

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

Tuesday,
April 23, 2002

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GOEFFREY H. GRIFFIS	Chairperson
ANNE MOHNKERN RENSHAW	Vice Chairperson
DAVID LEVY	Board Member (NCPC)
CURTIS ETHERLY, JR.	Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY J. HOOD	Commissioner
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COMMISSION STAFF PRESENT:

Beverly Bailey	Office of Zoning
Paul O. Hart	Office of Zoning
John K.A. Nyarku	Office of Zoning

OTHER AGENCY STAFF PRESENT:

John Fondersmith	Office of Planning
David McHettigan	Office of Planning
Steve Cochran	Office of Planning
John Moore	Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

AGENDA ITEM

Page

APPLICATION OF D.C. DEPARTMENT OF HOUSING AND

COMMUNITY DEVELOPMENT, ANC-6B, 16860. 8

GLADYS HICKS, ZONING CONSULTANT 11

WITNESSES

ANDY BOTTICELLO 15

JIM MYERS 56

DAWN RUCKER 58

APPLICATION OF P.N. HOFFMAN

16865 ANC-2C. 85

JOHN T. EPTING, ESQ.. 85

Shaw, Pittman, Potts & Trowbridge
2300 N Street N.W.
Washington, D.C. 20037

WITNESS

LAMONT HOFFMAN. 87

CHRIS MORRISON. 91

RALPH CUNNINGHAM. 100

APPLICATION OF JEFF TOMASEVICH

16862 ANC-2F 123

WITNESSES

JEFF TOMASEVICH. 124

<u>AGENDA ITEM</u>	<u>PAGE</u>
<u>APPLICATION OF RLA REVITALIZATION CORPORATION</u>	
<u>16858 ANC-1A</u>	144

 NORMAN M. GLASGOW, JR. 144 Holland
and Knight, LLP
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 2099 Pennsylvania Avenue, N.W.
 Washington, D.C. 20006
 (202) 955-3000

WITNESSES

DREW GREENWALD	154
MIKE PRIFTI.	159
LOU SLADE.	164

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

(9:41 a.m.)

CHAIRPERSON GRIFFIS: Good morning, ladies and gentlemen. I will call this hearing to order. This is the 23rd of April, 2002, the public hearing of the Board of Zoning Adjustments. And with that, we are official. My name is Geoff Griffis. I am the Chairperson. Joining me today is the Vice Chair, Ms. Anne Renshaw. Also joining me is Mr. Curtis Etherly, Mr. David Levy on my left, representing National Capitol Planning Commission and we are honored with the presence of Mr. Anthony Hood today, representing the Zoning Commission.

Copies of today's hearing are available for you. They are located at the table next to the door that you did enter into. Let me lay out a few things most of you are probably familiar with but these proceedings are recorded. So there are several things I need to go over with that very quickly. One, we will have to have great decorum in the hearing room and will not tolerate any disruptive noises or actions.

Also, in presenting to the Board, when you come forward, you will have to turn on the microphone in order to be heard on the record and I will instruct you with any technical difficulties that we might run into with that, but it should be pretty easy, press the button, the red light will come on and speak clearly.

All persons planning to testify, either in favor or

1 in opposition, are to fill out two witness cards. Cards are
2 located at the table here and also the table that you came in.
3 Upon coming forward to speak to the Board, you will need to
4 deliver both of those cards to the Reporter, who is sitting to my
5 right.

6 The order of procedure for special exceptions and
7 variances this morning will be first, statement and witnesses of
8 the applicant. Second will be all government reports that we
9 have attendant to the case. That will include Office of
10 Planning, Department of Public Works, et cetera. Third would be
11 the reports from the Advisory Neighborhood Commission. Fourth
12 will be parties or persons in support, fifth would be parties or
13 persons in opposition and sixth, finally, we will hear closing
14 remarks by the Applicant.

15 Cross examination of the witnesses is permitted by
16 the Applicant or parties. The ANC, within which the property is
17 located is automatically a party in the case.

18 The record will be closed at the conclusion of each
19 case except for material specifically requested by the Board and,
20 of course, we will give details on what we need submitted to the
21 board and any dates for those submissions. After the record is
22 closed no other information will be accepted by the Board. The
23 Sunshine Act requires that the public hearing on each case be
24 held in the open before the public. The Board may, consistent
25 with its rules of procedure and the Sunshine Act, enter executive

1 session during or after the public hearing on a case for purposes
2 of reviewing the record or deliberating on the case.

3 The decision of the Board in these contested cases
4 must be based exclusively on the public record and, of course, to
5 avoid any appearance to the contrary, the Board requests that
6 persons present not engage members of the board in conversation.

7 I would ask at this time that everyone turn off their beepers
8 and cell phones so as not to disrupt the proceedings.

9 At this point, we will look to and consider any
10 preliminary matters. Preliminary matters are those which relate
11 to whether a case will or should be heard today such as requests
12 for postponement, continuation, withdrawal or whether proper and
13 adequate notice of the hearing has been given. If you are not
14 prepared to go forward with a case today or if you believe the
15 Board should not proceed, now is the time to raise such a matter.

16 I will first ask staff if there are any preliminary
17 matters, but before they answer that I will introduce the staff.

18 On my very far right, Ms. Bailey, Mr. Nyarku on her left and Mr.
19 Hart is joining us. Ms. Sansone is corporation counsel with us
20 today. With that, any preliminary matters by the staff?

21 MS. BAILEY: None, at this time, Mr. Chairman.

22 CHAIRPERSON GRIFFIS: Very good. Anybody in the
23 audience with preliminary matters at this time? Not seeing a
24 rush to the table, I will assume that there are none and we can
25 call the first case.

1 MS. BAILEY: Application Number 16860 of the D.C.
2 Housing Authority pursuant to 11 DCMR 3104.1 for a special
3 exception from the location of parking spaces requirement under
4 Section 2116 and pursuant to 11 DCMR 3103.2 for a variance from
5 the lot width requirements under Section 401, a variance from the
6 lot area requirements under Section 401, a variance from the lot
7 occupancy requirements under Section 403, a variance from the
8 rear yard requirements under Section 404 and a variance from the
9 off-street parking requirements under subsection 2101.1 for the
10 construction of two single family dwellings and 18 flats in an R-
11 4 district at 1368 C Street SE , 264-267 Kentucky Avenue SE, 245-
12 265 14th Street SE and 1360-1364 C Street SE. The property is
13 located in Square 1039, Lot 74 and 75.

14 All those persons wishing to testify would you
15 please stand to take the oath? Please raise your right hand.

16 (Witnesses Sworn)

17 MS. BAILEY: Thank you. Mr. Chair, there is a
18 request for a fee waiver in this case.

19 CHAIRPERSON GRIFFIS: Yes, thank you very much.
20 I'm assuming Mr. Kelly is not here. Are you representing Mr.
21 Kelly? Okay, Ms. Franklin, I don't think we need to necessarily
22 hear but I have may have a question of you. We do have a request
23 of a fee waiver of November 5th, 2000 -- interesting 2001 is the
24 date on the letter. It has come to the Board's attention in
25 looking at this, that we are actually not able to grant a fee

1 waiver as per our regulations, Section 3180.3.

2 I would refer you, and it does read the Department
3 -- "A department, office or agency of the Government of the
4 District of Columbia shall not be required to pay a filing fee
5 where the property is owned by the Agency and the property is to
6 be occupied for a government building or use", and I don't think
7 this project falls under that.

8 Actually, if you're going to speak, why don't you
9 come up? And let me interrupt you again. Push that button right
10 there. Perfect.

11 MS. FRANKLIN: The property is owned by the DC
12 Housing Authority, but it's reuse will not be for government
13 purposes.

14 CHAIRPERSON GRIFFIS: Right. Will the Government -
15 - will the Housing Authority maintain ownership of the --

16 MS. FRANKLIN: We will own -- we will most probably
17 have a land lease but the property will be used, the single
18 family dwelling, it will be a condominium.

19 CHAIRPERSON GRIFFIS: Right, okay. Well, there
20 might be some way to tip the first part, but I don't see the
21 second. Board members, any other opinions on that? Okay.

22 MS. FRANKLIN: What is the fee?

23 CHAIRPERSON GRIFFIS: That is --

24 A VOICE: It's already been paid.

25 CHAIRPERSON GRIFFIS: Right, exactly, it's always

1 hard to get a refund around here, isn't it? Okay, so Board
2 members, I'm taking it as a consensus that we would deny the
3 request for fee waiver. Very well, then we can move on.

4 Good morning, Ms. Hicks. Whenever you're ready,
5 you can proceed.

6 MS. HICKS: Okay, good morning. My name is Gladys
7 Hicks. I'm a zoning consultant. I'm assisting in the project.
8 To my right is Andy Botticello. He's with IDS Solutions. To my
9 far right is Catherine Moore. She's with Sorg and Associates and
10 also Mr. Mink Le. He's also an architect with Sorg and
11 Associates.

12 The subject property is located in the R-4
13 residential zone. The lots are bounded by 14th Street SE, C
14 Street SE, Kentucky Avenue, SE. To the right and left of the
15 lots are two existing properties or existing structures and also
16 there is a public alley to the rear. The total lot square
17 footage is 44,148 square feet.

18 Currently, the lots are occupied by an old housing
19 development named Kentucky Court and I reference a Washington
20 Post magazine article from July 1st, 2001, written by Mr. Jim
21 Myers about the old project. Also we have with us today Mr. Jim
22 Myers, who will speak about his involvement with the project.
23 The properties are vacant, boarded up and surrounded on all sides
24 currently by a fence. All existing structures will proposed to
25 be raised and there is a proposal for a housing development which

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1 will include two single family dwellings and 18 two-unit flats.

2 All the structures will be classified as row. To
3 the rear of the proposed development will be an accessory parking
4 lot which will be used by visitors and also be used for accessory
5 parking on the lots where parking cannot be located. Also there
6 will be a handicapped space. We're also trying to make the
7 project handicap accessible.

8 Review of the architectural plans, the site plans,
9 indicate that the following relief is required from the Board of
10 Zoning Adjustment, a variance from Section 401.3, the minimum lot
11 area and lot width requirements. Variance from Section 404.1,
12 the minimum rear yard and setback requirements, a special
13 exception pursuant to Section 2116 for the location of parking,
14 also we would require a variance from Section 2101.1, the off-
15 street parking requirement. There was another section called
16 out, Section 403.2, the maximum allowable lot occupancy for 274
17 Kentucky Court -- Kentucky Avenue SE. We believe that section is
18 no longer needed.

19 What happened on that particular lot the structure
20 outside of the boundary lot line, the square footage was
21 included. Under zoning calculations that area is excluded which
22 is over in the public space. So if you calculate just the
23 outline boundary of the structure it will come up to about
24 approximately 59 percent which is under the 60 percent maximum
25 allowed lot occupancy. So we believe that section is no longer

1 needed. That's Section 403.2.

2 CHAIRPERSON GRIFFIS: What was the property number?

3 MS. HICKS: It was 274 Kentucky Avenue. It's right
4 as you intersect with C Street and Kentucky Avenue.

5 CHAIRPERSON GRIFFIS: And do you want to go through
6 that again? Is that a build to line that's indicated? You're
7 indicating that, in fact, you don't take out to the sidewalk.

8 MS. HICKS: Right, there's some area outside in the
9 public space and you subtract that out. It's not included.
10 Anything outside of the private property line boundaries would
11 not be included in the calculation for lot occupancy. We can
12 illustrate that in going over the drawings.

13 CHAIRPERSON GRIFFIS: Ms. Sansone, we had that us
14 before and I thought we got clarification on it. Do you recall
15 that case?

16 MS. SANSONE: I don't, Mr. Chairman.

17 CHAIRPERSON GRIFFIS: Okay.

18 MS. HICKS: There are three conditions for granting
19 variances. The first is the property is unique because of its
20 shape, size, topography and other extraordinary or exceptional
21 situation or condition. The second is the owner would encounter
22 exceptional practical difficulties as a result of the strict
23 application of the regulations to a particular property. And the
24 third is that the variances would not cause substantial detriment
25 to the public good and would not impair the intent of the zoned

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1 plan.

2 The proposed structures would be three stories and
3 will not exceed the 40-foot height limitation. The elevations of
4 the row structures will be within the majority of the zoning
5 requirements and will be consistent with the type of construction
6 in the existing neighborhood. Therefore, the Applicant
7 respectfully requests that the outlined relief required for the
8 variances and a special exception from the Board of Zoning
9 Adjustment through a public hearing process be considered.

10 We'd like to go over the design elements with Sorg
11 and Associates. We can put up the boards and go over the design.
12 Okay.

13 CHAIRPERSON GRIFFIS: Actually, go ahead, you may
14 answer my question.

15 MR. BOTTICELLO: Andy Botticello. I'm the
16 president of IDS. We're the developer of the project. Just to
17 give you a little bit of background, we were awarded the
18 development rights for this project from the Housing Authority
19 and they're the current owners of the property and we are, in
20 effect, under contract with them to purchase and have been
21 working with them to complete this project. The development was
22 a cooperative effort between the private sector and our firm,
23 IDS, the Housing Authority and also the community.

24 The Housing Authority has an RFP process in place
25 which involved the community and the residents of this

1 development so that when we got to this point, that it would be a
2 cooperative effort and everybody would agree on what we had come
3 up with. So I think, you know, to this point so far it's been a
4 very good process that we've taken to get here and we've taken
5 community input through the two-year process that we've been
6 doing this. And the result of that is the plans that we'll show
7 you in a few minutes.

8 The project itself, I think, is a nice example of a
9 public/private partnership. We have 38 homes that we're building
10 in this site. Twelve of the homes will be reserved for public
11 housing residents. That's what Jessica was alluding to when she
12 was talking. It's -- they will actually be owned by our firm but
13 we will receive the federal subsidy that the Housing Authority
14 does and, in turn, be required to service residents of public
15 housing and to operate under the same rules as the Housing
16 Authority.

17 This allows IDS to own the properties and it
18 assures the community that there's a private owner in there
19 owning and operating these properties to make sure that they
20 operate properly.

21 CHAIRPERSON GRIFFIS: Now are these going to be
22 Section 8 certificate holders or it's just -- is it going to be -
23 - where is the subsidy coming from?

24 MR. BOTTICELLO: The subsidy is actually the ACC
25 and Jessica may want to give you the actual explanation. It's

1 the ACC subsidy the Housing Authority receives that actually pass
2 through to the developer. So, no, they are not Section 8
3 certificates. They're off the public housing list.

4 CHAIRPERSON GRIFFIS: Gotcha. Yeah, I don't think
5 we need much more detail on that then.

6 MR. BOTTICELLO: Okay, all right. Is there a mike
7 I can take over the Boards?

8 CHAIRPERSON GRIFFIS: No, you're going to have to
9 yell.

10 MR. BOTTICELLO: Okay.

11 CHAIRPERSON GRIFFIS: A quick question though, just
12 for my edification and I'll tell you how to do that.

13 MR. BOTTICELLO: Okay.

14 CHAIRPERSON GRIFFIS: Actually, if you want to
15 start setting up so we can start the time moving. There should
16 be enough easels. If there are not enough easels, we can
17 probably get more. Take me through. It's my understanding and
18 tell me if I'm incorrect, that this is actually in a subdivision
19 process right now. You do not have the subdivision completed,
20 correct?

21 MR. BOTTICELLO: Right. The idea here is that
22 under the zone that we're using, we need to stick with row house
23 construction and so that's the way this is set up. There's
24 actually -- the current lots, there's two lots out there now.
25 They're being subdivided into 20 lots. We're then taking each of

1 those 20 lots and creating a condominium on those lots so that
2 we'll have two lots -- two units for sale on each lot except for
3 two cases where we're going to have one unit. That gets you to
4 your total of 38 units.

5 And that as done to allow us to sell the flats, in
6 effect. These are typical Capitol Hill setup with an English
7 basement, with a townhouse above it.

8 CHAIRPERSON GRIFFIS: Right, right.

9 MR. BOTTICELLO: And what we wanted to do was be
10 able to sell the flat as opposed to rent it. Typically, you
11 would buy the whole townhouse and then rent the bottom out and
12 the idea of this was to try and hit the middle of the market
13 which isn't being served right now, is people trying to purchase
14 in the 150, \$175,000.00 range. It's just tough to deliver that
15 and so this condo was set up so that we could have units in that
16 range and serve the moderate income market.

17 CHAIRPERSON GRIFFIS: Okay. Because often, the
18 Board actually looks for legally subdivided lots that would then
19 be looked at but obviously this is a unique situation where you
20 need the variances in order to do this type of -- the specific
21 subdivision. So that's fairly clear.

22 MS. HICKS: That's right, because some of the lots
23 are -- do not meet the minimum width of lot and lot area
24 requirement, the Zoning Administrator could not sign off on the
25 subdivision even if it had been put into the process. So we have

1 to get the Board of Zoning Adjustment approval. Then the final
2 order is taken over to the Zoning Administrator's office and then
3 you submit for the subdivision prior to getting the final sign-
4 off by the Zoning Administrator.

5 CHAIRPERSON GRIFFIS: Good. Can you come up and
6 speak into the mike? If you would just turn that mike on for
7 her. And I just need your name.

8 MS. RUCKER: Thank you. My name is Dawn Rucker.
9 I'm a citizen and I've applied for Section 8, so I do have a
10 concern in this. First of all, getting back to the first issue
11 what we were discussing --

12 CHAIRPERSON GRIFFIS: All right, I'll tell you
13 what, there's going to be an appropriate time where I'm going to
14 have you come up and you can give your testimony.

15 MS. RUCKER: Yeah.

16 CHAIRPERSON GRIFFIS: But at this point, we have
17 the Applicant putting on their case and it's disruptive if --

18 MS. RUCKER: Well, I have a question in reference
19 to the --

20 CHAIRPERSON GRIFFIS: Okay, and what I'm going to
21 tell you --

22 MS. RUCKER: -- in reference to the contractual
23 agreement between the government and --

24 CHAIRPERSON GRIFFIS: I understand that. Let me
25 just interrupt you here. I cannot take you right now. I can't

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1 have you talking --

2 MS. RUCKER: So at the end of the proceedings, I'll
3 be able to --

4 CHAIRPERSON GRIFFIS: It will be part of the
5 proceedings and I will call up and when you have questions, you
6 can do that as part of your testimony and we will get the answer,
7 hopefully for you.

8 MR. RUCKER: Okay, thank you very much.

9 CHAIRPERSON GRIFFIS: Thank you. Okay, now, the
10 mike on this side -- I don't think we have -- we don't have the
11 cordless any more, but --

12 COMMISSIONER HOOD: Mr. Chairman, let me just say,
13 Mr. Hart is going to see. We used it Thursday, it was working,
14 so he's going to check that for us.

15 CHAIRPERSON GRIFFIS: Okay, they're searching for
16 the cordless. If not you can use the last one on the table. You
17 can walk -- you can actually bring the boards quite a bit closer
18 and then we have a pointer for you, if you want.

19 MR. BOTTICELLO: Let me ask a question. We have
20 the architectural boards and we can let you take a look at them.
21 And I actually have materials if it might be easier to see.

22 CHAIRPERSON GRIFFIS: Good, and then copies of
23 these boards that we're looking at are also being submitted?

24 MR. BOTTICELLO: That's what this is.

25 CHAIRPERSON GRIFFIS: Perfect.

1 MR. BOTTICELLO: Okay, so you can look at these and
2 if you can't --

3 CHAIRPERSON GRIFFIS: Actually, if you would, you
4 can submit it to staff on my far right.

5 MR. BOTTICELLO: And there's 10 copies there.
6 Hopefully, that's -- the -- we won't go into a lot of detail. If
7 you have questions on the architecture, the architects are here
8 to answer those questions. Our analysis, really we want to focus
9 on the site plan so that everybody understands the actual
10 variances we're asking for but just quickly --

11 CHAIRPERSON GRIFFIS: Probably a safe tactic to
12 take, huh?

13 MR. BOTTICELLO: Right. The idea behind the
14 architecture and I think Sorg and Associates did a good job of
15 doing this, was to tie the development into the Capitol Hill
16 architecture styles without trying to duplicate what's already
17 existing in Capitol Hill. So we've kept the pattern of
18 development and some of the elements from Capitol Hill and kind
19 of put a little bit different twist on it and you can see the
20 result there. And I think it does a good job of tying into the
21 existing neighborhood without copying it.

22 So we've segmented the blocks into various elements
23 so that three or four units are similar in style and color which
24 has happened in the Capitol Hill area and numerous different
25 areas. So we were just following that pattern. We've added some

1 details to the building, pulled them off existing Capitol Hill
2 buildings some of the elements that you see around the area and
3 tried to make it fit in well without copying it.

4 I'd like to now go to the site plan.

5 CHAIRPERSON GRIFFIS: A quick question on that one
6 and then I promise I'll let them go. But why such heavy stairs?

7 MR. BOTTICELLO: Okay, why don't I let the
8 architects address that?

9 CHAIRPERSON GRIFFIS: And this can be a very short
10 answer because it has nothing to do with your application but now
11 that we have it in front of us, it's worth the question.

12 MR. LE: Actually, the stairs vary in their
13 likeness and in their volume. Most of the stairs, which aren't
14 actually shown here, most of the stairs, the handrails will be
15 detailed with brick work, where the brick work will be open hand
16 rails. We really couldn't show that at this scale of drawing
17 because they're an eighth inch. And then we have several of the
18 stairwells will actually be transparent, were basically a
19 combination of light metal work and iron work, so it will be a
20 variety of stairs --

21 CHAIRPERSON GRIFFIS: Right.

22 MR. LE: -- types.

23 CHAIRPERSON GRIFFIS: When you bring up the fact
24 that you're trying to be somewhat contextual without replicating
25 exactly what's there, I mean, a traditional row house in Capitol

1 Hill or in the city has a straight run stair that goes straight
2 up. These look to be coming into the side.

3 MR. LE: Well, additionally, we have some of them
4 turning because of that concern if having this endless street of
5 10 or 12 different row houses where all the same stairs are
6 coming straight out. We wanted to create some diversity which is
7 also apparent in Capitol Hill. If you go around a five-block
8 radius of the entire site, you'll find many different types of
9 styles which we've tried to respect and keep in mind.

10 CHAIRPERSON GRIFFIS: Okay, any other questions?

11 MR. BOTTICELLO: The first drawing we have for you
12 here is just an overview of the site plan just so we can begin
13 the discussion. Buildings here along 14th Street, just to give
14 you the idea how these are set up, all of these from this point
15 down to here are English basements or flats with townhouses
16 stacked above it, so you're looking at a three-story unit with
17 the first floor individually owned by separate and the next two
18 floors owned separately.

19 Each unit, both top and bottom, have front and rear
20 entrances so that you have access from the street and also access
21 from the rear. In the rears of these, the rear -- the lower
22 units are entered through a walkway along here. The upper units
23 are entered through a stairway that you see right here on all
24 these units. There is parking double what the zoning would
25 require so that every unit out here actually has its own parking

1 place. They're all assigned so there's no parking issues behind
2 here and that's one of the things we'll get to in a minute. The
3 only one that doesn't have parking behind it is this corner unit
4 here which is a garage townhouse, so there's actually a garage
5 unit in there for the parking on that unit.

6 Again, each -- depending on the amount of space we
7 had, there's larger yards along Kentucky and then there's a
8 larger public space along 14th Street and that's just continuing
9 the existing pattern that's there and as Minh was saying, we vary
10 -- as you can see the first floor steps here come straight out,
11 then they turn, that way the unit actually faces the other way
12 here. Then we have metal steps on these units and the we would
13 go back to the turned steps on these units. The fronts of the
14 units are all brick. The sides are also brick as you come around
15 the corners here, so, you know, it has a nice appearance from the
16 street.

17 Let me flip that page.

18 CHAIRPERSON GRIFFIS: While we're on that page,
19 you're going to get to parking --

20 MR. BOTTICELLO: Yes.

21 CHAIRPERSON GRIFFIS: -- but this seems to be a
22 good diagram. When does the ownership of the parking surface? I
23 mean, I'm seeing each of these lots conceivably have two parking
24 spaces.

25 MR. BOTTICELLO: Yeah, I think the next drawing

1 will get to that. Yeah, why don't you flip that over? Okay, so
2 this gets down to the variance and the parking issue. So the two
3 areas we ran into problems, again, the intent when we started the
4 plan was just to follow the code and where we ran into problems
5 was the Housing Authority, when they demolished a series of alley
6 and row houses here to put the public housing on like in the
7 1940's and when they did that, they created this odd shape back
8 here, which I think was originally intended to be for a trash
9 dumpster or something but it's really not accessible very well so
10 it was never used that way.

11 So it's actually blocked off right now. So we
12 still have to deal with this land -- this ownership issue right
13 here, that we don't own this property in this little alley there.
14 So that effected the structure of these two lots and so that
15 created the first set of variances that we've identified which
16 are related to the alley condition in the rear.

17 Then the second set of variances occur because
18 we're trying to get around this corner while maintaining the
19 situation of parking in the rear. So what you end up doing is
20 when you have lots hitting at this angle, it disrupts the pattern
21 that you want to keep with the parking in the rear, and so we'll
22 get into more detail on that.

23 And then --

24 CHAIRPERSON GRIFFIS: Let me just interrupt you.
25 Mr. Hart's handing you the cordless mike if you want to use it,

1 but I think this --

2 MR. BOTTICELLO: I'm fine.

3 CHAIRPERSON GRIFFIS: We can leave it right at the
4 table and if anyone else needs to go up. Thank you, Mr. Hart.

5 MR. HART: I'm sorry.

6 CHAIRPERSON GRIFFIS: That's all right.

7 MR. BOTTICELLO: And the third item is, I think,
8 kind of a technical item, is that if we don't locate all the
9 parking on the lot, Gladys can jump in if I'm incorrect, but it
10 requires that we show you this parking lot and get approval on
11 this, the fact that we're locating parking off of the lots in
12 these row houses and so this is kind of in effect, the third
13 thing that we're looking at is that gray area which is the off-
14 lot parking area.

15 MS. HICKS: All right, and that brings in Section
16 2116, parking elsewhere than on the same lot where the parking is
17 required. The parking requirement is under Section 2101.1. You
18 need one off-street parking space for each single family
19 dwelling. Also the requirement is one parking space each two-
20 unit flat.

21 CHAIRPERSON GRIFFIS: Right.

22 MS. HICKS: So with the alley coming in at the
23 rear, the first to lots to the north on 14th Street, the alley
24 goes into the lot and we had to stay with that configuration,
25 otherwise go with an almost one-year process of alley closing and

1 delay the project. So we couldn't provide parking on those two
2 lots and also on the triangular lot.

3 CHAIRPERSON GRIFFIS: I think that's clear. What's
4 not clear to me is the variance for off-street parking
5 requirements because you are providing one per dwelling.

6 MS. HICKS: Well, under Section 2101.1 that was
7 called out because on the schedule for off-street parking you're
8 required to provide the off-street parking on the same lot with
9 the structure.

10 CHAIRPERSON GRIFFIS: Yeah, but doesn't 2116 cover
11 that? I mean, if you want to come in for another variance,
12 that's fine with me.

13 MS. HICKS: Well, we wanted to make sure we had all
14 bases covered. I would rather ask for too much than to be cut
15 short. Yes, okay.

16 CHAIRPERSON GRIFFIS: Okay, I think we'll visit --
17 but go ahead.

18 MR. BOTTICELLO: Let me answer your question, I
19 think. The way it works in the lots that don't have the variance
20 is the two lots, two parking spaces are assigned to this lot.
21 Then there is a condominium created on that lot which then
22 further allocates those two spaces between the two owners.

