

The transcript constitutes the minutes
from the Public Hearing held on April 27, 2006.

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

6:38 p.m.

CHAIRPERSON MITTEN: Okay. Good evening, ladies and gentlemen. This is a Public Hearing of the Zoning Commission of the District of Columbia. Today is April 27, 2006. My name is Carol Mitten and joining me this evening are Vice Chairman Anthony Hood and Commissioners Michael Turnbull, John Parsons and Greg Jeffries.

The subject of this evening's hearing is Zoning Commission Case No. 06-09. This is a request by Howard University for special exception relief pursuant to sections 210 and 3104.1 of the Zoning Regulations for approval to allow the use of land in Square 2872, which includes Lots 266 through 271, 803, 820, 822, 823 and 824 for interim university use. Square 2872 is bounded by Florida Avenue on the west and south, Barry Place on the north and Sherman Avenue on the east, all in the northwest quadrant.

Notice of today's hearing was published in the D.C. Register on March 10, 2006 and copies of that hearing announcement are available to you in the wall bin by the door. This hearing will be conducted in accordance with the provisions of 11 DCMR section 3117 and the order of procedure will be as follows:

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1 We'll take up preliminary matters first.
2 Then we'll have the presentation of the applicant's
3 case, report by the Office of Planning, reports by any
4 other Government agencies, report by the affected
5 Advisory Neighborhood Commission. In this case it's
6 1B. We'll have organizations and persons in support
7 and organizations and persons in opposition.

8 The following time constraints will be
9 maintained in this hearing. The applicant will have
10 30 minutes. Organizations will have five minutes and
11 individuals will have three minutes. The Commission
12 intends to adhere to these time limits as strictly as
13 possible in order to hear the case in a reasonable
14 period of time. The Commission reserves the right to
15 change the time limits for presentations, if
16 necessary, and notes that no time shall be ceded.

17 All persons appearing before the
18 Commission are to fill out two witness cards. The
19 cards look like this and they are located on the table
20 by the door. Upon coming forward to speak to the
21 Commission, please, give both cards to the reporter
22 who is sitting to our right and have a seat at the
23 table.

24 Please, be advised that this proceeding is
25 being recorded by the Court Reporter and is also being

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1 webcast live. Accordingly, we ask you to refrain from
2 making any disruptive noises in the hearing room.
3 When presenting information to the Commission, please,
4 turn on and speak into the microphone first stating
5 your name, and you turn on the microphone by pushing
6 the button that is on the base. When you're finished
7 speaking, we ask you to turn the microphone off so
8 that it doesn't pick up any background noise.

9 A decision of the Commission in this case
10 must be based exclusively on the public record. To
11 avoid any appearance to the contrary, the Commission
12 requests that persons present not engage the Members
13 of the Commission in conversation during the recess or
14 at any other time. Mrs. Schellin will be available
15 throughout the hearing to answer any procedural
16 questions that you might have.

17 I would ask you to turn off all beepers
18 and cell phones at this time so as not to disrupt the
19 hearing and we'll take up preliminary matters first.
20 Mrs. Schellin?

21 MS. SCHELLIN: Just the two, the party
22 status requests and the request for a postponement.

23 CHAIRPERSON MITTEN: Thank you. We'll
24 take up the request for party status first. We have
25 a late filing by the Cardozo-Shaw Neighborhood

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1 Association, which I believe the applicant has seen.
2 And since there was a late filing, I will give the
3 applicant an opportunity to weigh in on the request
4 for a waiver of our rules to accept the late filing
5 and/or the party status request itself.

6 MS. GIORDANO: Cynthia Giordano, Arnold
7 and Porter Law Firm, representing the applicant,
8 Howard University. We have no objection to the late
9 filing or the party status request.

10 CHAIRPERSON MITTEN: Okay. Okay.

11 MS. GIORDANO: Thank you.

12 CHAIRPERSON MITTEN: One concern of mine
13 is that in the party status request the nature of the
14 opposition has not been expressed, so I don't know.
15 I don't know how you would be prepared to address the
16 opposition, but I think we have a combination of -- we
17 have a late filing. We don't have a full expression
18 of the nature of the opposition and I would be
19 inclined to deny the request for party status from the
20 neighborhood association.

21 COMMISSIONER PARSONS: Yes, I concur.

22 CHAIRPERSON MITTEN: Anyone else? I will
23 move that we deny the request for party status from
24 Cardozo-Shaw Neighborhood Association.

25 COMMISSIONER PARSONS: Second.

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1 CHAIRPERSON MITTEN: Any discussion? All
2 those in favor, please, say aye.

3 ALL: Aye.

4 CHAIRPERSON MITTEN: Is there any opposed?
5 Mrs. Schellin?

6 MS. SCHELLIN: Staff would record the vote
7 5-0-0 to deny party status to the Cardozo-Shaw
8 Neighborhood Association, Commissioner Mitten moving,
9 Commissioner Parsons seconding, Commissioners
10 Jeffries, Hood and Turnbull in favor.

11 CHAIRPERSON MITTEN: Thank you. But we do
12 invite your participation at the time that
13 organizations can testify in opposition. Okay. Next
14 we have Mr. Hunter is here representing the ANC and
15 the ANC had requested a postponement of the hearing,
16 and I would ask you to come forward and Ms. Giordano
17 to that issue also. We'll let Ms. Giordano speak
18 first to your request.

19 MS. GIORDANO: We do object to the
20 postponement. We would very much like to proceed this
21 evening. I believe that the ANC wants the university
22 to come to another ANC meeting next week and the
23 university is perfectly willing to do that, and we
24 would not object if the Commission wanted to leave the
25 record open for a couple of weeks for additional ANC

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1 input, but we would like to proceed this evening.

2 CHAIRPERSON MITTEN: Have you presented at
3 an ANC meeting yet?

4 MS. GIORDANO: Yes. Can I ask Ms. Bennett
5 to come to the table and address that issue directly?

6 CHAIRPERSON MITTEN: Sure.

7 MS. BENNETT: Thank you. Good evening,
8 Madam Chair, Members of the Commission. My name is
9 Maybelle Taylor Bennett. I am the director of the
10 Howard University Community Association.

