

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

JUNE 6, 2006

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 1:00 p.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Chairperson
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OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Secretary
BEVERLEY BAILEY	Sr. Zoning Specialist
JOHN NYARKU	Zoning Specialist
TRACY W. ROSE	Sr. Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL:

SHERRY GLAZER, ESQ.
JACOB RITTING, ESQ.
LORI MONROE, ESQ.

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OFFICE OF PLANNING STAFF PRESENT:

STEVE COCHRAN

The transcript constitutes the minutes
from the Public Hearing held on June 6, 2006.

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

2:54 p.m.

CHAIRPERSON GRIFFIS: Good afternoon, ladies and gentlemen. Let me call to order our 6th of June, 2006 afternoon hearing of the Board of Zoning Adjustments for the District of Columbia. My name is Geoff Griffis, Chairperson. Joining me today is Vice-Chair Ms. Miller and Mr. Etherly. Representing the National Capital Planning Commission is Mr. Mann and with us this afternoon is Ms. Mitten from the Zoning Commission.

Copies of today's hearing agenda are available for you. They are located at the table close to the door where you entered into if you need to look at it. You may want to check that you are in the right place because you're it today, our only schedule.

As you may have heard, the other case has been withdrawn so we are going to move ahead deliberately with this. We apologize for our late start this afternoon. We had a very long morning meeting for decisions. In fact, quite a lot was accomplished. However, here we are and let's move ahead to the order of procedures.

Of course, for all special exceptions and

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1 variances is as follows. First, we hear from the
2 applicant and the presentation of their case.
3 Secondly, we will hear any Government reports attended
4 to the application. Third, we'll hear from the
5 Advisory Neighborhood Commission in which the property
6 is located.

7 Fourth will be persons or parties in
8 support of an application. Fifth will be persons or
9 parties in opposition to the application. Sixth,
10 finally, we'll hear from the applicant again any
11 closing remarks or rebuttal testimony that are
12 required.

13 I'm going to skip right through this and
14 if we run into major difficulties with all our
15 regulations, I'll point them out to you to make sure
16 you are aware. But a very important aspect of a
17 public hearing, of course, is cross examination.
18 Cross examination of witnesses is permitted by the
19 applicant and/or parties in the case. As I indicated,
20 the ANC is a party automatically in the case that is
21 before us today.

22 The Sunshine Act does require that we hold
23 all our hearings in the open and before the public.
24 We do enter into executive session both during and
25 after hearings on cases and this is used for the Board

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1 to review cases and/or deliberate on cases. That is
2 in accordance with our rules, regulations and
3 procedures. It is also in accordance with the
4 Sunshine Act.

5 The decision of this Board in contested
6 cases, of which all cases before us in variances and
7 special exceptions are contested, must be based
8 exclusively on the record that is created before us.
9 That is what we are about to embark on. We do ask
10 that if we recess or for any reason we are off the
11 dias this afternoon, we ask that you not engage us in
12 personal conversation so we don't give the appearance
13 of receiving information outside of the record that is
14 about to be set forth and created.

15 With that, let me say a very good
16 afternoon to Ms. Bailey on my far left with the Office
17 of Zoning, Ms. Monroe with the Office of the Attorney
18 General, and Mr. Moy will be joining us again shortly
19 -- I'm sorry, on my right with the Office of Zoning.

20 At this time I'm going to ask that anyone
21 that will present testimony to the Board if you would
22 please stand and give your attention to Ms. Bailey.
23 She is going to swear you in.

24 MS. BAILEY: Would you please raise your
25 right hand. Do you solemnly swear or affirm that the

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1 testimony that you will be giving this afternoon will
2 be the truth, the whole truth, and nothing but the
3 truth?

4 WITNESSES: I do.

5 CHAIRPERSON GRIFFIS: Excellent. Thank
6 you all very much. With that we are prepared to hear
7 any preliminary matters. Preliminary matters are
8 those which relate to whether a case will or should be
9 heard today, requests for postponements or
10 withdrawals. We have had already a withdrawal which
11 was a preliminary matter already taken care of. Let
12 me ask if there are any preliminary matters from
13 anyone here present this afternoon on any other cases?
14 Noting not any indication of any preliminary matters,
15 Ms. Bailey, are you aware of any preliminary matters
16 for the Board's attention?

17 MS. BAILEY: Mr. Chairman, Members of the
18 Board, to everyone, good afternoon.

19 CHAIRPERSON GRIFFIS: Good afternoon.

20 MS. BAILEY: The only preliminary matter
21 that I have you have already stated, Mr. Chairman, and
22 so there are no others from the staff.

23 CHAIRPERSON GRIFFIS: Excellent. Then
24 let's move ahead and call our case for the afternoon.

25 MS. BAILEY: Application No. 17483. This

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1 is of the RLA Redevelopment Corporation, pursuant to
2 11 DCMR 3103.2, for variances from the residential
3 recreation space requirements under Section 773, and
4 a variance from the loading berth requirements under
5 Subsection 2201.1, to allow the construction of a new
6 mixed-use building, residential/retail, in the C-2-B
7 District at premises 1414 Belmont Street, N.W. (Square
8 2660, Lot 235).

9 CHAIRPERSON GRIFFIS: Excellent. Thank
10 you very much.

11 I would just have you introduce yourself
12 for the record.

13 MR. BLANCHARD: Yes, Chairman Griffis and
14 Members of the BZA, my name is Lyle Blanchard of
15 Greenstein, DeLorme, and Luchs. With me today are
16 three witnesses, Mr. Matt Morrin from the NCRC
17 representing RLARC, the property owner, Mr. Gilberto
18 Cardenas from the Jiar Lynch Companies representing
19 the developer and development partner, and Rachel
20 Chung of Sorg and Associates, the architect.

21 CHAIRPERSON GRIFFIS: Excellent. Before
22 you go too far, I just want to make a disclosure that
23 I am very familiar with this piece of property for
24 numerous reasons. One being I live close to the area
25 and actually have known it since the early '90s as I

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1 studied it on one of the corporations I was on the
2 board of.

3 More specifically I was on a team that
4 responded to the RLARC request for proposals and was
5 not obviously selected or I would be on that side of
6 the table maybe. Not sure. I want to disclose that
7 and in all seriousness ask the applicant and the
8 applicant's representative or anyone here, especially
9 the ANC, whether anyone would have difficulty with me
10 continuing to hear this case.

11 I think I could say assuredly that I will
12 be able to fairly and impartially judge the variances
13 before us at this time. But it should be well known
14 that I have probably more information or knowledge of
15 this site that may come into the record and will have
16 to filter that or somehow put it aside. I'll open it
17 up for comments or opposition. No need to actually
18 substantiate it if you would like. Just request me to
19 remove myself and I will and I will also take
20 questions from the Board but I'll put it to you first.

21 MR. BLANCHARD: We have no problem, Mr.
22 Griffis, with your participation.

23 CHAIRPERSON GRIFFIS: Questions? It is a
24 nice afternoon. I could take a walk. Okay. Very
25 well then. Let's move ahead with openings unless

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1 there are other comments or questions. Okay. Let's
2 move ahead.

3 MR. BLANCHARD: Mr. Griffis, actually
4 Beverley Bailey has done a fine job of summarizing the
5 statement of the case which is we are asking for two
6 variances today, area variances, one from the loading
7 requirement under 2201.1 for a 50-foot loading berth.
8 This would apply to a residential building with over
9 50 units. And the second variance is to reduce the
10 amount of required residential recreation space under
11 Section 773.

12 We have submitted beyond just the original
13 application a prehearing statement several weeks ago
14 which you should have in the file. We have also
15 appeared before the local ANC and I believe there is
16 a letter from the ANC in the hearing file as well in
17 support of these variances. Your Honor, through our
18 testimony and the documents already in the record, we
19 hope to show that we meet the variance test for these
20 two variance requests.

21 CHAIRPERSON GRIFFIS: Excellent.

22 MR. BLANCHARD: With that I would like to
23 turn to Mr. Morrin to have his testimony on the
24 RLARC's involvement.

25 CHAIRPERSON GRIFFIS: Good. Good

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1 afternoon.

2 MR. MORRIN: Thank you and good afternoon.
3 My name is Matt Morrin representing RLARC here today.
4 As I am sure many of you are aware, RLARC was
5 established by statute in 1998 as the successor agency
6 to the former redevelopment land agency which acquired
7 this site between 1969 and 1973.

8 In 2004 we conducted a developer
9 competition and RFE for this site and selected a team
10 led by the Jiar Lynch companies and have been
11 proceeding with the negotiation of transactional
12 documents and development plans generally for the site
13 since then. We executed a land disposition agreement
14 on March 23rd of this year with that team on the basis
15 of the submission on the basis of which, again, they
16 were selected.

17 Following their selection this team
18 approached us with a request to pursue the variances
19 that are before the Board today on the basis of a
20 detailed survey of the land that they conducted which
21 revealed two key issues. One was that the site was
22 slightly smaller than had been originally thought due
23 to the encroachment of 14th Street onto this
24 particular site area. Also due to the proximity of
25 the Metro tunnel.

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1 In this project as in every other RLARC
2 project we are looking to achieve as many community
3 benefits as we can. In this particular case there is
4 a substantial amount of affordable housing that is
5 included. There is a substantial amount of affordable
6 retail space. We have also been very pleased with the
7 design process that the team has gone through in which
8 they have worked very closely with the ANC and with
9 the community.

10 In short, we are very pleased with the
11 level of community benefit that is being achieved
12 here. One of the things I guess that we want to
13 emphasize is that although we always want to maximize
14 community benefit, we don't think that this particular
15 project or any other project can achieve absolutely
16 every possible desirable outcome with regard to
17 community benefits and so we are in support of the
18 variances which are being pursued.

19 We think they are appropriate. We think
20 they are fair. We think that the project is still an
21 excellent one which does the very best possible job in
22 trying to maximize all community benefits
23 understanding that not absolutely everything can be
24 achieved in one project.

25 VICE-CHAIRPERSON MILLER: I would like to

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1 ask a follow-up questions. What do you mean that the
2 property is smaller than they thought? How does that
3 happen?

4 MR. MORRIN: The actual land area of the
5 site was reduced after we received responses to the
6 RFP. The actual parcel of land that we own continues
7 to be the same size that we always thought it was but
8 14th Street actually was built on the private land,
9 the land owned by RLARC so it was a small piece of
10 land that is being deeded back to DDOT in order to not
11 force the realignment and reconstruction of 14th
12 Street. That did cause a redesign process based on
13 the fact that the actual meets and bounds of the site
14 are not all buildable.

15 The actual amount of land is small that is
16 being deeded back but it did force a redesign process.
17 In the course of identifying that piece of information
18 and also in the course of identifying the proximity of
19 the Metro tunnel, we were approached by the
20 development team and asked to consider these requests
21 for variances which we granted.

22 VICE-CHAIRPERSON MILLER: So we are going
23 to hear that the request for variances are directly
24 related to those two aspects?

25 MR. MORRIN: In addition to other factors

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1 but that was the sequence of events under which we
2 considered them.

3 VICE-CHAIRPERSON MILLER: Okay. Thank
4 you.

5 MR. CARDENAS: My name is Gilberto
6 Cardenas. I work with Jiar Lynch Companies. Just to
7 add to what Matt was saying, we have to go through
8 a -- to obtain a new subdivision on the lot, and I
9 have the document here if you guys want to look at it.
10 The team the Jiar Lynch Companies put together for
11 this particular project is 100 percent LSEDE team. I
12 think this is one of our biggest assets on this
13 particular project.

14 Our approach on the sign and development
15 of the project has always been to have community
16 participation in our projects. The community
17 participation started, I would say, about a year ago.
18 We started with the schematics on the project. We met
19 with different community organizations such as
20 Meridian Hill Neighborhood, Southern Columbia Heights
21 Neighborhood Association, Belmont Neighborhood
22 Association, and the Development Corporation of
23 Columbia Heights.

24 We also had several meetings with the ANC
25 Commission and with Mike Smith. I don't remember

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1 exactly his ANC but we met with him several times. We
2 also presented to the ANC Commission several times.
3 The community had real input on the project, as well
4 as with the architect incorporated in some of those
5 comments.