23 CHAIRPERSON GRIFFIS: Okay.

24 MR. BOTTICELLO: Okay, let me flip that page. Does
25 anybody have any questions on this.

1 MR. LEVY: Before you move on, there's reference in
2 the file to an easement. And maybe this is a good time to point
3 it out on this drawing before you move on.

4 MR. BOTTICELLO: Yeah, you're right. The easement
5 is created along the rears of these lots because, as you can see,
6 the actual physical parking requirement is to this point right
7 here and then you've got about another 20 feet of lot. And so
8 what we're doing is allocating 10 feet of that excess space as an
9 easement. It's kind of like if you have a pipe stem lot
10 somewhere and you need to drive across somebody's lot to get
11 there. It's done along the back, of all of these lots. I guess
12 it's just these, yes, so that we can get that drive aisle in
13 there.

14 Okay, the next drawing we're going to show -- the
15 first one there -- we're going to show, kind of blow this drawing
16 up so you can see the actual variances on a lot by lot basis.
17 Okay, so we'll start, these are the units along Kentucky, 245 and
18 -- I'm sorry, 14th Street, thanks, 245 and 247. As you can see,
19 the alley juts in like around this area here and it was
20 impossible to get the parking behind there.

21 One thing we were striving to do is create a turn-
22 around in here, so that came out in the community meetings that
23 the community wanted to be able to turn around when you get to
24 the end of the alley. So we wanted to leave this in place so
25 that you can turn around there. So that is in place, so that as

1 you come down this alley from the other side of the project, you
2 are able to turn around and go back down the alley.

3 CHAIRPERSON GRIFFIS: And is that showing some sort
4 of wall behind those two that --

5 MR. BOTTICELLO: Right here?

6 CHAIRPERSON GRIFFIS: Yeah.

7 MR. BOTTICELLO: Yes, the grade is such that you're
8 about four to five feet difference.

9 CHAIRPERSON GRIFFIS: So an actual retaining wall
10 there.

11 MR. BOTTICELLO: Yes.

12 CHAIRPERSON GRIFFIS: And then they have access to
13 -- 245 and 247 have access by that wall and it goes -- scoots
14 right by the 249.

15 MR. BOTTICELLO: Right.

16 CHAIRPERSON GRIFFIS: How wide is that?

17 MR. BOTTICELLO: This point right here?

18 CHAIRPERSON GRIFFIS: No, keep going.

19 MR. BOTTICELLO: This?

20 CHAIRPERSON GRIFFIS: Actually go down and be
21 parallel where the parking space is.

22 MR. BOTTICELLO: Down here?

23 MR. LE: You mean these sidewalks right here?

24 CHAIRPERSON GRIFFIS: Well, you can give me that,
25 too.

1 MR. LE: Okay.

2 CHAIRPERSON GRIFFIS: But then I'll tell you.

3 MR. BOTTICELLO: Go ahead.

4 CHAIRPERSON GRIFFIS: The portion of the blue where
5 it goes into a point, right in there because you're walking right
6 along the retaining wall and a property line. How wide is that?

7 MR. LE: I think it's three and a half feet.

8 CHAIRPERSON GRIFFIS: Isn't that their only access
9 out to their parking?

10 MR. BOTTICELLO: No, the access is actually this
11 way and then, yeah, through here if you want to -- you're saying
12 across in front of this area.

13 CHAIRPERSON GRIFFIS: Right. So don't you need an
14 easement for that sidewalk then also if you're cutting off from
15 the parking?

16 MR. BOTTICELLO: Well, there will be -- when you do
17 a condominium, you basically designate these parking areas a
18 limited common elements.

19 CHAIRPERSON GRIFFIS: I see.

20 MR. BOTTICELLO: And so you give the right to use
21 each parking place for -- you might assign a parking place to
22 someone but everybody will still have the right to walk through
23 those areas. Like a person couldn't put a fence up around your
24 parking lot. Even though you have the right to use it, you don't
25 have the right to block access to it.

1 CHAIRPERSON GRIFFIS: So I don't see a lot of
2 variances for garages to be built behind.

3 MR. BOTTICELLO: Right, right, you won't be
4 bothered by that. And the other thing is where does the parking
5 go? So we couldn't get the parking in here behind the unit, so
6 we just outlined where it gets moved to.

7 CHAIRPERSON GRIFFIS: Okay.

8 MR. BOTTICELLO: So we don't in effect, lost any
9 area of parking. We've just relocated it to another area.

10 CHAIRPERSON GRIFFIS: Right.

11 MR. BOTTICELLO: So that's the cause for the one
12 variance.

13 MS. HICKS: That was Section 2116 to locate the
14 parking elsewhere.

15 MR. BOTTICELLO: The other thing that happens is
16 because these lots are cut off sooner than these lots, the actual
17 area of the lot has been reduced.

18 CHAIRPERSON GRIFFIS: Right.

19 MR. BOTTICELLO: So we're under the 1800 square
20 foot requirement by a couple hundred feet on each of those.

21 MS. HICKS: Right, and that calls for in Section
22 401.3, the minimum lot area requirement.

23 CHAIRPERSON GRIFFIS: Yeah.

24 MR. BOTTICELLO: Okay, any questions on this area,
25 or if not, we'll move onto the next section.

1 VICE CHAIRPERSON RENSHAW: Just to confirm that
2 from the dogleg alley behind the green and the blue, you cannot
3 enter the parking area, correct?

4 CHAIRPERSON GRIFFIS: The retaining wall stops you
5 from driving in from that area.

6 VICE CHAIRPERSON RENSHAW: Right, you cannot --
7 currently that area is fenced.

8 MS. HICKS: Okay, right.

9 VICE CHAIRPERSON RENSHAW: Thank you.

10 CHAIRPERSON GRIFFIS: Well, currently is one thing,
11 but what is it going to be is more important.

12 MR. BOTTICELLO: Well, which area --

13 MR. LE: Do you mean vehicular access or pedestrian
14 access or both? It will not be accessible by vehicle. However,
15 pedestrian, it will still be walkable if they want to jump off
16 the retaining wall four or five feet.

17 MR. BOTTICELLO: Right, but it's not designed for
18 pedestrian.

19 MR. LE: It will be landscaped to conceal it, to
20 provide some kind of barriers to the alley.

21 MR. BOTTICELLO: The one thing about trying to
22 fence it is -- you know, the whole point of doing this was to
23 allow cars to turn around here and I think if you run a fence
24 along the property line here, you may run into a problem with
25 trying to turn around and the fence being there. And so the idea

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1 was to landscape this area and use the grade change to prohibit
2 pedestrian access.

3 CHAIRPERSON GRIFFIS: Right. I think her question
4 is going to go to the larger parking lot and just access from the
5 alley into that parking area.

6 MR. BOTTICELLO: Okay, there --

7 CHAIRPERSON GRIFFIS: Maybe you'll walk us through
8 that.

9 MR. BOTTICELLO: Okay, that was something that we
10 debated again, with the community about how to do this and the
11 grade kind of answered the question for us because the grade of
12 the alley is four or five feet different than the grade of the
13 street and with the goal trying to create units that had handicap
14 accessibility in the rear, there was no way to make those two
15 roads connect in effect. The original plan called for them to
16 actually connect so that you would have been able to go through
17 here.

18 And the community was kind of split on whether that
19 was good or bad. The main thing that was required was, can we
20 turn around here and go back out and so we were going to use the
21 parking area behind these lots to allow people to turn around so
22 that we would have satisfied that requirement. It turns out that
23 because of the grade, we couldn't do that and that's why we've
24 left this in place, so that you still can turn around and I think
25 we actually ended up with a better solution because the other

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1 concern of the community was people cutting through there.

2 CHAIRPERSON GRIFFIS: Right.

3 MR. BOTTICELLO: And that is prohibited now. So
4 you cannot drive into -- off of C Street and through the alley
5 and back out the other side.

6 MR. BOTTICELLO: And I think that goes directly to
7 her question. So actually, I'm sorry to interrupt you here.

8 MR. BOTTICELLO: That's all right.

9 CHAIRPERSON GRIFFIS: But actually, I think all you
10 really need to do is answer our questions because I think it's
11 fairly straightforward what we're looking at aside from our
12 questions. Can you put up A1 again? Okay, this is the question
13 and what you've just stated is the fact that the entrance where
14 the easement is, is the only way into that parking, correct?

15 MR. BOTTICELLO: Yes.

16 CHAIRPERSON GRIFFIS: So you cannot drive in from
17 that and drive out to the alley.

18 MR. BOTTICELLO: Correct.

19 CHAIRPERSON GRIFFIS: So I think what Ms. Renshaw
20 was trying to get to was, how are you stopping that and you're
21 talking about there's a grade change.

22 MR. BOTTICELLO: Right.

23 CHAIRPERSON GRIFFIS: But is there a fence behind
24 the alley and where is that fence line? We're not seeing any of
25 that unless it's running just on the, basically the property

1 line.

2 MR. BOTTICELLO: This entire wall or area right
3 here is a different grade. It would be impossible to drive
4 through there. There's retaining walls along that entire back
5 line.

6 CHAIRPERSON GRIFFIS: So the retaining wall, the
7 full extent of the retaining wall doesn't show.

8 MR. BOTTICELLO: Not on the site plan. It shows up
9 on the construction drawings, yeah.

10 CHAIRPERSON GRIFFIS: Sure, sure, we would hope so.

11 MR. LEVY: What are the two walls, though, that are
12 -- that are shown?

13 MR. LE: Well, they're retaining walls. The
14 retaining wall extends into here until it meets grade and then we
15 have a retaining wall here that contains it. We're using the
16 grade, we're designing the grade that we allow for the shift of
17 the grade along this island. So your concern is that they would
18 drive up along the grass area and to the alley, is that what your
19 concern is?

20 CHAIRPERSON GRIFFIS: I don't know if it's a
21 concern. It was just a question of what the relationship to the
22 alley and the back of that parking area.

23 MR. BOTTICELLO: They're supposed to function
24 separately is the idea so that we tried to allow for turnaround
25 in the alley and access in our parking lot but nothing in between

1 the two. So it will be landscaped and grade changes to prohibit
2 both pedestrian and vehicular access between the two.

3 CHAIRPERSON GRIFFIS: So you can essentially walk
4 through that end of the alley.

5 COMMISSIONER HOOD: Mr. Chairman, this is a little
6 bit off the subject but I would like to ask Ms. Hicks why wasn't
7 this presented as plan unit development as opposed to all these
8 variances and special exceptions?

9 CHAIRPERSON GRIFFIS: Because we're easier to deal
10 with than the Zoning Commission.

11 COMMISSIONER HOOD: Oh, is that it?

12 CHAIRPERSON GRIFFIS: Yeah.

13 MS. HICKS: No, we never thought of it as a
14 planning development concept. We just -- I was just called in as
15 a zoning consultant and was asked how to proceed and when I
16 learned about, you know, the way the lots have been split and so
17 forth. There are a number of projects that I've handled at the
18 Zoning Administrator's office over the years and for the number
19 of lots and the number of units, I felt like this was more
20 appropriate to go through the variance procedure and special
21 exception procedure than for planning unit development.

22 CHAIRPERSON GRIFFIS: Yeah, I think Mr. Hood brings
23 up an excellent point. I think other Board members probably had
24 the same thought in reviewing this. That being said, I think
25 it's well worth bringing it up but --

1 COMMISSIONER HOOD: Mr. Chairman, definitely I'm
2 not trying to be jurisdictional. I just was wondering with all
3 of the variances, it looks like we have four, five variances --

4 CHAIRPERSON GRIFFIS: Right.

5 COMMISSIONER HOOD: And you know, I just see this
6 as a simple PUD application.

7 MR. BOTTICELLO: I think the reason we didn't think
8 about it was because, again, we tried to stick with the plan fits
9 the zoning code for these elements. It was just the unusual site
10 topography that created the variances. So you have the alley in
11 the rear and you have trying to go around a corner and at an odd
12 angle. That's what created the variances, and it was our
13 understanding that was the idea.

14 If the whole plan had been done differently, if we
15 wanted to do something out of the ordinary, we would have come in
16 with a planned unit development. We were just trying to follow
17 the code but we have site constraints that prohibit us from doing
18 that.

19 CHAIRPERSON GRIFFIS: Yeah, I think that's a good
20 point, that this was kind of on the edge of whether it would
21 actually be large enough to go through a whole PUD process or
22 not. That being said, I think it was important to bring up. But
23 you're here so we might as well go ahead.

24 MR. BOTTICELLO: Thanks.

25 CHAIRPERSON GRIFFIS: You did submit actually the -

1 - I would guess marketing material from Kentucky Courts.
2 Actually, it's listed as a BZA project summary that shows some
3 landscaping. Are you showing us another landscaping plan on
4 this?

5 MR. BOTTICELLO: No, we weren't intending to at
6 this time. There is a plan.

7 CHAIRPERSON GRIFFIS: Okay, is there any sort of
8 lighting that's happening in the parking area?

9 MR. BOTTICELLO: There is lighting in both the
10 parking in the rear of the units. There is street type lighting
11 along the rear sidewalk of all of the units. So was it every
12 other unit?

13 MR. LE: Yes.

14 MR. BOTTICELLO: Every other unit has a street
15 light mounted in the sidewalk.

16 CHAIRPERSON GRIFFIS: So it's a fixture on a pole?

17 MR. BOTTICELLO: Yeah, a lower level one, kind of a
18 smaller scale and then there's also a larger unit.

19 CHAIRPERSON GRIFFIS: So a large Washington
20 standard?

21 MR. BOTTICELLO: Right, mounted in the rear.

22 CHAIRPERSON GRIFFIS: Are you sure? You just said
23 that on the record.

24 MR. BOTTICELLO: Minh?

25 MR. LE: Yes.

1 CHAIRPERSON GRIFFIS: Okay.

2 MR. BOTTICELLO: And then there's other lights in
3 the rear. They may not be Washington standard but they would
4 probably be a higher intensity light, to get light onto the
5 parking lot.

6 MR. LE: No, they're similar.

7 MR. BOTTICELLO: Oh, they are.

8 MR. LE: They just have a higher voltage, higher
9 wattage, excuse me.

10 CHAIRPERSON GRIFFIS: Okay, and are they 10-foot
11 poles, do you know offhand?

12 MR. BOTTICELLO: I think they're higher.

13 MR. LE: I think it's 12 feet.

14 MR. BOTTICELLO: Yeah, those are higher.

15 CHAIRPERSON GRIFFIS: The 12-foot are in the
16 parking area and then --

17 MR. LE: And the 10-foot should be on the sidewalk,
18 yes.

19 CHAIRPERSON GRIFFIS: -- 10 is probably on the
20 sidewalk. Okay. All right, we've thoroughly interrupted your
21 flow.

22 MR. BOTTICELLO: That's all right. Okay, this is
23 the variance that occurs when we try and go around the corner of
24 Kentucky and C Street. What we are trying to do again, was meet
25 the code where each lot would have parking on it. The Type 3,

1 which is in blue on your drawing, does meet that requirement
2 because it's got a garage, so that works for parking. Type 1,
3 Type 2, I'm sorry, the orange, the green and the pink also meet
4 that requirement.

5 To do that, we had to jog those lot lines and
6 that's why we put it in color so you can see what we did. So
7 that is, again, a situation where we're trying to meet the code
8 of having a lot with a parking space associated with it.

9 What happens though is when we do that, those lots
10 become non-conforming in other ways. All three of those lots
11 have a width of 20 feet where the unit is located but when you
12 calculate the average because we've jogged them like that, it
13 drops the lot width below the 18 feet that's required. So that
14 created one variance. And then the other thing is as happened on
15 these units, the total area has been reduced slightly below
16 what's required and so those units also require area variances.

17 The other one that was an issue was 274 which is
18 the blue lot. That's the home that we originally had calculated
19 the lot occupancy by including the areas that are in public
20 space. And so we later learned the area in public space should
21 not be calculated in the lot occupancy calculation. And if
22 that's subtracted then it meets the code for lot occupancy.

23 The areas we're talking about are the projection
24 right here which has stairs and the front end of a bedroom in it
25 and then this circular structure here. It's also in your packet

1 if you need it.

2 CHAIRPERSON GRIFFIS: Give us one second here.

3 (Off the record at 10:25 a.m.)

4 (On the record at 10:27 a.m.)

5 CHAIRPERSON GRIFFIS: Sorry, we're just trying to
6 get our lunch plans in order here. Actually, in all seriousness,
7 this is somewhat of an ongoing discussion with this Board on the
8 public -- the area that you're counting outside, whether that
9 actually goes towards the computation of the total lot size for
10 lot occupancy. I don't think -- I was hoping we would have a
11 definitive answer but I think we're going to pursue it as you're
12 presenting it and I don't see it coming into major problems
13 today.

14 Let me also just say while you're here, the Type 3
15 building in that very oddly shaped lot that you've created and of
16 course, it's non-conformity I think is a great idea and I've very
17 happy to see that that actually was looked to, to build on
18 because I think, you know, if you look at a lot of the city
19 corner lots, they're the most problematic and they were always
20 built on. When they're not, you do have this missing tooth in
21 this new connection as you turn the corner there.

22 So I think it's well worth spending the time and
23 effort doing the type of structure like that. So, that being
24 said, what else do we need to look at?

25 MR. BOTTICELLO: I think we're done with our

1 presentation. So if there's any questions, we'll be happy to
2 answer them.

3 CHAIRPERSON GRIFFIS: Okay, Board members, any
4 other questions at this point? I think, let's go into the --

5 MS. RUCKER: When do I have the opportunity to
6 interrupt.

7 CHAIRPERSON GRIFFIS: Oh, and I'm glad you bring it
8 up and I will reiterate, this is the order of procedure. What
9 we'll do is the applicant will put on their case. I'm going to
10 go to all the government reports now. So we have Office of
11 Planning, we have Department of the Public Works, which is the
12 traffic stuff. We'll hear from the ANC, and then I will call you
13 up. So have patience, this will go even quicker.

14 So let us hear from Office of Planning.

15 MR. FONDERSMITH: Thank you, Mr. Chair and members
16 of the Board. I'm John Fondersmith to present the Office of
17 Planning report. We've got a lot of background material in the
18 report about the background of this project -- I mean, of the
19 Kentucky Court's project and how this project is replacing it. I
20 don't think we need to go over all that except I would like to --

21 CHAIRPERSON GRIFFIS: Actually, let me interrupt
22 you, Mr. Fondersmith and say two things. First of all, your
23 report needs to be waived in, if I'm not mistaken.

24 MR. FONDERSMITH: Yes, it does, excuse me.

25 CHAIRPERSON GRIFFIS: And unless there are any

1 objections, we can waive the report in here. And Mr.
2 Fondersmith, I also totally agree you have great background and I
3 think this is an excellent report and it was very helpful for the
4 Board members. But I would agree that we don't need to have it
5 all reiterated.

6 MR. FONDERSMITH: I don't think we do and I think
7 the Applicant has gone through it and I think Mr. Hood's point is
8 important, that -- and we said in here somewhere that the
9 description of the variances tends to make the situation sound a
10 little bit more complicated than it is. This is being done
11 through the variance method but it's really kind of hybrid and I
12 think that -- I mean, it's not a hybrid, it's not a planned unit
13 development, but it's using the variances, of course, to adjust
14 to this special circumstances of the site and especially that
15 corner up there where the alley stub is and then this angle
16 corner of Kentucky Avenue and C Street which is of course, a
17 situation we get into a lot of times with the planned avenues and
18 so on.

19 So what we tried to do in here is really to sort
20 that out and I think that's what the Board is doing here in this
21 discussion. We've gone through it. We think just to take them
22 in order, the special exception first is dealing with the --
23 what's shown as the gray area that one lot where you have parking
24 in the center for a number of -- I think it's -- is it nine
25 spaces, I believe, that are not immediately adjacent to the units

1 they serve.

2 And we think that's an acceptable procedure. You
3 see there that they're all very close to the units they serve and
4 Section 2116.1 or rather, I'm sorry, Section 2116.5 and then
5 2116.6 allows the Board to approve parking spaces that are
6 located nearby an accessory situation because of some of these
7 conditions and lists of things to look for more efficient use of
8 land, better design of landscaping, safer ingress or egress and
9 less impact and we think those circumstances for the special
10 exception are satisfied.

11 And then in terms of the variances that are sought,
12 again, you have a situation -- two situations that are unusual,
13 one involving the two lots on 14th Street at the northeast corner
14 of the project where you have this alley stub and I think in the
15 Applicant's drawings you can see that easily and the solution
16 that they've applied. And when you look at the other lots there,
17 you see that what really is changing essentially is that all the
18 parking spaces are simply shifted to that nearby lot and we think
19 that is reasonable and meets the variance -- the three variance
20 tests, test for variance.

21 And then secondly, the angle of Kentucky Avenue and
22 C Street produces an unusual situation, with respect to the
23 corner lot. And your point is certainly good, that if you don't
24 have that, you have to handle it some other way and this really
25 turns the corner nicely. It produces quite an interesting

1 dwelling, if you look the actual interior floor plans and, of
2 course, it produces, I think what will be an interesting rear
3 yard there in a different kind of shape. But it does require the
4 variance, although as been said here, in terms of the area they
5 now have recalculated it. So it doesn't -- or recalculated it so
6 that it does not require that area variance that was requested.

7 And then the other three lots you can see again,
8 because of the way the parking is being accommodated and that's
9 just to meet this circumstance. We believe that it meets the
10 tests of the variance. And again, we're -- I think the Board has
11 to look at this site plan in overall terms and realize that
12 although we're going the variance route here, in effect, it's
13 edging over into really looking at the whole site and verging on
14 a mini-planned unit development, if you will.

15 So we note the community support, which you're
16 going to hear more later. There is a report from the Division of
17 Transportation recommending approval or at least saying they have
18 no objection to the proposal and that's, of course, with the
19 easement there to allow the full driveway into the center of the
20 lot.

21 So in summary we do recommend approval of this plan
22 and the special exception and the variances that have been
23 requested.

24 CHAIRPERSON GRIFFIS: Good, thank you very much,
25 Mr. Fondersmith. Board members, any questions of the Office of

1 Planning?

2 COMMISSIONER HOOD: Mr. Chairman, I just had two
3 quick questions. Mr. Fondersmith, on page 3 of your report, you
4 mention that the entire site is zoned R-4 and you talk about the
5 other streets that are zoned C2-A. Does this also take into
6 consideration action the Zoning Commission took on last Friday
7 which changed some of that C2-A. I looked for it myself and I
8 was not able to find it.

9 MR. FONDERSMITH: The --

10 CHAIRPERSON GRIFFIS: Turn your mike on, Mr.
11 Fondersmith.

12 MR. FONDERSMITH: I don't believe so. I'm trying
13 to just think quickly the situation you're -- these are -- these
14 are the commercial strip a block away along 15th Street and the
15 commercial area to the south where the -- a block south where the
16 Safeway is located.

17 COMMISSIONER HOOD: Okay. I won't belabor the
18 point, but I just wanted to make sure that that was taken into
19 consideration even though the action was just last Friday.

20 COMMISSIONER HOOD: The other concern is page 4.
21 I'm trying to understand your statement where you ask -- where
22 you say that these 12 units will be owned by IDS and rented to
23 working families earning less than the Section 8 income limits.
24 Could you explain that to me because I don't understand that?

25 MR. FONDERSMITH: These are the -- these are the

1 units which they will own and get this passed through so that
2 there will be public housing families living there or at least --
3 I may be stating that wrong. Families referred by the Public
4 Housing Agency, trying to carry out the idea here that this is a
5 mixed income project. And the Housing Authority has been
6 concerned of reserving in effect, through this mechanism, a
7 certain number of houses -- units in the project that will
8 remain.

9 Now, will remain for lower income families, and
10 that what the 12 units will be. They've just developed this
11 mechanism of having the developer own the units and receiving the
12 payments from the Housing Authority.

13 CHAIRPERSON GRIFFIS: And why don't we have the
14 Housing Authority representative talk to that if you want
15 specifics on the program.

16 COMMISSIONER HOOD: I guess we can do that because
17 I'm still not understanding that.

18 CHAIRPERSON GRIFFIS: Okay.

19 COMMISSIONER HOOD: Okay, also just one more
20 question, and Mr. Fondersmith, just let me say, I thought your
21 report was very detailed and very good as the Chairman has
22 already stated. That's why I may be looking through it just
23 pretty quickly.

24 MR. FONDERSMITH: Sure.

25 COMMISSIONER HOOD: Let me just ask you, in your

1 discussions I see on page 5 where it says, "Despite limited
2 advertising 24 to 26 residential units are for sale". In your
3 discussions with the Applicant, are those just lot holds, just
4 money down or was is it, or are they already sold? I think
5 there's a difference.

6 MR. FONDERSMITH: That's right. It could be. I
7 was -- we were told that they had -- that they had been sold.
8 Now, whether there's -- I think the Applicant can better state
9 how the actual --

10 CHAIRPERSON GRIFFIS: How many have sold right now?

11 MR. BOTTICELLO: They're actually on hold as Mr.
12 Hood stated. We've -- because of the situation here, we can't
13 actually put a lot under contract with an actual sale. There are
14 substantial deposits up.

15 CHAIRPERSON GRIFFIS: That was the trick question,
16 see? Is that where you were going? No, maybe he wasn't --

17 COMMISSIONER HOOD: That was the million dollar
18 question.

19 CHAIRPERSON GRIFFIS: Any other questions of OP?
20 Yeah.

21 COMMISSIONER HOOD: Were you finished, Mr.
22 Fondersmith?

23 MR. FONDERSMITH: Yes.

24 COMMISSIONER HOOD: Okay. Thank you, Mr. Chairman.

25 CHAIRPERSON GRIFFIS: Good. Board members? Does

1 the Applicant have any questions of the Office of Planning? Is
2 the ANC representative here today? Okay. Then let's quickly go
3 onto the -- Mr. Layton's report, who is the Director of
4 Transportation. Office of Planning does cover this so I don't
5 think we need to reiterate, but it is Exhibit Number 29 submitted
6 April 17th, 2002 and they did -- DDOT, first of all, has no
7 objection to the proposal and they did a fairly detailed analysis
8 of the parking and also the alley, so that being said, that's in
9 there.

10 We also have letter of support from the council
11 member in Ward 6, Ms. Ambrose (phonetic). And she is looking
12 forward to a favorable decision on this according to her letter.

13 That's what I know. What else do we have for government
14 reports? I don't have anything else listed in my notes. Let us
15 go to, indeed, the ANC report. Ms. Renshaw, do you have that in
16 front of you?

17 VICE CHAIRPERSON RENSHAW: Yes, we have a report
18 from ANC 6B dated April the 16th, 2002 and signed by Kennan
19 Jarborough (phonetic), the Chair. They had a regularly scheduled
20 and properly noticed meeting on April 9, 2002. A quorum was
21 present. They had eight commissioners and seven being a quorum
22 and they voted to unanimously support all the variances requested
23 in connection with the construction. And it was noted said Mr.
24 Jarborough, that the project has had the highest degree of
25 community participation throughout its development.

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1 CHAIRPERSON GRIFFIS: Thank you very much, Ms.
2 Renshaw. Let's run through the submitted and I'm assuming that
3 people are not here. Is Mr. Myers here? Oh, indeed. Did you
4 want to -- let's make some chairs available and we'll have some
5 testimony for -- I'm going to ask -- usually we start people in
6 support of the application, then people in opposition. Who here
7 is going to testify today in this application? Just the two.
8 Okay, why don't you both come up for time expediency.