11 We have addressed the ANC with this issue.
12 Unfortunately, there is an anomaly that took place.
13 We have some parts of the university who are very
14 familiar with the community engagement process and
15 other parts that are not and in this case, I did not
16 get brought in until the last minute. And so we ended
17 up finding out about our placement on the agenda and
18 we made sure we were there since the hearing was
19 coming up on the 27th and we wanted to make sure we
20 got there.

21 Unfortunately, we have not had the
22 opportunity to sit down and talk with our neighbors in
23 the manner that we usually do, and that usually
24 includes going first to the civic association where
25 the proposed site happens to be located, then going to

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1 the ANC and the whole process.

2 CHAIRPERSON MITTEN: Okay.

3 MS. BENNETT: In this case, this case went
4 straight to our go-to person. Our go-to person went
5 to it and got a call, said I'm getting it done.

6 CHAIRPERSON MITTEN: Okay.

7 MS. BENNETT: And so that's how we got out
8 in front of ourselves. The ANC was clear about how
9 they were disappointed in the way in which we came
10 before them without having the kind of disclosure and
11 conversations that we normally have, and so that is
12 where we are now.

13 We would welcome the opportunity to be
14 before the ANC again. We also had a subsequent
15 meeting with them on the 17th to which only one ANC
16 member was able to attend and flesh out some of the
17 issues.

18 CHAIRPERSON MITTEN: Okay.

19 MS. BENNETT: So that's where we are now.

20 CHAIRPERSON MITTEN: Thank you.
21 Commissioner Hunter?

22 MR. HUNTER: Thank you, Madam Chair.
23 We're very surprised that the university would not
24 want the continuance. The ANC's desire to have the
25 continuance was so that we could have afforded them

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1 the opportunity to vet this project with the community
2 and the community groups as it should be done. It was
3 our hope that with the additional time to discuss it
4 with the ANC, as well as the civic association, we
5 would not be here testifying in opposition to the
6 project. That was our only desire for a continuance.

7 However, if Howard feels that, you know,
8 that is not necessary at this time and they want to
9 proceed, then, you know, we'll allow that. Our desire
10 to get a continuance was to have dialogue with them to
11 see if we could resolve our issues. We were not
12 consulted prior to them buying the property,
13 demolating this building, and we just feel the
14 community should have more input.

15 Again, it was just an opportunity to
16 continue the dialogue, but apparently they feel they
17 have had enough.

18 CHAIRPERSON MITTEN: Well, I think the
19 suggestion about keeping the record open to allow for
20 additional time to meet with the ANC, the ANC is given
21 great weight in this process as long as you address
22 yourself to the issues that are relevant to the Zoning
23 Commission, and so they are very concerned about
24 getting your support.

25 So if we left the record open for a period

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1 of time to allow some additional meeting, then there
2 is still an opportunity for the ANC to, you know,
3 weigh in if they decide to change their position. So
4 I think that might be the best way for us to proceed
5 since we have everyone here tonight.

6 MR. HUNTER: Very well.

7 CHAIRPERSON MITTEN: Thank you.

8 MR. HUNTER: Thank you.

9 CHAIRPERSON MITTEN: Does the Commission
10 agree? Okay. Thank you very much. All right.
11 Before we get started then, I would ask everyone who
12 is planning on testifying this evening to rise now,
13 raise your right hand and direct your attention to
14 Mrs. Schellin.

15 (Whereupon, the witnesses were sworn.)

16 CHAIRPERSON MITTEN: All right. Ms.
17 Giordano?

18 MS. GIORDANO: Yes. Good evening again.
19 This proposal is a fairly minor one in the general
20 scheme of things. We are requesting just a five year
21 period to use a vacant lot for interim parking for the
22 university and we do have a board that shows the lot
23 and Mr. Bruce Costella from the Office of Capital
24 Projects will just run through the particulars of this
25 site and then Mr. Gross from Arnold and Porter will

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1 address the criteria in the Zoning Regulations.

2 CHAIRPERSON MITTEN: Thank you.

3 MR. COSTELLA: Good evening, all. Let me
4 just give you a brief overview.

5 CHAIRPERSON MITTEN: Would you just state
6 your name for the record, please?

7 MR. COSTELLA: Bruce Costella, Office of
8 Capital Projects.

9 CHAIRPERSON MITTEN: Thank you.

10 MR. COSTELLA: Howard University. Let me
11 just give you a brief overview of the proposed lot.

12 CHAIRPERSON MITTEN: I need you to be on
13 a microphone while you speak if you can do it. I
14 mean, you can hold it up or --

15 MR. COSTELLA: Very well.

16 CHAIRPERSON MITTEN: Okay.

17 MR. COSTELLA: Okay. What we have here is
18 a plan view of Florida Avenue.

19 CHAIRPERSON MITTEN: Mr. Costella, Mr.
20 Jeffries can't quite see. We have a portable mike
21 here that you could use. Just make sure she's getting
22 it.

23 MR. COSTELLA: What we have here is a plan
24 view of the proposed lot with Florida Avenue, Barry
25 Place and Sherman Avenue, Barry Place being north, a

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1 curb cut entrance and exit on Florida Avenue. It is
2 23 parking spaces and, approximately, 10 percent of
3 the flat area will be landscaped.

4 Previously, there were 10 parking spaces
5 on this lot. We are expanding it where the three
6 other structures or existing structures were and it
7 will be utilized by our service personnel who are in
8 this building here. They are pretty much regimented.
9 They are in about 8:00 and out about 4:30. Then the
10 lot will be closed after 5:30 at night.

11 CHAIRPERSON MITTEN: Okay. Thank you.

12 MR. COSTELLA: Thank you.

13 MR. GROSS: Good evening, Madam Chairman
14 and Members of the Commission. I am Nathan W. Gross
15 for the record. I will simply review the zoning
16 criteria in compliance with those that are in our
17 prehearing statement.