6 We heard repeatedly from them issues about
7 parking. We heard from them issues about having a
8 building that is friendly to the neighborhood. I
9 think we are able to accomplish all of the
10 requirements and all their needs on this particular
11 project.

12 The project, as Matt was mentioning, is
13 based on the LDA, Land Disposition Agreement, has a
14 requirement for affordable units. We are very, very
15 proud to say that we actually exceeded that
16 requirement by 1.7 percent so we have a total of 31.7
17 of the sellable space is affordable. That is
18 distributed in different floors of the building. It
19 is also distributed in different types of units. We
20 have three bedrooms, two bedrooms, one bedroom
21 affordable units.

22 In addition to that we have 50 percent of
23 the retail space that we have is affordable and has
24 been offered to do local retail spaces now on U
25 Street. One of them is Wydel and the other is Trade

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1 Secrets. We are very proud of that process of keeping
2 the local retailers in our project. That's it.

3 MR. BLANCHARD: Ms. Chung, speak to the
4 variance test.

5 MS. CHUNG: Good afternoon. My name is
6 Rachel Chung with Sorg and Associates. Briefly I'll
7 just go over the project and then go into the
8 variances that we are requesting. The project is
9 located on the corner of 14th and Florida. It is a
10 mixed-use project. It is five stories with cellar
11 spaces below, two parking levels underground. We
12 have, like I said, mixed-use units. We have
13 residential, retail, office, and business. We are
14 also providing parking.

15 The two variances we are requesting, as
16 Lyle had mentioned earlier, were the variance for 55-
17 foot loading area and also the rec space, 15 percent
18 of the residential FAR that is required in the Zoning
19 Regulations.

20 I want to briefly talk about the site and
21 the uniqueness of the site. The site is unique
22 because it is not a true rectangular element. It has
23 three sides that front major streets. You have 14th
24 Street here and Florida, Belmont is towards the north,
25 and on the west side is a 20-foot alley. In our

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1 design we had to respond to those frontages. We
2 couldn't put back of the house elements on those major
3 fronts.

4 We have to look at where we could put some
5 of the service type items. Also the existing grade
6 from Belmont to Florida on the eastern side there is
7 about a 10-foot drop in grade from the north to the
8 south. On the western side towards the alley it's
9 more of like an 18-foot difference so we had to work
10 with the site.

11 We had to look at having the appropriate
12 cut and fill and not build things up or take too much
13 dirt away. There were a lot of constraints to the
14 physical property. Also, the tunnel is running along
15 north/south of 14th Street and we are in the area of
16 influence and we are going through the WMATA process,
17 the review process. One reason why we didn't want to
18 bring the building down further and excavate more is
19 purely because of that issue. There was a WMATA
20 tunnel that runs north and south.

21 When we looked at the loading requirements
22 of the building and providing a 55-foot loading area,
23 it was very difficult and pretty much impossible to
24 provide that in the back of the house part of the
25 building. We looked at providing access from the

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1 alley side for a truck to go into those spaces.

2 The maneuvering and turning distances
3 required that we would eliminate a lot of the units
4 that were on the corner. All the parking level in one
5 level would be eliminated also. We couldn't again
6 provide that additional level of parking because of
7 the WMATA tunnel and the cost associated with that.

8 What we looked at was providing a delivery
9 bay 12 by 20 in an area of a loading platform 200
10 square feet which is required by the Zoning
11 Regulations. We have it tucked away in this area so
12 it is not where some of the private gardens are off
13 the live/work units. There are some live/work units
14 on that first level.

15 We believe there is ample enough kind of
16 queuing area, unloading area that you can have the
17 delivery person go into a more private entrance or go
18 into the main entrance of the building. That are some
19 of the constraints we have to work with and that is
20 why we are requesting a variance on the 55-foot
21 loading.

22 Regarding the rec space, again, the site
23 was a challenge fronting all these streets. We wanted
24 to provide some rec space and with a real desire from
25 the community. As Gilberto was stating, we met with

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1 the community many, many times in the beginning and
2 had the desire providing ample number of parking
3 spaces. Especially parking spaces to the live/work
4 units.

5 We requested a variance on the rec space.
6 We dedicated about 1 percent of rec space in the
7 building which is on ground floor in the lobby area
8 where they can get together if they needed. We did
9 look at rec space on the roof, the low roof. The
10 design has some mezzanines and private gardens.
11 Throughout the project we have about 2,000 square feet
12 of private gardens in the project.

13 We would have to bring an elevator up to
14 the low roof. We would have to bring a second stair
15 for means of egress in the low roof. We would also
16 have to look at what really constitutes rec space,
17 official rec space, if we were to maintain the private
18 roofs because we have to at least have 25 feet wide
19 area for rec space. We also have mechanical equipment
20 on the roof.

21 In essence you really have this area that
22 you can count as rec space if we were to put rec space
23 on the roof. The expense of carrying that stair up to
24 the roof, carrying that elevator, strengthening or
25 beefing up the structure for the roof structure is an

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1 added cost. We have some numbers here that Gilberto
2 can talk about but it was not considered because of
3 those reasons so we are requesting that variance also.

4 CHAIRPERSON GRIFFIS: Good. Thank you.

5 MR. CARDENAS: Just to add a couple of
6 things to what Rachel was explaining, we receive
7 estimates from our construction company about the
8 additional stair, additional structure that is needed
9 up on the roof and bringing the elevator all the way
10 up to the roof. The estimated cost is in excess of
11 \$120,000 based on numbers that we have received
12 approximately six months ago.

13 MS. CHUNG: Also, we will -- Lyle will
14 pass out some supplemental sheets for the packet that
15 you had received previously that reflects some of the
16 new drawings that I have presented here.

17 CHAIRPERSON GRIFFIS: Do we have a roof
18 plan?

19 MS. CHUNG: Yes. We have a high roof and
20 a low roof.

21 CHAIRPERSON GRIFFIS: You have to be on a
22 mic. That's not in our site plan.

23 MS. CHUNG: You do have a roof plan. It's
24 a site roof plan. You do have that in your packet.
25 This is a revised drawing. At that time we were

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1 thinking about extending the elevator so that is what
2 has changed. I also --

3 CHAIRPERSON GRIFFIS: I thought I heard
4 you say there were some roof decks.

5 MS. CHUNG: There are. It is on the low
6 roof and it's fenced in. It's off the mezzanine floor
7 on the mezzanine level plan.

8 CHAIRPERSON GRIFFIS: There is no graphic
9 representing any roof deck. Is that right?

10 MS. CHUNG: It's an enclosure. Right now
11 we are calling it a private enclosure. It would be
12 fenced off of their loft space. That was submitted.
13 You should have a drawing. It's called "mezzanine
14 level plan."

15 CHAIRPERSON GRIFFIS: What are the dash
16 lines on that one?

17 MS. CHUNG: These dash lines are the
18 enclosures. We are outlining where the fenced privacy
19 enclosures would be. Each unit -- many of the
20 mezzanine units on the fourth floor will have a
21 private deck.

22 CHAIRPERSON GRIFFIS: Does anyone else
23 have that? Of course I don't. That's what I'm
24 looking at, mezzanine level plan.

25 MR. COCHRAN: It's one sheet in from the

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1 front.

2 CHAIRPERSON GRIFFIS: Yes. I'm probably
3 looking at the wrong one.

4 MS. CHUNG: We also did a graphic study of
5 looking at the square footage required -- of the
6 required rec space. About 6,700 square feet is what
7 is required. If we just looked at a typical floor
8 plan, the gray area is the area that we would have to
9 dedicate to rec space. That would eliminate nine and
10 a half units for this project. It is a graphic
11 representation of how much square area we would need.

12 CHAIRPERSON GRIFFIS: Excellent. Any
13 other questions? Yes, Ms. Miller.

14 VICE-CHAIRPERSON MILLER: The \$120,000
15 that was cited for what the cost would be to bring, I
16 guess, an elevator and the stairs up to make it
17 compliant with the code, I guess, what is the context
18 for that? I mean, what I don't know is other builders
19 that have buildings do this and they spend that amount
20 of money or whatever. Why is that a practical
21 difficulty for this applicant in particular?

22 MR. CARDENAS: I think that the big issue
23 here is that we are dealing with a project that has 30
24 percent of the units affordable. That is a big
25 requirement for us, especially in the current

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1 conditions of the market. We have been for the past
2 10 months receiving cost estimates from our contractor
3 and from our third party, the reviewer.

4 The cost keeps increasing for us, the
5 construction cost. We have seen increases between 10
6 and 15 percent recently. As you know, the sales are
7 staying in the same place so we are being pinched at
8 both ends. The cost to bring those stairs up is a
9 core requirement if we have the recreation space in
10 that area so we will need to bring up two sets of
11 stairs instead of just one and the elevator bring it
12 all the way up.

13 In addition to that we have to strengthen
14 the structure of the roof to be able to support all
15 that weight so that is a substantial change in this
16 particular building. As Rachel was explaining, the
17 building has two stories of concrete but everything
18 else is what we call stick construction, basically
19 wood construction. That is what is letting us put
20 this project on the ground. If we were going to do a
21 full concrete project, we basically couldn't afford
22 it.

23 CHAIRPERSON GRIFFIS: Anything else?

24 VICE-CHAIRPERSON MILLER: Am I correct
25 that you are providing more parking than is required?

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1 MR. CARDENAS: Yes.

2 VICE-CHAIRPERSON MILLER: So you are
3 providing more parking than required but you are not
4 meeting the required residential rec space. I guess
5 my question is what if you cut back on the parking to
6 provide the parking that is required? Could you then
7 afford to provide some residential rec space?

8 MR. CARDENAS: We -- the reason we are
9 providing the amount of parking that we have is
10 because we took the input from the community and we
11 are basically responding to their request. They were
12 actually asking us to have one-to-one ratio on the
13 number of units. We have a total of 72 units and we
14 were able to come up with 56 parking spaces. We did
15 it as a compromise to the community.

16 VICE-CHAIRPERSON MILLER: Okay.

17 MR. BLANCHARD: Sixty-two.

18 MR. CARDENAS: I'm sorry, 62 and 56.

19 VICE-CHAIRPERSON MILLER: It sounds to me
20 like you are doing something to respond to the
21 community as opposed to responding to the requirements
22 of our regulations.

23 MR. CARDENAS: We take the community input
24 very seriously. It's not like we are not taking your
25 recommendations seriously. That's not what I'm

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1 saying. We think that long-term is the way we see it
2 for the community is going to be better for them to
3 have additional parking spaces than have recreation
4 space. First if all, we see it as an increase in
5 condominium cost for the residents.

6 Right now if you look at the condo fees
7 that we are going to have on these buildings, the
8 condo fees for the market units are basically
9 subsidizing the condo fee for the affordable units.
10 You cannot impose a condo of \$300 or \$400 to an
11 affordable unit. If we have additional recreation
12 space, that condo fee may have to be increased because
13 you have to maintain it. If you put a gym out there,
14 you have to put money to maintain it.

15 Right now the building is not designed to
16 have a full-time person out there like a doorman in
17 the building. All of that is part of the design and
18 is trying to lower the maintenance cost on this
19 particular building so we see it both ways. We see it
20 as a benefit to the community now with the number of
21 parking spaces and down the road in not putting
22 additional weight on the tenants, especially in the
23 affordable units.

24 CHAIRPERSON GRIFFIS: Good. I think Ms.
25 Miller has hit on an interesting point that Ms. Mitten

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1 is probably going to follow up on. Let's be clear on
2 a couple of things because you made a comment. Ms.
3 Miller is not making any recommendations. We are here
4 with the same regulations as we had this morning and
5 last week and we will have next month.

6 The issue comes from -- the issue for us
7 obviously in this is to look at what is unique about
8 this particular property and what creates that
9 practical difficulty. We have heard a lot about the
10 community wants and that is important to the Board,
11 but we need to have, I think, a little bit more
12 substantiation of, as I am hearing the questions, how
13 that actually relates to directly the practical
14 difficulties in compliance. That is just for clarity
15 and direction. Ms. Mitten had some follow-up I
16 believe.