9 And Mr. Levy, while they're getting organized and
10 coming to the table, do you want to go through the letters that
11 were also submitted into the record?

12 MR. LEVY: Okay, well, we have a letter from Mr.
13 Myers.

14 CHAIRPERSON GRIFFIS: Right, we can skip that
15 because he's here to speak to that, but do you have one for --

16 MR. LEVY: Right. In addition, we have one in the
17 file from the Capitol Hill Restoration Society and just in
18 summary, supporting the referenced application.

19 CHAIRPERSON GRIFFIS: Good, so they are in support.

20 MR. LEVY: Signed by the Zoning Committee Chair
21 dated April 19th.

22 CHAIRPERSON GRIFFIS: Who was the person?

23 MR. LEVY: Lyle Schaur (phonetic).

24 CHAIRPERSON GRIFFIS: Okay, great. Thank you very
25 much. Mr. Myers.

1 MR. MYERS: Good morning. My name is Jim Myers. I
2 live at 1418 C Street SE, which is about half a block from the
3 Kentucky Court site that's under question here. I got involved
4 in the redevelopment of Kentucky Courts back in about 1992 or '93
5 when I joined with some of the residents of the public housing
6 project in several attempts to alleviate the dangerous situations
7 that existed at Kentucky Courts at that time.

8 Someone mentioned earlier, I've written about this
9 in the Washington Post magazine last summer, giving the history
10 of this project. It was a dangerous place. I had the misfortune
11 of seeing some of my friends killed there and these are images
12 that stay in the community's mind even seven or eight years later
13 as we contemplate the redevelopment of the site.

14 The one thing I want to testify to today is that --
15 or reiterate from the letter that I wrote, is that there was a
16 tremendous amount of community involvement in all the decisions
17 leading up to the redevelopment of this site. In fact, I'm a
18 journalist. I'm usually cynical about citizen participation in
19 the government. This case was actually totally the opposite of
20 what I expected.

21 Virtually every decision, from the issuance of RFP
22 to the selection of the developer to the way the place would look
23 were vetted and discussed with the community in various meetings.
24 We had meetings of 75 people, we had meetings of 100 people. On
25 one occasion, we had a meeting with 250 people at Payne School

1 which is right across from where Kentucky Courts is.

2 The actual attendance of these meetings has
3 actually gone down and I would attribute this to the general
4 satisfaction of the community about what was transpiring here.
5 Of late, I've walked the community a lot. I've been around
6 talking to people and the only question I get about the Kentucky
7 Court redevelopment is when is it going to happen? So I would
8 hope that you would be able to expedite this back. The community
9 is in eager anticipation that the project unfold as soon as
10 possible.

11 We have not acted in haste. This is -- we've
12 discussed it for years and years and years, every detail that we
13 were aware of and I can say that to my knowledge and my knowledge
14 of my own little community is very extensive, the project has the
15 wholehearted support of the neighbors and the people in the
16 surrounding blocks. Thank you.

17 CHAIRPERSON GRIFFIS: Good. Thank you very much,
18 Mr. Myers and on that train of thought, we will try and move
19 things along but I have to say we absolutely appreciate, first of
20 all, you taking the time to come down and also this Board and I'm
21 sure the community more importantly appreciates the good work
22 that you've done. What you didn't say, what you stated in your
23 letter is that you're the founding member of the Kentucky Courts
24 Neighborhood Task Force which I assume, is the group that kind of
25 organized a lot of the community for those meetings and for

1 tracking all the RFP.

2 Well, again, I think it's important to have the
3 done and it shows how a successful project can come into being
4 with that type of participation and I'm glad it was substantive
5 so you didn't have to be cynical. So with that, I will turn to
6 you and have you introduce yourself. Just give me your name and
7 your address.

8 MS. RUCKER: My name is Dawn Rucker. My address is
9 651 10th Street, NE, Washington, DC, 20002. Again, the first
10 issue that I would like to address is pertaining to the
11 contractual agreement. They had stated that this particular
12 property is governmental property and then there was a
13 contradiction when it was stated that he owned the property
14 himself. So I'm wondering about the contract itself in reference
15 to the waiver of the fee. That was never really clarified to me
16 and I have questions about that, number one, if you'd be able to
17 ad lib a little.

18 CHAIRPERSON GRIFFIS: I usually have no problem
19 doing that.

20 MS. RUCKER: Okay.

21 CHAIRPERSON GRIFFIS: By why don't you come up to
22 the table, and there's two issues that you really brought up and
23 I think the bigger picture is the continued ownership and what is
24 that going to be.

25 MR. BOTTICELLO: Right. The current ownership is

1 the Housing Authority. We have a purchase contract in effect.

2 The --

3 MS. RUCKER: What does that mean exactly?

4 MR. BOTTICELLO: That means that we have the right
5 to actually purchase the land.

6 MS. RUCKER: So you're leasing it to -- you're
7 leasing it in -- leasing to buy or --

8 MR. BOTTICELLO: No, no, right now the Housing
9 Authority owns the property and there's an agreement. It's
10 actually more than a standard real estate contract. It's a
11 development rights agreement that outlines what the Housing
12 Authority is going to do and what their rights and
13 responsibilities are and what the plan is and then what our
14 rights and responsibilities are. So that agreement is what --

15 MS. RUCKER: So it's like joint ownership?

16 MR. BOTTICELLO: No, they own it. It's just --
17 it's an agreement that says how we get from where we are today to
18 where we want to be.

19 CHAIRPERSON GRIFFIS: Maybe it would be helpful if
20 I understood what your concern is.

21 MS. RUCKER: Well, in reference to the property
22 itself, I'm thinking again, about cost effectiveness things of
23 that nature. As far as the developmental plans themselves, if we
24 were to keep the same outline or same development plans but just
25 make the necessary arrangements for like easement that you were

1 referring to for the five feet of easement or what have you.

2 The property that I specifically has seen was at --
3 I believe it was -- well, I basically have seen all of the
4 properties but the one that I remember the most -- all of the
5 designs are basically the same as far as the alley way and the
6 parking spaces that I've seen.

7 CHAIRPERSON GRIFFIS: Okay.

8 MS. RUCKER: Well, anyway, the majority of it is
9 like concrete, is just concrete.

10 CHAIRPERSON GRIFFIS: Okay.

11 MS. RUCKER: And so as far as the other
12 developmental plans and cost effectiveness as far as the amount
13 of monies that would have to be paid out, depending upon who's
14 actually owning the property, and the number of --

15 CHAIRPERSON GRIFFIS: How do you see that effecting
16 you or the community?

17 MS. RUCKER: Well, I've applied for Section 8
18 myself and there are a lot of people -- they state that there's
19 like 300 applications per day and if you're cutting down -- if
20 you're making it 12 instead of 18 units and 18 is better, you
21 know, as far as numbers and if there's some other way that the
22 developmental plans could be more cost effective.

23 CHAIRPERSON GRIFFIS: Right. If I understand you
24 and we'll only have a few minutes to deal with this and I think
25 what I'm going to do, if you don't get all your questions

1 answered, I think it's going to be very advantageous for you to
2 work with the Housing Authority representative that's actually
3 here today, so we won't let her out of the room until you get
4 that talking done.

5 MS. RUCKER: Okay.

6 CHAIRPERSON GRIFFIS: But did you have -- if you
7 need to say something --

8 MS. RUCKER: But also --

9 CHAIRPERSON GRIFFIS: Just let me finish because I
10 think what you're looking at --

11 MS. RUCKER: Well, I was thinking about the
12 exemption, too. I mean, if a state -- if it's -- with Housing
13 Authority being a subsidiary or a local municipality of the state
14 government, I mean, then I'm still thinking there will be an
15 exemption also as opposed to --

16 CHAIRPERSON GRIFFIS: Exemption of what?

17 MS. RUCKER: As far as the fee that you're
18 referring to also.

19 CHAIRPERSON GRIFFIS: Well, frankly, I would say
20 don't concern yourself with the fee.

21 MS. RUCKER: Okay.

22 CHAIRPERSON GRIFFIS: And I think the important
23 thing to say and --

24 MS. RUCKER: Well, that's what I'm saying.
25 Actually, I would prefer that the state still --

1 CHAIRPERSON GRIFFIS: You mean the District
2 Government.

3 MS. RUCKER: Yeah, I'd prefer the District
4 Government --

5 CHAIRPERSON GRIFFIS: We'd like to be a state but -
6 -

7 MS. RUCKER: -- to own the property as opposed to -
8 - as opposed to an outside independent contractor, you know,
9 buying --

10 CHAIRPERSON GRIFFIS: Okay, let me just state, I'm
11 going to turn to the Housing Authority for a very quick response
12 because that actually goes well beyond what we can deal with
13 here. And I think --

14 MS. RUCKER: Well, as far as zoning.

15 CHAIRPERSON GRIFFIS: Yes, but as -- and that's the
16 pertinent point. In terms of the zoning and the zoning relief
17 that's coming to us, we do not have jurisdiction over everything.
18 We don't have jurisdiction over what the contractual ownership
19 agreement necessarily would be between the Housing Authority and
20 the private developer unless it somehow goes to the relief that's
21 being requested.

22 So let me -- I think I understand but let me go to
23 the Housing Authority for a very brief response to the questions.

24 MS. FRANKLIN: I think you have two questions. One
25 has to do with ownership. There are three levels of ownership

1 involved in this process. Today the Housing Authority owns the
2 property. It will be sold to the developer so that he can
3 develop the project that you see. Once he has completed the
4 development, he will sell the units to a condominium association
5 and people who buy the units will be part of the condominium.

6 Twelve of those units will be --

7 MS. RUCKER: Is that like Habitat for Humanity?

8 MS. FRANKLIN: No, nothing like that.

9 MS. RUCKER: Nothing similar?

10 MS. FRANKLIN: Nothing similar. I'm on the Board
11 of Habitat. This has nothing to do with that.

12 MS. RUCKER: So then how would the state then still
13 own the property?

14 MS. FRANKLIN: The state does not own the property.
15 It will be owned by the condominium --

16 MS. RUCKER: It basically becomes directly with the
17 Federal Government, with HUD, the HUD Office?

18 MS. FRANKLIN: With the DC Housing Authority.

19 CHAIRPERSON GRIFFIS: Good, and do you know what,
20 it just hit me, that this is probably going to take longer and
21 needs to happen but I think it's something that you folks that
22 are here can deal with without taking up the Board's time because
23 we can't tell them -- we can't change anything that you're
24 talking about anyway, even if we wanted to. So let me do that.
25 Do you have any other questions of the Board at this time in

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1 terms of the specific application?

2 MS. RUCKER: In reference to the 12 to 18 units and
3 the easement, yeah. I'm still concerned about that, yeah, in
4 reference to cost effectiveness and yeah, as far as the state
5 transferring the property, yeah.

6 CHAIRPERSON GRIFFIS: Right.

7 MS. RUCKER: Yeah, I do.

8 CHAIRPERSON GRIFFIS: That's your questions, okay,
9 and I think that is not for us to answer. And I think you have
10 the Housing Authority representative and it is hers to answer and
11 give you specifics on that. So I would ask that you take the
12 time after we finish this case and you can have -- there's plenty
13 of room in the Office of Zoning that you can take and have those
14 discussions.

15 MS. RUCKER: Okay.

16 CHAIRPERSON GRIFFIS: Good, and I do appreciate
17 your coming down and --

18 MS. RUCKER: Thank you very much.

19 CHAIRPERSON GRIFFIS: -- bringing this up. Okay,
20 Mr. Hood.

21 COMMISSIONER HOOD: Mr. Chairman, I just wanted to
22 echo your comments to Mr. Myers. I've had the pleasure to be
23 with him on a number of cases in that area and I just wanted to
24 echo your comments of the fine job that I think you're doing, Mr.
25 Myers. And Ms. Rucker, let me just say to you, while this is not

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1 the correct forum, sometimes to be heard sometimes you do what
2 you have to do, so continue to do the good work you're doing.
3 Thank you.

4 MS. RUCKER: Thank you very much.

5 CHAIRPERSON GRIFFIS: Thanks, Mr. Hood. Okay.
6 Thank you both and is there anyone else here in opposition or in
7 support of the project that would like to testify at this time?
8 Oh, you can hand them to the Recorder on this side, thank you.
9 If not, Ms. Hicks, it's yours to close. Board members, do you
10 have any questions also before we go to any sort of wrap-up and
11 closing?

12 COMMISSIONER HOOD: Mr. Chairman, in the Office of
13 Planning report I just want to make sure I understand about the
14 Section 8, and you said that the Applicant could address it and
15 hopefully they will.

16 CHAIRPERSON GRIFFIS: Yeah.

17 COMMISSIONER HOOD: As far as just the way it's
18 worded, why I'm not understanding it.

19 CHAIRPERSON GRIFFIS: Let me just see if I
20 understand it and -- the point in fact is that those units which
21 would be rented, correct --

22 MR. BOTTICELLO: Correct.

23 CHAIRPERSON GRIFFIS: -- would be based on a
24 federal level of income that provides for their affordability.

25 MR. BOTTICELLO: Correct.

1 CHAIRPERSON GRIFFIS: Okay. So when you say --
2 when the Office of Planning indicated that the incomes would be
3 below the Section 8 or under Section 8, it's --

4 MR. BOTTICELLO: Mr. Hood actually -- that's -- the
5 Section 8 level, at the current time is equal to what the public
6 housing -- a public housing resident can pay and so that's just
7 an indication of what the income level is that's more well known
8 that public housing income levels. So it's just a -- it came
9 from out original writing. It was an attempt to identify a
10 federal support program that most people would know.

11 CHAIRPERSON GRIFFIS: Right.

12 MR. BOTTICELLO: And so that's all. It's just --
13 it's dated but just so we understand, they do have to be public
14 housing residents. You can't be a Section 8 resident and move in
15 here. You have to actually come from public housing to the
16 development.

17 CHAIRPERSON GRIFFIS: Right, and as you indicated
18 earlier, it was part of the ACC subsidy, I believe it was.

19 MR. BOTTICELLO: Right.

20 CHAIRPERSON GRIFFIS: Okay. Well, that's our whole
21 housing finance lesson for the day. Any closing?

22 MS. HICKS: Yes, I'd like to make a brief closing.
23 This process has taken quite a bit of time to get us to this
24 point. We felt like the appropriate presentation would be before
25 the Board of Zoning Adjustment and not the Zoning Commission but

1 --

2 CHAIRPERSON GRIFFIS: We're better looking anyway
3 so it might as well be here. Oh, I'm sorry.

4 COMMISSIONER HOOD: That's a matter of opinion.

5 CHAIRPERSON GRIFFIS: Well, you're inclusive
6 because you're with us today.

7 MS. HICKS: All the proposed structures will be
8 three stories and will not exceed the 40-foot height limitation
9 and we've tried to present what's being proposed and we've been
10 working on the design process since last summer and we worked the
11 plans over and over again until we got to the final product.

12 We feel like this project can be built without
13 there being any adverse impact to the surrounding neighborhood
14 and we'd also like to ask for a bench decision if you all feel
15 like the time is right for a bench decision today because the
16 developer and DH -- the DC Housing Authority are raring to go.
17 Thank you.

18 CHAIRPERSON GRIFFIS: Thank you very much. Any
19 last questions? Is the Board prepared to move forward? Okay.
20 Let's get it all out in front of us. This is going to take a
21 little bit of time for some of the detail because we have so many
22 of the lots but first of all, Board, how do we feel about the
23 variance of the off-street parking requirement under Subsection
24 2101.1 in that it is -- each of the units are being given the
25 parking requirement?

1 One way we could do it is be fairly safe and
2 include it in the bundle of variances that we're doing but I
3 think it should be stated that I don't -- I don't directly see
4 the necessity for it, but under the abundance of caution, I think
5 we can include it in unless there's any objections or --

6 MR. LEVY: Mr. Chair, I just don't see it as
7 necessary.

8 CHAIRPERSON GRIFFIS: Do you want to remove it?

9 MR. LEVY: I'd like to remove it because I think it
10 may -- I mean, we're approving a very specific site plan that
11 doesn't require that variance.

12 CHAIRPERSON GRIFFIS: Okay.

13 MR. LEVY: I think it's clear to leave it out.

14 CHAIRPERSON GRIFFIS: Okay, Ms. Hicks, do you have
15 problems with that?

16 MS. HICKS: No, I don't have any problems with it.
17 I just included it to be on the safe side.

18 CHAIRPERSON GRIFFIS: Right, okay.

19 MR. LEVY: I guess my concern is if we leave it in,
20 it may shed -- it may be confusing later on if the site plan were
21 to change.

22 CHAIRPERSON GRIFFIS: Right, I would agree. I
23 would agree. Okay. Board members, this is what I'd like to do;
24 I'm going to propose a motion for approval of Application 16860
25 for a special exception from Section 2116 which deals with, of

1 course, the parking space requirements, for location of the
2 variance from the lot width requirements under Section 401, a
3 variance from the lot area requirements under Section 40 -- well,
4 we've got that section, the variance from lot occupancy under 403
5 and the rear yard requirements for -- I'm sorry, sorry, this will
6 be choppy, for the construction of two single family dwellings
7 and 18 flats at the premises at 1368 C Street SE and all of the
8 Kentucky Avenue SE, 14th and C Street inclusive. I look for a
9 second and I will get details on that.

10 COMMISSIONER HOOD: Second.

11 CHAIRPERSON GRIFFIS: Thank you very much, Mr.
12 Hood. Okay. What I want to do is break down two portions of
13 this and if it is so pleasing of this Board. First of all, I
14 want to go through each of the lots and their specific variance
15 or relief that they're granted. Secondly, I think we need to
16 spend some time on some conditions. I don't think they are
17 outrageously restrictive, but I think we ought to look at and tie
18 this order to the specific site plan that we were presented today
19 and just to make sure that that is, in fact, what's going through
20 and also as has been brought up, just to get some of the details
21 through in terms of the subdivisions and the surveying.

22 Now, if I'm not mistaken, we do have proposed lots
23 on some of these or on all of them?

24 MS. HICKS: On all of the structures, are proposed
25 subdivided lots.

1 CHAIRPERSON GRIFFIS: Okay, well, let me just state
2 at the beginning, I hope I get this correct, but the motion is
3 for approval at Lot 96, which is 22 -- 245 14th Street for a
4 variance from the lot area and also for the off-site parking, Lot
5 95, which is also for the lot area and off-site parking, Lot 81,
6 which would also be the variance from the lot area and the rear
7 yard and that is, in fact, if I'm not mistaken, the one that lot
8 occupancy was removed from. Lot 82, which would go to the lot
9 area, lot occupancy and did we have a lot width problem on that?
10 I'm going to just leave that as a question at the end.

11 Lot 83, which is lot area and lot width, lot 84,
12 again, lot area, lot width and lot 85 from lot width.

13 MR. LEVY: Mr. Chair, would you go over Lot 81
14 again? Did we leave in lot occupancy?

15 CHAIRPERSON GRIFFIS: Sure, what is this, a test?

16 MR. LEVY: Well, I'm just concerned --

17 CHAIRPERSON GRIFFIS: Okay, lot occupancy on Lot 81
18 which is 274 Kentucky Avenue, if I'm not mistaken.

19 MR. LEVY: Right.

20 CHAIRPERSON GRIFFIS: Okay.

21 MR. LEVY: I think we need to leave that in.

22 CHAIRPERSON GRIFFIS: Okay, and the lot occupancy
23 which is what was of question possibly 65 and change over the
24 required -- that's fine. All right, have I gotten all of them?

25 MR. LEVY: Yeah, we need to go over lot 82 again.

1 You left a question.

2 CHAIRPERSON GRIFFIS: Oh, indeed I did, lot 82.
3 Show me lot 82 again. Right, oh, it's the orange one. And so my
4 question was whether lot width -- well, that had the same
5 problem, correct, in lot width because of the average, that's
6 why?

7 MS. HICKS: Yes.

8 CHAIRPERSON GRIFFIS: Okay. So we leave in lot
9 width there, lot 82. This will be a whole lot cleaner when it's
10 written, I promise.

11 MR. LEVY: Right, I think we said, Mr. Chair, that
12 --

13 CHAIRPERSON GRIFFIS: Yeah.

14 MR. LEVY: Let's just reiterate for Lot 82 what the
15 total relief package is.

16 CHAIRPERSON GRIFFIS: Okay. Lot 82 which is 1360 C
17 Street, if I have it correctly, which is relief from the lot
18 area, lot width and lot occupancy because it had lot occupancy in
19 the submitted information over 61 but under 62.

20 MR. LEVY: Right.

21 CHAIRPERSON GRIFFIS: Okay. Good. I hope I got
22 everything there.

23 MS. SANSONE: Mr. Chairman?

24 CHAIRPERSON GRIFFIS: Yes.

25 MS. SANSONE: DDOT has identified the need for a

1 variance from the 14-foot IO width requirement for access to that
2 center parking area.

3 CHAIRPERSON GRIFFIS: Oh, that's right, they did
4 bring that up. I thought that was actually being taken care of
5 with the easement. Is that not the case?

6 MS. SANSONE: I believe they'd still need the
7 variance.

8 CHAIRPERSON GRIFFIS: They would need a variance
9 for it. Okay.

10 MS. HICKS: That's also on the list. I had done an
11 outline of street addresses that was in the package that was
12 brought in last Wednesday of what street addresses needed certain
13 variances and special exceptions. So it's on the list of the
14 first cluster of items, so that's 1368 C Street SE needs a call
15 for Section 2116 and also 401.3, which would be the width of the
16 frontage.

17 CHAIRPERSON GRIFFIS: What? I don't know why we're
18 going back to that.

19 MS. SANSONE: Mr. Chairman, that is the parking
20 area. That is the central parking area and it comes down to C
21 Street and it has a very narrow width on C Street. So the
22 Applicant is asking for the variance to permit that narrow width.

23 MR. LEVY: It's actually the driveway.

24 CHAIRPERSON GRIFFIS: Okay, is it attendant to lot
25 84?

1 MS. SANSONE: It's the gray driveway coming in off
2 of C Street. It narrows down to approximately, I believe that's
3 10 feet in width.

4 CHAIRPERSON GRIFFIS: Okay.

5 MS. SANSONE: But with the easement agreement it
6 can be widened to, yes.

7 MR. LEVY: That's lot 80 -- oh, lot 85, okay.

8 CHAIRPERSON GRIFFIS: This is lot 85?

9 MS. HICKS: Right, and prior to any building
10 permits issued, the easement agreement has to be on file with the
11 Recorder of Deeds Office.

12 CHAIRPERSON GRIFFIS: Right.

13 MS. HICKS: The Zoning Administrator requires a
14 copy prior to any issuance of permits.

15 CHAIRPERSON GRIFFIS: Okay, let me say this, while
16 I have it in my head; so we would include in the motion of
17 approval for lot 85, a variance from the 14-foot driveway width
18 requirement and also the lot width of 401.3; is that correct?
19 Does that make sense to you?

20 MS. HICKS: Yes.

21 CHAIRPERSON GRIFFIS: Fabulous. Okay, well, if
22 anything else comes up, we can add onto it. Okay, we're going to
23 have one other thing that we're going to bring up to your
24 attention but let me run through. I would Board members, take on
25 the motion of approval several conditions and let me just run

1 down what I'm thinking at this point.

2 First of all, we'd have the Applicant file a copy
3 of the plat approved by the Office of Surveyor with the Board of
4 Zoning Adjustments. Second, I would think that if the Office of
5 Surveyor requires any sort of modifications that we would have
6 final review and approval of the site plan. So, obviously, that
7 would be submitted in.

8 MR. LEVY: Mr. Chair, on that note, as that would
9 require a request for modification of the approved plan or order,
10 is there a time limit tied to that, that we need to just make
11 clear? What's the time limit for modifications?

12 CHAIRPERSON GRIFFIS: Oh, I see what you're saying.

13

14 MR. LEVY: Oh, six months.

15 CHAIRPERSON GRIFFIS: Six months and you're --

16 MR. LEVY: From the date of the order?

17 CHAIRPERSON GRIFFIS: -- anticipating this
18 proceeding within that time frame. Okay.

19 MR. LEVY: I didn't mean to muddy that up. I just
20 wanted to make sure the applicant was clear.

21 CHAIRPERSON GRIFFIS: Okay, that's fine.

22 MR. LEVY: Right, so it's six months from the final
23 date of the order. Right, so if there are any changes made,
24 there are six months to request a modification.

25 CHAIRPERSON GRIFFIS: Right.

1 MR. LEVY: Thanks.

2 MR. BOTTICELLO: Just the one thing, just on that,
3 the only thing I can see is since we are building against
4 existing buildings, you know, if something happens in the
5 construction process which could be further than six months down
6 the line, would we need to adjust the property lines and is that
7 still allowed?

8 MS. HICKS: I don't know whether the Zoning
9 Administrator has some flexibility when the wall tests don't come
10 back right and then there's a two percent and a 10 percent, when
11 that would be appropriate prior -- whether them coming back to
12 the Board of Zoning Adjustment for some small maybe fraction of
13 an inch that you might be thrown off on the wall test while you
14 pour the foundations.

15 CHAIRPERSON GRIFFIS: I agree. I don't think I'd
16 want to see inches.

17 MR. LEVY: No, I mean, unless it's modifications
18 that effect the relief that was granted specifically.

19 CHAIRPERSON GRIFFIS: Exactly, exactly, yeah. To
20 do that, obviously, what we would look it is the final approved
21 surveyor's plat would conform to our now or perceived -- anyway
22 the Board approved site plan. And then of course, this is, as
23 the record is showing, the applicant providing one accessory
24 parking space for each 245 and 247 14th Street and central
25 parking area for the rear of 1368 C Street SE. And then we would

1 also, as the record is showing, condition this on the
2 establishment of the 10-foot wide easement in order for proper
3 access through and obviously, that would be for the benefit of
4 all the property owners of the subdivided lots.

5 MS. RUCKER: The property at --

6 CHAIRPERSON GRIFFIS: You know, I can't have you
7 talk now because actually the Board is in deliberation on a
8 motion. So I can't have -- well, there's a couple things --

9 MS. RUCKER: Did the property (inaudible), so I
10 just wanted to clarify that.

11 CHAIRPERSON GRIFFIS: Okay, thank you for the
12 clarification. Okay, the last condition that I wanted to have on
13 this was actually the specific landscape and lighting plan
14 submission as part of this. We were given plans this morning and
15 -- that do include a landscape plan and I wanted to just take a
16 very few minutes and if there are questions on that. I think Ms.
17 Renshaw brought this up.

18 First of all, let's get clarification and this is
19 somewhat different for us in proceeding in terms of deliberating
20 on an actual motion, but I'm going to need you to speak to it
21 while you're here in that we are trying to get a bench decision
22 done today.

23 So quickly give us -- obviously -- well, give us
24 who is maintaining the parking lot area, the trees, the
25 landscaping, the lighting?

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1 MR. BOTTICELLO: Okay, the exterior grounds are
2 going to be maintained by the condominium association who will
3 hire a professional management company to perform that service.
4 That includes the front yard areas of all of the lots, the
5 parking lot areas and the parking area of each home. So the area
6 that's on the lot that is allocated as parking would be
7 maintained by the condominium association.

