

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

TUESDAY

OCTOBER 19, 2004

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:44 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

| | |
|---------------------|---------------------|
| GEOFFREY H. GRIFFIS | Chairperson |
| RUTHANNE G. MILLER | Vice Chairperson |
| CURTIS ETHERLY, JR. | Board Member |
| JOHN MANN II | Board Member (NCPC) |

ZONING COMMISSION MEMBERS PRESENT:

| | |
|------------------|--------------|
| GREGORY JEFFRIES | Commissioner |
|------------------|--------------|

OFFICE OF ZONING STAFF PRESENT:

| | |
|-----------------|-------------------|
| CLIFFORD MOY | Secretary |
| BEVERLEY BAILEY | Zoning Specialist |
| JOHN NYARKU | Zoning Specialist |

OFFICE OF PLANNING STAFF PRESENT:

JOHN FONDERSMITH
JOEL LAWSON
DAVID McGETTIGAN

D.c. OFFICE OF THE ATTORNEY GENERAL STAFF PRESENT:

SHERRY GLAZER, ESQ.
LORI MONROE, ESQ.

This transcript constitutes the minutes from the meeting held on October 19, 2004

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APPEARANCES:

On Behalf of Applicant National Capital
Revitalization Corporation:

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

9:44 a.m.

CHAIRPERSON GRIFFIS: Good morning, ladies and gentlemen. Let me call to order the 19 October, 2004, morning hearing of the Board of Zoning Adjustments, the District of Columbia. My name is Geoff Griffis, Chairperson. Joining me today is the Vice Chair Ms. Miller and also Mr. Etherly. Representing the National Capital Planning Commission is Mr. Mann and representing the Zoning Commission with us this morning is Mr. Jeffries.

Copies of today's hearing agenda are available for you. They are located on the wall where you entered into the hearing room. You can pick that up and see where you are on our schedule this morning.

Several very important aspects that I'll go through and very quickly, but they are still important, and that is this. First of all, all before the Board of Zoning Adjustment are recorded. They are recorded in two fashions. One is the court reporter who is sitting on the floor to my right is creating a transcript for all our hearings and procedures. Secondly, we are being broadcast live on the Office of Zoning's website.

So attended to both of those there are

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1 several things. First of all, I would ask that
2 everyone turn off cell phones and beepers so we don't
3 have a disruption of the proceedings and the
4 recording. Secondly, when coming forward to speak to
5 the Board, you will need to fill out two witness
6 cards.

7 Witness cards are available at the table
8 where you entered into and also the table in front of
9 us where you will be providing testimony. Those two
10 cards should be filled out prior to coming forward and
11 they are to be given to the court reporter who is
12 sitting to my right.

13 The order of procedure for special
14 exceptions and variances is as follows: First, we
15 will hear from the applicant and the presentation of
16 their case and any witnesses. Second, we hear any
17 Government reports attended to the application such as
18 the Office of Planning or Department of
19 Transportation.

20 Third, we would hear from the Advisory
21 Neighborhood Commission. Fourth would be persons or
22 parties in support of the application. Fifth would be
23 persons or parties in opposition to an application.
24 Sixth, finally, we'll hear again from the applicant
25 any closing remarks or rebuttal testimony that they

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1 may have to offer.

2 Cross-examination of witnesses is
3 permitted by the applicant and parties in a case. The
4 ANC within which the property is located is
5 automatically a party in the case and, therefore, also
6 will be able to conduct cross-examination. Nothing
7 prohibits this Board from limiting cross-examination
8 in terms of its substance or its time. I do not
9 believe we'll run into that this morning but I will be
10 very direct in giving instructions if we are going to
11 limit scope of cross-examination of any of the
12 witnesses.

13 The record will be closed at the
14 conclusion of each case and that is an important
15 aspect to understand. It means anything that you want
16 to tell us needs to be either submitted in writing or
17 presented orally today.

18 At the end of today's session the record
19 would be closed except for any material that the Board
20 would specifically request and we will be very
21 specific on additional information that should be
22 submitted into the record. After that material is
23 received in the Office of Zoning, of course, the
24 record would then finally be closed and no other
25 information would be accepted into the record.

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1 The Sunshine Act requires that this Board
2 conduct its proceedings in the open and before the
3 public. This Board may enter into executive session
4 both during or after a hearing on a case for the
5 purposes of reviewing the record and/or deliberating
6 on the case. This is in accordance with the Sunshine
7 Act and also with our rules of procedure.

8 The decision of this Board in contested
9 cases must be based exclusively on the record that's
10 created before us today which is why it is so
11 important to give us what you want us to deliberate
12 on.

13 I believe now we will take up preliminary
14 matters. Preliminary matters are those which relate
15 to whether a case will or should be heard today such
16 as request for postponements, withdrawals, or whether
17 proper and adequate notice has been provided for a
18 case. If you are not prepared to go forward with a
19 case today or you believe that the Board should not
20 proceed with a case, I would ask that you come forward
21 and have a seat at the table as an indication of
22 having a preliminary matter.

23 Let me say a very good morning to Ms.
24 Bailey and also Mr. Moy from the Office of Zoning who
25 are sitting on my right and ask if staff is aware of

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1 any preliminary matters for the Board's attention?

2 MS. BAILEY: Mr. Chairman, members of the
3 Board, and to everyone good morning. Yes, Mr.
4 Chairman, there is and it concerns Application No.
5 17182 of Tyrone Brown. We understand that case is to
6 be withdrawn but as of this morning we did not receive
7 a letter withdrawing the case so there are two options
8 available to the Board at this time. To dismiss the
9 case or to hold taking a decision until sometime
10 during the day.

11 CHAIRPERSON GRIFFIS: Excellent. I
12 appreciate that. Is anyone here representing 17182
13 Tyrone Brown house addition? No one is present at
14 this time. I would suggest that we just postpone any
15 sort of action on this as it is advertised as the
16 third case in the morning and we'll pick it up after
17 we get through the first cases. Is there anything
18 else, Ms. Bailey?

19 MS. BAILEY: That's all that I have, Mr.
20 Chairman.

21 CHAIRPERSON GRIFFIS: Very well. Then I
22 would ask those present today who are wishing to
23 testify thinking about giving testimony if you would
24 please stand and give your attention to Ms. Bailey,
25 she is going to administer the oath and swear you in.

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1 (Whereupon, the witnesses were sworn.)

2 MS. BAILEY: Mr. Chairman, the first case
3 is Application No. 17222 of Rocio Gonzalez and Facundo
4 Fiorino, please excuse the pronunciation, and that's
5 pursuant to 11 DCMR 3103.2, for a variance from the
6 off-street parking requirements under subsection
7 2101.1, to construct a single-family detached dwelling
8 in the R-1-B District at premises 1250 Kearney Street,
9 N.E. (Square 3930, Lot 4).

10 CHAIRPERSON GRIFFIS: Good. Thank you.
11 Is the applicant ready to go forward? Come forward
12 and have a seat. Good morning. I'm going to have you
13 just -- there's a button on the base of that mike that
14 turns it on. Perfect. If you would just give your
15 name and your address for the record.

16 MS. GONZALEZ: My name is Rocio Gonzalez.
17 My address is 1370 East Street N.E., Washington, D.C.
18 20002.

19 CHAIRPERSON GRIFFIS: Excellent. Thank
20 you. I will let you proceed.

21 MS. GONZALEZ: Okay. Good morning
22 everybody. My name again is Rocio Gonzalez. I'm the
23 owner of the lot at 1250 Kearney Street jointly with
24 my husband, Facundo Fiorino. I'm also an architect
25 and we are planning to build a single-family house for

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1 our family on Kearney Street. We are asking the Board
2 for a variance to waive the parking space requirements
3 due to the special topographic conditions of the site.

4 Right now it's a vacant lot. You can take
5 a look at the pictures in Exhibit No. 5. You will see
6 that the lot has a very steep grade change in its
7 front yard above Kearney Street of about 16 feet.

8 There is no other access to the lot. There's no alley
9 in the back or any other access. In order to fulfill
10 the parking requirement we would have to build a very
11 long ramp about 130 feet long on the side of the lot
12 and we would have to build very high retaining walls
13 on both sides up to 20 feet high.

14 We considered that would be very, very
15 costly for us. Also dangerous in icy conditions. The
16 most important thing it would mar the appearance of
17 the front of the lot and also the appearance of the
18 adjoining properties on the sites. Also the views
19 from the houses in the front of our lot.

20 In addition to that, there is a metro
21 station only three blocks away from the lot. There is
22 plenty of legal residential parking on Kearney Street.
23 Also, our lot is 50 feet wide which means that at
24 least three parking spaces could be provided on the
25 street. We have been talking to the neighbors. We

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1 have a lot of neighbors support. I believe you have
2 received a few letters. We also have the support of
3 the Office of Planning. I would ask the Board to
4 approve the variance. Thank you very much.

5 CHAIRPERSON GRIFFIS: Good. Thank you
6 very much. I understand that you submitted a new plat
7 into the record. Is that correct?

8 MS. GONZALEZ: Yes. I just left it in the
9 Office of Planning -- of Zoning.

10 CHAIRPERSON GRIFFIS: Excellent. Okay.

11 MS. GONZALEZ: There is another one here
12 if you want it.

13 CHAIRPERSON GRIFFIS: The submitted plat,
14 of course, shows the existing condition as proposed
15 for the relief in this application. Quick question.
16 Are there any direct driveways on this block from the
17 street?

18 MS. GONZALEZ: On this lot?

19 CHAIRPERSON GRIFFIS: No, on the street,
20 on the block.

21 MS. GONZALEZ: You mean in any other
22 properties?

23 CHAIRPERSON GRIFFIS: Yes.

24 MS. GONZALEZ: No.

25 CHAIRPERSON GRIFFIS: Okay. And did you

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1 present to the ANC?

2 MS. GONZALEZ: It was not on the agenda.
3 I went to the meeting but they didn't talk about it.
4 I don't know. They didn't put it on the agenda.

5 CHAIRPERSON GRIFFIS: Good. Any other
6 question from the Board? Ms. Miller?

7 MS. MILLER: I just have a couple. Did
8 you submit your plans to the ANC or this application?
9 Did you give it to them? You said it wasn't on the
10 agenda.

11 MS. GONZALEZ: Directly I believe they got
12 it from here, from the Office of Zoning. I talked to
13 Mr. Ortiz, he was the commissioner in charge, prior to
14 looking at my site so he didn't call me back and I
15 didn't have a chance to talk to him in the ANC
16 meeting. They were very busy with other issues.

17 MS. MILLER: Okay. And the parking in
18 front of your property, is it residentially zoned on
19 that block or no?

20 MS. GONZALEZ: I believe it's not zoned.
21 It doesn't have any signs, I believe.

22 MS. MILLER: Okay.

23 MS. GONZALEZ: It's kind of everybody but
24 there's a space for parking on both sides.

25 MS. MILLER: And do you have commuters

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1 parking there to go to the metro or no?

2 MS. GONZALEZ: If I would go to the metro?

3 MS. MILLER: No. I mean on this block are
4 there cars that park there that use the metro?

5 MS. GONZALEZ: I don't know. I mean, the
6 parking is various cars. I mean, there is always
7 plenty of parking. I'm not sure. I believe most of
8 the people use the metro. It's so close and
9 convenient. When I go visit the lot I've never had a
10 problem but I don't live there yet.

11 MS. MILLER: Thank you.

12 CHAIRPERSON GRIFFIS: Anything else? Very
13 well. Let's move on to the Office of Planning. Mr.
14 Fondersmith, very good morning to you.

15 MR. FONDERSMITH: Good morning, Mr.
16 Chairman, members of the Board. I'm John Fondersmith
17 from the Office of Planning and I'll give the report
18 of the Office of Planning. The Office of Planning
19 recommends approval of the requested variance from the
20 off-street parking requirement.

21 I think I'll go through these but the
22 photographs, both the aerial with the topography and
23 the oblique and then the others of the lot I think
24 make the situation pretty clear that the unusual
25 situation in this case is this very step grade rising

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1 approximately 16 feet in a distance back of 20 feet
2 from where it starts. It's quite steep, as you can
3 see, from the photographs.

4 Then when you get to the top the rest of
5 the lot is generally level. There would be -- we
6 essentially agree with the applicant in this case.
7 You would have to build a pretty massive retaining
8 wall and I would say it's an attractive -- both of you
9 can see on the applicant's submission and on ours
10 attractive along the front there that steep slope.
11 Some of them are grass. Some of them are left more
12 natural. You would have a major cut into that and, of
13 course, a major expense.

14 So I think that is really the main point
15 here. Other than that it's essentially in dimensions
16 a standard lot. Also, as has been mentioned, there's
17 no alley here so there's not an alternative way to get
18 into the rear of the lot. If you look at the aerial
19 view that we submitted and the contours, and the
20 contours, incidentally, as y

21 CHAIRPERSON GRIFFIS: So the yellow lines
22 are showing meter changes. Is that correct?

23 MR. FONDERSMITH: That's right.

24 CHAIRPERSON GRIFFIS: So a meter is
25 approximately three feet. Is that right?

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1 MR. FONDERSMITH: Yeah, a little over 39.

2 CHAIRPERSON GRIFFIS: The 54, 55 that's
3 showing there is actually showing a six-foot roughly
4 change in grade?

5 MR. FONDERSMITH: Yes. And if you go
6 there all the way up to the top and you do the math
7 you get about a six -- roughly a 16-foot difference
8 from the sidewalk up to the top of the lot. Then, as
9 I say, the lot at the top is generally level. The
10 line there would indicate some change.

11 If you look at our photograph at the
12 bottom of attachment 3 and when you go up there, I
13 mean, it looks essentially level. And you can see
14 that just the way it is this hill is most extreme in
15 parts of the block face between 12th Street and 13th
16 Street. It does taper off toward 13th Street. and
17 then also toward 12th Street.

18 Now, I would like to clarify something.
19 Maybe the question wasn't clear. There are some
20 driveways further west on this block face. If you
21 look at the topo, you can see the hillside essentially
22 drops off so there's very little problem there. But
23 in this section where you can see the extreme topo
24 that is essentially four lots to the west of the
25 subject lot and certainly one or two lots to the east

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1 you do have extreme topo situation for those houses.
2 Then the house on the corner at 13th Street looks like
3 a house but it is actually a Pepco substation.

4 CHAIRPERSON GRIFFIS: Interesting.

5 MR. FONDERSMITH: So that's the situation.
6 Our support for this is really due to this very
7 extreme grade. With respect to the parking, and we
8 did consult with DDOT, they got this case for
9 information purposes. They said they were not
10 planning to do a report. They agreed with the
11 granting of the variance. They didn't see a problem.
12 This was e-mail back and forth. We did not ask them
13 for a report in this case. The two times that I have
14 been out there and I did not -- I was not purposely
15 doing a parking survey or anything, but it didn't
16 appear that there was a parking problem.

17 I think that is the basic case. I do want
18 to -- in other words, it meets -- let me say it meets
19 the test for a variance, we believe, the provisions of
20 Section 2116.6 giving the reasons why the Board can do
21 a parking variance.

22 I do want to just correct something that
23 was a misunderstanding about the ANC. Our report says
24 the applicant was not present at the meeting which was
25 what we had been told when we consulted with the ANC.

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1 In fact, as I've talked later with the applicant, she
2 was there put the matter was not on the agenda and I
3 think she left. In other words, they didn't realize
4 that she was there.

5 So, in summary, we do recommend that the
6 Board grant this variance request.

7 CHAIRPERSON GRIFFIS: Good. Thank you
8 very much. Questions from the Board? Does the
9 applicant have any cross examination of the Office of
10 Planning? Any questions?

11 MS. GONZALEZ: No.

12 CHAIRPERSON GRIFFIS: Excellent. Okay.
13 Let's move on then. Of course, the Office of Planning
14 did coordinate with DDOT on this. I don't have any
15 other attended Government reports regarding this
16 matter. Is there anyone here present that would like
17 to provide testimony for the Board regarding
18 Application 1722 at this time? Not seeing any persons
19 in support or in opposition.

20 We'll make note of the fact that we do
21 have letters of support, Exhibit 24, 25, 23, and 22,
22 Parks, Johnson, Flynn, Greg, and Matthews. Are you
23 aware of any others? I went through that pretty
24 quickly.

25 MS. GONZALEZ: No. You said five of them,

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1 right?

2 CHAIRPERSON GRIFFIS: Five, yes. Exactly.
3 Very well. Yes. Come up for a moment. While she is
4 getting settled in a seat and comfortable, let me ask
5 you a quick question. You did submit drawings of a
6 driveway with a 12 percent grade. The 12 percent
7 grade relates directly to the requirement of the
8 driveway in the zoning regulations. Is that correct?

9 MS. GONZALEZ: Yes.

10 CHAIRPERSON GRIFFIS: In order to
11 accomplish that you actually have to have a below
12 grade at the top of your lot, a below grade parking
13 spot. is that correct? Down about five six.

14 MS. GONZALEZ: I don't understand that.
15 What do you mean below grade?

16 CHAIRPERSON GRIFFIS: In order to
17 accomplish a 12 percent grade in the driveway you
18 can't make it all the way to the top level, the top
19 grade of the property. Is that correct?

20 MS. GONZALEZ: I can. The way I drew it,
21 it just makes it -- but you have to go to the back of
22 the lot. It makes it on grade.

23 CHAIRPERSON GRIFFIS: So your parking
24 space that is laid out is not below the level of grade
25 at the rear of the property? Let me see. What I'm

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1 looking at is the section on Exhibit No. 6.

2 MS. GONZALEZ: Oh.

3 CHAIRPERSON GRIFFIS: The section shows --

4 MS. GONZALEZ: I'm sorry. You're totally
5 right. Yeah, yeah. It's been a while since I drew
6 this.

7 CHAIRPERSON GRIFFIS: Indeed. And so even
8 if you tried as hard as you could to conform with all
9 the aspects of this zoning regulations, you'd still
10 have to have a fairly intrusive grade cutting and you
11 still can't make it up with a 12 percent slope to the
12 property.

13 MS. GONZALEZ: Yeah, you're right.

14 CHAIRPERSON GRIFFIS: Okay. Very well.
15 Good morning, ma'am. How are you? I'm going to ask
16 you just to turn your microphone on by touching a
17 button on the base. It should be right in the center.
18 Perfect. And if you could provide your name and
19 address for the record.

20 MS. CRAIG: My name is Normal B. Craig.
21 I live at 1251 Kearney Street, N.E., Washington, D.C.
22 20017.

23 CHAIRPERSON GRIFFIS: Excellent. Thank
24 you very much for being down here this morning. We do
25 have a submission from you in the record which is

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1 Exhibit No. 23, I believe. Would you like to make a
2 statement in support of the application?

3 MS. CRAIG: Well, I am in support of the
4 application. I think it would be a good idea to not
5 have off-street parking. We have enough space to
6 accommodate the neighbors coming in.

7 CHAIRPERSON GRIFFIS: Excellent. And you
8 think it would be a negative aspect if they --

9 MS. CRAIG: No.

10 CHAIRPERSON GRIFFIS: No, if they cut a
11 driveway into the lot?

12 MS. CRAIG: Well, I don't know. I don't
13 think so. The only problem I can see maybe might be
14 construction taking up some of the area within the
15 street in parking but I prefer not to have that if
16 possible.

17 CHAIRPERSON GRIFFIS: Okay. So I
18 understand your opinion is that you would certainly
19 prefer not to have that kind of intrusion.

20 MS. CRAIG: The street can accommodate new
21 neighbors and their cars. We have quite a bit of
22 space on the block.

23 CHAIRPERSON GRIFFIS: Excellent. Good.
24 Thank you very much. Anything else you would like to
25 provide the Board?

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1 MS. CRAIG: No, that's all.

2 CHAIRPERSON GRIFFIS: I appreciate you
3 being down here this morning. I appreciate your time.
4 Do any other Board members have any questions? Does
5 the applicant have any questions of the testimony?

6 MS. GONZALEZ: No.

7 CHAIRPERSON GRIFFIS: Very well. Thank
8 you very much. Let me turn it over to you for any
9 closing remarks that you might have.

10 MS. GONZALEZ: I don't have any closing
11 remarks.

12 CHAIRPERSON GRIFFIS: No closing remarks.
13 Very well.

14 Board members, questions? Very well. If
15 there is nothing further from the Board, I think this
16 application is ready to go forward with our decision
17 today. I would move approval of Application 17222 for
18 the variance of the off-street parking requirements
19 under section 2101.1 and that would enable the
20 construction of a single family detached dwelling at
21 the premises of 1250 Kearney Street, N.E. I would ask
22 for a second.

23 MS. MILLER: Second.

24 CHAIRPERSON GRIFFIS: Thank you, Ms.
25 Miller. Very quickly I'll summarize. I think the

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1 case is very well laid out in terms of the written
2 submissions and also in the testimony that we have
3 heard today. Obviously it's a variance from the off-
4 street parking. One would be required in the R-1-B
5 zone.

6 It's an interesting aspect of this R-1-B
7 which is one of the lowest zoning districts, lowest
8 densities abutting a C-1 but that's neither here nor
9 there. The issue of R-1-B in its low density
10 obviously is it's still of concern in terms of
11 providing parking and off-street parking as a
12 requirement.

13 What we have clearly is an existing site
14 with a very severe grade, one that is substantially
15 unique. Two, as the Office of Planning has said, and
16 as is very apparent, anywhere from two to four, maybe
17 five lots just on this square. In fact, the grade
18 changes dramatically which you can and more
19 efficiently accommodate a driveway.

20 I think the severe slope does set up its
21 uniqueness and, therefore, the practical difficulty in
22 carving it out. I think the testimony and the
23 document showing how it could be done, or would try to
24 be accomplished, indicate even further support for the
25 application and substantiation of the fact that you

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1 still at a 12 percent grade can't make it from the
2 street up to the rear level of grade.

3 Essentially you are walking somewhat
4 subterranean out of the vehicle itself and then up
5 further stairs. It seems to be really regrading or at
6 least carving out a substantial portion of an existing
7 and, frankly, quite pleasing street front.

8 I note the fact and my question was
9 whether there were other curb cuts or driveways in the
10 area. Clearly the road down where, as the Office of
11 Planning pointed out, where the slope is fairly
12 extreme there are none and it holds together very well
13 with that retaining wall of the stone.

14 The testimony in support of the
15 surrounding areas, I think, go to the fact that this
16 would not be a detriment to the public good. In fact,
17 it's supported as not making those kind of intrusive
18 changes and rather it would impair the intent and
19 integrity of the zone plan. I think that it also been
20 proven that it would not as there is ample parking
21 which brings up the aspect of the R-1-B zone, that
22 being with lots approximately 50 feet in width
23 dimension.

24 It clearly shows that there is street
25 frontage available. Even with the proximity of the

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1 metro station, as Ms. Miller's question was going to,
2 are there an influx of commuter drivers that might
3 dump their cars there and jump on the metro.

4 I think the testimony is sufficient and
5 compelling that that is, in fact not the case.
6 Actually, what came up today also with the Pepco
7 substation at the corner if that, again, removes any
8 sort of residential demand on the street and,
9 therefore, I would obviously support the motion.

10 Others? Ms. Miller.

11 MS. MILLER: I would just note that in
12 addition to meeting the general variance test 2116.6
13 sets forth the reasons that the Board can also
14 determine that it's not practical to locate the spaces
15 in accordance with 2116.2 and that includes unusual
16 topography, grade, shape, size, dimensions of the lot
17 which this property meets and (b) the lack of an alley
18 or the lack of appropriate ingress or egress through
19 existing or proposed allies or streets. In this case
20 we have also heard there is no alley access.

21 CHAIRPERSON GRIFFIS: Good. Excellent.
22 Any others? Very well. We have a motion before us
23 that has been seconded. I ask for all those in favor
24 of the motion signify by saying aye.

25 ALL: Aye.

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1 CHAIRPERSON GRIFFIS: Opposed?

2 Abstaining?

3 MS. BAILEY: Thank you, sir. The vote is
4 recorded as 500 to approve the application. Mr.
5 Griffis made the motion, Mrs. Miller seconded, Mr.
6 Mann, Mr. Jeffries, and Mr. Etherly are in support.
7 Summary order, Mr. Chairman?

8 CHAIRPERSON GRIFFIS: I see no reason why
9 we wouldn't waive our regulations and issue a summary
10 order unless any Board member has any opposition.
11 Very well, let's issue a summary order. Thank you
12 very much. Thank you all for being here this morning
13 and good luck with the new house.

14 MS. GONZALEZ: Thank you very much. Let's
15 move on to the next case.

16 MS. BAILEY: Application No. 17090 of Lee
17 C. Bauer, pursuant to 11 DCMR 3103.2, for a variance
18 from the nonconforming structure provisions under
19 subsection 2001.3, and a variance from the accessory
20 garage alley set-back requirements under subsection
21 2300.2(b), to allow a roof deck addition to a free
22 standing accessory garage. The property is located in
23 the Dupont Circle overlay district and is also zoned
24 R-5-B. It's also located at 2116 O Street, N.W.,
25 Square 69, Lot 146.

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1 CHAIRPERSON GRIFFIS: Good morning.

2 MR. AKOPIAN: Good morning.

3 CHAIRPERSON GRIFFIS: Could I get your
4 name and address for the record?

5 MR. AKOPIAN: My name is David Akopian.
6 My address is 1040 Monrovia Place, Bethesda, Maryland.
7 I'm representing Lee Bauer who is in active military
8 duty right now and asked me to represent him on this
9 case.

10 CHAIRPERSON GRIFFIS: Thank you. And with
11 you today is?

12 MR. PASSONNEAU: My name is Joseph
13 Passonneau. I live at 2114 O Street. I live in the
14 next lot to Lee Bauer.

15 CHAIRPERSON GRIFFIS: Indeed. A very
16 welcome to you, Mr. Passonneau. Let's move ahead. Of
17 course, this is a continuation. We had asked for
18 additional information. We had several hearing dates
19 on this so I'm just going to turn it over to you to
20 get into the substance of what you have for today.

21 MR. AKOPIAN: Yes. I would like to ask
22 you I need to be at the board. I'm not sure how to
23 manage with the microphone but I need to show.

24 CHAIRPERSON GRIFFIS: Sure. You may have
25 a hand held or I think we are quiet enough if you

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1 would turn that microphone on in the corner of the
2 table. You can turn yours off that's there so we
3 don't get feedback. What you can do is pick that up
4 if you don't drag all the other microphones off the
5 table with you.

6 MR. AKOPIAN: Today I have prepared two
7 boards, story telling boards. First thing I did I
8 took a picture of old alley, existing alley, and the
9 conditions and the buildings. This is the beginning
10 of alley which is low point and this is Mr.
11 Passonneau's property which is high point. It's
12 elevation of about two feet difference.

13 This is Mr. Lee Bauer's property in
14 between these two properties where you see this parked
15 car. At the beginning of the alley we have properties
16 that almost occupy 100 percent of it. There is
17 nothing left. Fence continues up to this point.

18 CHAIRPERSON GRIFFIS: The photograph on
19 the top right that you just pointed to, is that the
20 paved alley where you actually drive?

21 MR. AKOPIAN: It's a paved alley but it's
22 like a stone paved alley.

23 CHAIRPERSON GRIFFIS: What is it, 10 feet?

24 MR. AKOPIAN: I'm sorry?

25 CHAIRPERSON GRIFFIS: What's the

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1 dimension, 10 feet there?

2 MR. AKOPIAN: According to the plot it's
3 supposed to be 10 feet but it's actually 11 feet. I
4 measured it.

5 CHAIRPERSON GRIFFIS: Interesting. Okay.

6 MR. AKOPIAN: I measured the distance
7 between this and the walls. Exactly 11 feet. This is
8 a pullout of the property. Those buildings were built
9 about more than 100 years ago. At that time laws and
10 regulations were very different than right so it
11 cannot be conforming to these days' regulations.

12 CHAIRPERSON GRIFFIS: In fact --

13 MR. AKOPIAN: For example, this protrusion
14 is out of property.

15 CHAIRPERSON GRIFFIS: Right. In the
16 parking space.

17 MR. AKOPIAN: This row is excellent
18 buildings. One of the best buildings in Washington,
19 D.C.

20 CHAIRPERSON GRIFFIS: I don't know.

21 MR. AKOPIAN: In my opinion as an
22 architect.

23 CHAIRPERSON GRIFFIS: Okay.

24 MR. AKOPIAN: In my opinion all this row
25 is very unique by the elevations, by the portals,

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1 whatever. This is the back of the property of Lee
2 Bauer's house. This is Joseph Passonneau's property
3 and this is the neighbor's property. Right now this
4 property -- I have to show other part. Yeah.

5 The leg of this property produce to his
6 property about maybe six inches so it reduces this 22
7 feet by six inch, 21.6. This is small thing but
8 should be noted. The alley doesn't have drainage
9 except for natural slope but it could be changed.
10 Actually it could be a project of store water
11 management and connect the existing store water pipe.

12 CHAIRPERSON GRIFFIS: Are you saying
13 you're going to put an area drain in?

14 MR. AKOPIAN: No, no. I'm saying that
15 it's possible to change it.

16 CHAIRPERSON GRIFFIS: To change what?

17 MR. AKOPIAN: To change drainage of the
18 alley.

19 CHAIRPERSON GRIFFIS: How would you change
20 the drainage of the alley?

21 MR. AKOPIAN: To put the store water
22 management pipes and connect to existing. To put, for
23 example, inlets at beginning of alley and end of
24 alley.

