

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

JANUARY 30, 2007

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY Secretary (BZA)
BEVERLEY BAILEY Sr. Zoning Specialist
ESTHER BUSHMAN General Counsel

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
STEPHEN RICE
JOHN MOORE

D.C. OFFICE OF THE ATTORNEY GENERAL:

LORI MONROE, ESQ.

This transcript constitutes the minutes from the Public Hearing held on January 30, 2007.

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

2 (10:07 a.m.)

3 CHAIRPERSON GRIFFIS: Good
4 morning, ladies and gentlemen. Let me call to
5 order our 30th of January 2007 public hearing
6 of the Board of Zoning Adjustment to the
7 District of Columbia.

8 My name is Geoff Griffis,
9 Chairperson. Pardon us for starting off late.
10 We had a little technical difficulty, but I
11 believe that everything is working now. If
12 not, we'll certainly be put on notice and make
13 accommodations.

14 Copies of today's hearing agenda
15 are available for you. They are located at
16 the table where you entered into the hearing
17 room. Please pick one up. You can see where
18 you are on the chronology.

19 Let me say a very good morning to
20 Ms. Miller, the Vice Chair, with me, and also
21 Mr. Etherly. Representing the National
22 Capital Planning Commission with us is Mr.

1 Mann. We are not represented by the Zoning
2 Commission on this morning's schedule.

3 Please, at this time I would ask
4 if you would turn off your cell phones,
5 beepers, any noise-making devices, so that we
6 don't disrupt our obviously sensitive
7 transmitting devices and recording devices.
8 It is important to understand that everything
9 happening within this room is in the open
10 before the public, but it is also being
11 recorded and broadcast.

12 We are being recorded by the Court
13 Reporter sitting to my right on the floor.
14 Attendant to that there are several things you
15 should be aware of. First of all, if you
16 would please fill out two witness cards, if
17 you are preparing to address the Board today.

18 Witness cards are available at the
19 table where you will provide testimony. They
20 are also available where you came into the
21 hearing, and those two cards go to the Court
22 Reporter prior to coming forward. When you do

1 come forward to speak to the Board, you just
2 need to state your name and address for the
3 record into the mike. You need to do this
4 only once, and then we can move forward with
5 your testimony.

6 The order of procedure for special
7 exceptions and variances is as follows.
8 First, we will hear the case presentation of
9 the applicant; second, we will hear all
10 government reports attendant to the
11 application; third, we'll hear from the
12 Advisory Neighborhood Commission; fourth, we
13 will hear from persons or parties in support
14 of the application; fifth would be persons or
15 parties in opposition to an application; six,
16 finally, we will return to the applicant for
17 any closing remarks, summations, or rebuttal
18 witnesses if they have.

19 I will make sure you understand
20 fully our order, if you didn't catch all that,
21 as I quickly go through this.

22 Cross examination is, of course,

1 allowed by the applicant and parties. The ANC
2 within which the property is located is
3 automatically a party in a case. Therefore,
4 they will be able to: 1) participate as a
5 party, but also specifically conduct cross
6 examination. I will give directions specific
7 to cross examination as needed in each case.

8 The record will be closed at the
9 conclusion of our hearings today, unless the
10 Board makes a specific request to keep it open
11 for the submission of additional information.
12 You will not leave this room not having a firm
13 understanding of whether you are responsible
14 for providing more information or not, so we
15 will get to that on a case-by-case basis.

16 The Sunshine Act does require us
17 to meet in the open and before the public. We
18 do this in all of our proceedings. At times,
19 we enter into executive session. That is for
20 purposes of this Board to discuss facts on a
21 case, and maybe at times also deliberate on a
22 case. That is in accordance with the Sunshine

1 Act and also in accordance with our rules,
2 regulations, and procedures.

3 We, in all deliberations, must
4 base our opinions and then, therefore, our
5 decisions on the facts on the record. We are
6 creating that record today, so it should be
7 clearly understood that if you want this Board
8 to take under advisement in our deliberation
9 anything it must be put into the record today.
10 That means it's either stated to us or it can
11 be submitted in writing.

12 Let me say good morning to Ms.
13 Bailey on my very far left with the Office of
14 Zoning, Ms. Bushman with the Office of Zoning,
15 and also Ms. Monroe with the Office of
16 Attorney General.

17 I'm going to ask all those persons
18 here present today that are going to address
19 the Board, if you would please stand and give
20 your attention to Ms. Bailey, she's going to
21 swear you in.

22 MS. BAILEY: Would you please

1 raise your right hand?

2 CHAIRPERSON GRIFFIS: You can --
3 yes, just stay where you are. Perfect.

4 (Whereupon, an oath was
5 administered to those persons
6 planning to offer testimony.)

7 MS. BAILEY: Thank you.

8 CHAIRPERSON GRIFFIS: Excellent.
9 Thank you all very much.

10 That being said, we can go to
11 preliminary matters. Preliminary matters are
12 those which relate to whether a case will or
13 should proceed today, whether proper and
14 adequate notice has been provided, whether you
15 are in fact prepared, or you may believe that
16 there's a case that should not proceed.

17 If you have a preliminary matter
18 for the Board's attention prior to calling any
19 of the cases, I'd ask that you come forward,
20 have a seat at the table in front of us as an
21 indication of having a preliminary matter.
22 I'm going to ask Ms. Bailey if she's aware of

1 any preliminary matters for the Board's
2 attention.

3 MS. BAILEY: Mr. Chairman, members
4 of the Board, to everyone, good morning.
5 There is a preliminary matter, and it has to
6 do with Application Number 17509 of Bernard L.
7 Renard. There is a request for a postponement
8 of the hearing on this case.

9 CHAIRPERSON GRIFFIS: Is the
10 representative or the applicant in 17509
11 present? Excellent. Why don't you come up,
12 have a seat. If you wouldn't mind, when
13 you're ready, just turn that microphone on and
14 state your name and address for the record.
15 Have a seat, and then there's a button right
16 at the base of that mike. Just push that.
17 Perfect, there we are. And you are?

18 MR. RENARD: I'm Bernard Renard.

19 CHAIRPERSON GRIFFIS: Excellent.
20 And your address?

21 MR. RENARD: 1012 East Capitol
22 Street, N.E., Washington, D.C.

1 CHAIRPERSON GRIFFIS: Excellent.
2 Is there anyone here attendant to this
3 application today? 17509, anyone else here?
4 The ANC persons?

5 (No response.)

6 Very well. You are requesting a
7 postponement, so that you might make further
8 what?

9 MR. RENARD: If I may give you a
10 brief summary of the case. First, I applied
11 for a variance, and the case was fully
12 prepared with the memorandum.

13 CHAIRPERSON GRIFFIS: Right.

14 MR. RENARD: It was ready for
15 coming to the Board. And then, it was
16 suggested that the case could qualify under a
17 special exception, and so I went to the
18 drawing board, and then rewriting the
19 memorandum, and resubmitted the case to the
20 Office of Zoning for a new memorandum under
21 special exception.

22 So I resubmitted the drawings and

1 the case to the Office of Zoning, and we come
2 with some difference of opinions, which are a
3 little bit complicated because my case is not
4 like any everyday type of case. If I may, I
5 would like to tell you first the good news,
6 which is the progress that I have made since
7 -- because this case has been going on for
8 about three years on my side.

9 CHAIRPERSON GRIFFIS: Wow.

10 MR. RENARD: On the drawing board,
11 very difficult type of case from a design
12 point of view and also from a legal point of
13 view. So the good news is that with the
14 Office of Historic Preservation we have come
15 to an agreement, a consensus on redesigning
16 the proposed addition, which had a pitched
17 roof in the back.

18 And so there was all kind of
19 consideration on how to reduce the impact of
20 the addition, and finally we had a meeting
21 recently and we came to a proposal which is
22 acceptable to -- which will certainly be

1 presented on the consent calendar by --

2 CHAIRPERSON GRIFFIS: What date is
3 it going to the consent calendar of HPRB?

4 MR. RENARD: With Historical --
5 should go to the consent calendar on
6 February 22nd, and the fallback date is
7 March 1st. So this issue seems to be resolved
8 now.

9 CHAIRPERSON GRIFFIS: Okay.

10 MR. RENARD: Then, I have the
11 support of the Capitol Historical Society,
12 which urged the Board to approve the
13 application.

14 CHAIRPERSON GRIFFIS: Right.
15 Well, this is what I'd like to do. You're
16 obviously making great headway. The Board
17 takes very seriously requests for
18 postponements. Obviously, we've given you one
19 already from September.

20 MR. RENARD: Yes.

21 CHAIRPERSON GRIFFIS: This is the
22 second request. It is not my memory that

1 we've ever granted a third --

2 MR. RENARD: Yes.

3 CHAIRPERSON GRIFFIS: --
4 postponement. So what I'd like to do is, it
5 seems like you are fully in cue of all of
6 those elements that you need to be. I'd like
7 to set this for a new date well after your
8 HPRB review, so that all those elements could
9 be ironed out or at least established, or what
10 direction the massing. That will also give
11 you ample time to work with the Office of
12 Planning in terms of their review and
13 analysis.

14 Are you proposing a date?

15 MR. RENARD: I'm -- yes, I would.
16 But before, I would like to ask if it's
17 possible or if it's appropriate to get some
18 opinion from the Board between the variance
19 and the special exception, because we are
20 really getting a difference of opinion with
21 the technician and the Office of Zoning.

22 Apparently, according to 223,

1 addition to one-family dwelling flat, less
2 than 70 percent --

3 CHAIRPERSON GRIFFIS: Sure.

4 MR. RENARD: -- lot occupancy on
5 --

6 CHAIRPERSON GRIFFIS: I can tell
7 you we can't.

8 MR. RENARD: Huh?

9 CHAIRPERSON GRIFFIS: I can't give
10 you an opinion.

11 MR. RENARD: Whether it's a
12 variance or --

13 CHAIRPERSON GRIFFIS: Right.

14 MR. RENARD: So basically they
15 came back with this --

16 CHAIRPERSON GRIFFIS: Different.
17 No, I understand, and I understand the
18 complications. And oftentimes we have
19 applicants that come in that may be in
20 difference of opinions of relief that is
21 sought from the Office of Planning, maybe
22 their own legal counsel, maybe the Zoning

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1 Administrator.

2 All I can tell you is do your best
3 at it, put the application in, and if you're
4 really requesting that the Board decide what
5 type of relief is requested, well, make sure
6 that is very well articulated. That is not
7 what the Board does. It is -- if you have
8 questions, in fact -- here's a little aside
9 maybe. Well, there it is. You could get
10 legal advice.

11 You could hire an attorney to give
12 you legal zoning advice, or you could meet
13 with the Zoning Administrator and get his
14 interpretation, or you could work with the
15 Office of Planning, which, frankly, has a
16 great knowledge of, one, the Board's
17 precedent, and also of the zoning regulations
18 themselves. They are obviously doing a full
19 analysis.

20 But when it all comes here, that's
21 when we'll get into it. But at this time, no,
22 we wouldn't make a preliminary ruling on what

1 relief was sought.

2 I perfectly understand that the
3 regulations are at times confusing, and so I
4 would ask that you rely on those that are
5 putting influence into this application and go
6 forward on that.

7 MR. RENARD: Excuse me. Could it
8 be that the argument could be with both
9 variance and special exception?

10 CHAIRPERSON GRIFFIS: You can make
11 both arguments, I would imagine. I mean, it
12 gets to be a little bit cumbersome in terms of
13 time and in terms of your availability, but
14 I'll let that to you.

15 MR. RENARD: Okay.

16 CHAIRPERSON GRIFFIS: It's hard
17 for me to give advice on how to make or
18 structure a case for us. Perhaps you work
19 with the Office of Zoning staff here and pull
20 cases that you think are similar --

21 MR. RENARD: Yes, I will.

22 CHAIRPERSON GRIFFIS: -- cases

1 before the Board. And I know that they are
2 incredibly helpful, and the resources that
3 they have in the office here are obviously put
4 forth for the citizens and for your
5 availability.

6 With that, then, as you will be
7 probably through HPRB, if it stays on the
8 consent calendar in March, I know that we have
9 already filled our schedule well beyond March
10 and April.

11 Mr. Moy, we're looking for another
12 date, Ms. Bailey, another date. Just set this
13 after HPRB has been --

14 MR. RENARD: In May?

15 CHAIRPERSON GRIFFIS: --
16 processed.

17 MR. RENARD: In May possibly?

18 CHAIRPERSON GRIFFIS: Do we have
19 anything in May?

20 MS. BAILEY: Mr. Chairman, there
21 are two cases scheduled for the morning and
22 two in the afternoon in May. So if you have

1 a preference, that could go either morning or
2 afternoon, depending on the Board's judgment
3 on that.

4 CHAIRPERSON GRIFFIS: Which day in
5 May were you --

6 MS. BAILEY: May 22nd. I'm sorry,
7 I'm sorry, 22nd.

8 CHAIRPERSON GRIFFIS: Excellent.
9 Is there any major conflict with your
10 presenting on the third case in the morning on
11 May 22nd?