18 First, section 210 of the residential
19 regulations allows college or university use as a
20 special exception and the principal criteria in there
21 -- well, first, section 210.5 allows interim uses
22 within a reasonable distance of the college or
23 university campus and the approval criterion is
24 primarily that the college or university use shall be
25 located so as it is not likely to become objectionable

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1 to neighboring property because of noise, traffic,
2 number of students or other objectionable conditions.

3 And the reasons, as we set forth, that
4 this parking lot is not likely to become objectionable
5 are, and these are on page 4 of our statement,
6 vehicular access is from Florida Avenue, an arterial
7 street. Second, the apartment buildings to the north
8 and east and nearby row dwellings are across city
9 streets and have ample separation from the parking
10 use.

11 As Mr. Costella said, it will only be open
12 in daytime hours and closed at 5:30 p.m. There will
13 be no headlight effects from people entering and
14 leaving in the evening hours. The parking lot will be
15 surrounded by an attractive metal fence to provide
16 visual screening from the public and nearby land and
17 building uses. The parking spaces will serve the
18 center staff, which is directly to the west of the
19 parking lot and the staff people will park and stay a
20 number of hours, so there won't be very much by way of
21 in and out traffic.

22 This is an efficient land use pattern
23 because it's close to the campus and the Howard
24 Service Center is within the campus plan boundaries.
25 This site is, of course, just outside the campus plan

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1 boundaries. In that sense, the proximity means that
2 it's in keeping with the intent of the regulations for
3 an interim use to be in reasonable proximity to the
4 campus.

5 And assuming we had 23 spaces, the parking
6 lot is not large so only a moderate amount of traffic
7 will be generated and, all in all, the lot will not
8 create any noticeable traffic safety or traffic noise
9 effects on neighboring property.

10 Then we have the general regulations in
11 section 2303 of the Zoning Regulations regarding
12 parking lots in general. Regarding 2303.1, the plans
13 do provide for a bituminous concrete surface and that
14 would be in compliance with that provision. It shall
15 be designed so that no vehicle extends over a lot line
16 or building line and there will be concrete wheel
17 stops and, of course, the fence surrounding the lot.

18 Paragraph C provides that there will be no
19 other use on the premises and parking will be the only
20 use. The entrance must be at least 40 feet from any
21 intersection and it complies regarding the two nearest
22 intersections. And, finally, the lighting has been
23 designed so that all direct rays are confined to the
24 surface of the lot.

25 I guess that wasn't finally. And then

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1 Paragraph F, there has to be at least 5 percent
2 landscaping. In this case we have slightly over 10
3 percent landscaping and the university does commit to
4 maintaining the lot free of refuse and debris. And
5 with that, Madam Chairman, that concludes our
6 presentation. We would be happy to answer questions.

7 CHAIRPERSON MITTEN: Thank you. Have you
8 seen the report by the Department of Transportation?

9 MS. GIORDANO: Yes, and we met with them
10 last week.

11 CHAIRPERSON MITTEN: Okay. There is a
12 recommendation that the parking lot be approved for a
13 time period not to exceed five years, as you expressed
14 in the beginning, and they also recommend that you
15 modify the driveway entrance so that it's at a 90
16 degree angle. Does that reflect the modification?

17 MS. GIORDANO: No, I don't think it does.
18 Maybe I didn't see that. Actually, I don't think we
19 have seen this report.

20 CHAIRPERSON MITTEN: Oh, you haven't?
21 Okay. It's dated yesterday. Mrs. Schellin, do you
22 have some extra copies? The ANC probably is going to
23 need a copy also. The last paragraph is where the
24 recommendations are.

25 MR. COSTELLA: I'm not sure how that could

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1 be. If you take it solely at a 90 degree angle, which
2 would constitute a right angle, I'm not sure that that
3 is the safest way to get out on the block. This is
4 following the contours of the curb cut. So I don't
5 know what is meant by that. We may have to ask for
6 further clarification.

7 MS. GIORDANO: The existing curb cut.

8 MR. COSTELLA: Yes. Do you understand my
9 point?

10 CHAIRPERSON MITTEN: I do.

11 MR. COSTELLA: Okay.

12 CHAIRPERSON MITTEN: I do understand your
13 point. I guess I would like you then, since we're
14 going to be taking some additional time for you to
15 work with the ANC, that you work with the Department
16 of Transportation to resolve whatever concerns that
17 they have related to the --

18 MR. COSTELLA: And their interpretation of
19 what a 90 degree angle is.

20 CHAIRPERSON MITTEN: Right.

21 MR. COSTELLA: Yes.

22 CHAIRPERSON MITTEN: Right. It would have
23 been helpful if they drew something.

24 MR. COSTELLA: Exactly.

25 CHAIRPERSON MITTEN: So that we could look

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1 at it.

2 MR. COSTELLA: Yes.

3 CHAIRPERSON MITTEN: Look at what they
4 mean.

5 MR. COSTELLA: I think what we need to do
6 is have some clarification, as you suggested.

7 CHAIRPERSON MITTEN: Okay. Okay. You
8 know, we just passed this, what we think is an
9 interesting addition to the regulations, which permits
10 parking lots to have pervious surfaces instead of
11 impervious surfaces and did you consider using a
12 pervious surface?

13 MR. COSTELLA: No, we went with the more
14 traditional approach.

15 CHAIRPERSON MITTEN: Would you consider
16 using a pervious surface or what is it about that
17 that --

18 MR. COSTELLA: I could have the architects
19 to look into it and see what the impact would be both
20 on the scheduling of assembly, as well as associated
21 costs and durability. Here again, we want to honor
22 the five year life cycle so, obviously, we're more
23 sensitive to cost if we are expending this for a five
24 year term.

25 CHAIRPERSON MITTEN: I don't know what it

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1 does. I know that there's issues when you do a
2 parking lot about storm water management and getting
3 through that approval process, and I guess I thought
4 that there would be a trade-off perhaps in --

5 MR. COSTELLA: To answer your point, we
6 have communicated with WASA about storm water
7 management because it's over 5,000 square feet, which
8 we require, too. We do have approval of storm water
9 management plans from WASA, so we have met that
10 criteria. Here again we're trying to meet a happy
11 balance of -- during implementation with a five year
12 term in mind.