17 MS. MITTEN: I just wanted to maybe put
18 some of the questions in context. I think it is a
19 fine project so I don't want you to misinterpret what
20 I'm about to say. The Commission has tried to guide
21 the BZA in the way in which they are supposed to weigh
22 sort of project related desires like affordable
23 housing or certain kinds of amenities like more
24 parking than is required.

25 How they are supposed to weigh that in a

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1 variance case first is the things that are truly
2 unusual about a property like, in this case, the
3 sloping things. The case that brought this to a head
4 it was very clear that the only basis for granting the
5 variance was the project itself and some of those
6 requirements. This is a hybrid of that so the
7 questions we are trying to extract is sort of can we
8 sort of divide this and understand what is giving rise
9 to these practical difficulties.

10 I have to say, at least on the residential
11 recreation space side the only arguments that I've
12 heard advanced really relate to the program for the
13 building, not the unique conditions of the property
14 itself. I am struggling with that aspect in
15 particular so let me ask you a question.

16 Obviously the Office of Planning is
17 struggling with this, too, based on their report. Had
18 the Office of Planning discussed with any of you the
19 possibility of bringing this project to the Zoning
20 Commission as a planned unit development rather than
21 for variance relief to the BZA?

22 MR. MORRIN: That is not an option that I
23 have discussed with anybody in Zoning and I don't
24 believe they have either. To go forward with a
25 planned unit development is something that NCRC would,

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1 I think, think long and hard about whether or not that
2 was a desirable alternative given the point at which
3 we are with the design of this building, with the
4 community input process, with the fact that we signed
5 an LDA, with the fact that we are very close to
6 closing.

7 I think in order to go forward with the
8 PUD process, that is something that might
9 fundamentally in a very materially way alter the terms
10 of the LDA and alter the terms of the development plan
11 which we have already gotten a great deal of --
12 through which we have already gone through a great
13 many formal processes including public hearings,
14 including Board approvals and things of that nature.

15 I don't think it is something that we
16 would -- I can't speak for our organization in a final
17 way but my sense is that is not something that we
18 would be supportive of given the additional time and
19 given the more substantial changes that might involve
20 to current development.

21 MS. MITTEN: Okay. Then if one or both of
22 the variances fail, then what would be the approach
23 that would be taken at that point?

24 MR. MORRIN: That is something that we
25 would discuss with Jiar Lynch Companies but I don't

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1 believe that we would be supportive of going to a PUD
2 process in order to rectify that situation. We would
3 have to go back to the drawing board and see what the
4 best approach was.

5 MS. MITTEN: Okay. The reason I suggest
6 the PUD is not because I like more business for the
7 Zoning Commission and less business for the BZA. It
8 is because much of what is being proposed here is
9 really about the balancing between relief and
10 amenities being offered. That is what the PUD is for.

11 The variance process is different than
12 that and so you are at least entertaining as a
13 possibility the redesign of the building suggest,
14 well, maybe it really isn't -- maybe we really don't
15 meet the test for a variance because different design
16 choices would result in maybe eliminating the
17 requirement for a variance. That is what we are
18 struggling with up here.

19 Let me ask you a couple of technical
20 points if I could. On the first floor plan that we
21 got today that shows the trucks moving in and out.

22 MS. CHUNG: Yes.

23 MS. MITTEN: First let me ask --

24 CHAIRPERSON GRIFFIS: I'm sorry. That is
25 off the Belmont side to the service area?

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1 MS. MITTEN: Yes. Is Belmont Street one
2 way or two-way street? I don't know.

3 CHAIRPERSON GRIFFIS: Two way.

4 MS. MITTEN: Two-way street. Okay. The
5 trucks come off of 14th Street and then they manage to
6 maneuver their way into that loading bay. Then what
7 happens after they are ready to go?

8 MS. CHUNG: If they are ready to leave the
9 site, they would either back out and go out on Belmont
10 Street. They wouldn't go through -- they could if it
11 was a smaller 20-foot truck go in here and turn around
12 and go out, or they could just back out. This is a
13 backing in. It could go forward or backwards. This
14 diagram shows you that you could back it in that way
15 or drive in this way.

16 MS. MITTEN: Okay. Has DDOT looked at
17 this plan?

18 MS. CHUNG: They have actually requested
19 -- we had a meeting with them, several meetings, and
20 recently they requested a diagram showing the trucks
21 going in and out of Belmont.

22 MS. MITTEN: Okay. Requesting a diagram
23 and then looking at the diagram and approving the
24 diagram. Did we get to that point with DDOT or they
25 haven't seen the diagram yet?

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1 MS. CHUNG: They haven't seen the diagram.
2 We had a meeting with them this morning. Gilberto or
3 Lyle can talk about that meeting. They did not, I
4 believe, have an issue with going in and out. They
5 were just concerned how they would do it, how the
6 trucks would actually maneuver into those spaces.

7 MS. MITTEN: Okay. Given that there is
8 not going to be on site management at the property, as
9 I understood the testimony, who is going to control
10 the use of this loading area? Who is going to keep
11 people from -- in certain instances we have
12 conditioned the time at which a loading base can be
13 used, the size of trucks that people can use to move
14 in and out of property. What if somebody shows up
15 with one of those really big moving vans? They just
16 do whatever they do?

17 MR. CARDENAS: This is no different than
18 a lot of projects in D.C. I mean, there is only so
19 much that the Community Association is going to be
20 able to with their tenants, with people living there.
21 I mean, they are going to give them certain norms that
22 they have to follow, certain regulations.

23 Being out there day by day I think is
24 going to be very difficult. There is only so much
25 that they can do about this. Putting the regulations

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1 out there explaining how it needs to get used. Then
2 it has to be, I guess, a combination of common sense
3 in how this area needs to be used.

4 CHAIRPERSON GRIFFIS: Entrance and access
5 to that parking in the courtroom isn't controlled at
6 all?

7 MS. CHUNG: No. It is not gated. There
8 has been -- again, Gilberto may speak on this. There
9 has been discussion with DDOT about allocating some
10 spaces either on Belmont, Florida, or 14th Street for
11 those kinds of big --

12 MR. CARDENAS: We met with actually on
13 site a couple of times and we went through the
14 offices. They are in support of including a loading
15 area either on Florida, 14th Street, or even on
16 Belmont. It will be basically an area designated for
17 loading between the hours of 8:00 and 3:00 or 4:00 in
18 the afternoon.

19 The community was also in support of that.
20 The reason why they were is because they understand
21 that this is something that happens during the day and
22 that at night they can get the parking back so they
23 were supportive of that, too.

24 Speaking of that, the retail that we have
25 here is not really heavy retail. We are not going to

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1 have a McDonalds or any of that here. We have two
2 local companies from U Street moving in there and
3 probably a small coffee shop moving into the corridor.

4 MS. MITTEN: I'm not sure I understand the
5 options for rooftop recreation space. I'm sorry. You
6 just have to bear with me on this one, unless maybe
7 there is a different drawing that we got with the
8 packet we just received. Let me take a look. Maybe
9 if you can just point on the diagram somehow. The
10 mezzanine floor is the fifth floor which is a partial
11 floor. Right?

12 MS. CHUNG: Correct.

13 MS. MITTEN: Okay. So there is a fourth
14 floor roof.

15 MS. CHUNG: Correct. This is the fourth
16 floor roof.

17 MS. MITTEN: Okay. And is that what you
18 were speaking of when you were speaking of the
19 potential for residential recreation space?

20 MS. CHUNG: That would be the roof of
21 potential recreation space. Right now that roof is
22 servicing mechanical equipment, condensers, air
23 handling units, small air handling units, and private
24 terraces for the people on the fourth floor and there
25 are mezzanines to walk out off of their mezzanines

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1 outdoors in a fenced privacy area. They can have
2 tables and chairs off to the deck.

3 MS. MITTEN: But you don't have the
4 mechanical equipment shown?

5 MS. CHUNG: I don't have it shown. I have
6 just allocated an area. I have a dash line for the
7 allocated area.

8 MS. MITTEN: Oh, I see. Okay.

9 MS. CHUNG: It actually will be enclosed.
10 It won't be roofed. It will probably have a four-foot
11 high wall enclosure for sound because the compressors
12 do make some noise and we are conscious of that to the
13 units, the residences.

14 MS. MITTEN: And then --

15 MR. CARDENAS: One of the things I want to
16 add is we really looked at this carefully before
17 coming here today. The analysis that we did on that
18 roof, the reason why we can't really get the roof as
19 a community area, what is really preventing us is the
20 cost on that area because we have to bring up the
21 stair, bring up the elevator, and reinforce the roof
22 structure there.

23 That was really the critical issue in our
24 position on the roof. However, we have looked at
25 other options and these past couple of days we have

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1 looked at a couple of things that I'm going to let
2 Rachel present.

3 MS. CHUNG: We did look at some options
4 and I think even Office of Planning mentioned that in
5 their recommendation letter. We looked at eliminating
6 two parking spaces in the courtyard to devote to rec
7 space where they can put a barbecue, benches, seats,
8 and residences can use that space.

9 This is the first floor plan and prior we
10 had six parking spaces located in that area. We have
11 eliminated two parking spaces and created an outdoor
12 rec space with benches, barbecues, and thing like
13 that. We have located closer to the building so they
14 don't have to cross the parking lot to access it and
15 they have a sidewalk off the private entrance. We
16 have provided about 262 square feet in that area in
17 addition to the 416, I believe in the lobby space.

18 CHAIRPERSON GRIFFIS: In that calculation
19 I know the Office of Planning had some concern about
20 that. Did you count the entire lobby? Are you
21 subtracting out anything for circulation?

22 MS. CHUNG: No. We are not counting -- it
23 is a two-story lobby. We are not counting the upper
24 area.

25 CHAIRPERSON GRIFFIS: You mean the air?

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1 MS. CHUNG: Well, the stairs going up. We
2 are not counting the circulation.

3 CHAIRPERSON GRIFFIS: Are you aware of the
4 Board ever looking at that as counting towards
5 residential rec requirement?

6 MS. CHUNG: Have we ever looked at other
7 projects counting that as rec spaces?

8 CHAIRPERSON GRIFFIS: Or, more
9 importantly, have we? Are you aware of us --

10 MS. CHUNG: I don't know. I don't know
11 that.

12 CHAIRPERSON GRIFFIS: Okay.

13 VICE-CHAIRPERSON MILLER: The 262 square
14 feet that you were must mentioning, is that something
15 that is not in the application that is --

16 MR. CARDENAS: Right, it's not. It is
17 something that basically came out this week.

18 VICE-CHAIRPERSON MILLER: Okay.

19 MR. CARDENAS: It's not in your
20 application.

21 VICE-CHAIRPERSON MILLER: How does that
22 translate to percentage? You are supposed to have 15
23 percent and what percentage is it? I guess the lobby
24 was like 1 percent and what is this?

25 MS. CHUNG: I think it may be -- I don't

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1 have a calculator but maybe 1.5 or 2 percent. I mean,
2 probably 1.5.

3 VICE-CHAIRPERSON MILLER: Okay.

4 MR. BLANCHARD: This would add to rec
5 space by providing outdoor rec space. We tried to
6 offer concession or response, an alternative to the
7 concerns raised by OP in its report. I know we
8 haven't gotten to that as part of this hearing yet but
9 the applicant did have concerns about providing more
10 rec space and trying to balance that with the
11 difficulties that are faced with the unique shape and
12 really no back of the house.

13 You are faced with a small courtyard. Mr.
14 Cardenas or Ms. Chung can talk about how the parking
15 that is there is trying to address a need for those
16 live/work spaces. We are trying to balance a lot of
17 different needs.

18 MS. MITTEN: Right. That's why PUD would
19 be good but that is just an editorial comment. I
20 would like to make another editorial comment which is
21 that I know you guys are trying to be responsive to
22 the community. Part of this is for Mr. Spalding's
23 benefit, too, and other ANC Commissioners in other
24 wards.

25 It's just becoming increasingly

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1 frustrating when we have people coming to us all the
2 time. Affordability is a big issue and providing
3 parking is not -- doesn't necessarily go together with
4 that because it is more expensive for you guys to dig
5 holes in the ground to provide parking.

