
12 regarding the uniqueness and the practical difficulty
13 and we are getting more information. You wanted to
14 move on to just talk briefly about your community
15 involvement and how you talked to your neighbors?

16 MR. HOUSTON: Yes, I want the owners to.

17 MR. GRIFFIS: Okay.

18 MS. MOSS: Yes. Before we got started we
19 began speaking to our neighbors because obviously if
20 there was going to be a lot of opposition this was
21 going to be problematic. We started with the neighbor
22 directly to our east which is the neighbor that has the
23 little illegal window that will be covered by the
24 addition. We secured his consent. His name is Ross
25 Swimmer. It's the first signature on the petition that

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1 you have.

2 MR. GRIFFIS: Okay. If I'm facing your
3 house east is to my right or my left?

4 MS. MOSS: If you are facing the front --

5 MR. GRIFFIS: Front of your house.

6 MS. MOSS: If you are facing the front of
7 my house it's to the right.

8 MR. GRIFFIS: To the right. So it's the
9 neighbor's house that you're actually going to align
10 your addition with.

11 MS. MOSS: Yes.

12 MR. GRIFFIS: I see.

13 MS. MOSS: And his name is Ross Swimmer.
14 He is the first signatory on the petition that is
15 attached. We also have a statement from Sandy McCall
16 whose property is 219 3rd Street and that's the
17 property that Mr. Houston discussed. It is sort of
18 around the corner from our house that has the similar
19 scrunched-up lot and a similar addition. Variances
20 were granted for a similar addition.

21 MR. GRIFFIS: Do you know the first test
22 for a variance to be granted is the uniqueness of the
23 site?

24 MS. MOSS: Well, ours is. All sites are
25 unique.

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1 MR. GRIFFIS: I'm not sure you want to say
2 that. You've already established the uniqueness of
3 your site so that's what we're really looking at.

4 MS. MOSS: I guess I would say it was a
5 similar solution to a unique problem.

6 MR. GRIFFIS: Excellent way to put it.

7 MR. HOUSTON: Actually, we're not saying
8 that should act as a precedent. The only reason we're
9 bringing that up --

10 MR. GRIFFIS: You need to turn your
11 microphone on.

12 MR. HOUSTON: We're not saying that should
13 act as a precedent because, as we know, there are no
14 precedents. It's unique. I'm just pointing out that
15 if you look at this block there is one lot which is as
16 small as this lot but I'm pointing out that that lot,
17 in fact, there were extenuating circumstances.

18 MR. GRIFFIS: I'm not hung up on it. I
19 just didn't want to have a lot of conversation about
20 how identical this is --

21 MR. HOUSTON: No, we're not claiming
22 precedent. We understand that --

23 MR. GRIFFIS: Okay. What else does the
24 Board need to know in terms of no detrimental impact to
25 the adjoining neighbors or being adverse to the common

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1 good?

2 MS. MOSS: Well, the only neighbor -- the
3 only two neighbors that I could really impact at all
4 are the immediate neighbors on either side because
5 there is sort of an open alley. It's only two blocks
6 in from the corner and there's an open alley so the
7 property that's on the corner that is two houses over
8 there really is no -- I mean, you couldn't see our
9 property from their property because it's their parking
10 pad that opens into the back of it.

11 The one property to the immediate east has
12 given his consent. The property owner to the immediate
13 west we have tried to contact. He lives in Arizona.
14 It's a rental property. His tenant has indicated that
15 the property is likely to be sold so he apparently was
16 not interested in --

17 MR. GRIFFIS: What do we care about them?

18 MS. MOSS: Well --

19 MR. GRIFFIS: Okay.

20 MS. MOSS: They already moved.

21 MR. GRIFFIS: It is testified, of course,
22 the addition is following the angle of the property,
23 too, so it diminishes the impact for any sort of light
24 or air flow to the immediate -- as you go into -- I'm
25 sorry but, you know, going through 14 cases today I'm

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1 not sure what street I'm looking at. You've got this
2 north/south street. Is that 2nd?

3 MS. MOSS: That's 3rd Street.

4 MR. GRIFFIS: 3rd Street. Okay. As the
5 properties start on 3rd Street there seems to be --
6 there is -- I guess the rear of yours would abut the
7 rear of theirs but they are somewhat perpendicular. Am
8 I making sense there? Let me see if I can find a
9 bigger map.

10 MS. MOSS: Are you talking about this map?

11 MR. GRIFFIS: We could use that one, yes.

12 MS. MOSS: This one?

13 MR. GRIFFIS: Exactly. Did you talk to
14 them?

15 MS. MOSS: It is also an absentee
16 landlord.

17 MR. GRIFFIS: I see. Okay. How far back
18 does their structure go?

19 MS. MOSS: Their structure goes all the
20 way across. This is our lot. Their lot sort of tees
21 into it and there are no windows on this wall. Then
22 the wall between our property and the property to the
23 east cuts into the back of their house, perpendicular
24 house.

25 MR. GRIFFIS: I see. Wow.

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1 MR. HOUSTON: You can see from the
2 photographs how these properties surround the
3 applicant's property with blank walls basically.

4 MR. GRIFFIS: It's fascinating how they
5 subdivided these kind of quirky corners.

6 MS. MOSS: I guess one other thing I would
7 say as to the rear of the house. At some point a deck
8 was added and the addition will basically be the same
9 distance as the current deck so there really isn't any
10 decrease in the size of the yard from what is currently
11 there.

12 MR. GRIFFIS: Gotcha.

13 MS. MOSS: It's just a different type of
14 structure.

15 MR. GRIFFIS: Okay. Last question. There
16 seems to be -- on your adjacent neighbor to the east,
17 as you indicated, there's a large lot behind them that
18 looks like it goes all the way out to the alley.

19 MS. MOSS: Yes. It's Federal Express's
20 lobbying office. The structure on it is about -- I
21 guess it goes not quite as far out as the structure on
22 here. It's not shown. The structure goes to about
23 here and then this is parking area.

24 MR. GRIFFIS: Okay. I was thinking more
25 the center of the square itself going in a different

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1 direction and not towards the street.

2 MS. MOSS: This way?

3 MR. GRIFFIS: Go to 2695. Do you see
4 that? That's okay.

5 MS. MOSS: This right here?

6 MR. GRIFFIS: No. Let's move on.

7 MS. MOSS: Oh, I see. I see what you're
8 talking about. That is -- oh, yeah. This is wrong
9 actually. Part of that is some property that an
10 addition was built on.

11 MR. GRIFFIS: Okay. I'm not that
12 concerned with it. What scale are these drawings that
13 were submitted? Are these to scale?

14 MR. HOUSTON: Quarter inch.

15 MR. GRIFFIS: Okay. Excellent. I think
16 the graphic representation from the Office of Planning
17 -- I'm sorry they're not here to present their report
18 because it's actually excellent. Have you seen the
19 memo from the Office of Planning?

20 MS. MOSS: I haven't seen it but somebody
21 called me and said that they were.

22 MR. GRIFFIS: You should get a copy before
23 you leave for sure. They actually give a graphic of
24 where the existing rear yard is and then the extent of
25 the proposed new addition. It has some excellent

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1 photographs in there as well as an analysis. Okay.

2 What else can you tell us about the application?

3 MS. MOSS: Well, the ANC we know has
4 approved or given its consent or whatever it does.

5 MR. GRIFFIS: Indeed.

6 MS. MOSS: We have also a letter from the
7 Stanton Park Neighborhood Association supporting our
8 request. That was faxed over -- apparently the
9 original wasn't received by your office or somehow
10 didn't make it into the file but we also got a letter
11 so we then subsequently faxed over our copy. I have
12 another copy if you would like it. I don't know if it
13 ever made it into the record.

14 MR. GRIFFIS: Yeah, we have it, Exhibit
15 No. 24.

16 MS. MOSS: Okay. And also the Capitol
17 Hill Restoration Society.

18 MR. GRIFFIS: Oh, I'm sorry. That's what
19 I'm looking at. What was the first one you had?:

20 MS. MOSS: Stanton Park Neighborhood
21 Association.

22 MR. GRIFFIS: Oh, okay. If you wouldn't
23 mind just giving it to staff and they can put it in. I
24 guess we didn't have that in.

25 MS. MOSS: I guess what I would say is

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1 sort of, in short, we love our neighborhood and we love
2 our neighbors who have not opposed this in any way. We
3 really love them now. Our oldest child goes to school
4 right across the street from our house at the public
5 school and we're hoping that our younger child will be
6 able to go there eventually but because we have a
7 structurally unsound kitchen and the only way to really
8 remedy that to have a house that is appropriate for a
9 family of four is to exceed the zoning requirements.
10 We are hoping that you will grant us the variances that
11 are required to put up our addition.

12 MR. GRIFFIS: Excellent. Thank you. Any
13 questions from the Board? Clarifications, Ms. Mitten?

14 MS. MITTEN: We have plans before us that
15 depict the first level and the second level but we
16 haven't heard anything about what's happening on the
17 lower level.

18 MR. HOUSTON: It's actually the basement
19 level.

20 MS. MITTEN: Okay.

21 MR. HOUSTON: I didn't bring plans but
22 it's a family room, if you will, as many basements are
23 used as. It's kind of dark down there.

24 MS. MITTEN: But it's being expanded?

25 MR. HOUSTON: It's being extended. In a

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1 sense, it's being extended because it has to be.
2 That's not what's pushing the demands of the house.
3 It's not the fact that the basement isn't big enough.

4 MS. MITTEN: Right. I understand.

5 MR. HOUSTON: But it is being extended
6 just because everything above it is being extended.

7 MS. MITTEN: I guess where I'm going is we
8 heard very relevant testimony about the fact that the
9 kitchen is an unsound structure and that without a
10 kitchen that the house is just not typical. It's not
11 usable. It's a hardship.

12 MR. HOUSTON: Right.

13 MS. MITTEN: But I guess what I would like
14 to hear a little bit more about the adequacy of the
15 living area. This is not specific to your family
16 because we don't grant variances based on a single
17 property owner's needs but what is it about the balance
18 of the house that compels you to want to have this
19 three-story addition?

20 MR. HOUSTON: Really what's driving it is
21 the ground floor which is only two-rooms deep which
22 isn't adequate for a typical family. You've got to put
23 into that a dining room, a living room, and a kitchen.
24 You can't split them on different floors without
25 making the house much more difficult to live in.

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1 MS. MITTEN: Which is the compelling
2 reason for the addition on the first floor.

3 MR. HOUSTON: Yes.

4 MS. MITTEN: And then the ground floor
5 becomes the base for that.

6 MR. HOUSTON: That's correct.

7 MS. MITTEN: Okay. Given that we're
8 talking about exceeding the density requirement in the
9 zone --

10 MR. HOUSTON: Oh, for the floor above it?

11 MS. MITTEN: Um-hum.

12 MR. HOUSTON: Yeah.

13 MS. MOSS: Well, the question that you
14 asked about the living space, clearly, I mean, if we
15 could -- if the only thing that were allowed were to
16 extend the kitchen and we were not allowed to extend
17 the living space, it would not really work. I mean, we
18 have two children that are of different sexes and they
19 are sharing a bedroom at the moment.

20 MS. MITTEN: I was asking you not to focus
21 on your specific situation but expand that to talk
22 about why the second floor needs to be expanded from a
23 sort of general perspective. Just like from a general
24 perspective no one wants to have --

25 MS. MOSS: You mean --

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1 MS. MITTEN: Please turn off your
2 microphone, Mr. --

3 MS. MOSS: Do you mean by the second floor
4 or what is the third level of the house?

5 MS. MITTEN: Yes.

6 MS. MOSS: Well, also because for a family
7 dwelling, a two-bedroom house is not really usable as a
8 family dwelling for very long if your definition of a
9 family includes children.

10 MS. MITTEN: Okay.

11 MS. MOSS: Is that what we're talking
12 about generally?

13 MS. MITTEN: Yes.

14 MS. MOSS: And that the majority of the
15 houses in the area have three bedrooms or more. I
16 guess it's desirable for the neighborhood to have a
17 family dwelling because it keeps families in the
18 neighborhood longer and it certainly would keep us.
19 Specific to our case, it would keep us in the
20 neighborhood longer.

21 MS. MITTEN: Thank you.

22 MR. GRIFFIS: Did the basement level go
23 towards the FAR calculations?

24 MR. HOUSTON: I can't remember.

25 MR. GRIFFIS: Okay. Excellent. Any other

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1 questions from the Board? Clarifications? Very well.

2 We can always return if we have more. Let's get
3 through the Government reports. We have attended to
4 the application the Office of Planning's Report which
5 is Exhibit No. 26, an excellent report actually in
6 terms of all of that that it lays out.

7 It is recommending approval for the
8 variances that they are lot occupancy and rear yard.
9 It has the view on the street as it starts and then it
10 goes through its full analysis for the FAR. I will
11 just have it admitted in the record and not read the
12 whole thing but it is well worth it and I know the
13 Board will refer to it in its deliberation.

14 Let's go through the others. I have notes
15 that -- where are you with the HPRB, the Historic
16 Preservation Review? You have not submitted it?

17 MR. HOUSTON: No, we haven't.

18 MR. GRIFFIS: You have not submitted it.

19 MR. HOUSTON: No.

20 MR. GRIFFIS: Okay. When you present it
21 to the ANC and Stanton Park and the Capitol Restoration
22 you presented the diagrams that were in the record?

23 MR. HOUSTON: Yes, we presented the same
24 material.

25 MR. GRIFFIS: Okay. And that obviously

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1 goes to the other attended submissions that we have.
2 The ANC-6C. Is anyone here representing ANC-6C? Not
3 nothing any ANC representative, it did file Exhibit No.
4 23 in support of the application. It looks as though
5 it was a unanimous vote on it. Okay. I don't have any
6 other official submissions unless you were aware of any
7 others that you haven't brought to our attention.