13 CHAIRPERSON MITTEN: Okay. Questions from
14 the Commission? Any questions?

15 COMMISSIONER PARSONS: Just one. The
16 drawings that we have on A1.0 talks about a new
17 planted ground cover and it refers us to a civil
18 drawing, C9, which isn't included. So the green space
19 is shown in the upper level of the drawing there.
20 Apparently, it would be covered with ground cover.
21 What is that?

22 MR. COSTELLA: Ground cover would be --

23 CHAIRPERSON MITTEN: I need you on the
24 mike.

25 MR. COSTELLA: Ground cover would be some

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1 vegetation that is probably not as yet selected.

2 COMMISSIONER PARSONS: So it's not shown
3 on this civil drawing, C9? That's what the note says
4 in the corner.

5 MR. COSTELLA: Okay. It may not be. That
6 detail may have to be included.

7 COMMISSIONER PARSONS: So you would be
8 able to provide that to us?

9 MR. COSTELLA: Yes, of course. That's
10 very minor.

11 COMMISSIONER PARSONS: Okay. Thank you.

12 CHAIRPERSON MITTEN: Mr. Hood?

13 VICE CHAIR HOOD: Yes, Madam Chair.
14 Again, as I look at this I'm trying to picture where
15 this is. I know that Howard has a parking lot east of
16 Sherman Avenue, well, to the east of Sherman Avenue.

17 Is this the lot where the Howard's Police
18 Department operates? I'm just trying to get a rough
19 -- my orientation is off from looking at these
20 designs. Maybe that's throwing me off.

21 MR. COSTELLA: It is confusing because
22 it's a very small piece of property. Sherman Avenue
23 is running north and south.

24 VICE CHAIR HOOD: Right.

25 MR. COSTELLA: The large lot that you're

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1 referencing is about this location down here.

2 VICE CHAIR HOOD: So it's below where the
3 fire engine is?

4 MR. COSTELLA: Yes.

5 VICE CHAIR HOOD: So this one is north of
6 that?

7 MR. COSTELLA: This is north. No, this is
8 south. It's south. The fire --

9 VICE CHAIR HOOD: South to the west.

10 MR. COSTELLA: Yes, the firehouse would be
11 north of this.

12 VICE CHAIR HOOD: Okay. Where?

13 MR. COSTELLA: Georgia Avenue, just bear
14 with me, and then you would be hitting U Street
15 further down.

16 MS. BENNETT: Mr. Hood, if you're at the
17 corner of 9th and U and you're going north on 9th
18 Street.

19 VICE CHAIR HOOD: Okay.

20 MS. BENNETT: And you pass D.C. HFA on the
21 right and you go a little further, you pass the 930
22 Club. Are you with me?

23 VICE CHAIR HOOD: Right. I know where we
24 are now. I'm blocks away, so I know I'm --

25 MS. BENNETT: Okay. So you go up a little

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1 further and there is construction. There is the
2 Rhapsody new condo coming up on the left.

3 VICE CHAIR HOOD: Right. I know where we
4 are. Okay.

5 MS. BENNETT: With Meridian on the right.
6 Then as the street veers off onto Sherman, there is
7 also a way for Florida Avenue to veer to the left and
8 9th veers to the right to Sherman. It's that
9 triangular square.

10 VICE CHAIR HOOD: I know where we are.

11 MS. BENNETT: In between Florida and
12 Sherman.

13 VICE CHAIR HOOD: Okay. I know exactly.
14 Thank you. That's fine. I'm a couple of blocks away.
15 Thank you.

16 MS. BENNETT: Okay.

17 CHAIRPERSON MITTEN: Commissioner
18 Turnbull?

19 COMMISSIONER TURNBULL: I just had one
20 question. I guess I'm a little bit -- I think the
21 language that they are using on the fence calling it
22 visual screening from nearby land and building use is
23 a little generous since it's an open aluminum picket
24 fence, but I think it is being a little bit generous
25 as to what it's really doing.

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1 I don't think it's really screening
2 anything, but it's defining the lot but, you know,
3 allowing some kind of security, but I wouldn't really
4 say it's screening for the neighborhood.

5 MR. COSTELLA: It's a narrow usage of
6 terms. It's really for security issues, to keep --

7 COMMISSIONER TURNBULL: Right.

8 MR. COSTELLA: Yes.

9 COMMISSIONER TURNBULL: Well, that's
10 really what it looks like.

11 MR. COSTELLA: Okay.

12 COMMISSIONER TURNBULL: Okay. Thank you.

13 CHAIRPERSON MITTEN: Anyone else? Okay.
14 Commissioner Hunter, if you would like to ask any
15 questions on cross examination?

16 MR. HUNTER: Not at this time, Madam
17 Chair.

18 CHAIRPERSON MITTEN: Okay. Thank you.
19 Thank you all. Now, we're ready to move to the report
20 by the Office of Planning. Ms. Brown-Roberts,
21 welcome.

22 MS. BROWN-ROBERTS: Thank you, Madam
23 Chairman and Members of the Commission. I am Maxine
24 Brown-Roberts from the Office of Planning.

25 Howard University proposes an interim

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1 parking lot as an interim university use with 23
2 spaces to serve the Service Center. The property is
3 in the R-5-B District. The current Howard University
4 Campus Plan was adopted in 1998 and will expire in
5 2008. Section 210 of the Zoning Regulations under
6 which the campus plan was approved allowed university
7 use as a special exception.

8 CHAIRPERSON MITTEN: Thank you.

9 MS. BROWN-ROBERTS: The proposed parking
10 lot will be outside of the area covered by the campus
11 plan, but is within a reasonable distance of the
12 campus and the Service Center which it will serve, as
13 shown on the attachment in our report.

14 The proposed parking lot is small and
15 should not negatively affect traffic in the area
16 because of the limited number of spaces, the hours of
17 operation and the fact that there will be limited
18 movements to and from the site. The lot will be
19 secured with a fence and will be patrolled by
20 university security. Only persons with permits will
21 be allowed to use the lot.