6 People who require affordable housing tend
7 to be those people who use public transportation, so
8 on and so forth. We find in so many communities that
9 the folks want so much parking that we need to get to
10 the point where we say -- if you would like us to help
11 you trim that back, we could possibly do that.

12 Basically over parking sites to satisfy
13 these external fears that already congested parking
14 conditions could get worse if there's one fewer
15 parking space that we could extract out of the
16 developer. In certain areas the Commission actually
17 struggled with this recently on a PUD that we had in
18 Adams Morgan.

19 It just doesn't make any sense to think
20 anybody in their right mind is going to bring one more
21 car to park on the street to Adams Morgan. Sort of
22 the market condition there is such that people won't
23 do that. It is just frustrating to me sitting here
24 and sitting on the Commission when people -- I
25 understand perfectly why you made the choice.

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1 It is very important to get community
2 support but when communities keep asking for more and
3 more parking, it is frustrating because we don't get
4 the full benefit of being in these transient friendly
5 locations. That's the end of that editorial comment.

6 MS. CHUNG: I think also, if I might add,
7 with the added 262 and the 416 rec space that we have
8 indicated here, the private terraces, that almost
9 2,000 square foot adds up to about 5 percent of the
10 required rec space. Keep that in mind also.

11 CHAIRPERSON GRIFFIS: Follow-up?

12 VICE-CHAIRPERSON MILLER: I have two
13 questions. What is the live/work area and how does
14 that create certain complications or needs in this
15 case?

16 MR. CARDENAS: The definition of live/work
17 area is a space that you can use to live and work in
18 the same place. What we have is we have units facing
19 Florida where you basically have two stories. The top
20 story is technically dedicated to retail space or to
21 have an office.

22 If you are a lawyer, you can use that as
23 an office. If you are an accountant, you can use that
24 as an office. Then the lower level is like a large
25 studio where you can actually live in there. It's got

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1 a kitchen, a full bath, and is dedicated for young
2 professionals or artists who want to have that.

3 MR. BLANCHARD: Unfortunately, Ms. Mitten,
4 we are in the C-2-B zone and we are not in the
5 Arts/Overlay. If we were a few blocks to the south,
6 the Board recently made a decision for the
7 modification to another BZA case that will change the
8 number of units or the breakdown of units because some
9 of the units in this other project were being called
10 live/work artists studios.

11 Here they are not necessarily artist
12 studios and we don't get any benefit because we are
13 not in the Arts/Overlay. These are essentially
14 professional offices that you could sleep in the couch
15 if you were working all night long or something and it
16 has a small kitchen and a bathroom.

17 VICE-CHAIRPERSON MILLER: Back to the
18 variance question. You basically stated that the
19 reason you can't put more residential rec on the roof
20 in accordance with the Office of Planning's
21 suggestion, even if you got a variance from the 25
22 feet, is the cost. Okay.

23 My question is, I guess, I hear you saying
24 that you are providing more parking than is required.
25 If we are talking about dollars, there is a tradeoff

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1 in what you spend your money on. I guess my question
2 goes to couldn't you get some of of that --- could you
3 get the \$120,000 somewhere else by cutting parking
4 spaces or something else, or is it not possible?

5 MR. CARDENAS: The difficulty we have
6 here, Ms. Miller, is we have a very complicated site.
7 When we were doing the analysis on this, that's what
8 really made us make all these changes. There is a
9 difference in height of about 15, 18 feet between the
10 top of Belmont and Florida Avenue.

11 That means that basically on Belmont you
12 have to be two stories under ground just to start with
13 to be able to be on ground on Florida. Based on those
14 parameters there is only so much you can do when you
15 are on the ground. Those are the spaces that we are
16 dedicating for parking and that is why we are using
17 that space for parking.

18 If we had to go another story basically
19 below the elevation where we are now, then it would be
20 a substantial cost. I guess in response to your
21 question is I think the site is very complicated. for
22 us to be able to get rid of parking, we couldn't
23 really use it for anything else because it's
24 underground facing Belmont.

25 VICE-CHAIRPERSON MILLER: Okay. So

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1 basically what you are saying is there is not a
2 tradeoff there because it has to be underground space
3 there. It's not like you could cut parking to save
4 money to put it into --

5 MR. CARDENAS: Exactly. The site is so
6 small and we have basically streets all the way around
7 so it really doesn't make sense. We looked at this at
8 the beginning of the project. We looked at making a
9 hole only where we were doing the parking.

10 Once you start doing excavation, once you
11 start doing the sheeting and shoring on that side, it
12 really doesn't make any sense for half of this tiny
13 little site. It makes more sense from the
14 construction standpoint and from the cost standpoint
15 to dig all the way around and be consistent on the
16 design.

17 If we start making cuts and going up and
18 down, the cost will kill us because of the size of the
19 project. This lot is not very big. It's only 15,000
20 square feet and we have all the restrictions from
21 Zoning, building codes. It was very complicated to
22 get this together. The site is sloping down to
23 Florida.

24 MS. CHUNG: One thing I might add also is
25 Gilberto is right. Because of the site and the

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1 grading situation, you've got almost 18 feet that
2 you're excavating and it would be partially
3 underground. Also we have a height limit on this zone
4 and so we couldn't add another story. We couldn't add
5 another story because of the construction type we had
6 also. There were constraints because of the physical
7 site, the physical property lines, the WMATA tunnel
8 that is there, and other parameters.

9 I think what happened was we are asking
10 this relief because we are meeting all the other
11 parameters but in weighing what the community
12 requested, construction cost, and fulfilling the other
13 requirements, zoning and building code, these are
14 things we thought we could get a relief on.

15 MR. CARDENAS: This shows a section on
16 14th Street. This is the elevation of 14th Street.
17 This is P2 parking. As you can see, the Metro tunnel
18 is very close to us. This one here shows what I was
19 just stating a few minutes ago, the difference in
20 elevation between this point and back here. This is
21 Belmont and right here is Florida.

22 CHAIRPERSON GRIFFIS: I'm sorry. Maybe I
23 missed the initial question. What is this all leading
24 to?

25 MR. CARDENAS: It's in response to your

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1 question about the use of parking and how we could
2 offset the parking.

3 VICE-CHAIRPERSON MILLER: I guess the
4 basic question was it sounds like it comes down to
5 your estimate of \$120,000 that you can't spend to do
6 the stairways and the elevator. Part of my question
7 was why not? Can you cut the parking or whatever and
8 you're saying no. That is, I guess, one area.

9 I don't know all your cost. In some cases
10 it is not feasible to put it on a roof because of the
11 way the roof is set up. In your case it looks like
12 it's feasible and there is hardly any outdoor
13 residential rec being provided. Then the question is
14 why can't you do it and what is your practical
15 difficulty which comes down to an economics question.
16 Then my question was can't you shave somewhere else or
17 whatever.

18 MR. CARDENAS: Yes. The answer that I am
19 trying to explain to you is that because we are forced
20 to go two stories on the ground in this part of the
21 site. We really can't cut the P1 or P2 levels because
22 if we do, we are basically cutting a notch on the
23 property and it wouldn't be feasible that way.

24 VICE-CHAIRPERSON MILLER: Well, that
25 answers why you can't get savings from the parking.

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1 MR. CARDENAS: That's correct.

2 VICE-CHAIRPERSON MILLER: That is just one
3 piece of your building.

4 MR. CARDENAS: Right. I don't know what
5 other area you are thinking that we could save on.

6 VICE-CHAIRPERSON MILLER: I don't know but
7 that's the question. I guess it is your burden to
8 show that it is a practical difficulty for you to be
9 able to do this. The reason it is for you is not
10 because that it's not possible to put it on the roof.
11 Your reason is it's money that you don't have to put
12 there because I gather you are putting it elsewhere in
13 your building and you have a limited pool. You have
14 just shown why you can't take it from the parking.

15 MR. CARDENAS: That's correct. One of the
16 things that is really complicated on this project it
17 is very unique for its shape but it is also very
18 unique because we are close to WMATA. On this project
19 we are going to have to spend the same money that big
20 projects like P. M. Hoffman across the street spends
21 and that is a substantial burden because we didn't
22 anticipate it to be that much.

23 There are many, many factors coming into
24 this project and it is getting very, very difficult to
25 get it done. That is the biggest issue. We are

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1 building affordable housing. It is mixed-income
2 project. We are responding to the community as much
3 as we can and we are asking for some relief from this
4 because otherwise it is going to be very complicated
5 for us to build.

6 MS. MITTEN: Let me ask along the same
7 lines as what Mrs. Miller was asking you but maybe a
8 little less complicated. What is the practical
9 difficulty if we are looking at the first floor plan
10 since you showed us the configuration where you take
11 up two of the parking spaces there and have some
12 residential recreation space outside.

13 What is the practical difficulty from
14 eliminating the remaining four spaces and then --
15 maybe I'll ask this in phases. What is the practical
16 difficulty from eliminating those spaces and
17 converting them to residential recreation space?

18 MS. CHUNG: I think the live/work units,
19 there are six, and they are facing the courtyard.

20 MS. MITTEN: Yes.

21 MS. CHUNG: The intent of these live/work
22 units is to have some kind of customer, public, going
23 in and out of those spaces, clients going out of those
24 spaces and to provide the parking adjacent to those
25 areas was the intent. Those four spaces that are

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1 still there after we took two to provide additional
2 rec space would be dedicated to the live/work spaces
3 that are on that first floor.

4 CHAIRPERSON GRIFFIS: Can I ask you about
5 the live/work spaces? Is there anything, how do you
6 say, designed to differentiate that from a standard
7 studio or residential unit?

8 MR. CARDENAS: Yes. The live/work spaces
9 here, first of all, they are going to have --

10 MR. ETHERLY: I'm sorry for interrupting,
11 Mr. Cardenas. If you could just check your mic.
12 She's not picking you up on the sound.

13 MR. CARDENAS: Thank you. The live/work
14 units on the courtyard and on Florida are going to
15 have different finishes. They are a different design
16 than regular projects.

17 CHAIRPERSON GRIFFIS: How so?

18 MS. CHUNG: They also have direct access
19 entrance from grade, whereas these other units you go
20 through a lobby space. You go into an elevator.

21 CHAIRPERSON GRIFFIS: Okay.

22 MR. CARDENAS: They have also a
23 separate --

24 CHAIRPERSON GRIFFIS: So they access right
25 out.

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1 MR. CARDENAS: -- addresses.

2 MS. CHUNG: Yes.

3 MR. CARDENAS: Yes.

4 CHAIRPERSON GRIFFIS: And, actually, these
5 don't connect into the main corridor?

6 MR. CARDENAS: No. They have separate
7 addresses.

8 CHAIRPERSON GRIFFIS: Interesting.

9 MR. CARDENAS: The floors are different.
10 They are exposed concrete, exposed structure. The
11 condominiums are totally different.

12 CHAIRPERSON GRIFFIS: Okay.

13 MR. CARDENAS: I don't know if you guys
14 have the same copy that we have here or something
15 similar but we have private gardens to all of those
16 units. If there is a dentist or an attorney working
17 here, people are going to come walking through the
18 courtyard and be able to walk through a private garden
19 and then go into the unit. That is why we think these
20 units are very nice.

21 MR. ETHERLY: Just very quickly on that,
22 is all of that space accessible so, as you indicated,
23 that walking path through where it is labeled private
24 garden you can walk all the way through and it looked
25 for a moment like those were --

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1 MS. MITTEN: A curb?

2 MR. ETHERLY: Not a curb but they were
3 petitioned somehow.

4 MS. CHUNG: No. It is a private fenced
5 enclosure.

6 MR. CARDENAS: It's going to have a door.

7 MS. CHUNG: It's a door. There's a gate.

8 MR. CARDENAS: There's going to be a gate
9 here so when you go in there you are going to see a
10 gate maybe on the back or the side. You enter into
11 this little garden and then you enter into the
12 live/work unit.

13 MR. ETHERLY: I see. But as you are
14 making -- there we go. As you are making the circuit
15 through there, as you indicated, and you are walking
16 through here, can you continue walking through that?
17 No, you can't?

18 MS. CHUNG: No, but you can walk. There
19 is no curb. The sidewalk is flush with the parking
20 area and you can walk through that.