8 CHAIRPERSON GRIFFIS: Right.

9 MR. BOTTICELLO: The only area maintained by a
10 condominium owner is the rear yard of the townhouse.

11 CHAIRPERSON GRIFFIS: Okay.

12 VICE CHAIRPERSON RENSHAW: And the guarantee for
13 the plantings would be how long? Do you know?

14 MR. BOTTICELLO: A one-year warranty is provided
15 with the purchase of the homes.

16 VICE CHAIRPERSON RENSHAW: And that cannot be
17 extended?

18 MR. BOTTICELLO: Typically, nurseries aren't going
19 to go past that. It's hard actually, to get them to do that.

20 VICE CHAIRPERSON RENSHAW: Because it's difficult
21 to know whether or not these plants are going to take in a year.

22 MR. BOTTICELLO: I think that was one of the
23 reasons -- I agree with you and that was one of the reasons we
24 pulled the maintenance of the front yard landscaping out of the
25 homeowners' purview because of that same reason. So it's going

1 to be maintained by a management company whose job it will be to
2 make sure that plants live.

3 I mean, basically, most plants die because they
4 aren't maintained. It's not because, you know, there's something
5 wrong with the plant or disease. So that was the idea to try and
6 have a management company maintain even the front yards of the
7 units. Even though property owners might want to participate in
8 that, the idea is to have a private management company
9 responsible for watering and fertilizing.

10 VICE CHAIRPERSON RENSHAW: All right, and then
11 there will be a condo fee which will go towards the replacement
12 of any bush or tree that is diseased or has died?

13 MR. BOTTICELLO: Right. The actual replacement of
14 the plants is the responsibility of the condominium association,
15 not the individual owner, again, so you get a consistent look to
16 the development. So somebody doesn't plant one type of bush or
17 somebody doesn't maintain their yard, so it's all going to be
18 consistent.

19 VICE CHAIRPERSON RENSHAW: All right, thank you.

20 CHAIRPERSON GRIFFIS: Okay, thanks very much.
21 Obviously, that's part of the record which is Sheet 11 of 18 in
22 the submission and then there it is. Anything else we want to
23 tack onto this? It's like a bill going through Congress, isn't
24 it? Okay.

25 If there's nothing further then, I would hopefully

1 ask that we don't reiterate the entire motion because I think
2 it's fairly clear in terms of the approval and obviously, it's
3 breaking down with the specifics of the lots and I would ask for
4 all those in favor signify by saying Aye.

5 (Aye)

6 CHAIRPERSON GRIFFIS: And opposed? Very well,
7 thank you very much. And we can record the vote when staff is
8 ready.

9 MS. BAILEY: The vote is recorded as five, zero,
10 zero to approve the application. The motion was made by Mr.
11 Griffis. Mr. Hood in agreement, Ms. Renshaw, Mr. Etherly and Mr.
12 Levy to support. I do have a question, Mr. Chairman.

13 CHAIRPERSON GRIFFIS: Yes.

14 MS. BAILEY: When Ms. Hicks spoke, she indicated
15 that a variance from the lot occupancy requirement was no longer
16 necessary. Did I hear you say that, Ms. Hicks?

17 MS. HICKS: That was discussed, but I think the
18 Board had decided to keep it in.

19 MS. BAILEY: Okay. All right, that's it, Mr.
20 Chairman. Is there a summary order with this, include in it the
21 discussion concerning the lots and the relief that's required for
22 each one?

23 CHAIRPERSON GRIFFIS: Ms. Hicks, are you requesting
24 a summary order?

25 MS. HICKS: Yes, we'd like a summary order, yes.

1 CHAIRPERSON GRIFFIS: Well, I don't have any
2 problem with doing a summary order, I guess. I mean, it would be
3 a bit lengthy. All right, so let's do that, a summary order.
4 Okay, anything else we need to do with this? Boy, well, that
5 wasn't too painful. All right, I thank you all very much and
6 keep it up.

7 MS. HICKS: Thank you very much.

8 CHAIRPERSON GRIFFIS: And I know the neighborhood
9 will look forward to anything but what is there now. But you
10 have a very serious task ahead of you, so I look forward to
11 sharing good things about it and have a great day.

12 MS. HICKS: Okay, thank you.

13 CHAIRPERSON GRIFFIS: Before we call the next case,
14 we're going to take just five minutes. We're going to let the
15 Applicant come up and set up if there's any sort of setup and we
16 will be back within five minutes. Is the next case, do you have
17 boards and all, displays? Okay, so we'll give you a few minutes
18 to set that up. We'll be back.

19 (Off the record at 11:19 a.m.)

20 (On the record at 11:29 a.m.)

21 CHAIRPERSON GRIFFIS: Thank you for that brief
22 moment, and we can call the next case in the morning.

23 MS. BAILEY: Application number 16865 of P.N.
24 Hoffman pursuant to 11 DCMR 3103.2 for a variance from the
25 residential recreation space requirements under section 773, a

1 variance to allow an addition that's a penthouse, to a non-
2 conforming structure under sub-section 2001.3, to allow the
3 renovation of an existing historic building for residential and
4 arts use in the DD/C-4 District at premises 916 through 918 G
5 Street NW, square 376, lot 802. Please stand and take the oath.

6 Please raise your right hand.

7 (Witnesses sworn.)

8 CHAIRPERSON GRIFFIS: Good morning, gentlemen.
9 Appreciate your patience with that detailed application before
10 you but you now have our full attention. So I will turn to you,
11 sir, and you can introduce your panel or however you want to
12 proceed.

13 MR. EPTING: Good morning, Mr. Chairman. I'm John
14 Epting with Shaw, Pittman. With me is Jimmy Baker Roski
15 (phonetic). We're very happy to be here for this project. We're
16 requesting a variance from the residence or recreation space
17 requirements and we're also cited for variance from the penthouse
18 requirements. The building is zoned DD/C-4 and it's a
19 contributing building to the downtown historic district.

20 And it's hard to think back 10 years ago and really
21 think about converting office buildings into residential in the
22 downtown and that's exactly what we have for you hear today. The
23 variances that we're requesting are specifically related to that
24 conversion to residential use. This is a great project. It's
25 supported by NCCC, the Downtown Cluster of Congregations, the

1 Downtown Housing Committee Now. It's also supported by the
2 Office of Planning, DHCD and the plans have been reviewed and
3 approved by the Historic Preservation Review Board and we will
4 attach that as Exhibit C, I think in our statement.

5 Unless there are questions, I'd like to turn to our
6 witnesses. Our first witness is Monte Hoffman, of P.N. Hoffman,
7 who will describe P.N. Hoffman's experience, their process in
8 this example and the rationale for the variances, and then I'll
9 turn it over to the architects who will discuss the project
10 plans. And we have submitted the architects' resumes for your
11 consideration as experts, Mr. Cunningham and Mr. Morrison.

12 CHAIRPERSON GRIFFIS: Okay, do you want us to take
13 that up now or when you get to that?

14 MR. EPTING: You might as well go ahead and do it
15 now and then we'll be ready to go.

16 CHAIRPERSON GRIFFIS: Okay. Okay, Board members,
17 any questions or concerns. I think both resumes are quite
18 impressive. They're being offered as expert witnesses in
19 architectural design, correct?

20 MR. EPTING: That's correct.

21 CHAIRPERSON GRIFFIS: Clearly there are project
22 types that are similar if not fairly related to what is before us
23 today. Any concerns? Not seeing any, I'd say it's a consensus
24 that we take both as expert witnesses in architectural design.

25 MR. EPTING: Thank you very much. With that and we

1 do hope to be brief today, I'd like to go ahead and turn it over
2 to Monte.

3 CHAIRPERSON GRIFFIS: Good, yeah, and I would
4 agree. I mean, I think the submissions were excellent and
5 comprehensive, so I think there's a good understanding of the
6 Board of the project. So we can expedite this fairly quickly, I
7 think. You know, you can always stumble up and get into trouble
8 but without that being projected, I think we can move on.

9 MR. HOFFMAN: Good morning, Chair and Board. I'm
10 Monte Hoffman. I'm the principal of P.N. Hoffman. We're a
11 developer that specializes in residential redevelopment in the
12 city. We have several projects going on right now. In fact, it
13 was before this Board about a month ago, a different project and
14 a different matter.

15 We are very experienced in working with the
16 neighborhoods and with different jurisdictions in the City and
17 that brings us to the Mather (phonetic) Building. We purchased
18 the Mather Building from the District of Columbia about a year
19 ago and prior to our purchasing of it, it was a vacant building
20 for about 10 years and prior to that it was house arts program
21 for the University of the District of Columbia.

22 The DHCD provided the staffing and the plan for the
23 disposition of the building. In that plan it was very specific
24 on what they were looking for and what the city was looking for
25 and part of that was the arts program within the building. And

1 that was to take up approximately 6500 square feet of area inside
2 the building and in addition to that, part of the plan was to
3 provide a affordable housing and so a portion -- I believe it was
4 required to have 20 percent affordable housing. We provided in
5 our program approximately 30 percent affordable housing.

6 Also the plan called for restoring the historic
7 facade of the building and as many of you know, it's very
8 deteriorated but grand old, you know, glazed terra cotta marble
9 facade which we are taking on. And then finally, there is to be
10 a market rate housing in the building. And market rate housing,
11 of course, helps stimulate the living downtown and in addition to
12 that, from a developer's point of view, it subsidizes the other
13 uses in the building, so very important to us.

14 We were very excited to be awarded this project.
15 It was an opportunity for us to diversify into being involved in
16 some of the arts and affordable housing goals in the city. This
17 leads us to the practical difficulty that we are having now, or I
18 should say experiencing. And that is, even with the early plan
19 and the disposition of the building, implicit within that plan,
20 to perform that plan, a variance is needed. A variance is
21 needed because the recreation space was never included in the
22 original specific plans in the RFP's that the applicants such as
23 me had considered.

24 In addition to that, our plans that we submitted
25 back to the District were very specific as requested and in

1 there, again, the recreational space was not included. So it
2 would be financially devastating for us, in fact, we cannot --
3 the plans are in conflict. We cannot execute the plan in the
4 current zoning regulations, so therefore, a variance is needed.
5 In addition to that, there is also practical difficulty in terms
6 of placing recreation space on the outside of the building as the
7 building is historic and we have to be sympathetic to that and
8 not have visual obstructions near the front of the building and
9 the building occupies approximately 92 percent of the lot.

10 The courtyards in the side are non-conforming as
11 well which cannot be occupied. The roof is too small to have any
12 quality space as well, so with placement and the size of the
13 building, there is also technical issues with respect to
14 practical difficulty.

15 Finally, there's no adverse impact to the
16 neighborhood with respect to this variance. We outreached into
17 the ANC and we have their unanimous approval. We have almost
18 every jurisdiction that I can think of that is supporting our
19 variance. I don't know of any opposition for this. In fact, I
20 would also argue that we -- even the consumer would agree that
21 the recreational space is not desired. We have a website which I
22 actually demonstrated to this panel about a month ago and we
23 positioned some questions so that people could respond to the
24 needs of this recreation space, confirming my suspicion that the
25 consumer isn't even looking for it. So by all accounts, this is

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1 not an adverse neighborhood impact.

2 I was asked to be brief, so I won't elaborate any
3 further. If you have questions, Mr. Chair, I'll do my best to
4 answer. Otherwise, if you'd like we can have the architect go
5 through the design.

6 MR. EPTING: I'd like to turn it over now to Chris
7 Morrison.

8 MR. MORRISON: Good morning, my name is Chris
9 Morrison. I'm an architect with Cunningham and Quill Architects.
10 We had the pleasure to join this project team last fall. We're
11 very excited to be working in the redevelopment of this part of
12 town and bringing living -- you know, bringing homes and bringing
13 residential living to this formerly predominantly commercial
14 area.

15 The map on the left there basically just points out
16 our site, which is on mid-block on 9th Street -- on G Street
17 between 9th and 10th, directly across from the Martin Luther King
18 Library and adjacent to St. Patrick's facilities as well as to
19 the YWCA. We're within a few blocks of the Dinnell MCI
20 (phonetic), the Portrait Gallery and out national mall.

21 The building in the 1950's is shown on the left in
22 the photograph and these images are also in the packets that you
23 received. And it's also shown currently, in its current
24 condition.

25 CHAIRPERSON GRIFFIS: Was it retail original on the

1 first level?

2 MR. MORRISON: Yes.

3 CHAIRPERSON GRIFFIS: Those are the little bays the
4 come out. Yeah.

5 MR. MORRISON: Yes. What we're undertaking, as Mr.
6 Hoffman indicated, is a renovation of this building as well as an
7 adaptive reuse in terms of its occupancy. We have been working
8 very closely with the HPRB and David Maloney there in that
9 renovation. The terra cota facade which is a terrific example of
10 early 20th Century Gothic revival architecture has deteriorated
11 quite a bit from water damage and neglect over the last years.

12 In addition to the renovation of the facade itself,
13 there's a total window replacement that will be -- that's being
14 undertaken in the building and actually restoring the original
15 light configuration of the original building because during
16 earlier remodelings there were rather awkward window replacements
17 that will be corrected now.

18 As you pointed out, there were originally a --
19 there was ground floor bays that had been removed at an earlier
20 point which really changed the proportions and the architecture,
21 the articulation of the ground floor facade and that's going to
22 be restored and interpreted as an entry canopy for the main
23 residential lobby. The balance of the building on the other
24 three sides is an expressed concrete frame, masonry in-fill and
25 that will be repaired and tuck pointed as necessary as well as

1 the window replacement.

2 CHAIRPERSON GRIFFIS: Before you move that, did the
3 -- the photograph that's titled -- it's on the far right as I'm
4 looking at it, it's the Mather Building from 9th and G Streets, I
5 think the pertinent point there is your submission shows, is that
6 corner shows that the library is right there.

7 MR. MORRISON: Yes.

8 CHAIRPERSON GRIFFIS: And then if I'm not mistaken,
9 what's spoken to is the YMCA, which is in the adjacent building.

10 MR. MORRISON: Yes.

11 CHAIRPERSON GRIFFIS: Okay, and I don't know if
12 you're going to get to this later but you're removing a non-
13 conforming penthouse. Is that showing in that photograph?

14 MR. MORRISON: Yes, it is.

15 CHAIRPERSON GRIFFIS: Okay, so that's going to be
16 gone.

17 MR. MORRISON: That's correct.

18 CHAIRPERSON GRIFFIS: Okay.

19 MR. MORRISON: And the reason it's non-conforming
20 is because it doesn't observe the appropriate setbacks.

21 CHAIRPERSON GRIFFIS: Setbacks, right. Was that an
22 addition?

23 MR. MORRISON: No, the elevator was part of the
24 original building but the core of the original plan is in the
25 east front corner.

1 CHAIRPERSON GRIFFIS: I see.

2 MR. MORRISON: It was expanded at some point, it's
3 clear. I'm sorry, the original -- the non-conforming penthouse
4 structure was expanded during an upgrade at some point but in
5 general when we see the early historic plans, it was there.

6 CHAIRPERSON GRIFFIS: Okay.

7 MR. MORRISON: The site plan here just shows in a
8 little greater detail its approximation to Martin Luther King
9 Library and also the fact that we were severely limited on this
10 site from accommodating outdoor residential recreation area.
11 We're not quite 100 percent but 92 and the remaining open area
12 are these courts that don't allow for occupied use.

13 Just quickly through the plans; what you can see in
14 the ground floor document is this is the original location of the
15 entrance lobby and the elevator core. What we're doing in the
16 remodeling and reuse of the building is reorienting the entrance
17 to the center of the building under a new canopy and that's the
18 residential lobby.

19 The balance of the first floor is to be leased to
20 the CDC as art space. There is some mechanical as well.

21 CHAIRPERSON GRIFFIS: Okay, so and on your plans in
22 the submission it says retail 1, retail 2. That's all the CDC
23 space.

24 MR. MORRISON: Right.

25 CHAIRPERSON GRIFFIS: And that's actually on the

1 second level also, correct?

2 MR. MORRISON: That is correct.

3 CHAIRPERSON GRIFFIS: Okay.

4 MR. MORRISON: As part of the adapted for use of
5 the building, the core of the project has recentered to the
6 middle of the building. We're putting in all new fire egress
7 stairs, a new elevator, a new life safety and all of that. And
8 that's pretty much why we needed to replace the existing
9 penthouse structure with a new one that will house mechanical and
10 the elevator overrun and the roof access for that.

11 As you indicated, the balance of the front of the
12 second floor facing G Street is the rest of the CDC space and the
13 balance of that floor are the first five units of the affordable
14 artists' work studios. The section pretty well shows that this
15 project is remarkable, I think, in the fact that in the adaptive
16 reuse, not only going from a commercial occupancy but to a more
17 desirable residential one, really over a third of the building,
18 the first three levels, are being used for either art space or
19 affordable occupancy. It's only in the units from the fourth
20 floor up that will be fit out with the market rate units.

21 As Mr. Hoffman, I think, indicated there are a
22 total of 49 units in the plan for the project.

23 CHAIRPERSON GRIFFIS: Do you have to be a
24 registered artist for those lofts?

25 MR. HOFFMAN: No.

1 CHAIRPERSON GRIFFIS: No.

2 MR. HOFFMAN: You're talking now for the affordable
3 or for all of them?

4 CHAIRPERSON GRIFFIS: No, for the supposedly the
5 ones that are set aside for the artists.

6 MR. HOFFMAN: We're working with CDC and the
7 District and, you know, they're going to help craft that because
8 I've always had a concern as to what that measurement would be.
9 So we're not going to operate in a vacuum in that regard and I'm
10 sorry, I don't have a specific answer for you.

11 CHAIRPERSON GRIFFIS: No, I don't think we need a
12 specific and it's just -- it's actually it's an interest because,
13 you know, I know in New York they used to have that with the
14 artist space that actually weren't conforming livable units but
15 if you were a registered -- but they had a program to register
16 and I wasn't familiar whether the District had that.

17 MR. HOFFMAN: We don't have a program here and it
18 gets to the definition of what is an artist. I mean, that's what
19 sort of you're alluding to.

20 CHAIRPERSON GRIFFIS: God bless, that's a great
21 conversation.

22 MR. HOFFMAN: Yeah, we would be here awhile.

23 MEMBER ETHERLY: That's a good question, Mr.
24 Chairman, because I am working on a performance piece that will
25 be premiering shortly at the Warner (phonetic) Theater so --

1 CHAIRPERSON GRIFFIS: See, we have an artist right
2 here with us.

3 MEMBER ETHERLY: Just kidding.

4 CHAIRPERSON GRIFFIS: And some people call this a
5 performance, but nonetheless, let's move on.

6 MR. MORRISON: All right. Most of the work that's
7 going on in the building, occurs inside. It's the interior, as I
8 indicated, is being completely gutted and stripped down. The
9 core is being relocated. There will be all new mechanical
10 systems as well as the life safety that I mentioned.

11 The addition that we're talking about here today is
12 a modification to the rooftop. On your penthouse plan you'll see
13 dotted in, in the eastern front and back corners dotted in
14 existing rooftop structures that have been proposed to be
15 removed.

16 In addition, there is a cooling tower that also sat on the top, a
17 not very graceful portion. What we are proposing is that we will
18 come back with a conforming penthouse.

19 We're removing the non-conforming ones, bringing in
20 a conforming one that will be set back. We've worked very closely
21 with HPRB to keep the massing of this penthouse as low as
22 possible so as to not kind of poke up above the existing
23 building. So we are set back well from both -- from all sides of
24 the building and because we are in a condition where this
25 building doesn't have a tall parapet, that height, keeping that a

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1 low as possible is very important. The strategy that we took is
2 actually to pull the penthouse back and close off on a terrace
3 that's set back so that the railing does not come out to the edge
4 of the building, but the railing at the edge of the terrace also
5 is pulled back.

6 CHAIRPERSON GRIFFIS: Now there was some mention of
7 that in your submission. About how HPRB was concerned with
8 seeing any sort of the guardrail or the penthouse but looking at
9 the submission that we have in the record, it went on consent
10 calendar. Was there a discussion then with staff that they
11 wanted that set back?

12 MR. HOFFMAN: Yes.

13 MR. MORRISON: We met with David Maloney (phonetic)
14 before we filed and have been working with him on detailing all
15 of the -- going through all of the details.

16 CHAIRPERSON GRIFFIS: Was there any conversations
17 in terms -- I mean, this is my opinion. It looks like you're
18 wasting a lot of conceivably usable roof space if you wanted to
19 have it, moving it out to the extent of the building. I mean,
20 maybe not going out into the detail in the corners but why not
21 add a couple of feet. I mean, if I was up there, I'd jump the
22 fence.

23 But, and in fact, I think one of the photographs
24 shown in your submission indicates that there's furniture up
25 there now that's kind of -- anyway that's a digression but my

1 point is, was there a discussion about having, you know, more
2 transparent guardrail that could then expand the usable portion
3 of the roof?

4 MR. CUNNINGHAM: The -- sorry, Mr. Chairman, my
5 name is Ralph Cunningham. The discussion with HPRB really
6 involved they wanted the rail set back at least 45 degrees from
7 the edge of the parapet.

8 CHAIRPERSON GRIFFIS: Right, right.

9 MR. CUNNINGHAM: They are -- have been very
10 agreeable with the idea that we've had to do a more modern
11 structure on the roof, but they really wanted to be as invisible
12 as possible.

13 CHAIRPERSON GRIFFIS: Yeah, I don't disagree that
14 that's probably the predominant opinion there. Do we have any
15 control of overriding that, Board? No, I won't get us into
16 trouble here. I see the logic of it. In this specific building,
17 I see even more logic to it, because as you've indicated, there's
18 no parapet, there's nothing to really hide behind but it just
19 seems to be -- it seems to start to straddle defying common sense
20 when you have to set it back so far and just not use the space,
21 but --

22 MR. CUNNINGHAM: One other issue is that the
23 building has a very unusual roof pitch which is about one to 12
24 towards the middle of the building.

25 CHAIRPERSON GRIFFIS: Right.

1 MR. CUNNINGHAM: And so it's actually taller on the
2 edges than it is in the middle.

3 CHAIRPERSON GRIFFIS: Right.

4 MR. CUNNINGHAM: So that was another concern that
5 HPRB had and they wanted us to set it back so that we could
6 actually use some of the roof pitch to hide our addition.

7 CHAIRPERSON GRIFFIS: Which I think your sections
8 show that's being fairly well done but all right, there it is.

9 MR. MORRISON: So the construction of the rooftop
10 new penthouse is seen in the middle panel and storefront system
11 with an articulated cornice piece. It has a parapet above that
12 cornice which hides, as you can see in this section, the area for
13 all of the condensing units for the upper half of the residential
14 units condensing units in here.

15 Inside the penthouse itself, it's laid out with
16 mechanical area for pumps and the electrical meters for the
17 building, the elevator overrun and stair and backs as for the
18 four penthouse or the four (inaudible).

19 CHAIRPERSON GRIFFIS: What -- and I'm sorry, it's
20 probably in the submission. I can't put my finger on it right
21 now. What's the current FAR on this?

22 MR. MORRISON: We are -- I think --

23 MR. EPTING: We'll have that for you in a second.

24 CHAIRPERSON GRIFFIS: Okay. And I guess the direct
25 question where I'm going with that is that you're indicating that

1 this penthouse has actually stair enclosure, portions of that
2 stair enclosure. Is -- was it in any calculations that you did
3 that that went to the FAR or is that actually a portion of under
4 411 that's allowable as exempt from -- or it's allowable in the
5 addition of the FAR and that falls within it?

6 MR. EPTING: It's counted in the penthouse FAR.

7 CHAIRPERSON GRIFFIS: Okay, so it falls under the -

8 -

9 MR. EPTING: 411.

10 CHAIRPERSON GRIFFIS: Right, 411, but it's what .3
11 or something.

12 MR. EPTING: .37.

13 CHAIRPERSON GRIFFIS: Yeah, yes, to be precise.

14 MR. EPTING: Yes, the building itself is 9.22 and
15 that's not changing.

16 CHAIRPERSON GRIFFIS: Oh, it is, okay. So it's
17 non-conforming an FAR. Okay.

18 MR. EPTING: Actually, it's not technically non-
19 conforming an FAR because under DD, if you have an existing
20 building that's historic that's over six, you're allowed to keep
21 -- to utilize the whole building, 1707.7.

22 CHAIRPERSON GRIFFIS: Right, no, I would agree with
23 that. But the -- right, but currently if you built under C4 it
24 would be 8.5.

25 MR. EPTING: Yes, yes.

1 CHAIRPERSON GRIFFIS: Okay, good. What else do we
2 need to know up there?

3 MR. MORRISON: I don't think there is anything. If
4 you have any other questions, I'd --

5 CHAIRPERSON GRIFFIS: Okay, and the issue here is
6 as the submission put out, is that this cannot be used for the
7 residential recreation space in the building because it would
8 have to have common access and it's fairly explicit that it goes
9 to that. And common access, of course, would mean that you'd
10 have to bring another additional elevator up into it and stairs
11 down.

12 And what in the submission has been said is that if
13 you did that, you would basically fill the roof with all this
14 trying to get there with no room to use. See, I did read it.
15 Okay. All right, so any other questions? So what we're looking
16 at essentially is private roof terrace space.

17 MR. MORRISON: That's correct.

18 CHAIRPERSON GRIFFIS: Right, which is going to have
19 one kicker of a view; is it not?

20 MR. MORRISON: Pretty good.

21 CHAIRPERSON GRIFFIS: Yeah, yeah. Wow. Okay.
22 Anything else?

23 VICE CHAIRPERSON RENSHAW: Especially 4th of July.

24 CHAIRPERSON GRIFFIS: Yeah, 4th of July, now,
25 there's an interesting idea of a condition for -- no. What else

1 do we need to know from the applicant? I do have a couple of
2 things. First of all, I want to make a quick comment on the fact
3 of -- and actually, Board, we've had other applications that have
4 come in that are dealing with submission to the RFP process and I
5 bring this up as a concern only because of the fact that, you
6 know, an RFP can be written and DACD, I think, is getting much
7 better at doing it, especially with our coordination of Office of
8 Planning writing those, but it doesn't necessarily -- it doesn't
9 make the strongest -- for me, it doesn't make the strongest
10 argument for relief from zoning that DACD didn't account for
11 zoning in their submission or in their solicitation of proposals.

12 However, the specifics of this case, I think, are -
13 - go beyond that and aren't necessarily only relying on that as
14 the unique situation that it's in, not to mention the strength of
15 this project and what it's going to do for the city-wide and the
16 downtown area. So that being noted, maybe we'll have a work
17 group with DACD on zoning matters and work it out that way.

18 A question to you, Mr. Epting, you know, I was --
19 there's a lot of discussion in some of the submissions about the
20 passive recreation space which, I think there's a strong argument
21 for that. I mean, here you do have quite a bit of the first and
22 portions of the second area that will be of essentially a common
23 and public amenity. My question goes more directly to the
24 zoning, which is why I ask you, have you -- are you aware of any
25 definition of what accounts for passive recreation space?

1 MR. EPTING: There's no definition in the zoning
2 regulations.

3 CHAIRPERSON GRIFFIS: Right.

4 MR. EPTING: And I did ask the Zoning Administrator
5 whether this would count under his view and he didn't see it
6 under his strict view. Although I really kind of disagree with
7 that because I think it's better than a lot of recreation space
8 that you typically get in let's say a matter of right apartment
9 building which could be a lobby or --

10 CHAIRPERSON GRIFFIS: Right.

11 MR. EPTING: -- or just a TV room. And so I think
12 by providing this and maybe I should go further. The condo
13 association can actually use the space specifically sometimes, so
14 almost like a community room or a special room.

15 CHAIRPERSON GRIFFIS: Right.

16 MR. EPTING: So I think it does serve the
17 recreational needs, particularly given the unique area that this
18 building is located in.