25 CHAIRPERSON GRIFFIS: You're proposing to

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1 do that?

2 MR. AKOPIAN: No, no. I'm saying that
3 it's possible to change it.

4 CHAIRPERSON GRIFFIS: Oh, sure.

5 MR. AKOPIAN: Because in recommendation of
6 Office of Planning it says that the alley doesn't have
7 proper drainage.

8 CHAIRPERSON GRIFFIS: Right.

9 MR. AKOPIAN: I'm saying that the Bauer
10 property doesn't do anything to contribute to the
11 drainage of the alley.

12 CHAIRPERSON GRIFFIS: I see.

13 MR. AKOPIAN: That's what I'm saying. It
14 is possible to change it by doing that.

15 CHAIRPERSON GRIFFIS: Do any of the houses
16 that you know of have any sort of area drains at the
17 rear of the property?

18 MR. AKOPIAN: I'm sorry?

19 CHAIRPERSON GRIFFIS: Do any of the
20 adjacent properties?

21 MR. AKOPIAN: Yeah.

22 CHAIRPERSON GRIFFIS: Are you aware of any
23 that have area drains, any sort of drainage at the
24 rear of the property?

25 MR. AKOPIAN: No.

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1 CHAIRPERSON GRIFFIS: Mr. Passonneau, do
2 you have any -- you have no drainage at the rear?
3 Could you turn your microphone on? No, sit and be
4 comfortable. There's a microphone right in front of
5 you, Mr. Passonneau. Excellent.

6 MR. PASSONNEAU: I'm pretty sure that none
7 of the houses have direct drainage to the sewer.

8 CHAIRPERSON GRIFFIS: Well, that's
9 interesting. Some of the properties have little area
10 ways. Is that correct?

11 MR. PASSONNEAU: I believe that all of the
12 rear of the properties drain into the alley.

13 CHAIRPERSON GRIFFIS: All right. Let's
14 move again. Go ahead.

15 MR. AKOPIAN: The project proposal for a
16 garage -- this is existing condition. This is
17 backyard which is recessed. It's a window well so it
18 reduces backyard by approximately five feet. This is
19 window well. This is a small deck with stairs. The
20 elevator is four feet above the ground, this basement.
21 This is a parking lot or whatever covered by gravel.

22 Some cars park illegally and Lee Bauer was
23 very concerned about this side of his property. He
24 said there are other things going on in that area. He
25 wants to make it secure and improve this area.

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1 Adjacent properties, Joseph Passonneau's property and
2 this adjacent property is that exactly.

3 CHAIRPERSON GRIFFIS: Now, while you are
4 focused on that one, you made a statement that what
5 they've done reduces something by six inches.

6 MR. AKOPIAN: Yeah. He said we will
7 somehow accommodate that six inches. He's not going
8 to demolish that part of --

9 CHAIRPERSON GRIFFIS: Slow down just a
10 little bit. What you need to make clear to the Board,
11 because I'm not sure all the Board members understand
12 and I can say I don't know what you're talking about.
13 What is this six inches and what is being reduced?
14 What do you have to accommodate? What is the point of
15 telling us that?

16 MR. AKOPIAN: I'm telling you existing
17 conditions.

18 CHAIRPERSON GRIFFIS: Explain it so
19 everyone understands what you understand.

20 MR. AKOPIAN: Okay. That is a part that,
21 in my opinion, we have to prove some uniqueness of
22 this property to be allowed to build a garage.

23 CHAIRPERSON GRIFFIS: Let's not go too far
24 afield. Six inches. You're saying that, in fact,
25 what happens is that deck is projecting to the

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1 property line or over the property line?

2 MR. AKOPIAN: Yeah. It is obvious that --
3 you see this portion?

4 CHAIRPERSON GRIFFIS: Right.

5 MR. AKOPIAN: It protrudes into his
6 property.

7 CHAIRPERSON GRIFFIS: So when you do your
8 new construction you are going to have to somehow
9 accommodate that --

10 MR. AKOPIAN: We have to work out with the
11 neighbor not to destroy his deck because it is built
12 already. We don't want to do that.

13 CHAIRPERSON GRIFFIS: Good.

14 MR. AKOPIAN: That's what I mean
15 accommodating that.

16 CHAIRPERSON GRIFFIS: Do you understand
17 that? Any questions on that? Excellent.

18 MR. AKOPIAN: Now, the first option was to
19 build a garage with this walkway to make it easier to
20 go here. This increases his lot occupancy by 55
21 square feet. It's not much. Prepare the second
22 alternative which doesn't include this 55 square feet.

23 Right now we have a garage. Actually this
24 garage increases the lot occupancy by 18 percent. I
25 have some calculations done for the lot occupancy. It

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1 is 548. The additional point 18 will increase it not
2 more than 1.8 which is within the normal case.

3 CHAIRPERSON GRIFFIS: Do you have that to
4 be submitted in?

5 MR. AKOPIAN: I will submit it in later.
6 Right now I have to check it just in case.

7 CHAIRPERSON GRIFFIS: Let's take -- well,
8 okay.

9 MR. AKOPIAN: You know what is the problem
10 here?

11 CHAIRPERSON GRIFFIS: No, I don't, but
12 here is my question. You've just thrown a lot of
13 numbers. So 548 square feet. Is that correct?

14 MR. AKOPIAN: No. The square footage of
15 the garage is 384 square feet.

16 CHAIRPERSON GRIFFIS: What's 548?

17 MR. AKOPIAN: 548 is the lot occupancy of
18 the existing building.

19 CHAIRPERSON GRIFFIS: 548 percent?

20 MR. AKOPIAN: It's 54 percent.

21 CHAIRPERSON GRIFFIS: 54.8 percent. Okay.
22 Good. So 54.8 percent lot occupancy is current?

23 MR. AKOPIAN: Yes. 54.8 is current.

24 CHAIRPERSON GRIFFIS: Okay. And then
25 you're adding 300 what? What is the garage square

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1 footage?

2 MR. AKOPIAN: Garage square footage 384.

3 CHAIRPERSON GRIFFIS: 384 square feet

4 which gives you a total of -- what's your lot

5 occupancy?

6 MR. AKOPIAN: .728.

7 CHAIRPERSON GRIFFIS: 72.8 percent?

8 MR. AKOPIAN: Yeah.

9 CHAIRPERSON GRIFFIS: So you're saying --
10 I'm not sure what the 1.2 is all about.

11 MR. AKOPIAN: 1.2?

12 CHAIRPERSON GRIFFIS: Or 1.8. Anyway, I
13 think that's clear.

14 MR. AKOPIAN: 1.8 probably was FAR.

15 CHAIRPERSON GRIFFIS: Why are we talking
16 about FAR?

17 MR. AKOPIAN: I don't know. You bring up
18 this 1.8. I'm saying it's FAR probably.

19 CHAIRPERSON GRIFFIS: Okay. Go ahead.

20 MR. AKOPIAN: So if this project is
21 approved I will comply with your requirements of
22 Zoning Board if it's reasonable that we can do
23 whatever you require. This property will turn to
24 something like that. The other property is an example
25 of that. This is from outside and this is from

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1 inside. You can compare this what will happen to
2 these structures here.

3 MR. PASSONNEAU: Could I interject here?
4 What we're proposing for Lee is to reproduce my deck
5 exactly except without the thing on top and carry it
6 on lolly columns instead of a retaining wall. It's as
7 simple as that.

8 MR. JEFFRIES: What is the dimension of,
9 Mr. Passonneau, of your garage from the center line of
10 the alley?

11 CHAIRPERSON GRIFFIS: To the face of the
12 garage.

13 MR. AKOPIAN: Half feet.

14 CHAIRPERSON GRIFFIS: How much?

15 MR. AKOPIAN: Half feet. No, five and a
16 half. I'm sorry. Five and a half.

17 MR. PASSONNEAU: I'm sorry. I don't think
18 that's correct. What was your question again?

19 CHAIRPERSON GRIFFIS: I think it is. The
20 question -- Mr. Jeffries asked the question what is
21 the dimension from the center line of the alley to the
22 face of your garage. As was indicated earlier, he
23 measured 11 feet dimension so conceivably it's on the
24 face of it which would be five and a half feet so it's
25 probably between five, five and a half.

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1 Ms. Miller? Mr. Passonneau, how easily
2 can the garbage truck get through and where do you put
3 your garbage cans? Turn your microphone on, please.

4 MR. PASSONNEAU: We put our garbage out in
5 front.

6 CHAIRPERSON GRIFFIS: You have pickups out
7 front?

8 MR. PASSONNEAU: It's picked up as a city.

9 CHAIRPERSON GRIFFIS: Right. Out front,
10 not to the alley.

11 MR. PASSONNEAU: Not in the alley.

12 CHAIRPERSON GRIFFIS: Indeed.

13 MR. PASSONNEAU: You would have a lot of
14 trouble getting a garbage truck -- I don't think you
15 could get a truck into that alley.

16 CHAIRPERSON GRIFFIS: Okay. Any other
17 questions of the Board? Anything else you would like
18 to present?

19 MR. AKOPIAN: No.

20 CHAIRPERSON GRIFFIS: Can you just
21 summarize then at this point the -- okay, Ms. Miller,
22 why don't you ask a question.

23 MS. MILLER: I just want to make sure I
24 understand what this lot looks like from the back on
25 the alley. I don't know how many houses are on each

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1 side and how many have these decks and how many don't.

2 MR. AKOPIAN: Older houses on this row
3 have decks. There is no house without a deck.

4 MS. MILLER: All on what, your side?

5 MR. AKOPIAN: On this side or on that
6 side. Pick any side. I don't know what is behind
7 this fence, okay? It's not clear. I cannot say that.
8 On this side you can see the balconies right to the
9 property line.

10 MS. MILLER: That side being a fence?

11 MR. AKOPIAN: This side is all balconies
12 on property line except for these two. Maybe they are
13 like six feet difference between them.

14 MS. MILLER: So on both sides of the alley
15 they are all built out except for yours?

16 MR. AKOPIAN: Yes. This is the only
17 property that doesn't have a deck. The only one.

18 MS. MILLER: And how many are there?

19 MR. AKOPIAN: I didn't calculate. I'm
20 sorry. How many buildings?

21 MS. MILLER: Yeah.

22 MR. AKOPIAN: Maybe -- I don't know.

23 MS. MILLER: Six or seven on each side?

24 MR. AKOPIAN: Six or seven on each side,
25 yeah.

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1 MR. PASSONNEAU: Just on one side.

2 There's no building at all on the other side.

3 MS. MILLER: What do you mean there are no
4 buildings on the other side? Aren't they on both
5 sides of the alley?

6 MR. AKOPIAN: No decks.

7 MS. MILLER: No decks on one side?

8 MR. AKOPIAN: You can see they are
9 balconies.

10 MS. MILLER: Balconies.

11 MR. AKOPIAN: All two-story balconies.
12 First floor, second floor. This is the property line.
13 Right on the property line.

14 MS. MILLER: I'm trying to look at that
15 picture. They have fences and they have balconies.
16 Is that it? But not decks?

17 MR. AKOPIAN: Yeah, decks, fences, and
18 balconies. Except for that I don't know what this
19 property is.

20 MS. MILLER: And on your side they all
21 have decks?

22 MR. AKOPIAN: Yes, this type of decks.

23 CHAIRPERSON GRIFFIS: Across the alley are
24 the lots as deep in the rear as the applicant's site?

25 MR. AKOPIAN: I'm sorry?

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1 CHAIRPERSON GRIFFIS: Across the alley
2 those lots that we're looking at that you've indicated
3 have balconies, not decks, do they have the similar
4 rear yard?

5 MR. AKOPIAN: They don't have any rear
6 yard here because it's built 100 percent of the lot.

7 CHAIRPERSON GRIFFIS: Okay. Yes, Mr.
8 Mann.

9 MR. MANN: On the opposite side of that
10 board isn't there a plan of the whole square or the
11 alley or something that might be a help? When you
12 first started your presentation there was -- maybe it
13 would be easier to explain from that who has a deck
14 and who doesn't.

15 MR. AKOPIAN: Oh, from this drawing you
16 cannot see. It doesn't show any decks here. This is
17 Lee Bauer's property and this is that side but it
18 doesn't show any decks. This is from Office of
19 Planning where I got this.

20 MR. MANN: Right, but I was wondering if
21 you could use that to explain which ones have decks
22 and which ones don't.

23 MR. AKOPIAN: All of them here have decks.
24 There is no property that doesn't have. Some are
25 offset a little more than the other but all of them

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1 have decks.

2 MR. JEFFRIES: Excuse me. Decks that are
3 on top of garages that face the alley.

4 MR. AKOPIAN: Yeah, face the alley.
5 That's right.

6 CHAIRPERSON GRIFFIS: Good. Anything
7 else? So to summarize, what is your exceptional
8 situation?

9 MR. AKOPIAN: Exceptional situation is
10 that this building is 100 years old. It cannot
11 conform to today's normalcies and laws first thing.
12 Second thing, we have lot that reduces by six inches.
13 It's a little smaller than 22 feet so it's not exactly
14 regular. Those two things.

15 If we off set garage by 12 feet, seven
16 feet from the edge of alley, it doesn't leave garage.
17 I mean, it doesn't make sense to build a garage. But
18 if we push garage towards his property, there will be
19 no backyard left. It will be ridiculous thing to
20 build something like this.

21 CHAIRPERSON GRIFFIS: Okay. Anything
22 else? Have a seat and make yourself comfortable.
23 Let's go to the Office of Planning. Mr. McGettigan is
24 with us this morning.

25 MR. McGETTIGAN: Thank you, Mr. Chair,

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1 members of the Board. My name is David McGettigan
2 from the Office of Planning. I'll briefly summarize
3 our report. I'll note, in fact, we have some aerial
4 photographs that show the alley and you can see the
5 impact or how much the alley is really almost a wall
6 on either side of the alley already of fences and
7 decks, garages. I think that is an important point
8 that you call can see that photograph.

9 The Office of Planning is not convinced
10 that the applicant has made the test. There is no
11 exceptional situation that we found. The practical
12 difficulty that was apparent or the concern is that
13 this deck will be right on the alley. The alley is
14 only, I guess, 11 feet but the properties to the south
15 the structures are almost to the alley.

16 They are only six feet or so between this.
17 They have a very small rear yard. These structures
18 are going to be very close together. We are concerned
19 about continued encroachment on the light and air and
20 space in the alley that this garage would present. In
21 addition, there's concern about maneuverability as far
22 as additional encroachments on the alley could
23 inhibited car or traffic movements back there. The
24 alley is used for parking.

25 Those are our main concerns and I'll

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1 answer any questions that you have.

2 CHAIRPERSON GRIFFIS: Thank you, Mr.
3 McGettigan. It's interesting that you note the
4 encroachment in the alley and what is being presented
5 today is that we have this existing structure that was
6 built way before our zoning regulations were actually
7 put into place.

8 I guess as you point our attention back to
9 the aerial oblique photos of Attachment 4 in your
10 report, I'm looking at the photograph looking north is
11 what it's labeled, looking north.

12 Across the street isn't that what our
13 zoning regulations essentially move someone to do if
14 they were building new, that being you would have
15 direct because, as you see in the aerials, of course,
16 those properties don't have any circulation or alley
17 so if you had to comply with the regulations, we kind
18 of get a whole block of paved surface driveways.

19 Perhaps this is rhetorical, Mr.
20 McGettigan, but it just sparked a thought in my mind
21 how do we start accommodating without actually
22 ruining, as was testified today, the best block in the
23 District of Columbia with the most amazing houses
24 ever.

25 Whether we agree with that total level or

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1 not, certainly we can agree that they are
2 characteristic in the vernacular to the townhouse of
3 Washington, D.C. and are very stunning. Here we have
4 a situation as being presented of the unique
5 circumstance of a nonconforming building based on its
6 development history. How do we provide secure parking
7 for residents?

8 Now, noting the encroachment, it's
9 interesting to note that the alley is developed at 10
10 feet and has been testified today again and previously
11 in this application, I think I recall my notes saying
12 there was no discussion or there has been no new
13 information in terms of the resumption of alley pickup
14 of trash so this really is just residential access to
15 parking and to the townhouses.

16 Noting the concern, I'm wondering as we
17 put it into context, one, the specific circumstance of
18 this but then put it in the context of how one might
19 comply. Does that lend itself to any new thoughts,
20 Mr. McGettigan?

21 MR. McGETTIGAN: Well, I guess the notion
22 that it's necessary to have a secure garage and
23 whether that value could be weighed against the impact
24 of the garage on the alley to see which is more
25 important in the Board's mind to have, whether to have

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1 the structure here to provide secure garage and
2 maintain the design features of these structures or to
3 limit the impact on the space in the alley that the
4 garage presents and the privacy that the deck would
5 impede.

6 CHAIRPERSON GRIFFIS: Okay. Two last
7 things. Do you have any opinion -- I mean, this is
8 not -- in terms of what is being proposed. It's not
9 something the Board has not ever seen before. Here we
10 have, generally speaking, a row dwelling that has to
11 accommodate in the rear both outside usable space and
12 parking pad.

13 Is it not -- it seems to be fairly common
14 sense to me that it's a great balance of somewhat --
15 well, the dual utilization of the same area if you
16 could use the space for outside livability and also
17 park underneath it seems to be certainly more
18 efficient. How do we balance that openness with the
19 alley or the utilization of the entire rear yard area?

20 MR. McGETTIGAN: I think that is a good
21 point to think about the quality of life that the deck
22 would increase for that property and weigh that as
23 well.

24 CHAIRPERSON GRIFFIS: Thank you. Lastly,
25 you did in your report, which is an excellent report

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1 and, in fact, goes dramatically into a lot of
2 specificity, you calculated that the existing lot
3 occupancy was 65 percent. I don't know if you recall
4 this since it was some time ago. Did you make that
5 calculation or is that from the zoning administrator?
6 I only bring this up not to put you on the spot but
7 we've just been told by the applicant's representative
8 that the existing lot occupancy is 54.8 percent. I'm
9 just trying to balance all these figures here.

10 MR. McGETTIGAN: I'm not sure, Mr.
11 Chairman. I would have to look.

12 CHAIRPERSON GRIFFIS: Okay. That's fine.
13 I mean, we obviously have some discrepancies and, I
14 don't know, maybe the plans have changed or what have
15 you. It looks like you may have just calculated off
16 of the table from the zoning administrator because it
17 seems to follow fairly clearly the same dimensions
18 although different iterations of it. Okay. Anyone
19 else want to give Mr. McGettigan hard time? I mean,
20 any other questions? Ms. Miller.

21 MS. MILLER: I just want to follow up on
22 the maneuverability in the alley. There wasn't a
23 report in this case from DDOT, was there?

24 MR. McGETTIGAN: No, there wasn't.

25 MS. MILLER: I think I heard testimony

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1 today that it's fairly tight as it is but would this
2 detract very much from the maneuverability or just
3 leave it pretty much the same?

4 MR. McGETTIGAN: Well, because of the
5 existing garage to the east and the stone wall or
6 cement wall to the west if it doesn't go past those
7 two points, then I guess it would not -- it may not
8 cause too much maneuverability problems but you do
9 have to be able to get the cars in that garage. I'm
10 just not sure. It's still awful tight back there but
11 it could be functional. I'm not sure whether it would
12 be functional or not.

13 MS. MILLER: Maybe you could also just
14 clarify for me, it sounds like there are all these
15 houses on one side that have a deck or whatever except
16 this property and then there's a parking garage. What
17 is that, a parking lot? Maybe I misunderstood. I
18 just want to make sure I have the picture right of
19 this block. Is there a parking lot?

20 MR. McGETTIGAN: No. At the end there's
21 some open -- let me look at the -- before the alley
22 turns there is some open parking spaces there but
23 there is no parking lot. Earlier in the alley there
24 are some more parking spaces. You can see where it
25 opens up to the west on the oblique photos looking

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1 down.

2 CHAIRPERSON GRIFFIS: Is it your
3 understanding that those are private?

4 MR. McGETTIGAN: Yeah, I would --

5 CHAIRPERSON GRIFFIS: So essentially they
6 are just not whatever. From the photographs we can
7 see they are not necessarily very defined by any sort
8 of structure but that makes sense in the lot
9 themselves that run back to the alley that define the
10 10 feet.

11 MR. McGETTIGAN: Yes.

12 CHAIRPERSON GRIFFIS: So those guys are
13 essentially on grade or roughly around grade and drive
14 up. Okay.

15 MS. MILLER: Thanks.

16 CHAIRPERSON GRIFFIS: Anything else? Mr.
17 Jeffries.

18 MR. JEFFRIES: Mr. McGettigan, I guess I'm
19 having a little difficulty at this end of the world as
20 it relates to the adjacent neighbors able to build
21 these garages right off the alley with decks on top of
22 them. I mean, there already seems to be encroachment
23 of air and space and light and so forth. That seems
24 to be the context here. I guess if you could just get
25 me a little bit more comfortable with what the

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1 exception is here. I'm having some difficulty.

2 MR. McGETTIGAN: Well, the Passonneau got
3 a variance back in 1988 for it. I don't know about
4 the lot to the south. I guess the main concern is
5 that the additional deck on the garage is right on the
6 alley and 11 feet away there is a privacy fence but
7 there is a short yard and another house with balconies
8 on it.

9 There is only maybe 15 or 20 feet between
10 his structure and the windows of the house to the
11 rear. There is some landscaping and so forth behind
12 there but it still seems to have that activity on the
13 deck so close to the windows of the houses across the
14 alley. That's the main concern that I'm having with
15 it.

16 MR. JEFFRIES: I'm a homeowner in the
17 District like Mr. Bauer and I don't know exactly when
18 he purchased his home but if I were to purchase a
19 house and I saw my adjacent neighbors are able to
20 build the way they have on their lots, and then I come
21 to realize that I can't do that for any number of
22 reasons, I guess I'm just a little perplexed around
23 the recommendation.

24 MR. McGETTIGAN: The main reason for the
25 recommendation is that we didn't see that the tests

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1 were met.

2 MR. JEFFRIES: But the tests were met
3 obviously in other past cases.

4 MR. McGETTIGAN: That's correct.

5 CHAIRPERSON GRIFFIS: It's an interesting
6 position, I think, Mr. McGettigan, and I think his
7 report does it well. Picking up, Mr. Jeffries, what
8 you're saying is that clearly, I mean, we have the
9 order previous of the adjacent property. It's a
10 summary order so we don't have the substance of the
11 facts, findings, and conclusions so we can't really
12 get into the substance of it.

13 Mr. McGettigan has had to take a look at
14 this as he has charged in terms of a strict zoning
15 analysis and give it to us as what the analysis
16 produces. I think one of the things that Mr.
17 McGettigan has touched on, and correct me if I'm wrong
18 here in speaking for you but reading your report this
19 is what I gleaned, if not directly read.

20 That is we are looking at an increased
21 percentage of lot occupancy well beyond, and we need
22 to clarify this, but the initial application was over
23 80 percent -- over 83 percent lot occupancy. If I
24 understand OP's position it raises the concern of the
25 amount of relief that is going to be provided will

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1 start to impact this R-5-B zone.

2 Go ahead.

3 MR. JEFFRIES: Yeah, well, but, Chairman,
4 I guess -- well, Mr. McGettigan, as it relates to lot
5 occupancy on some of the other adjacent lots on that
6 block, I mean, is there any sense -- is there any way
7 that we could figure out because I'm just -- I mean,
8 if I can get comfortable with that, I'm fine but as I
9 look on some of these photographs, it seems that lot
10 occupancy on some of the adjacent lots is pretty
11 sizable.

12 I mean, I don't know what the exact
13 numbers are. Again, I'm just stepping out of this
14 ballpark of all the zoning regs and just look at
15 someone who wants -- bought a property here and looks
16 down the street and sees that a number of things have
17 been able to get through and then all of a sudden at
18 this late date I can't get it done. I'm just dealing
19 with just
20 basic --

21 CHAIRPERSON GRIFFIS: Bringing common
22 sensibility to our analysis?

23 MR. JEFFRIES: Yeah.

24 CHAIRPERSON GRIFFIS: I think that's a
25 great idea. Okay. No, I think you understood. I

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1 understand the point that this is -- who is to say
2 that some of these -- we haven't had testimony but who
3 is to say that some of these aren't existing
4 conditions that went all the way to the alley.

5 MR. JEFFRIES: Right.

6 CHAIRPERSON GRIFFIS: Okay. Ms. Miller.

7 MS. MILLER: Yeah. I just want to now
8 follow up on your point about the affect on the light
9 and air of certain houses across the alley and figure
10 out who they are. We have two letters of opposition
11 in the record coming from -- where is it? Exhibit 22
12 and 23. Oh, on Newport Place. Are those the houses
13 that you're talking about?

14 MR. McGETTIGAN: Yeah, the houses that I'm
15 talking about would be on Newport Place.

16 MS. MILLER: How many houses are we
17 talking about that would be affected?

18 MR. McGETTIGAN: Probably two.

19 MS. MILLER: We do have two letters.

20 MR. McGETTIGAN: I'm not sure which
21 addresses those two are.

22 MS. MILLER: One is 2123 Newport Place.

23 MR. McGETTIGAN: That could possibly be
24 the houses that are directly across the alley.

25 MS. MILLER: One is 2133. You're saying

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1 they would be affected because they have windows on
2 that side and the deck would --

3 MR. McGETTIGAN: And their houses are
4 almost to the alley. I mean, there's not much of a
5 distance between the rear yard so the deck -- I mean,
6 you can look over into their rear yard from this deck.

7 MS. MILLER: And did you say there is also
8 room for some landscaping for screening?

9 MR. McGETTIGAN: Yeah, there are some
10 plantings in that little bit of a rear yard that they
11 do have.

12 MS. MILLER: In their own property, the
13 Newport Place property?

14 MR. McGETTIGAN: Yeah.

15 MS. MILLER: Okay.

16 CHAIRPERSON GRIFFIS: Any other questions
17 by the Board for the Office of Planning? Yes, Mr.
18 Mann.

19 MR. MANN: Well, I don't have a question
20 so much for the Office of Planning as perhaps for you
21 or the rest of the Board. In Mr. McGettigan's report
22 he indicates that the applicant needs a variance for
23 five different reasons. It was unclear to me whether
24 or not we have accepted that, indeed, he needs it for
25 all five or as requested for the two.

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1 CHAIRPERSON GRIFFIS: That's an excellent
2 point. I think the one that was of discussion or
3 major discussion was from 101.5 which was prohibiting
4 new structures on lots that do not meet conditions of
5 2001.3. Probably not. Well, let me ask Mr.
6 McGettigan, have you looked at that again and has any
7 of that changed in your analysis or those are still
8 the areas of relief that are required?

9 MR. McGETTIGAN: Those are still the areas
10 of relief that are required. I think the Board has in
11 the past looked at relief from 2001.3 as covering
12 101.5, you need relief from both.

13 CHAIRPERSON GRIFFIS: Right.

14 MR. McGETTIGAN: If you are granting
15 relief from 2001.3 you are essentially granting relief
16 from 101.5.

17 CHAIRPERSON GRIFFIS: So really what it
18 brings us up to is the discussion of 2500.3 which is
19 not occupying more than 30 percent of the rear yard
20 for accessory buildings.

21 Mr. Mann, I guess directly to your
22 question is, yes. I think that all those are. We can
23 obviously have the applicant respond if they disagree
24 to that but I think they are all attended reliefs that
25 would be required and I think we would need to amend

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1 the application to reflect that.

2 MR. MANN: One additional question. Did
3 you ever, or did the ANC ever contact you? In your
4 report you indicated that there was no report from the
5 ANC. I was wondering whether or not you were ever
6 able to coordinate with them or if you had ever heard
7 from them.

8 MR. McGETTIGAN: It's so long ago I don't
9 remember.

10 MR. MANN: Nothing was entered into the
11 record that would indicate.

12 MR. McGETTIGAN: I don't recall. I'll
13 think about it.

14 CHAIRPERSON GRIFFIS: Very well. Does the
15 applicant have any cross-examination of the Office of
16 Planning?

17 MR. AKOPIAN: I have two points to make.

18 CHAIRPERSON GRIFFIS: Do you have
19 questions of Office of Planning?

20 MR. AKOPIAN: No questions.

21 CHAIRPERSON GRIFFIS: Okay. You'll have
22 time to make your points at the conclusion. As
23 indicated then in our discussion, we don't have any
24 other Government reports attended to this application.
25 The ANC-2B. Is anyone here representing the ANC this

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1 morning? Not noting any and we don't have a report in
2 from them, then let's go to people present that would
3 like to provide testimony. Is anyone here that would
4 like to provide testimony for Application No. 17090
5 either in support or opposition? Yes.

6 MS. PASSONNEAU: I would. I think the
7 objective --

8 CHAIRPERSON GRIFFIS: I'm going to need
9 you to come forward and have a seat. Just give us
10 your name and address.

11 MS. PASSONNEAU: My name is Janet --

12 CHAIRPERSON GRIFFIS: Hold on just a
13 minute. You aren't part of the record unless you're
14 speaking into that microphone.