21 MR. ETHERLY: Okay.

22 MS. CHUNG: Again, the intent was those
23 parking spaces would be utilized for clients, for
24 those people that purchased these live/work units.

25 MR. ETHERLY: Gotcha. As you indicated,

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1 for any of the other units on the property, they would
2 have to make that same trek to get to that space.

3 MS. CHUNG: To those spaces, yes.

4 MR. ETHERLY: Okay. Thank you.

5 CHAIRPERSON GRIFFIS: Okay. Anything
6 else?

7 MS. MITTEN: I don't find that
8 particularly persuasive. I mean, you can still have
9 people access, walk through as if they were just
10 pedestrians if they parked on Belmont or some place
11 like that. They are not going to be coming during the
12 high parking demand times so maybe if you would just
13 entertain me a little bit more.

14 Let's say we didn't have to park cars
15 there and that were a full-fledged courtyard that
16 could be counted as residential recreation space and
17 that there were this access for pedestrians that exist
18 as a sidewalk, I guess, up against the building as it
19 is, then that driveway then could be treated
20 differently relative to loading. Couldn't it?

21 You don't have to have the driveway clear
22 for people to drive through to park and that is why
23 you tucked the delivery space off to the side,
24 couldn't that just become like a loading bay?

25 MR. CARDENAS: You are correct. If we

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1 didn't have the parking in there the courtyard could
2 be a totally different design. There is no question
3 about that. The problem that we're facing is on one
4 side we have these live/work units that will have
5 parking in front of them and will be easier to market
6 with those parking spaces in there.

7 MS. MITTEN: I understand that part.

8 MR. CARDENAS: That is one issue. The
9 other issue in this particular courtyard is what we
10 would like to do is not just have a concrete
11 courtyard. We are looking into some type of pavers to
12 make them more friendly and those type of things.

13 MS. MITTEN: Okay. I think I'm done with
14 that.

15 CHAIRPERSON GRIFFIS: Okay. Let's get
16 clarification then. What are we actually looking at?
17 Are we looking then to the first floor plan? Has this
18 been submitted with this 262 square foot patio?

19 MR. CARDENAS: Yes.

20 CHAIRPERSON GRIFFIS: Okay. So that is
21 the added residential recreation space. We are going
22 to have a recalculation of the circulation. It will
23 be taken out for the residential rec for the lobby I'm
24 assuming. Can I ask you a graphic question? That
25 service patio 262 square feet, it has a door to it?

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1 MS. CHUNG: Yes. It's a gate.

2 CHAIRPERSON GRIFFIS: So is that all
3 enclosed then? Is that what you're proposing?

4 MS. CHUNG: It's a low fence with an
5 enclosure.

6 CHAIRPERSON GRIFFIS: Okay. Low like
7 three feet or four feet?

8 MS. CHUNG: Yes, because there is parking
9 there.

10 CHAIRPERSON GRIFFIS: Sure. Right. A
11 little buffer from the parking of vehicles and all
12 that. Okay. With the 262 square foot patio that will
13 be buffered, you'll maintain four parking spaces and
14 then the loading.

15 MS. CHUNG: Yes.

16 CHAIRPERSON GRIFFIS: Okay. What is the
17 edge along the alley then?

18 MS. CHUNG: There is a -- are you talking
19 about --

20 CHAIRPERSON GRIFFIS: You've got a grade
21 drop, I understand that, but up top it shows like it's
22 a curb or a wall on the property, all the way down.

23 MS. CHUNG: We have a wall. We have a
24 property wall. It starts about five feet at Belmont
25 and it is flush so it gets taller as it gets down to

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1 Florida.

2 CHAIRPERSON GRIFFIS: Sure. That comes
3 out of the ground so there is that level which that
4 courtyard is setting up level as the alley drops.

5 MS. CHUNG: Correct.

6 CHAIRPERSON GRIFFIS: Okay.

7 MS. CHUNG: And as the alley drops, there
8 is parking underneath the courtyard, the parking
9 garage.

10 CHAIRPERSON GRIFFIS: Okay. Are these
11 parking spaces outside the live/work, are they sold
12 with the live/work units?

13 MR. CARDENAS: That's correct. Yes.

14 CHAIRPERSON GRIFFIS: Okay. Again, that
15 is just going to be self-monitored that no one else
16 kind of slips in there and parks in them. Indeed.
17 Okay. Quick question. The elevator that is showing
18 coming up from the main lobby, that services the
19 garage below the two levels?

20 MS. CHUNG: Yes.

21 CHAIRPERSON GRIFFIS: Okay. And that
22 comes up and walks out. You have access to that
23 courtyard. is that correct?

24 MS. CHUNG: From the interior corridor,
25 yes.

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1 CHAIRPERSON GRIFFIS: Right. Okay. There
2 is a cellar level which is what you were talking
3 somewhat about in terms of the excavation over towards
4 the Belmont. Then there is a window well in that
5 area. Is that right?

6 MS. CHUNG: Yes.

7 CHAIRPERSON GRIFFIS: And then the bays
8 continue above them. Okay. Good. Anything else at
9 this point? Any other quick clarifications? Anything
10 else in the case in chief?

11 MR. BLANCHARD: No, I believe that's it.
12 We will respond to other questions as we hear from the
13 other agencies.

14 CHAIRPERSON GRIFFIS: Yes. We have a
15 little more to go through and probably pick up some
16 speed. Let's go to the Office of Planning.

17 A very good afternoon, Mr. Cochran. Why
18 don't you present your report.

19 MR. COCHRAN: Thanks, Mr. Chair. A couple
20 of clarifications. We are working off of three sets
21 of plans so far. OP is working off of the May 22
22 plans. We haven't seen a copy of today's yet. I'll
23 try to work with figures that are updated as close to
24 today's figures as I can which I'm assuming means 62
25 units of housing still. We have gone from 58 to 56

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1 parking units which means that there is a 0.9 ratio of
2 spaces to a unit.

3 I had to extrapolate out to 41,650 square
4 feet and that is based on if 1 percent of it is 416
5 square feet, i.e., the lobby for the recreation space,
6 I worked up from there. The plans that I had had one
7 stair going to the roof and one elevator going to the
8 roof. Am I to understand that we now have one stair
9 to the roof but no elevator?

10 MS. CHUNG: Correct.

11 MR. COCHRAN: Okay. Thanks. And I would
12 like to clarify one other thing. Ms. Mitten asked
13 whether we had ever talked about a PUD. Actually on
14 May 11th we did talk about a PUD. We suggested it to
15 the applicant. The applicant initially got fairly
16 excited about the possibility of getting another floor
17 but then went back and looked at it and came to us
18 about a week later and said that a PUD was not
19 something that they thought would be appropriate to go
20 for at this point. That was at our first meeting and
21 development review on this case.

22 OP is very supportive of this case. I
23 think like the Zoning Commission, which spent a lot of
24 time today -- excuse me, the BZA and a Member of the
25 Zoning Commission has spent a lot of time today trying

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1 to suggest possible ways in which the applicant might
2 meet some concerns. So, too, OP had tried to do that
3 in its report. We feel that the applicant has met the
4 variance test for the loading berth.

5 Our only reservation, as I think you can
6 tell, is with the degree of relief requested for
7 residential recreation space. It's not that we think
8 the applicant hasn't justified that some relief is
9 required. They certainly have demonstrated that.
10 It's the amount of relief. They are asking now, it
11 looks like, for about 1.5 percent. That is if you
12 include the entire lobby including all the circulation
13 space.

14 It still doesn't seem like they are
15 providing really effective recreation space. The
16 lobby is designed essentially for circulation, steps
17 leading to the first floor hall, to the fire stairs,
18 to mailboxes, and to the elevators. There is really
19 very little room for recreational function and the
20 applicant doesn't really say what the lobby recreation
21 space would consist of or how it would be used for
22 anything other than the lobby functions.

23 If this were a building that was a market
24 rate building, as his typical with many buildings
25 along 14th Street where it has one bedroom or one

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1 bedroom plus ten, OP perhaps would not be as concerned
2 about the loss of recreation space as we are today.

3 This is a building that's providing two,
4 and even three, bedroom units to presumably households
5 or families that have a number of people in the
6 households and with a broad range of incomes. The
7 applicant did list a number of outdoor public
8 recreation spaces in the neighborhood that would be
9 something that residents of this building would be
10 able to use.

11 OP feels that the Zoning Regulations
12 require a certain amount of on site recreation space
13 because you just can't substitute for having something
14 really close to home that is available most times of
15 the day or night or, in many cases, in different kinds
16 of weather.

17 In the case of families that might be
18 living in here looking at the size of the units, it
19 doesn't seem like there would be room for major family
20 dinners. There is no community room for children
21 within the building to play in. That just causes a
22 great deal of concern. As we looked at the plans, we
23 noted the eight roof decks that are up there on the
24 top level.

25 We thought maybe that would be a good

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1 substitute, or at least a partial substitute. Then
2 again you look at them and the eight roof decks are
3 serving only units that have one bedroom plus den, not
4 the kind of family units that we're concerned about.
5 We looked at that floor plan for the roof and we
6 noticed that not only do these one bedroom plus den
7 units have access to their private fenced in area but
8 there are gates that go out onto the rest of the roof
9 so they will have access to considerably more
10 recreation space.

11 That is what is suggested to us in
12 combination with looking at the old plans that have
13 not only the stair access but the elevator access.
14 That suggested to us the possibility of making all of
15 this into recreational space for everyone because at
16 that point up until today's hearing it looked like
17 simply by continuing the southern stair up one more
18 floor to the roof you could with appropriate variances
19 achieve recreation space on the roof.

20 If you look through your plans, you will
21 notice that the stairs on the north side of the
22 building go all the way from the basement all the way
23 up to the roof and the stairs on the south side go all
24 the way from the basement up to the fourth floor but
25 not to the roof. At that point we were looking only

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1 at the extension of stairs one level.

2 There may indeed be building code
3 requirements that require beefing up of roof
4 structure. We had not considered that but, again, the
5 public, or at least the people living in the top floor
6 units and their guests would have access to that same
7 roof structure that would need to be beefed up anyway.

8 We looked at that as a possibility. We
9 also suggested the possibility of looking at space in
10 the parking garage. We are not looking at a cost
11 savings per se. We are looking at a trade off,
12 substitution of parking spaces. We're not saying you
13 can save \$100,000 by not constructing these spaces.

14 We are simply saying or suggesting you
15 might want to lose those spaces and close a portion of
16 those parking spaces and use that for communal space
17 in the first level of the parking garage which would
18 have the fire stairs, the access by elevator, etc.,
19 and presumably could be made to meet code.

20 With respect to -- let me address a couple
21 of other things that the applicant brought up today.
22 There were concerns that the condo fees would get
23 overly high if you lost some of the market rate units
24 to provide recreation space. Well, OP isn't
25 suggesting that you lose any units to provide

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1 recreation space, just parking.

2 If that parking were to be sold, yes, of
3 course you would lose some income if it were to have
4 been sold with units. But that does not have to
5 transfer onto the cost of the condo fees for the
6 affordable units. You don't necessarily have to base
7 your condo fees on absolute square footage per unit.
8 You can base it on the par value of the units which
9 would then have that difference assigned to the market
10 rate units rather than to the affordable units.

11 Let me just sum up. I think it's clear
12 how we feel about the recreation space here. We
13 understand that the neighborhood is very concerned
14 about any new development that is going to come in and
15 would ideally want more than one-to-one ratio of
16 parking spaces per unit. It is getting 0.9 under this
17 plan.

18 I live in Adams Morgan. I completely
19 understand. There is a building next door to me that
20 is getting converted from a single-family house to
21 five condominiums and one townhouse and I'm quaking.
22 There is a point, as I believe Ms. Mitten said, where
23 one has to look at what the Zoning Regulations say and
24 what the appropriate balance is.

25 In this case OP feels that, not to sound

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1 hackneyed, but we really do feel that it would be more
2 important to provide residential recreation space for
3 families presumably with children than it is to
4 provide space for a couple or three more cars. That
5 concludes our testimony.

6 CHAIRPERSON GRIFFIS: Excellent. Thank
7 you very much.

8 Follow-up questions from the Board or the
9 Office of Planning? Cross?

10 VICE-CHAIRPERSON MILLER: I just wanted to
11 confirm did you say that in a previous version of
12 these plans there was an elevator and that since then
13 that has been taken out?