19 CHAIRPERSON GRIFFIS: Yeah.

20 MR. EPTING: There's no specific definition.

21 CHAIRPERSON GRIFFIS: Right. Well, and that's what
22 I needed to hear because I sure as heck couldn't find anything.
23 But I would agree. I mean, I think this does tend to fall under -
24 - if we had to define what passive recreation space is and I
25 think the submission is very strong in laying out the fact of,

1 you know, what is the purpose of recreation space and look at
2 where this specific property is located in terms of using it.

3 I mean, I think even if you looked at needing to
4 have a condo association have a large meeting of which couldn't
5 fit in one of the units, let's say, you could walk across the
6 street to the public library and have a room there or even the
7 YMCA facility. So what else? Any other questions? Okay. I'm
8 getting hungry looks that we should move on, so let's go to
9 Office of Planning and go through their report. And let's waive
10 that report in also.

11 This isn't starting a new trend, is it, because
12 we're going backwards on this one. Okay. I don't see any
13 problem with waiving in the report. Good. Mr. McGettigan,
14 welcome.

15 MR. McGETTIGAN: Thank you, sir. And it's noon so
16 good noon, Mr. Chair, members of the Board. And I'm David
17 McGettigan from the Office of Planning. I'm presenting a report
18 today for you. Regarding the variance of 2001.3, we feel that
19 the existing condition of the subject property does create an
20 exceptional situation that requires zoning relief due to the
21 existing non-conformities of the historic structure and that
22 there's practical difficulty in meeting the requirements of
23 2001.3 while still meeting historic preservation goals.

24 The proposed demolition and construction of the
25 penthouse, while it does not meet the strict interpretation of

1 2001.3 by the Zoning Administrator, it still meets the intent by
2 removing the non-conforming portion of the building and
3 constructing a conforming one.

4 The proposed penthouse will not be a substantial
5 detriment to the public or impair the intent, purpose and
6 integrity of the zoning plan but will actually improve the
7 appearance of the building by setting back the penthouse away
8 from the line of sight and making the existing structure more
9 compatible with the historic district. I think the Historic
10 Preservation Review Board was happy with the move of that
11 penthouse.

12 Regarding the variance for the recreation space
13 under 773, again it's an exceptional situation and the
14 residential reuse, non-conforming structure that was initially
15 designed as an office building and built prior to the zoning is
16 an exceptional situation and it results on the practical
17 difficulty because the existing lot coverage and building
18 footprint configuration provide no room for ground level outdoor
19 recreation space.

20 The small roof footprint causes practical
21 difficulties in providing rooftop recreation space and the strict
22 interpretation of the definition of recreation space does not
23 give the project credit for the 6500 square feet of large space
24 that would provide many of the intended benefits of recreation
25 space. And also the provision of recreation space within the

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1 building would be contrary to the goals of the District and
2 providing in art space, affordable housing and housing that we
3 need in this District.

4 The proposed variance from recreation space will
5 not be a substantial detriment to the public good or impair the
6 intent, purpose and integrity of the zone plan because the
7 proposed art space, the adjacent YWCA recreation and the
8 proximity of other recreational opportunities downtown will
9 provide adequate alternative recreation opportunities for
10 residents.

11 So the Office of Planning recommends approval of
12 application 16865 requesting a variance from Sections 2001.3 and
13 Section 773.

14 CHAIRPERSON GRIFFIS: Good, thank you very much.
15 And I noted in your report also attached were some of the
16 discussion and sketches from the applicant, actually, drawing
17 some of the difficulties, talking about the roof structure and
18 the penthouses which seem to help the argument quite a bit and
19 just for the record, it was in your photograph that the nice lawn
20 furniture is up there on the roof.

21 So okay, any questions of OP? Does the applicant
22 have any questions? Okay. Let's move onto -- DACD has a letter
23 submitted and that is in favor of the applicant's request for
24 relief and sorry, it is signed by Mr. Jackson, Director.

25 MR. LEVY: Mr. Chair.

1 CHAIRPERSON GRIFFIS: Yeah.

2 MR. LEVY: We need to waive that one in at this
3 point.

4 CHAIRPERSON GRIFFIS: Okay, any objections?

5 COMMISSIONER HOOD: No objection.

6 CHAIRPERSON GRIFFIS: Okay, so moved. We will
7 accept the report. It has been noted extensively now that the
8 HPRB did give conceptual approval of this and actually it should
9 be noted if I'm not mistaken, it was on the consent calendar and
10 let's go to ANC, Exhibit Number 20, which was -- was this timely
11 filed? I think it was timely filed. Okay, Ms. Renshaw, do you
12 have that in front of you?

13 VICE CHAIRPERSON RENSHAW: Yes. ANC 2C sent a
14 letter to the Board dated April the 4th, 2002 and stated that it
15 had a duly noticed and scheduled meeting at which five out of the
16 six commissioners were present which constitutes a quorum and
17 they unanimously passed a motion that states that after review of
18 the plans and testimony from the applicant P.M. Hoffman, ANC 2C
19 supports the application pursuant to 11 DCMR 3103.2 for a
20 variance from the residential recreation space requirements under
21 Section 773 and a variance to allow an addition in paren
22 (penthouse) to a non-conforming structure under subsection
23 2001.3, to allow the renovation of an existing historic building
24 for residential and arts use in a DD/C4 district at 918 -- 916-
25 918 G Street NW.

1 And the letter is signed by Mattie Leroy Thorpe Jr.
2 the Chairman of ANC 2C.

3 CHAIRPERSON GRIFFIS: Good. Okay, is anyone else
4 here to testify this morning? Okay, let's go to the letters
5 that were submitted by the Downtown Cluster of Congregations.
6 Mr. Levy, do you have those?

7 MR. LEVY: I have just that one from the Downtown
8 Cluster of Congregations.

9 CHAIRPERSON GRIFFIS: Okay, it brings up an
10 interesting point. Was the letter from the Downtown Housing now
11 submitted?

12 MR. EPTING: Well, I think so. We have copies.
13 We'll submit them.

14 CHAIRPERSON GRIFFIS: I'm not showing it on the
15 documents list in the case, so why don't we just take it in for
16 the record.

17 MR. EPTING: We'll provide a copy.

18 CHAIRPERSON GRIFFIS: Thank you. And if I'm not
19 mistaken the letter from the Downtown Cluster of Congregations is
20 signed respectfully from Mr. Terry Lins (phonetic), the executive
21 director and is in full support of this relief request. And
22 that is Exhibit Number 21.

23 Okay, it's all yours to sum up.

24 MR. EPTING: Well, that concludes our presentation.
25 We believe we've met the test for the variance relief. We think

1 this is a very exciting project and we're glad to be here and
2 we'd ask your support today for a bench decision and a summary
3 order. It's good to see Ms. Renshaw smiling, so it's a good
4 sign.

5 VICE CHAIRPERSON RENSHAW: I do do it occasionally.

6

7 MR. EPTING: Not always to me, though.

8 (Laughter)

9 VICE CHAIRPERSON RENSHAW: You need glasses, Mr.
10 Epting.

11 CHAIRPERSON GRIFFIS: Well said. And I'm glad we
12 got that on the record then. Smiles all around which is always
13 important. Any last questions? Very well, I would move approval
14 of Application Number 16865 of P.N. Hoffman for the Mather
15 Building and that would be for a variance from the residential
16 recreation space requirements under Section 773.

17 And you know, I'm going to include just from that
18 abundance of caution a variance to allow the addition of the
19 penthouse for non-conformance structure under subsection 2001.3
20 because frankly, I think that could -- we could have a discussion
21 whether you need it or not, but that being said, we'll move ahead
22 with it. And I'd ask for a second on that.

23 VICE CHAIRPERSON RENSHAW: Second.

24 CHAIRPERSON GRIFFIS: Thank you, Ms. Renshaw. I
25 think the record shows a very strong application that

1 specifically speaks to the residential recreation space but I
2 think the practical difficulty is somewhat common in both of the
3 variances that are going to. Obviously, it's a mid-block
4 building. It is an adaptive reuse of a commercial building into
5 a residential, something that is strongly encouraged and in fact,
6 was encouraged and asked for in the RFP that was won by the
7 applicant.

8 The historic nature of this as a contributing
9 building also plays into the ability of expanding or changing any
10 of that, not to mention the fact that the lot coverage already in
11 existence not being able to provide any other exterior or really
12 usable recreation space. Clearly it would have been worse if
13 they had come in and said that those little niches in the
14 building were the residential recreation spaces, because that
15 would have questioned our own logic.

16 Attendant to that I think, it should not go
17 unnoticed as it's already been stated the fact of the facilities
18 that are immediately adjacent and if not in the extending area of
19 downtown and what are we trying to do in this city in requesting
20 and really making a priority of downtown housing but to bring
21 people onto the streets to utilize our city, not just the
22 tourists but the people that actually live here and give them
23 opportunities to it.

24 I note in the applicant's submission that they
25 quoted some of what the Zoning Commission did in their

1 proceedings and actually in reducing some of the residential
2 recreation space for downtown and I would absolutely agree with
3 the statements that are made by the applicant, that this is an
4 important aspect to encourage people to get out and not only just
5 to shop but actually to be on the streets and utilize any of the
6 other common and public areas and facilities.

7 In addition to that, I think the provision of the
8 arts space, most of which will be, as I understand it from the
9 program, publicly accessible which, I think, gives clearly the
10 intention of the DACD in their RFP was to provide this, but I
11 think it gives a unique opportunity and use to this building and
12 to the downtown area and quite frankly, I know that the BZA has a
13 differing opinion, but I think it's such a close argument whether
14 that goes to passive recreation space. I think I would err on
15 the opposite side of the Administrator at this point and actually
16 call it that.

17 But without definitions, we don't have time to make
18 that full-blown argument and actually go to defining it. Are
19 there any other issues that people want to speak to? Well, let
20 me just also reiterate because we have to for the record, all of
21 these issues but it was clearly made and I would agree with the
22 fact that the economic burden in order to create recreational
23 space within this building would be frankly, unduly burdensome in
24 putting together a program of this nature and putting together
25 the mix of use not only use, but also income and sizes of units.

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1 I don't think -- although it wasn't testified to,
2 I'm not sure whether there is a program that could actually have
3 been done in economic feasibility if we required more
4 recreational space in this. So any other additions,
5 subtractions, any multiplication that we want to do on this? Not
6 seeing anything.

7 Let me also note for the record that there was a
8 question with some Board members and I believe the staff of the
9 Office about parking on this and clearly in our reviewing this
10 case, this is a contributing building and therefore, will not --
11 would not be required to come in for any parking relief or any
12 change of relief.

13 I did note, and I thought it was well placed, how
14 access to the parking and utilization of the parking at below
15 grade level was achieved or is proposed to be achieved on this.

16 VICE CHAIRPERSON RENSHAW: Mr. Chairman?

17 CHAIRPERSON GRIFFIS: Yes.

18 VICE CHAIRPERSON RENSHAW: Just a comment that this
19 project will certainly stimulate and support the arts in the
20 District and we want to nourish the arts in the city but it will
21 also do a lot, I feel, to stimulate and support the library
22 system as the project is directly across the street. And so I
23 noted that with great interest, the location of the building and
24 thought how good it is to see that street scape come alive with
25 those who will be living in the building. So thank you for a

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1 very good project.

2 COMMISSIONER HOOD: Mr. Chairman?

3 CHAIRPERSON GRIFFIS: Yes.

4 COMMISSIONER HOOD: I'd just also like to echo some
5 of your comments and make sure that we incorporate some of the
6 comments of the Office of Planning, Mr. McGettigan, because I
7 think that was very thorough again, I want to commend him, into
8 the final order.

9 CHAIRPERSON GRIFFIS: Okay. Good. I do think that
10 this is clearly going to be a great asset for that block in
11 particular and let me just say that it's advantageous that they
12 opened up that street, again, I think, for this project because,
13 wow, what a mistake that was. But so anything else? Great.

14 Then I would ask for all those in favor signify by
15 saying aye.

16 (Aye)

17 CHAIRPERSON GRIFFIS: And opposed? And we can
18 record the vote. Are you requesting -- you did request a summary
19 order, did you not?

20 MR. EPTING: Yes, sir.

21 CHAIRPERSON GRIFFIS: Okay.

22 MS. BAILEY: The vote is recorded as five, zero,
23 zero to approve the application. Mr. Griffis made the motion,
24 Ms. Renshaw seconded. Mr. Levy, Mr. Hood and Mr Etherly are in
25 agreement and a summary order is to be issued.

1 MR. EPTING: Thank you very much.

2 CHAIRPERSON GRIFFIS: Thank you all, and have a
3 pleasant afternoon.

4 All right, this would then conclude the morning
5 session of the Board of Zoning Adjustments, the 23rd of April,
6 2002.

7 (Whereupon, at 12:14 p.m., a luncheon recess was
8 taken.)

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A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(1:09 p.m.)

CHAIRPERSON GRIFFIS: Good afternoon. This hearing will come to order. This is the 23rd day of April 2002 public 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. Ann Renshaw, David Levy, who is representing the National Capital Planning Commission, Mr. Etherly, of course, in my right and Mr. Hood, representing the Zoning Commission.

Copies of today's hearing are available to you. They are located on the table next to the door that you did enter into. Please be aware that proceedings today and on all days are being recorded, so that we must ask you to refrain from any disruptive noises or actions in the hearing room. When presenting information to the Board, please speak into the microphones and state your name and home address before presenting your testimony.

All persons planning to testify either in favor or in opposition are to fill out two witness cards. These cards are located at the table in front of us. I think there are also some on the table where you entered into the hearing room today. Upon coming forward to speak to the Board, please give both cards to the recorder, who is sitting to my right.

The order of procedure this afternoon for the

1 special exceptions and variances will be first, statement of the
2 witnesses of the Applicant. Second will be government reports
3 such as Office of Planning and any other government agency
4 reports we have submitted on each case. Third, we will go to the
5 report of the Advisory Neighborhood Commission. Fourth, we will
6 have persons or parties in support of the application. Fifth
7 would be, of course, parties or persons in opposition and six, we
8 will have closing remarks by the applicant.

9 Cross examination of witnesses is permitted by the
10 applicant or parties. The ANC within which the party is located
11 is automatically a party in the case. The record will be closed
12 at the conclusion of each case except for any material
13 specifically requested by the Board and the Board will, of
14 course, and staff, specify what information is required for
15 submission to this office and the Board. After the record is
16 closed, no other information will be accepted by the Board.

17 The Sunshine Act requires that the public hearing
18 on each case be held in the open before the public. The Board
19 may, consistent with its rules of procedure and the Sunshine Act,
20 enter executive session during or after the public hearing on
21 case, for purposes of reviewing the record, or deliberating on
22 the case. The decision of the Board in these contested cases
23 must be based exclusively on the public record.

24 To avoid any appearance to the contrary, the Board
25 requests that persons present not engage the Board members in

1 conversation. I would ask at this time that everyone turn off
2 their cell phones and beepers so that we don't have any undue
3 interruptions to the proceedings and the Board will make every
4 effort in concluding this afternoon's session by 10:00 o'clock --
5 no, let's make it 6:00 o'clock tonight, so that we can go have
6 dinner. I don't anticipate problems with that today. However,
7 if there are, I will clearly update you as we get close to those
8 times.

9 At this time the Board will consider any
10 preliminary matters. Preliminary matters are those that relate
11 to whether a case will or should be heard today such as requests
12 for postponement, continuation or withdrawal or whether proper
13 and adequate notice has been given. If you are not prepared to
14 go forward with a case today or if you believe the Board should
15 not proceed, now is the time to raise such a matter. Before I
16 turn to the general audience, let me ask if the staff has any
17 preliminary matters on this afternoon's case?

18 MS. BAILEY: No, Mr. Chairman.

19 CHAIRPERSON GRIFFIS: Good, thank you. Does anyone
20 have preliminary matters for the Board at this time? Not seeing
21 any response, why don't we call the first case of the afternoon?

22 MS. BAILEY: The first case of the afternoon is
23 case number 16862 of Tomasevich -- excuse me, Jeff Tomasevich,
24 pursuant to 11 DCMR 3103.1 for a variance from the lot occupancy
25 requirements under section 403, and a variance from the non-

1 conforming structure provisions under subsection 2101.3 to allow
2 the construction of an above-ground metal grate walkway
3 connecting the first floor of a principal dwelling, the building
4 is a flat, to the roof of the existing garage in a R-5-B District
5 at premises 1459 Corcoran Street, NW, Square 208, lot 72. Please
6 stand to take the oath.

7 Is there anyone else in the audience that has an
8 interest in this case?

9 (Witnesses sworn.)

10 CHAIRPERSON GRIFFIS: I think we're ready. We're
11 getting our paperwork all organized up here. And I think we're -
12 - let me turn it over to you.

13 MR. TOMASEVICH: Good afternoon. My name is Jeff
14 Tomasevich. I'm the owner of 1459 Corcoran Street, NW. That's
15 my principal residence. I have with me here today Matt
16 Ossolinski, who is the architect who has designed the exterior
17 walkway. If you could introduce yourself with your home address
18 for the record.

19 MR. OSSOLINSKI: My name is Matt Ossolinski, home
20 address 3905 Jennifer Street, NW, Washington, DC.

21 MR. TOMASEVICH: And Matt will just be helping me
22 out if I get caught up in an area that I'm not familiar with.

23 CHAIRPERSON GRIFFIS: Great. Are you an attorney?

24 MR. TOMASEVICH: I am, but I'm not a land use or
25 zoning attorney.

1 CHAIRPERSON GRIFFIS: That's fine. You just
2 present yourself as an attorney and I must say, your submissions
3 were very well put together, so we absolutely appreciate that.

4 MR. TOMASEVICH: You're welcome and thank you.

5 CHAIRPERSON GRIFFIS: And that's the last friendly
6 thing I can say to you and I'll beat up on you a bit.

7 MR. TOMASEVICH: Okay, I'm here today to request
8 variances for the purpose of building an exterior elevated metal
9 grate walkway in the back of my townhouse at 1459 Corcoran
10 Street, NW, which will allow me to have direct access from the
11 first floor of my house to an existing patio which sits atop an
12 existing garage in the back of my house. As background about the
13 house, it is a 1900 brick Victorian. I bought the house in
14 October of 1999.

15 I've not performed any renovations to the house.
16 It had a lot occupancy of approximately 80.4 percent when I
17 purchased the house and it has that lot occupancy today. As it
18 is located on the north side of Corcoran Street to the west is an
19 eight-unit condominium building. To the east directly, is
20 another townhouse that has three units in it and directly behind
21 my townhouse there's a little alley and in back of that there's
22 one of the R Street apartments which provides subsidized housing
23 to low income families.

24 I'd like to build the grate way because -- can I
25 walk away from the microphone?

1 CHAIRPERSON GRIFFIS: Yeah, what I can do is give
2 you this one also. And we have a pointed, too, if you need it.

3 VICE CHAIRPERSON RENSHAW: And did you call this a
4 grate way?

5 CHAIRPERSON GRIFFIS: It should be on.

6 MR. TOMASEVICH: No, I didn't.

7 VICE CHAIRPERSON RENSHAW: Because I think it's a
8 good name for it.

9 MR. TOMASEVICH: If I did, I need to be corrected.
10 I meant to say metal grate walkway.

11 VICE CHAIRPERSON RENSHAW: All right, well, even if
12 you call it a grate way, we'll know what it is.

13 MR. TOMASEVICH: Okay, thank you. The house is
14 unique in two respects. The house is unique in two respects, one
15 of which is more unique than the other. The first way that it is
16 unique is this is the front of the house, this is the back of the
17 house and this is the patio that I would like to access which
18 sits on top of the existing garage. As you can see, the front of
19 the house is wider than the back of the house and then still the
20 garage is even narrower than the back of the house, so there are
21 two separate steps in here but it creates a natural courtyard
22 that I'd like to place the walkway into.

23 The house is really unique, as I've tried to look
24 at other houses in my neighborhood, is that the roof of the
25 garage or the patio is approximately three feet higher than the

1 floor of the first floor of the building. And therefore, I can't
2 walk directly from the first floor to the top of the patio. And
3 what I have to do and this is a floor plan of the house, the
4 kitchen is in the back. This represents the walkway.

5 I walk down a flight of stairs, the garage is
6 underneath. I walk from basically the bottom of the basement
7 here over to the other wall where there's a door that's leading
8 to the courtyard. I then walk back through the entire courtyard,
9 up a set of four concrete steps and then up another set of wooden
10 steps which deposits me in the back corner of this patio and
11 that's how I have to access this patio every time.

12 I haven't used the patio since I bought the house
13 in October of 1999. It's inconvenient. It takes too much effort
14 to bring anything out there and even just sitting out there,
15 there's no real reason that I want to go through that hassle
16 every time. There are locks on the doors and it's just
17 inconvenient. What -- and that's all because this garage top is
18 about three feet higher than the floor of the first floor.

19 I think in my opening statement that I submitted, I
20 said four feet. Matt corrected me, he's the architect. It's
21 actually three feet. There's a significant difference.

22 CHAIRPERSON GRIFFIS: And so are you indicating the
23 fact that the alley, the slope of the land actually increases at
24 the alley side? That then brings up, for instance -- well, there
25 it is. I mean, it slopes towards upwards at the alley; is that

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1 correct?

2 MR. TOMASEVICH: Well, I think actually that the
3 ground is level. What happened is that they built the garage,
4 whenever that was built, so that the floor of the garage is about
5 three feet higher than the floor of the basement, which makes the
6 roof about three feet higher than the floor. So I guess it is
7 higher, the land is higher in the back of the house than in
8 front.

9 CHAIRPERSON GRIFFIS: Right.

10 MR. TOMASEVICH: It's all kind of odd, because you
11 do walk down three steps here into the courtyard, which is level
12 with the basement.

13 CHAIRPERSON GRIFFIS: Okay.

14 MR. TOMASEVICH: So, I'm not sure exactly why they
15 built it this way but it makes it inconvenient for me to get to
16 the patio. What we would propose is in this existing area, which
17 is now empty, to build a metal grate that would go from the
18 dining room all the way back to this area which is approximately
19 3.6 -- three feet, six inches past the end of the house itself,
20 the end of the kitchen and what that would allow me to do, I
21 would turn an existing window in the dining room into a door, an
22 existing window in the kitchen into a door, so I can access this
23 walkway from either the dining room or the kitchen, walk directly
24 out onto the walkway, walk up three steps so I can get to the
25 floor of the patio, which is three feet higher, have a small

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1 landing there, turn right, and directly access the patio.

2 We designed this so that the smallest area possible
3 is next to the garage and I'll come back to that later, because
4 this, in fact, the area of the walkway then is next to the
5 garage, is the only area that would increase lot occupancy and
6 that increases it by only one percent from 80.4 percent to 81.4
7 percent.

8 CHAIRPERSON GRIFFIS: And you're saying the reason
9 why you submitted what you're calling the small courtyard or the
10 court actually goes towards lot occupancy because it's less than
11 five feet.

12 MR. TOMASEVICH: Correct, the entire area from the
13 back of the dining room through the back of the kitchen, that
14 courtyard is four feet 11 inches. The next courtyard down next
15 to the garage, is one foot wider, five feet, 11 inches. So this
16 entire court is already included in lot occupancy.

17 CHAIRPERSON GRIFFIS: Right.

18 MR. TOMASEVICH: To goes towards the 80.4, so it's
19 only this small 20 square foot section that's lot occupancy.

20 CHAIRPERSON GRIFFIS: On the common wall with your
21 adjacent neighbor, are there any -- is there any windows?

22 MR. TOMASEVICH: No, there are no windows on the
23 entire wall.

24 CHAIRPERSON GRIFFIS: And that property owner has -
25 - is one of the letters that is submitted in the record, correct?

1 MR. TOMASEVICH: There are actually eight property
2 owners there. It's a condo unit.

3 CHAIRPERSON GRIFFIS: Oh, I see.

4 MR. TOMASEVICH: They are condo owners. I wrote to
5 each of them. Two responded saying they do not object. I had a
6 conversation with one and I couldn't persuade her to come here
7 today but she's in favor of it. The other six I haven't heard
8 from.

9 CHAIRPERSON GRIFFIS: Okay, okay.

10 MR. TOMASEVICH: And just so you have an idea of
11 the actual premises, we have some pictures here. This is an
12 aerial view. There's the R Street apartments in back of us with
13 the fire escape. We climbed up that fire escape and took a shot
14 down. This is the patio. This is a fence that will be repaired
15 if I can access the patio easily. That is the wider court in
16 which the small landing will be built.

17 This is the narrow court which is already included
18 in lot occupancy going back towards the dining room. That is the
19 dining room window in this picture which will be converted into a
20 door and the walkway would be running along this wall up to this
21 point. This is a view of the alley looking west and you can see
22 that you -- the point of these two pictures looking east and
23 looking west is in essence, no one is going to be able to see
24 this. From Corcoran Street to 15th Street, even walking in the
25 alley, I think the only people who will be able to see this are

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1 the neighbors or the tenants in the R Street apartment directly
2 behind me.

3 CHAIRPERSON GRIFFIS: And all the people hanging
4 out on the fire escape where you took the picture.

5 MR. TOMASEVICH: Exactly. And as I understand it,
6 I'll sit back down. As I understand it, I need two variances;
7 one under Section 2001.3 because even though the portion of the
8 walkway which is in the existing court that is less than five
9 feet wide, even though that portion would not add to lot
10 occupancy, the -- it's a non-conforming structure and I just -- I
11 believe that I should get a variance for the portion of the
12 walkway in essence because, again, this house was built before
13 the zoning laws were enacted. I've done nothing to increase lot
14 occupancy since I built the house. The proposed additional
15 structure is a metal grate walkway which is not a living area.

16 It's not going to increase living space. It's not
17 going to provide a roof to the area below. It's going to let
18 light shine through and that's the variance under Section 2001.3
19 for the area of this walkway which will not add to lot occupancy.

20 The second variance is needed under Section 403 as I understand
21 it because the small area of 20 square feet in the court that is
22 more than five feet wide actually adds lot occupancy by
23 approximately one percent.

24 We designed that to be as small as possible to not
25 increase lot occupancy, to keep the increase as small as

1 possible. Again, it's not living space. We've kept it as small
2 as possible and for all of the other reasons, you know, I've not
3 added to lot occupancy before. This will be the first and I
4 presume the only time that I would add to lot occupancy while I
5 own the house. At least right now, that's all I'm planning.

6 You might see me back someday. I can't say never,
7 but unless I make a lot more money, it's not going to happen.

8 CHAIRPERSON GRIFFIS: Are you maintaining the
9 concrete stairs that you said were currently there and that's how
10 you access the patio now?

11 MR. TOMASEVICH: Yes, there are four concrete
12 stairs in the back which will remain there. That is actually one
13 of the egresses for the apartments that I have in the basement of
14 the building.

15 CHAIRPERSON GRIFFIS: I see, okay.

16 MR. TOMASEVICH: And that's the second egress, so
17 that's how the furniture is moved in and out and that will remain
18 there. The wooden walkway on the side of the garage will likely
19 not remain there and the only other thing that I would have to
20 add is that in anticipation of this hearing and after talking
21 with Matt about how we could try and make sure that we get
22 approval, I wrote to each of my neighbors within 200 feet. I
23 sent out a total of 50 or 52 letters, I count and I get different
24 numbers each time but let's say 52. I know I got 28 responses
25 back saying that they do not -- I have 28 back --

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1 VICE CHAIRPERSON RENSHAW: Twenty-nine.

2 MR. TOMASEVICH: -- plus my tenants. Twenty-eight
3 neighbors who have said that they do not oppose. Two actually
4 wrote in that said they support it. Two actually wrote in good
5 luck and then my tenant who we've had trouble speaking to each
6 other since he travels a lot but he -- I finally talked with him
7 and he submitted a letter supporting the variance application as
8 well. So I know of no one who's opposed to this. I went before
9 the Community Development Committee of my ANC. They voted
10 unanimously to approve it. The ANC voted unanimously to approve
11 it and the office of planning has submitted a report which favors
12 granting the variances that I request.