15 MS. PASSONNEAU: I'm sorry.

16 CHAIRPERSON GRIFFIS: Very well. Let's
17 start. Your name and address for the record.

18 MS. PASSONNEAU: My name is Janet Vivian
19 Passonneau and I live at 2114 O Street. I'm Mr.
20 Passonneau's wife. As someone you lives in that alley
21 and endures the restrictions of people parking and
22 everything, one of the points I want to make is this
23 possible interference with light and the people on
24 Newport Place.

25 Everyone on Newport Place has parking

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1 behind their house and I'm pretty sure that their
2 cars, they drive SUVs, project into the alley. The
3 idea that this in anyway would interfere with them is
4 just absolutely out of sight. It's just not
5 reasonable.

6 CHAIRPERSON GRIFFIS: Thank you. Any
7 other questions from the Board? Ms. Miller.

8 MS. MILLER: I'm just wondering where does
9 Mr. Bauer park right now?

10 MR. AKOPIAN: Right now he's on active
11 military duty. Somebody else parks there.

12 MS. PASSONNEAU: To answer your question,
13 the people who rent that place park on the gravel.

14 MS. MILLER: On the gravel which is where?

15 MS. PASSONNEAU: Which is where the
16 proposed garage would be.

17 MS. MILLER: Oh. Thank you.

18 CHAIRPERSON GRIFFIS: Have you ever had
19 any complaints as being an adjacent property owner
20 with a deck on top of a garage looking into --

21 MS. PASSONNEAU: I think neighbors in
22 general are very happy with our deck which is filled
23 with plants and window boxes. Everybody comments that
24 it's a great addition to the neighborhood.

25 CHAIRPERSON GRIFFIS: Other questions from

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1 the Board? Thank you very much. Yes, why don't you
2 come forward. I knew we would get the whole room up
3 here to testify. Excellent.

4 MS. KENNEY: My name is Dale Kenney and I
5 live at 2110 O Street. I'm on the eastern side of the
6 Passonneau's and I'm in a wonderful position. I have
7 the good fortune of being on the second floor so I can
8 look down into the Passonneau's wonderful oasis in the
9 city because it really is lovely. They have lighting
10 that makes me feel so much more secure in the back.
11 It doesn't seem like an alley.

12 I think all of these decks, and I'm not
13 sure all of them went through the right procedures
14 but, anyway, I think they enhance things. It moves
15 people from the front of their houses to the back so
16 it's really a wonderful place to be. I have a back
17 porch and I'm out there all the time and I see things
18 going on. I think it's a very positive thing.

19 CHAIRPERSON GRIFFIS: If I understand what
20 you're saying in that point, you see that you may not
21 disagree with Mr. McGettigan's and the Office of
22 Planning's point that this would encroach on the
23 alley.

24 Your point is the balance of that, that
25 encroachment actually brings people back there which

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1 actually brings livelihood but in the same respects
2 brings some modicum of safety or some real security as
3 you have people back there that should be and they
4 essentially be able to monitor comings and goings.

5 MS. KENNEY: That's right. And people
6 enter their houses through the back now. It's changed
7 a lot over the last -- I guess I've been in the area
8 for 25 years. I would not want to say -- I don't know
9 what was written in the two letters that you have from
10 people on Newport. I suppose they have a point that
11 they might be looking out of their window at something
12 that's much closer than it is now.

13 CHAIRPERSON GRIFFIS: Why don't you
14 address a couple of the points that they have in their
15 letter. Quite frankly, the biggest point that they
16 make is the drainage off the alley. They are
17 indicating that a new garage roof would decrease the
18 soil area available to absorb rainfall runoff and
19 melting snow or ice.W

20 MS. KENNEY: Well, that's a question I
21 brought up earlier when I was talking to Mr.
22 Passonneau. I just heard that concern from a neighbor
23 but I'm wondering in the back of our property we have
24 drainage.

25 Mr. Passonneau, you have drainage in your

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1 back porch area, don't you? I mean, before you get to
2 the garage. You don't have any drainage? Well, we
3 do.

4 MS. PASSONNEAU: No, we don't.

5 MS. KENNEY: Well, we do. We have two
6 drainage holes in the back of our property and I'm
7 wondering if the same thing could be done in that --
8 on the Passonneau's property where the table is. If
9 there were drainage there, that could help I would
10 think.

11 CHAIRPERSON GRIFFIS: Sure. Well, what is
12 interesting to me is when you talk about the drainage
13 and their concern is the garage roof but there would
14 be nothing in my understanding prohibiting from the
15 zoning regulation standpoint of paving in that entire
16 area off the alley without a structure. If you pave
17 it in, it's the same situation whether it's 12 feet up
18 or 12 feet down.

19 MS. KENNEY: Everything else is paved back
20 there. Just in the last couple of years people have
21 come in and paved that whole thing. I think we are
22 slated to have a new surface put on the alley at some
23 point. They have promised us they are going to come
24 in and do that. I see they've done it in other parts
25 of the city.

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1 That would probably make a difference,
2 too, because right now that pavement is in pretty bad
3 shape. Now, if people who are living just opposite
4 this structure are really upset about that, I mean, I
5 don't know what to say but, from my point of view, and
6 Michael Warren was here, he's my upstairs neighbor, he
7 didn't have any objection either as long as what we've
8 heard about today is what's really going to happen.

9 We don't want to find out that the next
10 thing there is going to be three levels on this and
11 another something on top of the roof. If it's just a
12 patio, the person is doing what everybody has done and
13 it would be more attractive. It would be people who
14 can spend time out on that patio. It's going to
15 improve their quality of life. I think it's more
16 secure. I think it's prettier. If the Passonneaus
17 don't mind, because you two are going to be right next
18 to each other, I would go along with this. I don't
19 have any objection.

20 CHAIRPERSON GRIFFIS: Thank you. Any
21 questions from the Board? Mr. Jeffries.

22 MR. JEFFRIES: So Mr. Bauer does not live
23 there currently. This is not owner occupied. He will
24 never generally live in this building? I know he's
25 away on active duty. Okay. So when he comes back

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1 he'll be living there? Thank you.

2 MR. MANN: Has this budget been submitted
3 to the Historic Preservation Review Board? Or is it
4 required to be submitted to the Historic Preservation
5 Review Board?

6 MR. AKOPIAN: No, not to my knowledge.

7 MR. MANN: It's not required to be
8 submitted?

9 MR. AKOPIAN: Not to my knowledge.

10 CHAIRPERSON GRIFFIS: Okay. Ms. Miller.

11 MS. MILLER: I have a general question.
12 In evaluating this we have to evaluate three prongs of
13 the variance test. I just wondered if you could
14 address further your practical difficulty of complying
15 with the regulation, why you have to have this deck
16 and garage.

17 MR. AKOPIAN: Practical difficulty with
18 the off-setting garage for 12 feet. Is that what you
19 mean?

20 MS. MILLER: However you want to
21 articulate it but we have to meet three tests,
22 uniqueness and exceptional circumstance, practical
23 difficulty, and public detriment. I could use a
24 little more on the practical difficulty.

25 MR. AKOPIAN: Practical difficulty is that

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1 it's not possible to -- garage should be 18 feet wide
2 at least to accommodate the cars. If you do that,
3 there is four feet left in his backyard. Steps will
4 start from almost this window well which makes it
5 impossible. Using garage size by this requirement
6 will make no sense because there will be no garage
7 left, no deck. It's very narrow like six feet wide
8 deck so it doesn't make sense. That is the practical
9 difficulties.

10 Regarding the possibility to park car
11 there, you can see that the cars always park there.
12 Whether you build or deck or not doesn't make any
13 difference. Second thing regarding this melting snow
14 or whatever, if you build a deck or there is no deck
15 doesn't change anything in reality.

16 The neighbors on opposite side on Newport,
17 I don't know about the neighbor in front of the
18 Bauer's property but the next neighbor is about 15
19 feet from the fence offset so it's not like his
20 building is not on the property line. It's 15 feet at
21 least if not more.

22 Between Lee Bauer's property, garage, if
23 you calculate all this alley and this, it looks like
24 25 to 28 feet distance between the windows and the
25 deck. On this deck is not like the activities all

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1 day. Just a quiet deck maybe with lights providing
2 security and improving the quality of life. It's not
3 like activities going all the time there.

4 MS. MILLER: One other question. There
5 have been like similarities made between what your
6 deck is going to look like and what the Passonneau's
7 deck looks like. We see that the Passonneau's have a
8 very beautiful deck with all these plants, etc. Are
9 you planning on doing something similar?

10 MR. AKOPIAN: Exactly. That was the idea
11 of doing this project.

12 CHAIRPERSON GRIFFIS: Mr. Passonneau, how
13 does the water drain off of your deck or roof to your
14 garage?

15 MR. PASSONNEAU: It just drains into the
16 alley. There's no --

17 CHAIRPERSON GRIFFIS: Your microphone
18 needs to be on.

19 MR. PASSONNEAU: It just drains into the
20 alley..

21 CHAIRPERSON GRIFFIS: So your slab slopes
22 towards the alley?

23 MR. PASSONNEAU: It actually slopes away
24 from the alley. Good question. I don't know where
25 the water goes. It goes into the area between our

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1 house and the garage.

2 CHAIRPERSON GRIFFIS: Is that how you got
3 your existing pool? No, okay. So it actually slopes
4 towards your house. Interesting. Okay. Anything
5 else, Board members? Questions? Very well. Thank
6 you very much. Appreciate you coming forward. Let me
7 turn it over to you for any closing remarks you might
8 have.

9 MR. AKOPIAN: In addition what I want to
10 say is miscalculations between Mr. McGettigan and
11 myself is probably this portion. The property line we
12 have here is 95 feet. Part of this building produce
13 to the right-a-way. It is not included in the
14 property so they probably calculated this and that's
15 probably what did the difference times three stories.
16 That probably did the difference. Lot occupancy right
17 now, according to this plat, is 54.8 percent. Adding
18 this garage is adding just 18 percent which brings to
19 72 percent. That's all.

20 CHAIRPERSON GRIFFIS: Okay. Good.
21 Anything further from the Board? Questions or
22 clarifications? If not, we are going to set this off
23 for decision making on the 2nd of November. That's
24 when we have all our deliberations, decision makings.
25 As we have Office of Planning in opposition to this,

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1 it's going to take some time for the Board but also,
2 most importantly, and directly to you, we are going to
3 need calculations in.

4 It's fine to show us how you calculated
5 them. That should be pretty simple. That plat,
6 dimensions, square footage, etc., FAR and also lot
7 occupancy. You are also showing things that may have
8 changed, it seems. If so, or at least those are much
9 more readable than mine -- well, let me get a
10 clarification. In the past submissions have the plans
11 changed at all?

12 /MR. AKOPIAN: From these drawings I
13 eliminated walkway which is 55 feet which is reducing
14 the lot occupancy.

15 CHAIRPERSON GRIFFIS: Right. But what we
16 need is the actual plan.

17 MR. AKOPIAN: Okay.

18 CHAIRPERSON GRIFFIS: So you can put those
19 in also with that. Then the section that you've cut,
20 does it also reflect the removal of that?

21 MR. AKOPIAN: There are two sections. One
22 shows walkway and the other one doesn't show a
23 walkway. I need the one that shows the walkway.

24 CHAIRPERSON GRIFFIS: Make sense?

25 MR. MANN: It makes sense but I'm actually

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1 after listening to this presentation still not certain
2 which one is the proposal, alternative 1 or
3 alternative 2. If you would just indicate that in
4 what the Chairman has asked you to submit, that would
5 be very helpful to us.

6 MR. AKOPIAN: This is alternative 2 and
7 this is without walkway.

8 CHAIRPERSON GRIFFIS: And that's what you
9 are proposing now.

10 MR. AKOPIAN: Yes.

11 CHAIRPERSON GRIFFIS: So that's what we
12 are going to have submitted in and that's what we are
13 going to be deliberating on. Okay. Excellent.
14 Anything else from the Board?

15 Ms. Bailey, am I missing anything that we
16 are to have submitted in?

17 MS. BAILEY: No, Mr. Chairman.

18 CHAIRPERSON GRIFFIS: Okay. Thank you.
19 Also I'll keep the record open if you want to submit
20 any sort of narrative conclusions going to what I
21 think a lot of Board members were pushing, and that is
22 the special circumstance, the practical difficulty of
23 complying fully with the regulations and the intent
24 and integrity of the zone plan or the public good.

25 MR. AKOPIAN: The only thing I would like

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1 to request is if possible to postpone not to do it
2 November 2nd. I will be out of town on that day and
3 I cannot miss that if it is possible.

4 CHAIRPERSON GRIFFIS: Okay. Well,
5 actually, let me walk you through that very quickly
6 here. On November 2nd it's our public meeting which
7 is not a hearing. It's a time where no other
8 information is taken in. The record is full. It's
9 the time that the Board deliberates. We are going to
10 make our decision then.

11 There wouldn't be any opportunity for you
12 to interact with us or give us anything further. If
13 you would like to be here in person for that decision
14 making, I'll postpone but we can also go ahead and do
15 the 2nd without you being present. It's up to you.
16 I'll give you all availability but also note if it's
17 not the 2nd of November, it is the 1st Tuesday in
18 December which is some date in the future, December
19 7th.

20 MR. AKOPIAN: 7th of December?

21 CHAIRPERSON GRIFFIS: 7th of December or
22 the 2nd of November.

23 MS. MILLER: I just want to say something
24 while you're thinking about the date. Since you are
25 not going to be able to participate but you may want

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1 to hear the deliberations, we are on the Internet so
2 that if you are somewhere else you could actually
3 listen to it.

4 MR. AKOPIAN: Then there is no need to
5 change it.

6 CHAIRPERSON GRIFFIS: What is more
7 critical is whether you can get what you want in the
8 record by the 2nd which is actually not the 2nd but is
9 going to be next Tuesday. Can you do that? One week.

10 MR. AKOPIAN: Okay.

11 CHAIRPERSON GRIFFIS: Calculations, plans,
12 narrative.

13 MR. AKOPIAN: Submitted to?

14 CHAIRPERSON GRIFFIS: Here.

15 MR. AKOPIAN: Okay. Next room. Okay.

16 CHAIRPERSON GRIFFIS: That's doable?

17 MR. AKOPIAN: I will, yes. Next Tuesday.

18 I will.

19 CHAIRPERSON GRIFFIS: Excellent. Ms.
20 Bailey.

21 MS. BAILEY: Mr. Chairman, next Tuesday's
22 date is October 26th. That's for the submission of
23 the documents that were requested today. Did you plan
24 to leave the drawings on the easel and the
25 photographs? Did you plan to leave those with us?

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1 MR. AKOPIAN: If you need those I could
2 leave it with you. If you don't, I will take it.

3 MS. BAILEY: I don't want the board. I
4 want what is on the board.

5 CHAIRPERSON GRIFFIS: Right. Here is the
6 issue and she makes an excellent point. Anything you
7 presented today has to be in the record, has to be in
8 this folder. Most of this is but whatever isn't, for
9 instance, that plat on the bottom right is not. Also
10 the Atlas also is not. Some of those photographs are.
11 All that has to be in the record.

12 MR. AKOPIAN: I'll prepare the folder.

13 CHAIRPERSON GRIFFIS: Okay. Good.
14 Anything else? Thank you very much, Ms. Bailey.
15 Good. Thank you all very much. Again, the record is
16 over for that which we specified and only for that
17 which is specified. We will set this and deliberate
18 and decide on the 2nd of November. Appreciate it.
19 Good to see you all. Let's move ahead.

20 Ms. Bailey, is there any other business
21 for the Board this morning?

22 MS. BAILEY: Yes, Mr. Chairman. Tyrone
23 Brown case. The Board needs to make a decision.

24 CHAIRPERSON GRIFFIS: Have we receive a
25 letter?

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1 MS. BAILEY: Not that I'm aware of, Mr.
2 Chairman.

3 CHAIRPERSON GRIFFIS: Okay. Board
4 members, I say we -- oh boy. Let's continue this to
5 the 26th of October nothing the fact that we are
6 anticipating a letter of withdrawal. However, we have
7 two options, to deny the application or continue it
8 and make it available for them to provide that letter
9 of withdrawal unless there is any opposition to that.
10 Very well. Let's move ahead in that direction. Is
11 that sufficient, Ms. Bailey, you believe?

12 MS. BAILEY: Yes, Mr. Chairman. Thank
13 you.

14 CHAIRPERSON GRIFFIS: Anything else for
15 us?

16 MS. BAILEY: No, sir.

17 CHAIRPERSON GRIFFIS: Very well then. If
18 there is no further business from the Board, I would
19 adjourn the morning session of the 19th meeting.

20 (Whereupon, at 11:16 a.m. off the record
21 for lunch to reconvene at 1:23 p.m.)
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A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

1:23 p.m.

CHAIRPERSON GRIFFIS: Good afternoon, ladies and gentlemen. I'm calling to order the afternoon session of the October 19th public hearing at the Board of Zoning Adjustment. My name is Geoff Griffis, Chairperson. Joining me today is Vice Chair Ms. Miller and also our esteemed colleague Mr. Etherly will be out shortly. He's been temporarily detained.

Representing the National Capital Planning Commission is Mr. Mann. We are expecting a zoning commissioner shortly but we will proceed with our schedule as has been announced for this afternoon. Speaking of which, copies of today's hearing agenda are available for you.

They are located on the wall where you entered into the hearing room. Pick it up and see where you are on the agenda and what we will get through for the afternoon. Several very important things to go through in my opening statements.

First being, all proceedings before the Board of Zoning Adjustment are recorded. They are recorded in two important fashions. One is the court reporter sitting to my right is creating the official

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1 transcript. He's recording absolutely everything that
2 is said in the hearing room which will be part of the
3 record. Second, we are being broadcast live on the
4 Office of Zoning's website.

5 So attended to both of those and to the
6 conduct of the hearing, I ask people to please turn
7 off all their cell phones and beepers at this time.
8 I will also note that everyone must refrain from
9 making any disruptive noises or actions in the hearing
10 room as we proceed through every case.

11 When coming forward to speak to the Board
12 in order to be on the record you will need to do
13 several things. First of all, have a seat at the
14 table in front of us. Although prior to that I would
15 ask that you fill out two witness cards. Witness
16 cards are available at the table where you entered
17 into the hearing room and also the table in front of
18 us where you will give your testimony. Those two
19 cards go to the recorder who is sitting on the floor
20 to my right.

21 Then you will need to speak into a
22 microphone, state your name and address for the
23 record. You only need to do that once when starting.
24 That way we obviously can attribute all the important
25 aspects of your testimony to you in the written

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1 transcript.

2 The order of procedure for special
3 exceptions and variances is first we hear from the
4 applicant and their presentation of their case and any
5 witnesses they might have. Second we hear from the
6 Government agencies that are reporting on each
7 application.

8 Third, we will hear the report of the
9 Advisory Neighborhood Commission. Fourth would be
10 persons or parties in support of the application.
11 Fifth would be persons and/or parties in opposition to
12 an application. Sixth finally would be the
13 opportunity for the applicant to make any closing
14 statements or provide any rebuttal testimony as they
15 see fit.

16 Cross-examination of witnesses is
17 permitted by the applicant and parties in a case. The
18 ANC within which the property is located is
19 automatically a party in the case and, therefore, will
20 obviously be able to conduct cross-examination. The
21 record will be closed at the conclusion of each
22 hearing on a case except for any material that is
23 requested by this Board and we will be very specific
24 as to what material is to be submitted and when it is
25 to be submitted into the record.

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1 It's an important aspect to understand.
2 Our deliberations will be based solely on the record
3 that is created in front of us so that we ask that you
4 submit any information into the record in written form
5 or give oral testimony of it today while you're here.
6 Once our hearing ends no other information would be
7 able to get to the Board for our own deliberations.

8 Attended to that also we ask that people
9 present not engaged Board members in conversation
10 today based on the fact that we don't want to give the
11 appearance of receiving information outside of the
12 public record. The Sunshine Act requires that this
13 Board conduct all hearings in the open and before the
14 public. This Board may, according to the Sunshine Act
15 and its own regulations, enter into executive session.
16 Executive sessions are used for the purposes of
17 reviewing the record and/or deliberating on each case.

18 We will make every effort this afternoon
19 to complete our hearings by 6:00. I don't see much
20 difficulty in getting to that time frame this
21 afternoon but, obviously, if we do, I will update
22 people on what our schedule will be as we move
23 forward.

24 Let me go to -- I'm going to take up
25 swearing in those that are proposing or thinking about

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1 giving testimony. If you are going to provide
2 testimony before the Board, I would ask that you
3 please stand and give your attention to Ms. Bailey.
4 Ms. Bailey is sitting at the very far right here. She
5 is going to administer the oath.

6 (Whereupon, the witnesses were sworn.)

7 CHAIRPERSON GRIFFIS: Good. Thank you all
8 very much. And a very good afternoon to you, Ms.
9 Bailey, and also Mr. Moy who is representing the
10 Office of Zoning with us. At this time the Board will
11 entertain any preliminary matters that should be
12 brought to its attention.

13 Preliminary matters are those which relate
14 to whether a case will or should be heard today such
15 as a request for postponements, continuances, or
16 withdrawals or whether proper and adequate notice has
17 been provided. If you have a preliminary matter for
18 the Board's attention, I would ask you to come forward
19 and have a seat at the table in front of us. I will
20 first ask Ms. Bailey if she has any preliminary
21 matters that she is aware of for the Board's
22 attention.

23 MS. BAILEY: Mr. Chairman and members of
24 the Board, good afternoon. Yes, sir. There is and it
25 concerns Application No. 17223 of Carl Mintz. As of

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1 yesterday, Mr. Chairman, we did not receive the
2 affidavit of posting on this case.

3 CHAIRPERSON GRIFFIS: Mr. Houston, do you
4 have a preliminary matter for us?

5 MR. HOUSTON: The same one.

6 CHAIRPERSON GRIFFIS: Indeed. Why don't
7 we call the case and we'll get into it.

8 MS. BAILEY: Application No. 17223 of
9 Carol Mintz, pursuant to 11 DCMR 3104.1, for a special
10 exception to allow a second story rear addition to an
11 existing single-family semi-detached dwelling under
12 section 223, not meeting the side yard requirements
13 (section 405) and nonconforming structure requirements
14 (2001.3) in the R-4 District at premises 704 East
15 Capitol Street, N.E. (Square 987, Lot 805).

16 CHAIRPERSON GRIFFIS: Are you ready to go?

17 MR. HOUSTON: My name is Andre Houston.
18 I'm the architect for the job. I forgot to post it so
19 I'm asking for a postponement.

20 CHAIRPERSON GRIFFIS: Really. A
21 postponement. Until when?

22 MR. HOUSTON: The owners aren't going to
23 be here the week before Thanksgiving and the week of
24 Thanksgiving is probably not a good week. Otherwise,
25 as soon as --

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1 CHAIRPERSON GRIFFIS: You're saying the
2 23rd is not good?

3 MR. HOUSTON: Yes, that's right.

4 CHAIRPERSON GRIFFIS: Of November.

5 MR. HOUSTON: That's right. The 23rd and
6 the 16th.

7 CHAIRPERSON GRIFFIS: How about the
8 morning of the 30th of November?

9 MR. HOUSTON: That would be fine.

10 CHAIRPERSON GRIFFIS: Ms. Bailey, do you
11 see any -- let's look. You're indicating that
12 November 30th would work and is a possibility. I also
13 have an availability on the 9th of November in the
14 afternoon.

15 MR. HOUSTON: That would work, too.

16 CHAIRPERSON GRIFFIS: Okay. Now, in going
17 through the case, of course, that would give you
18 proper time for a posting. You need to check the
19 exact time that is required by the regulations but my
20 quick calculation means you've got to post it today or
21 tomorrow. Is that possible?

22 MR. HOUSTON: Yes.

23 CHAIRPERSON GRIFFIS: Do you have your
24 placard and everything and ready to go?

25 MR. HOUSTON: I can post it if that gives

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1 enough time. I can't remember what the regulations
2 are.

3 CHAIRPERSON GRIFFIS: It's 15 days. Is
4 that correct, Ms. Bailey? Fifteen days?

5 MS. BAILEY: Yes.

6 CHAIRPERSON GRIFFIS: And we're at the
7 19th now. Fifteen plus 19 is somewhat more than 20 so
8 whatever it is that will work.

9 MR. HOUSTON: We'll do it.

10 CHAIRPERSON GRIFFIS: Although, that's an
11 interesting point. We'll provide the date of the
12 postponed hearing so people will know if you post it
13 properly that that's what's happening. Also, though,
14 for the 9th I want to see, first of all, you submitted
15 drawings two on 8.5 by 11 hand drawn. The elevations
16 are getting close to a hard-line drawing which I think
17 is appropriate and the plan also.

18 What the Board would like to see is
19 something a little bit more definitive. Let me put it
20 in the context it's not something that we haven't
21 talked to about previously. Obviously if we were to
22 approve this, what we are approving are drawings that
23 are going to permit. We are going to need something
24 that gives us a little more definitiveness and there's
25 two aspects of that.

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1 One is for us to see what we are actually
2 looking at. Two is for you as representative of the
3 applicant because if it changes dramatically, there's
4 no reason why the zoning administrative in approving
5 a permit document wouldn't kick you out to say you
6 didn't get approval for what is showing there.

7 Something a little bit more definitive of
8 what is actually going to happen. I think there is
9 obviously a very strong case here. It is a 223.
10 There's a lot of support for it. There's been no
11 adverse impacts that's been shown. Office of Planning
12 actually did an excellent graphic for it but is that
13 really what we're looking at in terms of the massing
14 of the indicia. We're talking about the light and air
15 and privacy to the adjacent neighbors. It's certainly
16 something that as 223 requires and a special exception
17 does the graphic representation of it. Is that
18 possible by the 9th?

19 MR. HOUSTON: Yes.

20 CHAIRPERSON GRIFFIS: Okay. Obviously if
21 it's before the 9th that it's submitted, that
22 Wednesday before it will get to the Board. If not,
23 it's going to have to be presented at the hearing day.
24 I would rather not have it at the hearing date but
25 I'll leave that open for you.

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1 MR. HOUSTON: You want 20 copies?

2 CHAIRPERSON GRIFFIS: I don't. That's too
3 many for me to carry. Ms. Bailey, how many would you
4 like because that's more important.

5 MS. BAILEY: Yes, Mr. Chairman.

6 CHAIRPERSON GRIFFIS: To be clear, it
7 doesn't have to be an extensive amount. However, it
8 has to be a complete amount to show what we're
9 actually to be looking at. And, again, to reiterate
10 and be redundant, the point is for your own benefit if
11 you're going into permit we'll be approving stuff
12 you're going to have to get permitted so it ought to
13 be to that level. Okay. Anything else? Any other
14 questions?

15 MR. HOUSTON: Is the 9th then set
16 definitely?

17 CHAIRPERSON GRIFFIS: If you can make the
18 9th with all that, absolutely. Then it's set for the
19 second case in the afternoon. The first case is a
20 variance case so it's going to take some time. I
21 don't know, I haven't reviewed it. We have had a case
22 that has dropped off, or potentially will drop off.
23 We'll get this one through the second in the day and
24 if we have three that afternoon, then the Board will
25 stay late. Okay?

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1 MR. HOUSTON: Thank you very much.

2 CHAIRPERSON GRIFFIS: Sure. Certainly.

3 And you'll get that posted today or tomorrow.

4 MR. HOUSTON: Yes.

5 CHAIRPERSON GRIFFIS: Good. In which case
6 let's move on and call the next case in the afternoon.

7 MS. BAILEY: Mr. Chairman, I'm going to
8 read the next case as it's advertised but the Board
9 should be mindful that there has been some adjustment
10 made to the relief that is being requested.

11 Application No. 17192 of the National
12 Capital Revitalization Corporation, pursuant to 11
13 DCMR 3104.1, for special exceptions pursuant to
14 sections 353 (New Residential Development) and 2516
15 (Theoretical Lots), and pursuant to 11 DCMR 3103.2, a
16 variance from the floor area ratio requirements under
17 section 402, a variance from the lot occupancy
18 requirements under section 403, a variance from the
19 rear yard requirements under section 404 and a
20 variance from the theoretical lot requirements under
21 subsection 2516.5(b), to construct 209 single-family
22 row dwellings in the R-5-A District for property
23 bounded by Fort Lincoln Drive, N.E., 31st Place, N.E.,
24 South Dakota Avenue, N.E., and 33rd Place, N.E.
25 (Square 4325, Lots 38, 39 and 40).

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1 CHAIRPERSON GRIFFIS: That's a mouthful.
2 Very well. Why are we here? No, let me turn it over
3 to you. Let is obviously a continuation of a case the
4 Board is very familiar with. We have new submissions
5 which are very informative. Obviously a lot of work
6 has gone into this. Why don't we just introduce for
7 the record and then you can indicate where you want to
8 proceed with this this afternoon.

9 MR. DePUY: Thank you, Mr. Chairman. For
10 the record, I'm Jacques DePuy, attorney with
11 Greenstein, DeLorme and Luchs. Appearing with me as
12 co-counsel is Stephanie Baldwin. Our witnesses today
13 are Mr. Will Collins who represents Fort Lincoln
14 Pulte, LLC and who testified previously before the
15 Board on this case. And Mr. John Amatetti from VIKA
16 who is a civil engineer who did not previously testify
17 but his colleague, Mr. Kyle Oliver, who is also here,
18 did previously testify.