14 MR. COCHRAN: In the ones that you have
15 probably on your table that were filed May 22, that
16 had the elevator going up to the roof.

17 VICE-CHAIRPERSON MILLER: And do you know
18 why it was taken out?

19 MR. COCHRAN: I heard today that it is
20 because they are doing cost savings. It's value
21 engineering.

22 MS. CHUNG: If I may speak, also it is not
23 a code requirement to bring the elevator up to the
24 roof. One comment I would like to make, we show gates
25 on the privacy fences off the loft spaces because of

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1 a code requirement. The egress within the unit has to
2 meet X distance and so we had to provide that second
3 means of egress. That is why. If we didn't exceed
4 that length of distance, we would not have put the
5 gate but that was why.

6 CHAIRPERSON GRIFFIS: Which gate?

7 MS. CHUNG: The private terraces on the
8 mezzanine roof. There is a gate that leads one out to
9 the rest of the roof. That is there because the
10 travel distance within the unit is exceeded per
11 building code and we had to provide two means of
12 egress so you can go out through the gate onto the
13 roof into the stair or go through your unit.

14 CHAIRPERSON GRIFFIS: Okay.

15 VICE-CHAIRPERSON MILLER: I guess, Mr.
16 Cochran, I can see the appeal for residential rec
17 space on the roof. My question is, if I understood
18 you correctly, to suggest indoor residential rec space
19 it sounds like in lieu of some of the parking spaces
20 I'm wondering how appealing that is for residents to
21 actually use that kind of space or what your
22 experience is with that.

23 MR. COCHRAN: I doubt that it would be as
24 aesthetically appealing. But when you are down to a
25 choice of, "Can I have my family over for Easter or

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1 not?" these are good architects so they could design
2 a space that would be, if not appealing, at least not
3 offensive in the basement.

4 How many private little gymnasiums do we
5 see in condominiums that are in the basement? How
6 many condominium meeting rooms do we see that have
7 been in basements that have come through here?

8 VICE-CHAIRPERSON MILLER: I guess that is
9 part of my question because I think I have heard
10 applicants say they are not really used very much. I
11 guess you are envisioning -- you're envisioning some
12 kind of like family gathering in these rooms and I'm
13 wondering what do you mean. There's not going to be
14 a kitchen there. What is this going to be like?

15 MR. COCHRAN: I'm not trying to redesign
16 the entire building, although I know it sounds like
17 it, but there may well be a kitchen function down
18 there, or at least a warmup function. The BZA and the
19 Zoning Commission also have not typically been faced
20 with buildings that have had two and three bedroom
21 units and are targeted at 30 percent income. I think
22 people who don't use these spaces have been people who
23 can afford to go out and buy dinner and take advantage
24 of all the recreation space that we frequently refer
25 to half with tongue in cheek on U Street. I'm not

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1 sure that would be the case here.

2 VICE-CHAIRPERSON MILLER: Thank you.

3 CHAIRPERSON GRIFFIS: Anything else for
4 the Office of Planning?

5 MR. CARDENAS: No, sir.

6 CHAIRPERSON GRIFFIS: Excellent. Do you
7 have questions?

8 MR. CARDENAS: I have a comment now that
9 I'm listening to Steve.

10 CHAIRPERSON GRIFFIS: Okay. We'll return
11 to you for closing remarks. On some of the things
12 that the Office of Planning is purporting and then on
13 the drawing sets that we have now, and I'm looking at
14 the dash line, do you want to just walk through just
15 for clarity to make sure the Board is actually
16 understanding this roof area? If we take a look at
17 the mezzanine level plan, that is the top level of a
18 level below. That is where it walks out onto that
19 roof. Excellent. The one to your left is the roof
20 plan.

21 MS. CHUNG: I'll also put up a section.

22 CHAIRPERSON GRIFFIS: Two questions I
23 have. You made a comment -- well, first of all, let's
24 look at the site roof plan as compared to the
25 mezzanine level plan. On the site roof plan you have

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1 one roof at 195.5 and then the mezzanine roof which is
2 at elevation 195.5. I assume it's the same.

3 So you walk out off of that mezzanine
4 level onto that roof level. Right?

5 MS. CHUNG: Correct.

6 CHAIRPERSON GRIFFIS: Okay. Doesn't the
7 elevator serve that level?

8 MS. CHUNG: The elevator does not serve
9 that level.

10 CHAIRPERSON GRIFFIS: So you stop it at
11 the fourth level and not to the mezzanine level?

12 MS. CHUNG: It's not coming out of the
13 mezzanine level. On the new drawings mezzanine level
14 it's not coming out of the mezzanine level.

15 CHAIRPERSON GRIFFIS: Right. And that's
16 what has changed.

17 MS. CHUNG: Yes.

18 CHAIRPERSON GRIFFIS: So that is not
19 served there. Then this has probably no pertinence at
20 all but you just indicated that the gates are there
21 for the distance of travel.

22 MS. CHUNG: Yes. You want me to explain
23 that?

24 CHAIRPERSON GRIFFIS: Maybe.

25 MS. CHUNG: Okay. I can show you the

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1 first floor.

2 CHAIRPERSON GRIFFIS: Are you saying that
3 the mezzanine roof as labeled outside of that gate is
4 not going to be occupiable space? I'm not sure how a
5 gate unless it's fire rated changes your distance of
6 travel.

7 MS. CHUNG: On the fourth floor -- I
8 believe it's 75 feet. On the fourth floor where these
9 units have the mezzanine levels you have to be
10 anywhere in that space 75 feet from an exit. The main
11 exit would be your entrance. Because of the length of
12 travel going all the way up to the stairway out on the
13 upper level of the mezzanine floor and then out toward
14 your terrace because that is the distance I have to
15 count, the farthest distance in your terrace, to the
16 front entrance exceed 75 feet so we need a second
17 means of egress so that is the gate. The gate is
18 there so you can -- it is not a rated issue.

19 CHAIRPERSON GRIFFIS: How do you get out?

20 MS. CHUNG: How do you get out from --

21 CHAIRPERSON GRIFFIS: Oh, I see. You come
22 back into the building where the elevator used to be
23 into that stairwell.

24 MS. CHUNG: Yes.

25 CHAIRPERSON GRIFFIS: Gotcha. I thought

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1 what Ms. Mitten was talking about was questioning why
2 you couldn't animate all the rest of that area. Why
3 does your enclosure prior to the roof deck stop there
4 or why don't you have public deck out there? We have
5 heard the cost of restructuring the roof. Is it an
6 occupancy load?

7 MS. CHUNG: What will happen -- I mean, it
8 is a cost issue. We would have to extend the elevator
9 up for accessibility. We would have to extend the
10 elevator up. We would also have to extend the other
11 stair, this stair, the south stair up to that
12 mezzanine level, and also beef up the structure.

13 CHAIRPERSON GRIFFIS: So why not give the
14 whole thing to the private roof decks?

15 MS. CHUNG: We could look at increasing
16 the size.

17 CHAIRPERSON GRIFFIS: That will confuse
18 it. Why do I care? Another quick question, the
19 private roof decks on the left side. I see the ones
20 that are accessed off the mezzanine and then there are
21 others on the perimeter.

22 MS. CHUNG: Correct.

23 CHAIRPERSON GRIFFIS: Whose are those?

24 MS. CHUNG: Those are also for some of
25 these units.

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1 CHAIRPERSON GRIFFIS: So they walk out
2 onto the roof.

3 MS. CHUNG: Yes.

4 CHAIRPERSON GRIFFIS: And because of the
5 occupancy in the 170 square foot private decks you
6 don't have to have a second means and distance travel
7 is okay?

8 MS. CHUNG: Correct. If we provided rec
9 space on the roof we would have to count that as a
10 different occupant load, a different requirement, a
11 different means of egress requirement, those kinds of
12 things, bringing the stairway up. Primarily bringing
13 the stairway up and the elevator up to that level.

14 CHAIRPERSON GRIFFIS: Okay. What else?

15 VICE-CHAIRPERSON MILLER: Could you
16 clarify how much private rec space is being provided
17 or for how many units?

18 MS. CHUNG: It's almost 2,000 square feet
19 over 14 units.

20 VICE-CHAIRPERSON MILLER: Fourteen of the
21 units?

22 MS. CHUNG: Yes.

23 VICE-CHAIRPERSON MILLER: And are these
24 units in a certain category? For instance, they are
25 not the affordable housing units?

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1 MR. CARDENAS: The live/work units, I
2 think one of those units is affordable and will have
3 a private terrace.

4 VICE-CHAIRPERSON MILLER: One out of the
5 14 has a private?

6 MR. CARDENAS: One out of the 14. I can
7 double check that. Just give me a minute.

8 VICE-CHAIRPERSON MILLER: Okay.

9 CHAIRPERSON GRIFFIS: Do you want to know
10 how many of the affordable and what level of
11 affordability have private? Is that what you said?

12 VICE-CHAIRPERSON MILLER: I want to get a
13 sense of where the private rec space was.

14 CHAIRPERSON GRIFFIS: Okay. What else?
15 Anything else right now?

16 VICE-CHAIRPERSON MILLER: My other
17 question just goes to a clarification on the loading
18 berth. It looks like in the prehearing statement it
19 doesn't seem to match exactly up with the Office of
20 Planning's Report. Are you going to have a 30-foot
21 berth?

22 MS. CHUNG: No, we are having a delivery
23 bay which is 12 by 20.

24 VICE-CHAIRPERSON MILLER: Okay.

25 MS. CHUNG: And a loading platform, an

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1 area of 200 square feet.

2 VICE-CHAIRPERSON MILLER: Okay. I don't
3 see page numbers on here. In the prehearing statement
4 it's page 1, 2, 3. It says on the last paragraph,
5 "The 30-foot berth and the loading platform provided
6 by the applicant are sufficient for both the
7 residential and retail users." Is that a
8 misstatement?

9 MR. BLANCHARD: Yes, Ms. Miller. That
10 originally was going to be the 12 by 20 foot service
11 delivery bay. Plus we are trying to accommodate the
12 loading platform somewhere else along the side of the
13 building and it wasn't possible to do that.

14 VICE-CHAIRPERSON MILLER: How should that
15 read?

16 MR. BLANCHARD: It should read, "A 12 by
17 20 service delivery bay with a 200 square foot loading
18 platform directly adjacent to it."

19 VICE-CHAIRPERSON MILLER: Thank you.

20 CHAIRPERSON GRIFFIS: Anything else?

21 MR. BLANCHARD: If we could ask Mr.
22 Cardenas on redirect to respond to OP. We didn't get
23 the chance.

24 CHAIRPERSON GRIFFIS: Sure.

25 MR. CARDENAS: First I want to answer your

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1 question about the live/work units and the
2 affordables. There is only one affordable unit that
3 is going to have a terrace and it's on the courtyard
4 level. The other units are not because as requested
5 by NCRC and the community most of the affordable units
6 are three and two bedrooms and those units are not in
7 the area where we have the mezzanines. Those are
8 basically one and two bedrooms.

9 CHAIRPERSON GRIFFIS: Anything else right
10 now? Okay. We've got a little bit more to go. Let's
11 go to the ANC. A very good afternoon to you. We will
12 also give you an opportunity to cross any of the
13 witnesses that you've heard from up to date and the
14 Office of Planning, of course. You can do that all at
15 once. We do have your submission, Exhibit No. 22.
16 We'll turn it over to you, Mr. Spalding.

17 MR. SPALDING: Phil Spalding. I live at
18 1929 13th Street, N.W. and I represent ANC-1B. I
19 would like to start with asking Mr. Cochran a
20 question. I think you did a spectacular job of
21 deconstructing the residential recreation space. But,
22 as you mentioned, this is a tradeoff situation and I
23 don't think you spoke to the parking situation at all.
24 I would just like to get his response to the current
25 existing parking situation in square 2660.

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1 MR. COCHRAN: I'm sorry, Mr. Spalding. I
2 have not spent enough time there and haven't done a
3 parking survey to respond.