13 I'd be pleased to entertain any questions at this
14 point.

15 CHAIRPERSON GRIFFIS: Do the Board members have
16 questions? Okay. Did you want to -- I think we'll ask them as
17 they come up in this one, so did you have anything else to
18 present for the case right now?

19 MR. TOMASEVICH: No, I don't.

20 CHAIRPERSON GRIFFIS: Okay, why don't we move on to
21 Office of Planning and if I'm not mistaken, we now have a report
22 which needs to be waived in. If there's no objections, I think
23 we can accept the report.

24 MR. MOORE: Good afternoon, John Moore from the
25 Office of Planning. I'd like to apologize again for the

1 untimeliness of the report being received and in addition to
2 follow-up on the first page, hopefully, you have the right report
3 now. We will stand on the record.

4 I'd like to refer you, Mr. Chair, to page 6 of the
5 OP report that clearly shows the four concrete steps that the
6 applicant talked about.

7 CHAIRPERSON GRIFFIS: I'm sorry, what were you
8 referring to?

9 MR. MOORE: The center photograph on page 6.

10 CHAIRPERSON GRIFFIS: All right, page 6.

11 MR. MOORE: The concrete steps.

12 CHAIRPERSON GRIFFIS: Gosh, that makes a heck of a
13 lot more sense. Okay. Actually, the only reason I was bringing
14 that up was if he had -- I would have established how high off
15 the ground that was. If he was removing that, it may have
16 reduced any of the lot coverage which would have been added back
17 into the metal grate that he's putting on but that's not the case
18 so we don't need to talk about it.

19 MR. MOORE: Okay, and if you look on page 5, the
20 question you raised regarding the windows to the property on the
21 west, see there are no windows there.

22 CHAIRPERSON GRIFFIS: No, indeed, yeah.

23 MR. MOORE: With those comments, we'll stand on our
24 report and we'll entertain any questions.

25 CHAIRPERSON GRIFFIS: Excellent. Any questions of

1 Office of Planning from the Board? Any from the applicant? Have
2 you had a chance to review this report?

3 MR. TOMASEVICH: No, I haven't. I've discussed the
4 contents with Mr. Moore on the phone.

5 CHAIRPERSON GRIFFIS: Okay.

6 MR. MOORE: Although the applicant was present when
7 the pictures were taken.

8 CHAIRPERSON GRIFFIS: All right, well, noting that
9 they are recommending approval, I would not think you'd be
10 objecting to us accepting the report. How is the structure of
11 the garage? That's where that concrete slab -- were you pouring
12 a new slab on there?

13 MR. TOMASEVICH: We're not sure. We need to have a
14 structural engineer come in.

15 CHAIRPERSON GRIFFIS: Well, frankly, it's none of
16 our business.

17 MR. TOMASEVICH: I don't want my car to get
18 crushed, trust me.

19 CHAIRPERSON GRIFFIS: Right. Obviously, I think
20 you would be looking at that with your architect. Ms. Renshaw?

21 VICE CHAIRPERSON RENSHAW: Yes, I'd just like to
22 ask the architect why a metal grate way? Isn't it going to get
23 awfully hot?

24 MR. OSSOLINSKI: Well, there won't be directly
25 sunlight, it will rarely be in direct sunlight as you can see by

1 the shadows in the pictures, so I think the idea is to keep the
2 underside are below the walkway as light as possible for the
3 tenant and for the owner for his -- he will continue to use the
4 door to the laundry room and be down there.

5 VICE CHAIRPERSON RENSHAW: Good explanation, I just
6 needed to know why. Thank you.

7 CHAIRPERSON GRIFFIS: We could require that they do
8 it out of glass or something if you want, Anne. No, we're not
9 going to do that.

10 VICE CHAIRPERSON RENSHAW: The letter explains it.

11 CHAIRPERSON GRIFFIS: It speaks to the function of
12 it and what's actually trying to be made there. Okay, let's move
13 on then. ANC reports, ANC-2F did recommend approval. Did you
14 have that, Ms. Renshaw?

15 VICE CHAIRPERSON RENSHAW: The letter is dated
16 April 19th, 2002 and it's signed by Helen Cramer (phonetic), the
17 vice chair of ANC-2F and it stated that they had an advertised
18 meeting on April the 3rd, a quorum was present and the ANC voted
19 four to nothing to support the application to build the elevated
20 walkway and the project was reviewed by the ANC's community
21 development committee and unanimously approved as having no
22 adverse impact on other neighboring properties or the views from
23 either cross street. And that's Exhibit Number 20.

24 CHAIRPERSON GRIFFIS: Good, thank you, Ms. Renshaw
25 and although we have read that, we now have to waive it to take

1 it into the record and give it great weight, if there is no
2 objections to that. Not seeing any, I so move that we waive.
3 The Board members are drawing my attention to the fact that this
4 may be located in the Logan Circle Historic District; is that
5 correct?

6 MR. OSSOLINSKI: It is located in the Greater 14th
7 Street Historic District. We understand that Historic
8 Preservation Review Board staff has communicated with the
9 Planning Office on this.

10 CHAIRPERSON GRIFFIS: Let's hear from Office of
11 Planning.

12 MR. MOORE: The Historic Preservation Office is in
13 the Planning Office.

14 CHAIRPERSON GRIFFIS: Yeah, that's true.

15 MR. MOORE: Yes, and I did speak to the staff
16 person who did this and there is a statement from that person but
17 no report from them. If you desire a report, I'll be glad to get
18 one for you.

19 CHAIRPERSON GRIFFIS: I think we can take that up.
20 I mean, I don't see this -- most often Historic Preservation is
21 concerned with what is visible. I think it's been established
22 that this won't be visible, certainly not having to do with
23 anything that effects the main facade of the structure which is
24 frankly under more of a jurisdiction of the HPRB than the rear
25 area and certainly below the first floor. So it certainly

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1 doesn't stop us from continuing in dealing with this case at this
2 time.

3 Any other government reports? I'm not noting in my
4 files anything else, so let us move onto is anyone else here to
5 testify for this application today, either in favor or in
6 opposition? All right, so the crowds didn't turn out for you but
7 nonetheless, we do have as noted substantial amount of letters in
8 support of this and I think the applicant can only be commended
9 for doing such an incredible outreach for frankly -- well, for
10 his application.

11 Board members, questions, comments for the
12 applicant at this time? Then we can move quickly to closing.

13 MR. TOMASEVICH: I appreciate the opportunity to
14 speak to you today. I hope you act favorably on my request. I
15 really have nothing further to add.

16 CHAIRPERSON GRIFFIS: Good. Are you requesting a
17 bench decision today? Do you want us to decide this right now or
18 should we wait a couple of months?

19 MR. TOMASEVICH: If you can decide it today, that
20 would be fantastic.

21 CHAIRPERSON GRIFFIS: Okay, and in that also a
22 summary order or do you want a full order? I summary order is
23 obviously just a very brief recordation of what we decide. A
24 full order usually very important in contested cases, a full
25 order outlines the exact findings of facts, conclusions of law,

1 all that.

2 MR. TOMASEVICH: I think a short order from my
3 sense of what's happened here today is adequate.

4 CHAIRPERSON GRIFFIS: Okay. The request for a
5 bench decision and summary order. Any last opportunities? If
6 not, I would move approval of Application Number 16862 for a
7 variance for lot occupancy requirements and also a variance from
8 the non-conforming structural provisions under subsection -- if
9 I'm not mistaken, it's 2001.3, to allow the construction of the
10 above-ground metal grate walkway connecting the first floor of a
11 principal drawing to the roof of the existing garage at the
12 premises of 1459 Corcoran Street NW. I'd ask for a second on
13 that.

14 MR. LEVY: Second.

15 VICE CHAIRPERSON RENSHAW: Second.

16 CHAIRPERSON GRIFFIS: They're lining up for
17 seconds. I'll speak briefly to the motion and that is clearly
18 the unique situation has been pointed up not only in the public
19 testimony today but also in the record of submission, the setback
20 to the townhouse. I think what also was brought to light today
21 is actually the different elevations of the site, which renders
22 the top of the existing garage and patio non-accessible from the
23 main first floor of the structure.

24 This seems to be obviously, an adequate, if not
25 fine way to connect those and be able to use the subject property

1 as it was intended or as it was in the situation where it was
2 purchased. It's clearly been demonstrated that there would be no
3 adverse impact to adjoining use or properties or the integrity of
4 the zone plan. And anybody else want to add anything to that?

5 I'll give you a minute. Okay, not seeing that, I
6 would ask for all those in favor signify by saying aye.

7 (Aye)

8 CHAIRPERSON GRIFFIS: Any opposed? And staff can
9 record the vote when they are ready.

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

11 CHAIRPERSON GRIFFIS: Oh, I'll tell you there was
12 nose to nose. Who wants it?

13 VICE CHAIRPERSON RENSHAW: I think David Levy nosed
14 me out.

15 CHAIRPERSON GRIFFIS: Okay, we'll give it to --

16 MR. LEVY: I'll take it.

17 MS. BAILEY: The motion to approve the application
18 was made by Mr. Griffis, seconded by Mr. Levy. Mr. Etherly, Mr.
19 Hood and Ms. Renshaw in agreement, summary order, Mr. Chairman.

20 CHAIRPERSON GRIFFIS: Thank you very much.

21 MR. TOMASEVICH: Mr. Chairman?

22 CHAIRPERSON GRIFFIS: Yes.

23 MR. TOMASEVICH: I'm not sure what weight your
24 remarks had at the end, but you mentioned 2001.3 but not section
25 403. I'm not sure if --

1 CHAIRPERSON GRIFFIS: Yeah, I just skipped over
2 403. As long as I get them right, I don't have to mention them
3 all.

4 MR. TOMASEVICH: Okay, very good, thank you.

5 CHAIRPERSON GRIFFIS: Thank you. Have a great
6 afternoon and enjoy the patio when it gets up and running.

7 Okay, and I think when staff's ready, we can call
8 the next case of the afternoon.

9 MS. BAILEY: Application number 16858 of RLA
10 Revitalization Corporation, pursuant to 11 DCMR 3104.1, for a
11 special exception to allow a reduction in the number of required
12 parking spaces under Section 2018, for the construction of a
13 multi-plex movie theater, bowling alley, health club and other
14 retail and service uses in a C-3-A District at premises 1400
15 through 1420 Park Road NW, 3100 through 3220 14th Street NW and
16 1417 through 1437 Irving Street NW, Square 264, Lots 719, 720,
17 812, 832, 863, 866 and 869 through 872, also public alleys are to
18 be closed. Please stand to take the oath.

19 Excuse me, the people who are sitting in the back,
20 are you here to testify or are you just listening today? Thank
21 you.

22 (Witnesses sworn.)

23 CHAIRPERSON GRIFFIS: Good afternoon.

24 MR. GLASGOW: Good afternoon, Mr. Chairman, member
25 of the Board for the record, my name is Norman Glasgow, Jr. of

1 the law firm of Holland and Knight. Here with me this afternoon
2 are Mr. Drew Greenwald on my immediate right on behalf of the
3 Applicant. He's the designated developer for the project. Next
4 over is Mr. Michael Prifti of the architectural firm of Bower,
5 Lewer, Throwers (phonetic), architects for the project and Mr.
6 Austin Sprigs is in the audience, architect also for the project.

7 Next at the far end of the table is Mr. Lou Slade,
8 traffic engineer, who's been accepted as an expert on many
9 occasions by this Board. Mr. Steven Sher is in the audience, who
10 will be available for questions if there are any. He's also been
11 accepted previously as an expert witness by this Board. And Ms.
12 Lisa Jackson is in the audience also, a member of the law firm of
13 Holland and Knight who's worked on this case.

14 We're here this afternoon seeking special relief
15 for a reduction of 25 percent of the required off-street parking
16 for a project located at 14th Street, Park Road and Irving
17 Streets NW in Square 2674 located in the C-3-A District. In all
18 other respects, other than the parking relief that we're asking
19 for, the plans meet the requirements of the C-3-A District. With
20 the approval of the Board, I'd like to proceed with a brief
21 opening statement before turning to the testimony of the
22 witnesses.

23 Through the presentation and testimony of the
24 witnesses and the evidence of record, the Applicant intends to
25 prove that it has met the burden of proof for the special

1 exception relief for this application. By way of background, I
2 want to confirm that the Board has received a copy of the
3 statement of the applicant for the record?

4 CHAIRPERSON GRIFFIS: Yes, we have.

5 MR. GLASGOW: All right, and the statement at pages
6 5 through 9 goes through how the burden of proof for the special
7 exception is met and the tests set forth in the regulations.
8 With respect to the exhibits, we have a series of site plans that
9 show where the property is located along Park Road, 14th Street,
10 Irving Street. Exhibit B is a zoning map showing the property
11 located in the C-3-A District. We also have the building plat as
12 Exhibit C.

13 Exhibit D are photographs of the subject site and
14 area. Exhibit E is a report of Grove Slade Associates (phonetic)
15 stating how the burden of proof is met for the application and
16 the parking demand and the number of spaces that are provided and
17 that, at no time, do we have a situation where there is excess
18 parking demand for the number of spaces provided in the
19 application.

20 We note that the zoning regulations require
21 approximately 1810 spaces. We're providing 1364 in this
22 application. Exhibit F is a copy of the plans for the project.
23 Exhibit G, H and I and J are copies of outlines of the testimony
24 of the witnesses. In addition, and we hope that they are all in
25 the record, the applicant has received and are aware that there

1 are several letters in support of the application. Applicant
2 understands that the Board has received letters in support from
3 Council Member Graham, Deputy Mayor Eric Price, a letter from
4 NCRC and from Mr. Lou Paharilis (phonetic) who is the owner of
5 two of the nearby apartment buildings.

6 The applicant has also received support from ANCs
7 1A and 1B. I think the vote in 1A in which the application is
8 located was nine to zero in support. 1B the vote was six in
9 favor, none opposed and I think one abstention. The person that
10 abstained was that ANC voted before 1A and wanted to know how 1A
11 had voted, which was not possible due to the time of the
12 meetings.

13 The applicant has also received reports in support
14 of the application from the Office of Planning, which strongly
15 recommends that the application be approved and also a report in
16 support of the granting of the application from the Department of
17 Public Works. The applicant obviously, has spent substantial
18 time, energy and effort in several processes over a period of
19 time with District officials and the local community in
20 structuring a project which will be of benefit to the
21 neighborhood and to the District of Columbia.

22 We are pleased and proud to have unanimous support
23 of the project and we are not aware of any opposition. Briefly,
24 the project is approximately 540,000 square feet in gross floor
25 area with a mix of retail and entertainment uses almost a matter

1 of right, and as the Board members, we assume are aware is
2 located approximately 150 feet from the metro station.

3 In proceeding with this application, the applicant
4 requests flexibility as to the design of the project subject to
5 approval by NCRC and also flexibility with respect to the project
6 so long as there is no increase in the parking requirement. In
7 that regard, the applicant has run its parking computation and
8 demand studies with alternative mixes of uses and the application
9 has been reviewed in that fashion by the Office of Planning and
10 the Department of Public Works. The ANCs have also been advised
11 as to potential flexibility as to mix of uses.

12 We are ready to present our witnesses in the case
13 unless the Board has any --

14 CHAIRPERSON GRIFFIS: Yeah, a quick question on the
15 -- talking about the flexibility but specifically you just
16 mentioned that subject to approval by the NCRC.

17 MR. GLASGOW: Yes.

18 CHAIRPERSON GRIFFIS: What has to be approved by
19 the NCRC?

20 MR. GREEN: Well, NCRC, we have gone through with
21 the RLA design review with respect to the exterior of the
22 project. I would say that it's analogous to when we have a
23 project here that we're going to the Board and we're also going
24 to the Historic Preservation Review Board and we ask for
25 flexibility for a design to address anything --

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1 CHAIRPERSON GRIFFIS: I guess my direct question
2 is, what does the NCRC have to review and approve?

3 MR. GLASGOW: Our understanding is, is that the
4 final design of the building will be approved by either the RLA
5 Revitalization Corporation, which is a wholly owned subsidiary of
6 NCRC --

7 CHAIRPERSON GRIFFIS: Right.

8 MR. GLASGOW: -- or NCRC.

9 CHAIRPERSON GRIFFIS: I see. So you're in the
10 process of it. I took that to mean you had approval by the RLA
11 and then you were going to have to go to the NCRC for some sort
12 of other approval.

13 MR. GLASGOW: No, no, not that we're aware of.

14 CHAIRPERSON GRIFFIS: Okay, that's clear. Mr.
15 Levy.

16 MR. LEVY: I just want to build on that, since you
17 brought it up. What about the design? You talk about the
18 parking calculations that might be impacted by design changes.
19 So what's likely to change or what could potentially change about
20 the design that might impact the relief that we're considering
21 today?

22 MR. GLASGOW: We don't think that there will be any
23 and so we want design flexibility to address, for instance, a
24 major anchor retailer that says, well, they'd like to have a
25 facade be in a certain fashion or their entrance be in a certain

1 fashion that we need to go back and discuss that with the RLA
2 Revitalization Corporation.

3 MR. LEVY: What about the uses? There's some
4 discussion in the file about several alternate uses for part of
5 the project.

6 MR. GLASGOW: Yes. Also that would depend upon the
7 size and location of the anchor tenant, that may impact whether
8 we have movie theaters or not and we've discussed that with the
9 NCRC Board and have discussed that with the community.

10 MR. LEVY: So when you did the calculations, you
11 referenced the parking calculations, those are done for the most
12 intensive use possible.

13 MR. GLASGOW: That's correct. That's correct.
14 We'll look at the traffic report. It was done in two methods.
15 One that had movie theaters included and one without the movie
16 theaters.

17 MR. LEVY: So the movie theaters may become retail
18 space and that's the only use change that you foresee possible?

19 MR. GLASGOW: That's the only use change that we
20 foresee right now, but if there's another use change because of
21 the -- because of the nature of the tenanting of the property and
22 it doesn't impact the computations, then we would like to
23 continue to have the relief. If it changes the computations,
24 then we understand that's an issue.

25 MR. LEVY: Okay, thanks.

1 CHAIRPERSON GRIFFIS: I guess what he's going to
2 also is how much flexibility -- when you talk about that, how
3 much flexibility are you actually asking? I mean, what is --
4 what is in concrete here? I mean, which of the tenants that are
5 not changing, that are not being flexible?

6 MR. GLASGOW: Well, there are two principal ones
7 and Drew identify it if I get this wrong, is the movie theaters
8 and the bowling alleys.

9 CHAIRPERSON GRIFFIS: So all the other tenants are
10 on board.

11 MR. GLASGOW: No, it's that the uses are on board.

12
13 CHAIRPERSON GRIFFIS: How could there be uses
14 without tenants?

15 MR. GLASGOW: Well, the retail uses. We have to
16 design a project. This project was designed and approved two
17 years ago or essentially a year and three-quarters ago with RLA
18 with a proposed mix of uses. RLA understands that depending upon
19 the final tenanting of the building, that there are uses and
20 spaces within the building that have different uses that were
21 originally envisioned.

22 The uses, if you look at the uses and the square
23 footages as to the generation of traffic, the mix of uses that
24 was proposed originally is about the most intense mix of uses
25 that you could have from a parking standpoint. Anything that we

1 see is probably going to decrease parking demand, at least that's
2 what the study --

3 CHAIRPERSON GRIFFIS: Well, we can get to that
4 because I think that's getting into what I think the traffic
5 engineer can speak to because there is -- there would be a big
6 difference if this was three -- well, what are we looking at
7 500,000 square feet plus? If this was five 100,000 square foot
8 department stores, I think is what you called it in the
9 application, that would be different than what we're seeing here
10 on this plan with the smaller retail shops that are going to be
11 part of the first level.

12 So, in any case, I think we can get to the
13 substance of that. I guess the question that brings up to me,
14 that Mr. Levy, I think you were going to and it kind of springs
15 to my mind, too, is well, just take 30 seconds to answer this and
16 that is, why in the process are you here now and not later?

17 MR. GLASGOW: Because with the exclusive rights
18 agreement, we're supposed to have finished our BZA relief within
19 two years of the award of the project. The award of the project
20 was in -- I think it was June 27th, yeah, June 27th, 2000. So we
21 are about at the -- we're within two months of the last possible
22 time to do that.

23 CHAIRPERSON GRIFFIS: Okay.

24 MR. GLASGOW: Are you prepared for us to call our
25 witnesses?

1 CHAIRPERSON GRIFFIS: Yes.

2 MR. GLASGOW: I'd like to call the first witness,
3 Drew Greenwald.

4 MR. GREENWALD: Hi, I'm Drew Greenwald, President
5 of Grid Properties, one of the developers of this project that
6 entered into an exclusive rights agreement with RLA, a date that
7 Chip had indicated. Our concept for the project which is called
8 DC USA is a combination of retail and entertainment uses, about
9 530,000 square feet of them and that total number will probably
10 not vary. As Chip has referred to, there may be some adjustment
11 within that mix that leads to, you know, less entertainment use,
12 maybe some additional retail.

13 It's unlikely in response to something was
14 mentioned about 500,000 square foot tenants, the program plan for
15 the site is really a combination of smaller specialty retailers,
16 medium size category based retailers, like a book store, office
17 supply store, and maybe on larger department store type tenant,
18 as well as the possibility of movies or a health facility or
19 bowling.

20 And to the extent that that larger tenant becomes a
21 little bigger because of the nature of the tenant, it means the
22 one of the non-retail uses would be dropped and those are the
23 uses that tend to generate the higher parking and, I think, Lou's
24 calculations and study shows that. This is two situations. If
25 the project were done exactly the way it's contemplated or if one

1 of the uses were changed. But the concept for the project was to
2 create a, you know, high density development in a key location on
3 a large site adjacent to the metro station and to make a project
4 that is completely pedestrian oriented, all of the uses -- and
5 Mike Prifti will explain it on the rendering.

6 All of the uses have their own street entrances.
7 The idea is to, you know, generate as much pedestrian traffic as
8 possible, as much excitement and vitality, a lot of transparency
9 at the street level. This is not a building of -- a mall.
10 There's no indoor common area. This is not a compilation of just
11 big boxes with blank walls. This is a very urban project.
12 Fifteen thousand square feet of the space is devoted to smaller
13 local owned tenants and we would envision that probably at least
14 half of the rest of the ground floor will be smaller tenants, you
15 know, 10,000 square feet and less.

16 And as I mentioned before, there will be a couple
17 of sort of category type tenants ranging 20 or 30,000 and then
18 there's the probability that there will be one larger tenant in
19 the project. The parking has been placed from the beginning
20 below grade to minimize visual impact. We worked very hard over
21 a long period of time with the District and various agencies to
22 come up with an egress and ingress scheme.

23 There are actually two ways in and out. That would
24 minimize the amount of traffic in the immediate area. Lou will
25 address that. The same thing with the location of loading, a lot

1 of effort has been put in to the articulation of this facade to
2 look like a very high quality retail facility that it will be and
3 the project will be I think, very beneficial to keeping shoppers
4 in the District both from the Columbia Heights community which is
5 under-served but also adjoining communities which are under-
6 served.

7 And I'd like to pass it on, I guess, Chip, to Mike
8 Prifti, unless there are any questions of me specifically.

9 CHAIRPERSON GRIFFIS: Let me just bring up one
10 thing. I'm still a little unsettled. Mr. Greenwald, your words,
11 you were envisioning and then the probability of certain retails
12 and let me just say straightforwardly that I have a concern with
13 this in terms of the process of this Board. In fact, we've had
14 cases just in the past two weeks or rather the past month, that
15 were looking for parking relief that did not have the specific
16 program done and I can say they may not have been very
17 successful, some of them were, but the difficulty even with the
18 residential, we look for plans that are specific; otherwise, how
19 do we know what we're granting.

20 So I mean, it's somewhat of a follow up of where we
21 just were but when you state you have 15,000 square feet kind of
22 set asides and then you were looking at another module. What is
23 it that's going to insure that other than you saying that's what
24 you want to have happen?

25 MR. GREENWALD: Well, I think that in any

1 application you make, whether it's to a zoning board, whether
2 it's to a building department, you submit a plan that has a
3 certain square footage and then ask for a certain, you know,
4 amount of parking or something else or some type of relief, and
5 if it turns out that that fails to be the case, you're required
6 to amend your application or to make a new application. At this
7 point we have a plan for a certain size project. It's unlikely
8 that that size will change. Obviously, if there's a dramatic
9 change in size and it has an impact on what we're asking for, it
10 would require us to make another appearance. But we anticipate
11 that the overall size and use will remain the same. It's the
12 components of that use which may vary and as the study showed,
13 the most intense is what we have currently planned. It will only
14 be less of an issue of retail replaces the theaters. In which
15 case the degree of relief being sought won't need to be as --
16 wouldn't have needed -- I mean, the amount sought will be more
17 than sufficient to meet the change.

18 CHAIRPERSON GRIFFIS: Okay, that helps, I think
19 with a little clarity there. And so bottom -- well, there it is.

20 Do you have -- so at this point, how many tenants and what sizes
21 do you actually have signed on for the project or does that
22 happen now?

23 MR. GREENWALD: No, that's been happening, the
24 discussions. It will probably be several months before the first
25 tenant actually signs anything, but now that we're beginning to

1 have all of the entitlements in place, now that it's clear on the
2 order of magnitude of the TIF, now that it's clear on the alley
3 closings moving along, the zoning -- I mean, all these things,
4 you know, tenants are willing to pull the trigger when everything
5 is in place.

6 So there have been very detailed discussions with a
7 number of major tenants and we feel very comfortable that we're
8 going to get deals done with these tenants that have been at the
9 table for quite some time now.

10 CHAIRPERSON GRIFFIS: Okay. Good.

11 MR. GLASGOW: Michael?

12 MR. PRIFTI: My name is Michael Prifti. I'm a
13 principal of Bower, Lewis, Thor (phonetic), Architects. And Mr.
14 Chair, if I may borrow your portable microphone, I'll stand up.

15 CHAIRPERSON GRIFFIS: That costs you a quarter to
16 use it. Actually, I don't know how well it's working today.
17 It's working fine? Where is it? Oh, good.

18 MR. PRIFTI: As Drew explained, in the very
19 beginning, retail was proposed for the site, where there are
20 three stories above grade, the first two stories of which are a
21 retail function and the third story is given over to the theaters
22 and sporting opportunities. As Drew explained, we tried to
23 maximize pedestrian experience, holding the street frontage on
24 14th Street, Park Road and Irving Streets and each store having a
25 direct pedestrian access.

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1 There is no main interior circulation space. The
2 yellow color indicates vertical circulation so that in some
3 instances tenant occupancies have a very small footprint at grade
4 and then will take an escalator up to the second floor where
5 their uses can be a much larger footprint. So this is an
6 experience that has been done quite successfully at Harlem USA,
7 which is a previous development by Grid Properties.

8 There are three floors beneath grade which have
9 parking in it. And as Drew explained, there are three -- there
10 are two ways to enter and exit the garage. Because Park Road is
11 one way westbound, there is an ingress and egress lane coming in.
12 This is also the location for service access to the property.
13 There will be ramps that bring you down to the first grade, first
14 level below grade where you then can make a decision to choose to
15 park at that level or to descend two levels further into the
16 garage, which are showing right here. There is also an entrance
17 off of Hyatt, where it has two lanes outbound and one land
18 inbound for other circulation opportunity.