12 MR. RENARD: That should be fine.

13 CHAIRPERSON GRIFFIS: Excellent.

14 MR. RENARD: May 22nd?

15 CHAIRPERSON GRIFFIS: There it is,
16 then.

17 MR. RENARD: What time, please?

18 CHAIRPERSON GRIFFIS: It'll be the
19 third case in the morning. Hopefully, at that
20 point we will start on time, so some time
21 after 9:30.

22 MR. RENARD: Okay.

1 CHAIRPERSON GRIFFIS: Excellent.
2 Thank you very much. Good luck.

3 MR. RENARD: Thank you very much.

4 CHAIRPERSON GRIFFIS: Good luck
5 with HPRB, and we'll look forward to seeing
6 you again. Yes, sir.

7 Very well. Are we ready? Let's
8 call the next case.

9 MS. BAILEY: Application Number
10 17561 of Ari Karen, pursuant to 11 DCMR
11 3104.1, for a special exception to allow a
12 rear addition to a flat under Section 223, not
13 meeting the lot occupancy and open court
14 requirements. Lot occupancy falls under
15 Section 403, and open court falls under
16 section 406. The property is zoned R-4, and
17 it's located at 1641 13th Street, N.W., Square
18 277, Lot 41.

19 CHAIRPERSON GRIFFIS: Excellent.
20 Thank you very much.

21 We're going to take two minutes.
22 Why don't you just run and get that done?

1 This will be no indication of how this is
2 going to go for the rest of the day.

3 MR. KAREN: Okay.

4 CHAIRPERSON GRIFFIS: But we'll
5 see you back here in three.

6 MR. KAREN: Thank you very much.

7 CHAIRPERSON GRIFFIS: Thank you.

8 MR. KAREN: I appreciate it.

9 CHAIRPERSON GRIFFIS: Sure, sure,
10 sure.

11 (Whereupon, the proceedings in the
12 foregoing matter went off the
13 record at 10:23 a.m. and went back
14 on the record at 10:25 a.m.)

15 CHAIRPERSON GRIFFIS: Very well.
16 Let's resume.

17 Mr. Etherly I know will be right
18 back and is probably hearing us on the record
19 in the Board Room.

20 Let me just have you introduce
21 yourself for the record, name and address,
22 please.

1 MR. KAREN: Sure. Ari Karen, 60 Q
2 Street, N.E.

3 CHAIRPERSON GRIFFIS: Excellent.
4 Thank you very much. This is a special
5 exception under 223. It's a very clear and
6 full record. I'll turn it over to you for any
7 kind of opening remarks that you have, but can
8 certainly stand on the record, as we've been
9 through all of the details that have been
10 submitted, and I know the Board just has a
11 couple of questions. But I'll turn it over to
12 you.

13 MR. KAREN: No, I'd be happy to
14 answer any questions. I don't really -- I
15 will add one thing in terms of the structure
16 itself. It actually is in worse, a lot worse
17 shape originally than we thought. The rear
18 wall is actually fully collapsing, as was the
19 front wall.

20 We are now redoing the front wall
21 consistent with Historic Society requests, and
22 we're actually going to be putting in the

1 exact type of color in terms of the mortar.

2 CHAIRPERSON GRIFFIS: Right.

3 MR. KAREN: Because we're going to
4 be redoing the entire front wall, and the back
5 wall has basically collapsed, so --

6 CHAIRPERSON GRIFFIS: Right. So
7 you're matching historic mortar color in the
8 rear of the building?

9 MR. KAREN: In the back. The rear
10 doesn't have a really rear anymore.

11 CHAIRPERSON GRIFFIS: Yes.

12 MR. KAREN: For the most part, it
13 has collapsed.

14 CHAIRPERSON GRIFFIS: Right.

15 MR. KAREN: It is being held up
16 right now by wood planks.

17 CHAIRPERSON GRIFFIS: Right.

18 MR. KAREN: So --

19 CHAIRPERSON GRIFFIS: Indeed.
20 Okay. And, obviously, in your submission you
21 weren't meeting the lot occupancy or the open
22 court requirements. And in your -- in

1 advertising this, and in talking to the
2 neighbors, have you heard any comments or are
3 you aware of any elements that would in fact
4 impair the light, air, use, privacy, enjoyment
5 of the adjacent properties?

6 MR. KAREN: No. I have actually
7 spoken to all of the neighbors, to the
8 tenants, even of the apartment to the left.
9 Everybody is very supportive of it.

10 CHAIRPERSON GRIFFIS: Right.

11 MR. KAREN: I think they're pretty
12 happy that I'm renovating this house.

13 CHAIRPERSON GRIFFIS: Sure.

14 MR. KAREN: So generally everyone
15 has been happy with it. In fact, the drawings
16 were put together consistent with discussions
17 with neighbors. So at the initial stage I
18 took their comments into consideration, which
19 is why there has been no opposition.

20 CHAIRPERSON GRIFFIS: Excellent.
21 It shows on the first floor plan the adjacent
22 property has one window. Is that still -- is

1 that currently there?

2 MR. KAREN: Let me make sure we're
3 talking about the first floor. Are we talking
4 first as in the basement or first as in --

5 CHAIRPERSON GRIFFIS: Your labeled
6 first floor, so not the ground level, the
7 first floor.

8 MR. KAREN: Okay, yes. There is a
9 window there.

10 CHAIRPERSON GRIFFIS: Right by
11 that stairwell?

12 MR. KAREN: Right, right.

13 CHAIRPERSON GRIFFIS: There's no
14 issue that has arisen with that at all from
15 your --

16 MR. KAREN: No.

17 CHAIRPERSON GRIFFIS: --
18 perspective or the neighbor's perspective?
19 Okay.

20 MR. KAREN: No. Because, again,
21 we designed it such that there wouldn't be any
22 intrusion and they would still get the amount

1 of light, so --

2 CHAIRPERSON GRIFFIS: Okay. And I

3 --

4 MR. KAREN: Oh, I'm sorry. Just
5 to be clear on that, the owner of that
6 property submitted an affidavit, which is in
7 the record --

8 CHAIRPERSON GRIFFIS: Right.

9 MR. KAREN: -- approving this, and
10 that he is okay with it.

11 CHAIRPERSON GRIFFIS: Excellent.
12 Good. Yes, and we have that, and it is --

13 MR. KAREN: Nader.

14 CHAIRPERSON GRIFFIS: I'll get an
15 exhibit number on that before we finish. Let
16 me ask you a couple of quick questions. I
17 know you had a wood gate, an entrance on the
18 three-foot public alley, and you have a seven-
19 foot wood element around. Is that a solid
20 fence, then, on the public alley side at the
21 very rear?

22 MR. KAREN: In the very rear, it's

1 -- so, in other words, the rear of the alley,
2 not the rear of my house.

3 CHAIRPERSON GRIFFIS: No. What
4 lines the alley? I mean, you said the -- it's
5 noted that there's a CMU wall and that there's
6 a proposed six-foot, I should say, wood fence
7 on the property lines. But what is the
8 fencing on the public alley, the three-foot
9 side?

10 MR. KAREN: Well, there is either
11 brick buildings to the back --

12 CHAIRPERSON GRIFFIS: I see.

13 MR. KAREN: -- or wood fences.
14 It's pretty -- but the fences, shall we say,
15 are eight feet high approximately --

16 CHAIRPERSON GRIFFIS: Right.

17 MR. KAREN: -- and/or buildings.
18 So it alternates between, but it's full
19 blockage from the back. There's nothing that
20 can be seen. And then, behind those buildings
21 is the large Logan project, Logan Boggan
22 Builders project that's going up there.

1 CHAIRPERSON GRIFFIS: Right. Yes.

2 MR. KAREN: So there is literally
3 no view from the back.

4 CHAIRPERSON GRIFFIS: Is there any
5 like surveillance, like the neighbors? Is
6 there any way to see what is happening in that
7 small public alley?

8 MR. KAREN: No. It is a bit of a
9 concern for everybody there, because it's dark
10 and there really isn't any means of
11 surveillance. One thing I'm working on right
12 now is trying to find out -- there is a gate
13 at the entrance to that alley, and one side is
14 just blocked with a brick wall.

15 CHAIRPERSON GRIFFIS: Right.

16 MR. KAREN: On the other side
17 there is a gate that is supposed to be access
18 for all of us. Someone has locked that up,
19 and we're trying to figure out who. I'm
20 trying to figure out who.

21 CHAIRPERSON GRIFFIS: Right.

22 MR. KAREN: To obtain access to

1 that, because I think it is an issue of
2 safety.

3 CHAIRPERSON GRIFFIS: Well, would
4 it save -- I mean, would it help in terms of
5 the monitoring the safety of that three-foot
6 public alley if that -- if the rear property
7 line fence wasn't solid, so that -- if you had
8 just open pickets on it?

9 So, obviously, it would be secure,
10 but you could see it from your property. It
11 wouldn't give any shelter of anyone hiding in
12 that --

13 MR. KAREN: I don't think so,
14 because in order to get back there -- I mean,
15 I'd certainly be open to that, but in order to
16 get back there you'd have to -- and one side
17 you couldn't get over there because it's all
18 brick for unknown feet high. And on the other
19 side you've got an iron fence that's a gate if
20 you will that's right now closing off the
21 alley, and that's probably -- that's got to be
22 at least 10 feet high. So someone would have

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1 to go a lot to go back there, if you
2 understand what I'm saying. It would be --

3 CHAIRPERSON GRIFFIS: Oh, I see.
4 So you don't think -- so the public can't
5 really get back there from the 10-foot alley
6 because there is a gate that gets in -- access
7 actually into the three-foot alley.

8 MR. KAREN: Let's put it this way.
9 I've been trying to get back there for months.
10 I can't.

11 CHAIRPERSON GRIFFIS: I thought it
12 was your own gate. All right. Now I
13 understand.

14 MR. KAREN: No, no, no.

15 CHAIRPERSON GRIFFIS: Okay. We'll
16 let it be. Are you planning on having a light
17 or any sort of exterior light out towards that
18 gate?

19 MR. KAREN: Yes, absolutely. And
20 actually, what I'm talking to is the neighbors
21 about trying to put some lights up on adjacent
22 property, so we can all get that alley lighted

1 up.

2 CHAIRPERSON GRIFFIS: Excellent.

3 MR. KAREN: One thing I'm trying
4 to do with my neighbors to, you know, make up
5 for any inconvenience associated with
6 construction is try to do some things
7 generally for everybody that, you know, kind
8 of as a payback if you will --

9 CHAIRPERSON GRIFFIS: Right.

10 MR. KAREN: -- for the fact that
11 they have to live through a little bit of
12 inconvenience.

13 CHAIRPERSON GRIFFIS: Great.
14 Great. Well, I think that's a good idea to
15 really work together and do that. If it
16 doesn't work, then, on common spaces or on the
17 others, certainly just even a nice post
18 fixture at the gate --

19 MR. KAREN: Oh, yes.

20 CHAIRPERSON GRIFFIS: -- on your
21 property might really facilitate illumination
22 of that area.

1 MR. KAREN: Absolutely. I will be
2 doing something along those lines.

3 CHAIRPERSON GRIFFIS: Okay.
4 Great. I don't have any other questions,
5 unless any of the Board members have any
6 questions of the applicant at this time. Ms.
7 Miller?

8 VICE-CHAIRPERSON MILLER: Good
9 morning, Mr. Karen. I just wanted to ask you
10 if you presented to the ANC. I don't see a
11 report in our records.

12 MR. KAREN: I did present to the
13 ANC, and I know you could contact Christopher
14 Dyer. He was there. And my understanding is
15 they were -- they did give full approval,
16 unanimous approval, at the presentation. And
17 my understanding is they were going to write
18 a letter, which I don't think that I ever
19 received.

20 I know somebody from the Office of
21 Planning contacted me, and he contacted the
22 ANC and confirmed that there was approval.

1 And there's an e-mail. I could probably find
2 that if you wanted and submit it to you.

3 VICE-CHAIRPERSON MILLER: That's
4 okay. I just wanted to get your
5 understanding. I think Office of Planning did
6 reference that they had approved it, but there
7 just isn't a report for us to see.

8 MR. KAREN: Oh, okay. Yes. I'm
9 not aware of that, but they gave us full
10 approval.

11 VICE-CHAIRPERSON MILLER: Okay.
12 Thank you.

13 CHAIRPERSON GRIFFIS: Excellent.
14 With that, let's go to the Office of Planning.
15 While we're hearing the analysis of the Office
16 of Planning, Ms. Bailey, I'd ask you, do you
17 have the record of the affidavit of the
18 adjoining neighbor? I don't show an exhibit
19 number. We can just take a look. Do you have
20 it? Oh, is this it? Oh, I got you. Exhibit
21 Number 20. I was looking at it, then. Very
22 well. Let's move ahead.

1 MR. RICE: Good morning, Mr. Chair
2 and Board. My name is Stephen Rice with the
3 Office of Planning.

4 OP also stands on the record and
5 supports the application. I don't have a copy
6 of the ANC report, but I do remember talking
7 to one of the representatives, and they --
8 actually, they would support the application.
9 I'm sure we can get some sort of official
10 letter, if that's needed.