4 MR. SPALDING: Let me illustrate for you
5 where some of the concern from the community is coming
6 from. In most normal square in the city the
7 residential units are sort of by alleys and rear
8 places to put automobiles. Due to the intersection of
9 boundary/Florida Ave. Square 2660, which runs between
10 15th, 14th, Belmont and Florida Avenues has no alley
11 service. All of the residents who live in Square 2660
12 park in the street so there is no normal service to
13 the existing residential base in this square which is
14 one of the reasons that we got a strong demand for
15 additional parking in this.

16 MR. COCHRAN: Okay.

17 MR. SPALDING: Beyond that in my testimony
18 I would just stand on the submission that I made and
19 be willing to answer questions since obviously the
20 Commission came into play as asking for this tradeoff
21 between parking and residential recreation space.

22 CHAIRPERSON GRIFFIS: Excellent. Thank
23 you. Questions from the Board?

24 VICE-CHAIRPERSON MILLER: Mr. Spalding,
25 when you look at the rooftop provision for residential

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1 rec, as I understand it, and let me know if you have
2 a different understanding, there is not a tradeoff of
3 parking for residential rec.

4 MR. SPALDING: Indeed, and I do have no
5 difficulty. If you can find a way of working with
6 this developer and the architect to develop roof
7 residential recreation space, that would be a benefit
8 to all.

9 CHAIRPERSON GRIFFIS: Was there a
10 discussion at the ANC level from the community? Did
11 they meet with ANC Commissioners? We often see from
12 1B the actual test of the variances that are being
13 sought.

14 MR. SPALDING: No, not in this case. The
15 discussion was fairly straightforward. We had
16 actually had previous meetings with NCRC and with this
17 developer on this site. When they came in for this
18 variance we were already reasonably fully aware of the
19 situation and we did not go into the zoning test for
20 the variance.

21 CHAIRPERSON GRIFFIS: Okay. So, if I
22 understand what you just said, the community, and
23 certainly the ANC Commissioners, were well aware of
24 the substantive issues of this site and its
25 requirements and its requests?

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1 MR. SPALDING: Yes, prior to this. We
2 also have been dealing with the entire area. We have
3 a PUD just to the north of this, a PUD just to the
4 east of this, a PUD just to the south of this. This
5 is a corridor which is lined with considerations and
6 we are considering projects in this area on a regular
7 basis.

8 CHAIRPERSON GRIFFIS: Indeed. Yes.

9 VICE-CHAIRPERSON MILLER: In the ANC
10 letter or report you state that basically the
11 Commission is distressed by the reduction in
12 residential recreation space and in general what is
13 happening. I'm wondering what the ANC's point of view
14 is about that. What is distressing to the ANC about
15 it?

16 MR. SPALDING: Let me see if I can answer
17 that and it is difficult. The sophistication of ANC
18 Commissioners sometimes gets to the point that I think
19 half of their concern is with residential recreation
20 space and half of their concern is with public
21 recreation space which they conflate in their minds.
22 Ward 1, and especially this section of Ward 1, is
23 particularly deficient in public recreation space.

24 Unfortunately, there has been a perception
25 over the years that there was enough public recreation

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1 space in our area but it was because after the riots
2 we had a lot of empty lots. People didn't see them as
3 actually developable lots. They saw a lot of free and
4 open space.

5 As all of this is getting built up and is
6 getting dense, there is a certain concern with the
7 fact that there are very few parks. We have a few
8 small parks, one close to this facility, and we do
9 have public facilities inside structures, again, that
10 are close to this site. The community conflates those
11 two ideas and so when a request comes in for a
12 reduction in residential recreation space they
13 conflate those two ideas.

14 There is concern about recreation space in
15 the larger sense in terms of the Commission's ability
16 to perceive residential recreation space as a separate
17 item. I think sometimes that is considered and
18 sometimes it's conflated.

19 VICE-CHAIRPERSON MILLER: I also want to
20 comment that often in these applications we hear that
21 there is sufficient public recreation nearby and,
22 therefore it's not as necessary for the particular
23 building. But it sounds like what you are saying is
24 the reverse in this case, that there is limited
25 recreation space in which case it would be more needed

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1 in this building.

2 MR. SPALDING: Actually I'm giving the
3 wrong impression to you then.

4 VICE-CHAIRPERSON MILLER: Okay.

5 MR. SPALDING: There are actually a great
6 deal of recreation facilities. And speaking to Mr.
7 Cochran's point about the larger units and the
8 families that might move into a larger unit, this site
9 is about a block from a YMCA. It is about a block and
10 a half from the Boys and Girls Club. There are a
11 number of good, strong, long-serving community
12 facilities that serve as recreation.

13 We also have some outdoor. We have
14 Harrison Recreation which is, unfortunately, a bit
15 under-used at this point and a bit not maintained by
16 Parks and Rec but the space is available within about
17 a block and a half of the site. There is public
18 facility. In terms of the comments about restaurants
19 on U Street, there is certainly plenty of recreating
20 going on. For adult recreation it is not an area that
21 is under-served by ability to go out in the street and
22 find things to do.

23 MS. MITTEN: I have a question, Mr.
24 Chairman.

25 CHAIRPERSON GRIFFIS: Yes.

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1 MS. MITTEN: Mr. Spalding, you talked long
2 enough to remind me of something. Is the PUD that is
3 on the north side of Belmont, is that the old Pitts
4 Motel site?

5 MR. SPALDING: No. Well, that is actually
6 another. The PUD that is coming before the Zoning
7 Commission right now is the Nemi Shopping Center.

8 MS. MITTEN: No, I'm thinking -- I'm not
9 asking you what you were referring to. There is a
10 little zoning out there.

11 MR. SPALDING: Yes, there is a PUD also at
12 the top of Belmont which is the Pitts Hotel.

13 MS. MITTEN: Okay. So that's like in the
14 block that we are talking about.

15 MR. SPALDING: That is correct.

16 MS. MITTEN: Okay. Is my recollection
17 correct that one of the amenities of that PUD was that
18 they would have excess parking available to sell to
19 the neighboring community?

20 MR. SPALDING: That is correct.

21 MS. MITTEN: So doesn't that somewhat
22 ameliorate the need in this case to have an excessive
23 amount of parking?

24 MR. SPALDING: It mitigates some of the
25 need but remember that in this entire square there is

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1 not the normal parking availability for my existing
2 constituents. They are parking in the street because
3 they have no alleys. They have no backyards.

4 MS. MITTEN: I took note of that when you
5 testified to it. I just remembered that was a very
6 unusual condition of that particular PUD which I'm
7 sorry I don't remember the new name of. I just wanted
8 to take note of that for my colleagues here.

9 CHAIRPERSON GRIFFIS: We heard a variance
10 across the street and they had direct comment on that
11 PUD and whether that condition of the PUD is actually
12 being complied with. I thought maybe they had called
13 you by now. That is their responsibility.

14 MS. MITTEN: We don't do enforcement at
15 the Zoning Commission.

16 CHAIRPERSON GRIFFIS: Indeed. Okay. That
17 is an interesting point. One of the things that I
18 thought perhaps you were going to pick up on and have
19 it, and I want you to comment if you have one from the
20 ANC's perspective, is Office of Planning made a point,
21 not in their oral testimony but in their written
22 submission, about the size of the units and the need
23 for residential recreation spaces for meeting. Mr.
24 Cochran glimpsed it a little bit but in terms of do
25 you see this particular site would be any different in

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1 its demand for meeting space based on the program that
2 is being proposed?

3 MR. SPALDING: I have actually not seen
4 the Office of Planning's written report so I am just
5 responding to your question. My understanding is that
6 the development that is going on in the immediate
7 nexus of this site includes a number of public
8 facilities including restaurants that will provide the
9 kind of space that could be used for meetings or
10 family gatherings. I know that --

11 CHAIRPERSON GRIFFIS: What about condo
12 association meetings, management meetings with the
13 larger units? Is that a factor at all?

14 MR. SPALDING: As it is there are two or
15 three different neighborhood association and community
16 associations in an immediate nexus of this site. They
17 do use church facilities. They use a number of local
18 facilities for meeting space which is being met.

19 CHAIRPERSON GRIFFIS: Okay. Anything
20 else? Any other questions? Cross?

21 MR. BLANCHARD: No cross of Mr. Spalding.

22 CHAIRPERSON GRIFFIS: Excellent. Mr.
23 Spalding, thank you very much. I think we will have
24 to give you an award for the most patient ANC
25 Commissioner that is here through the duration.

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1 Excellent. I mean, as riveting as we are, we
2 understand that but we do appreciate you being here on
3 all these cases.

4 As you have said, in fact outlined not
5 only the PUDs but you didn't even start with the
6 variances and the special exceptions that we've seen
7 in your ANC which is substantial. There it is. I
8 don't have anything else for the ANC member. No cross
9 with that. Let's move on. We have had some
10 indication of discussions with Department of
11 Transportation.

12 I would imagine you are going to go
13 through public space also. Is that correct? We don't
14 have anything in the file, of course, with that at
15 this point and I don't have any other Government
16 agency analysis or reports on this unless the
17 applicant is aware of any other submissions that I am
18 not seeing.

19 MR. BLANCHARD: No, Mr. Chair. Again, we
20 have met with DDOT several times. They are aware of
21 this latest configuration of the service delivery and
22 loading area and see it to be a livable situation.
23 That's why they chose not to file a report at this
24 time.

25 CHAIRPERSON GRIFFIS: Okay.

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1 MR. BLANCHARD: We have spoken, as Mr.
2 Cardenas testified to the Curbside Management Office,
3 and at the request of the ANC to discuss retail
4 loading on either 14th Street or Florida Avenue. That
5 is the other -- I think Mr. Cardenas testified
6 earlier. I just wanted to clarify when he was talking
7 about on-street loading that it's close to the retail.

8 CHAIRPERSON GRIFFIS: Right. That was
9 what was indicated as opposed to during day hours and
10 obviously wouldn't conflict as they would be able to
11 use it in the evening. Okay. What else? Any other
12 questions? Clarifications? What other reviews are
13 you having to go through at this point? Are you aware
14 of any others?

15 MS. CHUNG: Government reviews?

16 CHAIRPERSON GRIFFIS: Yes. Are you
17 getting public space for the bay projections?

18 MS. CHUNG: Public space and we will be
19 submitting to the Permit Office, of course, but that
20 hasn't -- we are right in the cusp of doing that.

21 CHAIRPERSON GRIFFIS: Okay. Good enough.

22 MS. CHUNG: I'm sorry, and WMATA.

23 CHAIRPERSON GRIFFIS: Right.

24 MS. CHUNG: That's a long process.

25 CHAIRPERSON GRIFFIS: Just coordinating

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1 with them. Sure. Okay. I don't have anything else
2 then. I think we can move ahead for any closing
3 remarks that you have.

4 MR. BLANCHARD: At this time, Your Honor,
5 we would like your leave to take a brief five-minute
6 recess and come back.

7 CHAIRPERSON GRIFFIS: Excellent. I think
8 that would be great. Oh, let me ask you one question.
9 Does this go under NCPC review? No?

10 MS. CHUNG: No, I don't think so. No.

11 CHAIRPERSON GRIFFIS: Okay. Okay.
12 Interesting. We'll give you 10 and we'll stretch our
13 legs. We'll be back when you're ready.

14 (Whereupon, at 4:39 p.m. off the record
15 until 5:05 p.m.)

16 CHAIRPERSON GRIFFIS: Very well. Let's
17 resume. At our break we had let you go confer. Why
18 don't you let us know what you have come up with.

19 MR. BLANCHARD: Chairman Griffis and
20 Members of the Board, after a careful deliberation of
21 OP's comments and the ANC's and the questions from the
22 Board and what we are able to do within the
23 constraints of the site, we would like your permission
24 to submit an additional drawing within the next two
25 weeks.

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1 We need that time to figure out which of
2 two alternatives is more feasible for the applicant
3 and that would be either to convert the courtyard,
4 what are now six parking spaces, into outside
5 recreation space accessible to all the residents in
6 the building, or in the alternative, that portion of
7 the roof which is not the private spaces so far
8 indicated, or maybe possibly a reconfiguration of the
9 mechanical space, but that remaining portion of the
10 roof as rec space available to all the residents of
11 the building.