8 MS. MOSS: The only thing is the petition
9 that you have, I don't believe you have an updated
10 petition. The version that you have has maybe 15 or 60
11 signature on it. We have a petition that has quite a
12 few more. If you would like an updated version, we can
13 provide that.

14 MR. GRIFFIS: Piling it on. If you did
15 all that work, we might as well put it in the record.
16 Of course, you know, we don't really grant variances or
17 special exceptions based on the popularity vote but
18 it's important to have the communication because really
19 what it does, first of all, the base level. Of course,
20 it's great to let your neighbors know what's happening.

21 Secondly, what we look to in terms of the
22 testimony in support or opposition is actually factual
23 evidence of what we should be looking at. Are we
24 missing something here or not? Absolutely I would put
25 it in. You've done the work part and it's well worth

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1 having it show in the record on that.

2 Let me ask if there is anyone here either
3 in support or in opposition to give testimony to
4 application 17177. Anyone here to present testimony as
5 persons? Not noting anyone to give testimony, let's
6 turn it over to any closing remarks you might have.

7 MR. HOUSTON: Since there's no opposition,
8 can we ask for a bench decision?

9 MR. GRIFFIS: You can always ask whether
10 there's opposition or not.

11 MR. HOUSTON: Oh, okay.

12 MR. GRIFFIS: Anything else?

13 MR. HOUSTON: No.

14 MR. GRIFFIS: Okay. This is what I
15 propose. First of all, I think this is a very
16 straightforward case and I think from my hearing the
17 case and reading it and from limited deliberation, I am
18 in the direction of strong support. However, I don't
19 think we can pursue until the record is actually full
20 and this is what I would like to have for its fullness.

21 First of all, I would like more specific
22 hardline plans showing at least some typical dimensions
23 so that we can have an understanding of exactly what is
24 going on. If it's possible at all, I would request
25 that on the first floor plan that the adjacency in that

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1 hardline dimension drawing, the adjacency of the
2 properties are represented somehow graphically so we
3 can see where they align. I see how they are
4 on the plat but I want to know that it's exactly what's
5 going to happen and then see a little bit better the
6 relationship to it.

7 In think the inclusion of the basement
8 plan would be pertinent just to fill out all which we
9 are looking at. I would also ask that you provide an
10 updated FAR calculation just to see if there is any
11 portion of what you call the basement that may be a
12 cellar and, if so, what portions did go towards the
13 floor area ratio. I think we can keep the record open
14 for any other kind of summation or encapsulation that
15 you want to provide if you feel the need for that.

16 Let me ask other Board members if they
17 agree with that or whether they want to go ahead with
18 it immediately today or how they might feel. Good.
19 I'll take that as a silent majority of consensus. I
20 think this is pretty easy but I would like that in just
21 to make everything tight, as they say.

22 So, that being said, how long do you need
23 to get that documentation in?

24 MR. HOUSTON: I can have that
25 documentation to you tomorrow.

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1 MR. GRIFFIS: Tomorrow? Really?

2 MR. HOUSTON: If you would like, yes.

3 MR. GRIFFIS: Are you sure? Okay.

4 MR. HOUSTON: I've got it all. I just
5 didn't know -- no one asked for it before.

6 MR. GRIFFIS: Okay. Well, next time
7 you're here, which you will be here again, let it be
8 known you have a standing invitation to put permit
9 ready documents into your application. The more
10 precise you are with us, the more precise we can be and
11 the more expeditious we can be. If we have that in
12 tomorrow, we are going to pick this up on our public
13 meeting August 3rd and we'll decide it.

14 MR. HOUSTON: Would you like us at that
15 meeting?

16 MR. GRIFFIS: There's no need for you to
17 be at the meeting. You are absolutely welcome. That
18 is our deliberation. That is kind of what delayed us
19 this morning. It's our mornings that we sit around and
20 yammer and try and reach some sort of decision on our
21 cases that we've already heard.

22 To be in all seriousness and direct, there
23 is no time for additional testimony. I think we are
24 fairly clear on exactly what we want submitted in the
25 record. Once that's full and we have it, we deliberate

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1 on it. We deliberate in public and then we vote in
2 public.

3 MR. HOUSTON: And you want 20 copies of
4 the stuff?

5 MR. GRIFFIS: Ms. Bailey, how many copies
6 do we want? Do we need 20 copies of all that?

7 MS. BAILEY: That's what we normally
8 request, Mr. Chairman.

9 MR. GRIFFIS: Okay.

10 MR. HOUSTON: Very good. If you give me a
11 few more days it will be a little easier.

12 MR. GRIFFIS: You can have at least a
13 week, believe me.

14 MR. HOUSTON: Thank you. Do I turn it in
15 to the Zoning Officer here?

16 MR. GRIFFIS: That's right. I'm going to
17 go through all of that procedural stuff in two seconds.

18 As long as the scale is represented or the dimensions
19 are represented, you can submit it on 11 by 17s which
20 is easier to obviously copy and put in the record.

21 Okay. Ms. Bailey, why don't we have those
22 submissions due in two weeks. That gives us plenty of
23 time to make it for the 3rd of August.

24 MS. BAILEY: Yes, sir. Two weeks will be
25 July 20th. Is that sufficient, Mr. Chairman?

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1 MR. GRIFFIS: Excellent. I think that
2 sounds perfectly sufficient. Okay. Anything else?
3 Good. Any other quick clarifications? Of course, the
4 Office of Zoning and Ms. Bailey would be able to answer
5 and Mr. Moy would be able to answer but I think we are
6 pretty clear on this. Are there any procedural
7 questions I can answer right now? Any clarifications?
8 Excellent. Thank you all for being down here this
9 afternoon. We do appreciate your patience, of course,
10 and you are welcome to see us on the 3rd.

11 MR. HOUSTON: What do we do with these?

12 MR. GRIFFIS: It goes to the recorder.
13 Okay. Why don't we call the next case of the
14 afternoon.

15 MS. BAILEY: Thank you, sir. That is
16 Application No. 17183 of Logan II, LLC, pursuant to 11
17 DCMR 3104.1, for a special exception from the roof
18 structure requirements under Section 411, and pursuant
19 to 11 DCMR 3103.2, for a variance from the residential
20 recreation space requirements under Section 773, to
21 permit the development of a six-story apartment house
22 in the Arts/C-3-A District at premises 1529 14th
23 Street, N.W. (Square 241, Lots 803 through 807 and
24 848).

25 Mr. Chairman, if I'm not mistaken, there

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1 is a request for party status in this case.

2 MR. GRIFFIS: Yes, indeed. Let's pick
3 that up right now. Okay. Mr. -- is it Chung? Is that
4 how you pronounce the last name? Okay. If you
5 wouldn't mind just coming forward for just two seconds.

6 We do have a request for party status.

7 I'm assuming that the applicant has the
8 request for party status. Is that correct? Okay.
9 Let's go through that. Let me step back just for a
10 second in terms of the issue of notification. The
11 Board has found that we are -- that our procedures have
12 been complied with as we have asked in our regulations
13 so we are proceeding with the case.

14 We are holding in our mind that everyone
15 in the area that should have known may not have known
16 and if we find complications to the Board's
17 satisfaction are not met, then we can make and take
18 steps to remedy those be it keep the record open or
19 whatever it might be. To that, I think we are able to
20 proceed.

21 Board members, quick questions,
22 clarifications on the request for party status?

23 Mr. Chung, let me just first ask you, it
24 seems from your request for party status you are mostly
25 concerned about the construction impact. Is that

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1 correct?

2 MR. CHUNG: Yes.

3 MR. GRIFFIS: Are you aware of the final
4 design?

5 MR. CHUNG: I have no idea what they are
6 going to do.

7 MR. GRIFFIS: Really?

8 MR. CHUNG: Yes. I only got the letter
9 saying I can allow me to attend this meeting.

10 MR. GRIFFIS: Okay.

11 MR. CHUNG: That's why I come. Before
12 that I noticed already my building has been damaged
13 somewhere one way or the other so that's why I
14 attended.

15 MR. GRIFFIS: And you own the property
16 immediately adjacent to the north. Is that correct?

17 MR. CHUNG: That's correct. They are next
18 against each other.

19 MR. GRIFFIS: Oh, is it the south? My
20 directions are off today, aren't they?

21 MR. CHUNG: I believe it is south.

22 MR. GRIFFIS: Oh, yes. There's the photo.

23 MR. CHUNG: That's south. My building is
24 on the south side.

25 MR. ETHERLY: And that would be the

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1 building that is presented in the picture with the
2 restaurant at street level.

3 MR. CHUNG: Yes.

4 MR. GRIFFIS: Okay. Good.

5 MR. CHUNG: In fact, with this happening I
6 was already worried about my tenants and upstairs
7 tenants are already --

8 MR. GRIFFIS: Without getting into
9 testimony, let me just highlight a few things. First
10 of all, there's two ways that you can participate in
11 the case. One is by presenting testimony as a person
12 or being granted party status. Party status, of
13 course, obligates you and gives you great
14 responsibility but also affords you an awful lot of
15 participation in the case specifically.

16 As a party you are somewhat of an equal as
17 the applicant. We are going to ask you to present a
18 case. It would obviously be a case in opposition to
19 this. We are going to ask you to avail yourself to any
20 cross examination of witnesses or calling your own
21 witnesses.

22 At the end of the case if we ask for
23 certain things of the applicant, we ask it of all the
24 parties. That may well be a minimum finding facts and
25 conclusions of law. We may have you brief certain

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1 issues, legally brief issues, talk about certain
2 issues. Is that the level of participation you are
3 interested in?

4 MR. CHUNG: I don't think I am able to do
5 that. I have to hire an attorney.

6 MR. GRIFFIS: I'll walk you through it.
7 It's not as hard as it sounds. I understand. In all
8 seriousness I understand that not being an attorney
9 myself, all those words would frighten me to say I
10 needed an attorney to get it all done.

11 The other thing that granting party status
12 allows you to do is bring an appeal of the case as a
13 person just giving testimony wouldn't. What I'm
14 actually asking you is whether it's more important for
15 you just to make sure that your testimony is heard or
16 are you looking to ensure your rights and standing as
17 this case continues?

18 Let me just say as an adjacent property
19 owners I don't see any way that we would deny you party
20 status so I may be wasting all of our time in going
21 through all this. Let me have you think about what I
22 said. Are there any board questions of the request of
23 Mr. Chung in terms of party status? Clarifications?

24 MR. ETHERLY: Perhaps in the direction
25 that the Chairman's question was heading. Is it your

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1 sense, Mr. Chairman, that you are opposed to the
2 project or simply want to ensure that you have an
3 opportunity to bring your concerns forward regarding
4 the construction?

5 MR. GRIFFIS: The second one.

6 MR. ETHERLY: Okay. Let me be clear.
7 Whether you are opposed or not, you can still seek
8 party status. That's not a requirement but in terms of
9 what could be a better vehicle for your concern
10 regarding construction impacts, it may be the case that
11 you just want to offer testimony.

12 MR. CHUNG: Yes.

13 MR. ETHERLY: Now, the Chair, of course,
14 might note that there might be some limitations to what
15 we can do in that regard but I just wanted to get some
16 clarification. Thank you, Mr. Chair.

17 MR. GRIFFIS: Any other questions or
18 clarifications?

19 MS. MILLER: Mr. Chung, I'm under the
20 impression that your main concern is about construction
21 as opposed to how you would be affected by the building
22 that could ultimately be developed there. Is that
23 correct?

24 MR. CHUNG: That's correct.

25 MS. MILLER: Okay. Then I would think

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1 that under our regulations party status is granted to
2 someone who is going to show how they will be uniquely
3 affected by the ultimate zoning relief as opposed to
4 the construction. On your application it also supports
5 that you are not really looking to address the zoning
6 relief but the construction. I guess in my view it
7 appears that it would be appropriate for you to
8 participate as a person giving testimony as opposed to
9 a party.

10 MR. GRIFFIS: He also just said that he
11 wasn't aware of what they were going to do so I think
12 it's hard for us to assess that he doesn't see how he's
13 going to be impacted or isn't going to be impacted by
14 the final without knowing exactly what it is. But it's
15 a good point and that is where we would have gone and
16 is the direction I would give in terms of construction
17 management and all that.

18 Ms. Mitten.

19 MS. MITTEN: I guess I would just like to
20 support Mrs. Miller's comments which is if he doesn't
21 know, then he certainly can't be addressing the burden
22 to become a party because he doesn't even know the
23 manner in which he might be affected by the relief
24 being granted.

25 MR. GRIFFIS: To argue hypothetically in

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1 the reverse, by being an adjacent property owner
2 wouldn't anything on that have the potential to be
3 uniquely and distinctly impacting it?

4 MS. MITTEN: One could make that argument.

5 MR. GRIFFIS: Indeed. Let's hear from the
6 applicant. Any support or opposition to the request
7 for party status at this time?

8 MR. COLLINS: Mr. Chair, I would agree
9 with several of your colleagues in that party status
10 may not be the appropriate vehicle here for several
11 reasons. First of which, as Ms. Miller pointed out,
12 the issue that Mr. Chung raises is an issue of not the
13 building that's going to be there but the construction.

14
15 It's very clear in the regulations that a
16 party must explain, and I'm citing Section 3106.2E.4
17 and 5.(5). E.4 says, "The environmental economic,
18 social, or other impacts likely to affect the person if
19 zoning relief requested of the Board is approved or
20 denied."

21 Then .5 says, "An explanation of how the
22 person's interest is identified in response to the
23 previous paragraph would likely be more significantly,
24 distinctively, or uniquely affected in character or
25 kind by the proposed zoning relief," not by the

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1 proposed building.

2 The party status regulations really impose
3 a burden on the person seeking party status early on to
4 find out about the case. Simply a person cannot come
5 down and say, "I don't know anything about the case. I
6 want to be a party because I'm next door. They have to
7 satisfy a burden in order to be accorded party status.

8 We're not judging Mr. Chung's arguments or his
9 concerns. We're just saying between a party and a
10 person I think he's better off as a person in this
11 case.