22 The applicant has submitted that parking
23 will be the only use permitted on the lot. The
24 entrance to the lot is along Florida Avenue and this
25 entrance is located at a distance that is greater than

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1 40 feet from the Florida Avenue/Sherman Avenue and
2 Florida Avenue/10th Street intersections.

3 The light fixtures proposed will be
4 located so as not to illuminate the parking lot alone
5 -- so as to illuminate the parking lot alone.
6 Maintenance of the parking lot will be provided by the
7 university's maintenance crew that maintains the
8 campus. Two landscaped areas are located along the
9 northern corners of the property and account for,
10 approximately, 10 percent of the site area.

11 The Office of Planning would like to note
12 that we do not support the use of this property as a
13 permanent surface parking lot and a more appropriate
14 use for the property will be addressed further when it
15 is incorporated into the campus plan, which is
16 scheduled for review in 2008.

17 Generally, the application meets the
18 requirements of the requested special exception and,
19 therefore, the Office of Planning recommends approval
20 of the application for a period of five years. The
21 five year period would allow for the updated campus
22 plan to be submitted in 2008 and approved in 2009 or
23 2010. Thank you, Madam Chairman.

24 CHAIRPERSON MITTEN: Thank you, Ms. Brown-
25 Roberts. Questions for Ms. Brown-Roberts? Any

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1 questions? Ms. Giordano, any questions?

2 MS. GIORDANO: No questions.

3 CHAIRPERSON MITTEN: Mr. Hunter, any
4 questions?

5 MR. HUNTER: No.

6 CHAIRPERSON MITTEN: Okay. Thank you.

7 MS. BROWN-ROBERTS: You're welcome.

8 CHAIRPERSON MITTEN: We already talked
9 about the DDOT report. I don't think we have any
10 other Government Agency reports, so I will ask
11 Commissioner Hunter to come forward and make their
12 presentation for the ANC.

13 MR. HUNTER: Thank you, Madam Chair.
14 Thank you, Madam Chair, Members of the Commission. As
15 you know, ANC-1B voted unanimously to oppose this
16 request to use this lot for the construction and use
17 of a parking lot. ANC-1B believes that the use of
18 this lot is not consistent with the existing nature
19 and planned structures in the neighborhood.

20 We believe that the use of this lot for a
21 parking lot is not reasonable. It's objectionable to
22 many neighbors for various reasons regarding this
23 intended use. Howard University has a long history of
24 having parking lots in that area that stay there for
25 quite a bit of time. It's one of the least desirable

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1 uses for land in a neighborhood.

2 There is a lot of construction going on in
3 the area. ANC-1B has actually asked that this area be
4 utilized for medium density mix commercial and
5 residential use only. For that reason ANC-1B is
6 opposed to this request to build a parking lot there.

7 There is also a concern about safety. The
8 fact of the matter is that the creation of a parking
9 lot in that location does create additional traffic
10 with cars going in and out, and we have heard
11 complaints and concerns from neighbors that there is
12 a safety issue involved here also. While Howard will
13 counter that it's a limited number of cars, it's still
14 more cars transgressing out of that area than had been
15 there previously.

16 Essentially, again, the intended use we
17 don't think is consistent with what is going on in the
18 neighborhood right now and what is planned for the
19 neighborhood right now, and we're also concerned with
20 the issue of safety and we would ask that you deny
21 this request at this time.

22 CHAIRPERSON MITTEN: Thank you. Questions
23 for Commissioner Hunter?

24 COMMISSIONER JEFFRIES: Yes. I guess I'm
25 not clear as to what you mean by safety in this

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1 situation.

2 MR. HUNTER: Well, essentially, it's a
3 parking lot. There is a number of residential units
4 that are going up in very close proximity to this lot.
5 The primary safety concern is the additional traffic
6 of people egressing and entering the lot. Many
7 residents who live in that particular area did express
8 that concern.

9 COMMISSIONER JEFFRIES: So the concern is
10 that someone might get hit, I mean, or are you just
11 dealing with just traffic congestion?

12 MR. HUNTER: It's a traffic safety issue.
13 That is the only safety issue.

14 COMMISSIONER JEFFRIES: Okay. Thank you.

15 MR. HUNTER: Thank you.

16 CHAIRPERSON MITTEN: Other questions?
17 Other questions, anybody? Mr. Hood?

18 VICE CHAIR HOOD: Commissioner Hunter,
19 even though it appears that you are going to still be
20 having some dialogue with the university, and I know
21 you have to put your position out, do you think there
22 may be a chance that you may come to some type of a
23 mediation and be able to come back or report something
24 different from now or is that the hard and fast rule
25 from the ANC?

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1 MR. HUNTER: No, we have not had a chance
2 for any pow-wow. There was no advanced notice given
3 of their intention to destroy the building and part of
4 the lot. It is quite possible that with further
5 dialogue we could reach some reasonable agreement.

6 VICE CHAIR HOOD: Okay. Now, is it lit up
7 now? It's a parking lot now, isn't it?

8 MR. HUNTER: Yes, I believe it's just --
9 there was a 100 year-old building on the site --

10 VICE CHAIR HOOD: Okay.

11 MR. HUNTER: -- that the university
12 demolished without any notice, and I believe what is
13 there now is just the wreckage of the demolition.

14 VICE CHAIR HOOD: Okay. All right. Okay.
15 Thank you.

16 MR. HUNTER: Thank you.

17 COMMISSIONER JEFFRIES: Wait a minute.
18 Just a question. Okay. You shared something here, I
19 mean, and obviously, I mean, Howard University should
20 speak to this, but you said there was a building that
21 was there that was demolished?

22 MR. HUNTER: Part of the concern was the
23 fact that there was a building that was 100 years-old
24 that Howard acquired and demolished without any input
25 whatsoever from the community. People were very

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1 disturbed with that. That is what happened.

2 COMMISSIONER PARSONS: Well, whoa, how do
3 you destroy a 100 year-old building in this city
4 without permits? Come help.