11 CHAIRPERSON GRIFFIS: Excellent.
12 Thank you very much. We appreciate it, and
13 it's an excellent report and analysis. Have
14 you reviewed the Office of Planning's
15 analysis?

16 MR. KAREN: Yes, I have.

17 CHAIRPERSON GRIFFIS: Good. Any
18 questions, then, from the Board of the Office
19 of Planning? Do you have any cross
20 examination questions of the Office of
21 Planning?

22 MR. KAREN: No, I don't.

1 CHAIRPERSON GRIFFIS: Excellent.
2 Mr. Rice, thank you very much. Great report
3 and a great utilization of the illustrations
4 in the record provided by the applicant, which
5 obviously helps in making it clear, the
6 analysis and how it fully meets the
7 requirements under the special exception and
8 the 223 requirements.

9 If there is nothing further, then,
10 for Office of Planning, I'll note that we have
11 an indication of the historic review of this.
12 ANC we have already addressed. I don't have
13 any other government reports attendant to this
14 application.

15 I'd ask for all persons that are
16 here, present today, to provide testimony in
17 Application 17561 can come forward at this
18 time. Persons in support, persons in
19 opposition? Not noting any persons present to
20 provide additional testimony, we can turn it
21 over to you for any closing remarks that you
22 might have.

1 MR. KAREN: No closing remarks,
2 just that everybody in the neighborhood I
3 think is very supportive of it. There has
4 been open communication from the inception,
5 and I think that is why there is no opposition
6 to it, because everyone has really been
7 involved, who would have, you know, any impact
8 on this.

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

11 The record is full on this. I see
12 no reason why we wouldn't proceed today,
13 unless there is any opposition from the Board.
14 Not noting any, I would move approval of
15 Application 17561 for the special exception
16 under 223 as this property has not met the lot
17 occupancy requirements under 403 or the open
18 court requirements under 406, and it is the
19 premises of 1641 13th Street, N.W., and would
20 ask for a second.

21 VICE-CHAIRPERSON MILLER: Second.

22 CHAIRPERSON GRIFFIS: Excellent.

1 Thank you very much, Ms. Miller. I think the
2 record is absolutely full. There has been no
3 evidence, in fact, that this would impair the
4 privacy, use, enjoyment, air, light, flow of
5 the adjacent properties.

6 Actually, the massing is quite
7 fascinating as you look at it. It's really
8 much more of a -- they don't say "historic" as
9 in historic review, but as in the current
10 configurations of the buildings on the block
11 themselves. It's just recreating essentially
12 what is currently there. What's fascinating
13 is this kind of unique aspect of this three-
14 foot alley, which we've seen before but not
15 obviously extensively, and how one deals with
16 that or not in terms of the rear yard.

17 But clearly the special exception
18 and the specifics of 223 have been met, and we
19 have not noted any opposition on this. And so
20 I would obviously support the application.

21 One of the critical pieces for 223
22 -- there are two that I see, and that is that

1 proper and adequate documentation is to be
2 provided, so that the Board obviously can
3 understand graphically what is being proposed.
4 That has been clearly met here.

5 And, lastly, the Board is given
6 great jurisdiction in terms of design,
7 control, screening, lighting. I think we did,
8 in fact, address that. I have no reason to
9 feel that we need to condition this order, if
10 it is approved, as -- just from the statements
11 of the owner, there is obviously a concern
12 about addressing the elements, and obviously
13 working with the adjacent property owners to
14 make it a safe environment in the rear of the
15 properties.

16 That being said, I will open it up
17 to others for any further comments or
18 deliberation.

19 (No response.)

20 Very well. Not noting any further
21 comments, we do have a motion before us. It
22 has been seconded. I'd ask for all those in

1 favor to signify by saying aye.

2 (Chorus of ayes.)

3 Opposed?

4 (No response.)

5 Abstaining?

6 (No response.)

7 Very well. Why don't we record
8 the vote.

9 MS. BAILEY: Mr. Chairman, the
10 vote is recorded as four-zero-one to approve
11 the application, Mr. Griffis made the motion,
12 Mrs. Miller second, Mr. Mann, Mr. Etherly
13 support the motion, and there is not a Zoning
14 Commission member present at this time.

15 CHAIRPERSON GRIFFIS: Excellent.
16 Thank you very much. I don't see any reason
17 why we wouldn't waive our rules, regulations,
18 and issue a summary order on this, unless
19 there is any opposition to that. Not noting
20 any.

21 Thank you very much. Good luck
22 with that.

1 MR. KAREN: Thank you very much.

2 CHAIRPERSON GRIFFIS: And enjoy
3 that rear yard.

4 MR. KAREN: Thank you very much.

5 CHAIRPERSON GRIFFIS: Okay. Let's
6 move ahead, then, and call the next case.

7 MS. BAILEY: Application Number
8 17562 of W Street, S.E., 38-42-43 LLC,
9 pursuant to 11 DCMR 3103.2, for a variance
10 from the off-street parking requirements under
11 Section 2116, and pursuant to 11 DCMR 3104.1,
12 a special exception to construct six three-
13 unit row dwellings under Section 353. The
14 property is zoned R-5-A and it's located at
15 1749 through 1759 W Street, S.E., Square 5755,
16 Lots 38-43.

17 And, Mr. Chairman, I need to bring
18 to your attention that the applicant did
19 revise the relief that is being requested for
20 this project.

21 CHAIRPERSON GRIFFIS: Excellent.
22 Thank you. And as they set up, obviously

1 they'll address that, Ms. Bailey, but your
2 understanding is it has been amended for a
3 special exception under 2116. Is that
4 correct?

5 MS. BAILEY: Yes, Mr. Chairman.

6 CHAIRPERSON GRIFFIS: Excellent.
7 Very well.

8 MR. BLANCHARD: Good morning.

9 CHAIRPERSON GRIFFIS: Good
10 morning.

11 MR. BLANCHARD: My name is Lyle
12 Blanchard. I'm representing the applicant,
13 W Street LLC, 38-42-43 LLC. And with me this
14 morning is Tony Washington, who is the
15 principal of M&A Development. That is, the
16 applicant by any other name.

17 CHAIRPERSON GRIFFIS: Excellent.
18 Let me just set the stage here, because I
19 think we can get right into it, if you would
20 address one -- the change to the special
21 exception. Of course, we'll just state that
22 for the record. And then, let's walk through

1 kind of quickly -- in written form it is there
2 obviously. Now let's even add a layer of
3 graphic understanding of the parking and its
4 location, and then I think we can get quickly
5 through this.

6 MR. BLANCHARD: All right.

7 CHAIRPERSON GRIFFIS: Obviously,
8 the special exception under 353 is pretty
9 straightforward in terms of the referral of
10 the application, and I think all that has been
11 met. But we'll get into any other details
12 that we need to on that. Okay.

13 MR. BLANCHARD: All right. And
14 just briefly, under 353, I believe the
15 application has met the standards for that,
16 and that is brought out even further in OP's
17 report, which we'll get to later.

18 We did amend the application. The
19 application originally was requesting a
20 variance to locate parking in the front yard,
21 and we amended the application to utilize the
22 special exception test in 216.5 through .9,

1 because we believe that the situation with
2 this application meets those standards.

3 And with the Board's permission --
4 I mean, we have laid that out in the
5 prehearing statement, but I'm going to have
6 Mr. Washington walk through the development
7 and talk about briefly the building and then
8 the parking. So that's --

9 CHAIRPERSON GRIFFIS: Yes.
10 Frankly, I mean, I think the questions are
11 arising out of not understanding the grade,
12 and the issue of not being able to put it in
13 the rear. So just a fundamental understanding
14 of why it can't comply, and then we'll -- you
15 know, I think we can proceed from there.

16 MR. BLANCHARD: Sure.

17 CHAIRPERSON GRIFFIS: Let me also
18 -- I'm sorry to interrupt you, but we were
19 presented today, this morning walking out here
20 actually, with new submissions in the record,
21 Exhibits 27, 28, and 29, which are letters in
22 opposition. Do you have these?

1 MR. BLANCHARD: We do not.

2 CHAIRPERSON GRIFFIS: Okay. We'll
3 get copies out there also you can take a look
4 at, because we'll need to address those. Very
5 well.

6 MR. BLANCHARD: Very good.
7 Without seeing those, then I'll come back to
8 --

9 CHAIRPERSON GRIFFIS: Absolutely.
10 We'll all need to take a couple of minutes to
11 look at them.

12 MR. BLANCHARD: I just wanted to
13 say that the OP report did mention the ANC's
14 opposition, and I just wanted to state for the
15 record that our understanding is -- and I'll
16 have Mr. Washington talk about -- he had a
17 conversation with a single member district
18 Commissioner last night, and his understanding
19 is that there was no ANC vote at the January
20 meeting.

21 CHAIRPERSON GRIFFIS: Okay.

22 MR. BLANCHARD: And to our

1 knowledge, there hasn't been an ANC report
2 submitted for the record. And with that, I
3 will turn it over to Mr. Washington.

4 MR. WASHINGTON: Thank you. Tony
5 Washington, 4502 17th Street, N.W., in the
6 District. The project that you see on the
7 Board there, as it's shown, six buildings,
8 each comprised of three separately contained
9 condominium units.

10 The project was structured that
11 way with the intent to market the units to a
12 population that to date has been underserved.
13 We felt that it was very, very important for
14 us to get the maximum density out of the lot
15 that was allowable under the R-5-A zone in
16 order to maintain the marketability, and the
17 pricing and so forth, to the population that
18 we wanted to address.

19 Now, to get right to the issue of
20 the parking, whether it could go in the front
21 or in the rear, obviously putting it in the
22 rear would take away a building and reduce our

1 density from 18 to 15 units. Is it physically
2 possible to do it? We think it is. We will
3 give that -- we will give that to OP.

4 Now, what it does to our project,
5 however, is it dynamically changes our target
6 market, because the basis that we have in the
7 land is such that the pricing we would have to
8 put the units at -- we wouldn't be able to
9 offer it at the market that we had intended it
10 to be.

11 Now, that said, we have met with
12 the ANC on two occasions, at the December 5th
13 meeting and at the January 2nd meeting. I
14 think what you will hear -- and I'm not sure
15 what the letters state, but some of the
16 concerns that were expressed to us were
17 density.

18 They would prefer to see less
19 units. They had concerns over parking. We
20 explained that we were actually providing more
21 parking than was required under the zoning
22 regs.

1 Subsequent to that, in the January
2 -- that was raised in the December 5th
3 meeting. In the January 2nd meeting, we
4 brought some drawings, and the single member
5 ANC rep actually got up and voiced support for
6 the project. She did so in the meeting in
7 front of the attendees, and then she came out
8 as we were leaving and told us that she was
9 actually going to write a letter of support
10 for the project.

11 Just last night I found out that,
12 because we had not obviously gotten this
13 letter of support. Last night I found out
14 that there was still some opposition in the
15 community, and she was -- she felt that even
16 though she was personally in favor of it she
17 could not write a letter because she had
18 several constituents that were opposed to it.

19 But, again, the reason for the
20 opposition was the density, not the parking.

21 CHAIRPERSON GRIFFIS: Okay.

22 MR. WASHINGTON: And she made that

1 perfectly clear to me.

2 CHAIRPERSON GRIFFIS: And density
3 -- I mean, in some respects, how it's impacted
4 is part of our review in a special exception,
5 but it's further limited in terms of its
6 impact on public schools and resources,
7 although some of the letters do address some
8 of these. But we'll get into the factual
9 information.

10 You said that it might physically
11 be possible -- but I don't have -- frankly, I
12 don't have a great understanding in the record
13 here of the context of this site. So let me
14 ask a couple of questions. First of all, on
15 your site plan, there's a 20-foot alley that
16 services about four -- actually, just three of
17 the lots --

18 MR. WASHINGTON: Sure.

19 CHAIRPERSON GRIFFIS: -- is that
20 correct? I mean, that's paved or -- I mean,
21 that's used?

22 MR. WASHINGTON: No. The alley,

1 you mean?

2 CHAIRPERSON GRIFFIS: It's a paper
3 alley.

4 MR. WASHINGTON: It's a paper
5 alley.

6 CHAIRPERSON GRIFFIS: And that's
7 what you've said in the record. And a paper
8 alley means what? It's --

9 MR. WASHINGTON: They're non-
10 existent.

11 CHAIRPERSON GRIFFIS: Okay.

12 MR. WASHINGTON: Right now, it's
13 just trees and dirt.

14 CHAIRPERSON GRIFFIS: Okay. So
15 when we look at this and we say, "Well, gosh,
16 why aren't you driving down in the back of the
17 alley," it's because that doesn't really exist
18 except on paper. How would you propose -- I
19 mean, I know that Office of Planning had a
20 proposal. How have you looked at -- I'm sure
21 you investigated parking in the rear --

22 MR. WASHINGTON: We did.

1 CHAIRPERSON GRIFFIS: -- in the
2 very beginning. Walk us through that a little
3 bit of --

4 MR. WASHINGTON: Sure. What Lyle
5 has just put up is the topo --

6 CHAIRPERSON GRIFFIS: Right.

7 MR. WASHINGTON: -- grading plan.
8 What it shows -- and in addition to the topo
9 plan, I think we distributed some pictures.