12 We would like to offer substantially more
13 square footage of recreation space. I cannot say at
14 this juncture the exact square footage but depending
15 on which is more feasible, either in the courtyard or
16 on the roof, it will be one of those two alternatives
17 and submit that for the record as our revised offer of
18 recreation space.

19 CHAIRPERSON GRIFFIS: Excellent.

20 MR. BLANCHARD: And I would like to sum up
21 otherwise by saying that we have attempted to show and
22 I think we have shown that the site is unique as far
23 as its shape, as far as its grade with different
24 grades along 14th Street and along the alley, and the
25 WMATA tunnel which is another feature of the property

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1 which makes it unique.

2 As a result there really is no back of the
3 house. You have three frontages and one alley. These
4 unique features of the site lead to practical
5 difficulties which make loading from the alley
6 infeasible below grade loading from a curb cut on
7 Belmont Street with a private drive somewhat feasible
8 but still not feasible enough to provide a 55-foot
9 loading berth.

10 The multitude of uses that we are trying
11 to provide in the building and its unique three-sided
12 shape constrains our ability to provide recreation
13 space. We are trying to provide the maximum amount of
14 affordable units. We are trying to provide more
15 parking. The design of the building is constrained by
16 the site and the site thus constrains where we can
17 provide public residential recreation space within the
18 building or on the outside of the site.

19 As a result, we will offer the exact
20 amount to be determined in a submission if you leave
21 the record open. A significant amount of recreation
22 space but I cannot say at this moment the exact square
23 footage. We will endeavor to be in harmony with the
24 general purpose of the Zoning Regs and Map by offering
25 this enlarged recreation space.

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1 We have endeavored to stay in harmony with
2 the Zoning Regulations and Map as far as loading to
3 the extent it can be provided on the site. As you
4 have heard from the ANC, they don't see an adverse
5 impact on the use and enjoyment of the nearby
6 properties as a result of the degree of variances that
7 we are requesting today.

8 CHAIRPERSON GRIFFIS: Excellent. Thank
9 you very much. I think that is perfectly appropriate
10 and I would ask as you do submit that for clarity --
11 we'll get the whole schedule down but for clarity a
12 diagram somewhat like you did in terms of just the
13 portraying of what would be the total required square
14 footage.

15 If we could have that in terms of what is
16 being counted. I would ask because it has been the
17 Board's procedure to look at residential lobbies as
18 counting towards residential rec with subtraction of
19 that area that is used for direct circulation. I
20 mean, it is pretty obvious that it has to be in the
21 regulations, although as general as they are, it has
22 to be laid out for passive or active recreation space.

23 I think that is an excellent idea. Let me
24 step back a little bit. Mr. Cochran from the Office
25 of Planning has some critical elements and I think it

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1 is appropriate to take a little additional time to
2 address those. One of the interesting pieces, and I
3 think the productive pieces that Mr. Cochran started
4 by saying is that they are very supportive of this
5 application. I would also add that this Board, at
6 least from my perspective, is also very supportive of
7 this project.

8 I think that we see there is great
9 uniqueness to this in terms of the primary facades as
10 has been indicated, in terms of the size of the lot
11 which hasn't really been stressed but with the
12 dimensional requirements of a residential building.
13 Clearly this can't be a full donut building. There
14 are elements that have to be stepped back and a little
15 bit of angulation and the grade change.

16 All those factor into making it somewhat
17 difficult in laying it out on the interior and those
18 spaces and animating those spaces. The WMATA and the
19 tunnel, I'm not sure how that relates but clearly
20 there is a cost implication and we are very well aware
21 of that and that factors into it.

22 My point of this is that we are very
23 supportive and we are so supportive that we are
24 actually looking to push this to get to a level of
25 which we feel is comfortable in terms of the Zoning

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1 Regulations and its requirements and its intent and be
2 productive in use, not just to be superfluous in
3 having additional square footages but if it's added,
4 make them usable and make them actually function as
5 they are intended to.

6 With that as we looked at, if you were,
7 say, in these options to animate the courtyard, it
8 would be very important for us to see a
9 plan as it is laid out with those square footage
10 calculations. Also perhaps some narrative or anything
11 else that you want to describe how it's going to be
12 landscaped or animated.

13 I would just use an example as the graphic
14 that you presented. It shows us our square footages.
15 We don't get the sense of what that is but it is a
16 label that went on two parking spaces. I think --
17 well, there it is. I think that is pretty clear.
18 Other comments, concerns, submissions? Yes, Ms.
19 Miller.

20 VICE-CHAIRPERSON MILLER: I think it looks
21 like a good project as well but we need to make the
22 findings that are required for the variance test. I
23 just want to suggest that it sounds to me that if you
24 provide rec space in the courtyard in lieu of the six
25 spaces, or if you provide a portion of the roof to rec

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1 space, it doesn't sound like you are going to meet the
2 15 percent. I would suggest that you address that
3 practical difficulty question as to why you can't --
4 what the practical difficulty is that would prevent
5 you from providing more space.

6 Also, I think that Mr. Cochran had a good
7 point that I think the Board would also suggest with
8 respect to the roof that even if you didn't meet the
9 required amount on the roof for the residential
10 recreation regulations that space would be a
11 mitigating factor in consideration of meeting the
12 residential recreation requirements.

13 CHAIRPERSON GRIFFIS: You mean adding more
14 private space on the roof?

15 VICE-CHAIRPERSON MILLER: Yes, if it
16 didn't meet the 25 feet but it was still provided as
17 residential -- provided as rec space but technically
18 didn't meet the 25 feet.

19 CHAIRPERSON GRIFFIS: I see. As we have
20 seen in other cases where there is actually a relief
21 from the total amount of square footage and a relief
22 from the dimensional requirements of the residential
23 recreation space. Okay.

24 MR. BLANCHARD: Mr. Chair, we would need
25 that concomitant relief for the dimensional

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1 requirements if that turns out to be the alternative
2 we submit.

3 CHAIRPERSON GRIFFIS: Right. And that is
4 not going to change anything in terms of processing
5 anything from our perspective. Obviously it doesn't
6 have to be readvertised. It's in the same section of
7 relief required. Okay. Anything else? Very well.
8 Two weeks you need to get that put together. Is that
9 correct?

10 MR. BLANCHARD: Yes.

11 CHAIRPERSON GRIFFIS: We have two choices.
12 One is that we set this for a limited hearing to have
13 that submitted. The other is we set this for a
14 decision making and that comes in. I am going to ask
15 you which one you prefer noting that if we set this
16 for decision, we can set that anytime I want.
17 Everything will have to be to completeness so there is
18 some risk involved in terms of we will not be able to
19 ask additional questions if we had clarifications.

20 The other alternative is that I could set
21 this for a limited hearing, and it will be a limited
22 hearing as we have our schedule already set with three
23 other applications on July 11th. We could do a
24 hearing at that point. Or we would slip it in on the
25 27th of June.

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1 Mr. Moy, Ms. Bailey, am I seeing those
2 notes correctly on that? We would have two -- we
3 would have three cases. The 27th do a limited
4 hearing. I think it would take no more than half an
5 hour. Basically it will be you will have your
6 submissions in. You tell me the schedule but this is
7 what I propose.

8 We would have those in the Wednesday
9 before, which we will give you the date on that, and
10 that would set us up for half an hour, no more than 45
11 minutes. It would be only for Board questions. We
12 obviously would notice the ANC if they wanted to come
13 back for that.

14 We don't have any party in opposition. No
15 other individuals. Let me ask actually is anyone here
16 present that would like to provide testimony as an
17 individual person? I probably should have done that
18 as a matter of formality. Okay. What do you think?
19 The 11th decision making or we do a hearing on the
20 27th?

21 MR. BLANCHARD: We would rather just
22 submit for the record, Mr. Chair. We would rather
23 just submit for the record and forego an additional
24 hearing.

25 CHAIRPERSON GRIFFIS: Oh, okay. Fabulous.

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1 Let's do it. In which case it would be -- two weeks
2 would be --

3 MS. BAILEY: Two weeks before the 11th,
4 Mr. Chairman, would be June 27th.

5 CHAIRPERSON GRIFFIS: Two weeks from now
6 will be the 20th that the submission would be in and
7 the 27th would be action by the Board. Is that what
8 you're saying, Ms. Bailey?

9 MS. BAILEY: No, Mr. Chairman. The date
10 that the applicant had selected, is that July 11th for
11 a decision? Is that the date we are dealing with?

12 CHAIRPERSON GRIFFIS: No. We are not
13 dealing with anything yet. I was confusing that
14 probably. What they have indicated is that we don't
15 need an additional hearing, just a submission and set
16 for decision. The question for us is whether we set
17 for a special public meeting on the 27th or we set
18 this for a regularly scheduled meeting on the 11th of
19 July. Do you have an opinion on that?

20 MR. BLANCHARD: We would love a decision
21 earlier if possible.

22 CHAIRPERSON GRIFFIS: Okay.

23 MS. MITTEN: Can I ask then, you know,
24 sort of meeting us half way, I think it would be very
25 productive to have a little hearing just because we

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1 spent a lot of time on this and we want to see it
2 through obviously. We wouldn't want there to be any
3 loose ends. There is nothing stopping us from
4 deciding the case after we have the hearing.

5 CHAIRPERSON GRIFFIS: We could do a bench
6 decision the same day.

7 MS. MITTEN: Yes. So why don't we just do
8 everything on the 27th and have you be available in
9 case there are any questions?

10 MR. BLANCHARD: The 27th of June?

11 MS. MITTEN: Yes.

12 CHAIRPERSON GRIFFIS: Right.

13 MR. BLANCHARD: Okay. I was hearing July.
14 I'm sorry.

15 CHAIRPERSON GRIFFIS: Oh, no. The only
16 two days we are talking about is the 27th of June
17 which we would slip in and we would really have no
18 more than half an hour. I could promise 45 but it is
19 just going to be our questions and it will be
20 clarification questions, I think, at this point
21 depending on what we get. Then we could take it up
22 and we would make ourselves prepared if it was
23 possible with the submissions to make a decision on
24 that date.

25 MR. BLANCHARD: You need the submissions

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1 by the 20th?

2 CHAIRPERSON GRIFFIS: That would mean the
3 submissions at the same time on the 20th which would
4 be two weeks from today.

5 MR. BLANCHARD: That's fine.

6 CHAIRPERSON GRIFFIS: Okay.

7 MR. BLANCHARD: I think that's best.
8 Thank you.

9 CHAIRPERSON GRIFFIS: Excellent. That
10 works out very well. So we have submissions due two
11 weeks from today. Except for this side of the Board
12 it doesn't work so well. Several are falling off the
13 schedule in the afternoon. I think we're all right
14 with that.

15 There it is. Two weeks, the 20th. We
16 would ask by 5:00 then the submissions would be in.
17 That would get out to the Board the 27th. We'll set
18 this for the first case in the afternoon which means
19 all the people sitting behind you are going to be very
20 angry with you so we will have very concise questions
21 and answers and we'll move you along. At that point
22 we would be prepared to take action as appropriate.

23 MS. MITTEN: I just would like to ask if
24 the record is going to be open for a couple of weeks
25 and if between the applicant and the Office of

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1 Planning we could actually get something in writing
2 from DDOT that says they approve of the loading plan
3 that we saw.

4 CHAIRPERSON GRIFFIS: I think we would
5 keep the record open for that also if that can happen.
6 I think that is an excellent point. I think we should
7 be prepared to move ahead with our decision as we have
8 found that may not be as expedited as we might like
9 but please take the time to try and get that done.

10 Okay. Anything else? Good. Questions or
11 clarifications?

12 MR. BLANCHARD: No, thank you.

13 CHAIRPERSON GRIFFIS: Excellent. Thank
14 you very much. We do appreciate it and we'll look
15 forward to seeing you at that next date on the 27th
16 first in the afternoon. We'll set that for 1:00 then
17 on the 27th of June.

18 Is there any other business for the Board
19 in the afternoon session?

20 MS. BAILEY: No, Mr. Chairman.

21 CHAIRPERSON GRIFFIS: Very well. Not
22 noting any other business, let's adjourn.

23 (Whereupon, at 5:22 p.m. the hearing was
24 adjourned.)

25

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