5 MS. GIORDANO: Howard went through the
6 demolition permit process which includes a notice to
7 the ANC, but they did not and they probably -- they
8 should have gone to the ANC directly and discussed the
9 issue, but they were given the legal notice that is
10 required and it's a notice in the D.C. Register and I
11 think it comes by mail.

12 It just has a list of addresses, so it's
13 not easy to pick up, but we're very convinced that
14 there was no historic value to this building and I
15 will let Mr. Costella address that.

16 MR. COSTELLA: Yes. I would like to
17 address actually two points. One is the historic and
18 the other is the safety.

19 CHAIRPERSON MITTEN: Can we just do one
20 thing, which is can we get all through this and then
21 you can address it, because I don't --

22 MR. COSTELLA: Yes.

23 CHAIRPERSON MITTEN: I just want to stay
24 organized.

25 MR. COSTELLA: Right.

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1 CHAIRPERSON MITTEN: So we'll take
2 whatever follow-up you want to have at the end.

3 MS. GIORDANO: Do you want us to step
4 back?

5 CHAIRPERSON MITTEN: That would be great.

6 MS. GIORDANO: Okay.

7 CHAIRPERSON MITTEN: Are there other
8 questions for Commissioner Hunter?

9 COMMISSIONER PARSONS: Well, I did.

10 CHAIRPERSON MITTEN: All right.

11 COMMISSIONER PARSONS: You know, if you're
12 objecting and as I sense it, you're objecting to an
13 interim land use of this nature, so I can't imagine
14 how meeting with the university would --

15 COMMISSIONER JEFFRIES: Change it.

16 COMMISSIONER PARSONS: -- change that
17 position unless they guaranteed that the fifth year
18 they would start construction of something. Is that
19 what you're after?

20 MR. HUNTER: I'm not sure that the five
21 years will be the number. I mean, it may be a lower
22 number. It may be in a more amenable realm. I would
23 hate to say that there is absolutely no ground for an
24 agreement.

25 COMMISSIONER PARSONS: Okay.

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1 MR. HUNTER: Because we haven't talked.
2 However, based on the information we do have and the
3 input we had from the community, we are opposed to the
4 use as it is requested by Howard at this time.

5 COMMISSIONER PARSONS: All right. I
6 understand. Thank you.

7 CHAIRPERSON MITTEN: I guess the only
8 thing I would like to say is I have sat on cases in
9 different contexts where the position has been
10 advanced, exactly what you're advancing, which is
11 that, you know, we really don't promote parking lots
12 as a use on their own, so they are considered interim
13 uses.

14 So I would just recommend as the ANC
15 thinks through this that it's very difficult to compel
16 someone to build something when they are not ready to.
17 So if it's not -- what would another appropriate
18 interim use be if not a parking lot? So just have
19 that guide your conversations with the university.

20 Anyone else, questions?

21 COMMISSIONER TURNBULL: I guess my only
22 question, I just want to clarify, the residential use
23 that you're concerned about for safety, is that across
24 the street on Florida Avenue?

25 MR. HUNTER: There is actually, I believe,

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1 a dormitory right around the corner. There's a couple
2 of dormitories which house a few hundred students and
3 there is also a great deal of construction of
4 condominiums in very close proximity to the proposed
5 lot.

6 COMMISSIONER TURNBULL: But is there
7 anything adjacent, across the street directly?

8 MR. HUNTER: I'm trying to -- there are.
9 There is residential. Yes, there are residential
10 houses across the street and I also believe adjacent
11 to it, yes.

12 COMMISSIONER TURNBULL: Okay. Thank you.

13 MR. HUNTER: Thank you.

14 CHAIRPERSON MITTEN: Ms. Giordano, any
15 questions for Commissioner Hunter?

16 MS. GIORDANO: No questions.

17 CHAIRPERSON MITTEN: Okay. Thank you very
18 much.

19 MR. HUNTER: Thank you.

20 CHAIRPERSON MITTEN: Before you go, I'm
21 sorry, I have a date that might work and since you're
22 at the table, if we left the record open until May
23 26th, would that give you ample time to meet and have
24 a regular meeting and take a vote on that?

25 MR. HUNTER: That would give us time to

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1 have a regular meeting and a special meeting to
2 address it, yes.

3 CHAIRPERSON MITTEN: Okay.

4 MR. HUNTER: Thank you.

5 CHAIRPERSON MITTEN: Thank you. All
6 right. Is there anyone who would like to testify in
7 support that hasn't done so already? All right. Then
8 we'll have organizations and persons in opposition and
9 we'll start with Cheryl Cort for the Cardozo-Shaw
10 Neighborhood Association.

11 MS. CORT: Thank you, Madam Chairman.
12 Good evening. My name is Cheryl Cort and I reside at
13 1438 Florida Avenue, N.W., and I am the chair of the
14 Transportation and Parking Committee for the Cardozo-
15 Shaw Neighborhood Association. I have been asked by
16 the association to testify before you on this case.
17 We'll do a better time next time requesting party
18 status. We're a little new at this game.

19 The application before you to build a
20 surface parking lot as an interim use by Howard
21 University is of significant interest to our
22 neighborhood. The subject property is entirely within
23 the boundaries of the Cardozo-Shaw Neighborhood
24 Association.

25 Simply put, another parking lot harms the

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1 historic character, safety and walkability of our
2 neighborhood and its use, a 23 space parking lot,
3 seems to not be a compelling one. Surely, if Howard
4 University has a specific need for 23 parking spaces
5 for what on its application says faculty, it could
6 find them on its campus rather than two or three
7 blocks away from the campus.

8 It seems that there are many alternatives
9 to meet any transportation needs that the university
10 might have for its employees. A surface parking lot
11 at this location is an inappropriate and harmful use
12 even for an interim period.

13 I ask the Commission to deny the
14 applicant's request on the grounds that the harm done
15 by the use in our neighborhood is not justified by any
16 benefit that would be gained by the applicant. Many
17 alternatives are available to address the applicant's
18 needs which it claims are addressed by the proposed
19 special exception use.