10 CHAIRPERSON GRIFFIS: Yes.

11 MR. WASHINGTON: There may have
12 been 20-some pictures. There's one in there
13 that is the view from Gaylen Street, which is
14 the street behind W Street. It would be this
15 picture here.

16 CHAIRPERSON GRIFFIS: Right.

17 MR. WASHINGTON: There's a For
18 Sale sign on it.

19 CHAIRPERSON GRIFFIS: Okay.

20 MR. WASHINGTON: We had to take
21 the picture from the street, because there is
22 construction going -- or there was a fence up

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1 and construction was about to begin. It has
2 since begun. But what the picture shows and
3 what the grading plan shows is a severe slope
4 at the rear of our property. Slope may not
5 even be the adequate term. It's more like a
6 cliff.

7 The alley is actually at the
8 bottom of this slope/cliff. So even if the
9 alley were to be paved, there is no way to
10 provide access, vehicular access, to our site.

11 CHAIRPERSON GRIFFIS: Okay.

12 MR. WASHINGTON: And the slope
13 actually starts in the rear. We have about
14 140 feet, 135 to 140 feet, of flat --
15 relatively flat conditions, and then the slope
16 begins, as you can see, at the rear --

17 CHAIRPERSON GRIFFIS: Okay.

18 MR. WASHINGTON: -- let's say 10
19 percent of the property.

20 CHAIRPERSON GRIFFIS: So the only
21 way is off the street access. That means
22 you'd have to drive through the lot to get to

1 the rear.

2 MR. WASHINGTON: Exactly.

3 CHAIRPERSON GRIFFIS: Okay. So
4 you'd have to sit up a drive alley, and that's
5 where Office of Planning was saying, well,
6 take a unit out and drive through the
7 building.

8 MR. WASHINGTON: Exactly. Yes.

9 CHAIRPERSON GRIFFIS: Okay.

10 MR. WASHINGTON: One of the plans
11 was to take a first floor and a second floor
12 unit out, have the third floor unit remain,
13 and make it a drive-through. The other
14 suggestion was just to remove a building. But
15 as I stated before --

16 CHAIRPERSON GRIFFIS: That's kind
17 of an elegant-sounding thing, you know? Drive
18 through a little portico. Okay. Not a bad
19 idea. All right. What else? Any other
20 questions/ clarifications on that?

21 BOARD MEMBER ETHERLY: Yes, Mr.
22 Chair.

1 CHAIRPERSON GRIFFIS: Yes.

2 BOARD MEMBER ETHERLY: Very, very
3 quickly. Just to be sure I'm clear on the
4 context, Mr. Washington, the photograph that
5 you just submitted and highlighted, that is,
6 as it's titled, from Gaylen Street looking
7 back into the subject property.

8 MR. WASHINGTON: Correctly.

9 BOARD MEMBER ETHERLY: Okay.

10 MR. WASHINGTON: Which is at the
11 top of that hill.

12 BOARD MEMBER ETHERLY: With
13 respect -- do you have a copy of the Office of
14 Planning's report?

15 MR. WASHINGTON: i do.

16 BOARD MEMBER ETHERLY: There is an
17 overhead picture. If you could, I'd like to
18 give you a moment to grab that overhead
19 picture, because I want to kind of just orient
20 the photograph that you just submitted with
21 this overhead picture, which sometimes for me
22 helps to kind of set the context.

1 MR. WASHINGTON: We have the
2 report, but not the pictures, unfortunately.

3 BOARD MEMBER ETHERLY: Okay.
4 Nothing on the last -- very last page of the
5 report?

6 MR. WASHINGTON: It doesn't print
7 out.

8 BOARD MEMBER ETHERLY: Okay. If I
9 could, Mr. Moy, would you be so kind -- thank
10 you very much, sir. Mr. Moy is going to share
11 with you a copy that has a color rendering of
12 that last page. As Mr. Moy comes down, I'm
13 going to kind of ask a question that also gets
14 a little bit at context for the area, and that
15 issue of parking, but I just want to be sure
16 I'm clear.

17 Now, with respect to -- you'll see
18 in blue the subject property, your property
19 highlighted. With respect to Gaylen Street,
20 what appears to be essentially a vacant lot
21 right behind your property, that is the
22 photograph -- that is the photograph that you

1 just showed us with the --

2 MR. WASHINGTON: That's right.

3 BOARD MEMBER ETHERLY: -- Gaylen
4 Heights sign there.

5 MR. WASHINGTON: Yes.

6 BOARD MEMBER ETHERLY: Okay. And
7 as you indicated, there is what is referred to
8 as a paper alley there. Is there any
9 vehicular access at all behind the rear of
10 those Gaylen Street properties?

11 MR. WASHINGTON: No.

12 BOARD MEMBER ETHERLY: None at
13 all.

14 MR. WASHINGTON: None, no.

15 BOARD MEMBER ETHERLY: Okay. That
16 covers it. Thank you, sir.

17 MR. WASHINGTON: Thanks.

18 CHAIRPERSON GRIFFIS: Any other
19 questions? Clarifications?

20 (No response.)

21 Okay. What else?

22 MR. BLANCHARD: I think what we'd

1 like to do is hear -- since we are just
2 getting this letter now --

3 CHAIRPERSON GRIFFIS: Yes.

4 MR. BLANCHARD: -- and I only got
5 one of the letters. I don't even know if --

6 CHAIRPERSON GRIFFIS: Oh. That's
7 the ANC that was just presented. We don't
8 have -- do we have copies of the other letters
9 that we were given this morning? Exhibits 29,
10 27, and 28?

11 SECRETARY MOY: I believe she went
12 to make extra copies.

13 CHAIRPERSON GRIFFIS: Okay. Good.
14 You wanted to hear from those, and then
15 respond to them?

16 MR. BLANCHARD: Take one moment.

17 CHAIRPERSON GRIFFIS: Okay.

18 (Whereupon, the proceedings in the
19 foregoing matter went off the
20 record at 10:50 a.m. and went back
21 on the record at 10:52 a.m.)

22 MR. BLANCHARD: Mr. Griffis, what

1 we'd like to do I think, as the staff is
2 looking for these other letters that have come
3 in, is to hear from the other persons that
4 have come, hear what their concerns are, and
5 then come back, have rebuttal, try and speak
6 to those concerns, to the extent we can at
7 this time, and then ask the Board for
8 additional time to perhaps prepare a revised
9 plan that speaks to -- that addresses OP's
10 concern, and see if there is an alternative
11 configuration of parking that could be
12 possible in the rear.

13 MR. WASHINGTON: It would take
14 elimination of one of the end units to create
15 a 20-foot wide drive aisle. It would require
16 moving the buildings closer to the front of
17 the site. One of the open questions that we
18 had when we were considering this was how far
19 of a setback would be required, because it's
20 my understanding it's at the Board's
21 discretion.

22 If it's something like a 20-foot

1 setback, it would impact the depth of the
2 buildings. But if it was something less, than
3 we could get our entire footprint closer to
4 the front. But that's what it would take. It
5 would take eliminating a building, moving the
6 current buildings closer to the front.

7 CHAIRPERSON GRIFFIS: What happens
8 on the rest of the block? I mean, it seems to
9 be a little bit eclectic from the aerial
10 photograph, but in terms of the, you know,
11 attached or detached structures that are
12 there, do they sit closer to the front
13 property line? Is there parking in the rear
14 on those?

15 MR. WASHINGTON: What you find is,
16 as you work your way up W Street, there is a
17 smattering of rowhouses, but the street is
18 really dominated by multi-family rental
19 properties. The multi-family properties have
20 parking that is accessed from W Street, but
21 the buildings are situated such that it's a
22 sideways parking. In other words, the

1 buildings face to the west, and then the
2 parking lots are kind of in front of the
3 buildings that way.

4 There is a couple of pictures that
5 you have of 1737 and 39 W Street, and 1655 and
6 1659 W Street, and --

7 CHAIRPERSON GRIFFIS: Right.

8 MR. WASHINGTON: -- then, there's a
9 couple of pictures --

10 CHAIRPERSON GRIFFIS: The
11 photograph of that apartment building that's
12 in your right hand, is that off the street?

13 MR. WASHINGTON: Yes.

14 CHAIRPERSON GRIFFIS: Or is that
15 off an alley?

16 MR. WASHINGTON: It's off the
17 street.

18 CHAIRPERSON GRIFFIS: I see.
19 Okay. So you're accessing straight off the
20 street that -- for a large area of the
21 apartment buildings anyway --

22 MR. WASHINGTON: Correct.

1 CHAIRPERSON GRIFFIS: -- the
2 surface.

3 MR. WASHINGTON: Yes.

4 CHAIRPERSON GRIFFIS: I see.

5 MR. WASHINGTON: And what we noted
6 was the rowhouse configuration provided a good
7 transition from the apartments, which were
8 further to the west, and then you have the big
9 lot, and then you have single-family up
10 towards the end of the block, so you'd -- you
11 know, with this configuration you'd have
12 apartments, rowhouses, and then single-family.
13 That was one of the things we noted when we
14 were doing our design.

15 CHAIRPERSON GRIFFIS: Okay.

16 MR. BLANCHARD: And both of these
17 other properties, there is also another
18 apartment building on the opposite side of the
19 street. These properties are basic. They
20 have loaded the parking on the side yard.

21 CHAIRPERSON GRIFFIS: Right.

22 MR. BLANCHARD: But it's such that

1 parking is right up there at the curb.

2 MR. WASHINGTON: And what I'll add
3 to that is these buildings were pretty much
4 all constructed prior to 1958. And the
5 parking ratios on definitely two of them are
6 below what the standards are today, which
7 tells you if those buildings were to be built
8 today, it's more than likely they'd have to
9 figure out a different parking configuration,
10 possibly one with a lot in the front.

11 CHAIRPERSON GRIFFIS: And you're
12 trying to park one to one on your property,
13 right?

14 MR. WASHINGTON: A little over one
15 to one.

16 CHAIRPERSON GRIFFIS: Right.

17 MR. WASHINGTON: Yes.

18 CHAIRPERSON GRIFFIS: Okay.
19 Questions?

20 VICE-CHAIRPERSON MILLER: Could
21 you just elaborate a little more what you had
22 in mind if there was a smaller setback in the

1 rear, and you could fit everything in the
2 footprint? That it might be feasible to put
3 the parking in the rear?

4 MR. WASHINGTON: Sure. The
5 setback was actually in the front off of W
6 Street. We had assumed that there would be
7 something in the neighborhood of a 20-foot
8 setback requirement. If that is the case,
9 then what it would translate to is about a 9-,
10 10-foot reduction in the depth of our
11 buildings.

12 We could play around with how wide
13 -- how deep the decks are and maybe some other
14 things, but it would be -- we looked at it as
15 a substantial reduction in the depth of the
16 buildings and the total square footage we
17 could deliver. If the setback is something
18 less, which would actually put it more in line
19 with what's on the street right now, then we
20 could keep the depth as it now and create that
21 drive aisle and put the parking in the back.

22 VICE-CHAIRPERSON MILLER: And you

1 could keep all of your units?

2 MR. WASHINGTON: Well, we'd lose
3 --

4 VICE-CHAIRPERSON MILLER: Or you'd
5 lose one because of the drive aisle?

6 MR. WASHINGTON: Yes. We'd lose
7 one building, three units.

8 CHAIRPERSON GRIFFIS: Anything
9 else? And just for my understanding -- I
10 mean, the Office of Planning did -- I make a
11 little jest, but in terms of like a drive-
12 through or portico. You couldn't do that
13 because it -- my understanding of reading your
14 drawings is the fact that if you did that
15 there would be no access for the units above,
16 because you're walking in the front just like
17 a regular townhouse and it's on that lot.

18 So if you drove through the first
19 level, it's not as if there's a central
20 entrance through the rest of the building to
21 get to those levels above.

22 MR. WASHINGTON: That's correct.

1 CHAIRPERSON GRIFFIS: Okay.

2 MR. WASHINGTON: You've have to
3 take away living area from one of the side
4 units to create a stairway --

5 CHAIRPERSON GRIFFIS: Okay.

6 MR. WASHINGTON: -- to get up
7 there. The other problem we saw with that was
8 trash pickup, because the dumpster has to go
9 in the parking lot. It would create issues
10 for a dumpster getting through that portico-
11 type entry.

12 CHAIRPERSON GRIFFIS: Interesting.
13 Okay.

14 BOARD MEMBER ETHERLY: Just if I
15 could, Mr. Chair, on that particular point,
16 just to be sure I'm sure. Perhaps you could
17 do it visually, but I just don't quite
18 understand. Where would you lose -- how would
19 you lose space if you had to move that parking
20 in the back? Could you perhaps just --

21 MR. WASHINGTON: Sure.

22 BOARD MEMBER ETHERLY: -- perhaps

1 indicate it, Mr. Washington? If you were to
2 orient a driveway somewhere, if you could
3 indicate on the drawing which is labeled L-1,
4 where would you see yourself losing some
5 depth, if you will?