12 MR. GRIFFIS: So you are opposed to the
13 granting of party status?

14 MR. COLLINS: Yes, I am.

15 MR. GRIFFIS: Mr. Chung, any comments on
16 that? Is everything clear? Do you have any questions
17 about all these regulations? I have questions so I'll
18 ask them but let me hear yours first.

19 MR. CHUNG: I believe I would have a lot
20 of questions but I think he knows how to see all those
21 regulations. I'm the only person which is I really
22 knowing exactly how to use the word or how to protect
23 me or something like that.

24 MR. GRIFFIS: Do you see any impact if
25 this building is built to your property?

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1 MR. CHUNG: I feel when they have six
2 storage and I only have three storage the -- how do I
3 say that? Definitely it would be damaged.

4 MR. GRIFFIS: How so?

5 MR. CHUNG: Concern for the space. If
6 they are higher above mine I do not have any -- how to
7 say that? -- air circulation or something like that.
8 That would be eliminated, I believe. On the other side
9 also they are going to have another six-foot floor so
10 it would be both sides above my building and almost
11 like you can say no more sun.

12 MR. GRIFFIS: Do you have any windows on
13 your party-line wall?

14 MR. CHUNG: Yes, I do.

15 MR. GRIFFIS: On the north and south side?

16 MR. CHUNG: The south side.

17 MR. GRIFFIS: Let me make sure my
18 directions are right. Not on your street frontage but
19 on your side?

20 MR. CHUNG: We have windows on the south
21 side as well.

22 MR. GRIFFIS: Right. Okay. I understand.
23 Okay.

24 Board members, comments?

25 MS. MITTEN: I would move that we deny Mr.

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1 Chung's request for party status because, as he just
2 articulated, what he's focusing on is the height of the
3 building which is not at issue in the relief being
4 sought.

5 MR. GRIFFIS: Others?

6 MR. ETHERLY: I would agree with Ms.
7 Mitten. I would, perhaps, however, offer a little bit
8 of leeway at the appropriate time for public comment
9 because as Mr. Chung learns more about the project,
10 there may, of course, be some additional comments that
11 he wants to bring to the Board's attention for
12 consideration. Once, again, I will highlight that
13 there are limitations that we have as a body with
14 regard to construction impacts. I would probably side
15 with Mrs. Mitten on this particular party status
16 request.

17 MR. GRIFFIS: Well said. Any other
18 comments?

19 MS. MILLER: I would also agree that it
20 should be denied but I still want to make a comment. A
21 lot of people come here before us and fill out party
22 status applications because they want to participate in
23 a case and they don't understand or know the difference
24 between participating as a person and participating as
25 a party because they haven't been before the BZA

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1 before.

2 Mr. Chung, if you want to comment
3 otherwise, but my impression is from what I've heard
4 you say is that you seem to be comfortable
5 participating as a person. To participate as a party
6 seems somewhat onerous and that you felt that you might
7 need an attorney in any event. I agree about denying
8 party status but that does mean that you will still be
9 able to participate in the proceedings.

10 MR. CHUNG: I still will be able to?

11 MS. MILLER: Yes, you will still be able
12 to present testimony. You just will not be cross
13 examining and presenting a whole case.

14 MR. CHUNG: That's fine. No problem.

15 MS. MILLER: Great.

16 MR. GRIFFIS: Okay. Lastly, is there a
17 representative from the ANC-2F here? ANC
18 representative here? Okay. Then, Mr. Chung, I would
19 move now the party status application and would ask for
20 a second.

21 MS. MILLER: Second.

22 MR. GRIFFIS: Thank you very much. All
23 those in favor of the motion?

24 ALL: Aye.

25 MR. GRIFFIS: And opposed or abstaining?

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1 Good. Very well. We'll call Mr. Chung up when we get
2 rolling with the persons in opposition testimony. Let's
3 begin this application. All right. What are we here
4 for? Oh, right, right, right. Looks like you've got
5 roof problems. Whenever you're ready.

6 MR. COLLINS: Should I begin?

7 MR. GRIFFIS: Yes.

8 MR. COLLINS: Good afternoon, Mr. Chair,
9 and members of the Board. My name is Christopher
10 Collins with the law firm of Holland and Knight.
11 Seated to my left is Kyrus Freeman of our office and
12 seated to my right is Seth Potack. Mr. Potack is here
13 representing Logan II, LLC, the applicant in this case.
14 To my far right is Steve Dickens with Aracol, Baer,
15 and Associates, the project architects in this case.

16 This is an application for a variance and
17 special exception relief as noted in the announcement
18 of the case and in the filings that we have given to
19 the Board. This is a mixed use residential and
20 retail/service building in the Arts overlay zone.

21 The relief is necessary due primarily to
22 the presence of a large historic building on the site,
23 unique historic former auto dealership building on site
24 that will be retained and incorporated into the
25 project. The building as designed is smaller. It's

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1 less than the maximum permitted height and it's less
2 than the maximum permitted FAR because of the Historic
3 preservation concerns.

4 MR. GRIFFIS: What's the additional square
5 footage that is added to the project? Do you know off
6 hand like the comparison between what is existing and
7 what is new?

8 MR. COLLINS: The existing? The architect
9 might know that. I know the maximum permitted FAR is
10 4.5 and the project as designed is 3.97.

11 MR. GRIFFIS: 3.97. Okay. I'll get back
12 to that. Go ahead. Don't let me interrupt.

13 MR. COLLINS: The restrictions in this
14 building are two. The residential recreation space
15 requirement because of the inability to place --
16 certainly we cannot place all of the residential
17 recreation space on the roof given that the requirement
18 equals about 50 percent of the total site. 50 percent
19 of that has to be outdoors.

20 Given the historic preservation
21 constraints of setting the roof elements back from 14th
22 Street frontage because of the size of the residential
23 recreation space having to have two additional stair
24 towers in addition to the elevator tower and that they
25 be at both ends of the corridor further impinging upon

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1 the availability of light for the resident recreation
2 space.

3 It has to be a minimum dimension of 25
4 feet so not all the roof area can be counted, even that
5 roof area that we are devoting to residential space.
6 The flow is interrupted somewhat by not only the roof
7 structures themselves but also by an element to the
8 existing historic building, a car elevator, that is
9 being retained on the site. Actually it would be the
10 highest point of the roof even after the building is
11 finished. This roof elevator that exist is higher than
12 the new proposed roof elevation would be.

13 MR. GRIFFIS: And part of the car elevator
14 is going to residential rec space. Is that correct?

15 MR. COLLINS: Well, we are going to devote
16 the roof of the car elevator to residential rec space
17 but it doesn't count in the requirement because it's
18 not a 25-foot dimension.

19 MR. GRIFFIS: What happens inside?

20 MR. COLLINS: It's a residential unit.

21 MR. GRIFFIS: Oh, it is?

22 MR. COLLINS: Yeah.

23 MR. GRIFFIS: Cool. Okay.

24 MR. COLLINS: And then outdoors because --
25 this is a building that is in the historic district and

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1 incorporates a historic building. Not itself a
2 landmark but an important contributing building in the
3 historic building that no additional parking is
4 required but in discussions with the community one of
5 the things we had talked about was the tradeoff between
6 providing parking and providing residential recreation
7 space.

8 The clear consensus was that parking is
9 more valuable to the community and residential
10 recreation space. That further limits what's available
11 outdoors. But as you will hear in the testimony, we
12 are providing essentially 11 and a half percent of
13 outdoor space that is available for recreation but
14 doesn't meet the requirements because it's not 25-foot
15 dimension. It's not accessible to all units.

16 MR. GRIFFIS: So 15 percent is required
17 which is about 6,554 square feet. What you're saying
18 is if you count up all the square footage that you are
19 providing for residential rec it's about 11 percent.

20 MR. COLLINS: 11 plus.

21 MR. GRIFFIS: I'm not very good at math so
22 I don't know what square footage that is.

23 MR. COLLINS: It's 11 plus. It's actually
24 more than 75 percent of the requirement.

25 MR. GRIFFIS: Right. Indeed.

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1 MR. COLLINS: The numbers work out that
2 way.

3 MR. GRIFFIS: Okay.

4 MR. COLLINS: And then the second is the
5 roof structure is also related to the historic
6 preservation issue. As the architect will testify, the
7 building is designed to appear as three buildings for
8 historic preservation purposes and it works out nicely
9 that way. The buildings have different characters to
10 them.

11 The thought was by the Historic
12 Preservation Board why don't we just have like three
13 roof structures each one appearing to be above a
14 building so it looks like three roof structures for
15 three buildings. By having the three roof structures
16 it causes us to seek relief rather than having one
17 monolithic roof structure that spans the entire north
18 to south extent of the building at a maximum height of
19 the elevator itself.

20 The elevator penthouse is as high as it
21 needs to be. The elevator lobby is as high as it needs
22 to be. The two stair towers are also as high as they
23 need to be. We have three roof structures of unequal
24 heights and we don't strictly meet the setback on the
25 north and south ends. For that reason we need a roof

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1 structure and special exception requirement as well.

2 This project really promotes all the goals
3 of the Arts overlay as set forth in Section 1900.2 and
4 meets all the zoning requirements in the Arts overlay
5 as set forth elsewhere in chapter 19. The only things
6 that we need relief from are the residential recreation
7 space requirement and the roof structure special
8 exception requirement. Unless there are any questions
9 of me, I would like to go to my first witness which is
10 Mr. Potack from --

11 MR. GRIFFIS: Let me clarify two things.
12 First of all, you said that the Historic Preservation
13 supported three different structures so it looked like
14 three different individual buildings?

15 MR. COLLINS: That's right. Mr. Dickens
16 will talk about that more.

17 MR. GRIFFIS: Okay. The other thing I see
18 on the roof -- well, there it is. We might as well
19 move on. It's one thing just to address just clearly
20 for the graphics as I see three roof structures, or
21 four rather on the roof plan but three are kind of
22 showing the elevation so I think we'll get to that.

23 MR. COLLINS: The fourth is actually an
24 element to the building itself, the former car garage.

25 MR. GRIFFIS: Right, right.

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1 MR. COLLINS: It's part of the building
2 with a higher roof.

3 MR. GRIFFIS: Okay.

4 MR. COLLINS: Mr. Potack, would you please
5 identify yourself for the record and proceed with your
6 testimony.

7 MR. POTACK: Good afternoon, Mr. Chair and
8 committee members. My name is Seth Potack. I'm here
9 representing Logan II, LLC, which is an affiliate of
10 Georgetown Restoration, Inc. Georgetown Restoration is
11 a D.C. based general contractor and real estate
12 developer. It was founded in 1992 primarily as a home
13 improvement remodeling company.

14 During the early stages we specialized in
15 remodeling kitchens and baths. As our expertise grew
16 we added whole house additions and complete home
17 renovations eventually adding spec home projects to our
18 portfolio business.

19 In 1999 we added LaFosset Development, a
20 trade name, and have focused entirely on developing
21 for-sale product in D.C. We were one of the first
22 companies active in Logan Circle developing a 12-unit
23 condominium building known as the Abbey and a rowhome
24 on Q Street between 14th and Kingdom.

25 The condominium required the preservation

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1 of an historic facade and integrating it with new
2 construction while working with the community and HPRB
3 to ensure a project that all constituencies were
4 pleased with. The end result received an award for
5 Logan Circle Community Association.

6 Our other projects include a six-unit
7 condominium adjacent to the Convention Center known as
8 the Healy, a three-unit condominium in Georgetown known
9 and Walter Place and, most recently, a 10-unit
10 condominium known as Attica Lofts in Columbia Heights.

11 While constructing the Abbey we became
12 interested in the site we're talking about today. This
13 unique site provides an ideal location in the Arts
14 overlay on 14th Street. As you know, the Logan Circle
15 area has seen a significant revitalization over the
16 last few years. Much of it has followed the opening of
17 the Whole Foods Market on P Street.

18 Projects in the area include the Metro
19 Sexton Court, the Hudson, Cooper Lewis Lofts, Lofts 14
20 and Rainbow Lofts. Additionally, the Studio Theater is
21 completing a major expansion renovation just to the
22 south of our site. The development which was underway
23 as well as that which was slated all led us to the
24 conclusion that a critical mass of projects was in
25 progress and our development of Cafco site would fit

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1 nicely into the mix.

2 As we looked at the site we also recognize
3 that the goals of the Zoning Commission in establishing
4 the Arts overlay in this area were in the process of
5 being met and we felt this site would further that
6 process.

7 Our project we have designed as a six-
8 story 40-unit apartment building with ground floor Arts
9 related retail service space that is comprised of a mix
10 of one and two-bedroom configurations some of which
11 will be loft style while others will be flats.

12 Although the inclusion of the existing
13 three-story former automobile dealership building
14 presents an exciting opportunity, it also presents
15 substantial design challenges for this unique site.
16 The location of the building on the site presents a
17 practical difficulty in the sense that it is the
18 essential theme of the project and all design must stem
19 from it.

20 Our architects have worked with the
21 community and the Historic Preservation staff for more
22 than a year to develop a project that is consistent
23 with the goals of the Arts overlay and the Historic
24 District and incorporates the community's input and
25 concerns and also meets the zoning regulations to the

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1 maximum extent possible.

2 Despite our best efforts we must appear
3 before you for a variance for residential recreation
4 space and a special exception from multiple roof
5 structures. We hope you will agree with our architect
6 that the unique site constraints and other
7 considerations involved are sufficient justification to
8 grant the variance and special exception relief. Thank
9 you for your time and consideration.

10 MR. GRIFFIS: Thank you very much. Any
11 questions right now from the Board? Let's proceed
12 then.

13 MR. DICKENS: Good afternoon. My name is
14 Steve Dickens. I'm with Aracol, Baer, and Associates
15 Architects, the architects on the project. I live at
16 1525 Q Street, N.W., apartment 13. My
17 testimony incorporates the prehearing statement
18 submitted in this case and to the extent that I leave
19 anything out, I adopt the prehearing statement as my
20 additional testimony. The site is on the east side of
21 14th Street.