19 In the audience, Michelle Hagans who
20 represents the venture which is developing this and
21 who testified previously, and Don Pross who is with
22 NCRC, National Capital Revitalization Agency, are also
23 here but not expected to testify unless there are
24 questions from the Board.

25 I would simply like to say at this point

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1 before calling Mr. Collins that in addition to the
2 exhibits that have been submitted to you with our
3 supplemental statement, we also have with us today an
4 additional revised landscape plan that responds to
5 some concerns raised by the Planning Office in its
6 report and Mr. Amatetti will address that.

7 We have elevations of the Parker and
8 Oakley models which were not available previously and
9 were not able to be submitted with the supplemental
10 prehearing statement. We have those for the Board.
11 We also have a zoning computation chart which shows
12 the prior application and all the variances requested.
13 The revised application, which is our supplemental
14 statement, requests only FAR variances. All other
15 variances have been eliminated.

16 If there are no questions of me, I would
17 like to call Will Collins, our first witness.

18 CHAIRPERSON GRIFFIS: We still have a
19 special exception also.

20 MR. DePUY: We have two special
21 exceptions. That's correct.

22 CHAIRPERSON GRIFFIS: Okay. Wait one
23 second. Who else is here today present that is going
24 to be testifying for 17192? Is anyone anticipating?
25 Is the ANC represented today, 5-A? Anyone else? Is

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1 he going to provide testimony? Okay. Let me just run
2 through this a little bit.

3 Obviously we have a lot of changes to the
4 original application. What we are going to do is run
5 through. Obviously I have to call every segment of
6 it. I don't anticipate a full-blown re-hearing of
7 this, a continuation or a redo, however we want to
8 characterize it.

9 This is what I anticipate at this point.
10 We'll have you update us on the new summations and go
11 through all that information. We'll obviously hear
12 from Office of Planning and their -- it may not be so
13 obvious -- with the Office of Planning, but we do have
14 a supplemental report from the Office of Planning
15 which the Board will get into and deal with you on.

16 Then I'm going to call anyone else here in
17 whatever kind of order we need to. It doesn't seem
18 like that will be that much time in the ANC. You
19 don't anticipate the ANC being here today, do you?

20 MR. DePUY: No. A letter was submitted
21 yesterday for Mr. King which should be in the record.
22 We have duplicate copies as well.

23 CHAIRPERSON GRIFFIS: Okay. It's Exhibit
24 57, I believe. Okay. 37, yes. Good. All right. So
25 there it is.

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1 MR. DePUY: Thank you, Mr. Chair, and
2 members of the Board. We'll proceed by calling mr.
3 Will Collins, our first witness. Mr. Collins.

4 MR. COLLINS: Good afternoon, Mr.
5 Chairman, and members of the Board. My name is
6 William Collins. I am a member and manager of Fort
7 Lincoln Pulte, LLC. Thank you for the opportunity to
8 present our revised application. Since the public
9 hearing held on July 20th we have diligently worked
10 with the Office of Planning to develop an improved
11 site plan. As a result of these efforts we have
12 developed the plan which addresses many of the
13 concerns previously raised by the Board and the Office
14 of Planning.

15 Our previous submission sought variances
16 from the maximum lot occupancy for 126 lots, minimum
17 rear yard depth variances for 53 lots, minimum front
18 yard depth variances for 139 lots, and maximum floor
19 area ratio variances for 192 lots.

20 Through the introduction of two new
21 townhome plans and a site plan which more effectively
22 deals with the significant topography of the site we
23 are pleased to present an application which now seeks
24 variances for only the maximum floor area ratio
25 requirements for 114 lots.

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1 While John Amatetti and Kyle Oliver from
2 VIKA Engineering will speak to the specifics of the
3 site plan and why we are seeking relief to the FAR
4 requirements, I would like to touch on some of the
5 major revisions made from the previous submission.

6 By introducing two new product lines which
7 provide for rear-loaded garages we believe that our
8 revised plan will dramatically enhance the Fort
9 Lincoln street scape. I would like to point to the
10 elevations that we show over here of the new unit
11 types that will front both Fort Lincoln Drive and 31st
12 Place. We think it's a dramatic improvement and is a
13 definite benefit for this community as well as Fort
14 Lincoln overall.

15 The Office of Planning has raised the
16 concern of a private vehicular street with no
17 landscaping. We have had discussions with the Office
18 of Planning and we do plan to detail significant
19 shrubbery plantings between each unit within the
20 street at such time that the final site plan for this
21 project is prepared.

22 The revised site plan simplifies the
23 street pattern within the development and reduces the
24 amount of impervious surface shown in the previous
25 submission. We have established a significant tree

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1 preservation area over the center of the site which
2 will be protected through a number of actions
3 recommended by the Office of Planning.

4 The revised plan provides for increases in
5 the average lot size through the addition of both
6 front and rear yard depth, as well as an increase in
7 visitor parking spaces. We have presented the revised
8 plan to ANC-5A and we are pleased to have the
9 overwhelming support of the community for this
10 project.

11 I would like to thank Mr. Joel Lawson from
12 the Office of Planning for his efforts over the past
13 three months. The revised application before you has
14 clearly been developed through a cooperative effort
15 with the Office of Planning. We greatly appreciate
16 staff's effort to create a plan which addresses the
17 constraints of the property, yet provides for a
18 quality residential community which will offer middle
19 income home buyers the opportunity to live within the
20 Fort Lincoln community.

21 At this time I would like to introduce Mr.
22 John Amatetti of VIKA Engineering who will now provide
23 you with the specifics of the revised plan.

24 MR. AMATETTI: Members of the Board, my
25 name is John Amatetti. I'm with VIKA Inc. We are

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1 civil engineers, planners, landscape architects and
2 surveyors. I think I need to stand up and probably
3 use this because I would like to present the new
4 boards.

5 CHAIRPERSON GRIFFIS: That's fine. You
6 can use the hand held or, if you are going to be close
7 enough to one board, that mike actually you can pick
8 up. If that one is working it's easier, the hand
9 held.

10 MR. AMATETTI: This one?

11 CHAIRPERSON GRIFFIS: Yeah.

12 MR. AMATETTI: I think it's working.

13 MS. MILLER: While they're setting up I
14 just wanted to ask you how much are these homes going
15 to be selling for? What is the middle income range?

16 MR. COLLINS: We anticipate the opening
17 base prices for the townhomes to range between
18 \$275,000 and \$295,000. The higher units would
19 obviously be the end units. That's the anticipated
20 sales base prices. Obviously, as you remember from
21 the previous application, our application has shown
22 the option to put extensions on these units.

23 We did that for all the units and all of
24 our FAR calculations, everything is based on someone
25 choosing 100 percent of the options. We clearly don't

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1 view that as happening but I just wanted to make sure
2 that it was clear that is the base prices and there
3 are a good number of options that can be purchased
4 with these homes.

5 MR. AMATETTI: The lots that we're asking
6 for the variances we prepared an exhibit that I found
7 not to be very understandable and I wanted to show it
8 to you. Basically I highlighted the original
9 application and this revised application and the
10 number of variances that were originally requested and
11 what are being requested with this application. I
12 thought a more appropriate exhibit would be to
13 highlight the revised plan.

14 CHAIRPERSON GRIFFIS: I kind of like that
15 one. It looks like a ballot, doesn't it?

16 MR. AMATETTI: It is dramatic.

17 CHAIRPERSON GRIFFIS: I don't know why
18 that comes to mind.

19 MR. AMATETTI: A highlighted plan that
20 shows in green the actual lots that variances are
21 requested for. I wanted to start with this just to
22 show you the general location of these lots. They are
23 all interior lots. To really understand the practical
24 difficulty that we are facing on this sight, we came
25 up with some other exhibits that I thought would

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1 dramatically indicate and show exactly what we are
2 trying to deal with. The first of which is the
3 topography of the sight.

4 The areas that you see highlighted in red
5 are steep slopes that are 25 percent or greater.
6 those are fairly significant slopes. The yellow areas
7 are slopes that are between 15 and 25 percent which
8 are also exceptional.

9 As you can see from this graphic, not only
10 do we have steep slopes but they are concentrated in
11 certain areas and they create a practical difficulty
12 of having to deal with issues such as access, issues
13 such as where we make connections on the streets, how
14 we run the internal streets, and also how we grade
15 this property out.

16 What exacerbates this practical difficulty
17 is the type of soils that we're on here. We're on
18 marine clay type deposits which are unstable soils,
19 soils that are typically best left undisturbed in very
20 steep areas. Soils that are better and more stable in
21 a flat configuration meaning retaining walls and so
22 forth to try and stabilize these areas. Also these
23 marine clays are very plastic clays and they tend to
24 swell when they get wet.

25 What that means is that you usually don't

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1 want basements in a marine clay situation. If you
2 have basements and you have that clay up against the
3 basement, when it gets wet and it swells, it can
4 actually put some significant forces on the basement
5 wall and it creates some tremendous practical
6 difficulties in dealing with that situation.

7 Those two issues play together as well as
8 the practical difficulty of having an existing street
9 alignment and needing to meet public streets at
10 specific places to create functioning intersections.
11 There's a need to make a connection at this point here
12 and there's a need to make additional connections up
13 on Fort Lincoln Drive.

14 The way the topography on the site flows,
15 it flows basically from Fort Lincoln Drive being the
16 highest areas down to South Dakota Avenue being the
17 lowest areas so they are steeply falling in this
18 direction. What that means is that any arrangement of
19 these streets wants to be longitudinal to those
20 slopes, not basically trying to come down and deal
21 with those steep grades. That creates a practical
22 difficulty of a street arrangement that wants to be
23 longitudinal to the slopes.

24 In this case we have a street on the
25 northern end of the project that runs longitudinal at

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1 the high end of the sight and then a couple of streets
2 on the southern end that run longitudinally to that
3 topography. That gives us a situation where we can
4 deal better with both the topography as well as the
5 soil conditions. With respect to the site plan that
6 we've prepared --

7 MR. MOY: Excuse me, Mr. Chair. May staff
8 ask if this is the same steep slope map that's in the
9 exhibit under Tab H?

10 MR. AMATETTI: It is, yes.

11 MR. MOY: Thank you.

12 MR. AMATETTI: One of the desires that we
13 have is with the introduction of retaining walls and
14 so forth to stabilize the site is not to have these
15 retaining walls located on individual lots. It's a
16 preference for these walls to be in common areas and
17 to be maintained by the HOA.

18 Also, it's not desirable to have steep
19 slopes on individual lots for maintenance
20 considerations as well. What we've come up here with
21 is a graphic that indicates the practical difficulties
22 as they relate to each one of the townhouse sticks
23 color coded.

24 In the yellow area here we have the
25 practical difficulty of retaining walls and those

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1 would be the walls adjacent to South Dakota Avenue
2 necessary to deal with the steep slopes and necessary
3 to deal with the soil conditions and wanting to
4 maintain those walls on common open space.

5 In the blue areas we have the practical
6 difficulty of shallowness in the shape of the property
7 in order to meet FAR. That would be this area down in
8 here and the narrowness that the lot gets down in that
9 area. As well as here based on the practical
10 difficulty of needing to run the streets
11 longitudinally to the slopes which constrains the area
12 that the lots could be placed in.

13 The green area is a practical difficulty
14 of bearing the lots in order to meet FAR. That would
15 be like bearing the garages or some portion of the
16 unit in order to reduce the FAR. The difficulty up in
17 this area which I have a section sheet which is also
18 an exhibit that's in your package. As I said before,
19 the practical difficulty relates to the soil
20 conditions and the need to really have slab-on-grade
21 construction in these types of soil conditions.

22 The red areas are the practical
23 difficulties of exceptional steepness in topography in
24 these areas. Once again, that's not to bring the lots
25 out so that the lot areas are encumbering steep slope

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1 areas which will become the homeowner's responsibility
2 to maintain.

3 We thought this would help break up the
4 presentation so that you could understand what we were
5 dealing with with respect to needing to make a
6 connection here: running a longitudinal road that
7 parallels the contours; not being able to bury
8 basements and bury garages and/or livable portions of
9 the unit; and the need to deal with the exceptional
10 steepness of the site from north to south by the
11 introduction of retaining walls.

12 All of the retaining walls have been moved
13 off of the lots. We don't have any retaining walls on
14 people's individual lots. We've tried to deal with
15 the retaining walls in what I call a pedestrian scale,
16 a scale to where they are not 20-foot retaining walls
17 and they are broken up into a series of retaining
18 walls which eats up additional ground which plays to
19 the fact that you could put a 20-foot retaining wall
20 down here and lose the other two walls and extend the
21 lot but the need to deal with the slope creates a
22 difficulty of needing to deal with a certain grade but
23 also to deal with it in an appropriate way so that
24 it's at a pedestrian scale.

25 In addition, because of the type of soil

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1 conditions it's also better that the walls be at a
2 smaller height and broken into a series of walls. We
3 have done that both on the south end along South
4 Dakota Avenue. It's a little bit more difficult to
5 read on here but also we've dealt with it on the north
6 sides of these lots over here stepping the walls.

7 I'm going to show you a landscape plan
8 here shortly which also shows while we are introducing
9 those walls we also have agreed to provide landscaping
10 between the walls to soften that effect.

11 This graph, which is also in your packet,
12 shows sections cut at particular places through the
13 site. Section 1 on the top is cut on the west end.
14 Section 2 and 3 are more or less in the center, and
15 Section 4 is all the way on the east side.

16 What we are trying to represent with this
17 section is based on the practical difficulty of not
18 being able to bury portions of these units in these
19 marine clay soils and so forth dealing with the
20 stability.

21 We've got to basically create a plateau up
22 here. Section 2 is probably the best one to look at.
23 A plateau for the two rows of units up at the high end
24 deal with the grade coming down to the other two rows
25 of units at the low end and then ultimately having to

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1 deal with the low grade at South Dakota Avenue.

2 You can see how we've broken that up into
3 a series of walls on South Dakota Avenue. We show one
4 retaining wall here but there are other portions on
5 the plan where there's multiple walls at the rear of
6 those units.

7 With respect to the landscape plan that we
8 came up with, one of the things, by the way, was
9 because of the type of soil --

10 CHAIRPERSON GRIFFIS: Would you just pull
11 up a section again? We have one quick question. What
12 I'm going to try and do is have a whole bank of
13 questions at the end but as specifics come up --

14 MR. AMATETTI: Certainly.

15 CHAIRPERSON GRIFFIS: -- I'm going to have
16 people ask.

17 MR. ETHERLY: Thank you very much, Mr.
18 Chairman.

19 Mr. Amatetti, just very quickly, with your
20 discussion regarding the retaining walls, could you
21 indicate on the section that you have up, which I
22 believe is labeled sheet 7 under tab E --

23 MR. AMATETTI: Yes, sir.

24 MR. ETHERLY: -- in the submittal. Could
25 you indicate if your retaining walls were not placed

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1 where they are presently at right now, what would have
2 been the alternative placement or what would have been
3 your other recourse for the placement of those
4 retaining walls?

5 MR. AMATETTI: Well, I have a grading plan
6 that if I could put up I think it would help me answer
7 that question.

8 MR. ETHERLY: Okay. Excellent. Thank
9 you.

10 MR. AMATETTI: If I think I understood
11 your question, it was this wall that's in the back
12 here at the back of these units, what other
13 alternatives we would have for the placement of that
14 wall or is it also the walls right up on South Dakota
15 Avenue?

16 MR. ETHERLY: Let's just deal with that
17 wall there.

18 MR. AMATETTI: This wall right back here
19 which you were pointing at? That wall could be
20 located -- doesn't need to be necessarily located
21 precisely where we have it. The reason why we chose
22 this location here is it gave us enough room from the
23 rear of the lots to the wall to create a drainage
24 swell so that we would have a level area for the lots
25 and then the water would go down into a swell area

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1 that would be off the lots once again in a common
2 area.

3 Then the grade would go up like a four-to-
4 one slope to the wall. We chose to put the wall at
5 the low end of the site rather than at the high end
6 primarily because of the type of wall we are
7 considering. We are considering stone gravity wall
8 which is best to put in what I call a cut wall
9 situation.

10 That would be a wall where you are
11 basically kind of cutting into the slope and then
12 putting drainage material and so forth behind it
13 because these walls are also -- you have to still deal
14 with the marine clays and so forth even though they
15 are gravity walls.

16 They seem to work best in these situations
17 with these type of soil conditions rather than walls
18 that are like reinforced concrete walls and walls that
19 are like -- I can't remember the name of the walls --
20 keystone type walls and so forth. We've had much more
21 success with these type of walls in these marginal
22 soil conditions. That's one of the reasons why we
23 chose that location rather than placing it at the top.

24 Also, in this particular situation right
25 in here by placing that wall there, we were able to

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1 leave a fairly large area undisturbed. That was
2 important to us as well from the standpoint of, as I
3 said earlier, dealing with those marginal soil
4 conditions the best thing is to leave them undisturbed
5 in a lot of instances.

6 MR. ETHERLY: Okay.

7 MR. AMATETTI: Once we had decided that
8 from drainage standpoint and from a low station
9 standpoint this wall seemed to be in the most
10 opportune place here, we carried it through so that we
11 would be able to uniformly landscape the area.

12 MR. ETHERLY: Okay. Thank you. Thank
13 you, Mr. Chair.

14 MR. AMATETTI: That was a long answer to
15 a short question.

16 MR. ETHERLY: But it was what I was
17 looking for. Thank you, sir.

18 MR. AMATETTI: With respect to -- put this
19 one down now. We're good engineers. We just can't
20 operate these --

21 This is a landscape plan that we came up
22 which, given your question, is an opportune lead-in to
23 showing that these areas here, which kind of have a
24 stipple kind of appearance to them, are areas where we
25 are going to maintain the site in an undisturbed

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1 condition. Undisturbed from the standpoint of we're
2 not grading in it. Undisturbed in that we are
3 maintaining whatever vegetation is in that area.

4 Also I believe the applicant has made a
5 commitment to actually fence these areas during
6 construction so they remain undisturbed and they
7 actually are maintained in a condition where they
8 don't die about a year after the project because
9 everybody was running through there with vehicles.

10 We also have an area down in that end
11 which we've left undisturbed. Most of the rest of the
12 site is being disturbed and, therefore, being
13 revegetated. The large green circles are deciduous
14 shade trees which could be of a varying palate. One
15 of the comments, I believe, from staff was that they
16 prefer us to use native materials.

17 I don't think we have an objection to that
18 at all. We're prepared to come up with a list of
19 materials. A lot of people like native materials and
20 we do, too, because they do better in the natural soil
21 conditions that you are dealing with. There are also
22 other materials that are desirable meaning they are
23 not necessarily native but they are desirable.

24 One of the reasons why you like to bring
25 in different types of material is because you like to

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1 vary the type of materials so that you don't have too
2 much of one type of landscaping in case there is some
3 sort of a blight or something you don't end up losing
4 everything. We've come up with a list both for the
5 ornamental and the native trees. The ornamentals, by
6 the way, are the pinkish color.

7 There is a palette of native material as
8 well as desirable types of materials. I can read that
9 list to you if you would like but it includes a lot of
10 the landscaping material that we originally had
11 submitted but it also supplements it. It includes
12 things like sourwoods and swartia and redbud and the
13 like that are native materials to t his area.

14 What we've shown on here is not just the
15 landscaping in the common areas but also we've taken
16 this opportunity to show some of the landscaping on
17 the lots. As we'll testify to, we're not showing the
18 foundation plantings here.

19 There are going to be shrubs and things
20 like that which we're not showing on here but we're
21 just showing the large landscape material, the
22 deciduous trees, the ornamental trees, evergreen
23 trees, and small evergreen trees as well. What we
24 tried to accomplish here was to soften the front edge
25 of the wall which will be visible from these lots.

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1 Also to intermix the materials to create
2 what hopefully over time will become what appears to
3 be like a natural type condition. Also some
4 presentation landscaping along the streets to create
5 like a street scape type of scenario.

6 I will tell you that the detention on this
7 site was a particular hurdle due to the fact that
8 because of the soil conditions and because of the
9 steep slopes we really didn't have much of an
10 opportunity to provide detention in a standard format
11 so our detention that we are providing, which is
12 actually more standard in the District than most,
13 would be underground detention.

14 CHAIRPERSON GRIFFIS: What are you
15 detaining?

16 MR. AMATETTI: We are detaining the
17 increase in runoff between the site --

18 CHAIRPERSON GRIFFIS: Water, right?

19 MR. AMATETTI: Water. I'm sorry -- in its
20 natural condition to its developed condition. The
21 detention system will be down under this cal-de-sac
22 area. We will be treating both quantity and quality
23 meeting the District's standards.

24 CHAIRPERSON GRIFFIS: How are you going to
25 do it? Are those underground tanks?

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1 MR. AMATETTI: Underground vaults.

2 CHAIRPERSON GRIFFIS: Those are also --
3 that's an area that you are going to have to in-fill.
4 You are backfilling into that because that's one of
5 the largest slopes down. Is that correct?

6 MR. AMATETTI: That's correct. If I can
7 have the grading plan please --

8 CHAIRPERSON GRIFFIS: That's okay. I
9 think I understand.

10 MR. AMATETTI: It's actually a fill area
11 where we are creating some walls in here and burying
12 those tanks underneath there.

13 CHAIRPERSON GRIFFIS: I'm not an engineer,
14 although everyone else on the Board is.

15 MR. AMATETTI: Okay.

16 CHAIRPERSON GRIFFIS: How does the water
17 get to that one little area on this entire huge site?

18 MR. AMATETTI: This entire site flows in
19 this direction naturally. Most of the -- it's kind of
20 hard to see on here but this will be good to point at.
21 Everything is flowing this way. Right now the way
22 that it gets picked up is inlets and so forth along
23 South Dakota Avenue.

24 What we're going to be doing is pitching
25 everything to this street. We have a complete

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1 internal drainage system, closed conduit, underground
2 pipes, inlets and the like not unlike public street
3 type configurations even though these are private
4 streets. Also designed, by the way, to public street
5 standards, that the storm drain system be designed to
6 meet the District's public --

7 CHAIRPERSON GRIFFIS: Okay. Hold on just
8 a second. We have other participants that are here
9 that may be interested in this issue. If you want to
10 bring your chair over and see this, not only is it
11 hard to read because of the lightness of line but
12 these are hard to read just on the substance.

13 I don't want you to be sitting here having
14 to see this again. Pull a chair if you need to on the
15 floor. Okay. So what I'm understand you saying is
16 that you have these big holes in the road like public
17 street roads which me and my bike always fall in.

18 MR. AMATETTI: Well, inlets. Catch basins
19 along the curb inlets.

20 CHAIRPERSON GRIFFIS: And they are often
21 on the corners. Sometimes they are in mid-street and
22 you are putting all those up. Obviously the water is
23 going to run where it's surfaced or hard surface. It
24 runs into those, runs into the pipes --

25 MR. AMATETTI: Runs down here.

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1 CHAIRPERSON GRIFFIS: -- get collected and
2 all goes to the cul-de-sac.

3 MR. AMATETTI: It gets collected and runs
4 down to here. This system runs completely down to
5 here. Everything comes to a confluence at this point
6 and then runs down to here and through the detention
7 system.

8 CHAIRPERSON GRIFFIS: Okay. Then you've
9 got five guys below grade that is cleaning the water
10 and then it goes where?

11 MR. AMATETTI: Then it goes and makes a
12 connection to the public system on South Dakota Avenue
13 underground.

14 CHAIRPERSON GRIFFIS: Good. Okay. Now,
15 you say you have inlets all along South Dakota Avenue.
16 Those are the public?

17 MR. AMATETTI: There are inlets here and
18 here and here and here.

19 CHAIRPERSON GRIFFIS: All those lots that
20 are just north of South Dakota are below the main
21 piping to the conduit. How are those drained?

22 MR. AMATETTI: They drain in the same
23 direction. They all go down this way.

24 CHAIRPERSON GRIFFIS: And then they
25 connect into the common.

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1 MR. AMATETTI: Correct.

2 CHAIRPERSON GRIFFIS: Is that filtered
3 water that's going into the common?

4 MR. AMATETTI: No. This is street water
5 and it's not filtered at all.

6 CHAIRPERSON GRIFFIS: I'm saying off of
7 your property. I don't care about --

8 MR. AMATETTI: The only water -- all of
9 our water except for the rear -- oh, the rears are
10 picked up too? I'm sorry. Oh, just form the wall
11 down. Remember, the wall is at several levels. A
12 drop of water hits that wall, would run down the face
13 of the wall, go through a sloped area, run down the
14 face of another wall.

15 That little amount of water is what would
16 go into the public street. It's significantly less
17 than what goes there now. What we're doing is
18 collecting all our water. Kyle corrected me. There's
19 a storm drain system at the rear of these lots, too,
20 to pick up from the center of the roof back to the
21 rear of the lot so that we've got these parallel storm
22 drain systems that are running this way to take the
23 load off of the public system and the street.

24 CHAIRPERSON GRIFFIS: So if I own property
25 south of South Dakota Avenue, I'm lucky enough to have

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1 2,000 feet of frontage on South Dakota Avenue. The
2 only water I'm worried about off of this property is
3 from that two-tired retaining wall?

4 MR. AMATETTI: Yes, sir. After
5 development.

6 CHAIRPERSON GRIFFIS: Okay.

7 MR. AMATETTI: Back to landscaping. So we
8 showed the landscaping on the lots themselves. Some
9 of these units, in particular this area right here,
10 are what we call rear-loaded units where the driveway
11 comes in to the rear. The front of the unit actually
12 is what's facing Fort Lincoln Drive. In those areas
13 you don't see landscaping because there's just not a
14 large enough area to be able to support a tree. There
15 will be a strip between each one of these driveways
16 that will be planted with shrubbery and so forth.

17 If you're wondering why there's this gap
18 in here, it's because of the driveways that are in
19 close proximity. It's difficult to get a tree in
20 there that's going to get enough water to do well so
21 we are going to be planting shrubbery in these areas
22 here. Where we had the opportunities in these lots
23 also, by the way.

24 CHAIRPERSON GRIFFIS: So that northern
25 street -- quick question. I'm breaking my own rules

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1 here. First of all, that's a private road.

2 MR. AMATETTI: Yes, sir.

3 CHAIRPERSON GRIFFIS: That acts more like
4 an alley because the rear of the buildings front on
5 both sides.

6 MR. AMATETTI: Yes, sir.

7 CHAIRPERSON GRIFFIS: That's not the case
8 below.

9 MR. AMATETTI: No. Below is a more
10 typical townhouse type development where basically
11 your fronts are facing the street and your driveway is
12 something that is basically at the front of your
13 house.

14 CHAIRPERSON GRIFFIS: Gotcha.

15 MR. AMATETTI: We'll address that a little
16 bit more later if you would like on the various mix of
17 the units and so forth. The landscaping with respect
18 to the retaining walls we show mostly evergreen
19 material there because (a) that material does best in
20 that confined space between those walls, and (b) it
21 provides a year-round screening effect.

22 Over time it would grow up to provide a
23 lot of screening of that wall along there and that
24 material we found to do very well in those kinds of
25 areas. As I said before, we landscaped in front of

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1 the walls here and also these walls back here are
2 providing some screening landscaping associated with
3 those walls.

4 There were some comments, I think. I
5 think what I said addresses a lot of staff's comments
6 relating to issues pertaining to landscaping. That
7 is, the landscaping between the walls minimizing the
8 visual impact of the retaining walls, use of
9 indigenous plants and so forth. Tree preservation
10 area will be protected. It's my understanding it's
11 going to be a written commitment. It's not something
12 I can actually show on here. And all of these we
13 would present on a final landscape plan in more
14 detail.

15 CHAIRPERSON GRIFFIS: Good. Anything from
16 the civil? All right. Ms. Miller, let's go to
17 questions.

18 MS. MILLER: Isn't there a tree
19 preservation area?

20 MR. AMATETTI: This area is going to be
21 preserved in trees that exist right now, this green
22 area here and that one over there.

23 MS. MILLER: And how does that compare to
24 the previous plan? Is the size the same or is it
25 different?

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1 MR. AMATETTI: Do we have the previous
2 plan?

3 CHAIRPERSON GRIFFIS: We have a previous
4 plan.

5 MS. MILLER: I was wondering if you are
6 preserving the same amount of space for the trees or
7 is it different in this plan?

8 MR. COLLINS: It's slightly less. It is
9 slightly less. It is not equal. It is slightly less.
10 I don't think we -- I can tell you I don't think it's
11 much more than, I want to say, an eight to a quarter,
12 somewhere in that area of less preservation area from
13 what was previously submitted to you.

14 MS. MILLER: And my other question, I was
15 just wondering if you could elaborate a little more
16 about desirable versus indigenous and native. I mean,
17 it sounds you're saying --

18 MR. AMATETTI: Some of the desirable
19 materials are like Japanese maple which I'm pretty
20 sure it's not indigenous. I'm joking, it's not.
21 Japanese maple is a desirable tree.