6 MR. WASHINGTON: Sure.

7 BOARD MEMBER ETHERLY: Excellent.
8 Thank you very much, Ms. Bailey.

9 MR. WASHINGTON: What you're
10 looking at now is here's W Street, here's the
11 drive aisle that goes into the parking area,
12 and these are the units. What would have to
13 happen in order to move the parking into the
14 back is one of these units, either this one or
15 this one, would have to be removed, and the
16 drive aisle would replace that unit.

17 BOARD MEMBER ETHERLY: I see.

18 MR. WASHINGTON: Does that --

19 BOARD MEMBER ETHERLY: Okay.

20 CHAIRPERSON GRIFFIS: Is that an
21 existing curb cut?

22 MR. WASHINGTON: This is an

1 existing curb cut, but this -- now it's about
2 -- it's currently about 12, 14 feet. This
3 reflects a widening of the existing curb cut.

4 CHAIRPERSON GRIFFIS: Right. But
5 where it currently is.

6 BOARD MEMBER ETHERLY: Okay.

7 MR. WASHINGTON: Correct.

8 BOARD MEMBER ETHERLY: Thank you.
9 Thank you, Mr. Washington.

10 CHAIRPERSON GRIFFIS: Okay. One
11 quick question and followup is in the written
12 submission and also today it has been said a
13 couple of times that it was assumed that the
14 Board would, or has in the past, required a
15 front yard setback. Do you know off hand
16 where you're getting that impression from?

17 MR. WASHINGTON: It wasn't through
18 any official feedback from any agency. It was
19 one of my partners who -- I'll mention his
20 name. Kevin Moody was for eight years the
21 Director of Housing, Director of Development,
22 for the Marshall Heights Community Development

1 organization.

2 CHAIRPERSON GRIFFIS: Sure, sure.

3 MR. WASHINGTON: He mentioned that
4 there might likely be a setback requirement.

5 CHAIRPERSON GRIFFIS: Okay. All
6 right. I read that and kind of racked my
7 brain on when we had actually required a front
8 yard setback and couldn't come up with any.
9 It's a good -- it's much more contextual, I
10 think, in terms of what we've seen. And,
11 obviously, in this zone district it's not
12 required.

13 MR. WASHINGTON: Right.

14 CHAIRPERSON GRIFFIS: But it
15 certainly is a feature that one looks at in
16 terms of providing open space, light and air,
17 and setting of the building. But that answers
18 my question.

19 Okay. Any other questions from
20 the Board at this point?

21 BOARD MEMBER ETHERLY: Yes, final
22 question on this --

1 CHAIRPERSON GRIFFIS: Sure.

2 BOARD MEMBER ETHERLY: -- because
3 I think I have a clear understanding of the
4 impact of parking. You may have touched upon
5 this, Mr. Washington, but let me perhaps just
6 invite a direct kind of answer to it.

7 And I'm not necessarily viewing
8 this as part of the case that you have to
9 make, but just to satisfy my curiosity, the
10 logical I guess next question would be -- if
11 you were to, in fact, lose one unit, as you
12 talked about the type of product that you are
13 endeavoring to deliver here, what does that do
14 to your overall project? Does that throw it
15 so out of scope or out of whack from the
16 standpoint of a financing proposition that it
17 becomes a major issue?

18 MR. WASHINGTON: Sure. That's a
19 great question. You know, keep in mind that
20 right now we don't have any firm construction
21 quotes. We have some very soft numbers that
22 we're playing around with, but based on those

1 soft numbers we would not -- you know, losing
2 one building would not kill the project.

3 BOARD MEMBER ETHERLY: And just to
4 be clear, that's three units that would be
5 lost in that one building, correct?

6 MR. WASHINGTON: Correct.

7 BOARD MEMBER ETHERLY: Okay.

8 MR. WASHINGTON: Yes.

9 BOARD MEMBER ETHERLY: So it would
10 not kill the project, but it clearly would be
11 something you would feel.

12 MR. WASHINGTON: Yes, we'd feel
13 it. It would take away a lot of our wiggle
14 room in case there was a rise in construction
15 costs, which is something that was very real
16 over the last couple of years.

17 BOARD MEMBER ETHERLY: And with
18 respect to the -- again, the type of product
19 that you are endeavoring to deliver, do you
20 see it as being within the scale and character
21 of what currently exists along W Street?

22 MR. WASHINGTON: We do. We looked

1 not only along W Street, but we looked
2 throughout historical Anacostia. We noticed
3 a lot of houses with front porches and
4 pillars, and so forth, and, you know, that's
5 one thing we had in mind when we were
6 designing these.

7 And as I said before, we kind of
8 had in mind, you know, a transition from the
9 multi-family, which is very prevalent on the
10 street, to our rowhouse development, and then
11 on to single-family, which is a little further
12 up. So we -- those are the two things we had
13 in mind when we were designing it.

14 BOARD MEMBER ETHERLY: Because I
15 guess perhaps the million dollar question is,
16 the utility that's -- I want to be careful
17 with how I phrase this, but the utility that
18 you gain by saving that additional unit versus
19 I believe, as we may hear from the Office of
20 Planning, and perhaps as we may hear from some
21 of the public testimony, is what does the
22 front parking do to that aesthetic, if you

1 will, of the street as it currently exists?

2 And, of course, you are to be
3 commended for contemplating the historical
4 aspects of the neighborhood and the community
5 also. So I'm endeavoring to kind of weigh
6 that a little bit as well. But I'll perhaps
7 hold that in abeyance and not necessarily
8 invite a response from you on that, and I'll
9 just look to Office of Planning as we move
10 forward, Mr. Chair.

11 Thank you. Yes, sir.

12 MR. WASHINGTON: I'll say one
13 thing just to back that up. The aesthetics
14 weren't the only issue with the front parking.
15 Other than the density was -- you know, in
16 conversations with some of the neighbors are
17 the first ANC meeting, the issue of lighting
18 being provided to their homes was brought up,
19 and I actually like the idea of the parking
20 being in the front, because the buildings
21 would be set back.

22 If you look, I think in OP's

1 report there is a picture of the little brick
2 rowhouses that are directly across the street,
3 and they are maybe 20 feet in height. So a
4 building that sits up on a hill and is 30 to
5 34 feet in height might impact the lighting on
6 those structures. So that was another issue
7 that we were contemplating.

8 BOARD MEMBER ETHERLY: Is that a
9 consideration that you are perhaps looking to
10 address via landscaping or any type of
11 screening at the front of the property just to
12 help mitigate some of that headlight issue?
13 Because i would take it, the way the spots are
14 lined, of course, anybody -- someone could
15 choose to just go head in first, and the
16 headlights would of course point directly
17 across the street, or of course someone could
18 just back in.

19 MR. WASHINGTON: Sure.

20 BOARD MEMBER ETHERLY: It's going
21 to be the choice of a particular driver. Have
22 you looked at any landscaping on the very

1 front of W Street?

2 MR. WASHINGTON: Yes. When we met
3 with OP and DDOT, they requested that we add
4 more landscaping to what we had originally
5 submitted, and the plan you're looking at now
6 reflects the changes we made. In fact, the
7 first submission of this site plan had 22
8 parking spaces, but as a result of that
9 meeting with DDOT and OP, and the extra trees
10 that you see in the lot itself, it took away
11 two of our spaces. And then, you know, we
12 added some shrubs in the front.

13 There was a concern about putting
14 trees that were too tall in the front, because
15 it would block the view and possibly create
16 some unsafe conditions. But, yes, we did
17 address -- we did try our best to address the
18 landscaping issue.

19 BOARD MEMBER ETHERLY: And I was
20 inquiring off the record if we had a copy in
21 the record of Sheet L-1, and I don't believe
22 we do. And I may have stepped out of the room

1 as you were kind of walking through it. So
2 currently, as your landscaping is situated,
3 how many trees or what type of foliage are you
4 looking to kind of introduce? First of all,
5 is there any -- there's going to be fencing --
6 is there any fencing of any type?

7 MR. WASHINGTON: The plan doesn't
8 show fencing, but I am strongly of the belief
9 that fencing would be a market -- a help in
10 marketing the units --

11 BOARD MEMBER ETHERLY: Okay.

12 MR. WASHINGTON: -- from a safety
13 standpoint.

14 BOARD MEMBER ETHERLY: And you
15 would be thinking perhaps more ornamental in
16 nature. I mean, of course it would have --

17 MR. WASHINGTON: Wrought iron.

18 BOARD MEMBER ETHERLY: -- kind of
19 a boundary type of function, but would be
20 ornamental. You know, of course it wouldn't
21 be something like chain link or anything like
22 that.

1 MR. WASHINGTON: No. No.

2 BOARD MEMBER ETHERLY: But you
3 probably wouldn't be considering using any
4 screening on the fencing itself.

5 MR. WASHINGTON: No.

6 BOARD MEMBER ETHERLY: Okay.
7 Okay. So currently what are you contemplating
8 in terms of trees or landscaping on the site?

9 MR. WASHINGTON: That's a question
10 better answered by my partner --

11 BOARD MEMBER ETHERLY: Okay.

12 MR. WASHINGTON: -- who is not
13 here.

14 BOARD MEMBER ETHERLY: Okay.

15 MR. WASHINGTON: I don't think
16 there will be trees that are -- that will
17 eventually become overwhelming and, you know,
18 just totally block the visual sight lines of
19 the property. But he could better answer what
20 --

21 BOARD MEMBER ETHERLY: But suffice
22 it to say you're giving consideration to some

1 type of landscaping that could perhaps play a
2 role in minimizing the impact of headlights
3 from vehicles, you know, if the project were
4 to be approved in its current form.

5 MR. WASHINGTON: Yes.

6 BOARD MEMBER ETHERLY: Okay.

7 MR. WASHINGTON: Correct.

8 BOARD MEMBER ETHERLY: Excellent.

9 Thank you.

10 Thank you, Mr. Chair.

11 MR. BLANCHARD: Mr. Etherly,
12 actually this plan L-1 should be part of
13 Exhibit 22 in the Board's file. It was
14 submitted as part of the applicant's
15 prehearing statement.

16 CHAIRPERSON GRIFFIS: Oh, yes, we
17 have an 8-1/2 by 11. Oh, right. Good. Okay.

18 A couple of quick questions.
19 Obviously, these are pre-engineered houses,
20 correct?

21 MR. WASHINGTON: Yes.

22 CHAIRPERSON GRIFFIS: Okay. And I

1 note that the elevation that you show is
2 ground. It obviously shows exactly what
3 you're proposing. However, the plans I have
4 are individual. It looks like they're semi-
5 detached. You've obviously taken into account
6 how you're going to attach those, correct?

7 MR. WASHINGTON: Yes.

8 CHAIRPERSON GRIFFIS: Okay, good.
9 Mr. Etherly's questioning was I thought
10 enlightening in terms of some of the other
11 directions that this Board has often looked
12 at. On the edging of W, if it wasn't -- and
13 I know in the record you said you want to have
14 some sort of screen but doesn't allow for
15 people to hideaway --

16 MR. WASHINGTON: Yes.

17 CHAIRPERSON GRIFFIS: -- for
18 whatever bad elements there might be. Have
19 you proposed like a masonry wall of like up to
20 two feet, 24 inches or so, with maybe an
21 extension of a metal on top, so it's a little
22 bit more ornamental, becomes solid?

1 Obviously, the shrubs live or die, but a solid
2 masonry wall would block the light and give a
3 real barrier there.

4 MR. WASHINGTON: Right, right.
5 It's something we can definitely consider.

6 CHAIRPERSON GRIFFIS: Okay.

7 MR. WASHINGTON: We hadn't
8 incorporated it in our plans to date, but we
9 can definitely consider that.

10 CHAIRPERSON GRIFFIS: Right.
11 Because you're allowing a heck of a lot of
12 space. If I'm not mistaken, you're up to
13 about 31 inches, so about 30 inches for that
14 buffer area from the property line to the
15 first wheel stop or -- well, actually to the
16 end of the parking.

17 MR. WASHINGTON: Yes.

18 CHAIRPERSON GRIFFIS: So if you
19 have like an eight-inch wall, an eight-inch
20 masonry, even a 10-inch, you still have space
21 either in front or behind it that could be
22 green if need be --

1 MR. WASHINGTON: Right.

2 CHAIRPERSON GRIFFIS: -- or
3 something of that nature.

4 MR. WASHINGTON: Right.

5 CHAIRPERSON GRIFFIS: Or maybe
6 something a bit more monumental. I mean, you
7 may want that whether you just have a front
8 yard and parking rear or not.

9 MR. WASHINGTON: Right.

10 CHAIRPERSON GRIFFIS: Okay.

11 MR. WASHINGTON: Yes.

12 CHAIRPERSON GRIFFIS: Very well.
13 Any other questions?

14 VICE-CHAIRPERSON MILLER: I just
15 have one more. You state in the written
16 statement that you intend for all the units to
17 be affordable. Would that still be your
18 intent if three units were taken out of the
19 equation?