22 This drawing here has north going towards
23 the left on it as it's on the east side of Q Street.
24 It's right there one building off from Q Street. It
25 consist of an existing building in the middle, a vacant

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1 lot on either side. Mr. Chung's building is here on
2 the south side of our site. You can also see it in the
3 colored elevation here where the three apparent
4 buildings in the middle, Mr. Chung's on the right, and
5 then another building on the left.

6 MR. GRIFFIS: For those in the room that
7 obviously see this, there's nothing wrong with you
8 moving over to the side so you can see what we're
9 looking at or we can tilt these out a little bit.

10 MR. DICKENS: The room is dysfunctional.

11 MR. GRIFFIS: We're trying to redesign it.

12 I don't think it's going to bother the Board at all
13 even if you pull chairs around so you can make yourself
14 comfortable and just see what is going on here. After
15 4:00 we get real informal. Make yourself comfortable.

16 All right, we don't. We stay formal the whole time.
17 Let's move ahead.

18 MR. DICKENS: The site is 105 feet deep.
19 There is a 10-foot alley at the back side of it. It's
20 13,125 square feet. I think the key element of this
21 project is the existing building which is almost 13,000
22 square feet to answer your question, 12,900 closed
23 floor area existing to which we are proposing to add
24 39,258 closed square feet for a total of 52,198 which
25 comes out to an FAR of 3.97.

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1 MR. GRIFFIS: Okay.

2 MR. DICKENS: Which the zoning for the
3 side allows 4.5 if you include the 0.5 bonus you get
4 for having more than 3.0 of residential which is an
5 Arts overlay thing. We are considerably below that.

6 Also, we didn't start out there, though,
7 within the historic process. We started out with a 75-
8 foot building because that is what the Arts overlay
9 allows. We have ended up with the roof essentially at
10 62 feet, the main part of the roof. The elevator
11 overriding the back is 3'9" taller than that. The rest
12 of the building was designed so that the elevator
13 override still stands out which is something Historic
14 wanted us to do.

15 MR. GRIFFIS: That's the car elevator is
16 what you're saying? That's what you're talking about
17 that stands out?

18 MR. DICKENS: Yes, that's correct. Yes,
19 sir. The former car elevator, I should say, since it
20 doesn't exist anymore.

21 MR. GRIFFIS: What about your -- you have
22 an elevator servicing the roof. Correct?

23 MR. DICKENS: Yes.

24 MR. GRIFFIS: For one structure.

25 MR. DICKENS: Yes.

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1 MR. GRIFFIS: And two stairs.

2 MR. DICKENS: Right.

3 MR. GRIFFIS: That's two, three. And then
4 the fourth is the existing car elevator.

5 MR. DICKENS: Correct me if I'm mistaken
6 but since it doesn't stick up more than four feet above
7 the other roof, my understanding is it's not a roof
8 structure.

9 MR. GRIFFIS: But a car elevator overrun
10 doesn't stick up more than four feet.

11 MR. DICKENS: You can see in this -- I
12 didn't make it big or colorful because I didn't realize
13 we would be focusing on it but on this elevation here
14 the rear of the building actually is somewhat like the
15 front in that it's meant to appear to some degree as
16 three different buildings. You can see the car
17 elevator right there in the middle.

18 MR. GRIFFIS: Okay. That's my misreading.
19 Now it's clear. You have the new elevator and
20 obviously it's the tallest structure that's there.

21 MR. DICKENS: Right.

22 MR. GRIFFIS: Okay. Good.

23 MR. DICKENS: So we are below the height
24 limit rather considerably. We are under the FAR rather
25 considerably. We are providing 14 parking spaces. We

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1 meet the rest of the Arts overlay requirements most of
2 them fairly obvious like the street frontage where we
3 required 75 and 100, etc., etc.

4 We did start out with a seven-story
5 building. On the 7th floor went from side to side in
6 the rear part because we came in with the knowledge
7 that Historic was not likely to go for a seven-story
8 building coming all the way up to the street. It
9 joined what are now the three roof structures together
10 into one.

11 Historic felt that size of building was
12 inappropriate for the site and so we did some nips and
13 tucks the biggest of which was simply taking that top
14 floor off. When we did that, the staff immediately --
15 we weren't focused on the zoning question of the roof
16 structures.

17 The staff at HPRB actually immediately
18 liked it, as Mr. Collins mentioned, on the grounds that
19 there are three roof structures and they have been
20 installed to create the appearance of three buildings.

21 That is the genesis of how we have the three roof
22 structures. Aside from that it is a functional thing
23 to have the three roof structures because the stairs in
24 residential essentially have to be very near the end of
25 corridors.

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1 In an office building you can clump them
2 in the middle without too much trouble but in
3 residential that's much more difficult thing to do,
4 particularly here where we had an existing old concrete
5 frame building in the middle of the site where we would
6 have to cut floors out of this building in order to
7 produce a core in the middle of the site.

8 MR. GRIFFIS: So what you're saying is
9 basically in the building code regulations for the
10 residential and the separation of the egress stairs you
11 have to put them at the most further distance of the
12 building which brings them up obviously the further
13 distance of the roof.

14 MR. DICKENS: That's correct.

15 MR. GRIFFIS: You can't merge them right
16 in the middle.

17 MR. DICKENS: Right.

18 MR. GRIFFIS: You said you have an
19 existing concrete building. Is that correct?

20 MR. DICKENS: Yes.

21 MR. GRIFFIS: Are you coming in under the
22 IBC building code do you know?

23 MR. DICKENS: No. Well, we could if we
24 wanted to but we're in the transition period where we
25 could do either one.

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1 MR. GRIFFIS: As you look at the occupancy
2 for your residential rec space on the roof --

3 MR. DICKENS: It is above 50.

4 MR. GRIFFIS: It is above 50?

5 MR. DICKENS: Yes.

6 MR. GRIFFIS: And what is the impact on
7 your building of having an occupancy above 50?

8 MR. DICKENS: When you have an occupancy
9 above 50 for any space that's occupiable which would
10 include a hearing room or roof deck or anything of the
11 sort, you must have two independent means of egress and
12 they must be separated in a sprinkler building no less
13 than one quarter the diagonal of the building, although
14 there are other factors.

15 MR. GRIFFIS: This isn't a code test. We
16 are clear on that. We'll get you passed, right? What
17 about the fire rating? Is there any impact in terms of
18 the existing building in terms of the fire rating and
19 supporting that assembly use on the roof do you know?
20 And I'm not trying to catch you in anything. I'm just
21 very interested.

22 MR. DICKENS: No. I mean, the height of
23 -- as you probably know, Geoff, the gradings of
24 different assemblies are determined by the size of your
25 floors and the number of stories you have. There's a

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1 table in the BOCA code that you figure that out from.

2 That is what is essentially determining it
3 in this case. As it happens, the existing building
4 here already meets that. Because it's a concrete
5 building it has the two-hour separations that are
6 required. But if it didn't, we would have to add them.

7 MR. GRIFFIS: Separation at the roof level
8 or all the way through?

9 MR. DICKENS: Well, all floor assemblies
10 that have an occupiable space above them.

11 MR. GRIFFIS: Occupiable assembly space
12 above them?

13 MR. DICKENS: No, just an occupiable
14 space.

15 MR. GRIFFIS: Okay. Good. Thanks. And
16 what limits the excess -- I note that you are required
17 to provide 6,000 plus and you're providing 2,000 plus.

18 Why aren't you animating more of the roof terrace for
19 rec space?

20 MR. DICKENS: We're up against historic
21 issues that specifically in the front part of the
22 building along 14th Street they don't want anything
23 visible is what it boils down to.

24 MR. GRIFFIS: What about the penthouses?

25 MR. DICKENS: They don't even particularly

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1 like those but they've gone along with them as a
2 necessity. In this case by putting the three there
3 they feel like they've turned necessity into something
4 they like.

5 Because actually -- I'm sorry, this is
6 digressing but apropos that, when this issue did come
7 up, we went back to the staff and asked them could we
8 do this little trick where you put a trellis in between
9 it or something like that. They were like, "We really
10 don't want you to do that. We have worked to make
11 these very small and we don't want anything that would
12 make it bigger."

13 Anyway, back to your immediate question,
14 Historic did not want rec space on the front part of
15 the roof. On the rear part where we have it with the
16 exception of the former car elevator shaft they wanted
17 the railing held back at least a one-to-one distance
18 back from the sides to reduce its visibility. We also
19 have some mechanical stuff up there that takes up room
20 but by far the bigger limiting factor was what Historic
21 wanted us to do with that space.

22 It seemed reasonable insofar as one who
23 lives in a building not entirely unlike this. I
24 suspect the only piece of this space they are actually
25 going to reuse is the high piece on top of the elevator

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1 shaft because it's the highest piece. You have the
2 best views and light and air and all that stuff and it
3 will be by far the nicest piece of it.

4 Aside from that on the site lower down
5 there actually is an area located between the parking
6 and the back of the building which totals about 880
7 square feet which sort of on a theoretical level could
8 be residential recreation space if you put some benches
9 and some potted plants or whatever. It just seemed
10 like a really stupid thing to claim that because it's
11 not space that anyone would want to use for that,
12 especially when you have a very nice lovely roof deck
13 so we did not include it in there.

14 MR. GRIFFIS: It seems to me we've seen an
15 application from your office that had a parking space
16 that was recreation so we are going in the right
17 direction of not counting absolutely everything and
18 being a little bit more realistic in terms of what
19 counts for residential rec.

20 Correct me if I'm wrong. You are also
21 balancing the fact -- I know some of this is in the
22 written submission but it's really not being pulled out
23 here -- balancing the requirements for -- you said the
24 community and parking and residential rec but, more
25 importantly, with the overlay on 14th Street you've got

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1 the retail. Do you not?

2 MR. DICKENS: We do. We just haven't
3 gotten that far in our testimony. You're good.

4 MR. GRIFFIS: Okay. We've also been
5 through six or seven applications like this. Okay.

6 MR. DICKENS: The parking, of course,
7 beside from the fact the neighbors want it, the market
8 wants it, it's just not a great location to put
9 residential recreation space, particularly on a new
10 really nice roof. I think that is a pretty clear
11 argument. Even though by zoning we are not required as
12 a contributing building to add parking which, in this
13 case, means we have to have five and we have 14.

14 MR. GRIFFIS: How is that calculated, the
15 five?

16 MR. DICKENS: That's what was behind the
17 building originally. It's 2100.5 in the regulations.
18 No additional parking is required and the existing
19 building has five spaces behind it.

20 MR. GRIFFIS: So you wouldn't obviously
21 reduce any of the parking that was currently there.
22 You have to provide and maintain the five parking spots
23 that are in existence.

24 MR. DICKENS: Right. Maintain five
25 spaces. Not necessarily those five spaces.

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1 MR. GRIFFIS: Right. Exactly.

2 MS. MILLER: I have a question on that
3 since we're on that subject. Why doesn't 2100.7 apply?
4 Did you look at that?

5 MR. DICKENS: Can you remind us of what
6 that is?

7 MS. MILLER: I'm not saying it does but
8 this issue has come up. 2100.7 says, "Parking spaces
9 shall not be required for the addition unless the
10 addition increases the intensity of use of the building
11 or structure by more than 25 percent of the aggregate."

12 It follows 2100.5 and there's a -- I think there have
13 been differences in opinion as to whether they are read
14 together or individually.

15 MR. COLLINS: That's an unfortunate
16 byproduct of the recodification regulations about eight
17 or nine years ago. Section 2100.4 and 2100.5 were one
18 section at one point and then 2100.6 and 7 and 8 and 9
19 were another section. 2100.4 and 5 were added in 1985
20 when the Zoning Commission redid the parking
21 regulations to recognize, among other things
22 -- they actually redid the whole schedule of parking to
23 reflect reality from 1958 to '85.

24 But they also had the recognition in the
25 '85 regulations of historic structures. The desire not

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1 to have to blow apart a historic structure in order to
2 provide parking for the historic structure and that is
3 what the genesis of that regulation is. 2100.4 and .5
4 are separate from 6 through 9, or were.

5 MS. MILLER: So when would 2100.7 apply?

6 MR. COLLINS: Never. Nonhistoric,
7 historic, it doesn't matter. Any building. If I was
8 to increase this building --

9 MS. MILLER: So does it apply to this
10 building?

11 MR. COLLINS: Yes.

12 MS. MILLER: Is the reason that you don't
13 need to add parking because you're not increasing the
14 intensity of use by 25 percent?

15 MR. COLLINS: The logic was that you
16 likely couldn't find parking. I mean, put parking in
17 if you were only increasing by 25 percent, the
18 aggregate from 85 to whenever you put the addition on.
19 If you did it like 5 percent at a time, that last 5
20 percent puts you over 26 percent. You couldn't take
21 advantage of that regulation but that's what that was
22 all about. That applies to historic and nonhistoric
23 structures. As well as changes in use.

24 MS. MILLER: That has to all register with
25 me a little bit. In this particular case are you

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1 increasing the intensity of use from the original
2 historic building by more than 25 percent?

3 MR. COLLINS: Let's see. Yes, gross floor
4 area. Well, it's actually apples to oranges comparison
5 because FAR use was an automobile warehouse or showroom
6 and as an industrial use the unit of measurement is
7 square footage. Now they were going to residential and
8 the unit of measurement for parking is units.

9 2100.6, for instance, says, "Increased by
10 an addition of employees, dwelling units, gross floor
11 area, seating capacity, or other unit of measurement
12 specified in 2101, parking spaces have to be provided
13 for the addition." So it's an apples to oranges
14 comparison. I suppose that we would have to arguably
15 comply with that if it were not for 2100.4 and .5.

16 MS. MILLER: Last question on this. Where
17 does it say how you measure intensity of use? You're
18 saying it's apples to oranges and you're pulling
19 different measurements.