22 MS. MILLER: And you know that it will do
23 well in this type of soil.

24 MR. AMATETTI: And it will do well in
25 these types of soil conditions. That's a tree where

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1 we would like to fill the palette mostly with native
2 materials. We would like to be able to introduce
3 desirable non-native trees such as Japanese maple.

4 It's interesting. I didn't know this. I
5 found out that Honeysuckle is not natural to this area
6 and I always thought it was. It's actually an
7 invasive species.

8 CHAIRPERSON GRIFFIS: Where does it come
9 from?

10 MR. AMATETTI: Japan.

11 CHAIRPERSON GRIFFIS: What do you know
12 about that.

13 MS. MILLER: Apparently you have some list
14 of plants or shrubs you intend to use.

15 MR. AMATETTI: Yes.

16 MS. MILLER: Do you have lists as to both
17 what's indigenous and list of desirables?

18 MR. AMATETTI: Yeah, I can put in an
19 asterisk or denote between the two which are native
20 and which are just desirable materials to plant in
21 this area.

22 MS. MILLER: Okay. And then this list
23 that I guess you are going to submit to the record are
24 of those plants that you definitely intend to use.
25 You've already mapped it out.

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1 MR. AMATETTI: Yes. Yes.

2 MS. MILLER: Okay. Thank you.

3 MR. AMATETTI: Chinese elm is another one
4 we would like to use that is not native. They kind of
5 stand out.

6 CHAIRPERSON GRIFFIS: Mr. Etherly.

7 MR. ETHERLY: I'll defer to Mr. Mann.

8 CHAIRPERSON GRIFFIS: I'm sorry. Mr.
9 Mann.

10 MR. MANN: That's all right. Couple of
11 questions. The large area depicted in the upper
12 right-hand corner in white that's not part of this
13 proposal, what is that development there?

14 MR. AMATETTI: Will, help me with that.

15 MR. COLLINS: That is a high rise senior
16 citizen facility.

17 MR. MANN: A high rise senior citizen
18 facility.

19 MR. COLLINS: Yes, sir.

20 MR. MANN: Did you ever consider or
21 address making some sort of pedestrian or even street
22 connection into that facility?

23 MR. COLLINS: We had not and it's one of
24 the issues that was raised by Mr. Lawson. I think one
25 of the things that we spoke to recently was perhaps

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1 not pedestrian connections there but when we get to a
2 final site plan here, one of the commitments that
3 we've made is to look at how we detail potential
4 pedestrian connections from north to south on this
5 site.

6 We looked at it and one of the things that
7 we experienced yesterday was sitting there looking at
8 that grading because we wanted to be able to respond
9 to that question. It's interesting in that area we do
10 -- we would have a large number of steps in terms of
11 pedestrian connections. We told Mr. Lawson that we
12 will continue to research it but at such time that we
13 get the final site plan.

14 MR. MANN: Is the senior citizen center
15 part of the Fort Lincoln Urban Renewal Plan?

16 MR. COLLINS: Yes, it is.

17 MR. MANN: Okay.

18 MR. AMATETTI: I didn't speak to the
19 pedestrian connections as a whole and I actually meant
20 to. The yellow on here, and I believe there's a
21 graphic in your package that actually shows the
22 interconnecting pedestrian connections on the site
23 itself.

24 CHAIRPERSON GRIFFIS: What is an
25 interconnecting pedestrian connection?

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1 MR. AMATETTI: Well, this --

2 CHAIRPERSON GRIFFIS: Is it a sidewalk?

3 MR. AMATETTI: Sidewalk.

4 CHAIRPERSON GRIFFIS: Oh, good.

5 MR. AMATETTI: It's a nice name for a
6 sidewalk.

7 CHAIRPERSON GRIFFIS: Not a moving
8 sidewalk or anything like that?

9 MR. AMATETTI: No, no.

10 CHAIRPERSON GRIFFIS: How about a
11 hovercraft vehicle that you step on or something?

12 MR. AMATETTI: There is a sidewalk along
13 Fort Lincoln Drive that connects all of the
14 neighborhoods in Fort Lincoln as well as to this
15 community.

16 CHAIRPERSON GRIFFIS: Good.

17 MR. MANN: The other question I had was I
18 believe I read in the most recent submission that
19 there was an increase in parking spaces or guest
20 parking spaces. There was an increase of how many?
21 What was the reason for increase in the amount of
22 parking?

23 CHAIRPERSON GRIFFIS: One hundred and
24 nineteen. Why increase 119 spaces?

25 MR. COLLINS: Well, what is happening is

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1 the units on the north side, the Oakley and the
2 Parker's are all two-car garage.

3 CHAIRPERSON GRIFFIS: Right.

4 MR. COLLINS: And obviously they would be
5 utilized by the homeowners. We felt from our
6 experience in developing what we consider suburban
7 communities and I think this has the opportunity while
8 it is a district site, it is right on the border with
9 Prince George's County.

10 In many respects this will feel like a
11 suburban community. And our experience as developers
12 of suburban townhome communities is that as much as we
13 may like to tell people that while we meet the
14 requirements and it provides a livable community
15 experience, there always seems to be a shortage of
16 visitor's parking space in any of the communities when
17 meeting just the bare requirements.

18 When we looked at this development we felt
19 it was important that we have ample visitor parking
20 because we do not -- while this is not self-contained
21 and will be part of Fort Lincoln, we want to make sure
22 that within this townhome development that we don't
23 have spill-over parking throughout the rest of Fort
24 Lincoln. Obviously there is no opportunity to park on
25 South Dakota Avenue. No real opportunity to park on

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1 Fort Lincoln and we felt it was important to make sure
2 that we had ample visitor parking within the community
3 itself.

4 MR. AMATETTI: If I could build on what
5 Will said, also it's not just the number of spaces but
6 it's spaces distributed, too, meaning they should be
7 distributed throughout the community. There are some
8 visitor spaces here and here, visitor spaces here and
9 here. Excuse me. Visitor spaces here, visitor spaces
10 here and here and at the end. Not only is the
11 addition of visitor space important but that they be
12 distributed throughout the community I think is
13 important.

14 CHAIRPERSON GRIFFIS: Can you park on the
15 street?

16 MR. COLLINS: There's no opportunity to
17 park on 31st or Fort Lincoln.

18 CHAIRPERSON GRIFFIS: In the road do you
19 anticipate any parking?

20 MR. COLLINS: No, there is not.

21 CHAIRPERSON GRIFFIS: That's just going to
22 be a bare street straight down until you get to little
23 pockets of parking?

24 MR. COLLINS: With significant
25 landscaping.

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1 CHAIRPERSON GRIFFIS: Lot of trees.

2 MR. COLLINS: Lot of trees.

3 CHAIRPERSON GRIFFIS: Good place for kids
4 to play.

5 MR. COLLINS: Right.

6 MS. MILLER: Why can't you park on the
7 street? They're not wide enough?

8 MR. AMATETTI: The width we chose for the
9 streets basically only provide enough street for two-
10 way traffic and for proper maneuvering in and out of
11 driveways precludes parking on the street. To
12 actually park on the street you probably need a street
13 width in the neighborhood of like 28 to 30 feet. I
14 believe our streets are 20 or 25 feet from face to
15 face of the curb. The visitor parking is not parallel
16 to the street, it's perpendicular.

17 MS. MILLER: Do those houses toward the
18 bottom of this, they have driveways, right?

19 MR. AMATETTI: They all have driveways and
20 they all have garages.

21 MS. MILLER: One-car garages all of those?

22 MR. AMATETTI: Two-car garages.

23 MS. MILLER: Two car.

24 MR. COLLINS: Two-car garages.

25 MS. MILLER: So people can pull into their

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1 driveways.

2 MR. AMATETTI: You actually have four
3 spaces. You have two inside the garage. But visitor
4 parking is still something that should be sprinkled
5 and distributed to the site.

6 MS. MILLER: Is there a mathematical-type
7 computation you did to figure out how many spaces you
8 needed for visitor parking?

9 MR. AMATETTI: I didn't do it. I bet
10 someone did. I mean, I was looking in the report to
11 see how many visitor spaces we have. I apologize that
12 I don't know.

13 MR. COLLINS: There is no mathematical
14 calculation. We tried to take advantage of
15 opportunities where we thought we could allocate
16 visitor parking and tried to get as much as we
17 possibly could. When you drive through Fort Lincoln
18 there are very few opportunities for off-site parking.

19 We are adjacent to a senior housing
20 component that we don't want to have visitors spill-
21 over into a senior housing community. There was no
22 mathematical calculation. It was let's try to take
23 advantage of finding as much visitor parking as we
24 can.

25 MS. MILLER: One other thing. Can you

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1 show me on that diagram where is the senior housing?

2 That whole white space?

3 MR. AMATETTI: Yeah, actually on the
4 grading plan --

5 CHAIRPERSON GRIFFIS: Lot of surface
6 parking.

7 MR. AMATETTI: If you can see it, it
8 actually shows the footprint of the building. There's
9 a parking area up here.

10 CHAIRPERSON GRIFFIS: And there's parking
11 up front.

12 MR. AMATETTI: There's parking in here.
13 Here's the building. It's got these little hatch
14 marks.

15 CHAIRPERSON GRIFFIS: What do they park,
16 like 15,000? Okay, I'm kidding. Any other questions
17 on that? Do you see the footprint?

18 MS. MILLER: As it exist now?

19 CHAIRPERSON GRIFFIS: Yeah, it does.
20 There. Hold on. That's it.

21 MS. MILLER: Okay.

22 CHAIRPERSON GRIFFIS: Anything else? You
23 talked about the tree preservation area and you said
24 that you were going to comply with the actions as
25 proposed by the Office of Planning. Do you want to

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1 just articulate a couple of those? Obviously we've
2 heard construction management of that, not allowing
3 trucks and trying not to disturb as much. What else
4 is happening?

5 Attended to that, which also goes to the
6 retaining wall, the maintenance of that and some of
7 the landscaping, I know there's a lot in the written
8 submission but tell me why it's such a persuasive
9 argument that common ownership is better than private
10 ownership? That really goes into the retaining wall,
11 their placement but even in the tree preservation
12 area.

13 MR. COLLINS: Let me touch on the tree
14 preservation and I'm going to let John touch on the
15 retaining walls. On the tree preservation area we
16 have committed to do chainlink fencing prior to any
17 activity going on on the site.

18 CHAIRPERSON GRIFFIS: After construction
19 the chainlink fence is removed. Is that correct?

20 MR. COLLINS: Yes, but not until such time
21 that we have stabilized areas throughout the whole
22 community. I envision that through development of the
23 units that construction of all 209 units that
24 chainlink fencing will stay up throughout that
25 process.

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1 CHAIRPERSON GRIFFIS: Right.

2 MR. COLLINS: And that there will be no
3 traffic in those areas. We are going to do everything
4 we can to preserve the existing trees that exist
5 within that area. And in our final grading plan we
6 will make sure that from a storm water management
7 perspective that we do not get runoff in that area,
8 excessive runoff that, you know, defeats the root
9 systems of those trees. That will be another factor.
10 I'm going to let John speak to the retaining walls.

11 CHAIRPERSON GRIFFIS: Okay. Let me just
12 follow up on that in terms of the tree preservation.
13 Obviously this is being subdivided. That's part of
14 common ownership of the entire subdivision and all
15 that. Is there anything that is going into the
16 subdivision documents or the land deeds or anything
17 that is setting that aside for no development? I'm
18 not advocating one side or the other. Just trying to
19 get clarity of fact of what the end product is.

20 MR. COLLINS: Within the Homeowner's
21 Association documents we will put a covenant of the
22 existing site plan or the approved site plan which
23 states that area is not to be disturbed. We've done
24 that in other communities and we would do that within
25 the Homeowner's Association documents here.

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1 CHAIRPERSON GRIFFIS: Okay. The
2 subdivision seems to take care of the fact that you
3 couldn't do much more in there. Okay.

4 MR. AMATETTI: To answer your question
5 with regards to retaining walls, retaining walls need
6 periodic maintenance as well as periodic inspection.
7 Having them in a common area allows for a more
8 organized and a better developed maintenance program
9 by an HOA responsible body that can organize periodic
10 inspections and so forth.

11 Also because it's on common area be able
12 to schedule maintenance operations on a basis that is
13 completely within their control. We have had
14 communities where we put retaining walls and easements
15 and so forth but having them in common areas and
16 having clear title to that area in the Homeowner's
17 Association is much more beneficial.

18 CHAIRPERSON GRIFFIS: Easier day-to-day
19 access.

20 MR. AMATETTI: Yes, sir.

21 MR. COLLINS: I would like to elaborate a
22 little bit on that as well. As John said, the walls
23 do have maintenance responsibilities that come with
24 them. One of the issues that staff brought up and
25 that we will deal with and the Homeowner's Association

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1 and as the developer is establishing a budget and
2 initial reserves so that we are establishing reserves
3 up front as the developer.

4 Then get built upon as years go on by the
5 community. But we will establish reserves in the HOA
6 budget to speak to specifically retaining wall
7 maintenance. When you look at this site there are
8 some significant retaining walls in terms of amount of
9 retaining walls. We will deal with that within the
10 HOA documents.

11 MR. AMATETTI: To elaborate on that a
12 little bit, too, that goes to part of the choice that
13 we made for type of retaining wall. The gravity type
14 retaining walls that we are proposing for this site
15 have less of a maintenance responsibility than other
16 type of wall systems.

17 CHAIRPERSON GRIFFIS: Understood. Mr.
18 Amatetti, you've talked a lot about, and in all the
19 submissions we hear a lot about the soil. In fact, in
20 the initial presentation of the case -- well, you tell
21 me. You have some experience in the metropolitan area
22 in civil engineering?

23 MR. AMATETTI: Yes, sir.

24 CHAIRPERSON GRIFFIS: Any extensive amount
25 of experience in the metropolitan area?

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1 MR. AMATETTI: Yes, sir.

2 CHAIRPERSON GRIFFIS: How often do you hit
3 this type of soil?

4 MR. AMATETTI: Well, pretty much the
5 eastern part of Fairfax County has some of these soil
6 materials. They are creatious deposits. What
7 happened, if just for a second if I can explain, there
8 used to be a mountain range through here and as the
9 mountains eroded and the seas came up and then
10 receded, what happened was you get these series of
11 when the seas came into the base of the mountains you
12 get marine deposits of three, four, five, six, eight
13 feet.

14 It depends how long the ocean was there.
15 Then the ocean would reside and the runoff of the
16 mountains would create sand and gravel deposits and
17 the oceans would come back and you get these bands of
18 what are called marine clays which are highly
19 expansive type clay materials that vary in depth and
20 so forth. To answer your question directly, it
21 depends on exactly where you're working but --

22 CHAIRPERSON GRIFFIS: Is marine clay soil
23 predominant in the District of Columbia?

24 MR. AMATETTI: I wouldn't say it's
25 predominant for the entire District. I think

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1 potentially on the eastern end of the District might
2 have more marine clays than other areas of the
3 District.

4 CHAIRPERSON GRIFFIS: Is it clay sediment?

5 MR. AMATETTI: Well, it's deposits from
6 the ocean. They are very fine grained materials which
7 are called a clay but it's basically because it's so
8 fine grained and it tends to hold water and it tends
9 to expand like an ice cube. When it gets wet it tends
10 to expand which is what creates the difficulty of
11 having buried situations when you've got those kinds
12 of deposits on the site.

13 CHAIRPERSON GRIFFIS: Is it uncommon? I
14 mean, is it kind of like hitting oil down here to hit
15 clay in the District of Columbia?

16 MR. AMATETTI: To this extent it's a
17 little bit -- this site has its fair share of marine
18 clay. That's for sure.

19 CHAIRPERSON GRIFFIS: It's a big site.

20 MR. AMATETTI: Yeah, this --

21 CHAIRPERSON GRIFFIS: It should have a
22 fair share.

23 MR. AMATETTI: It's not only the marine
24 clays themselves but also together with the steep
25 topography which is --

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1 CHAIRPERSON GRIFFIS: I don't question
2 that.

3 MR. AMATETTI: -- which is pretty unusual.
4 Having the two together is somewhat unusual. A lot of
5 time when you have marine clay deposits you won't have
6 topography that is quite this steep and it's dealing
7 with both of them together. There are marine clay
8 deposits sprinkled probably throughout this area of
9 the District as well as -- I mean, its a geologic
10 situation.

11 CHAIRPERSON GRIFFIS: Okay. Last
12 question. If it's sprinkled, then what is it if it
13 isn't this clay soil?

14 MR. AMATETTI: You mean --

15 CHAIRPERSON GRIFFIS: You're saying Clay
16 is kind of sprinkled around. What is it if it isn't?

17 MR. AMATETTI: These deposits are at
18 different elevations, I guess, is what I'm trying to
19 say. If you keep going down, you'll go through those
20 layers of marine clay, sands and gravels, marine clay,
21 sands and gravels. What happens is they come closer
22 to the surface in a lot of areas. In this particular
23 site it's up closer to the surface than it normally
24 would be as well as it is exacerbated by the steep
25 topography and so forth. I'm trying to answer your

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1 question but --

2 CHAIRPERSON GRIFFIS: Indeed. Okay.
3 You've talked a lot about the layout of the roads and
4 the connections. The connections are pretty much
5 given on how Fort Lincoln, South Dakota, and 31st are
6 laid out in terms of its intersection and perhaps --
7 well, I'll save that for later.

8 What are the other opportunities?
9 Obviously you have used some very common sense
10 opportunities to connect to where you can cross Fort
11 Lincoln and all that. Is there no other
12 opportunities? What would preclude you from making
13 any other connections? For instance, on South Dakota
14 on the south side.

15 MR. AMATETTI: What precludes us from
16 making a connection to South Dakota is plainly and
17 simply the topography. If you brought a road in off
18 of South Dakota you would have to have an appropriate
19 landing area for that road for somebody coming in at
20 that intersection in an icy condition or something to
21 not have their car at a really steep slope.

22 That connection into itself because of the
23 elevation, the low elevation of South Dakota Avenue
24 would pretty much dictate all the elevations in the
25 entire site which sooner or later you would be dealing

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1 with this elevation up here. When I say it dictates
2 a form of development, the road connections, what I'm
3 trying to say is that we really don't have an
4 opportunity to hook into South Dakota Avenue because
5 of the grade differential.

6 We basically have to divide the site into
7 two developable land bays if you want to think of it
8 in that way. One that makes a high connection off of
9 Fort Lincoln and one that makes, let's call it, a
10 medium connection off of 31st Street. Then the roads
11 need to run longitudinally to the slope, parallel to
12 the slope so that we are never really dealing with a
13 situation -- in very few instances are we dealing with
14 a situation where we are trying to deal with that
15 slope from top to bottom if that makes sense.

16 CHAIRPERSON GRIFFIS: Understood.

17 MR. AMATETTI: The connection here meets
18 another street. This connection here is made far
19 enough from this intersection to give us a fully
20 functioning intersection both lefts and rights.

21 CHAIRPERSON GRIFFIS: It's conceivably
22 possible if using that logic of following the grade
23 where you have on, what I'm going to call, the alley
24 on the top side and you have the large green in
25 between the three developments. Right? Go to the

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1 center of it.

2 MR. AMATETTI: Here?

3 CHAIRPERSON GRIFFIS: Right there. If you
4 brought a road through and cut down and hit that other
5 parking on the other side. No, no, cut over. Right
6 there.

7 MR. AMATETTI: Right here?

8 CHAIRPERSON GRIFFIS: Yeah. Draw a road
9 that goes up like an S.

10 MR. AMATETTI: Like that?

11 CHAIRPERSON GRIFFIS: No. From the
12 parking back to the green center.

13 MR. AMATETTI: If this part came back to
14 here?

15 CHAIRPERSON GRIFFIS: Exactly. It follows
16 your grade. Is that conceivably possible?

17 MR. AMATETTI: Actually, remember the
18 grade is falling from here to here.

19 CHAIRPERSON GRIFFIS: It may not be grade
20 plan. That's your storm. You can see that.

21 MR. AMATETTI: The elevation right up --

22 CHAIRPERSON GRIFFIS: Bring up the color
23 one, the red and yellow. Go right to the center.

24 MR. AMATETTI: Right to here?

25 CHAIRPERSON GRIFFIS: Yeah.

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1 MR. AMATETTI: We would be cutting right
2 up through where we have really steep 25 percent, 50
3 percent slopes right up through here. You've got to
4 remember a roadway, even a private roadway there are
5 certain limitations to the grade that you want to
6 maintain on a roadway like that. You probably
7 wouldn't want to have --

8 CHAIRPERSON GRIFFIS: How did you ever get
9 14th Street done, Mr. Lawson, back in the days? That
10 must have a grade of like 60 percent on some of those
11 hills. Okay. Go ahead.

12 MR. AMATETTI: Well, the elevation is just
13 -- so we can have it on the record, the elevation down
14 here is about an elevation 130 and the elevation up
15 here is about 163.

16 CHAIRPERSON GRIFFIS: Right.

17 MR. AMATETTI: To give you an idea, 30
18 foot of grade is significant.

19 CHAIRPERSON GRIFFIS: Indeed. So the
20 connections even interior but also to the exterior
21 seem to be exhausted and the opportunities to do that.
22 One, based on what Fort Lincoln and South Dakota are
23 laid out to be which seems more of the level for super
24 highway, and then based on the grade itself on the
25 interior of the site laying out the roads is

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1 difficult. I guess the point -- what was the decision
2 of -- I guess I already know the answer to that one.
3 Okay. What else?

4 MR. DePUY: That completes our case in
5 chief, Mr. Chairman.

6 CHAIRPERSON GRIFFIS: Excellent. You
7 indicated that there's a representative of the NCRC
8 here?

9 MR. DePUY: He was here previously.

10 CHAIRPERSON GRIFFIS: Oh, I'm sorry. I do
11 have a couple more follow-up questions. Let's go to
12 past submissions. I don't know if you have your plans
13 at all. We obviously have copies. I have a bit of a
14 question. It looks like the site itself is not
15 represented similarly in the documents that we have
16 today. The point that I look at that really jumped
17 out, we had a lot of discussion in the past hearings
18 of the topography at the cul-de-sac. The cul-de-sac
19 was the edge and it was a very, very steep slope and
20 it was described several times as a no-build area as
21 was the tree preservation area was the no-build area.

22 As I look at the actual documents, all of
23 them, including the pedestrian circulation plan, the
24 cul-de-sac is moved dramatically over, just as you're
25 showing here, under the senior center but previously

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1 wasn't. It was directly below the others.

2 MR. COLLINS: Previously in the original
3 submission we were doing no grading or putting any
4 retaining walls whatsoever along the senior property.
5 What we've been able to do is work with the senior
6 community and in that area place retaining walls that
7 improve the condition as that cul-de-sac was moved
8 further down the site. That opportunity was not
9 before us previously. It is now. We want to take
10 advantage of that and that's how --

11 CHAIRPERSON GRIFFIS: You didn't even look
12 at a major portion of the property and development in
13 this first submission. Is that right?

14 MR. COLLINS: When you say didn't look at
15 them, I'm not sure --

16 CHAIRPERSON GRIFFIS: It looks like your
17 entire plan stops and I'm just showing you this is the
18 landscape plan that was submitted, sheet No. 3. Your
19 entire plan stops here. If that's the senior center,
20 that means all this area that we are now looking at
21 here --

22 MR. COLLINS: As far as the property, it's
23 really that long finger. It is the long finger that
24 we looked for additional opportunity for development.
25 When we sat down with staff, we said -- to be quite

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1 frank, with the intent of trying to keep a similar
2 number of units, we were looking at where from a
3 development opportunity how do we achieve a similar
4 number of units.

5 CHAIRPERSON GRIFFIS: I'm just looking to
6 see why I'm looking at one that is different than
7 today. Am I correct that was actually the tree
8 preservation area?

9 MR. COLLINS: From a scale standpoint
10 that's correct.

11 CHAIRPERSON GRIFFIS: Okay. So you just
12 cut off the basic plan that you were looking at.

13 MR. COLLINS: That's correct.

14 CHAIRPERSON GRIFFIS: That's why we're
15 looking at this huge white piece that we've never
16 seen. The cul-de-sac runs a lot further.

17 MR. COLLINS: That's correct.

18 CHAIRPERSON GRIFFIS: Okay. Is there any
19 surface storm water management done? Is there any
20 capture areas? You talked about a swail at one point.

21 MR. AMATETTI: Well, swails and closed
22 conduit pipe systems and so forth are part of any
23 storm water management system so, yes, we have those
24 but --

25 CHAIRPERSON GRIFFIS: Understood. What

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1 does that mean --

2 MR. AMATETTI: -- are we storing any water
3 on the surface to meet our detention or water quality
4 requirement, no, sir. It's all underground.

5 CHAIRPERSON GRIFFIS: Okay. So I buy one
6 of these places, which are so handsome, and move in
7 and on the heavy rainy days I look out the back and
8 I'm close to one of the swails which would be in the
9 common area. Correct?

10 MR. AMATETTI: Correct.

11 CHAIRPERSON GRIFFIS: That's where they
12 would be located.

13 MR. AMATETTI: Yes, sir.

14 CHAIRPERSON GRIFFIS: What am I going to
15 see?

16 MR. AMATETTI: You're going to see a water
17 collection area where during a very, very heavy
18 rainfall event you're going to see water moving
19 through that swail at a depth of maybe an inch and a
20 half or something like that. We have laid these
21 swails out and broken things up to the point where we
22 pick up water before we get too much of a concentrated
23 flow in these swail areas for obvious reasons.

24 CHAIRPERSON GRIFFIS: Okay.

25 MR. AMATETTI: But you will see some water

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1 moving.

2 CHAIRPERSON GRIFFIS: A swail is just the
3 ground that is kind of bermed or built up, right?

4 MR. AMATETTI: Well, cut down to create a

5 --

6 CHAIRPERSON GRIFFIS: And you guys are
7 grading it so it actually channels the water when it
8 flows?

9 MR. AMATETTI: Correct.

10 CHAIRPERSON GRIFFIS: So all this stuff
11 that comes down to the surface it isn't absorbed into
12 the surface. It actually will look like it's
13 naturally running but you guys have engineered this so
14 perfectly that you're going to take the water down
15 where you want it to go.

16 MR. AMATETTI: That's correct.

17 CHAIRPERSON GRIFFIS: That's the only
18 stuff we're seeing on the surface.

19 MR. AMATETTI: That's correct.

20 CHAIRPERSON GRIFFIS: There might be a
21 point at which -- if I look out there might be a point
22 of which it may collect a little bit. I may see some
23 ponding of sorts.

24 MR. AMATETTI: For a short period of time
25 until the rainfall event is over and then the water

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1 will runoff immediately. Providing positive overland
2 relief is a very important concept in any development
3 because storm drain systems are known to clog and so
4 forth and providing --

5 CHAIRPERSON GRIFFIS: It's yours though
6 because they are on private property.

7 MR. AMATETTI: It's true.

8 CHAIRPERSON GRIFFIS: You'll be cleaning
9 them out constantly. Indeed. Okay. Let's go back to
10 a situation or an element visited, street lights. You
11 had proposed for potential street lights at one point.
12 We had asked that there be some definitiveness to it
13 and also placement. What are we looking at? What's
14 the street scape look like without the parked cars on
15 each side defining the edge of the streets but rather
16 the lampposts. Do you know what those are yet?

17 MR. COLLINS: We are willing to commit
18 that we are going to go with the acorn street light.
19 That was the fixture that we discussed with Office of
20 Planning. I think that would be in any final site
21 plan that was submitted. We will go with that fixture
22 type.

23 CHAIRPERSON GRIFFIS: What is your
24 anticipation -- okay. So that's fixture type. That's
25 great. And your anticipation is to place those

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1 incrementally on the two or three streets?

2 MR. COLLINS: I'm going to let the
3 engineer answer that one.

4 MR. AMATETTI: Yes, they would be
5 distributed to provide proper illumination depending
6 on the type of actual fixture that was picked. I'm
7 not talking about the acorn but the actual wattage
8 that was picked.

9 CHAIRPERSON GRIFFIS: The lamp. Sure.

10 MR. AMATETTI: There would be an
11 appropriate spacing, probably offset spacing so that
12 we would get the proper illumination of those quasi-
13 public areas of the street.

14 CHAIRPERSON GRIFFIS: Okay. That will
15 look interesting. That will be the defining elements
16 along with those ornamental trees.

17 MR. AMATETTI: Correct.

18 CHAIRPERSON GRIFFIS: There may be
19 anywhere from 30 to 40 feet separation.

20 MR. AMATETTI: Depending on the actual
21 wattage of the fixture that was chosen. Correct. We
22 don't like to pick real bright fixtures in these type
23 areas so they tend to be in that kind of spacing.

24 CHAIRPERSON GRIFFIS: Okay. You stated
25 today and you also stated in your written submission,

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1 if I understood it correctly, that the extensions, the
2 possibilities of additions to the house. You buy the
3 plan and then you can actually build more. Those are
4 all calculated as if all of them are invoked for the
5 variances that are being requested.

6 MR. COLLINS: That is correct.

7 CHAIRPERSON GRIFFIS: Okay. Good.

8 Anything else?

9 MS. MILLER: I just have a couple quick
10 questions. I don't think you addressed this yet.
11 Office of Planning has certain proposed conditions and
12 some of them I know you've already touched upon but
13 there's one that talks about no retaining wall greater
14 than four feet in height should be permitted along a
15 site boundary line. I'm wondering what your reaction
16 to that one is. It's on page 7.