20 MR. WASHINGTON: That would be our
21 intent, yes. It would place more pressure on
22 our management of our construction costs, but

1 it would still be our intent. And it's not --
2 I mean, let's be frank. I mean, we're here to
3 make a profit, so it's not -- you know, we're
4 not trying to act like a non-profit, but we
5 just feel like there is a market that has to
6 date been underserved. And from a marketing
7 perspective, it's a good thing for a project
8 like this.

9 VICE-CHAIRPERSON MILLER: Thank
10 you.

11 CHAIRPERSON GRIFFIS: Good. Okay.
12 Any other questions? Anything else at this
13 time?

14 (No response.)

15 Okay. We noted that the ANC has
16 come in. Are you wanting to cross examine the
17 witnesses that you've heard testimony of? Do
18 you have any questions of them at this time?

19 MS. HUDSON: I don't have any
20 questions at this time, but I would --

21 CHAIRPERSON GRIFFIS: Okay.

22 MS. HUDSON: Good morning,

1 everyone. How you doing? My name is
2 Commissioner Hudson. I think that in your
3 packet it says that ANC-8A as a whole voted to
4 oppose this project on January 2nd. I just
5 want to clarify that ANC-8A had yet to come to
6 an actual conclusion on this situation on W
7 Street. That's why I'm here now.

8 We don't oppose long term, we
9 don't oppose development. However, we do
10 oppose the density of this project.

11 CHAIRPERSON GRIFFIS: Okay.

12 MS. HUDSON: We would prefer
13 single-family owner-occupied houses there, and
14 I speak to -- for the consensus of my
15 constituents who are here and they'll further
16 that argument.

17 CHAIRPERSON GRIFFIS: Okay.

18 MS. HUDSON: As far as questions,
19 no, I don't have any questions. I talked to
20 Mr. Washington on several different occasions,
21 and I applaud the fact that he is trying to
22 accommodate the constituents with applying

1 parking. However, it's just where he's
2 applying the parking as far as in front of the
3 buildings. I don't think it's aesthetically
4 pleasing to the constituents who live in those
5 surrounding areas.

6 One of my constituents, Ms.
7 Chapman, when she comes to testify she
8 actually has pictures of what the street looks
9 like when it's filled with cars on an around-
10 the-clock basis.

11 CHAIRPERSON GRIFFIS: Right.

12 MS. HUDSON: I think some of the
13 pictures, some of the photographs and
14 testimonies that are -- that you guys have
15 don't speak to the actual parking situation on
16 the larger scale and how it would impact the
17 cul-de-sac area.

18 CHAIRPERSON GRIFFIS: Okay.

19 MS. HUDSON: With emergency
20 service vehicles and just the aesthetics of
21 the neighborhood, because that area is
22 beautiful when you look out to the Capitol.

1 CHAIRPERSON GRIFFIS: Yes.

2 MS. HUDSON: And I believe that it
3 will really -- it will devalue their homes
4 with the parking in the front.

5 CHAIRPERSON GRIFFIS: I see.
6 Okay. And what are the other issues in terms
7 of when you say "density," and no one is in
8 favor of density? What's your understanding?

9 MS. HUDSON: To our understanding,
10 we would prefer to keep the motif single-
11 family homes on that end of the street, where
12 currently it's not -- it's on file that we're
13 currently fighting those seven apartment
14 buildings at the end of the block --

15 CHAIRPERSON GRIFFIS: Sure.

16 MS. HUDSON: -- to have those
17 closed down and some of those condensed into
18 more loft-style apartments and things like
19 that. So we're in the process of actually
20 working with hopefully R.B. Dagger and the
21 Office of Zoning -- I mean, the Office of
22 Planning to change our zoning from R-5 to

1 maybe R-2 or R-3, because if you really look
2 at the surrounding neighborhoods, V Street,
3 the other end of W Street, also U Street, it's
4 all single-family homes, rowhouses.

5 CHAIRPERSON GRIFFIS: Okay.

6 MS. HUDSON: The comprehensive
7 plan for -- the last comprehensive plan that
8 was amended by City Council back in November
9 actually states that they would like to change
10 that area to R-2 or R-3. So we would like to
11 further that cause by making sure that some of
12 the upcoming developments --

13 CHAIRPERSON GRIFFIS: Thanks.

14 MS. HUDSON: -- reflect that.

15 CHAIRPERSON GRIFFIS: But let me
16 -- I don't know if you know or could
17 articulate, what are some of the problems that
18 -- I understand that the context and the
19 character is single-family. That's what you'd
20 like to move all of this R-5 to. What do you
21 see the problems of having a density that's
22 above, you know, a single-family detached home

1 on this block, particularly on this site?

2 MS. HUDSON: I think it takes away
3 the aesthetics as far as the views of the
4 Capitol, the views of the area. It takes away
5 from the -- it just adds more people, more
6 cars. And also, it makes it more harder -- it
7 makes it harder for emergency service vehicles
8 as well as DPW to come by and plow the
9 streets. Right now, they have problems with
10 DPW coming up that way plowing them, icing,
11 salting them now. So when you add that many
12 cars in front, it creates another problem.

13 CHAIRPERSON GRIFFIS: Okay. Let
14 me ask you on that one. Do you mean the
15 parking of their cars on their site in front
16 of their buildings?

17 MS. HUDSON: Yes.

18 CHAIRPERSON GRIFFIS: I'm not
19 understanding how that relates to plowing of
20 the streets?

21 MS. HUDSON: Well, DPW uses the
22 rationale that the reason why they can't come

1 up that steep hill is because of the slope and
2 the fact that the cars are so close together.

3 CHAIRPERSON GRIFFIS: But these
4 cars would be off the street. They would be
5 on the property.

6 MS. HUDSON: Well, they'll be off
7 the street because of a curb cut, but they
8 will still be at an angle to whereas DPW can
9 use that to further their rationale to not
10 come up that end of the hill.

11 CHAIRPERSON GRIFFIS: Okay. That
12 helps me. All right, great. Any questions
13 from the Board?

14 (No response.)

15 Any cross?

16 MR. WASHINGTON: No. No, thanks.

17 MR. BLANCHARD: Mr. Griffis, we'd
18 just like to note that while we've just
19 received Ms. Hudson's letter today, that it is
20 not -- should not be afforded great weight,
21 because it wasn't obviously the result of the
22 --

1 MS. HUDSON: Actually, the ANC
2 shall be asking for great weight, because the
3 ANC did submit a letter. However, it was not
4 -- for whatever reason, it was not received in
5 the mail on time.

6 BOARD MEMBER ETHERLY: Perhaps,
7 Mr. Chair, just to clarify, because I think we
8 were doing a couple of different things all at
9 once here, we were finishing up the
10 applicant's case. There wasn't any direct
11 cross examination. There was definitely some
12 helpful Q&A.

13 I think clearly there are concerns
14 that the ANC, through Commissioner Hudson,
15 will bring forward when they submit their
16 report. So I'm more than happy to perhaps
17 move us in that direction, because normally we
18 would do Office of Planning, as Ms. Hudson is
19 aware, and then we would come to the ANC.

20 Perhaps since we are already here,
21 I'll just highlight. It will be helpful for
22 us when the ANC does give its report to get a

1 little bit of clarification on how the ANC
2 came to its decision, because there was --
3 prior to your arriving, there was a little bit
4 of testimony to the fact that there wasn't an
5 ANC report on record, and there wasn't any
6 clarity around what the ANC had done. So it
7 would be helpful to clarify that.

8 CHAIRPERSON GRIFFIS: I think
9 let's get to it at --

10 BOARD MEMBER ETHERLY: Okay.

11 CHAIRPERSON GRIFFIS: Forgive me
12 for not being clear on --

13 BOARD MEMBER ETHERLY: No problem.

14 CHAIRPERSON GRIFFIS: -- way out
15 of order. But here Ms. Hudson was, we might
16 as well get right to it. So if there's
17 anything additionally you want to, in terms of
18 presenting this letter to the Board, you can
19 address that now, and then also talk about
20 what Mr. Etherly is asking in terms of the
21 process.

22 MS. HUDSON: Pretty much the

1 letter is what it is. It's self-explanatory
2 in terms of just approaching this topic in
3 this situation with the W Street Apartments.
4 The ANC noted when we brought this before the
5 community at our January meeting, January 2nd
6 meeting, as well as our previous meetings, the
7 ANC did stall on voting for this -- to support
8 or oppose this project.

9 However, they did allow me to use
10 whatever decision I decided to make, because
11 it is in my SMD.

12 BOARD MEMBER ETHERLY: So the
13 ANC --

14 MS. HUDSON: As a whole.

15 BOARD MEMBER ETHERLY: -- and
16 pardon the interruption. So the ANC, as its
17 January 2nd meeting, did not take formal
18 action on the application.

19 MS. HUDSON: Right.

20 BOARD MEMBER ETHERLY: Okay.
21 There was extensive discussion. It was a
22 properly noticed meeting.

1 MS. HUDSON: Yes.

2 BOARD MEMBER ETHERLY: I'm taking
3 it from some of the nodding heads in the
4 audience that members -- some members of the
5 community were aware of it. It was a regular
6 meeting.

7 MS. HUDSON: Yes.

8 BOARD MEMBER ETHERLY: Okay. And
9 you were authorized to present the opposition,
10 which is referenced in the letter dated
11 January 30th. Are we to take that -- and I
12 just want to be sure I'm clear -- I'm clear on
13 where you stand. I just want to be sure, do
14 we take it as you speaking for yourself as
15 SMD, representing the SMD district, or is it
16 -- was it the ANC's decision authorized you to
17 make the call, if you will?

18 MS. HUDSON: I'm authorized as the
19 SMD.

20 BOARD MEMBER ETHERLY: Okay.

21 MS. HUDSON: This being in my SMD.

22 BOARD MEMBER ETHERLY: Okay. So

1 the ANC itself hasn't taken a position.

2 MS. HUDSON: No, the ANC --

3 BOARD MEMBER ETHERLY: Okay.

4 MS. HUDSON: -- as a whole has yet
5 to take a position.

6 BOARD MEMBER ETHERLY: Okay. But
7 clearly, as the SMD member, you are absolutely
8 in opposition.

9 MS. HUDSON: Yes.

10 BOARD MEMBER ETHERLY: Again,
11 you've had good conversations with the owner.
12 This is not any --

13 MS. HUDSON: Yes.

14 BOARD MEMBER ETHERLY: -- bad
15 intentions to the owner, but --

16 MS. HUDSON: Right.

17 BOARD MEMBER ETHERLY: -- just
18 based on the feedback you've gotten from your
19 constituents.

20 MS. HUDSON: Constituents, yes.

21 BOARD MEMBER ETHERLY: There are
22 some concerns, and they're addressed in this

1 letter here.

2 MS. HUDSON: Yes.

3 BOARD MEMBER ETHERLY: Excellent.

4 I think I'm clear on where we are, Mr. Chair.

5 CHAIRPERSON GRIFFIS: Good. Thank
6 you. Any other questions?

7 VICE-CHAIRPERSON MILLER: I just
8 want to address the ANC letter also, and the
9 applicant's request I think which is out there
10 that it not be given great weight.

11 First of all, I appreciate your
12 being here and giving us all the information
13 about, you know, the community and the setting
14 and everything and everything that's in this
15 letter. We certainly are reading and paying
16 attention to, and we'll consider in our
17 evaluation.

18 The great weight that is being
19 discussed is a statutory right that's given to
20 the ANCs, but it's given to the ANC body as a
21 whole when it -- you know, it has to have a
22 report that reflects that, you know, notice

1 was provided to the community, and there was
2 a vote, and this is what the vote is,
3 etcetera.

4 So, in that sense, this letter
5 doesn't rise to that level of being given
6 great weight. And when we give something
7 great weight -- to the ANC it means we address
8 with particularity every single issue on the
9 record that has been raised by the ANC.

10 So I would say that this doesn't
11 qualify because it's just from a single
12 member, and it doesn't meet those criteria.
13 But I just want to assure you that we are
14 paying attention, and we will be, you know,
15 considering the views that you're expressing.

16 MS. HUDSON: Thank you.

17 CHAIRPERSON GRIFFIS: Excellent.
18 Quick followup on one of the elements in this
19 letter, which we will be giving great
20 attention to the elements. This is a three-
21 unit structure on each of these lots. Are you
22 aware whether you will be providing sprinkler

1 systems in them?

2 MR. WASHINGTON: We will be, yes.

3 CHAIRPERSON GRIFFIS: Okay. All
4 right. Any other questions or comments,
5 clarifications of the ANC letter?

6 VICE-CHAIRPERSON MILLER: I have
7 one other --

8 CHAIRPERSON GRIFFIS: Yes.

9 VICE-CHAIRPERSON MILLER: --
10 question to you. Because I know that you are
11 very concerned about the aesthetics, and I can
12 certainly visualize the difference between,
13 you know, the parking in the front and the
14 back, do you have certain concerns about
15 landscaping that might soften the impact of
16 your perception of the density of this
17 project?