20 MR. COLLINS: Section 2101.1 is the
21 schedule of requirement for parking spaces. If you
22 look at that, you'll see some office buildings, for
23 instance. It's based on square footage. Retail is
24 based on square footage. Apartments are based on
25 number of units. Schools are based upon number of

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1 students.

2 MS. MILLER: Okay. Right.

3 MR. COLLINS: That's why it's apples to
4 oranges because we're really comparing a square footage
5 calculation for the automobile showroom building with
6 an apartment unit method of measurement for the
7 apartment use.

8 MS. MILLER: Right. Okay. Thank you. I
9 have a couple questions on the residential recreation
10 space. I know it's in the application and you made
11 reference to the fact that you're meeting three-
12 quarters of the required amount. Right? The usable
13 residential recreation space?

14 MR. COLLINS: That's correct, about 75
15 percent.

16 MS. MILLER: That's not including the
17 amount of residential recreation space that you -- that
18 isn't counted towards the requirement because it's not
19 within 25 feet or for some other reason it doesn't
20 quality. Is that correct?

21 MR. COLLINS: That's right. Maybe Mr.
22 Dickens can identify exactly what that is. In addition
23 to the areas on the roof that do comply, if you add the
24 areas on the roof that don't comply plus the balconies
25 that don't comply, plus if you want to throw in that

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1 880 square feet of area between the parking area and
2 the rear of the building, that technically complies
3 with -- let's be honest. It probably is going to be
4 more, you know, used in conjunction with the movement
5 of goods in and out of the retail area on the ground
6 floor.

7 MS. MILLER: How about just the roof? I
8 mean, how much of that space that doesn't technically
9 comply is actually being devoted to residential
10 recreation space?

11 MR. DICKENS: There is 823 square feet
12 that doesn't technically comply.

13 MS. MILLER: And if you added that to the
14 amount that does technically comply, what percentage
15 are you at then?

16 MR. DICKENS: One second. You end up with
17 7.7 percent. That's essentially the entire roof deck
18 as it is but that isn't counting any other areas that
19 Mr. Collins had mentioned.

20 MS. MILLER: Okay. One more way of
21 calculating. You were at 75 percent of the 15 percent
22 that's required. Right? How much is added to that 75
23 percent? Would you be at 77 percent or 80 percent?

24 MR. DICKENS: I think you may be
25 misunderstanding what Mr. Collins is saying.

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1 MR. GRIFFIS: You're taking percentages of
2 the percentage that is required. Talk how much
3 residential percentage or square footage so we all know
4 what we're doing.

5 MR. DICKENS: What Mr. Collins was
6 presenting was there are 823 square feet of the roof
7 deck that don't comply. These is an 854 square foot
8 roof deck at the fifth floor which is private to three
9 units which just doesn't fully comply for different
10 reasons. There is 90 square feet in some balconies on
11 the fifth and sixth floor. I think it's four balconies
12 that cumulatively add up to that.

13 There's 70 square feet of a private roof
14 terrace on the sixth floor. He was also including 880
15 square feet at the rear of the building. When you add
16 those up you get the figure that he was citing. I
17 think what you were looking at was a different number.
18 When you added just all the roof up, the complying and
19 noncomplying, you end up with 7.7 percent.

20 MR. COLLINS: And if you add up all the
21 numbers you just cited?

22 MR. DICKENS: You end up with about three-
23 quarters. I'm not sure what the numbers are.

24 MR. GRIFFIS: 75 percent of 15 percent
25 required.

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1 MR. DICKENS: You end up with 4,973 square
2 feet which works out to about 75 percent of the total
3 requirement.

4 MS. MILLER: Okay. One other question. I
5 think you've talked about it being roof deck basically.
6 Can you explain a little bit more what it's going to
7 look like? I ask that in the context of your statement
8 that almost HPRB didn't want to see it. I'm wondering
9 why. What's it going to look like? What would they
10 see also instead of not seeing this?

11 MR. DICKENS: I think they are in denial
12 of some of the things they are going to see like the
13 shading umbrellas and there will be fairly large potted
14 plants up there, benches and tables and things like
15 that. It's not like a shuffleboard court, you know, or
16 a basketball court with 20-foot fencing around it or
17 anything like that.

18 It's passive recreation primarily. The
19 sort of things that people -- if residents want to have
20 a dinner party up there or just take in the sun up
21 there or play a game of cards up there or whatever,
22 things like that. If the condo association wants to
23 meet there because the weather is really nice. That's
24 the kind of activities I think we see going on up
25 there. There would be furnishings that would support

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1 those activities.

2 MS. MILLER: Okay. So basically they
3 didn't want to see the furnishings from the street?

4 MR. DICKENS: Railings.

5 MR. GRIFFIS: Have you brought a project
6 to HPRB before?

7 MR. DICKENS: Yes.

8 MR. GRIFFIS: Okay. And what is the first
9 thing they look at in terms of roof structures?
10 Guardrails?

11 MR. DICKENS: They look at the whole
12 thing. I'm not sure what you're getting at.

13 MR. GRIFFIS: Have you found that one of
14 the first things they actually do is set it all back at
15 least 45 feet and --

16 MR. DICKENS: Yeah. I mean, you don't
17 even get to HPRB before that happens. The staff does
18 that automatically pretty much.

19 MR. GRIFFIS: So basically you don't ever
20 bring anything to the uppermost perimeter of a building
21 that is going through historic preservation?

22 MR. DICKENS: Pretty much, although here
23 we have the kind of rare exception that on top of the
24 existing car elevator shaft they actually like it being
25 right on the edge because they felt it made that shape

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1 a little bit taller and, thus --

2 MR. GRIFFIS: It's also at the rear of the
3 building.

4 MR. DICKENS: Yeah, and it's at the rear.
5 The rest of the rear --

6 MR. GRIFFIS: Did you find going through
7 Historic Preservation that there was anything
8 particular or unique that they grabbed onto here in
9 terms of design of not wanting to see and that's why
10 they moved everything to the back?

11 MR. DICKENS: Well, the specific situation
12 is that because the rowhouse to the north, which is on
13 Q Street, is a shorter building and the northern side
14 of this building is actually fairly visible when you're
15 coming south on 14th Street and they were very focused
16 on that facade which, if you look in your drawings, it
17 is a composed facade. It has one tower sticking up
18 that is clearly visible and we worked with them to put
19 a little window in and to sand the edges.

20 MR. GRIFFIS: Talking about the deck, I
21 mean, Ms. Miller is bringing up concern what are we not
22 seeing here that HPRB hated and didn't want to see?
23 Should we be concerned?

24 MR. DICKENS: I think it's just -- I think
25 to some degree Geoff's characterization, it's just a

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1 proforma concern that HPRB has which is fairly accurate
2 that you automatically move the guardrails back and to
3 the extent possible you shift nasty things to the
4 backside of the building. Sometimes this comes up
5 against the community who, in fact, wants you to push
6 it to the front of the building which, to some degree,
7 was the case here.

8 MS. MILLER: Thank you.

9 MR. GRIFFIS: Okay. Any other questions?
10 Clarifications? Okay. Anything else at this time,
11 Mr. Collins?

12 MR. COLLINS: I don't think so. Mr.
13 Dickens did incorporate for the record the statement of
14 the applicant. I think we have covered it pretty good.

15 MR. DICKENS: I guess the one thing I
16 would like to note, Chair, is between this case and
17 Historic we were at the ANC several times. There was a
18 fair amount of public review opportunity for this
19 project. In no case did we encounter opposition at
20 that level.

21 MR. GRIFFIS: Okay. That's why we're
22 here. We want to get them rolling. You're maximizing
23 your first floor for the retail component. Is that
24 correct?

25 MR. DICKENS: Yes.

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1 MR. GRIFFIS: Do you have any tenants now?

2 MR. COLLINS: No, we don't. We haven't
3 started that process yet.

4 MR. GRIFFIS: Okay. But you are basically
5 looking at three kind of footprints or potentially
6 three tenants on the first floor?

7 MR. COLLINS: That's right. Potentially,
8 although we are remaining flexible.

9 MR. GRIFFIS: Yeah. Right. Exactly. Of
10 course, it would split with the lobby. I mean, it goes
11 to a lot of when looking at the residential rec space
12 and how you could utilize it, I mean, obviously the
13 regulations push you to put as much as you can outside
14 and once you can't fulfill that, you put it on the
15 inside but noting the retail requirements and also the
16 importance of 14th Street and how you divided up the
17 first floor with the lobby, the egress, and then the
18 service and the retail, it seems to make some sense.

19 MR. DICKENS: That's obviously driving the
20 plan.

21 MR. GRIFFIS: It seems like -- well, it
22 doesn't seem like there's an opportunity to take away
23 much of that space to make it realistic.

24 MR. POTACK: Mr. Chair.

25 MR. GRIFFIS: Yes.

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1 MR. POTACK: Obviously there was a give
2 and take with HPRB and from an economic perspective
3 once we lost that additional floor, it changed the
4 economics of the building such that it didn't make it
5 feasible to put recreational space within the building.

6 That was an important factor in how we continued to
7 design the building.

8 MR. GRIFFIS: So they removed an entire
9 floor from the building?

10 MR. POTACK: That's right. And set back
11 part of another one.

12 MR. GRIFFIS: Okay. Thank you. Anything
13 else? Very well. Let's move on to the Office of
14 Planning. Mr. Cochran is here to present the Office of
15 Planning's Report.

16 MR. COCHRAN: Good afternoon, Mr. Chair.
17 For the record, my name is Steve Cochran with the D.C.
18 Office of Planning. We would like to note attachment 4
19 to the Office of Planning Report which demonstrates the
20 applicant's compliance with Section 1902.1B, the
21 setback requirements that are special to the uptown
22 Arts overlay. Other than that, we would like to stand
23 on the record and recommend that you approve the
24 requested variances.

25 MR. GRIFFIS: Good. Thank you very much

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1 and thank you for highlighting that.

2 MR. COCHRAN: As well as the special
3 exception, of course.

4 MR. GRIFFIS: Right. What you just
5 indicated is it goes to the 45 degrees from the
6 adjacent if there is an adjacent residential zone to
7 the commercial. Is that correct?

8 MR. COCHRAN: That's correct.

9 MR. GRIFFIS: And it goes from -- what is
10 the maximum height, not what the existing structure is
11 or is it from the existing structure?

12 MR. COCHRAN: I would have to refer to the
13 regulations, Mr. Chair.

14 MR. GRIFFIS: What is your graphic
15 showing? Your graphic is showing what the allowable
16 height is. Is that correct?

17 MR. COCHRAN: It's a 50-foot height that
18 you measure from.

19 MR. GRIFFIS: Right. You measure from
20 what is allowable in a zone district. Is that correct?

21 MR. COCHRAN: I think you measure from 50
22 feet.

23 MR. GRIFFIS: What is the 50 feet then?

24 MR. COCHRAN: That's what the regulation
25 says.

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1 MR. GRIFFIS: Oh, I see. Looks good to
2 me.

3 MR. COCHRAN: The reg reads, "No part of
4 the building shall project above a plane drawn at a 45-
5 degree angle from a line located 65 feet directly above
6 the property line on each such street, alley, or zone
7 district boundary line." Each such, etc., refers to
8 the boundary line between the district and a residence
9 district.

10 MR. COLLINS: Just to clarify, Steve, I
11 think you would read from the CR portion.

12 MR. COCHRAN: I believe you are correct.

13 MR. GRIFFIS: Obviously it's setting up
14 the height. Well, when you cross into the residential
15 from commercial it's trying to give a visual view shed
16 from transitioning into that.

17 MR. COLLINS: Right, at a point of 50 feet
18 high in the C-3-A zone, CR zone 65.

19 MR. GRIFFIS: Gotcha.

20 MR. COCHRAN: Actually it's 65 feet also
21 in C-3-A 1902.1. "The building may be constructed in
22 excess of height of 65 feet up to a maximum height of
23 75 feet." You're right, 50 feet.

24 MR. GRIFFIS: Well, you drew it at 50 and
25 if it works, as Ms. Mitten just said, if it works at

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1 50, then it definitely works at 65 so we're safe.
2 Okay. Boy, that was a well-crafted section. Oh, was
3 this on? Okay. So we noted attachment 4.

4 Does the Board have any questions of the
5 Office of Planning? They are standing on the record.
6 It's quite a full report. I don't know if anyone here
7 in terms of testifying as persons had an opportunity to
8 look at the Office of Planning's Report. It's in the
9 public file.

10 For everyone's understanding, of course,
11 there are certain Government agencies and the Office of
12 Planning is one of the most important. They actually
13 walk through this entire project. They often meet with
14 the applicant. They sometimes meet with the community.

15 They walk the site. Of course, you know we're not
16 allowed to go to the site. Once an application is in
17 we don't do site visits. This is all the information
18 we get.

19 The Office of Planning does a full
20 analysis of the area, site description, and then the
21 applicant zoning relief that is being requested. They
22 go through their whole analysis and then they finally
23 give an outcome of whether they recommend approval or
24 denial of the application. In this particular case for
25 the residential rec and the roof structure, they are

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1 recommending approval.

2 Mr. Cochran, actually we should have you
3 speak a little bit about your statement in your
4 analysis of the enhancement of nearby public spaces and
5 urban amenity area in lieu of providing residential
6 rec. Just inform us a little bit more about what
7 you're talking about.

8 MR. COCHRAN: The Office of Planning was,
9 in effect, picking up on the cues that have been
10 established by this Board in at least four cases in
11 recent years where there has been a tradeoff between
12 residential recreation space and the type of
13 neighborhood in which the proposes structure exist.
14 The four cases I'm citing are all clustered around P,
15 Q, Church Street, and 14th Street.

16 There's a recognition that it may be --
17 while it may be economically detrimental to provide
18 indoor recreation space for buildings absent a really
19 active condominium association or union organizing
20 hall, it's unlikely that the provision of that space
21 would serve a function that would serve the residents
22 of the building because they tend to exercise outside
23 of the building.