19 The intent is that people approaching the site from
20 the west can enter off of Urban Street. People approaching from
21 any other compass direction, can enter off of Park Road. Once
22 inside signage in the garage will direct the shopper to the
23 appropriate exit point, so if they wish to go westbound to their
24 home or to their office destination, they can exit onto Park. If
25 they wish to go in any other compass direction, they can exit

1 from Hyatt onto Irving Street and onto 14th Street or continue
2 eastbound on Irving.

3 CHAIRPERSON GRIFFIS: On their parking layouts now,
4 how many spaces do you have per deck? Do you know off-hand?
5 What are you actually showing for the total? Is that the 13 plus
6 or is the 1800?

7 MR. PRIFTI: This is the 1374 shown.

8 CHAIRPERSON GRIFFIS: Okay, so a reduction of over
9 400 parking spaces would do what to the project? You'd have to
10 add another deck, correct, or could you fit them into the decks
11 that you already have?

12 MR. PRIFTI: The reduction is done in anticipation
13 of underground conditions on the site and what we're doing is
14 benching in, so the first parking level beneath grade is holding
15 the property line. Then as we go down further, what we do is
16 bench in by one parking stall's width, so we get to the lowest
17 grade where we're reducing the amount of excavation necessary on
18 the site.

19 CHAIRPERSON GRIFFIS: So this parking lot show how
20 many total parking spaces?

21 MR. PRIFTI: Thirteen sixty-four.

22 CHAIRPERSON GRIFFIS: What's 13 times three? So in
23 order to accommodate over 400 more, you'd have to go one layer
24 under, correct?

25 MR. PRIFTI: That's correct.

1 CHAIRPERSON GRIFFIS: I did think that was that
2 complex but I'm getting strange looks from up here. Okay.
3 Questions on circulation, Board? You're okay with your loading
4 docks, spaces for loading dock? You're obviously not coming in
5 for the application. And what's the width of the access in from
6 Irving and also at Park? It looks as though Park is larger.
7 Obviously, that's where your truck loading is.

8 MR. PRIFTI: That's true.

9 CHAIRPERSON GRIFFIS: And then Irving --

10 MR. PRIFTI: Are you asking about the street width?

11 CHAIRPERSON GRIFFIS: No, your entrance width.

12 MR. PRIFTI: My entrance width is three traffic
13 lanes, depending on whether you're two in or one out, depending
14 on where you are, what level you're looking at.

15 CHAIRPERSON GRIFFIS: So you'd estimate it's plus
16 30 feet?

17 MR. PRIFTI: Yes.

18 CHAIRPERSON GRIFFIS: That's proposed, right?

19 MR. PRIFTI: Yes. And in fact, to get the width,
20 we've studied the width and the third lane or this pedestrian
21 experience here on the left side is done as an arcade, so that we
22 can get the -- optimize the vehicular widths we wanted for a good
23 flow in and out of the garage.

24 CHAIRPERSON GRIFFIS: I see, when you say arcade,
25 you mean that's going to be covered?

1 MR. PRIFTI: The sidewalk will be inboard of the
2 property line --

3 CHAIRPERSON GRIFFIS: Right, so you walk underneath
4 the cover and that actually gets you into the building.

5 MR. PRIFTI: That's correct.

6 CHAIRPERSON GRIFFIS: Interesting. Okay, any other
7 questions?

8 MR. GLASGOW: I'd like to call the next witness,
9 Mr. Lou Slade.

10 MR. SLADE: Chairman Griffis, Members of the Board,
11 my name is Louis Slade. I'm a principle with Grove, Slade
12 Associates, transportation and parking consultants on the
13 project.

14 CHAIRPERSON GRIFFIS: Good afternoon, Mr. Slade.

15 MR. SLADE: Good afternoon. As you know, there are
16 five tests that we looked at and of those, I think four of them
17 are very straightforward. The fifth one is the technical one.
18 I'll go through all of them, of course, but the less technical
19 ones I'll do quite briefly.

20 My colleague here has just testified about the
21 nature and location of the structure which is the first test.
22 It's obviously, a very urban site. I'll point out when I get to
23 the fourth test where the transit access is, but this is a dense
24 neighborhood, close to the core of the city and just in general,
25 it seems to me that this is the kind of project that this relief

1 on the parking requirement was intended for, where we have a lot
2 of people potentially walking in from their homes and nearby
3 places of work or other retail establishments as well as being
4 able to use transit to access this area.

5 The second test calls for an estimate of the
6 maximum number of students, employees, guests and so forth. And
7 this is the most -- this is, to me, the technical test and the
8 way we interpreted this test was first of all, to utilize
9 industry accepted standards for estimating not the number of
10 people necessarily but the number of vehicles that would come to
11 this project and we sat down with DDOT, DPW do discuss how we
12 were going to do this and their agreement on the conclusions that
13 we came to really is based on working closely with them on this.

14 We estimated for two different scenarios of
15 development program the amount of parking that would be required
16 if we weren't at a metro station, in fact, if we were in the
17 suburbs some place. And then that was based on a reference
18 that's the first industry accepted reference. It's the Institute
19 of Transportation Engineers parking generation study, which looks
20 at a number of projects and a very large number of projects and
21 applies scientific methods to try to draw conclusions from
22 empirical data.

23 Then we looked at a study that was done by the
24 Transit Authority here in Washington where the Transit Authority
25 went to locations near with good transit service and based on the

1 walking distance, the transit service felt that they could
2 predict how many patrons, employees and so forth would visit
3 different kinds of land uses if those land uses were proximate to
4 metro.

5 And we used that as the factor, the 45 percent fact
6 that we referred to, to estimate the reduction from that first
7 reference estimate. So we sort of went independent of the zoning
8 ordinance and looked at two industry accepted references to come
9 to the conclusion which we report here that this reduction
10 provides more than adequate parking. It gives us a buffer of at
11 least 100 spaces under either of the two scenarios we looked at.

12 If it's movie theaters, we will need a bit more of the parking
13 but we'll still have a safety factor built in and if it's not
14 movie theaters and more retail shops and restaurants, then the
15 buffer is even a little bit larger.

16 I think this is intuitively correct and I think in
17 general this reduction of 25 percent is actually on the
18 conservative side.

19 CHAIRPERSON GRIFFIS: Can I interrupt you just --

20 MR. SLADE: Yes.

21 CHAIRPERSON GRIFFIS: Say again who established the
22 uses that went to the 45 percent use of metro?

23 MR. SLADE: The applicant -- or I'm sorry, who
24 established the uses?

25 CHAIRPERSON GRIFFIS: Right, yeah. You just said

1 that -- and I forget who it was, it was DPW or it was somebody
2 that established the uses.

3 MR. SLADE: We met with DPW.

4 CHAIRPERSON GRIFFIS: Okay, and is that part of
5 your Appendix B? Is that what the 2200 M Street is?

6 MR. SLADE: Yes, we met with DPW and discussed how
7 we were going to approach developing the evidence that we were
8 going to bring to you.

9 CHAIRPERSON GRIFFIS: Right.

10 MR. SLADE: And we wanted to have something that
11 DPW was comfortable with and agreed with.

12 CHAIRPERSON GRIFFIS: Okay.

13 MR. SLADE: So we had suggested to them, since we'd
14 used these two -- these primary references in other jurisdictions
15 that that's what we would want to use here and they felt that
16 that was the best sources of information. The 2200 M Street
17 speaks to the one specific use which is the health club.

18 CHAIRPERSON GRIFFIS: Okay.

19 MR. SLADE: Until 2200 M opened, that's the Ritz
20 Carlton project, we didn't have a health club that big in the
21 city.

22 CHAIRPERSON GRIFFIS: Right, okay. I guess that
23 goes to my point if DPW looks as -- I don't question the fact
24 that they can project. I just wondered whether they actually
25 found specific land use assemblages like this in the District

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1 because I think it would be probably pretty hard to do.

2 MR. SLADE: Yes.

3 CHAIRPERSON GRIFFIS: It would be interesting to
4 know what they kind of looked at, was it -- you know, even
5 Friendship Heights came to mind as something that might be
6 typically similar but do you know?

7 MR. SLADE: Well, maybe we can defer that to the
8 Office of Planning report because we did talk to the Office of
9 Planning about Friendship Heights as being somewhat comparable.

10 CHAIRPERSON GRIFFIS: Okay.

11 MR. SLADE: You know, I think Friendship Heights is
12 not as big, it doesn't have the same density of residential in
13 the immediate neighborhood.

14 CHAIRPERSON GRIFFIS: Right.

15 MR. SLADE: It doesn't have quite as much and it's
16 not as central, it doesn't have quite as much transit around it.
17 There's 17 bus routes, you know.

18 CHAIRPERSON GRIFFIS: Yeah, exactly.

19 MR. SLADE: It's a very intense area.

20 CHAIRPERSON GRIFFIS: Yeah, it's not identical, I
21 agree with you there. But my point is, you stated and your
22 report states, you've kind of set a benchmark and that benchmark
23 is -- irregardless of the zoning and what is actually required,
24 sometimes zoning is rational and sometimes it isn't. So you're
25 trying to put a realistic benchmark under which you judge this to

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1 give a comparison.

2 All I'm trying to do is have a firm understanding
3 of what the benchmark actually is.

4 MR. SLADE: Uh-huh. Maybe if I kind of sum it up a
5 little bit, this one particular point, this one particular test.

6 CHAIRPERSON GRIFFIS: Okay.

7 MR. SLADE: I think zoning often requires parking
8 that isn't a good fit. Residential is a case where zoning
9 requires less parking than we find is desirable certainly in many
10 cases. But this seems to be a good fit for this neighborhood.
11 If metro wasn't here and we didn't have the 25 percent reduction,
12 and we used the zoning requirements, we'd probably be about right
13 with the amount of parking.

14 If we took this project and put it in the suburbs
15 without the density of residential around nearby we would need
16 more parking and that's what that first reference that we used
17 said, we needed more parking than the zoning requires. Then,
18 given that we do have as much transit access as we have, the 25
19 percent reduction below zoning or the 45 percent reduction below
20 a suburban site seems to be -- you know, all consistent in my
21 mind and the consistency is reassuring.

22 I mean, you want to come up with a number that's as
23 close to being the best number as possible. If you build too
24 much parking here, you'll be generating traffic unnecessarily.
25 If you build too little, there's a risk that people will park in

1 the neighborhood or tenants won't -- tenants' business won't do
2 as well. You know, I think we have a good comfort level here
3 with at little bit of buffer for those special days when there's
4 a sale at some of the shops or a really good movie, so we've got
5 an extra 100 -- more than 100 spaces.

6 Why don't I go through the rest of the tests and we
7 can come back to this because the others are quite
8 straightforward? The amount of traffic congestion, we did a
9 traffic study in December of 2000. This was reviewed by DPW back
10 then and we found that there were some opportunities to improve
11 traffic conditions with some minor changes to how the
12 intersections are being operated currently and DPW is intending
13 to implement those changes. So we found that the traffic
14 congestion test was satisfied.

15 The quantity of existing public, commercial,
16 private parking is the fourth test and since the project is self-
17 sufficient with its parking, we really didn't do a survey of
18 existing parking in the neighborhood. There isn't very much off-
19 street parking and of course, there is on-street parking in the
20 neighborhood with meter along the primary streets and then
21 parking in the residential neighborhoods, which is protected by
22 the residential parking permit system.

23 And then finally proximity and the most important
24 test, proximity to public transportation. If you haven't -- if
25 you're not totally familiar with the site, we have two portals to

1 the station directly across the major entrance to the proposed
2 project and as I mentioned earlier about 17 bus routes within a
3 block of this property so we have extremely good public
4 transportation.

5 On that basis, I think this reduction is the right
6 thing to do for this project and for the neighborhood and for the
7 city and our conclusion is that the reduction meets all the
8 tests.

9 CHAIRPERSON GRIFFIS: Board members, questions?

10 COMMISSIONER HOOD: Mr. Chairman, if I could just
11 ask Mr. Slade a couple of questions.

12 CHAIRPERSON GRIFFIS: Yes.

13 COMMISSIONER HOOD: Mr. Slade, you mentioned the
14 traffic analysis for December 2000. I see in your report on page
15 25 you had some recommendations.

16 MR. SLADE: Yes.

17 COMMISSIONER HOOD: You just mentioned the DPW was
18 working on a few of them. Could you tell me which one on page 25
19 they were working on?

20 MR. SLADE: Well, when I say working on them, my
21 understanding from my last conversation with Mr. Layton
22 (phonetic) at DPW was that these recommendations along with some
23 other changes in the neighborhood are part of a package that DPW
24 will be implementing and I believe construction on perhaps it's
25 Park Road at 14 has started. I haven't been by the site recently

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1 but some modifications to that intersection will be constructed
2 very soon and the kinds of restriping and rephasing of signals
3 would be implemented probably not until this project and other
4 projects in the area move ahead. I mean, some of these things
5 don't need to be done until the development takes place.

6 COMMISSIONER HOOD: Okay, so the recommendations
7 you have in this particular report is not to be built out of this
8 specific project.

9 MR. SLADE: I think -- we made them as suggestions
10 to DPW to make things -- it improve things and the exact timing
11 of the implementation is something I have not checked with DPW
12 on. We're not proposing them -- we're not proposing to do them.
13 They're not a significant cost items. They're really just
14 adjustments that DPW can make given that patterns are going to
15 change on these streets.

16 COMMISSIONER HOOD: Mr. Chair, I think we need to
17 look into that even more. Let me just ask you again, Mr. Slade,
18 the significance of all that's going on in that specific area, in
19 your report, did you take that into consideration?

20 MR. SLADE: When we did the traffic studies in the
21 year 2000, we took into account this project and the project at
22 the Tiberly (phonetic) Theater. I know that there have been
23 other parcels that have now been bid upon and there will be some
24 additional development, they're primarily street retail with
25 apartments above them. That kind of development won't generate a

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1 lot of additional traffic so we don't think -- we think that
2 these studies did account for it in that we had some growth in
3 traffic accounted for in these studies.

4 COMMISSIONER HOOD: I'll tell you why I'm kind of
5 concerned about this traffic report and make sure that the
6 recommendations are carried out. In your report, and your the
7 expert, you have a level of service of F and you said it can be
8 improved to a level, I think it was B. I may be misquoting you,
9 but anyway it was an improvement and the only way that's going to
10 happen, you being an expert, is if we carry out and make sure
11 these recommendations are carried through. If not, we're just
12 sitting here wasting our time.

13 So I would encourage, Mr. Chair, I'm not sure
14 exactly the way, maybe Ms. Sansone can tell us how we need to do
15 this, but if these recommendations are for this area and this
16 project, I think for the traffic flowing at the particular area,
17 we need to make sure that these recommendations are carried out.

18 And I would agree with you, Mr. Slade, about the metro. I think
19 the metro definitely makes a big difference in proceeding with
20 the development in that area. Thank you, Mr. Chair.

21 CHAIRPERSON GRIFFIS: Yeah. I think we can take
22 that under advisement as we proceed. Any other questions for Mr.
23 Slade?

24 VICE CHAIRPERSON RENSHAW: Yes, Mr. Chairman. For
25 Mr. Slade, concerning Park Road going westbound toward the park,

1 off of 14th Street there is a left turn signal if you're going
2 north on 14th Street, there's a left turn signal onto Park Road?

3 MR. SLADE: Yes.

4 VICE CHAIRPERSON RENSHAW: All right, and we see
5 here that a level of service E in the evenings; am I correct?

6 MR. SLADE: Yes.

7 VICE CHAIRPERSON RENSHAW: For westbound Park Road.
8 And the rest is F.

9 MR. SLADE: Correct.

10 VICE CHAIRPERSON RENSHAW: And so this is just one
11 niche below or above the worse service. That is a very narrow
12 roadway and I'm looking at the map here. You have several -- in
13 addition to exiting the site onto Park Road, there is the ability
14 to access Park Road from Hyatt Place.

15 MR. SLADE: Yes, that's correct.

16 VICE CHAIRPERSON RENSHAW: Is that correct? And do
17 I read it correctly that say 6:00 o'clock in the evening during
18 the rush, there might be -- I'm looking at chart number 4 of --
19 perhaps this is a comparable chart, but how many cars would you
20 say would be exiting at 6:00 o'clock in the evening from the
21 site? Would it be in the neighborhood of 124?

22 MR. SLADE: Chart 7, figure 7 on page 20

23 VICE CHAIRPERSON RENSHAW: Page 20?

24 MR. SLADE: Yes.

25 VICE CHAIRPERSON RENSHAW: Hold on a minute. Okay.

1 MR. SLADE: That's the traffic, those little tiny
2 numbers and soon they're going to have a magnifying glass
3 attached to all of our reports, those little tiny numbers are our
4 projection of the traffic that the project will generate during
5 the morning and evening peak periods. So if you look at Park
6 Road, there's a little arrow coming out from the site and it says
7 15/112. The 112 is the traffic that would turn out from that
8 driveway and head westbound.

9 VICE CHAIRPERSON RENSHAW: So approximately 6:00
10 p.m. you will get an additional 112 cars onto Park Road, correct,
11 in the evening? Is that approximately 6:00 p.m.?

12 MR. SLADE: Yes.

13 MR. GLASGOW: Mr. Slade, maybe you should clarify,
14 is that for over an hour's time or --

15 MR. SLADE: That is over one-hour peak.

16 VICE CHAIRPERSON RENSHAW: Thank you, that's good
17 to have it clarified. Did you determine how many cars are going
18 to exit off of Hyatt Place? Can they or is that one way?

19 MR. SLADE: Well, our driveway volumes are shown
20 there turning in and out, again to the site. Outbound, 51 in the
21 morning and 373 in the evening.

22 VICE CHAIRPERSON RENSHAW: Uh-huh.

23 MR. SLADE: And again, that's over an hour.

24 VICE CHAIRPERSON RENSHAW: Did you count the number
25 of cars going northbound on 16th Street that used that little cut

1 through road you see right there you've drawn it into the map on
2 page 20? It doesn't have a name but it's almost at the
3 intersection of 16th and Park Road. There's a little cut through
4 road that cars going north on 16th.

5 MR. SLADE: Yes, I know it well. That's how you
6 and I get into our neighborhood.

7 VICE CHAIRPERSON RENSHAW: Exactly. I was going to
8 say that, Mr. Slade. So you and I are part of the traffic.

9 MR. SLADE: Yes.

10 VICE CHAIRPERSON RENSHAW: And what is it going to
11 be --

12 MR. SLADE: Well --

13 VICE CHAIRPERSON RENSHAW: -- when you add all of
14 these figures together at 6:00 o'clock at night when you and I
15 want to go home?

16 MR. SLADE: Yeah, I'm looking at figure 4, now
17 which is page 13, and those were our counts of existing traffic.

18 And we show only a very small number of cars making a turn which
19 it always feels so congested but I suppose it's possible. We
20 only show eight in the morning and three in the afternoon.

21 VICE CHAIRPERSON RENSHAW: Can't be. Can't be, but
22 anyway, we just noted -- I am just expressing some concern about
23 the increase in vehicular traffic on Park Road and again, if
24 there is anything that you can recommend since I have brought up
25 a concern, vis-a-vis, this project.

1 MR. SLADE: As a user of that street which is
2 narrow, there's curb parking and often waiting and so forth, you
3 know, some adjustment to the parking along there at certain key
4 locations would probably help. We did not look at that.

5 VICE CHAIRPERSON RENSHAW: Because there's parking
6 on both sides of the street.

7 MR. SLADE: Yes.

8 VICE CHAIRPERSON RENSHAW: And then my colleague,
9 Mr. Levy noted 456 on page 13, 456 cars going westbound.

10 MR. SLADE: Yes, during the evening peak period.

11 VICE CHAIRPERSON RENSHAW: During the evening peak
12 period?

13 MR. SLADE: Uh-huh.

14 VICE CHAIRPERSON RENSHAW: That's a lot.

15 MR. SLADE: Yes, on that little street, it is. A
16 lane -- a single lane on an approach to a signalized intersection
17 can handle six to 800 cars, so it feels very congested because
18 it's narrow and there's often cars pulling in and out of parking
19 spaces, but --

20 VICE CHAIRPERSON RENSHAW: And this --

21 MR. SLADE: -- this is well within the capacity of
22 a single lane at a signal intersection.

23 VICE CHAIRPERSON RENSHAW: And this site is not
24 going to impact Park Road to such a degree that the road becomes
25 a level F, service F instead of service E?

1 MR. SLADE: Well, certainly we're going to impact
2 it. We're going to add traffic to it. I think there's something
3 important to mention here and that is that we didn't bring this
4 into either this case or back when we did this traffic study that
5 as most of us are living and working in urban -- in a city, a lot
6 of the traffic turning in and out of the driveways of this
7 project when it's built is not new traffic to the streets. It's
8 people on their way home from work.

9 I'm driving up 14th Street. I'm driving up 16th
10 Street and I remember that there's some reason I want to stop
11 here on my way home to our neighborhood, either because there's a
12 shop here or I'm meeting someone for coffee or for whatever. We
13 call it the inter-sub factor or the pass-by factor. And it's
14 been well documented in studies done, again, by the Institute of
15 Transportation Engineers.

16 So the number of vehicles that we've got turning in
17 and out of these driveways on page 20 are not all new trips.
18 Those are to a very large extent, in fact, more than half the
19 trips, and I didn't bring the reference, are what we call pass-
20 by. So it's not all additive. It's interrupted. It's diverted.

21 VICE CHAIRPERSON RENSHAW: Now just to note, at
22 what point along Park Road between -- well, from 14th Street does
23 Park Road become more residential or is it on the north side of
24 Park Road all residential?

25 MR. SLADE: Well, I think of -- there are

1 institutions along Park Road, churches, and then of course, at
2 the north/south arterials there are little commercial districts
3 that continue along on Park Road.

4 VICE CHAIRPERSON RENSHAW: Well, I'm just
5 expressing a hope that the developer and you and the city take a
6 close look at Park Road because I think that this may have an
7 impact on it that may not be expressed in your report, a higher
8 impact.

9 MR. SLADE: Thank you.

10 MR. GLASGOW: And Mr. Slade, it's my understanding
11 from your report and analysis that through the granting of the
12 special exception requested here today that all of these traffic
13 counts that you have, if it were not granted, they all would be
14 higher with the project.

15 MR. SLADE: That is correct. If we had more
16 parking, we would generate more trips. Another four to 500
17 parking places would be a trip generation factor here.

18 VICE CHAIRPERSON RENSHAW: Yes, I recognized that
19 when I read your material.

20 CHAIRPERSON GRIFFIS: Okay, I think that needed to
21 be explored and now we can kind of get back to the fact that
22 there's no question that 500 -- 200,00 square feet, you know,
23 700,000 is going to have an impact on an area that is now
24 currently a vacant lot and I think all these are important issues
25 to investigate.

1 However, we are focusing on a relief from parking.

2 If this whole project was in front of us for a review and
3 approval, we perhaps would go many different directions and look
4 at many different things on this but as we are to focus on the
5 parking relief, I think it's important to kind of get back to
6 that.

7 I don't want to lose what Mr. Hood is talking about
8 because I think even if we cannot, we'll do everything we can
9 actually to leverage anything that happens on this Board to DPW
10 in order to make the streets more accommodating to development of
11 this site. So Mr. Hood, I don't think we can lose track of what
12 you've brought up in terms of these recommendations. I'm not
13 sure how we do that at this point, but we can get there.

14 COMMISSIONER HOOD: Mr. Chairman --

15 CHAIRPERSON GRIFFIS: Yes.

16 COMMISSIONER HOOD: -- let me just say that there
17 was a meeting that took place, not this -- pertaining to this
18 specific case, and Ms. Renshaw you may have been in attendance or
19 you may have been in attendance.

20 CHAIRPERSON GRIFFIS: Right.

21 COMMISSIONER HOOD: I was unable to make that.

22 CHAIRPERSON GRIFFIS: Right.

23 COMMISSIONER HOOD: And that was with, I believe,
24 Mr. Tangorino (phonetic), how we could make our process more
25 efficient and Ms. Renshaw, you could correct me if I'm incorrect,

1 but I think that process now has already started, so that's why I
2 wanted to make sure that we -- from there on, make sure that we
3 interject these issues into the record so that we can deal with
4 them and actually then can eventually become enforceable.

5 CHAIRPERSON GRIFFIS: Yeah. No, I think it's very
6 important to do that and I think we'll do all we can for this
7 specific project and others that go on. Mr. Slade, I wanted to
8 make note of the fact that you did two different time periods in
9 your traffic study; is that correct?

10 MR. SLADE: Yes, that's correct.

11 CHAIRPERSON GRIFFIS: Okay, and one, I think was of
12 major importance which noted, as I saw in your diagrams that 13th
13 Street actually changed in terms of the traffic flow from when
14 you just did your report to current conditions, which means it
15 had two lanes of commuter traffic in direction south in the
16 morning, north in the evening and that was actually corrected and
17 then put back into your spread sheet and tables; is that correct?

18 MR. SLADE: Yes.

19 CHAIRPERSON GRIFFIS: Okay, and I think still noted
20 and I think what Mr. Hood and Ms. Renshaw are bringing up is the
21 fact that quite a bit of intersections that will be in this area
22 do fall under either -- well, will be severely impacted and
23 numerous ones actually have a D rating, most of the westbounds
24 but that being said, we can move along with this and if there's
25 any other questions with -- regarding the transportation study.

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1 VICE CHAIRPERSON RENSHAW: I'd just like to ask if
2 the Board's transportation planner is here today because that is
3 a request that we had made of the Department -- the Division of
4 Transportation and I don't see any person here.

5 CHAIRPERSON GRIFFIS: Do they have that position
6 yet?

7 VICE CHAIRPERSON RENSHAW: They may not.

8 CHAIRPERSON GRIFFIS: Okay.

9 VICE CHAIRPERSON RENSHAW: I note for the record
10 that the Board does not have a transportation planner yet.

11 CHAIRPERSON GRIFFIS: Well, why don't we recess and
12 see if we can hire one and then -- no, wait, let's move along,
13 get our afternoon agenda done. Okay, no other questions at this
14 time? We can always refer back if we need to and let us move on
15 then. I'm sorry, did you want to call your next witnesses?

16 MR. GLASGOW: No, Mr. Sher is only here for any
17 question that may come up in that area.

18 CHAIRPERSON GRIFFIS: Okay. Anything else, then?

19 MR. GLASGOW: No, that concludes our direct
20 presentation.

21 CHAIRPERSON GRIFFIS: Okay, let's move onto the
22 Office of Planning report then.

23 COMMISSIONER HOOD: Mr. Chair, I always look
24 forward to making Mr. Sher an expert witness. I'm not going to
25 get a chance to do that today.

1 CHAIRPERSON GRIFFIS: I was kind of gearing up for
2 it, too, actually, but if you noted, we haven't been asked for
3 any expert witnesses. It was noted and I'm not sure if you
4 wanted to actually have them put in the record as experts.

5 MR. GLASGOW: Well, certainly Mr. Slade. Mr. Sher,
6 if he answers any questions.

7 CHAIRPERSON GRIFFIS: Okay, well, we would actually
8 have to approve that then. Does anyone have any difficulty -- do
9 we have -- we do have Mr. Slade's background.

10 MR. GLASGOW: Yes, uh-huh.

11 CHAIRPERSON GRIFFIS: Any objections? I think we
12 can approve Mr. Slade as an expert witness for today's
13 application and we'll keep Mr. Sher on deck. Okay, Office of
14 Planning report.