18 MS. HUDSON: I'm open to the idea
19 that Mr. Griffis suggested as far as the
20 masonry wall, and things like that, but only
21 on the basis that my -- because I represent my
22 constituents, if that's what -- if my

1 constituents agree. But, yes, ornamental
2 design to help alleviate the situation with
3 the lights bothering my neighbors and things
4 like that, yes.

5 I mean, he said -- Mr. Washington
6 said he is considering those things. I would
7 like those set in stone, to be actually
8 written up.

9 VICE-CHAIRPERSON MILLER: Thank
10 you.

11 BOARD MEMBER ETHERLY: And if I
12 could, just a little further, Ms. Hudson, with
13 respect to the issue of density -- and I want
14 to choose my words carefully, because I know
15 it's a much larger issue for not only your
16 community but many communities throughout our
17 city. That doesn't necessarily, to an extent,
18 call into issue zoning all of the time. So
19 I'm going to kind of walk carefully through
20 this question.

21 But with respect, just as you came
22 in there was some discussion about what would

1 happen to the design as it is currently set
2 up, if there was an effort on the part of the
3 applicant to move the parking to the rear of
4 the lot. In particular, it would probably
5 result in the removal or the loss, if you
6 will, of one or more of the buildings, let's
7 say probably at minimum one, in order to
8 insert a drive aisle that would take the
9 traffic to the rear of the property.

10 Is there -- was there discussion
11 at the ANC meeting about the density aspect of
12 this, if you will, in terms of the number of
13 units?

14 MS. HUDSON: Yes, there was.

15 BOARD MEMBER ETHERLY: Okay. And
16 what was the nature of that discussion? Was
17 there --

18 MS. HUDSON: The nature of that
19 discussion was that it was too many apartments
20 crammed in one area.

21 BOARD MEMBER ETHERLY: Okay.

22 MS. HUDSON: It wouldn't seek --

1 the turnaround for that cul-de-sac area would
2 really disturb that. It also would take away
3 from the actual neighborhood as a whole.
4 We're trying to move away from apartment-style
5 dwellings to single-family homes.

6 BOARD MEMBER ETHERLY: Okay. So
7 from your perspective as the SMD Commissioner,
8 if there were a downward adjustment in terms
9 of the number of units, that would probably
10 not be a bad thing.

11 MS. HUDSON: No, it wouldn't.

12 BOARD MEMBER ETHERLY: Okay. And,
13 of course, if it also resulted in parking
14 relocated to the rear of the property.

15 MS. HUDSON: Yes.

16 BOARD MEMBER ETHERLY: Okay.

17 MS. HUDSON: One of the major
18 issues that the ANC was having was the density
19 in the parking situation. We would like to
20 see less density and the parking in the rear.

21 BOARD MEMBER ETHERLY: Okay.

22 MS. HUDSON: That's just -- that's

1 where our stance is. However, we didn't get
2 to go to a vote on that.

3 BOARD MEMBER ETHERLY: Understood.

4 MS. HUDSON: I can get you a copy
5 of our minutes that will bring to you a lot of
6 the different situations, questions, comments
7 --

8 BOARD MEMBER ETHERLY: Okay.

9 MS. HUDSON: -- and concerns. Not
10 just of my constituents, but --

11 BOARD MEMBER ETHERLY: Oh, no.

12 MS. HUDSON: -- most importantly
13 other Commissioners as a whole.

14 BOARD MEMBER ETHERLY: And I think
15 I have a very clear sense from your
16 presentation just how difficult and how much
17 of a challenge this was for the ANC. As you
18 indicated, you are not against development,
19 and I'm not taking it as that. But it is
20 always a difficult charge that our ANCs have
21 trying to sort out what the impact is going to
22 be on the existing community.

1 Let me come back to Mrs. Miller's
2 question, however, just to make sure I'm
3 absolutely clear. There are a lot of
4 different scenarios that this Board could
5 consider. There are a number of different
6 things that we could do under the special
7 exception relief that's requested, and the
8 variance relief, with this application. So I
9 want to be sure I'm clear.

10 On that issue of fencing or some
11 type of masonry wall, ornamental in design to
12 help mitigate any impacts of headlights on the
13 community residents that you represent, is it
14 your sense that that would be a compromise
15 that you and your constituents could live
16 with, or would the preference be more so --
17 and I apologize to an extent if I'm putting
18 you on the spot here, but I to an extent want
19 to try to get a sense of, you know, what the
20 wiggle room is based on your understanding
21 about, you know, if the option is, hey, we
22 would rather see the applicant lose one

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1 building and move the parking to the rear, or,
2 if the choice is we can put up a masonry wall,
3 screen it, make it look nice --

4 MS. HUDSON: I would prefer to see
5 the parking in the rear.

6 BOARD MEMBER ETHERLY: Okay.

7 MS. HUDSON: Because with the
8 parking in the front yard, that means the
9 dumpsters would have to go in the front yard
10 as well. So --

11 BOARD MEMBER ETHERLY: Okay.

12 MS. HUDSON: -- we would prefer
13 the dumpsters as well as the parking in the
14 rear.

15 BOARD MEMBER ETHERLY: Okay.

16 MS. HUDSON: Just for pollution
17 purposes as well.

18 BOARD MEMBER ETHERLY: Okay.

19 MS. HUDSON: The cars and things
20 like that going in that -- that street is not
21 as wide as some of the other streets. It is
22 a smaller cul-de-sac area, so you also have

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1 the pollution aspect of cars and things like
2 that, and the dumpster --

3 BOARD MEMBER ETHERLY: Understood.

4 MS. HUDSON: -- and the garbage
5 situation.

6 BOARD MEMBER ETHERLY: Okay. And,
7 again, I apologize for perhaps putting you on
8 the spot there. I appreciate --

9 MS. HUDSON: It's okay.

10 BOARD MEMBER ETHERLY: -- the
11 difficulty of the decision.

12 Let me come back, if I could, Mr.
13 Chair, just to Mr. Washington. I'm not sure
14 if we touched upon it. Either way, regardless
15 of where the parking goes, could you speak a
16 little bit to what you're doing in terms of --
17 what you are planning to do in terms of the
18 enclosure for the dumpster?

19 We've talked a little bit about
20 the dumpster as it is currently situated on
21 the property. What are you planning in terms
22 of the enclosure for that?

1 MR. WASHINGTON: Yes. We had
2 discussed putting up a wooden fence, like a
3 pressure-treated wood fence, around the
4 dumpster, probably five, seven feet high, to
5 hide it from view.

6 BOARD MEMBER ETHERLY: Okay. And
7 you would expect that your trash service would
8 come into the driveway and service the
9 dumpster that way?

10 MR. WASHINGTON: Yes.

11 BOARD MEMBER ETHERLY: Okay.
12 Excellent. Thank you.

13 Thank you, Ms. Hudson. Thank you,
14 Mr. Washington. Thank you, Mr. Chair.

15 CHAIRPERSON GRIFFIS: Excellent.
16 Any other questions?

17 (No response.)

18 Any cross?

19 (No response.)

20 MS. HUDSON: Thank you.

21 CHAIRPERSON GRIFFIS: Thank you
22 very much, Ms. Hudson.

1 Okay. Let's get back on track.
2 We're going to go right to the Office of
3 Planning for their analysis.

4 MR. MOORE: Good morning, Mr.
5 Chair, and members of the Board. I'm John
6 Moore, the Office of Planning.

7 CHAIRPERSON GRIFFIS: Good
8 morning.

9 MR. MOORE: We did review this
10 application, and let me state beforehand that
11 we had several very fruitful meetings with the
12 developer, and many, many phone calls. It's
13 just that we are at an impasse regarding the
14 location of parking. Obviously, we support
15 the application under 353 because it is
16 bringing new construction on the site that has
17 historically been vacant.

18 As it relates to the variance, we
19 don't think that the applicant -- application
20 rises to the level of the variance test. A)
21 if you look at the photographs on page 5 of
22 the OP report, we make a statement that all of

1 the properties on the block are on basically
2 the same building line. This would be the
3 only building on the block that would actually
4 be away from that building line.

5 Second, 2116.1 clearly says that
6 parking can be located in the rear or on the
7 side, but not in front of the property, and
8 this would be a violation of that. We feel
9 very strongly about that. And almost in every
10 case that we've presented to this Board where
11 that was an issue, OP was on the side that
12 parking should not be located in the front of
13 the building.

14 The ANC Commissioner Hudson really
15 took many of the points that I would make, and
16 I applaud her for that. When you think about
17 -- when you look at this development in terms
18 of how it's laid out with the parking up front
19 and the buildings in the rear, it doesn't take
20 much imagination to see -- look back to 1950
21 at Route 66 and Route 1 with motels. That's
22 basically the way they were built. The motel

1 was in the back, and the parking was in front.

2 But those were all major U.S.
3 highways. This is a neighborhood, and that's
4 totally out of character with the existing
5 housing in that neighborhood right now. And
6 for that reason, we strongly oppose the
7 project.

8 And we didn't suggest to the
9 applicant what they should do with their
10 property as their investment, and, of course,
11 they're looking for a certain yield from their
12 investment, but in the pictures that the
13 applicant presented here this morning -- I had
14 some pictures, but I didn't bring them because
15 it wasn't a matter of record so far.

16 If you look at the very second one
17 where he's showing the rear of the property
18 from Gaylen, there's something extremely
19 significant about that picture. There's going
20 to be eight semi-detached dwellings there. If
21 you look at that sign, it says six of them are
22 sold. To me, that suggests a market.

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1 With that, I'll entertain any
2 questions you have.

3 VICE-CHAIRPERSON MILLER: Mr.
4 Moore, what's your opinion about having a
5 smaller setback in the front in order to put
6 the parking in the back?

7 MR. MOORE: We don't support any
8 setback in front. We think that the -- oh,
9 you're speaking parking now?

10 VICE-CHAIRPERSON MILLER: No. I'm
11 speaking -- the applicant said in order to
12 move the parking into the back, into the rear,
13 that they would have to have a smaller setback
14 than the 20 feet that they had used as a
15 benchmark. And so do you see any problem with
16 that?

17 MR. MOORE: I don't understand the
18 mathematics of flipping one use for another on
19 the same land mass. So, no, I don't agree
20 that that is a mathematical conclusion that
21 would be reached.

22 VICE-CHAIRPERSON MILLER: Do you

1 see an adverse impact of that?

2 MR. MOORE: Of which?

3 VICE-CHAIRPERSON MILLER: If there
4 was a smaller setback than 20 feet in the
5 front.

6 MR. MOORE: Yes. Yes, I see an
7 adverse impact. It has already been
8 mentioned, the effect of light from the
9 vehicles. Of course, that's not the only
10 impact. Again, looking at -- I think you
11 already mentioned --

12 CHAIRPERSON GRIFFIS: I need to
13 clarify, because I think she is asking you, do
14 you -- if the parking was in the rear, talking
15 about the setback from the structures from the
16 property line, and basically a front yard
17 setback, do you -- did you give any opinion or
18 analysis of 20 feet or 10 feet or five feet
19 for --

20 MR. MOORE: Do you mean from the
21 rear of the property to the pocket?

22 VICE-CHAIRPERSON MILLER: No, from

1 the front, from the street to the --

2 CHAIRPERSON GRIFFIS: For front
3 yard.

4 VICE-CHAIRPERSON MILLER: -- front
5 yard.

6 CHAIRPERSON GRIFFIS: Not parked.

7 MR. MOORE: No, no. I just think
8 that setback should be consistent with the
9 setback on the block right now of the
10 properties.

11 CHAIRPERSON GRIFFIS: Good. And
12 you gave two photographs of that.

13 MR. MOORE: Yes.

14 CHAIRPERSON GRIFFIS: The
15 apartment I don't think is that analogous, but
16 maybe it is. Do you know off hand what the
17 dimension of the single-family setback is,
18 what their front yard is?

19 MR. MOORE: The general setback on
20 the block is about eight to 10 feet.

21 CHAIRPERSON GRIFFIS: Right.

22 VICE-CHAIRPERSON MILLER: Eight to

1 10, okay.

2 MR. MOORE: Yes.

3 VICE-CHAIRPERSON MILLER: And
4 then, Ms. Hudson made a reference to the new
5 comprehensive plan changing the residential
6 district designations, or recommending that
7 they be changed. Are you familiar with that?

8 MR. MOORE: I want to walk very
9 carefully on this issue, because I was
10 admonished by the Chair last week for making
11 a semi-argument. But the comprehensive plan
12 and several locations east of the Anacostia
13 River -- keep in mind the character has always
14 been too many multi-family buildings, not
15 enough single-family buildings.