24 They tend to recreate outside of the
25 building. They tend to be people who are dual income,

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1 no kids, or maybe even not dual income. In other
2 words, the Board has shown a willingness to reduce to
3 about 5, 6, 7 percent and even lower the amount of
4 residential recreation space that it seems to think is
5 appropriate in this neighborhood.

6 It's a neighborhood that has a playground.

7 It has the Dupont Circle. It has Logan Circle. It
8 has other recreation space attached to various schools
9 up around U Street and V Street. It has a number of
10 bars, restaurants, and other temporary versions of
11 urban recreation that exist. That is what we are
12 looking at in this neighborhood.

13 MR. GRIFFIS: Okay. I think I understand
14 and I think it is the clear -- your understanding is
15 clear of what the Board's interpretation of reducing
16 the residential rec. Frankly in this area you have
17 almost a conflict when you have the overlay that is
18 trying to animate the street and get people out and
19 utilize and bring retail and store frontage.

20 Then the other part of the regulation
21 requires that everything be self-contained and kept
22 inside the building, you know, all your meeting rooms
23 and residential rec and all that kind of stuff.

24 At one point we wanted to capture
25 everybody in the building and now we're trying to get

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1 them back out. I wasn't clear when you were saying you
2 were encouraging to continue working with DDOT and HPRB
3 and enhance the nearby public space as an urban
4 amenity. I think the Board has spoken --

5 MR. COCHRAN: We're looking at, obviously,
6 tree replacement because there will be construction
7 from 14th Street. It's unlikely that the Sycamores and
8 the Red Oak that is on the site will survive that. But
9 we are also, as I understand it, the applicant is
10 discussing with DDOT the feasibility of their
11 contributing money for the purchase of historic signs
12 labeling the historic district at 15th and -- excuse
13 me, 14th and P to 14th and Q and, I believe, maybe one
14 at 14th and Church. Those are the kinds of urban
15 amenities that we're talking about. We realize that
16 approval can't be conditioned.

17 MR. GRIFFIS: Right. No, but that
18 completes my understanding. I think that is important.

19 MR. COCHRAN: Mr. Chair, I guess I should
20 point out but I had already answered the question that
21 you asked earlier on page 7 of the report about the 45
22 degree angle.

23 MR. GRIFFIS: Oh, yes.

24 MR. COCHRAN: There are just a lot of
25 requirements in the Arts overlay and sometimes I forget

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1 what one might be.

2 MR. GRIFFIS: Good. Okay. Any other
3 questions of the Office of Planning? Applicant have
4 any cross of the Office of Planning?

5 MR. COLLINS: No. It was a very
6 comprehensive report.

7 MR. GRIFFIS: Okay. Good. And we got one
8 out there circulating. Let's go to other Government
9 reports. We did -- we've noted HPRB is Exhibit No. 26.
10 Tab E is from the applicant's submission. Is there an
11 ANC representative today? Not seeing any, let's then
12 go to persons to give testimony. If you wouldn't mind
13 --

14 MR. COLLINS: There is an ANC-2F report in
15 the record.

16 MR. GRIFFIS: Oh, I'm sorry. I gleaned
17 right past it. Yes, indeed there is. It's Exhibit No.
18 24. It is recommending approval of the application and
19 it did meet all our requisite requirements with being
20 granted great weight which we will. So why don't we
21 take persons to give testimony at this time once we
22 have a few chairs available.

23 MR. COLLINS: Before you go to persons and
24 parties in opposition, there is a letter in support in
25 the record as well. I'm not sure that Mr. Felds is

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1 here.

2 MR. GRIFFIS: Is Mr. Felds here? Okay.
3 We do have -- I know the Board has read it and it is
4 Exhibit No. 22. Anything else I forget, I'm sure I'll
5 grab before we close the hearing but I appreciate all
6 that being brought to my attention.

7 With that, we have -- is everyone here
8 planning to testify, one, two, three, four, five? Five
9 folks? Four or five? Whenever you are ready, why
10 don't you just come up and take a seat.

11 MR. WIDOMSKI: My name is Michael
12 Widomski. I'm at 1340 Q Street, N.W. Prior to coming
13 to the hearing I actually knew very little about what
14 the variance request was so I've learned a little bit
15 more from this and have educated myself somewhat just
16 being at this meeting and understanding what has been
17 approved for the developer to go ahead and move forward
18 and building.

19 That is done and over with and, if my
20 understanding is correct, we're just looking into the
21 variance that they are looking at. Given the height of
22 the building and where it was originally when I had
23 gone to one of the ANC meetings, I was glad to see
24 that, in fact, they did take off one of the floors.

25 Given now that based on how they are

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1 explaining rather than having one large structure to
2 encase those things, we are generally -- on my slip of
3 paper where I said I would be in opposition, it seems
4 to me that would provide more light based on that for
5 our condo which is directly behind that.

6 If there are any concerns and, again, it
7 may not necessarily go with regard to the variance but
8 I may raise them anyway, a certain concern. If I'm out
9 of line, just tell me but the parking concern in the
10 back. It's a very narrow alley and getting in and out
11 of our parking lot, which is behind that, will become -
12 - it is a little tight.

13 It will become a little more tight with
14 cars being parked back there and the cars that will be
15 parked there in those horizontal slots getting in and
16 out, you know, they will be concerned whether or not
17 they will be, in fact, hitting our building. I'm not
18 sure how that could be addressed when the developer
19 would be willing to perhaps reduce the number of
20 parking spaces and put them at an angle which makes it
21 easier to get in and out.

22 MR. GRIFFIS: Does that alley go all the
23 way through?

24 MR. WIDOMSKI: Yes, it does.

25 MR. GRIFFIS: So it exits where?

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1 MR. WIDOMSKI: On P Street and on Q
2 Street.

3 MR. GRIFFIS: Okay. So it runs
4 north/south.

5 MR. WIDOMSKI: Yes.

6 MR. GRIFFIS: Okay.

7 MR. WIDOMSKI: Whether or not it's
8 feasible but by reducing the number of parking spaces
9 if they are able to put them more at an angle as a car
10 coming in, it would be easier to pull into that --

11 MR. GRIFFIS: What's your estimate of the
12 dimension of that alley? Is it 16 feet or 20 feet?

13 MR. WIDOMSKI: It's very narrow. Garbage
14 trucks that come to unload the garbage just barely get
15 through.

16 MR. GRIFFIS: Ten feet.

17 MR. WIDOMSKI: Yeah, I would say 10 feet.

18 On the one end of the alley you have the Church Street
19 Theater and then a condo, the building right next to
20 it, with no space and the same thing on the other end.

21 There is like a garage type of building across the
22 alley from the Abbey Condominiums.

23 MR. GRIFFIS: Okay.

24 MR. WIDOMSKI: So it's very tight on both
25 sides. There were some other people here from the

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1 building that had to leave because they couldn't stay
2 but they had a concern over light being -- you know,
3 stopping the light from coming into Abbey. Again,
4 given that the roof -- given that they have taken a
5 floor off the building and they are going to three
6 separate boxes, for lack of a better word, instead of
7 one large one, that may increase our light.

8 I would think that some of the concerns
9 were the closeness of the building, how far back they
10 were going to build it, but it sounds like it's not
11 going to be that far back but still the parking is
12 maybe of concern with the number of parking spaces.
13 I'm sure they may have to add to that.

14 MR. GRIFFIS: Okay. Let me address your
15 comments first because I do appreciate you taking the
16 patience. I think you have listed them incredibly well
17 in terms of our jurisdiction. We have basically two
18 areas of relief which is of concern and actually, at
19 this point, is all we have control over. I think you
20 have really caught on correctly in terms of the
21 penthouse structures.

22 If they were to comply with our
23 regulations, not only would it be one enclosure, it
24 would be at the highest enclosure, the elevator, which
25 is upwards of whatever it is, 18 feet at this point so

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1 it would be a huge piece and mass all the way across.
2 It's one the sections I hate most in our regulations,
3 the single enclosures on a single height. I shouldn't
4 say that.

5 That's not very professional but it
6 certainly in a case like this for residential it
7 becomes even more problematic in providing one
8 enclosure which you're touching on because it has to
9 expand almost all the way across the building. In this
10 commercial zone with residential you have the
11 residential rec.

12 If our rooftops are such great places to
13 animate and to put people on, why are we filling them
14 up with a penthouse which can only be filled with
15 mechanical equipment? So, in that sense, in your
16 review of this application, you don't find any
17 difficulty or opposition to the special exception
18 relief for the three enclosures at different heights?

19 MR. WIDOMSKI: No, I do not.

20 MR. GRIFFIS: Okay. And what about the
21 reduction of residential recreation space?

22 MR. WIDOMSKI: In terms of the reduction,
23 the only thing that I foresee in terms of whether or
24 not something would tend to bother some of the units on
25 our building is the fact that the residential space

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1 would be to the very back of the building. As the
2 architect was pointing out, as he put it, you take some
3 of the nasty stuff in the front and you put it in the
4 back. Well, we're in the back so we've got the nasty
5 stuff in the back. However that would happen, the roof
6 deck will oversee our building. Our building is four
7 stories.

8 Also depending on how far back any type of
9 a residential space would go, if it goes directly all
10 the way to the back, then it certainly -- whether it
11 infringes on any privacy or you could have windows from
12 buildings as well. I really haven't given it any
13 thought because I really am just learning about this
14 but these are thoughts that just come to my mind.

15 MR. GRIFFIS: Right. I think you should
16 probably ask the applicant for a copy of the plans when
17 you leave here. It seems to me my review in addressing
18 that concern, because I have the same sort of thing,
19 isn't the back of the building, the alley area,
20 probably the place where we want to keep a little bit
21 less impact, less noise.

22 The commercial frontage, 14th, we want to
23 make it a big urban corridor. That's why so many
24 people are moving there. Of course, what you're
25 getting on that side, actually it's set back fairly far

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1 for the largest portion. The portion that goes up on
2 the elevator, the car elevator, would be about the only
3 places I see and we can have the architect answer all
4 this if I'm not correct.

5 What is actually happening is the
6 mechanical units are moving towards the front so it's
7 not a great situation. I'm just trying to lay out the
8 facts here. I have an opinion of how to do this that
9 probably wouldn't make HPRB happy. It seems like a lot
10 of that noise generated, that kind of consistent white
11 noise that might be really more offensive is moving
12 towards the front and more of the animated kind of
13 people on occasion are going to be towards the back.
14 But you say you are also a four-story building. Is
15 that correct?

16 MR. WIDOMSKI: Yes. There is actually a
17 terrace level which is partially underground and then
18 three stories above that.

19 MR. GRIFFIS: Is it new construction?

20 MR. WIDOMSKI: It was actually built by
21 the same developer that is doing this project.

22 MR. GRIFFIS: So you don't know exactly
23 how high it is. I was just going to say that all this
24 noise is occurring conceivably 30 feet above the top of
25 your building. Okay. What else came to mind that we

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1 should be aware of?

2 Whenever you're ready.

3 MR. JANSEN: Mr. Chairman, members of the
4 Board, I want to address you today with some concerns
5 as a citizen and resident of a nearby structure. I
6 apologize for maybe being repetitive a little bit.
7 I'll try to keep my remarks at a minimum.

8 I have five different and specific
9 concerns regarding this situation. Now I'm learning
10 that we actually missed some very important steps in
11 this procedure. The way I found out about this is some
12 three weeks ago I saw machines coming in and doing some
13 demolition work on the site. I just got interested and
14 then I found out that there is a variance meeting which
15 got my attention. I wanted to learn more about it.

16 I spoke with Michael who actually saw the
17 notification. A few days ago I went out and tried to
18 find this notification and see it myself and I couldn't
19 find it. It was hidden. Now I hear from Michael that
20 it was actually -- I don't know whose fault it is but I
21 just couldn't find it. That is the first point and you
22 already addressed it at the beginning of this hearing
23 then, the notification.

24 The second point is -- the second concern,
25 actually, is parking and overall traffic in the area.

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1 I apologize again if this is not relevant to this
2 hearing. As I understand, there's going to be 40 plus
3 units in this building and there are only 14 parking
4 spaces which to me personally just defies logic. I
5 don't know why is this. There is a general problem
6 with parking in that area and there are three churches,
7 especially on weekends.

8 There are three churches, Boys and Girls
9 Club on Kingdom Place and several other high-intensity
10 traffic facilities in the area. The traffic is just a
11 nightmare, especially on the weekend. So adding such a
12 big residential building with no parking space,
13 basically reducing the parking space, is of great
14 concern for us.

15 The third point is light and overall
16 aesthetics. This new building will simply dwarf our
17 building and significantly decrease and, in some cases,
18 eliminate light all together to some of our living
19 space. As Michael told you, the alley at the back of
20 the building is 10 feet wide. Especially the residents
21 on the lower levels of our building will be totally
22 deprived of light all together.

23 The fourth point is aesthetics and
24 historic preservation. I would like actually to tell
25 you that I like the project. I mean, it looks very

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1 nice and it will significantly increase the overall
2 appearance of this block of 14 Street. I really like
3 the project. I really do.

4 Right now it looks very good, however,
5 because of the reasons I just told you, I do have some
6 concerns really and I don't think that a very good job
7 was done in preparation for this construction.

8 The fifth and, I guess, the least relevant
9 point is -- don't laugh -- the sewerage system. We do
10 have a problem in our building during thunderstorms and
11 during even some harder rains the basement units
12 actually -- the terrace level units are simply flooded.

13 The other day we were in the alley taking water out of
14 the alley and the back building units' back yards
15 because places are being flooded.

16 Now, this may not sound relevant but I'm
17 just not sure how well the overall system is taken into
18 account, the sewerage system in adding such a big
19 residential building in the same area. I don't know
20 whether it's going to be connected in the same way. I
21 don't know how much it will affect it but this is just
22 a concern of mine as a resident. That will be it.
23 Thank you very much.