17 MR. COLLINS: We do comply with that.

18 MR. AMATETTI: Is it this one here?

19 MR. COLLINS: No, no. It's the next one,
20 John.

21 CHAIRPERSON GRIFFIS: You're asking if
22 they're going to comply with it, Ms. Miller?

23 MS. MILLER: I want to know if they agree
24 with the condition or if there is a problem with it.
25 We're going to get to some point where we will be

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1 considering conditions and that was one that I just
2 hadn't heard a discussion on.

3 MR. COLLINS: Yes, we will comply with
4 that condition.

5 MS. MILLER: You don't see any problems
6 with that one?

7 MR. COLLINS: No.

8 MS. MILLER: Okay.

9 CHAIRPERSON GRIFFIS: Your sections
10 reflect that. Correct?

11 MR. COLLINS: That's correct.

12 CHAIRPERSON GRIFFIS: I mean, how you
13 dealt with it is the fact that on the South Dakota
14 where you have a grade change of above four feet you
15 do --

16 MR. COLLINS: We have a four, eight, eight
17 --

18 CHAIRPERSON GRIFFIS: Right.

19 MR. COLLINS: -- just so there's a clear
20 understanding that the one that is immediately
21 adjacent to the boundary is four but then the one
22 subsequent behind that we're holding to the eight-foot
23 limitation.

24 CHAIRPERSON GRIFFIS: I think the Office
25 of Planning, Mr. Lawson, is here and he can speak to

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1 it but my understanding of why you would want that is
2 so you don't have this huge wall right along. You're
3 saying by cutting back and terracing it and then
4 landscaping it does away with that kind of solid stone
5 wall 10-feet high.

6 MR. COLLINS: Yes, sir.

7 CHAIRPERSON GRIFFIS: Actually, that would
8 be 20-feet high. Wouldn't it?

9 MR. AMATETTI: That's what I was saying.
10 Remember I said we could put one wall in 20-foot high
11 but this is an infinitely better solution given the
12 practical difficulties of the soils and the
13 topography.

14 CHAIRPERSON GRIFFIS: You keep saying
15 that. Okay. Let's move on. The next question.

16 MS. MILLER: I think I asked you earlier.
17 I did ask you earlier about how much you would be
18 selling the units for. I also just wanted to ask you
19 just so we have an understanding of this development,
20 whether the buyers are qualified in some way to be
21 eligible to buy that or anybody can buy it?

22 MR. COLLINS: Anyone can buy it. One of
23 the things that we will do if the project is approved
24 and we have spoken before the neighborhood is that we
25 would hope, and we are working with Pulte Homes on

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1 this, is that we will start a home buyer's club within
2 Fort Lincoln.

3 We are hoping that some of the homeowners
4 that currently reside in Fort Lincoln potentially want
5 to move within this community so we will do that. But
6 after we set aside -- not set aside but after we work
7 within a home buyer's club within Fort Lincoln, then
8 this will be open to the general public.

9 MS. MILLER: Okay. So the Fort Lincoln
10 residents will have the first opportunities to buy.

11 MR. COLLINS: That is our intent. Yes,
12 absolutely. If the project is approved, we would hope
13 sometime first quarter of next year to start working
14 within Fort Lincoln. That is our intent. The best
15 place to go for your home buyers are those folks that
16 live within a mile of the site.

17 After that you start moving out. We have
18 great hope and anticipation that a number of our
19 buyers will come from the Fort Lincoln community.
20 We've gotten very positive response from people.
21 Michelle and I have received nothing but a lot of
22 inquiries about when the homes are going to be
23 available. We hope that they will be.

24 MS. MILLER: Thank you.

25 CHAIRPERSON GRIFFIS: Anything else? Any

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1 other questions? Okay. Let's move on then to the
2 Office of Planning. Mr. Lawson, a very good afternoon
3 to you. Did you want to update us on your
4 supplemental report?

5 MR. LAWSON: I would. Thank you, Mr.
6 Chair. My name is Joel Lawson and I'm with the D.C.
7 Office of Planning. I'm going to kind of skip over
8 some of this because I think some of it has already
9 been covered. I will note that subsequent to the last
10 meeting OP met with the applicant on two occasions and
11 had a number of phone calls as well.

12 The applicant was able to make significant
13 alterations to the proposal without changing the
14 number of residential units. Principally just to
15 summarize them, these changes include replacement of
16 one of the housing unit types with two others for a
17 total of five different housing unit types.

18 The new units do not necessarily provide
19 for a better fit to existing site conditions but will
20 provide an improved street scape along Fort Lincoln
21 Drive and on 31st. There is a revised internal street
22 pattern. Place streets longitudinally on portions of
23 the site that are less deeply sloping. The street
24 pattern has been simplified somewhat, and the amount
25 of street paving also appears to be reduced somewhat.

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1 As the chair pointed out, the lower
2 internal road was extended further onto the property
3 and to an area that was originally intended to be
4 undisturbed. However, there is the establishment of
5 a new undisturbed area over the center steeply sloping
6 portion of the site in place of that.

7 There's a general increase in the average
8 lot size by about 25 percent, which is significant,
9 and an increase in average lot width by about 17
10 percent. There's an increase in the average front and
11 rear yard deeps of the lot so that all nonconformities
12 have now been eliminated. There is a reconfiguration
13 of the two top lots so that they appear to be larger
14 and in a more usable configuration.

15 And there are revisions to the retaining
16 wall scheme principally to break up the large walls
17 into a series of lower walls separated by plantings.
18 These changes to the site plan have resulted in the
19 elimination of all of the formally requested lot
20 occupancy, rear yard, side yard, and front yard
21 variances.

22 What remains are the special exception
23 approvals for rowhouse use within our 5-A zone for lot
24 area and lot width, and to permit more than one
25 principal building on a single subdivided lot. As

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1 well as the variance relief for floor area ratio for
2 114 of the 209 lots.

3 OP has concluded that the applicant has
4 generally met the test for special exception of
5 approval as required. With regards to the floor area
6 ratio, although the average floor area ratio has
7 dropped considerably, as I said, 114 of the lots
8 require a variance, OP has concluded the applicant has
9 adequately addressed the variance test.

10 The unique combination of uneven and, in
11 some places, severe slopes, plus unstable underlining
12 soils, plus the relatively narrow east/west width of
13 the site for this form of development, and the nature
14 of the existing surrounding streets, principally South
15 Dakota Avenue, 31st Place, and Fort Lincoln Drive,
16 presents an exceptional condition.

17 These exceptional conditions are
18 compounded by the preservation of pockets of
19 undeveloped land within the site, the intention of the
20 applicant to maintain steep slopes and retaining walls
21 and common ownership, and the use of units designed
22 for flat lots with internal garages located at the
23 lowest level of the house.

24 The resulting practical difficulty is
25 essentially the difficulty in fitting lots in between

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1 existing roads. The best locations for new streets,
2 steeply sloping areas, and areas of extensive
3 retaining walls. These conditions limit the ability
4 of the applicant to make the lots as large as they
5 otherwise could be. Lot size, in turn, dictates
6 permitted FAR or square footage and the regulation
7 from which the applicant request relief on just over
8 half the lots.

9 Site conditions require lots to be smaller
10 than would otherwise be the case. Those lots permit
11 houses that are smaller than would otherwise be
12 supported by the site and this presents a practical
13 difficulty to the applicant in creating marketable
14 housing units to fulfill the Fort Lincoln urban
15 renewal area goals to the greatest degree possible.

16 With regards to whether the relief can be
17 granted without substantial detriment to the public
18 good, the proposal is considered generally consistent
19 with the comprehensive plan, the generalized line use
20 map, and the designation of the site on the
21 generalized land use policy map as a housing
22 opportunity area.

23 The project would further general
24 objectives of the Fort Lincoln urban renewal area plan
25 and the specifics of the design will be subject to

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1 further review and approval by the RLARC and NCPC.
2 The development is being redesigned to provide a
3 better fit with the neighborhood with improvement for
4 Lincoln Drive and 31st Street street scapes, as well
5 as improvements to the retaining walls along South
6 Dakota Avenue.

7 The BZA also requested that the applicant
8 address a number of issues and conditions raised by OP
9 and the BZA. At the public hearing the applicant
10 indicated agreement to conditions raised by OP in our
11 July 13, 2004 report. The applicant has also
12 generally incorporated into the design suggestions
13 made in the July 28, 2004 report mainly related to
14 retaining walls.

15 The applicant has sufficiently clarified
16 that the height of the lowest retaining wall along
17 South Dakota Avenue will be no more than four feet in
18 height. OP has further recommended that the applicant
19 provide additional pedestrian connections within and
20 to and from the site.

21 Finally, OP has suggested that one of the
22 two access roads for Fort Lincoln Drive may be
23 redundant given the current upper road configuration.
24 If DDOT and the fire department agree, this access
25 could possibly be removed to eliminate an access

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1 relatively close to an existing intersection.

2 However, OP recommends that the BZA can continue with
3 review of this application with that detail remaining
4 unresolved.

5 Finally, OP recommends that the BZA
6 include as part of its order conditions related to
7 retaining wall design and landscaping and preservation
8 measures for the undisturbed areas of the site for
9 protection during the construction process.

10 Just a brief note on native materials. I
11 would note that there -- I believe they are
12 administered by the District Department of
13 Transportation, street standards for both trees and
14 lighting and other features such as that and we would
15 expect the applicant to generally conform to those to
16 make sure the streets generally fit in with the
17 character of streets existing in the neighborhood.

18 However, we do continue to support the use
19 of native plants on the site wherever possible,
20 particularly in retaining wall areas where conditions
21 can be particularly harsh.

22 This concludes my lengthier-than-normal
23 presentation and OP is available for questions. Thank
24 you.

25 CHAIRPERSON GRIFFIS: Thank you very much,

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1 Mr. Lawson. All of your reports, and I think there
2 have been upwards of three, have been appreciated.
3 I'm going to go directly to one of the aspects that
4 you highlighted, and that is in terms of making the
5 test for the variance and its practical difficulty or
6 the uniqueness and practical difficulty, whatever it
7 is.

8 You have laid out actually several options
9 that this could be viewed. Do you find that the Board
10 -- well, do you think it's persuasive enough to look
11 at this as an entire site together in analyzing all of
12 the relief that is requested?

13 MR. LAWSON: Certainly in addressing the
14 unusual circumstances of the site, there are a number
15 of unusual circumstances that, as the applicant has
16 pointed out, kind of come together in a situation that
17 creates a fairly unusual situation, particularly for
18 the District. I would include the former development,
19 the preservation of areas, the street patterns,
20 slopes, the soils, etc.

21 Anyone of those by itself might not be a
22 particularly unique or particularly onerous situation
23 but the combination of all of those factors OP agrees
24 with the applicant does create a unique circumstance
25 to the District and all together they present a number

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1 of practical difficulties on the site.

2 The practical difficulties vary somewhat
3 from area site to area site from lot to lot. But the
4 essential practical difficulty is that the site is
5 large enough to support a fairly significant amount of
6 development. But because of all these conditions it
7 is difficult to get that much development on the
8 property quite frankly. It kind of boils down to that
9 which is why the applicant is asking for floor area
10 ratio variances. I'm not sure if I've addressed your
11 question.

12 CHAIRPERSON GRIFFIS: No, I think you
13 have. Actually, if you turn it around, what you've
14 said is amount of steep slopes, the unstable soils,
15 the access constraints, all of which are unique and
16 lend itself to practical difficulties because they are
17 somewhat unique in the District of Columbia. Right?

18 MR. LAWSON: Correct.

19 CHAIRPERSON GRIFFIS: Okay. Good. If you
20 turn that -- if I understand how you are also phrasing
21 it is if you looked at each individually, that may not
22 be a unique aspect that would impact them as much as
23 the site itself as a whole.

24 MR. LAWSON: Exactly. Each one is a
25 unique circumstance to some extent. But the truly

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1 unique circumstance is how these all kind of come
2 together on this site.

3 CHAIRPERSON GRIFFIS: Understood. Okay.
4 Other questions from the Board for the Office
5 Planning? Ms. Miller.

6 MS. MILLER: I'm not sure you addressed
7 this and I'm just curious if you might have something
8 to say about it. On page 2 of your report you say
9 that you encouraged the applicant to consider
10 amending, I think, the Oakley and Parker units to
11 provide only single-car garages and allow the second
12 car to part i the driveway to create an opportunity
13 for rear yard space that owners can individualize to
14 provide a better opportunity for visitor access and to
15 basically break up the continuous pavement. I'm
16 wondering is that still a recommendation that you
17 would like to --

18 MR. LAWSON: OP never made that as a
19 recommendation as such. We had long discussions with
20 the applicant on this issue. We expressed some of the
21 concerns that the BZA has also addressed, that the
22 upper road in particular is taking on somewhat of an
23 alley scape character because of the fairly continuous
24 nature of the driveways. We would certainly continue
25 to encourage a minimization of that driveway pavement

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1 to gain some breaks in that for even relatively small
2 amounts of landscaping.

3 The applicant certainly raises the point
4 that there is a particular market in this particular
5 part of town. People are looking at buying these
6 houses. Their analysis indicates they will expect a
7 two-car garage. We would congratulate the applicant
8 if they wish to reduce some or all of those two-car
9 garages to single-car garages but I would find it --
10 I would be hard pressed to make that as a
11 recommendation, or a requirement, I guess.

12 MS. MILLER: Thank you.

13 CHAIRPERSON GRIFFIS: Anything else? Does
14 the applicant have any cross-examination of the Office
15 of Planning?

16 MR. DePUY: No, Mr. Chair.

17 CHAIRPERSON GRIFFIS: Okay. Let's go to
18 testimony then. Before we do that, let me just make
19 one comment. It's interesting and I think I have been
20 kind of hesitating to do this so I'll be brief. Mr.
21 Lawson has brought up an aspect of the alley nature of
22 the top street.

23 What is fascinating to me is his comment
24 and he seems to say, and it doesn't really matter, but
25 it seemed to be as a negative that it wasn't really

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1 great that this is turning into a more alley-type
2 facade. Actually, that was one of the things that I
3 thought was the better layout.

4 I think one of the pieces that is the
5 difficulty with this is it would be perfect if that
6 was, in fact, an alley, a real alley, but that would
7 mean that Fort Lincoln was a real street and that
8 would mean that you would have to somehow front it and
9 there would have to be some interaction across the
10 street.

11 I think that is one of the biggest things
12 that confounded me with this piece. Mr. Collins, even
13 you have come out and said, "Look, you know, this is
14 suburban. It may be in the District but it's
15 suburban. Looks what is going around." In my mind I
16 was saying, well, you are creating it and you are
17 creating a very suburban piece here.

18 Really I can't fault you too far for that
19 because the contents itself of the overall area is
20 almost demanding that it be and I think that is one of
21 the things that I find of great difficulty. You know,
22 you have streets that could conceivably be glorious
23 streets, you know.

24 I would rather have them parked in front
25 with that street edge but they ought to go somewhere

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1 also. As you look at the whole surrounding area where
2 do they connect to? The top piece, the alley portion,
3 it seems like it must wants to keep going and then
4 connect into another street and be part of a grid and
5 fit on something.

6 I think that is probably why the Board
7 spent so much time of where else can you connect.
8 Where else can you get out of here. What I see
9 happening on the southern street with the cul-de-sac,
10 if you look at that, in the morning all those people,
11 two cars in every household are going to get out and
12 need to get to work sometime between 8:00 and 9:00
13 which means they are leaving sometime between 7:00 and
14 8:00 perhaps. Right? Every single one.

15 How many houses are on there? It doesn't
16 matter. Let's say there's a 100, right? Two hundred
17 cars. You've got 200 cars leaving that intersection.
18 I'm saying, gosh, can't we give them some relief?
19 Can't we cut them out somewhere else? Can't they get
20 somewhere? Then you look at where is the opportunity.

21 I look at this aerial map and I think, my
22 goodness, who is going to be the first to change the
23 dynamic because the way this whole area is developing
24 it's going to have the problems that we have in all
25 the surrounding area.

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1 Perhaps too much of a sermon there, but,
2 nonetheless, let me end it with this and that is the
3 changes that actually were made from the last to this,
4 I think, are very positive and I think it's actually
5 doing really well. I like the fact of the orientation
6 of the houses. I think the spacing of it really works
7 in terms of the balance.

8 Really that's what we are being asked to
9 look at in the larger picture here, the balance of
10 what is buildable and what isn't and how you
11 facilitate all of these going in. I'm glad we spent
12 time on this visitor parking. That shocked me to no
13 end where all of a sudden we're increasing 120 spaces
14 -- 119. Why? I had always assumed you were parking
15 on the street and so I would say clearly at 20, 25
16 foot you're not, even though you could probably fit
17 one side slow traffic down. You're going to have drag
18 races on that thing. Ms. Hagans, you shake your head.
19 I'm not sure how you'd stop it.

20 You're going to have your teenagers that
21 are drag racing their cars down that street. I'm
22 talking about your property. I'm not talking about
23 South Dakota, Fort Lincoln. I'm not talking about
24 31st. There's not a lot of evidence or testimony of
25 what those are in this record.

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1 MR. COLLINS: Mr. Chairman, we intend on
2 having very sensible, sensitive homeowners throughout
3 the development. That's our hope and our intent.

4 CHAIRPERSON GRIFFIS: We're going to
5 continue that.

6 MR. COLLINS: Okay.

7 CHAIRPERSON GRIFFIS: I don't think we
8 have an application that -- I shouldn't say that.

9 MR. MANN: What is the width of those
10 streets in the internal street system?

11 CHAIRPERSON GRIFFIS: Did you say 25?

12 MR. MANN: Twenty-five. So it's pretty
13 narrow.

14 CHAIRPERSON GRIFFIS: It is narrow. I
15 mean, if you're talking about a -- I mean, this is
16 where it goes. Not that we need to belabor all of
17 this but I think it's valuable because -- well, I
18 think it is valuable because this is what the Board is
19 thinking about so you ought to know we are thinking
20 about it if you need to address this or not. Let's
21 look at it logically. Let's take that southern
22 street.

23 If we are going to make a two-way traffic,
24 single lane each way plus parking, we're looking at --
25 I'm just going to generalize here but let's say we

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1 need at least 12-foot driving lanes, right? So we
2 have 24 feet plus we need 10 feet on each side for
3 parking so we're looking at 10, 20, 30, 44 feet.
4 Let's call it 45 feet.

5 Now we've got a nice looking road. Okay,
6 45 feet is twice the size essentially of what you have
7 there. Is that right? If they went somewhere it
8 would be worth it. Okay. Actually, you know, for
9 scale it's going to be the width of where those
10 parking are so it set the houses back twice that which
11 obviously diminishes the lot size which then increases
12 the FAR on each of the lots as they are calculated
13 even though the housing wouldn't change sizes.

14 MR. DePUY: And would restore lot
15 occupancy variances as well.

16 CHAIRPERSON GRIFFIS: That's true. Right.
17 Indeed. Indeed. I'm not trying to change it. I mean
18 -- actually, I am. I think I did before a little bit.
19 I think really what we wanted is the work to go to OP.
20 I mean, I'm not 100 percent satisfied. We obviously
21 have to have a level of which we draw the line.

22 Go ahead, Mr. Etherly.

23 MR. ETHERLY: No, I think the Chair was
24 absolutely correct with regard to the development of
25 this project from where we were at the first hearing

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1 to where we are now. It's an excellent example of a
2 balancing act, I believe. I think there are some
3 tradeoffs clearly to get a little closer to perhaps
4 where we want to be in terms of retention of the green
5 space, dealing with the storm water runoff piece.

6 I think there are some pieces here that
7 you're not going to be able to reach such that you get
8 to that perfect point of balance with regard to the
9 project. All that to say I understand where the Chair
10 is going there but I'm not so hard pressed about
11 trying to resolve that question because you have some
12 very practical issues that you can't resolve with
13 regard to South Dakota Avenue.

14 I mean, I'm fairly clear that you just
15 can't tinker with that landscape. There are just
16 limitations there that prevent you from doing so. I'm
17 worried about what you potentially lose if you try to
18 go down -- no pun intended -- go down the road of
19 trying to open up something along this end. Thank
20 you.

21 MS. MILLER: I just want to follow up with
22 what the Chairman said also because that seemed to
23 raise a big concern about the whole queuing and
24 congestion possibly because of the very few exits out
25 of the property and the very few roads. I'm wondering

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1 if that is something you can address or could take a
2 look at or is it out of the question or what?

3 MR. COLLINS: We certainly did look at it.
4 I'm sorry we do not have our transportation expert
5 here, it was Wells and Associates, but when we did the
6 plan we took it back to them and just said, "We want
7 to make sure that we're okay as far as queuing." They
8 came back and said that we were not at a volume that
9 was going to cause a critical or failing intersection
10 there.

11 CHAIRPERSON GRIFFIS: That's a signaled
12 intersection?

13 MR. COLLINS: That's correct.

14 CHAIRPERSON GRIFFIS: Is it at both
15 corners? At South Dakota is there also a light there?

16 MR. COLLINS: Yes, both are signalized
17 intersections on both corners.

18 CHAIRPERSON GRIFFIS: I'm sorry. Just for
19 clarity but where you are going to exit on 31st that
20 is not signaled now but will be?

21 MR. COLLINS: Not where we exit but at the
22 corner of South Dakota and 31st is a signalized
23 intersection. We don't have anywhere near the number
24 of cars for DOT to warrant a signalized intersection.

25 CHAIRPERSON GRIFFIS: Really?

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1 MR. COLLINS: No.

2 CHAIRPERSON GRIFFIS: Two hundred houses?

3 MR. COLLINS: Remember, it's not 200
4 because you have different points of ingress, egress.
5 You don't have all 209 putting out at that one.

6 MR. ETHERLY: Mr. Collins, do you know if
7 there was any discussion with DDOT about what the
8 storage capacity is of 31st as you're heading back
9 towards South Dakota? All that to suggest for cars
10 that are attempting to make a left turn movement to go
11 down to South Dakota are you running -- was there any
12 suggestion that you would have the kind of volume that
13 might create what we often times see along 14th Street
14 where you have people who block the box, so to speak?

15 MR. COLLINS: Our discussions with DOT did
16 not show that we were providing the type of volume to
17 provide a critical test. We were not putting any of
18 the intersections into a worse condition.

19 MR. ETHERLY: Okay. Thank you. Thank
20 you, Mr. Chair.

21 CHAIRPERSON GRIFFIS: Thank you. The
22 question has come up in terms of the Wells report.
23 First of all, the first study that they did, did they
24 look at this layout? You said you brought it back to
25 them.

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1 MR. COLLINS: We brought it back to them
2 but we did not ask them to do a revised traffic report
3 at that time.

4 CHAIRPERSON GRIFFIS: Let's be practical.
5 Is the number of the units accessing out on 31st from
6 the southern end different substantially than it was?

7 MR. COLLINS: Not substantially but it is
8 different.

9 CHAIRPERSON GRIFFIS: I know. What do you
10 have on the southern side of that now, about 120
11 units?

12 MR. COLLINS: That's correct.

13 CHAIRPERSON GRIFFIS: What was it before?
14 Do you know?

15 MR. COLLINS: I thought it was somewhere
16 in the range of 100.

17 CHAIRPERSON GRIFFIS: Okay. It looks very
18 similar. Okay.

19 MR. COLLINS: Thank you.

20 CHAIRPERSON GRIFFIS: What else? Okay.
21 If there is nothing further from the Board, let's move
22 to the ANC report. We have Exhibit No. 23. Is there
23 an ANC-5A representative here today? Very well. Not
24 noting any, let's go to anyone else that would like to
25 testify either in support or in opposition at this

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1 time. Would you like to give testimony? Why don't
2 you come up and make yourself comfortable right here.
3 Let's just be clear because you guys aren't going
4 anywhere yet. Is that right? Okay. Another clarity.
5 All the stuff you have shown as to the applicant, of
6 course, here on the boards is identical to what we
7 have in here except obviously these are better
8 colored. Is that correct? Aside from the missing
9 piece.

10 MR. DePUY: The landscaping plan has been
11 supplemented.

12 CHAIRPERSON GRIFFIS: Oh, right.

13 MR. DePUY: We have the elevations.

14 CHAIRPERSON GRIFFIS: You have all those
15 in small size.

16 MR. DePUY: Right. And the very large
17 chart, which we really didn't spend much time on
18 comparing the variances between the first and the
19 second, are the only new ones. Otherwise you have all
20 the exhibits.

21 CHAIRPERSON GRIFFIS: Does that mean that
22 all those we didn't have we do have now?

23 MR. DePUY: You will or you do.

24 CHAIRPERSON GRIFFIS: Okay. Obviously
25 there was a question off the record whether they need

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1 to leave the boards and I do not think they are
2 needing to leave the boards.

3 MR. DePUY: We have copies of all those
4 for the record.

5 CHAIRPERSON GRIFFIS: Okay. Good. Thank
6 you. Are you wanting to do a small closing today?

7 MR. DePUY: I'll withhold judgment until
8 the case is completed.

9 CHAIRPERSON GRIFFIS: Okay. Very good
10 afternoon. Who would like to begin? Let's start on
11 my right. If you wouldn't mind, just give me your
12 name and your address for the record. Actually I've
13 asked everyone to come forward so let's cut to the
14 chase. Start off with your name and address, whether
15 you're in support or opposition to the application.

16 MS. STOKES: I'm in support with
17 modifications.

18 CHAIRPERSON GRIFFIS: Okay. And your name
19 and address?

20 MS. STOKES: Mr. Chair, I'm Gloria Stokes
21 and I am a resident of Fort Lincoln Condominium Two.
22 He owns that which is directly across the street on
23 31st Street from the proposed development.

24 CHAIRPERSON GRIFFIS: So as we look at
25 that drawing, which is actually the landscape plan of

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1 the applicant, you are on the left side of that plan.
2 Is that correct?

3 MS. STOKES: Yes, I'm right across on the
4 left.

5 CHAIRPERSON GRIFFIS: Excellent.

6 MS. STOKES: We as residents of the Fort
7 Lincoln Community, Hillside Two, are in opposition of
8 the -- are not in opposition of the proposed
9 construction of the new townhouse community but have
10 concerns relative to the effects the new construction
11 will have on our homes.

12 As homeowners we are experiencing
13 extensive problems of corrosion and standing water due
14 to inappropriate grazing and poor soil conditions.
15 Our concern is that without the appropriate study, a
16 geotechnical study, any extensive movement to the poor
17 soil and the proximity of the new construction to our
18 properties may have an adverse effect upon our
19 existing problem. You can see we are directly across
20 the street.

21 Based upon the report submitted to the
22 Zoning Board relative to construction of the new
23 townhouses, the following was reported. The soil
24 conditions of the property are unstable due to the
25 type of clay sediments underlying the top that causes

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1 an unstable
2 -- I'm just taking bits and pieces of the report --
3 that causes an unstable nature of the soil condition
4 and the need to level out portions of the property to
5 make it suitable for development. Due to steep grade
6 changes throughout the property retaining walls are
7 necessary.

8 With the construction of the townhouses on
9 the other side of the hill and the unstable nature of
10 the -- I can't even read -- of the clay sediments
11 throughout the property, retaining walls are necessary
12 in order to keep the homes from sliding into the next
13 row of townhouses.

14 The retaining walls will also be
15 constructed with inlets on the top of the walls which
16 will catch water drainage from the upper portions of
17 the property and draw it away from townhomes, rear
18 yards in the lower portion of the property. Thus,
19 besides providing slope stability for the townhouse
20 project, the retaining walls will also serve to
21 contain and channel storm water runoff on the
22 property.

23 According to an assessment made by the
24 Watershed Protection Division, properties located at
25 2861 and 2863, which is directly across the street, do

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1 not have a yard drain system to collect all runoff and
2 drain water into the existing drainage system and need
3 to be regraded. See Exhibit 39, and we do have some
4 exhibits.

5 It should be noted that the property that
6 is located at 2861 has a retainer wall that is
7 contributing to the water problem. The following
8 recommendation was made by the Watershed Protection
9 Committee. Regrade the backyard at 2865 31st Place
10 N.E. and 2861 to allow positive drainage towards the
11 existing storm water drainage system located in the
12 grass area in the beginning of the block.

13 This problem has contributed to premature
14 settling of the structure located on the 2800 block of
15 31st Place resulting in the structure cracking.
16 Moreover, the standing water in the yard located at
17 2861 and 2865 have contributed to termite infestation
18 and breeding of mosquitoes.

19 The mosquito problem is of extreme
20 importance because of West Nile. See Exhibits 2
21 through 38. Also exhibited in the exhibits is massive
22 corrosion Hillside Two condominium is experiencing.
23 The soil is corroding under the structures and the
24 clay is washing from under the structures onto the
25 sidewalks and the parking lot.

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1 We are asking that selective members of
2 the Hillside Two condominium work closer with the
3 development and planning team to ensure that the
4 construction of the new townhouses will not have an
5 adverse effect upon the existing structure. A lot of
6 this goes back to what they are saying about the soil
7 and the clay is actually washing up under our
8 structures which is causing all kind of settlement
9 problems and they are in the exhibits that will be
10 left.