20 The proposed parking lot would be around
21 for, approximately, five years on a parcel that is
22 designated for medium density. A 100 year-old
23 building with a store on the first floor stood at the
24 corner of Florida, Barry and Sherman Avenue until it
25 was knocked down a couple of months ago. I am also

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1 concerned that a portion of the site that was
2 operating as a parking lot adjacent to the building
3 that was standing there not too long ago was not
4 properly permitted, and we ask that you look into the
5 legitimacy of that parking lot use before you take
6 affirmative action on this case.

7 When I asked a representative of Howard
8 University at the April 6th ANC-1B meeting for
9 justification for the special exception for a surface
10 parking lot, the representative responded that the
11 parking lot will address neighbors' complaints about
12 Howard students parking in front of their houses.
13 This explanation is inconsistent with the application,
14 which states that the lot will "primarily serve
15 faculty members and potentially some students."

16 So how is the faculty parking lot going to
17 fulfill the cited need for student parking as a
18 response to community complaints? There is no
19 evidence that daytime parking conflicts are occurring
20 in this area. None of the residential blocks directly
21 adjacent to the applicant's site are designated as
22 Residential Parking Permit Zones.

23 No part of the property in question nor
24 adjacent nearby commercially zoned properties crib
25 space is managed with time limits or meters. If

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1 neighbors are concerned about excluding Howard
2 commuters, they can petition to designate their
3 streets for RPP Zones. I and CSNA would be happy to
4 help neighbors in this process, but we haven't heard
5 that there is a desire to do so.

6 Given the applicant's contradictory
7 justification and the easy alternative of instituting
8 RPP Zones, parking time limits or meters for the area
9 to address any of the residents' concerns about
10 commuter parking on the neighboring streets, there are
11 residents directly across from this on Florida Avenue
12 and also 10th Street also does not have RPP Zone.

13 We do not believe that the applicant has
14 any justification for a 23 space parking lot. A
15 surface parking lot in the neighborhood will, however,
16 significantly harm the neighborhood through creation
17 of an auto-dominated landscape, degraded pedestrian
18 environment, undefined corridor of three streets. The
19 unintended use of this site that should be a medium
20 density mixed use building creates more dead space
21 with fewer eyes on the street and gives pedestrians a
22 feeling of less security from crime and traffic.

23 To address Howard's needs to provide good
24 access for its employees and reduce the negative
25 impacts of the existing or proposed Howard surface

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1 parking lots in our neighborhood, we recommend that
2 Howard University develop a transportation management
3 plan.

4 This can be done with the free assistance
5 from the Council of Governments Commuter Connections
6 Program and I have attached some information about
7 that, which helps employers devise strategies to
8 maximize transit walk and bike, car-pooling access and
9 better manage parking resources.

10 CHAIRPERSON MITTEN: I need your -- was
11 that your closing?

12 MS. CORT: Well, I just have a summary.

13 CHAIRPERSON MITTEN: Okay. And then it
14 would be helpful to us if we had that in the written
15 testimony.

16 MS. CORT: I will submit this to you.

17 CHAIRPERSON MITTEN: Okay. Great.

18 MS. CORT: Shall I?

19 CHAIRPERSON MITTEN: Just wrap it up, yes.

20 MS. CORT: One, we request that you do
21 deny this application and require instead the planting
22 of grass and plant materials to address storm water
23 runoff and until an appropriately scaled building can
24 be constructed at the site.

25 Two, require that the university prepare

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1 a transportation management plan to minimize commuter
2 vehicle trips and maximize alternative access to the
3 university in the area and certainly in the case that
4 any variance would be granted to the university for an
5 interim use.

6 And, three, require that Howard parking
7 lots would charge a higher fee than an average transit
8 trip would cost to the site.

9 And, fourth, we would be happy to work
10 with residents if there are any real concerns about
11 conflicts between Howard employees parking in the
12 neighborhood. Thank you.

13 CHAIRPERSON MITTEN: Thank you. Questions
14 for Ms. Cort? Any questions, Ms. Giordano?

15 MS. GIORDANO: No questions.

16 CHAIRPERSON MITTEN: Mr. Hunter?

17 MR. HUNTER: No.

18 CHAIRPERSON MITTEN: Okay. Thank you.

19 MS. CORT: Thank you.

20 CHAIRPERSON MITTEN: Anyone else who would
21 like to testify in opposition? Anyone else? Okay.
22 Now we'll have Ms. Giordano and Mr. Costella come back
23 up.

24 MS. GIORDANO: Yes. I just wanted to ask
25 Mr. Costella to respond to the issue of what was on

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1 the site previously.

2 MR. COSTELLA: Okay. Previously what was
3 on the site in relationship to the buildings and to
4 the parking lot, there was a 10 car parking lot that
5 was there for quite sometime, three buildings. I want
6 to get to the nature and type of the buildings in a
7 moment. And what we are doing is requesting an uptick
8 from the 10 cars to 23 cars.

9 I would like to recap some of the issues
10 that were brought up here in relation to historical
11 preservation and as they relate to the April 6th
12 meeting. I presented this project at the ANC meeting
13 and was asked by the members about the age of the
14 buildings and nature and type, and I was told that
15 they were of value, historical value. I asked the ANC
16 to share their data with me, their architectural data
17 of how the buildings were valued and what historical
18 presence they presented.

19 I did not receive any information. I got
20 buckled brows. When I explained to them that, in
21 fact, the buildings were derelict, that, in fact, they
22 were left open, that, in fact, the president of our
23 institution has concerns of safety and people going
24 into these derelict buildings and doing bad things,
25 that we were to take them down for that reason. And

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1 I will follow-up with a meeting that occurred on the
2 17th with one of the ANCs, a Phil Spalding, to that
3 and we moved forward more on the April 6th meeting.

4 In relationship to the safety issues, I
5 just stated that the university had that parking lot
6 in operation for a good many years. We have had zero,
7 no incidents of any safety concerns. When I asked for
8 the ANC to present traffic consultants' reports on
9 safety issues, I received no information. Our
10 architectural firm has stated to us that they perceive
11 a minuscule uptick in traffic from 10 cars to 23.
12 This was also a point of discussion that we had just
13 recently with the Department of Transit and they also
14 concurred with our assessment.