24 MR. GRIFFIS: Excellent. Thank you very
25 much. I do appreciate it. In terms of the notice --

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1 well, hopefully this has spread the word because it
2 takes a little bit of involvement to know everything
3 that is happening in this city and the minute you get a
4 little involved, you have much too much to do but it's
5 worth keeping up with in terms of your local ANC
6 schedule to see what kind of things are coming, permit,
7 process, or any kind sort of variance or any sort of
8 public hearings or approvals.

9 Of course, then each of the boards and
10 commissions have their own announcements that go out.
11 Again, as I said, it's all too often that we have
12 people who come in and say, "I was never mailed." We
13 show them a typical one and they say, "Oh, yeah. I
14 think I saw that." They don't know to expect it so
15 they don't know what it is. We are glad that at least
16 all of you are here regarding this.

17 In terms of the height, obviously it's not
18 before us. I think we do take into account the issue
19 of light and air and the importance of it. In this
20 particular application we wouldn't have any control
21 over that as they are coming in actually below the
22 height restriction.

23 Let me go to the last in terms of the
24 storm water management. I think it may well be worth
25 if the applicant will spend the time to tell you a

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1 little bit about what they are going to have to do
2 putting a building of this size with the District
3 requirements.

4 I think it would be advantageous for the
5 association to meet with the agency that is going to be
6 reviewing it with the applicant and all work together.

7 Make sure that they know that there's problems and
8 backflow so that they can address it. There's
9 an awful lot of ground that's opened up and they might
10 as well start getting to it. I can tell you that the
11 documentation going in and the developer is going to
12 have to be doing an awful lot on their side so it might
13 as well be coordinated with everything else.

14 MR. WIDOMSKI: Mr. Chairman, just for the
15 record, since this was the same developer that had
16 actually built our building, we have actually been in
17 discussions with them because there were some warranty
18 issues. We actually had an engineer report and look at
19 some stuff.

20 One section of that was, in fact, about
21 the storm water management because of the back unit
22 where there's a patio where the water just starts
23 coming up rather than going down so we are in
24 communications with the developer on current issue of
25 our building. As they certainly relate to the new

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1 construction, we will continue to be in discussion on
2 that.

3 MR. GRIFFIS: Don't keep the agency that
4 is involved in it out of the communication because, you
5 know, often times this is a problem that is a block
6 away or maybe two blocks away. Maybe even further down
7 the city that is impacting all that is happening here.

8
9 Of course, three inches of rain in about
10 two hours on the 4th of July is a little bit much to
11 take on. My basement -- well, we don't need to
12 digress, right? Okay. I appreciate that concern
13 coming up. I don't have anything else or questions in
14 regards.

15 Let me ask you, you understood what's
16 before us here, the residential rec and the reduction
17 of the residential recreation space that is required.
18 Is that correct? Do you have any objections to that or
19 to the special exception for the three enclosures at
20 different heights?

21 MR. JANSEN: Again, we got involved in
22 this too late, I believe. I don't know enough about
23 the project and the plan I've seen for the first time
24 and I have really not had time to acquaint myself with
25 the issues. If I can get a copy of this Planning

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1 Commission proposal, I would appreciate it.

2 MR. GRIFFIS: Well, it's in the public
3 record right next door so before you go you might want
4 to make yourself a copy. Otherwise, I'm sure Office of
5 Planning would e-mail it to you or however they can get
6 it out. Okay. Any other questions or clarifications?

7 Before you go is there any cross examination of the
8 two witnesses that we've just heard? No questions.
9 Okay. Thank you very much. Others?

10 Mr. Chung, you're going to testify, right?

11 We can fill any seats that we have so don't be shy.

12 MR. CHUNG: I just need them to tell me
13 more specific area where I can contact them in case any
14 damage my building incur what happens and who I
15 contact, that kind of information because I have no
16 idea what's going on. I noticed already instantly last
17 time they demolish a building already damage my outside
18 wall but no one tell me or no one I can contact or
19 something. Basically that's what I really need.

20 MR. GRIFFIS: Good. We have them as
21 captured folks right here right now so I wouldn't let
22 them leave the room without getting their contact
23 information and however you want to communicate with
24 them in terms of the site. Of course, it was said at
25 the outset we are looking at a zoning relief which is

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1 really focusing on the permanent situation.

2 In terms of means and methods or the
3 construction management and all that, it really comes
4 under the purview of DCRA as a permitting and site
5 control. Obviously it's much better to communicate
6 directly with a developer but that's the agency that is
7 going to be controlling in this aspect.

8 I wouldn't leave it out having the name
9 and number of the person you need to contact. Anything
10 else? Anything else you sought today in terms of the
11 elevations and showing the structures on the roof or
12 the residential rec that raises any concern?

13 MR. CHUNG: No.

14 MR. GRIFFIS: No concern?

15 MR. CHUNG: I cannot say something without
16 knowledge so I have no concern.

17 MR. GRIFFIS: Okay. Thank you very much.

18 MR. CHUNG: Thank you, Mr. Chairman.

19 MR. GRIFFIS: Yes.

20 MS. MARIC: Thank you, Mr. Chairman. My
21 name is Zorica Maric and I'm a resident at 1314 Q
22 Street, Apartment 32. We are actually facing -- all
23 our living area, bedroom area, are facing west wall.
24 We are on the west wall of the building behind so we
25 are facing actually the whole construction.

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1 Apart of the fact that we are going to
2 lose all our light and the negative impact of the
3 quality of our life, we are particularly concerned
4 about the possible negative impact of parking and
5 congestion that the new residential building, and
6 particularly retail if they are going to deliver
7 through that very narrow area every day would affect
8 the whole area.

9 Also, since this is a long-term project,
10 it is very important that it be additionally explained
11 how on the roof structure the air conditioning outlets
12 and noise could be -- how that could function because
13 that would go directly to our apartment. We will hear
14 everything. Is there anyway that you can --

15 MR. GRIFFIS: Can we pull up a roof plan
16 that shows where the mechanical equipment is?
17 Excellent. Can you point out where your air
18 conditioners are? Those little square that are all
19 around there, those are the elements that are going to
20 make a lot of noise. Is that correct?

21 MR. DICKENS: Those are what you would
22 kind of call a heat pump so none of them are large.
23 They are all residentially scaled heat pumps. I might
24 note they are on the roof of your building, too, so if
25 you're not hearing yours, they are a lot closer to you

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1 than ours are going to be.

2 MR. GRIFFIS: They are surrounded by what?
3 They include a four-foot high fence?

4 MR. DICKENS: Well, three foot, 11 inch
5 fence going around them in each case.

6 MS. MARIC: I would appreciate if that
7 could be supported by a piece of paper that would
8 really prove that the noise will be within the limits
9 and that the fence is going to be protected enough for
10 the neighborhood, for the building so we are not
11 negatively impacted by excess noise and by pollution.
12 If it is possible, that would be I think very
13 important.

14 Get a piece of paper or something that
15 would really prove that this changing the roof
16 structure with regard to air conditioning elements
17 would not impact the building behind your structure
18 because we are losing light. We will be faced with a
19 lot of new traffic and then with noise. That is what
20 really is our concern.

21 MR. GRIFFIS: First of all, what we're
22 looking at -- well, I guess it does really go directly
23 to it. We could require them to create an entire
24 enclosed penthouse and put all that equipment, although
25 that equipment is below four feet so even that wouldn't

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1 be regulated in terms of going into the structure.
2 Right now we don't have direct control over moving
3 those pieces of equipment.

4 MS. MARIC: Protecting it. Additional
5 protection or sound protection or something like that
6 which is I think very usual in that kind of
7 construction. When you have residential construction
8 you always get an additional sound protection.

9 MR. DICKENS: If I may, I believe perhaps
10 what you're thinking of when a building has one big
11 system for the whole building, it has one giant unit on
12 the roof and those are really noisy and sometimes you
13 see a plume coming out the top of them and things like
14 that. That is not the situation here. The situation
15 here is actually exactly the same as your building has
16 which is it has a series of little 18-inch in diameter
17 round and about 30 inches tall heat pump type units.

18 MS. MARIC: I think it would be very
19 important because you are asking for exception. Can
20 you support that with --

21 MR. GRIFFIS: They are not asking for an
22 exception for that aspect.

23 MS. MARIC: The roof structure. That is
24 part of the roof structure.

25 MR. GRIFFIS: Those wouldn't actually have

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1 to go into the roof structure. That was my point.
2 They don't come under -- they are under four feet so
3 they are not required to be within one enclosure. Who
4 knows? But the other thing, you know what guarantees I
5 think most of the sound protection of your building as
6 I was trying to assess how tall your building is
7 adjacent or across the alley, this is going to be
8 almost 20 feet higher than your building so the sound
9 transmission is going to be created above the plane of
10 your own building. Does that make sense?

11 MS. MARIC: Well, if it is still within
12 the code, the codes are not violated.

13 MR. GRIFFIS: Yeah. Okay.

14 MR. COCHRAN: Mr. Chair, if I could point,
15 in Section 9 of the Office of Planning Report, which I
16 will e-mail you, the applicant is asking for relief for
17 roof structure setbacks from the north and the south
18 walls, not from the wall that is closest to you which
19 is the east wall.

20 They are complying with the regulations on
21 the location of the penthouses and the roof structures,
22 all of that. What you're talking about is actually
23 allowed as a matter of right. They are not asking for
24 anything special on that.

25 With respect to the light, Section 10, the

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1 regulation that the Chair asked me a question about
2 earlier, is one that tries to address that so that
3 there is a special requirement that gets at just how
4 much shadow can be cast and that's the one that the
5 applicant actually supplied a diagram to that I
6 attached to our Office of Planning Report to answer
7 that very question that I had asked.

8 Again, they are not asking for any
9 exception from the zoning requirements on that. Their
10 structure is actually smaller than zoning -- less tall
11 than zoning would allow because of Historic
12 Preservation requirements.

13 MS. MARIC: Before I finish, thank you,
14 Mr. Chairman. Just one minute more of your time. I do
15 have objection with regard to the recreation area in
16 general because I think when you are revitalizing the
17 whole neighborhood and it's a long-term project, you
18 should really think longer.

19 We should be able to really incorporate
20 recreation area in the residential part of our
21 building. That would also save us from all the
22 negative impact of a six story building which is also
23 an exception for that part of 14th Street.

24 Of course, I have some other concerns with
25 regard to the development by itself but I would like to

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1 ask you kindly if possible to hear from time to time
2 some kind of report because if you are giving exception
3 to someone, you have to supervise him more than other
4 people who do not request exception.

5 Is there anyway the city can from time to
6 time inspect what they are doing so they are not
7 demolishing all the existing buildings, buildings that
8 are next to them, and whether they are complying with
9 this code or not. Thank you very much.

10 MR. GRIFFIS: Good. Thank you very much.

11 Two points that you bring up. Yes, I imagine there
12 are going to be people on the site all the time. Now,
13 they won't always be the Zoning Administrator which we
14 are looking for compliance for what relief they are
15 granted here. There will obviously be measurable
16 components to see of their compliance if this relief is
17 granted. We have a square footage calculation. We
18 have the plans that show the penthouses.

19 You brought up in terms of consistent
20 oversight and you also testified a few things, that
21 they are not demolishing more than they should, they
22 are constructing to code. Again, I can only say that
23 the agencies involved are charged to absolutely do
24 that, to go out and inspect. There is obviously the
25 permitting process which all the plans will be reviewed

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1 and approved.

2 There are the building inspectors that
3 will be out there reviewing construction as it goes
4 forward. I would imagine this will have an extensive
5 amount of oversight on it. I wasn't clear on the case
6 you made in terms of the reduction of the residential
7 rec, the maintaining of the revitalizing neighborhood
8 and a six-story building.

9 MS. MARIC: When you are revitalizing the
10 whole area, you already have -- that's the only six-
11 story building on that street up until now that I know
12 of. You have to think there is going to be lots of
13 families there. You pointed out that most of the
14 tenants probably or owners would be single people.

15 I don't know but you have to think of a
16 family and the quality of life and have recreation for
17 those people, to have a place for them to also enjoy
18 their residence there and not just to park their car
19 and to make noise and to ruin the environment.

20 MR. GRIFFIS: I see. Okay. Good. Any
21 other questions or follow-up? Cross examination from
22 the applicant? No cross questions? Oh, I'm sorry.
23 Ms. Miller, did you have a question?

24 MS. MILLER: I do. I have a follow-up
25 question with respect to parking. I've had a chance to

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1 look at the regulations and I understand, Mr. Collins,
2 what you're talking about with respect to the waiver
3 for this site that has been designated as historic.

4 I'm wondering if the applicant can still
5 respond to some of the concerns I heard with respect to
6 congestion because there's not adequate parking being
7 provided for the number of units. I guess there are 40
8 units right in this building and 14 spaces. Is that
9 correct? Does the applicant has a response with
10 respect to why there wouldn't be congestion in any
11 event? Where they might park or public transportation
12 nearby?

13 MR. COLLINS: The zoning regulations
14 require five spaces for this project no matter how many
15 units are in the project so we are providing almost
16 three times the amount of parking required by the
17 zoning regulations for this project.

18 The alley is a 10-foot alley and has been
19 a 10-foot alley ever since it was laid out by Pierre
20 LaFont in 1789 and we're not changing that. There are
21 plenty of alley systems where there are 10-foot alleys
22 with parking off the alley that works. It may not be
23 able to be done with just one movement from the alley
24 into the space. It may take several movements but it
25 works. It has worked and people have made it work.

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1 People who live in the city typically don't buy larger
2 vehicles.

3 In terms of congestion in the alley, do
4 you have anything on that?

5 MR. DICKENS: Well, I can mention on 14th
6 Street there are three bus lines running. On 16th
7 Street there are several. There's also two that go
8 right around Logan Circle. It's more or less equal
9 distance between McFeirson Square, Dupont Circle, and U
10 Street Cardoza metro stops, each of which is about a
11 nine to 10-minute walk away. We also have a number of
12 smaller units.

13 Even the marketing people felt that a
14 certain percentage of the buyers would not have cars.
15 That percentage is not anywhere near as large as the
16 percentage who isn't going to have a parking space. In
17 addition, just a few blocks down at the Washington
18 Plaza Hotel they have an enormous parking garage which
19 is highly under utilized and they do rent to residents
20 in the neighborhood. There are some alternatives.