11 CHAIRPERSON GRIFFIS: Excellent. Let me
12 ask you a couple of clarifying questions. You've
13 thrown a lot of addresses there, 2161, 2165, and
14 others. Where are those?

15 MS. STOKES: Well, we are piggybacks. For
16 each structure there are three units above it so the
17 2800 block is directly across on 31st Street on the
18 other side.

19 CHAIRPERSON GRIFFIS: I see.

20 MS. STOKES: And another concern --

21 CHAIRPERSON GRIFFIS: Let me just make
22 sure I know exactly what you're talking about because
23 you provided testimony last hearing. Is that correct?

24 MS. STOKES: Um-hum.

25 CHAIRPERSON GRIFFIS: Okay. But let me

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1 see if I understand. You are saying that actually
2 these addresses that you're talking about and the
3 problems you're talking about are already developed
4 within your area of townhouses?

5 MS. STOKES: Yes.

6 CHAIRPERSON GRIFFIS: That is across 31st.

7 MS. STOKES: Across 31st.

8 CHAIRPERSON GRIFFIS: Okay. You are going
9 to submit all these reports on that.

10 MS. STOKES: Yes.

11 CHAIRPERSON GRIFFIS: Now last I think we
12 talked about it a little bit but it's important to go
13 into it again. How do you see the impact of this
14 development impacting your side?

15 MS. STOKES: Well, our concern is the fact
16 that everyone has reported that the soil condition is
17 very poor up there with the clay and the mixture of
18 clay and sand. We are actually seeing clay washing
19 under our structures with the corrosion problem that
20 is existing with the clay.

21 We are concerned that with this
22 construction and the additional homes, not that we
23 don't want the construction, but we need to know that
24 there is not going to be a negative impact upon our
25 homes and the clay and poor soil that we are living

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1 with as a result of the poor clay.

2 CHAIRPERSON GRIFFIS: Excellent. One, you
3 don't want to have the reoccurrence of your problems
4 for these homeowners being very neighborly of you and
5 hoping not the problems upon them. But you also want
6 to make sure that this development won't impact new
7 areas or increase and compound the problems that
8 you're having.

9 MS. STOKES: That we are having.

10 CHAIRPERSON GRIFFIS: I see. Second item,
11 in terms of the development of the other side where
12 your home is, have you gone back and asked -- first of
13 all, have you brought this concern to this developer
14 and the developer of your area?

15 MS. STOKES: Well, no, and that is why we
16 opened it this time by saying that we would like to
17 work with them. We are not in opposition of it
18 because it's the same developer.

19 CHAIRPERSON GRIFFIS: You mean you have
20 never asked them what they thought of what might
21 happen?

22 MS. STOKES: Well, I called that to their
23 attention when I testified before. This time I want
24 to make it clear that we would like to work with them
25 to ensure that our properties will not be impacted

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1 upon negatively as a result of the new structures
2 being developed. One reason given is that there is a
3 sinkhole right at the entrance of our properties on
4 31st Place.

5 We have a structural consultant and when
6 he was over we even asked was it possible that the
7 same type of corrosion was happening under our
8 properties but it is manifesting itself because when
9 it rains it's nothing but clay on the sidewalk that's
10 beating up from under the stairwell. We've taken
11 pictures as exhibits so you all will be able to see
12 it.

13 CHAIRPERSON GRIFFIS: Excellent. Okay.
14 Have you ever investigated trying to find your
15 original development plans?

16 MS. STOKES: I was down here and I asked
17 Ms. Bailey is it possible for us to get them to review
18 them. But also our representative from our Fort
19 Lincoln Civic Association is here, too.

20 CHAIRPERSON GRIFFIS: I'm talking about
21 your development plans.

22 MS. STOKES: Well, I have requested them.
23 She said that she would try to get the copies so that
24 I could come down and review them.

25 CHAIRPERSON GRIFFIS: Ms. Bailey is great,

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1 isn't she?

2 MS. STOKES: She is.

3 CHAIRPERSON GRIFFIS: Okay. What you want
4 to do is look at your storm water management plan and
5 how it was laid out. You probably ought to have a
6 civil engineer look at it and assess why you're having
7 the problems if you haven't already done something of
8 that nature. Okay. Yes, other questions.

9 MS. MILLER: Ms. Stokes, I wasn't clear
10 whether you were speaking for your condominium
11 association or any association or just for yourself.

12 MS. STOKES: We are speaking -- this is
13 one of my neighbors and this is another one of my
14 neighbors. We are basically speaking for our little
15 cluster.

16 If you look at the original map, and
17 that's an exhibit here, there are three clusters that
18 comprise Fort Lincoln Condo Two and we don't have the
19 authority to speak for all of the other clusters but
20 our cluster gets the runoff from the higher top
21 because we are right at the back of our condo cluster
22 where Fort Lincoln Drives comes so we have the runoff
23 from the park which is the seep area into our
24 backyards in addition to the other problems.

25 Our problems are a little bit different

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1 from the ones that are directly below us and to the
2 right of us.

3 MS. MILLER: How many units are there in
4 your cluster?

5 MS. STOKES: There's 105 units. Oh, in
6 our cluster? There's 48, I think.

7 MS. MILLER: Okay. I know you've been
8 referring to a lot of exhibits and stuff but do you
9 have any kind of letter of authorization for you to
10 speak for your cluster?

11 MS. STOKES: Well, when we have our
12 signatures that I can provide that I didn't bring down
13 here but everybody has signed indicating that these
14 are problems that they are interested in getting
15 resolved so it's no problem in getting that.

16 MS. MILLER: Okay.

17 MS. STOKES: I have been circulating them.

18 MS. MILLER: Okay. I think you made
19 reference to some report and I'm wondering what report
20 that was.

21 MS. STOKES: The Watershed Protection
22 Report. Yes, and I attached that to my testimony
23 before and I also have it as part of this one, too.

24 MS. MILLER: Okay. Great. Then my last
25 question is there was a lot of discussion today from

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1 the applicant about all these retaining walls that
2 they are putting in. It sounds like you haven't had
3 a chance to really discuss with them whether that
4 might address your concerns because you seem to have
5 called for retaining walls and they seem to be here.

6 MS. STOKES: Our retaining walls have
7 created problems for us. In the front of our house we
8 have a lot of retaining walls which they said, and as
9 I've listened to the presentation, would have
10 prevented our structures from moving into the other
11 structures.

12 But also in Ms. Wanda's yard there is a
13 retaining wall that works with the lower -- the slope
14 comes down on our side from a higher level to a lower
15 level. There is a retaining wall that was built to,
16 I guess, deal with the -- I'm not an engineer with the
17 slope of the land, I guess.

18 Her retaining wall has created problems
19 because she has additional runoff because it runs off
20 from the higher level of our common area into her
21 yard. In addition, it runs off from the hill on the
22 other side of Fort Lincoln Drive. That has created a
23 really bad situation in her yard. She may want to
24 address that.

25 MS. MILLER: Okay. Thank you.

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1 MR. ETHERLY: Mr. Chair, if I could
2 piggyback on my colleague's questions. Ms. Stokes,
3 first of all, thank you very much for your testimony.
4 Can you help me understand a little bit how the slope
5 works in the vicinity of your properties? You've
6 heard a lot of discussion about water and, of course,
7 that's a big part of the concerns that we're going to
8 hear from you and your fellow neighbors.

9 In terms of the way that hill slopes from
10 Fort Lincoln coming down, first in terms of the
11 cluster of condos where you reside, it sounds like
12 you're at kind of the top most level closest to Fort
13 Lincoln Drive. Would that be correct?

14 MS. STOKES: We are.

15 MR. ETHERLY: Okay. And as you look down
16 over the other two clusters, or over one of the other
17 clusters, you definitely are looking downward so
18 you're at the top of a hill?

19 MS. STOKES: Yes, we are at the top.

20 MR. ETHERLY: Now, at the top of your hill
21 relative to the property that is the subject of this
22 application, are those two -- are you pretty much on
23 kind of the same plane or does this property in anyway
24 slope towards your property? What I'm essentially
25 trying to get a sense of is the way it's laid out it

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1 seems as though water is going to run more downward on
2 this property and not necessarily add additional
3 pressure to your property from a water standpoint.

4 I understand you already got a problem and
5 that's your concern. You already got a problem. What
6 I'm trying to massage a little bit is whether or not
7 this is going to exacerbate your problem.

8 I'm wondering if it's not simply because
9 the water here, as I think I'm hearing you testify, be
10 sure that there's some attention paid to it because
11 the future residents of this project might conceivably
12 encounter the same problems you are now facing. I
13 just want to make sure that the slope of the land is
14 such that water is not -- I don't get the sense that
15 water is coming across 31st Street to hit you.

16 MS. STOKES: Well, see, the problem is
17 that the clay is actually corroding under the
18 structure and under the pavement and the driveway.
19 That's why we have this sinkhole. We don't really
20 know what kind of action has taken place under any of
21 the structures at Fort Lincoln. That's why I'm saying
22 it looks like we should have an impact study.

23 In addition to that, because the soil is
24 bad I'm not sure if this whole area should be a
25 limited access area because Fort Lincoln Drive is a

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1 regular thoroughfare. It takes the traffic off of
2 South Dakota so then we have that extra. We will have
3 the new homes, the residents that are living there.
4 Then we have the traffic on Fort Lincoln Drive which
5 is not as great as the traffic on South Dakota but it
6 is substantial. We have all of this excess movement.
7 I don't know if the soil is appropriate or can take
8 all of this wear and tear to the extent that it's
9 going to create a really negative impact on everybody
10 that's living there.

11 MR. ETHERLY: I appreciate that answer.
12 Let me slide a little bit because you did raise the
13 issue of traffic just from the standpoint of being a
14 resident. How long have you been at your residence?

15 MS. STOKES: Twenty-five years.

16 MR. ETHERLY: Okay. So by virtue of the
17 benefit of being a long-term resident in this
18 community what has been your experience? I'm stepping
19 away from rain and water for a moment but just on the
20 traffic issue you talked about Fort Lincoln Drive and
21 you've talked about 31st Place. What has been your
22 experience around rush hour or during the morning and
23 during the evenings with regard to Fort Lincoln Drive
24 and 31st Place? Does it get pretty crowded?

25 MS. STOKES: Well, it can. 31st Street is

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1 one of the major entrances to the development. Not
2 only would it serve as the new development but it's
3 going to serve the residents at the lower part of the
4 hill that come in and make a left and go on to Baniker
5 Driver so at rush hour it can be extensive.

6 MR. ETHERLY: And we're talking just
7 empirically. Of course you're not a traffic expert
8 per se but what would you call it? Would you say it's
9 bad in the mornings?

10 MS. STOKES: Yes. I would say it is.

11 MR. ETHERLY: Okay. I appreciate that.
12 That answers my question. Now, of course, we look
13 forward as the other witnesses proceed any comments
14 that you might have on that experience.

15 Thank you, Mr. Chair.

16 CHAIRPERSON GRIFFIS: Thank you very much.
17 Any other questions from the Board? Very well. Let's
18 move on.

19 MS. BOWIE: Good afternoon, Mr. Chairman.
20 My name is Wanda Bowie. I live at 2857 31st Place
21 N.E. and I am one of the residents that has a swamp in
22 the back of her yard. There is no drainage in my yard
23 at all. When I bought the property six years ago I
24 would say I've only been able to use my backyard for
25 one year.

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1 When I moved in I had two small children
2 so for only that one year did they have access to the
3 back of my property. The mosquitoes are -- you can't
4 imagine. It was a time when the yard would dry up
5 when it was hot. It doesn't dry up at all now. For
6 someone to cut the grass they have to wear boots in
7 order to have access to my property to cut the grass.
8 I'm here just to get an understanding of if you are
9 going to build new property what are you going to do
10 about the people that are suffering that are already
11 there such as myself.

12 CHAIRPERSON GRIFFIS: Well put. I'm not
13 sure we are the people to answer that question but I
14 think it was heard. Any questions from the Board?
15 Ms. Bowie, you're in the same cluster or development.
16 Is that correct?

17 MS. BOWIE: Yes.

18 CHAIRPERSON GRIFFIS: It's U shaped, is it
19 not?

20 MS. BOWIE: Yes, it is.

21 CHAIRPERSON GRIFFIS: And what side do you
22 -- do you live on the top, the side, or the bottom?

23 MS. BOWIE: I'm at the very bottom.

24 CHAIRPERSON GRIFFIS: The bottom so the
25 rear of your property when we speak of that is also

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1 south of that U?

2 MS. BOWIE: Yes. If I may say, at one
3 point in living there in this six years I would not so
4 much see the water standing but would see the soil
5 being moist. Now you see water standing. The water
6 level is a puddle. It is not --

7 CHAIRPERSON GRIFFIS: It seems to be
8 getting worse then.

9 MS. BOWIE: It has gotten worse over the
10 years.

11 CHAIRPERSON GRIFFIS: When was your house
12 developed?

13 MS. BOWIE: '78.

14 CHAIRPERSON GRIFFIS: About 26 years ago.
15 Do you know who the developer was?

16 MS. BOWIE: It is my understanding that it
17 was Fort Lincoln Newtown.

18 CHAIRPERSON GRIFFIS: And you know the
19 entities involved in that?

20 MS. BOWIE: I don't myself. Maybe some of
21 my other neighbors do.

22 CHAIRPERSON GRIFFIS: When you are around
23 your property just taking the definition of that U
24 development as north being up and south being towards
25 your rear yard, when you feel the grade, when you look

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1 at what's uphill and what's downhill, which way is
2 downhill? Towards the back of your property or
3 towards the front?

4 MS. BOWIE: Towards the front.

5 CHAIRPERSON GRIFFIS: The front is
6 downhill?

7 MS. BOWIE: It would be going downhill,
8 yes. We're at the top of the hill. My yard sits --
9 the back of it is where Fort Lincoln Drive is and the
10 retainer wall that Ms. Stokes spoke about sits in the
11 back of my yard. Where the hill is constantly that
12 water comes into my yard and just normal rain comes in
13 my yard and there's nowhere for that water to go.

14 MR. ETHERLY: Ms. Bowie, very quickly,
15 would you still characterize your testimony the same
16 way that Ms. Stokes characterized hers? You're not
17 necessarily appearing on opposition to the proposed
18 project but you're raising concerns based on your
19 experience with the water runoff and the storm water
20 management of water on your property?

21 MS. BOWIE: I'm only in opposition if you
22 can find it within your heart to build new property
23 \$200,000 homes and I'm suffering with the problem in
24 my yard that as developers no one has done anything
25 about. That's how I feel about it.

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1 MR. ETHERLY: I understand. Thank you.

2 Thank you, Mr. Chair.

3 CHAIRPERSON GRIFFIS: Thank you. I think
4 we all appreciate and are actually trying to figure
5 out the total situation here. Within our jurisdiction
6 on this is the property at hand. What you see on that
7 board, that's all we're able to look at. Fully
8 understanding that you have water and storm water
9 management problems has informed a lot of the way we
10 look at this.

11 I think what we can do is give good advice
12 and direction. I think you have to -- somebody should
13 have, or has already, contacted the developers of
14 across 31st Street. You ought to be able to be
15 speaking with them and figure out what was done in
16 terms of the storm water management in its original
17 development and if it wasn't done properly and
18 adequately that it should be remedied.

19 There's no reason to have that much
20 standing water unless the oceans rise with the global
21 warming but that's something we don't have
22 jurisdiction over either. Okay. Thank you, Ms.
23 Bowie. We appreciate you being here. You weren't
24 here last hearing, were you?

25 MS. BOWIE: No, I wasn't.

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1 CHAIRPERSON GRIFFIS: Good. Well, I'm
2 glad you made it today. Okay.

3 MS. RUSSELL: Good afternoon, everyone.
4 Regina Russell. I live at 3016 Pineview Court which
5 is down the hill. I am here today to testify on
6 behalf of the residents of Fort Lincoln in the
7 capacity of president of the Fort Lincoln Civic
8 Association, Inc.

9 One thing -- well, first I want to say no
10 one welcomes new development more than the residents
11 of our community because I believe everyone here knows
12 that Fort Lincoln was originally supposed to be the
13 suburban model and the urban city of the country. All
14 right? That model has not been completed yet.

15 With the new construction I don't seem to
16 be hearing fire controls and how fire trucks are going
17 to get in and out of these narrow roads that we've
18 spoken about tonight. The nearest fire department is
19 on 18th and Rhode Island Avenue, N.E. They already
20 have a problem if they have to come into the
21 community. If there's a fire there's a problem how
22 they have to come around because there is limited
23 access getting to the community. That's one of my
24 issues that I'm here to address.

25 Another issue would be parking. We

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1 already have a parking issue along Fort Lincoln Drive
2 especially where the senior building is at 3298 Fort
3 Lincoln Drive. There's not enough parking. They have
4 a parking lot but it's not enough parking for all the
5 residents because when the building was originally
6 constructed I guess they didn't think that people
7 would have two-car families or you would have guest
8 parking.

9 A lot of times the parking already is at
10 night time coming from 33rd Street halfway up the
11 block toward 31st Street and Fort Lincoln Drive.
12 That's just with the residents that live in the senior
13 building alone very close to this proximity of this
14 design.

15 When they have bingo, Christmas parties,
16 or any type of special occasions the traffic does --
17 I mean, the parking does overflow all the way up to
18 31st Street. If we have special events in our
19 community because we have tennis courts, we have a
20 baseball field, we have a park with gazebos that
21 people rent from Parks and Recreation to use during
22 the summer. People are parked all up and down Fort
23 Lincoln and they spill over into 31st Street going
24 down to Baniker and South Dakota Avenue.

25 Those are issues about parking now so to

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1 have 209 new homes coming there and if they have
2 guests, and I'm sure it's not going to be enough guest
3 parking. One hundred and nineteen parking spaces is
4 not going to be enough. You're not going to really be
5 addressing the parking issue along Fort Lincoln Drive.

6 Also, with new construction coming up, I
7 certainly would like to see some sort of provisions
8 made for people of disabilities. We do not have
9 anything that -- we do have curb cuts but there is not
10 any designated signs for handicapped parking spaces
11 that would be close to your access to visit someone.
12 Am I being clear?

13 CHAIRPERSON GRIFFIS: That's good.

14 MS. RUSSELL: Good. Another thing is the
15 drainage along South Dakota Avenue between 31st Street
16 and 33rd Street as well. I guess that's what you
17 refer to as "clogged drains." But when there is heavy
18 rain, there is a river flowing down towards South
19 Dakota Avenue starting, I guess, in the 3200 block of
20 South Dakota Avenue.

21 I don't know if any of you have ever
22 driven up and down South Dakota Avenue but during rush
23 hour it's horrible. If the weather is bad and it's
24 heavy rain, you have bumper-to-bumper traffic. I'm
25 just trying to say that the drains back up. The water

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1 overflows on the sidewalk and sometimes it takes
2 almost a week before the water is cleared up because
3 it's standing water.

4 The drains are just not draining properly.
5 A lot of people in Cannon Village have a lot of
6 problems with water backing up into their home so
7 there is water in basements. Dr. Stokes with great
8 testimony has said to me in conversation that one or
9 two of her neighbors actually has mold growing in the
10 house from the basement coming up through the house so
11 there are issues with latent defects.

12 I know that is not a matter of old
13 construction but please let it be something that you
14 look at also since it is marsh land that you look at
15 and it's part of your consideration.

16 Fort Lincoln now and PSA 503 has a 40
17 percent rate of crime. That crime is increasing
18 constantly (1) because of low lighting. Yes, we do
19 have private streets but there are public streets and
20 the public streets are not being maintained and looked
21 after.

22 On behalf of the Civic Association for the
23 past two years I have been addressing traffic
24 controls. I have addressed lights, you know, to have
25 left turn signal lights. The vehicles that use us as

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1 a shortcut from South Dakota Avenue using Fort Lincoln
2 Drive is a shortcut from South Dakota most of them
3 with Maryland license plates.

4 They come down Fort Lincoln Drive and they
5 head onto Eastern Avenue which takes them to another
6 side of the city close to Brentwood, Calmwood Manor.
7 During rush hour I don't know who is doing the test
8 but the vehicles will ignore our stop signs and they
9 actually run through those stop signs like flowing
10 water. I have addressed this and written the mayor.

11 I have written our counsel members so it's
12 not something that anyone doesn't know about. I have
13 addressed this. I've sent pictures. I've discussed
14 these issues with our Ward 5 outreach team. I'm not
15 going to look very good by saying all of that but,
16 yes, I have addressed these issues.

17 So we are asking for increased lighting
18 throughout the community when the new construction
19 comes up, especially around the senior area. The
20 senior area is a big concern and it's not just that
21 one senior area. We have four senior buildings in
22 that area.

23 I do want to address that the police have
24 suggested that we have high intensity lighting in the
25 whole area to try to prevent the crime from

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1 increasing. We have stolen vehicles. We have
2 abandoned vehicles. We have break-ins to vehicles.
3 We have daylight robberies where people can actually
4 get robbed standing at their mailbox.

5 In the last couple of months we have had
6 robberies by two gentlemen getting out with shotguns
7 and approaching people as they get out of their
8 vehicles in a parking lot to enter into their home.
9 We have problems and I just wanted to go on record for
10 saying that. I believe I addressed fire controls,
11 parking, traffic, and lighting. Thank you very much
12 for allowing me to testify.

13 CHAIRPERSON GRIFFIS: Good. Thank you
14 very much for testifying. I appreciate you being here
15 and bringing up all these points. I want to address
16 all of them actually starting with the first major
17 point you brought up about the fire department and the
18 two aspects. One is distance from the fire department
19 and also access. I assume that you mean access and
20 availability into this development or proposed
21 development.

22 I would point your attention to the
23 original Office of Planning's Report which is dated
24 July 13th. Office of Planning -- also, let me just
25 step back a little bit. We have jurisdiction over a

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1 lot of things and we have incredible amount of
2 authority and power. At least I would like to think
3 so.

4 But we don't have jurisdiction over
5 everything and a lot of these issues we don't have
6 direct jurisdiction over so I'm going to talk about
7 them and then tell you -- my Board will correct me,
8 believe me -- tell you how I think we can influence
9 and how I don't think we can or don't have
10 jurisdiction over.

11 But fire department and access distance
12 and all that we obviously do. Office of Planning,
13 which is the office that gives us analysis and
14 coordinates a lot of those, they talked to the Fire
15 and Emergency Medical Services. They received several
16 e-mails from them. The upshot of it is that the
17 District of Columbia's Fire EMS department had no
18 objections so long as all 2,000 international fire
19 code and D.C. laws were complied with meaning the
20 building code. As these are built that the building
21 code was complied with.

22 They would assess -- I'm making an
23 assumption here but what the fire department is
24 supposed to do when they look at an operation they
25 would assess one distance and availability of

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1 resources to service this development. The official
2 position of theirs is that they believe that it is
3 okay.

4 We have some familiarity with the access
5 and being able to look at whether a vehicle could
6 access this area. It seems fairly appropriate on the
7 dimensions that we're seeing that this could easily
8 accommodate a fire truck pulling into it so access and
9 adjacency doesn't appear to be difficult unless you
10 see something that we may not be at this point. I
11 don't know that the fire department did.

12 They also looked at -- let me tell you
13 extensively the agencies that they looked at. They
14 also looked at D.C. Public Schools. DCPS had given
15 them indication. Water and sewer authority which
16 another Board member is going to go well into and I'll
17 follow up on.

18 They have also gone into Department of --
19 where else did we go? We went to Employer Services
20 for some reason. We also went to DACD Housing and
21 Community Development and they had looked at it for
22 their specific aspects.

23 Let's go to parking. It's an interesting
24 point that you bring up. You made a statement that
25 119 or the additional visitor parking wouldn't be

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1 enough for 209.

2 MS. RUSSELL: The senior building has
3 approximately 300 residents and the parking lot that
4 is built for their complex is not a parking lot for
5 300 residents with vehicles.

6 CHAIRPERSON GRIFFIS: Do you know how many
7 it parks?

8 MS. RUSSELL: I'm sorry?

9 CHAIRPERSON GRIFFIS: Do you know --

10 MS. RUSSELL: How many spaces do they have
11 is what you're asking? I'm going to presume about
12 100.

13 CHAIRPERSON GRIFFIS: A hundred spaces?

14 MS. RUSSELL: Yes. At the time that
15 building was built I don't think that it was -- you
16 know, they thought they would conceive that the senior
17 citizens would have a family of two and two cars.

18 CHAIRPERSON GRIFFIS: A family of two with
19 two cars? I see. Okay.

20 MS. RUSSELL: Okay. But it is an issue
21 over there with that particular building.

22 CHAIRPERSON GRIFFIS: What is your
23 understanding of how this is being parked, the number?

24 MS. RUSSELL: I'm sorry?

25 CHAIRPERSON GRIFFIS: How many total

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1 parking spaces is your understanding is being
2 provided?

3 MS. RUSSELL: You said 119. I've heard
4 119 all afternoon for guest parking.

5 CHAIRPERSON GRIFFIS: Exactly.

6 MS. RUSSELL: That's the guest parking.

7 CHAIRPERSON GRIFFIS: That's guest
8 parking.

9 MS. RUSSELL: Right, for 209 townhouses.

10 CHAIRPERSON GRIFFIS: Right. How many
11 total parking spaces? Of the 209 over half of them
12 have two-car garages. Then the other however many
13 have one car space plus conceivably a driveway.

14 MS. RUSSELL: I've lived there for 15
15 years
16 -- I've lived on Pineview Court for 15 years. Most of
17 the other surrounding sections of Fort Lincoln they do
18 not have provisions for guest parking so Cannon
19 Village is located -- some of it is on 31st Street,
20 South Dakota Avenue, and Baniker Drive. They have
21 about 264 residents.

22 They do not have provisions for guest
23 parking so their guests will park on Baniker, 31st
24 Street. They cannot park on South Dakota Avenue. We
25 have three churches in the area now. On Sunday forget

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1 it when it comes time for parking as well as Easter.
2 Any type of holiday we have a problem with parking.
3 I've had to work with the churches and other -- the
4 police department to stop the double parking that was
5 going on from Bladensburg Road all the way to Eastern
6 Avenue and South Dakota.

7 CHAIRPERSON GRIFFIS: Okay. So if I
8 understand, you're saying for a little over 200 houses
9 119 visitor parking is not enough.

10 MS. RUSSELL: I'm just saying it's going
11 to flow over to Fort Lincoln, 31st Street, and Baniker
12 Drive. It may not be a parking issue now. It will be
13 a parking issue. Then I'm sure that everyone knows
14 we're going to have a retail center pretty soon as
15 well.

16 CHAIRPERSON GRIFFIS: Right. There's over
17 507 parking spaces, if I understand this application
18 correctly, provided on this development for 204.

19 MS. RUSSELL: I'm not here to, I guess,
20 argue. I just want to point out --

21 CHAIRPERSON GRIFFIS: You're right. Me
22 either.

23 MS. RUSSELL: -- that to me it's a future
24 issue.

25 MS. STOKES: Also, Mr. Chair, the cluster

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1 directly underneath does not have any guest parking at
2 all. They have assigned spaces so anyone who comes to
3 visit also has to park on 31st Place. It may pose to
4 be a problem.

5 MR. LAWSON: Mr. Chair, I would just like
6 to note that actually all of the units are two-car
7 garages now. The original application showed some as
8 one car and some as two car. In the current proposal
9 all the units have two-car garages. In addition, each
10 of the units would have parking for guests in the
11 driveways which is one of the reasons the Office of
12 Planning was not opposed to the number of additional
13 visitor parking spaces that they were proposing.

14 MS. RUSSELL: Another thing I really did
15 fail to mention, and that is Fort Lincoln in case of
16 terrorists is going to be the major thoroughfare to
17 evacuate the city and that is on the Emergency
18 Management Agency's report.

19 CHAIRPERSON GRIFFIS: Do you think we
20 shouldn't develop this?

21 MS. RUSSELL: No, I'm not saying that. I
22 just want you to have all the information that maybe
23 other people have not given you. A lot of times I
24 find that when I go to hearings or meetings, you have
25 people making decisions for you that don't live in the

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1 community. If they are not impacted by the things
2 that we're impacted by, I just don't see how you can
3 address all of our issues.

4 CHAIRPERSON GRIFFIS: Right. I don't
5 think we can address all your issues because we don't
6 have the jurisdiction over some.

7 MS. RUSSELL: Thank you for listening.

8 CHAIRPERSON GRIFFIS: Well, you bring up
9 some excellent points and we need to get down here
10 further. This whole emergency preparedness and the
11 routes, some of the Board members are very familiar
12 with that and what's going to happen, or what will
13 never happen but what we are prepared for. The issue
14 really looks at, and I don't know if you heard some of
15 the comments of the Board previously, how this was
16 originally laid out.

17 This is not to really -- well, it's not to
18 handle -- it's to handle a lot of in and out and not
19 a lot of circulation through meaning it almost is like
20 cut through with highways and then we have little
21 exits once in a while which doesn't accommodate a lot
22 of dissipation of traffic which is probably why you
23 have a lot of big building areas and backup of traffic
24 in certain --

25 MS. RUSSELL: And we still have deer. We

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1 have some deer.