15 Something else interesting happened on
16 April 6th. The community that was so up in arms about
17 this particular lot asked if the university would be
18 receptive to the community utilizing the lot on off
19 hours. I just wanted to put that in the record.

20 Now, let me follow-up on my meeting with
21 Mr. Spalding, Phil Spalding, and this occurred on the
22 17th of this month. I sat with Mr. Spalding and
23 showed him pictures of the dilapidated buildings and
24 at that meeting he also concurred that there is no
25 architectural fabric to those buildings and that they

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1 were, in fact, derelict. I wanted to share that with
2 you. Thank you.

3 MS. GIORDANO: We can put those pictures
4 in the record. I don't think you have them here this
5 evening, but we're happy to do that, if it's relevant.

6 CHAIRPERSON MITTEN: I don't think it's
7 going to be helpful to us, because they are not there
8 anymore.

9 MR. COSTELLA: Yes, right.

10 CHAIRPERSON MITTEN: So you said that the
11 university had been parking on 10 spaces?

12 MR. COSTELLA: Yes.

13 CHAIRPERSON MITTEN: So you're here now
14 for permission for an interim use, and was there also
15 a special exception granting the use to the
16 university?

17 MS. BENNETT: No, there was not. This was
18 an informal parking lot, otherwise known as it was not
19 appropriately permitted. Ms. Cort is correct.

20 CHAIRPERSON MITTEN: Okay. So there are
21 10 people informally parking there and then the other
22 13 people, where are they parking now?

23 MR. COSTELLA: Ma'am, let me clarify that.
24 There were 10 people parking there previously. The
25 other folks that were parking were parking at

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1 different lots around the campus. And what we have
2 done is taken the footprint of the existing structures
3 that we took down and expanding that footprint to a
4 total of 23 cars.

5 CHAIRPERSON MITTEN: So just so I
6 understand what you just said, so 13 people were
7 parking elsewhere?

8 MR. COSTELLA: Yes.

9 CHAIRPERSON MITTEN: In campus, in
10 university-controlled parking?

11 MR. COSTELLA: Either in university-
12 controlled parking or on the street, competing on the
13 street, yes.

14 CHAIRPERSON MITTEN: Okay. Anyone else,
15 questions? Follow-up questions, anyone else?
16 Commissioner Hunter, did you have any follow-up
17 questions?

18 MR. HUNTER: Yes, I did actually.

19 CHAIRPERSON MITTEN: Okay.

20 MR. HUNTER: Mr. --

21 CHAIRPERSON MITTEN: I need you to turn
22 that mike back on.

23 MR. HUNTER: Mr. Costella?

24 MR. COSTELLA: Yes?

25 MR. HUNTER: Isn't it true that a store

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1 was open and operating in the building that was
2 demolished?

3 MR. COSTELLA: Yes.

4 MR. HUNTER: Okay. Therefore, your
5 testimony that the building was derelict and it had
6 absolutely no positive use was untrue?

7 MR. COSTELLA: No, let me clarify. There
8 are three buildings, two derelict. One was historic
9 and was not operative at the time.

10 MR. HUNTER: Okay. Does that same
11 clarification apply to your representation regarding
12 Commissioner Spalding's opinion regarding the historic
13 value of the buildings?

14 MR. COSTELLA: I don't understand the
15 question.

16 MR. HUNTER: Well, I spoke to Mr. Spalding
17 today who would be here, but he is out of town, and he
18 was very, very disturbed that the building, the 100
19 year-old building, was demolished. He did not
20 represent in any way that he did not feel that that
21 building lacked any historic value and I object to the
22 representation that he did say that.

23 MR. COSTELLA: That is my recollection of
24 the meeting. That's all I can say.

25 CHAIRPERSON MITTEN: Okay.

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1 MR. HUNTER: Thank you.

2 CHAIRPERSON MITTEN: Thank you. Okay.
3 Anyone else? All right. Did you have some closing?

4 MS. GIORDANO: Only that this is an
5 interim use. The university is going to clean up this
6 lot, which I understand right now just has gravel and
7 some straw bales on it and pave it appropriately.
8 We'll look at impervious surface and see if that is
9 cost effective, but the university's campus planning
10 process will be undertaken soon and we'll be back in
11 2008 to, hopefully, have some plan for this property
12 or we will have to discontinue the use of this lot
13 after five years.

14 CHAIRPERSON MITTEN: Are these newly
15 acquired properties?

16 MS. GIORDANO: Yes, only a year and a half
17 ago.

18 CHAIRPERSON MITTEN: Okay. Okay.

19 MS. GIORDANO: And they were vacant. The
20 two buildings were vacant when the university bought
21 them.

22 CHAIRPERSON MITTEN: Okay. Well, what I
23 think we'll do is, as I sort of vetted a little while
24 ago with Commissioner Hunter, is we'll leave the
25 record open until 3:00 p.m. on May 26th for you all to

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1 do some additional work with the ANC, so then we would
2 allow any additional information to come in from the
3 ANC and anything that you wanted to amend in response
4 to your conversations with the ANC.

5 We would like to get Drawing C9 that is
6 referenced in Drawing A1.0, I think. Also, if you
7 could reconcile your plan with the DDOT recommendation
8 and have any additional submission about that, and
9 then give any consideration that you might want to the
10 use of pervious materials. We would be interested in
11 that as well.

12 Then after the 26th, we would have until
13 June 2nd for responses to those additional submissions
14 and any proposed findings of fact and conclusions of
15 law that were submitted, and then we can take up this
16 matter at our June 12th meeting. And that's it
17 because we're under the BZA rules.

18 So I thank you all for your participation
19 this evening.

20 MR. COSTELLA: Thank you.

21 MS. GIORDANO: Thank you.

22 CHAIRPERSON MITTEN: And we're adjourned.

23 (Whereupon, the Public Hearing was
24 concluded at 7:29 p.m.)

25

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