15 MR. COCHRAN: For the record, my name is Steven
16 Cochran and I think this might be one of the few instances where
17 the Office of Planning would be willing to let Mr. Sher be
18 admitted as an expert witness to give the OP report, because we
19 do recommend in favor of the project.

20 We also would be willing to rely on our written
21 report in this instance and just answer questions, depending upon
22 the pleasure of the Board. On the other hand, I'm prepared to
23 give the report.

24 CHAIRPERSON GRIFFIS: Why don't we do a hybrid?
25 Why don't you just summarize through. I think we will have

1 questions and I'd like you to touch on a few of the things before
2 we jump right into it.

3 MR. COCHRAN: Okay. I'll try to just --

4 CHAIRPERSON GRIFFIS: I would skip the background,
5 the historic area, zoning. Let's get to project description and
6 your analysis.

7 MR. COCHRAN: Okay, right. We're looking at a two
8 and a half FAR and 500 -- just about 540,000 square feet. We
9 would emphasize that the -- you've already brought up the issue
10 of the cinema. If you look at the table on page 3, you'll note
11 that the parking requirement does go up if the cinema goes out
12 and there's certainly every chance -- given the trend in the
13 movie industry, there's certainly is a chance that the cinemas
14 won't go in.

15 We certainly haven't been getting all of the movie
16 theaters we thought we were a few years ago in which case the
17 parking requirement would be even lower. It's also worth noting
18 that the number of parking spaces, even at 1364 is up by about
19 300 spaces from what the applicant was proposing when this
20 proposal was accepted by the Redevelopment Land Agency. At that
21 point, they were suggesting that they would be providing about
22 1,000 parking spaces, so this is even more.

23 OP finds this project to be consistent with the
24 comprehensive plan, both the generalized land use map, the
25 economic development element, the transportation element and the

1 Ward 1 element. It's consistent with the urban renewal plan
2 that's been in place for over 30 years and it's certainly very
3 consistent with the upcoming transit oriented development report
4 that the task force on TOD will be issuing.

5 As the applicant has noted, it meets the tests of
6 Section 2188 with respect to location, the availability of public
7 transportation, I actually counted 21 nearby bus lines as opposed
8 to Mr. Slade's 17 and with respect to the amount of off-street
9 parking that's available, admittedly there is none now provided
10 or very little. The Timberly project will provide 200 spaces.
11 It does seem realistic to say that there will be a 45 percent
12 transit use share for this project. That does not take into
13 account the high rate of walking and biking in this neighborhood
14 as opposed to perhaps your neighborhoods.

15 When we looked at the number of simultaneous users,
16 we've relied on Mr Slade's look at simultaneous users, the number
17 of vehicles as opposed to actual people, we're looking at a
18 turnover of one per space during week days and three between
19 about Friday night and Sunday evening, a turnover of three spaces
20 per unit.

21 Mr. Slade did take into account the traffic that
22 would be generated by the Timberly site. I do need to note that
23 the background traffic does not seem to take into account the
24 number of -- the amount of traffic that might be generated by the
25 parcels that the NCRC has out for advertisement right now. But

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1 it would also be difficult to take that into account since we
2 don't know what's going to be proposed. On the other hand this
3 is --

4 CHAIRPERSON GRIFFIS: That are you talking about?

5 MR. COCHRAN: Pardon?

6 CHAIRPERSON GRIFFIS: Which ones did you take --

7 MR. COCHRAN: The recent renewal of the old
8 parcels.

9 CHAIRPERSON GRIFFIS: You mean the surrounding
10 parcels?

11 MR. COCHRAN: Right, the ones along 14th Street
12 that didn't seem to be part of the background report, but again,
13 we're looking at a reduction in parking, not at traffic impact.

14 CHAIRPERSON GRIFFIS: Right.

15 MR. COCHRAN: As you noted, the BZA not Zoning
16 Commission. The tests with respect to 3401.4, harmony with the
17 intent of the zoning plan, absolutely. This is designated for a
18 mixed use, C-3-A. It's worth noting that if the R-4 zoning on
19 the east side of 14th Street were just a little farther away,
20 then the applicant would not even have to have been here because
21 they would have met the 800-foot rule from zoning that's higher
22 than our four and within 800 feet of a metro site, if you know
23 which one I mean, closer than 800 feet to a metro site, at least
24 800 feet or more from R-5 or above zoning.

25 With respect to the adverse impact, we do feel that

1 the applicant has done an adequate job at generating the traffic
2 studies. I do need to note though that I'm not aware of there
3 being a DDOT report in the file unless it's come in recently.
4 There was a statement that there was a DDOT report. The
5 applicant certainly has worked with DDOT but I don't believe that
6 there has been an actual report.

7 We'd note the remarkably unusual situation where
8 the ANC voted nine, zero in support of the project and the
9 adjacent ANC voted six, zero, one. These are not ANCs that take
10 their reviews lightly. The council person supports the project,
11 the deputy mayor supports the project. Again, Office of Planning
12 finds the project consistent with existing plans and with good
13 public policy. No adverse impacts on the neighborhood, strong
14 support of the ANCs and we've generally commended as an example
15 of good transit oriented development of a site that's appropriate
16 for such.

17 CHAIRPERSON GRIFFIS: Thank you, Mr. Cochran.
18 Questions of Office of Planning from the Board? Anything from
19 the applicant?

20 MR. GLASGOW: No questions from the applicant. I
21 think we -- we have a copy of the DC DOT report.

22 CHAIRPERSON GRIFFIS: Is that what you're
23 submitting now?

24 MR. GLASGOW: Well, we're making sure that you have
25 a copy.

1 CHAIRPERSON GRIFFIS: No, we don't.

2 MR. GLASGOW: All right, I think that was submitted
3 a couple of days ago as I understand it and that also recommends
4 a granting of the application.

5 CHAIRPERSON GRIFFIS: Is that coming down? Okay,
6 all right, we'll move along and I think we do need to take a look
7 at that. Okay, let's go to ANC reports.

8 VICE CHAIRPERSON RENSHAW: Mr. Chairman, we have
9 two ANC reports. I'll take ANC 1-A first. It's Exhibit Number
10 24 dated April the 11th, 2002 and signed by Elizabeth McIntyre,
11 the chair of ANC 1-A. And it is -- has an attachment, a
12 resolution that supports the application and it was approved on
13 April the 10th, 2002 by a vote of nine yes, and zero no. And of
14 course, the commissioner's quorum is six and again, nine
15 commissioners voted yes.

16 CHAIRPERSON GRIFFIS: Good, did it speak to any of
17 the zoning relief requested in this?

18 VICE CHAIRPERSON RENSHAW: It just stated that --
19 the resolution states that it supported the Grid/DC application
20 to reduce the number of parking spaces from 1810 to 1364 on
21 parcel 27.

22 CHAIRPERSON GRIFFIS: All right.

23 VICE CHAIRPERSON RENSHAW: All right, and ANC 1-B
24 sent in a letter dated April the 12th, 2002. It's Exhibit Number
25 28 and the ANC met on April the 4th, 2002, a quorum which is

1 seven members, was present and they voted six in favor and one
2 abstention to approve the attached resolution in support of a 25
3 percent reduction in the number of parking spaces in Application
4 16858. No member of the community appeared to speak on the
5 application.

6 A representative of the developer appeared and
7 explained the exception. They recognized that the location was
8 directly across from Metro and would significantly reduce the
9 need for parking in the development and they supported the
10 reduction. They have a rather long resolution.

11 CHAIRPERSON GRIFFIS: Right, because at the end of
12 the resolution it is handwritten in that there is a designee to
13 speak for this ANC who, I believe is here. Mr. Geyot, are you
14 going to speak for the ANC?

15 MR. GEYOT: Yes.

16 CHAIRPERSON GRIFFIS: Now would be the time.

17 VICE CHAIRPERSON RENSHAW: I hope we didn't steal
18 your thunder.

19 MR. GEYOT: How can a delegate steal the thunder
20 from another delegate?

21 VICE CHAIRPERSON RENSHAW: Very well said.

22 MR. GEYOT: Mr. Chairman, members of the committee,
23 I want to especially thank Mr. Cochran for his statement of why I
24 think ANCs exist. We work to get that kind of compliment and I
25 want to personally thank you.

1 We voted --

2 CHAIRPERSON GRIFFIS: I just need you to introduce
3 yourself for the record.

4 MR. GEYOT: By all means. My name is Lawrence
5 Geyot. I'm a member of ANC 1-B. I reside at 507 U Street. ANC
6 1-B voted to support the selection of this developer on August
7 6th, 1999. We've have been activity involved in this development
8 and we enthusiastically request that you grant the relief sought.

9
10 We looked at whether or not the resolution we
11 passed satisfied all of the parameters of the Board of Zoning
12 Adjustment regulations. We felt that they do. We
13 enthusiastically support this and unless there's questions about
14 it, I move that you adopt it and give it great weight.

15 CHAIRPERSON GRIFFIS: Okay, are you submitting this
16 new information?

17 MR. GEYOT: Yes, I am, Mr. Chairman. And I
18 received it today and I hope that the Board of Zoning Adjustment
19 would indulge me on it. It directs directly on the financial
20 impact of this immediate area and I thought that it would be
21 really impossible for us to do economic development without
22 looking at some of the most contemporary information regarding
23 that specific area.

24 CHAIRPERSON GRIFFIS: This -- okay, well, we're
25 going to need a moment to take a look at this and I probably just

1 screwed up the whole order of this thing.

2 (Pause)

3 CHAIRPERSON GRIFFIS: Have you had time to review?
4 Any questions? Mr. Geyot, what you submitted in addition, but
5 what you've also submitted as a Washington Business Journal
6 article indicating the leakage of monies out of neighborhoods
7 that are not served by retail and such, actually establishing the
8 fact that there is a great need for something of this nature and
9 also in fact, interestingly enough, I don't think -- well, I
10 don't know if you heard WAME this morning too, I caught a small
11 bit of it that was doing the same sort of story looking at
12 actually a lot of urban neighborhoods. Maybe the Office of
13 Planning caught this or maybe I dreamed it but nonetheless.

14 MR. GEYOT: Actually, Mr. Chairman, we planted it.

15 CHAIRPERSON GRIFFIS: Yeah, probably so, gosh darn
16 it, kind of reiterating the same story and that is the fact of
17 how much retail demand that there actually is in certain areas
18 and in fact, what they were saying -- the AM user board this
19 morning was saying that census doesn't really capture an adequate
20 picture of the reality of the potential for services and the
21 demand for services in urban neighborhoods.

22 I think this city is a great testimony to it because even
23 affluent, poor, middle or however you want to designate it, we
24 are under-served in many respects.

25 So any other questions for Mr. Geyot while he's

1 here? Anything else you want to give to the Board?

2 MR. GEYOT: I just want to say that the -- a book
3 has been written on this subject and the author is going to be at
4 Olsson's Bookstore at 12th and F on the 25th at 7:00 o'clock. He
5 gave a brilliant description this morning on it, on WOL. So this
6 is really an indication of what the Board is doing is at the
7 right time for the right reason and thank you all very much.

8 CHAIRPERSON GRIFFIS: You don't own stock in the
9 publishing company for this book, do you?

10 MR. GEYOT: No, Mr. Chairman, if I did I would have
11 announced it.

12 CHAIRPERSON GRIFFIS: Shameless, shameless. Okay,
13 thank you very much. All right, noted DDOT's report was
14 submitted in, Mr. Layton. I'm sorry that we're just getting this
15 but --

16 MR. LEVY: Mr. Chair, I've had a moment to look it
17 over.

18 CHAIRPERSON GRIFFIS: Did you take a look at it,
19 good.

20 MR. LEVY: It is supportive of the project. One
21 particular comment I wanted to point out because it hasn't really
22 been discussed as yet and that is the DDOT report talks about --
23 well, it talks about two things. One, it talks -- reiterates Mr.
24 Slade's comment that more parking spaces would generate more
25 traffic, more automobile trips. But more importantly, it talks

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1 about the neighborhood has limited curb parking and cautions that
2 parking spill-over could impact the residential neighborhood.

3 However, DDOT is comfortable with the parking
4 numbers and states that they believe that the parking supply will
5 meet the demand of the project. So they don't see that
6 neighborhood curb parking spillover will be a problem.

7 CHAIRPERSON GRIFFIS: Okay.

8 MR. COCHRAN: Mr. Chairman, might I address that
9 issue?

10 CHAIRPERSON GRIFFIS: Yeah.

11 MR. COCHRAN: Okay, if you look at page 7 of the OP
12 report, the bullets in the first section, no adverse impact on
13 neighboring properties, you can see that OP has considered some
14 changes that may or may not be appropriate in the medium term
15 future when additional development has occurred in Columbia
16 Heights that could address the spill-over problem should one
17 occur.

18 We have also --

19 CHAIRPERSON GRIFFIS: I don't understand that.
20 What are you saying? Future development could take on the
21 parking if it's created?

22 MR. COCHRAN: It's not the legal burden of this
23 applicant to meet all of the parking needs for the neighborhood
24 but realistically if there does come to be a parking problem, if
25 people are cruising for parking rather than going into the

1 garage, you've got the possibility of extending the length of the
2 residential parking restrictions. You've got the possibility of
3 offering reduced rate parking validation within the garage to
4 encourage people to come into the garage rather than park on the
5 street.

6 You even have the possibility, again, although
7 you'd have to come back to the BZA, I'm not positive about that,
8 of increasing the supply of parking within the then existing
9 garage at GRID USA by offering attendant parking. So all I'm
10 pointing out is that there is flexibility to implement different
11 policies should a problem develop in the future.

12 In addition, the Office of Planning is seeking
13 funding to get a consultant to look at the overall traffic
14 questions and supply of parking in Columbia Heights.

15 CHAIRPERSON GRIFFIS: That would have been
16 advantageously done before this application, wouldn't you think?

17 Mr. Cochran, do you know off-hand, are there proposed street
18 meters on 14th Street?

19 MR. COCHRAN: I don't know.

20 CHAIRPERSON GRIFFIS: Okay. A lot of unknowns in
21 this one. Okay, let's move on then. We do, as been stated
22 several times, we have quite a few letters of powerful support.
23 Mr. Price of RL Development (phonetic) has written a letter,
24 Exhibit Number 29, April 19, 2002, strongly encouraging the Board
25 to approve this application and Council Member Graham's letter

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1 was referenced also. It is Exhibit Number 22 urging also
2 approval of the project. What else do we have that has come in?

3 Oh, NCRC came in also. Isn't that kind of like
4 getting support from the applicant? Okay, so we'll note that the
5 applicant supports their application and it was signed by the
6 senior development director, 22nd, 2002. It's Exhibit -- yeah,
7 it was cut off, but anyway it's in there. That's all I have in
8 my records.

9 Oh, I'm sorry, it was also indicated -- I'm
10 assuming that this representative is not here, but the Greener
11 (phonetic) Corporation which as indicated in this letter is an
12 adjacent property owner of two properties also in support of the
13 application. Do I have all the text in the record?

14 Okay, then let us go to others here to give
15 testimony today, persons in support of the application? Persons
16 in opposition? Does anyone else want to testify on anything?
17 Tell a good joke? Okay, good, not seeing any indication,
18 everyone here has given testimony if they need to. I'm going to
19 ask your indulgence and give us a 15-minute recess and we will be
20 back, actually let's be back at 3:15 and we will go straight into
21 conclusion, summing up of the applicant and we will proceed from
22 there.

23 (Off the record at 2:55 p.m.)

24 (On the record at 3:10 p.m.)

25 CHAIRPERSON GRIFFIS: And let me -- do you need

1 others here? Are other -- did they leave the room or you're set
2 to go?

3 MR. GLASGOW: I'm set to go.

4 CHAIRPERSON GRIFFIS: Okay, why don't you get right
5 into it then. We'll look to your closing remarks. We will, of
6 course, the Board will reserve some time for additional
7 questions, if we have any, but we'll see when we get there.

8 MR. GLASGOW: All right, thank you, Mr. Chairman.
9 I believe with respect to this case, we have thoroughly gone over
10 all the elements of the burden of proof with respect to the
11 reports that are on file and the review that has occurred from
12 the Office of Planning and Department of Public Works. A lot of
13 time has been spent on all the traffic issues pertaining to this
14 application.

15 And with respect to the reduction of parking, we
16 think that we only make the traffic situation up in that area
17 better than it would be than if the relief were not granted.
18 Also we have significant support within the community and through
19 all levels of government on this application and we would
20 respectfully request that if the Board is so inclined, we would
21 like to get a bench decision and an order so that we can move
22 forward with this very important project to the city. Thank you.

23 CHAIRPERSON GRIFFIS: Thank you. All right, you're
24 requesting a summary order on this?

25 MR. GLASGOW: Not necessarily a summary order but

1 we'd like to get a bench decision so that we know that when we're
2 out in our discussions we can say, "All right, this part of the
3 approvals that we need to get for this project has now been
4 accomplished". If you look at the agreement, the exclusive
5 rights agreement, getting this BZA application is part of that
6 agreement. And so we want to be able to say, all right, that has
7 been accomplished.

8 CHAIRPERSON GRIFFIS: Okay, Board members,
9 questions? Then I would open it up to your pleasure.

10 MR. LEVY: Mr. Chair?

11 CHAIRPERSON GRIFFIS: Yeah.

12 MR. LEVY: I move approval of Application Number
13 16858, RLA Revitalization Corporation for the DC USA retail and
14 entertainment complex for special exception to allow reduction in
15 the number of required parking spaces under Section 2108 for the
16 construction of a multi-plex movie theater, bowling alley, health
17 club and other retail and service uses at the premises 1400 to
18 1420 Park Road, NW; 3100 to 3220 14th Street NW; and 1417 to 1437
19 Irving Street NW. I'm up for a second.

20 MEMBER ETHERLY: Seconded, Mr. Chairman.

21 MR. LEVY: My motion is to approve the project as
22 presented in the record and that if the project should change,
23 and should change the relief, that it would need to come back.
24 Just to address this issue of flexibility, the motion is to
25 approve the project as laid out today, so just to make the clear.

1 I think the applicant has adequately demonstrated
2 that the project, given its proximity to the metro station, given
3 the fact that there are expert -- the applicant's expert witness,
4 a traffic engineer, has done a very thorough job in evaluating
5 the traffic to be generated by the project, and even the District
6 Department of Transportation has agreed and submitted a letter
7 stating agreement that additional parking spaces would only
8 generate additional traffic.

9 Also DDOT has addressed the issue of the potential
10 for spill-over parking into the adjacent neighborhood and DDOT is
11 satisfied that the parking being provided by the project is
12 adequate to meet the demand and doesn't feel that that would be
13 an issue. I think that's it. If I've left anything out, I'd
14 welcome additions from other Board members.

15 CHAIRPERSON GRIFFIS: Mr. Hood, did you want to
16 speak to the motion?

17 COMMISSIONER HOOD: No, Mr. Chair. I really was
18 going to make the motion, but that was fine. I would just concur
19 with Mr. Levy.

20 CHAIRPERSON GRIFFIS: Okay, any other comments to
21 the motion?

22 VICE CHAIRPERSON RENSHAW: Mr. Chairman, I have a
23 general comment, not specific to the motion but I would just like
24 to urge that a Ward 1 transportation planner be -- get on board
25 as soon as possible to be able to work along with the applicant

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1 and the community on this project. I think it is vital that that
2 link be put into place as soon as possible.

3 CHAIRPERSON GRIFFIS: Good, thank you, Ms. Renshaw.

4 I think that is absolutely appropriate, especially with
5 something of the size and magnitude of this, which is fairly new
6 and unique to this urban area to get an overall picture of
7 impact. I don't think anyone questions the need for something of
8 this magnitude for this city and that particular neighborhood,
9 but how we deal with all the problems that might be -- or
10 mitigate any problems that might be created would be absolutely
11 important.

12 MR. LEVY: Mr. Chair, I would just, if I could --

13 CHAIRPERSON GRIFFIS: Yeah.

14 MR. LEVY: -- because I think I glanced over this
15 fairly quickly but I'm particularly swayed by the proximity of
16 the project to the metro rail system and also, and as was
17 testified to today, the significant number of bus routes that
18 also pass by the site, I think it's appropriate that a
19 development at a transit station be allowed a reduction in
20 parking spaces given that some percentage of users of the
21 facility would be expected to use transit.

22 MR. GLASGOW: May I ask one question for
23 clarification? I understand we asked for flexibility with
24 respect to the uses within the project. We did present the
25 project today in two fashions; one with movie theaters and one

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1 without. So I understand that if it's with or without the movie
2 theaters, then those two are approved. If it's some other mix,
3 then that's a different issue.

4 MR. LEVY: The motion was made pertaining to the
5 use scenario that -- well, actually, I think both use scenarios.
6 Maybe we should be specific as to the number of parking spaces
7 we're approving and that would clear it up.

8 CHAIRPERSON GRIFFIS: Yeah, I think it's to the
9 relief, but I think your point is, if -- well, I mean, there's
10 two ways to do it, Mr. Levy. You could have, for instance, a
11 condition of the order based on the submission of the final
12 tenants something of that nature or your point it, it's
13 conditioned on what the square footage percentage allocated to
14 the tenant layouts now.

15 MR. LEVY: What I would be comfortable with is the
16 1364 spaces as a percentage of the 1810 required and if the
17 project mix should change such that the requirement exceeds 1810,
18 then I would say that the flexibility does not extend to that. I
19 mean, is that clear? And I believe that was -- the 1810 was
20 calculated based on the more intensive of the two use scenarios.
21 So if it should rise above 1810 then they would need to come
22 back for a revision.

23 MEMBER ETHERLY: And Mr. Chair, as the seconder of
24 that motion, I would be comfortable with that interpretation as
25 well.

1 VICE CHAIRPERSON RENSHAW: I want to ask Mr.
2 Chairman, that the spaces 1364, that number will not be reduced
3 in any way. That will be maintained regardless of what is in
4 that site.

5 CHAIRPERSON GRIFFIS: Yeah, I think the order will
6 speak to -- that is the motion, is it not, is approval for relief
7 to 1310? 1310 is your parking count.

8 MR. LEVY: I think 1364, right and it should not --
9 it cannot drop below 1364.

10 CHAIRPERSON GRIFFIS: Right.

11 MR. LEVY: Right.

12 CHAIRPERSON GRIFFIS: Okay, Mr. Etherly -- I turned
13 to Mr. Hood because I thought he seconded it, but did you want to
14 speak to the motion?

15 MEMBER ETHERLY: No, Mr. Chairman, just to
16 reiterate I'd be comfortable with the interpretation that we just
17 agreed upon with regard to the maker of the original motion and
18 would continue to second the motion enthusiastically.

19 CHAIRPERSON GRIFFIS: Okay, thanks. Okay, Mr.
20 Levy, I'm just going to restate your motion briefly, for the
21 approval for relief to 1364 parking spaces, correct?

22 MR. LEVY: That's correct.

23 CHAIRPERSON GRIFFIS: Okay. Well, then --

24 MR. LEVY: And I guess, not to muddy things up
25 again, but that if the project mixes to change such that the

1 requirement exceeds 1810, then the applicant would have to come
2 back to the Board and request a revision. So it's those two
3 things really.

4 CHAIRPERSON GRIFFIS: Okay, right if it exceeded
5 the matter of parking of 1810 then they would come back.

6 MR. LEVY: Right, right.

7 CHAIRPERSON GRIFFIS: Okay. And you don't envision
8 any of the uses that could conceivably fit within the envelope
9 now increasing it to a detriment below 1810 that would be of
10 concern to you.

11 MR. LEVY: Could you restate that? I'm not sure I
12 understood that.

13 CHAIRPERSON GRIFFIS: Right, I mean, you don't see
14 the use changing in such a dramatic way even under the required
15 1810 that would move you to have then the applicant come back in
16 for rereview.

17 MR. LEVY: Not so long as the matter of right
18 requirement, no, does not exceed 1810 and I feel strongly that,
19 you know, if there's a concern about traffic in the neighborhood,
20 that you know, more parking spaces are going to produce more
21 vehicle trips, so I think as long as the matter of right uses
22 don't require more than 1810 and the applicant doesn't build less
23 than 1364, then I'd be satisfied.

24 MEMBER ETHERLY: And Mr. Chairman, just to respond
25 to that question from this end, the idea here from my standpoint

1 would be to, within reason, allow the applicant the maximum
2 amount of flexibility to move forward with this project. In the
3 short amount of time that I've been -- had the pleasure to serve
4 here, it's very rarely that we have so many of the stars aligned
5 in the right places; our ANC representatives, leadership from the
6 Deputy Mayor's office, Office of Planning, everyone coming
7 together around a project that we all agree, as Mr. Geyot pointed
8 out, is going to do something that we haven't seen done in so
9 many parts of our city in so long and that is to help keep retail
10 dollars here.

11 I can't necessarily, without really stretching,
12 envision a use that keeps them at that 1800 something number but
13 could continue to cause some kind of concern or difficulty with
14 respect to parking. As we've had some conversation about, I
15 definitely think it can't be understated that the applicant
16 should continue to be encouraged to work with the community
17 throughout all stages of the project as we move forward to insure
18 that any concerns about traffic or congestion are dealt with
19 appropriately and expeditiously.

20 And as was mentioned by my colleague, the addition
21 of a Ward 1 traffic coordinator as soon as possible time would
22 definitely be a greatly helpful piece in this whole mix, but once
23 again, I am enthusiastically in support of moving forward on
24 this. Thank you, Mr. Chairman.

25 CHAIRPERSON GRIFFIS: Okay. And as many things are

1 aligned on this, I think Ms. Renshaw has stated and other Board
2 members have stated the fact that the things that aren't aligned
3 in terms of the overall general area and how -- which is where a
4 planner would fit into, but the impact and trying to get this
5 pieced into the larger urban fabric, but also I think, as we've
6 discussed at the beginning of this, the flexibility that's being
7 asked of this Board, I think at this application, has stretched
8 it to its limit and I am concerned that we might set up a notion
9 to others as a process that we might entertain options.

10 In fact, I can recall one applicant that did tell
11 us to pick which option at one point in which case we sent them
12 out of the room and we'll see them later. So I don't want to get
13 into the realm where we're kind of picking and choosing and
14 creating the application. Clearly this is a little different of
15 a situation in terms of the development process with a retail and
16 one needs approvals in order to get tenants. It's a kind of
17 chicken and the egg at times. However, enough of that.

18 MR. LEVY: And Mr. Chair, just -- I mean, perhaps
19 it's not necessary but to clarify further, obviously, if the
20 project changes significantly such that it requires additional
21 zoning relief that we didn't see today, it would have to come
22 back, it would be a different project.

23 CHAIRPERSON GRIFFIS: Right. Okay, I think that
24 exhausted all that and you probably all feel the same way. So I
25 would ask for all those in favor signify by saying Aye.

1 (Aye)

2 CHAIRPERSON GRIFFIS: And opposed? And staff can
3 record the vote when they're ready.

4 MS. BAILEY: The vote is recorded as five, zero,
5 zero to approve the application. Mr. Levy made the motion, Mr.
6 Etherly second. Mr. Griffis, Ms. Renshaw and Mr. Hood is in
7 support and the conditions to accompany the order are the
8 applicant shall provide a minimum of 1,364 parking spaces at the
9 site. If the project changes such that the number of parking
10 spaces goes above 1,810 then the applicant must return to the
11 Board for further review.

12 CHAIRPERSON GRIFFIS: Good, thank you very much.
13 That was well said in the reiteration of the motion and this
14 would then conclude the afternoon session of 23 April 2002 of the
15 Board of Zoning Adjustments.

16 (Whereupon, at 3:26 p.m. the above-entitled matter
17 was concluded.)

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