2 CHAIRPERSON GRIFFIS: For a little while
3 longer. Okay. You're talking about parking in terms
4 of the senior building but you also brought up the
5 other aspect of the handicapped parking and you wanted
6 to make sure that there would be appropriate numbers
7 and adjacencies to it. That is clearly something that
8 is very important in terms of --

9 MS. RUSSELL: Thank you.

10 CHAIRPERSON GRIFFIS: -- accessible
11 parking. And then the size of each parking space is
12 also an important piece. That would be regulated by
13 other codes and regulations that they would have to
14 comply with. I imagine they have anticipated some of
15 that.

16 It will be based on a lot of the housing
17 and the issue of private property and such as they
18 laid that all out but I'm certain they will
19 accommodate that as is appropriate to the federal law.
20 Actually, the design of some of the houses may well
21 come under that. I don't know. I'm not an expert on
22 that but they may end up having to have some that
23 would be adaptable to or built to certain
24 accessibility levels.

25 MS. RUSSELL: And, sir, it's not only the

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1 project, the new construction that's coming up. I'm
2 mentioning it because it's not on the public streets.
3 We do not have any type of handicapped signs along the
4 public streets as well.

5 CHAIRPERSON GRIFFIS: Right. And that is
6 something obviously once we cross the property line
7 we're kind of normal citizens. We're kind of normal
8 citizens inside the property line but our jurisdiction
9 leaves us when we leave this property.

10 MS. RUSSELL: Okay.

11 CHAIRPERSON GRIFFIS: So it's a very
12 important thing and you should probably follow up.
13 Certain the Office of Planning has some influence over
14 it but I would absolutely follow up with your council
15 member. That's a direct link to that. Or perhaps an
16 at-large member that may well also be open to hearing
17 that.

18 Traffic. Traffic's a big one. I think
19 you support a lot of the evidence that we already have
20 in the record now and for our understanding. The no
21 compliance, some of us know this neighborhood well,
22 others may not. We don't need to know the
23 neighborhood to have the frustration of noncompliance
24 with traffic laws and basic stop signs. Being all
25 District residents I think we all feel that in all of

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1 our neighborhoods --

2 MS. RUSSELL: Yes.

3 CHAIRPERSON GRIFFIS: -- and the
4 difficulty with that. Obviously we need to get on top
5 of it and pay attention to them ourselves when we
6 drive and give the examples of being good drivers but
7 also expect that everyone else be in compliance with
8 it because then the business of what our traffic
9 engineers do and lay out will actually work, or at
10 least work better, and then we'll know where our major
11 problems are.

12 There is no question in my mind, and I
13 think we'll put some emphasis on it, that the
14 Department of Transportation with the Office of
15 Planning need to look at the signalization, the lights
16 on each of these corners and what's appropriate just
17 with the increase in the density that's happening with
18 this and with other developments.

19 MS. RUSSELL: Please.

20 CHAIRPERSON GRIFFIS: I cannot imagine and
21 I'm almost certain that they are very well aware of
22 it. They probably ought to be starting now if they
23 aren't well on their way to getting that done. I
24 think it will obviously take some effort but not
25 necessarily monumental effort to get this to work and

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1 flow a little bit better.

2 It may well mean putting a signal or a
3 signalized intersection on 31st. Again, I'm not a
4 traffic engineer, nor do we necessarily have the
5 jurisdiction to look at that. I think it would mean
6 a lot of input from the experts but also get some
7 feedback from the community to see whether that would
8 be appropriate.

9 Crime and lighting, I think you heard some
10 of our deliberation today and discussion of the
11 questions. That is absolutely important. It's not so
12 important -- it's important in two -- well, I think
13 it's important in one respect for me and it all has to
14 do with appearance. When you go into any neighborhood
15 and you look at it and you look at the sidewalks and
16 how it's defined in the houses you get an appearance.
17 That appearance lets you either feel safe, generally
18 speaking, or not safe.

19 I think it goes directly then to
20 functioning. At night it makes a big difference if
21 something is lit correctly or not correctly. There's
22 a big difference between having these cobra lights,
23 kind of these highway lights that go across and light
24 the middle of the streets but your sidewalks are dark
25 and your front lawns are dark.

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1 MS. RUSSELL: And the park.

2 CHAIRPERSON GRIFFIS: And the park is very
3 dark. It may be the safest neighborhood in the world
4 but it feels unsafe. If you start feeling unsafe, you
5 are going to be unsafe. What is being proposed in
6 this project I think is very appropriate and I think
7 if laid out correctly that it will be very nicely lit
8 in the interior.

9 That's where the streets are. How much
10 they have to do with outside the property is really
11 going to be what's happening between them and public
12 space in the city. I think for our purposes in
13 looking at this they have really tackled quite a bit.

14 I'm not sure how you patrol necessarily
15 the green spaces and all the grown-up area but in a
16 lot of sense that's -- well, I don't know. I mean,
17 that may well be worth the developer thinking about,
18 or maybe the home owners as they get in when the
19 Homeowner's Association assesses because it's kind of
20 tragic not to have the trees there to be safe but
21 maybe there's some delicate lighting or --

22 MS. RUSSELL: It's just lighting.

23 CHAIRPERSON GRIFFIS: -- something that
24 you could do inside. I think that has really got to
25 be, in my opinion, something that is tested as people

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1 move in and actually are the owners and residents of
2 the area if that is what happens in this. Then they
3 look at how to deal with that specific.

4 MS. RUSSELL: May I ask a question?

5 CHAIRPERSON GRIFFIS: Sure.

6 MS. RUSSELL: With the 209 townhomes
7 coming and their being single-family homes, do we not
8 -- are they going to be no children? If there is no
9 children, then we don't have a problem but if we have
10 children, then there is no recreational facility for
11 the children in the community.

12 If the children don't have anything to do,
13 then that's where you have crime because they are
14 standing on the corners. They have nothing to do and
15 when they have nothing to do, that's when you find
16 vandalism increasing in the neighborhood and I would
17 just like to know if anyone is going to address any
18 recreational facility.

19 CHAIRPERSON GRIFFIS: Isn't there a
20 community center across Fort Lincoln?

21 MS. RUSSELL: Yeah, it's there. It's not
22 enough and that brings parking as well because you
23 have a lot of outside people using Fort Lincoln,
24 Thurgood Marshall Elementary School for marshal arts,
25 for swimming. We have people coming outside of the

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1 community to use it from Maryland, from D.C. So now
2 we're going to bring in new construction.

3 CHAIRPERSON GRIFFIS: Not from Maryland.
4 We can't accommodate the kids in this development.

5 MS. RUSSELL: I'm saying they do use our
6 facilities, yes. They use the cultural center.

7 CHAIRPERSON GRIFFIS: Okay. I don't
8 understand. I hear what you said but it doesn't make
9 sense to me. You first said --

10 MS. RUSSELL: I'm just saying that --

11 CHAIRPERSON GRIFFIS: Here's my question.
12 You first said let's make this prohibited to children
13 because there's no place to play but there's a
14 community center across the street --

15 MS. RUSSELL: It's not enough.

16 CHAIRPERSON GRIFFIS: It's not enough.
17 What do you mean?

18 MS. RUSSELL: We even have baseball in the
19 park. We have tennis courts. What are they doing for
20 recreation for the children?

21 CHAIRPERSON GRIFFIS: In the community
22 center you have a baseball field?

23 MS. RUSSELL: There's a baseball field in
24 the park.

25 CHAIRPERSON GRIFFIS: So there's a park

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1 behind the community center.

2 MS. RUSSELL: Yes. The community center
3 is in the school. The community center is in the
4 school so when the school closes, then there's nothing
5 for the kids. If the school is closed on the weekend,
6 there is nothing for the children.

7 CHAIRPERSON GRIFFIS: You mean they can't
8 play on the two baseball diamonds in the park?

9 MS. RUSSELL: Oh, during the wintertime?
10 That's great.

11 CHAIRPERSON GRIFFIS: No neighborhood has
12 outside baseball in the winter.

13 MS. RUSSELL: North Michigan Park now has
14 a recreational center that is coming up for the
15 children and the residents in that area so maybe I'm
16 not being clear enough.

17 CHAIRPERSON GRIFFIS: I'm trying to get a
18 picture of what you think kids need. I'm looking at
19 this and kickball in the street is what I remember.

20 MS. RUSSELL: Some place for children to
21 go and play and have other activities other than
22 sports. Maybe something with computers. Something
23 that has a little gym, you know.

24 CHAIRPERSON GRIFFIS: Okay. And the
25 community center doesn't do that now?

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1 MS. RUSSELL: It's in the school so when
2 the school is closed, there is no community center.

3 CHAIRPERSON GRIFFIS: Is that a program
4 issue?

5 MS. RUSSELL: It could be a program issue.

6 MS. STOKES: Excuse me. The community
7 center for the children is in the school, like she
8 said. The cultural center, which is across from the
9 new development, is really considered a senior
10 citizen's center and both of them are operated by the
11 recreation department so, you know, the access is
12 limited.

13 The school schedule controls the
14 recreation facility and the cultural center closes at
15 6:00 in the evening which basically caters to seniors
16 which come throughout the city. If you say there is
17 a self-contained recreation center for the residents
18 of Fort Lincoln, there really isn't one. The outdoor
19 pool is in the cultural center, too, which uses that
20 during the day but --

21 CHAIRPERSON GRIFFIS: You have a pool,
22 too?

23 MS. STOKES: We have two pools.

24 MS. RUSSELL: We have two pools.

25 MS. STOKES: We have an indoor pool and an

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1 outdoor pool.

2 CHAIRPERSON GRIFFIS: I'm not going to
3 tell you where I live because --

4 MS. RUSSELL: Invite us.

5 CHAIRPERSON GRIFFIS: You need to invite
6 me. I don't have two pools, let me tell you. Okay.
7 Ms. Miller.

8 MS. MILLER: Okay. I have a few different
9 comments and questions. One is on the recreation
10 issue that we were just talking about. I earlier
11 asked the applicant about where the buyers are going
12 to be coming from and he said the people from the Fort
13 Lincoln community would have the first option to buy.
14 So when I hear you say something like maybe they
15 shouldn't have children, I think you're going in the
16 wrong direction personally.

17 I think families stabilize communities and
18 maybe one question might be what kind of recreation do
19 they have within this community. If you feel like,
20 No. 1, there's not enough recreation in the general
21 community if they have more children here, then one
22 option would be what are they providing here.

23 We are looking at this property right now
24 and this is just gratuitous to a certain extent but if
25 you feel that you don't have enough recreation

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1 opportunities in your community, that's not really
2 within our jurisdiction but you should raise it with
3 the Department of Parks and Recreation, you know, if
4 you're short.

5 I think that you have touched on some
6 important areas and I would like to follow up some of
7 your concerns with Office of Planning if that's okay.
8 One is we were talking about parking and when I look
9 at this plan, I think as far as parking for the
10 disabled, every unit has a driveway so I would think
11 that you couldn't get much closer to a unit than the
12 driveway and that probably accommodates it.

13 I notice in attachment to Office of
14 Planning's report, which is a letter from Department
15 of Transportation, that they said there would be 12
16 handicapped parking spaces in the development. I
17 don't really know to what that referred and I wanted
18 to ask Mr. Lawson if he does and if that is still the
19 case if there are extra spaces or handicapped or
20 disabled other than someone's driveway.

21 MR. LAWSON: I'm sorry. I'm going to have
22 to ask where is that from?

23 MS. MILLER: What am I reading from?

24 MR. LAWSON: Yes.

25 MS. MILLER: Okay. I believe this was

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1 attached to the first Office of Planning Report and
2 it's a letter from Ken Laden to you dated July 15,
3 2004.

4 CHAIRPERSON GRIFFIS: That's DDOT's
5 report.

6 MS. MILLER: DDOT. Oh, maybe it's not
7 attached to your report. I'm sorry. Maybe it's
8 loose.

9 MR. LAWSON: I'm sorry. I don't think I
10 have ever -- I don't have a copy of that.

11 MS. MILLER: Okay. I'll pass it to you.
12 How's that? It doesn't have an exhibit letter. It
13 may have just floated in at the hearing.

14 MR. LAWSON: I would assume that this is
15 probably a response to the applicant's original
16 submission. They may at some point in discussions
17 with DDOT or on some of the plans that they shared
18 with DDOT have shown 12 handicapped parking spaces.
19 I don't know the code well enough to know whether or
20 not those are a requirement, whether the 12 parking
21 spaces are a requirement.

22 These are essentially single-family lots
23 but I would expect -- I'm just guessing but I would
24 expect that is not a code requirement. Certainly not
25 that the Office of Planning would have any objections

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1 to the provision of additional handicapped parking
2 spaces. I would fully agree with you, though, that I
3 would expect that most -- that in most cases that
4 situation would be handled by parking in the driveway.

5 MS. MILLER: I have one other question
6 related to that letter. I will read it and then pass
7 it to you. It talks about the traffic. It says, "The
8 results of the analysis indicates that all
9 intersections leading to and from the project will
10 operate at level of service D or better during both
11 the am and the pm peak hours except the intersection
12 of Bladensburg Road and Eastern Avenue." I'm
13 wondering could you elaborate on what level of service
14 D is? How acceptable is that?

15 MR. LAWSON: To be honest, I'm sorry, I
16 can't. Sorry. I do think one of the operative
17 questions would be what those intersections are
18 operating at now before this development goes in
19 compared to what they would be operating at after the
20 development.

21 MS. MILLER: I don't think DDOT found a
22 problem with that. I think the biggest problem that
23 these witnesses have talked about are the water
24 problems. I'm wondering if I can draw your attention
25 to the report from WASA. I think this was attached.

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1 Yes, this is attached to your July 13th Office of
2 Planning Report. It's dated June 30, 2004.

3 MR. LAWSON: Yes, I have it now.

4 MS. MILLER: Okay. they have certain
5 comments saying that certain things should be done.
6 For instance No. 1, "Capacity of existing storm sewers
7 must be evaluated because the proposed zoning will
8 change the existing land use area from undeveloped
9 heavily wooded condition to full developed area with
10 urban setting." Okay, that's No. 1. Has that been
11 done or when is that done?

12 CHAIRPERSON GRIFFIS: I'm not sure OP
13 would answer any of this, Mr. Lawson, unless you have
14 a better idea.

15 MR. LAWSON: I was only going to answer
16 that to say that I believe those kind of studies are
17 done closer to the building permit stage but that the
18 applicant would be required to continue discussions
19 with the relevant departments, DDOT for traffic, WASA
20 for issues such as this to ensure that they meet all
21 WASA requirements.

22 CHAIRPERSON GRIFFIS: And they're going to
23 have to do float tests and the whole works to make
24 sure they feed all these units and also that the fire
25 hydrants have correct pressure. They have a lot of

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1 work ahead of them. We're making them nervous
2 bringing all this up.

3 MS. MILLER: Okay, but that reassures me
4 and that may reassure you that they have to do these
5 things before they are going to be allowed to go
6 forward.

7 CHAIRPERSON GRIFFIS: Really Ms. Miller is
8 bringing up an excellent point. It's talking about,
9 one, the capacity -- well, both, capacity to take
10 water away but, more importantly, the capacity to
11 bring water to this site. That's what WASA is going
12 to look at. That's what a lot of the other agencies
13 attended to their appropriate authority are looking
14 at. WASA is probably the hardest. Did I say that on
15 the record? Go ahead.

16 MS. RUSSELL: And one more thing. I don't
17 know if this falls under your jurisdiction or not as
18 well. When the construction starts what route will
19 the dump trucks be taking? Are they going to have
20 access throughout our community using all the roads?

21 CHAIRPERSON GRIFFIS: Truck routes. Good.
22 Okay. Anything else?

23 MS. RUSSELL: No.

24 CHAIRPERSON GRIFFIS: Thank you very much.

25 MS. RUSSELL: Thank you.

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1 CHAIRPERSON GRIFFIS: Mr. DePuy, do you
2 have any cross-examination of any of your witnesses?

3 MR. DePUY: No, Mr. Chairman.

4 CHAIRPERSON GRIFFIS: Excellent. If you
5 guys wouldn't mind, just have a seat but don't leave.

6 MS. RUSSELL: Okay.

7 CHAIRPERSON GRIFFIS: Mr. DePuy, I'm going
8 to need two of your witnesses up just very quickly,
9 Mr. Collins and Mr. Amatetti for some quick questions.
10 Mr. Collins, a very quick questions that just came up,
11 truck route. Are you going to be the holder of the
12 contract with the general contractors?

13 MR. COLLINS: Yes, we will and we will
14 have a truck management plan as well as a construction
15 management plan prior to any commencement of
16 construction on the site.

17 CHAIRPERSON GRIFFIS: Excellent. Do you
18 have any difficulty in sharing that with the local
19 civic association?

20 MR. COLLINS: Absolutely not. I would be
21 more than happy to.

22 CHAIRPERSON GRIFFIS: Okay. The applicant
23 has just indicated that they are going to have a truck
24 route plan and a construction management plan and they
25 are very interested in sharing that with you. They

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1 are.

2 PARTICIPANT:

3 CHAIRPERSON GRIFFIS: That's up to you
4 guys once you leave the hearing. I'm not sure. It
5 kind of confounds me. I'm a little bit disappointed
6 that I have witnesses that are coming back three
7 months, two months, five months since we started this
8 application and the indication I got was no one even
9 tried to contact these folks.

10 This is not the forum to have a lot of
11 direct discussion. Maybe you can share it with them
12 when they are finished also. Take this opportunity.
13 First of all, we've captured them here for an
14 afternoon. Don't let them leave until you get at
15 least phone numbers and start the discussion because
16 it's frankly too late for us to hear it but there is
17 still time to go on with that.

18 Mr. Amatetti, what is the impact of the
19 grading and what is being proposed here as a civil
20 engineer to the adjacent property on 31st Place?

21 MR. AMATETTI: I was sitting in the back
22 so I couldn't see how you were pointing but my
23 understanding the development in question is on this
24 side of 31st Street?

25 CHAIRPERSON GRIFFIS: Look at that

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1 specifically and then look generally at the entire
2 area. What is the impact of this development,
3 specifically that one cluster and then all the
4 clusters.

5 MR. AMATETTI: Specifically for that
6 cluster I don't think there is any impact for this
7 development from a drainage situation based on the
8 fact that our drainage goes directly to South Dakota
9 Avenue now. As I testified before, we are going to be
10 intercepting the vast majority of the drainage except
11 for an extremely small portion along South Dakota and
12 directing it directly to the underground system under
13 South Dakota Avenue.

14 CHAIRPERSON GRIFFIS: If you didn't do any
15 of that how is the grade set up for watershed right
16 now? Which way does the water flow, across 31st?

17 MR. AMATETTI: It flows directly from Fort
18 Lincoln Drive due south to South Dakota Avenue fairly
19 consistently.

20 CHAIRPERSON GRIFFIS: Is there any
21 currently without development on this site water
22 drainage across 31st?

23 MR. AMATETTI: No. There's no drainage
24 across 31st except maybe just a little bit in the
25 lower left-hand corner there's a small amount down in

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1 that corner that may go over the curb.

2 CHAIRPERSON GRIFFIS: South Dakota area.

3 MR. AMATETTI: It's right down at the
4 intersection of South Dakota. Frankly, the
5 development of this property would have a positive
6 impact on the drainage situation based on the way that
7 we've laid out the storm sewers and the way we've
8 intercepted the water and directed it directly to the
9 underground system. It's not often you can say that
10 but I can say that on this development. It would have
11 a positive impact on the South Dakota inlets and so
12 forth.

13 CHAIRPERSON GRIFFIS: On South Dakota I
14 can see. Okay. Has the review of the standards for
15 storm water management in the District of Columbia
16 changed in 26 years?

17 MR. AMATETTI: Yes, it's gotten much more
18 intense. Storm water management regulations have been
19 in place for quite some time but the District over the
20 past, I want to say, maybe five or six years has
21 gotten extremely intense in their review and analysis
22 that they require and we would be meeting all those
23 regulations.

24 As far as capacity analysis and so forth,
25 we would be required to do all of those and we would

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1 be required to meet the full letter of the law with
2 respect to both detention and water quality so that we
3 wouldn't have an impact on the public system. They
4 require us to analyze the site as it exist today which
5 is basically the allowable runoff from our site would
6 be analyzed on the natural condition which is what
7 they look at the site as being right now. We couldn't
8 release at a higher rate than what is being released
9 right now.

10 CHAIRPERSON GRIFFIS: Right.

11 MR. AMATETTI: And it has to be cleaner
12 than it was.

13 CHAIRPERSON GRIFFIS: Right. It has to
14 have passed through natural woods. Okay. What else?
15 Anything else?

16 MR. MANN: Yes, I have a follow-up
17 question regarding parking. Do you anticipate having
18 any sort of controls or procedures in place to limit
19 the guest parking to actual guests of the development?

20 MR. COLLINS: It would be posted. We
21 would have signs posted "visitor parking." As you
22 know, it is a very difficult task to try to manage who
23 parks there and recognize whether they are visitors
24 but we will have postings and obviously we will have
25 a management company. If it becomes a critical issue,

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1 then we will have to effectively deal with it. One
2 thing that we have been very cognizant of is the
3 existing parking condition in Fort Lincoln and we
4 believe that we have adequately addressed the parking
5 issue.

6 MS. MILLER: Are you going to have any
7 specially designated parking for the disabled?

8 MR. COLLINS: Yes, we did. In the
9 previous plan that we submitted to you, not the
10 revised plan, we actually called out the handicapped
11 spaces. We just reviewed it. We didn't call it out
12 for this submission but we clearly will and they will
13 be painted for handicap. We will have at least a
14 minimum of 12 handicapped and they will be called out.
15 That is something that will appear in the final site
16 plan that comes before the District.

17 MS. MILLER: And can you identify any
18 areas in the plan that are devoted for recreation?

19 MR. COLLINS: We have two -- we've called
20 out two what we'll call "tot lot" recreation areas
21 that provide for active recreation. They are not
22 passive in the sense of we also have trails that are
23 probably a bit more in terms of the passive recreation
24 but the tot lots are active whether it be jungle gyms.

25 We're going to look at a variety of

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1 different uses and perhaps we'll mix it up. Maybe one
2 of the tot lots will be geared to a certain age group
3 and then the other will be geared to a different age
4 group for children. They would be -- there are two
5 distinct recreation areas on the plan.

6 MS. MILLER: So there are two different
7 ones so one could be for -- the tot lots, are they for
8 younger children?

9 MR. COLLINS: Yes, it is.

10 MS. MILLER: If you thought there was a
11 demand for recreation for older kids, you could have
12 something geared more toward older kids?

13 MR. COLLINS: We could modify it and
14 provide some sort of amenity that was geared to not a
15 toddler or younger elementary school. We could try to
16 look at it. We've done that in numerous communities.
17 We find out what our demographics are moving in and
18 then at the end of the job we've always designated at
19 least two tot lots for a job this size. At the end
20 we'll go back and we'll work with the District in
21 coming up with a plan for the other recreation area.
22 That's what I envision doing here. I can certainly
23 say to you that one of them will be a tot lot geared
24 to a jungle gym.

25 MS. MILLER: Okay. I would just say that

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1 if what you said before was that you are going to be
2 drawing from this community that it might make sense
3 to work with the community and see what their
4 recreation needs and desires are.

5 MR. COLLINS: We don't have any problem
6 working with the community and we are more than happy
7 to. To follow-up on the Chairman's comment, I will
8 give my card out to any members of the community. As
9 we said before the ANC meeting, we want an open
10 dialogue with the community and we are hoping that the
11 community is going to be our greatest asset in selling
12 these homes.

13 MS. MILLER: Thank you.

14 CHAIRPERSON GRIFFIS: Anything else from
15 the Board? Excellent. Thank you both very much.
16 Closings? We'll take 45 seconds while Mr. DePuy gets
17 his thoughts collected here.

18 MS. RUSSELL: Regina Russell, President of
19 Fort Lincoln Civic Association, Inc. We do have a
20 slight problem where the ANC does not communicate with
21 the whole community. When you see signatures on the
22 signatures, it's usually a lot of senior citizens who
23 are making decisions for the homeowners and not a lot
24 of signatures of the homeowners attending these
25 meetings.

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1 We are not being communicated to. We
2 produce a quarterly newsletter as the civic
3 association to give information to our community and
4 the developer does not communicate with the civic
5 association, nor does our ANC so that is why
6 communication is not getting to us.

7 I will give my business card out not only
8 as a relator but as the president of the Fort Lincoln
9 Civil Association so I want to be included and I don't
10 want anyone to walk away from here saying they are
11 going to give me a card and I'm not going to be
12 involved in this. I will be communicating and we have
13 legal staff that works for the civil association as
14 well. Thank you.

15 CHAIRPERSON GRIFFIS: Excellent. He
16 pulled his card out so don't leave without it.

17 MS. RUSSELL: All right.

18 CHAIRPERSON GRIFFIS: Okay.

19 MR. DePUY: Mr. Chair, members of the
20 Board, I'll be very brief. I believe that the
21 Planning Office and Mr. Lawson's summary of the
22 revised application and the legal test we have for the
23 two special exceptions and for the one variance, the
24 floor area ratio variance, for a reduced number of
25 lots was an excellent summary and I won't repeat it

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1 but we believe we've satisfied the applicable legal
2 requirements with respect to the zoning relief
3 requested.

4 We believe the revised plan meets the
5 objections and concerns raised previously by the Board
6 and by the Office of Planning that the revised project
7 is in keeping with the Fort Lincoln urban renewal plan
8 and will be a benefit for the community. As has been
9 testified to by Mr. Collins, he will definitely reach
10 out to the community on this project as it goes
11 forward. We thank the Board for its patience and this
12 hearing. Thank you.

13 CHAIRPERSON GRIFFIS: Thank you very much.
14 Let's look at setting this for a decision making.
15 Also if I've missed anything. I don't have any notes
16 from this hearing of additional information that we
17 were having submitted in unless Board members are
18 aware of anything that we actually had carried over
19 also.

20 Yes, Ms. Miller, you had the table of
21 landscaping stuff that is coming in. Correct?

22 MS. MILLER: And the comparison of the
23 variance.

24 CHAIRPERSON GRIFFIS: Do you want that big
25 chart thing?

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1 MS. MILLER: I think he said it was coming
2 in.

3 CHAIRPERSON GRIFFIS: Yeah, sure. We've
4 got that in, too. By the time they reduce that to 8.5
5 by 11 we'll need a microscope. Okay. I mean, other
6 than what has already been assessed that is going to
7 be submitted that was presented today I don't have any
8 unless Board members do.

9 Ms. Bailey, are you aware of any that we
10 had mentioned?

11 MS. BAILEY: Mr. Chair, I don't know if
12 the Board wants this but Ms. Stokes had indicated that
13 she would provide documentation, that she is speaking
14 on behalf of her neighbors. I'm not sure if that is
15 something the Board still wants or not.

16 CHAIRPERSON GRIFFIS: If that comes in,
17 that's fine. I don't think it's a requirement. You
18 had a statement, though, with tons of exhibits. Is
19 that correct? You have one copy? I'm sorry. I
20 hesitate to -- we need 20 copies of it. Not only is
21 Ms. Bailey going to get it, which is the most
22 important one copy, but the rest of the Board wants to
23 see it also. The applicant wants to see it. We need
24 20. Can we make one now? All right. If you wouldn't
25 mind work with Ms. Bailey. We are going to get one

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1 copy.

2 Mr. DePuy, I'm going to ask that you not
3 leave until you get this so you walk out of here with
4 it or have someone hang around to pick it up. Then
5 the Board will get their copies later.

6 MS. MILLER: Mr. Chairman, I just wanted
7 to clarify. I think this is coming in or has come in
8 but I want to make sure we get the revised landscaping
9 plan that has a list of the plants that are going to
10 be used. Okay. Thank you.

11 CHAIRPERSON GRIFFIS: That's your list of
12 green things. All right. We're going to set this for
13 the morning public meeting November 2nd which means we
14 don't have much that is out there that takes time so
15 obviously as quickly as possible. Of course,
16 everything would have to be in by next Tuesday 3:00.
17 Any difficulty in making that, Mr. DePuy?

18 MR. DePUY: No.

19 CHAIRPERSON GRIFFIS: None. Okay. We
20 have about seven cases for decision making that
21 morning. I'm not sure when this will show up but
22 obviously we'll show up at some point during that
23 time. Of course, that's our public meeting which
24 deliberation by the Board takes place and no other
25 testimony that would be presented before the Board.

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1 Everyone, of course, is welcome to be there but is not
2 required to be present and we'll go from there.

3 Anything else I can answer at this point?
4 Procedural questions? Everybody clear then on what
5 we're doing and where we're going? In which case,
6 thank you very much. Another important thing is
7 happening on November 2nd so make sure you fulfill
8 your obligations also whatever jurisdiction you're in.

9 Ms. Bailey, Mr. Moy, any other business
10 for us this afternoon?

11 MR. MOY: Not to my knowledge. I think
12 that's it for today.

13 CHAIRPERSON GRIFFIS: What do you know.
14 Very well. If there is no other business for the
15 Board, let's adjourn the afternoon session of the
16 19th.

17 (Whereupon, at 4:35 p.m. the hearing was
18 adjourned.)

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