21 MS. MILLER: Okay. Thank you very much.

22 MR. GRIFFIS: I think the comment is well
23 said that you are not changing the alley. This is
24 allowable but let's talk the bigger picture because we
25 have an additional five minutes only. Talking about

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1 responsibility to the existing site, I mean, you are
2 fitting into -- there's a heck of a lot of requirements
3 that are asked of you and it is kind of trying to force
4 buildings to fit well into the larger picture, the
5 fabric of what we are recreating or have always been
6 the vision of it.

7 What is your honest assessment about how
8 this is going to work in terms of that number of units
9 with the other units that are happening and the other
10 uses that are on that alley? Is it sufficient? Are
11 people going to be smashing into buildings? Are they
12 going to be able to take care and pull in and get out
13 of that alley?

14 MR. POTACK: It is a 10-foot alley but I
15 think, again, as Mr. Collins had said, the situation
16 works in a number of areas around the city. People
17 have to use more care in getting in and out. But I
18 don't believe that buildings are going to be smashed as
19 a matter of course and things are going to be falling
20 down.

21 I think part of the revitalization of the
22 14th Street corridor is bringing people there. If you
23 look back on that corridor five years ago, four years
24 ago even, it was not a vibrant place to live. There
25 was prostitution. There were drug users around. It

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1 was not a safe place to be.

2 MR. GRIFFIS: I just had dinner there 10
3 years ago. It was okay. Let's not paint it so bad.

4 MR. POTACK: Okay. But I don't believe
5 I'm painting it --

6 MR. GRIFFIS: I understand. You're not.

7 MR. POTACK: -- over the top. There is
8 always a tradeoff between development and leaving
9 things as they are. Yes, I think there will be more
10 traffic but there will also be more foot traffic.

11 We truly believe that in the marketing
12 work that we did on the building, that based on some of
13 the unit sizes that we designed there would be more
14 foot traffic. We were hopeful that people would be
15 willing to walk to work and other sites within the
16 city.

17 MR. GRIFFIS: Okay.

18 MR. POTACK: I don't know how else to
19 answer that.

20 MR. GRIFFIS: No, I think that is very
21 well said. It strikes a difficult balance. When the
22 alley was empty there was nothing there. There was
23 nothing to complain about and it may well not have been
24 as great and utilized as much as possible.

25 Now there is a demand, there is a product

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1 that is being produced that is very successful, we run
2 into a new balance and it's a balance of how we
3 integrate the new and the density to the existing and
4 to those that are already there and not create, or
5 hopefully not create catastrophic problems.

6 You indicated at the outset that you
7 developed several buildings in this area, Logan Circle
8 all the way up to Columbia Heights. Were they all
9 condo buildings?

10 MR. POTACK: Yes. Actually, I take that
11 back. There was one other that was not a condo.

12 MR. GRIFFIS: Okay. But most of them were
13 for sale. Do you know off the top of your head how
14 often do condo purchasers own a car or not own a car in
15 your product?

16 MR. POTACK: I couldn't quote
17 specifically. I can tell you that in some of our
18 products we provided less spaces than units and in
19 other projects we created as many spaces as units.
20 It's hard for me to quote you a specific figure.

21 MR. GRIFFIS: Okay. Right now in terms of
22 programming in terms of the retail, how is it
23 anticipated and how is it being dealt with in terms of
24 loading and unloading for retail? Obviously they are
25 pretty small. These aren't going to be -- Home Depot

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1 is not going in here, right?

2 MR. POTACK: That will be correct.

3 MR. GRIFFIS: Okay. So it's a smaller
4 retailer but they are probably going to be smaller
5 trucks that are servicing that retail. Where is it
6 anticipated that they are servicing the tenants?

7 MR. POTACK: There is some loading space
8 in the rear but some of it may also come right off of
9 14th Street.

10 MR. GRIFFIS: Okay. Any other questions
11 or clarifications, Board? Very well. Let's go to any
12 -- yes? That's an excellent point. We did have
13 another letter that came in today from Ingrid Kroger,
14 1518 Kingdom Place. It looks as though it is voicing
15 some opposition to the overall project. Basically the
16 mass and height of the building. But it is in the
17 record. I'm afraid we don't have an exhibit number on
18 that yet but it is in the record. Okay. Let's go to
19 you, Mr. Collins, for any closing remarks that you
20 might have.

21 MR. COLLINS: Thank you, Mr. Chairman, and
22 members of the Board. Just in closing in response to
23 some of the issues that have been raised, some of which
24 have been addressed in your questioning of the
25 witnesses and clarification as well, but it bears

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1 repeating that the building is less than maximum
2 permitted height, less than maximum permitted FAR and
3 provides up to three times the minimum required parking
4 on the site given the historic nature of the property.

5
6 There is a setback that is required
7 because the property abuts a residential zone and we
8 are well within that setback as Mr. Cochran
9 demonstrated in his testimony. We are a full story
10 below the maximum permitted height.

11 The three roof structures, we heard, I
12 believe, if I can characterize as acquiescence to the
13 idea that we are having three roof structures as
14 opposed to one from some of those who came in and
15 testified either in opposition or had some questions or
16 comments.

17 The setback of the machinery on the roof,
18 the setback from the roof, we exceed the setback in
19 every respect from the rear portion of the building.
20 We meet or exceed it. The cooling machinery is less
21 than four feet in height and is not required to be
22 enclosed and is not otherwise governed by the roof
23 structure regulations.

24 That is not to say that we are going to
25 blast loud noise type of equipment there. This is

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1 equipment that is being used is all state-of-the-art
2 equipment and it will be at least 20 feet or maybe 30
3 feet higher than the neighbors.

4 As you mentioned, Mr. Chair, the sound
5 will emanate in an upwards direction as opposed to a
6 downward direction. Because it is not on the edge of
7 the roof, it will likely not spill directly over the
8 edge and down as opposed to just going up. These are
9 heat pumps. They don't emit any smoke or fumes or ash
10 or things of that nature.

11 The parking, as I mentioned, is an issue
12 to be discussed but it's not a variance issue that we
13 are seeking here. I believe that people will generally
14 take care not to smash their cars into adjacent
15 buildings so in the interest of the drivers as well as
16 the interest of the neighbors that not occur, and
17 likely will not occur.

18 The sewer system. I believe there was
19 some mention made about sewer backups. Of course, that
20 is not an issue here but I think it is something that
21 some of the Board members need to understand.

22 I do believe that at least one of the
23 current sitting Board members does know that in the
24 Dupont Circle area and areas east of Dupont Circle the
25 DPW has been going through a study about storm sewers

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1 collapsing and have done read-throughs with cameras and
2 things to identify problem areas and have identified,
3 as far as I understand, some problem areas and are
4 starting that work to fix.

5 The extent that this backup is with three
6 inches of rain in two hours or whether it's a
7 collapsing sewer, it's clear that the applicant here
8 must comply with all the requirements of the Utility
9 Administration -- the Water and Sewer Authority, excuse
10 me, in order to get the permits for this project. We
11 believe that whatever requirements are -- whatever is
12 required will be met here in this project.

13 I'm just going through my notes. In terms
14 of the supervision during and after construction, as
15 you mentioned, Mr. Chair, certainly the project will be
16 reviewed during the construction phase by all the
17 inspectors including the zoning inspector.

18 It also bears noting that when the project
19 is completed, if the project does not comply with the
20 zoning regulations, the C of O will not be issued.
21 Once the C of O is issued and the property is occupied,
22 if there is an allegation of a zoning infraction, that
23 can be brought to the attention of the zoning
24 inspectors. They are very good at going out and
25 finding zoning violations when called to their

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1 attention.

2 I know that Mr. Potack wants to make a
3 comment about the testimony that Mr. Chung raised
4 concerning lack of notice.

5 MR. POTACK: As part of our construction
6 mobilization plan, we had sent letters coincidentally
7 on July 30th to Mr. Chung as well -- excuse me, June
8 30th which is the date we were notified of his party
9 status application to both Mr. Chung and the owner to
10 the north.

11 After I received notification of his
12 application, I placed a phone call to Mr. Chung and
13 instructed the vice president of construction to also
14 follow up with him directly. From my notes it appears
15 that there have been a number of phone calls back and
16 forth, most recently with a notification that a project
17 manager, as well as vice president of construction,
18 were going to be on the site July 1st from 11:00 to
19 1:00 and would like to meet Mr. Chung. I know
20 that has not happened. They have already done a review
21 of the -- there was a six-inch hole that was part of
22 geo tech boring located approximately 12 feet from Mr.
23 Chung's property. They have done an inspection of that
24 and have a plan to get in touch with Mr. Chung to prove
25 or disprove a water infiltration issue that he brought

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1 up.

2 But as an overriding statement, our folks
3 are going to be on that site regularly and we will be
4 in close contact with property owners in the area and
5 welcome the opportunity to speak more completely with
6 Mr. Chung and address his concerns as we move forward.

7 MR. GRIFFIS: Okay. Obviously that is out
8 of our jurisdiction to enforce those type of aspects
9 but they are enforceable so with patience and good
10 communication I'm sure all of this can run very
11 smoothly. Construction is always a disruptive aspect
12 in one's life. What was it we heard the other day in
13 the case? At least it's over quickly after it's done.
14 Right?

15 In all seriousness, especially something
16 like this, which is trying to do so much in terms of
17 holding up an existing structure, adding a new
18 structure there are obviously different types of
19 materials. There's a lot of different types of people
20 that are going to be on site.

21 Patience and good communications on
22 everyone's side is going to be critically important. I
23 think that is the way you can really overcome an awful
24 lot of problems. Even ones that are discovered new
25 that no one knew about, maybe they can be addressed and

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1 quickly solved.

2 Okay. Anything else? Anything else we
3 need to know?

4 MR. COLLINS: No, just respectfully
5 request that you grant the application.

6 MR. GRIFFIS: Excellent. Thank you very
7 much. Give me two seconds here. Okay. Very well. I
8 think the Board would like to do this. We are going to
9 set this -- this is what I would like to do is keep the
10 record open so that, first of all, the persons here
11 that now have been given plans or can pick up a copy of
12 the plans in OP, I'll keep the record open for
13 submission of letters basically substantiating
14 testimony.

15 I would take great caution and just give
16 you direction on let's address the issues that are
17 exactly before us at this time. Really we are talking
18 about the roof top structure and the reduction in
19 residential rec. What I would like to do is let's set
20 this for decision on the 20th. That would give a week
21 for submissions of the letters into the record.

22 Those need to be -- goodness gracious.
23 This is the quickest way, Mr. Collins, and you tell me
24 if you absolutely object to this. I'm going to have
25 those letters submitted into the record by close of

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1 business on next Tuesday. I think it's going to be
2 easier and more efficient if they are not served on
3 anybody but, Mr. Collins, if you object to not being
4 served those because they're not parties and they're
5 not going back and forth.

6 They will just be submitted and they will
7 be in the record for you. You can pick them up and
8 then I'll allow for a response up until -- oh, heck,
9 when? We really don't have time for responses on this.

10 Mr. Collins, are you going to need time for response
11 on that?

12 MR. COLLINS: We could do it by Friday if
13 we pick them up Wednesday. Essentially if they are
14 available to us Wednesday morning we can get a response
15 within 36 hours.

16 MR. GRIFFIS: Ms. Bailey, any difficulty?

17 MS. BAILEY: No, Mr. Chairman.

18 MR. GRIFFIS: Excellent. Then let's do
19 that and that way it gets us to the 20th. We have time
20 on the 20th to get through this very quickly in a
21 special public meeting and get this expedited and we'll
22 go from there. Any concerns to the Board or
23 clarifications?

24 MR. COLLINS: Question. When our
25 submission deadline then? If they are submitted by the

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1 witnesses on the 13th, we can pick them up in the
2 morning on the 14th and when would you like our
3 response?

4 MR. GRIFFIS: You said by that Friday. Is
5 that correct?

6 MR. COLLINS: That Friday. Close of
7 business on Friday?

8 MR. GRIFFIS: Yes. Can we do close of
9 business on Friday?

10 MS. BAILEY: Yes, sir. That's July 16th.

11 MR. GRIFFIS: Excellent. July 16th. Just
12 to be clear, of course, those are all going to be fax
13 out to the Board in order to prepare for the weekend
14 and get ready for the Tuesday decision so as concise a
15 response can be the better. Mr. Cochran, did you have
16 a question?

17 MR. COCHRAN: Mr. Chair, you suggested
18 that people who were looking for copies of the
19 application contact the Office of Planning. I think
20 you meant to say contact the Office of Zoning or the
21 applicant. OP would, of course, be pleased to provide
22 a copy of its own report.

23 MR. GRIFFIS: Did I say that? I'm sorry.

24 MR. COCHRAN: I believe you did.

25 MR. GRIFFIS: Okay. I meant to say copy

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1 of the Office of Planning's Report. I think people can
2 get with you to get your contact and make sure that
3 gets around.

4 MR. COCHRAN: Absolutely. I'll give out
5 an extra copy.

6 MR. GRIFFIS: To be totally clear, the
7 public record of this, the full file, is in the Office
8 of Zoning. It's a public record. You are able to open
9 it up and look at absolutely everything that's in
10 there, make copies of whatever you want. You have seen
11 the plans that we are going to be deciding on so this
12 is all very clear and concise.

13 With that then, any other questions?
14 Timing, schedule, what's required, when? Everybody is
15 clear? Very good. Thank you all very much. I do
16 appreciate everyone sticking around all afternoon and
17 we can move on.

18 Mr. Moy, is there any other business for
19 the Board this afternoon?

20 MR. MOY: Not to my knowledge, sir.

21 MR. GRIFFIS: That's good. Okay. Very
22 well. We can adjourn the afternoon session.

23 (Whereupon, at 5:34 p.m. the hearing was
24 adjourned.)
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