16 So in the new comprehensive plan
17 it suggests a climate by which land use
18 designations should be changed from moderate
19 to medium-density residential to low-density.
20 And there are several policies in the plan
21 that says zoning should be changed
22 accordingly, and that's what the ANC

1 Commissioner is -- I made that argument last
2 week, and the Chair didn't take too kindly to
3 it.

4 VICE-CHAIRPERSON MILLER: Thank
5 you.

6 MR. MOORE: Sure.

7 BOARD MEMBER ETHERLY: If I could,
8 Mr. Chair, I would agree with the Office of
9 Planning in terms of many of the points, not
10 -- I'm not speaking necessarily in terms of
11 the outcome of the points, but in terms of the
12 excellent points that were made by
13 Commissioner Hudson. And I think the OP
14 report was very, very comprehensive.

15 Let me perhaps ask, however, and
16 this is -- this perhaps is as much a
17 philosophical question, because I kind of
18 sense that is where a little bit of the
19 tension is here with the project, not about
20 the merits of the project, not about the fact
21 that we have some infill development that is
22 looking to come to a parcel that perhaps has

1 been vacant for quite some time, but the
2 tension, nevertheless, seems to exist between
3 what is the current residential fabric of W
4 Street and the community, if you will, and I
5 don't want to say the new aesthetic that is
6 being -- that is sought to be introduced here,
7 but to an extent there is a different kind of
8 flavor that this project would represent,
9 putting it very inartfully.

10 My question perhaps is --
11 actually, let me just ask you the same
12 question I asked Ms. Hudson, and that was, it
13 is the Office of -- it would be the Office of
14 Planning's position, then, that if it means
15 negating one building in order to make this
16 project more consistent with the existing
17 aesthetic on W Street, and the existing flavor
18 if you will of that community, moving the
19 parking in the rear, losing a building, at a
20 minimum probably one building, to get a drive
21 aisle in, so you can get your -- so you can
22 access the parking at the rear, the Office of

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1 Planning would definitely be in support of
2 that type of scenario.

3 MR. MOORE: Yes, we would.

4 BOARD MEMBER ETHERLY: Okay.

5 Thank you, sir. Thank you, Mr. Chair.

6 CHAIRPERSON GRIFFIS: Excellent.

7 Thank you.

8 BOARD MEMBER ETHERLY: I'm sorry,
9 Mr. Chair. One additional followup question,
10 different topic, but the Office of Planning
11 referenced it in its report at page 6. There
12 was some concern expressed about the lack of
13 detail, if you will, on the landscaping side,
14 and I wanted to just kind of come to that for
15 a quick moment, if I could, Mr. Chair.

16 The Office of Planning in its
17 report at page 6 referenced the retaining wall
18 and concerns about the structural soundness
19 there, and also a little bit about storm water
20 management. Could you speak perhaps a little
21 bit to that?

22 We had some further discussion

1 using L-1, but have you heard anything further
2 on that, Mr. Moore?

3 MR. MOORE: No, I haven't. I
4 think the applicant would agree that the
5 existing retaining wall is structurally
6 unsound, and you simply can't bandaid it and
7 build behind it.

8 That site, again, where the block
9 itself elevates as it goes toward Fort Stanton
10 Park, this is a plateau that is even higher
11 than many other sites on the block. So the
12 management of storm water would be very
13 critical.

14 I -- well, I will mention it. I
15 made a reference to the units being built on
16 Gaylen, and I also made a reference that six
17 of those units had For Sale signs in front of
18 them, and the end two units up to -- without
19 For Sale signs on it. That is because as the
20 people who live in the community there can
21 tell you, there is water standing in the
22 basement all the way up to the window level,

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1 because somehow a storm water management plan
2 wasn't put in place.

3 So even before the buildings are
4 completed, there is already an issue with
5 runoff. So, of course, we'd be extremely
6 sensitive that this development not fit in
7 that mold. There are no pictures of that in
8 there.

9 BOARD MEMBER ETHERLY: Okay.

10 MR. MOORE: The only pictures are
11 the fact that those two signs don't say Sold.

12 BOARD MEMBER ETHERLY: So there
13 have been foundations -- well, not foundations
14 --

15 MR. MOORE: Foundations and
16 things.

17 BOARD MEMBER ETHERLY: There has
18 been excavation already done --

19 MR. MOORE: Yes.

20 BOARD MEMBER ETHERLY: -- for
21 those developments, and those two end unit
22 developments, that the excavation already has

1 some water issues. It's clearly evident.

2 MR. MOORE: Clearly evident.

3 BOARD MEMBER ETHERLY: Okay. So
4 with respect to this project, at minimum the
5 Office of Planning would also be strongly
6 supportive of additional documentation that
7 speaks to storm water management planning.

8 MR. MOORE: Yes, we would.

9 BOARD MEMBER ETHERLY: Understood.
10 Thank you, sir. Thank you, Mr. Chair.

11 CHAIRPERSON GRIFFIS: Good. Yes,
12 Ms. Miller.

13 VICE-CHAIRPERSON MILLER: Mr.
14 Moore, did DDOT submit a report?

15 MR. MOORE: I believe DDOT did
16 submit a report. They informed us that they
17 would be submitting one.

18 VICE-CHAIRPERSON MILLER: Right.
19 That's what I saw in your report, that they
20 would, but I don't think we have a report.

21 MR. MOORE: It's not a matter of
22 record yet?

1 VICE-CHAIRPERSON MILLER: So you
2 think that they are still intending to.

3 MR. MOORE: I have it.

4 VICE-CHAIRPERSON MILLER: You have
5 it, good. Okay.

6 MR. MOORE: I'll give it to Ms.
7 Bailey, if you want.

8 CHAIRPERSON GRIFFIS: Yes. Why
9 don't we put it in the record. Just, can you
10 give an indication -- were they recommending
11 approval or --

12 MR. MOORE: No, they are not.

13 CHAIRPERSON GRIFFIS: Okay. All
14 right. We'll get this into the record, and
15 we'll make sure that -- do you have a copy of
16 this? You do? Okay.

17 MR. BLANCHARD: We just got it
18 yesterday.

19 MR. MOORE: By the way, Mr. Chair,
20 did you also get a copy of DHCD's report?

21 CHAIRPERSON GRIFFIS: I don't have
22 a copy of DHCD. Do you also have that?

1 MR. MOORE: I don't have one with
2 me. They assured me they would be sending it
3 to you.

4 CHAIRPERSON GRIFFIS: Yes, that
5 did not come into the record as of yesterday.
6 Did DHCD -- did we also get that? Right,
7 that's not in. Do you have that?

8 MR. BLANCHARD: No.

9 CHAIRPERSON GRIFFIS: Okay. Good
10 point. Okay.

11 Anything else, then, from the
12 Board for the Office of Planning?

13 VICE-CHAIRPERSON MILLER: I'm
14 sorry, I have another question. On page 5 of
15 your report, you talked about the building
16 where it's proposed presently with the parking
17 in the rear, blocking the panoramic view of
18 the monumental core and points beyond that.
19 I mean, with the parking in the front.

20 If it's flipped and the building
21 is in the front and the parking is in the
22 rear, are the panoramic views still

1 obstructed, or not?

2 MR. MOORE: To be redundant, the
3 panoramic view would come into view then, from
4 the front of the building and from the second
5 floor. You could see -- our photographs,
6 because we have reduced it to put it in the
7 report, the pictures are so small you can't
8 actually tell, but you can actually see the
9 Capitol dome as if you can touch it, and the
10 Cathedral, believe it or not, from this site.
11 I believe that's worth something.

12 VICE-CHAIRPERSON MILLER: But when
13 things are flipped, then, the views are
14 preserved?

15 MR. MOORE: No. I'm saying when
16 they're flipped.

17 VICE-CHAIRPERSON MILLER: Yes.

18 MR. MOORE: From your front window
19 on either floor you can see that view. From
20 the top level, you can also see across,
21 because it would be higher than the apartment
22 building on the west side.

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1 VICE-CHAIRPERSON MILLER: Oh,
2 okay. And then, finally, I think it's your
3 position, but if you could just confirm, that
4 with the parking in the rear it's -- is it
5 your view that, then, the project is within
6 the character of the neighborhood?

7 MR. MOORE: It would be more in
8 character with everything else in the
9 neighborhood. By the way, all other parking
10 on the block, including the multi-family
11 buildings, are done in accordance to the
12 regulations. You know, it's either on the
13 side or in the rear of the buildings.

14 VICE-CHAIRPERSON MILLER: Thank
15 you.

16 CHAIRPERSON GRIFFIS: Okay. Does
17 the applicant have any cross examination of
18 the Office of Planning?

19 MR. WASHINGTON: No questions. I
20 just have a point of clarification. Mr. Moore
21 stated that those houses on Gaylen Street, six
22 of the eight have been sold. In fact, the

1 picture was taken last summer. The original
2 asking prices on the buildings were \$199,000,
3 and they were, in fact, reserved by six
4 people.

5 I've had some more recent
6 discussions with the broker, and apparently
7 the construction costs were higher than
8 anticipated, reportedly due to some
9 infrastructure development that was required
10 by the city. So the asking price has gone up
11 to \$329-. Actually, \$299- up to \$399-, and
12 none of the units are currently sold. So I
13 just wanted to make that clarification.

14 MR. MOORE: In rebuttal, the sign
15 was still up last Friday.

16 CHAIRPERSON GRIFFIS: Right.
17 Okay. Good information.

18 MR. MOORE: Excuse me, Mr. Chair.

19 CHAIRPERSON GRIFFIS: Sure.

20 MR. MOORE: I want to clarify one
21 other thing, because we are somewhat
22 vulnerable here. In the OP report, we did say

1 that the ANC had taken action, I believe, on
2 January 2nd. That was a result of my having
3 three conversations with ANC Chair Muhammad,
4 who assured me that the ANC had taken this
5 matter up, and I asked him, of course, to
6 forward me a copy. And if he would also send
7 a copy to Mr. Nero, and I was told he was in
8 the process of doing that. So if we are in
9 error, it's because I took the word of the ANC
10 Chairperson.

11 CHAIRPERSON GRIFFIS: Sure. Sure.
12 Yes, not a problem. Good clarification, and
13 we appreciate that.

14 Okay. Is the ANC --

15 MR. BLANCHARD: Just one thing,
16 Mr. Griffis.

17 CHAIRPERSON GRIFFIS: Yes.

18 MR. BLANCHARD: On the OP report,
19 it mentions the Department of Transportation
20 report and the DHCD report. Both -- the only
21 opposition of those two agencies -- and I know
22 they're not here -- although you did just get

1 the DDOT report, is that the only thing those
2 agencies seem to be opposing is parking in the
3 front yard.

4 CHAIRPERSON GRIFFIS: Right.

5 MR. BLANCHARD: So if the
6 applicant submits a revised plan that moves
7 the parking to the rear, then that would
8 address those agencies' concerns.

9 CHAIRPERSON GRIFFIS: Well put.
10 Okay. Does the ANC have any cross examination
11 for the Office of Planning?

12 MS. HUDSON: No.

13 CHAIRPERSON GRIFFIS: Very well.
14 Thank you very much. I think, then, that does
15 cover all of the agency reports that we had
16 anticipated under the special exception review
17 of 353, and also as has been submitted.

18 Why don't we go to those that are
19 present that would like to provide testimony.
20 Persons present in support of Application
21 17562, are there persons in support that would
22 like to provide testimony?

1 (No response.)

2 Persons in opposition? Yes.
3 Excellent. Why don't we come up. And a very
4 good morning to you. Please, can I have you
5 state your name and address for the record?
6 Then, you can proceed. Of course, every
7 person is provided three minutes. I'll keep
8 an eye on the clock, and I'll let you know
9 when you're getting close, if you run over.

10 MS. CHAPMAN: Thank you, and good
11 morning, everyone.

12 CHAIRPERSON GRIFFIS: Good
13 morning.

14 MS. CHAPMAN: I am Pauline
15 Chapman, and this is my husband, Kenneth
16 Chapman.

17 CHAIRPERSON GRIFFIS: Pleasure.

18 MS. CHAPMAN: We own the property
19 at 1750 W Street, S.E. This is our primary
20 residence, and it has been our residence for
21 over 30 years. I take a great deal of pride
22 in where I live. It is my thing that I plant

1 flowers in my yard and shrubbery, and I love
2 the view of how it does each -- whatever the
3 season is, I have flowers to complement that
4 season. As a result, my neighbors have taken
5 up the case and it becomes quite nice, quite
6 a great effect.

7 I've lost my place here.

8 The property directly across the
9 street that is proposed to be developed is
10 directly across the street from where we live.
11 And when we heard of this project being
12 developed, we were delighted. We assumed that
13 it would be some single-family project that
14 would have great landscaping, things that
15 would enhance our neighborhood, and enhance
16 our well being.

17 As most of the homes on this
18 street are detached homes with front yards, we
19 want to, if possible, preserve the integrity
20 of this landscape.

21 The plans that were submitted, BZA
22 17562, does the homeowners on W Street a great

1 disservice. In my opinion, it shows a lack of
2 respect for this community.

3 How did I arrive at this
4 conclusion? Picture this: 18 units with 40
5 or more people, most people have two children,
6 the space is allows that he's got in his plans
7 is 20 spaces. Most people have two cars, not
8 to include the people that will come to visit
9 you on Sundays.

10 By my house being directly -- our
11 house -- across from this thing, the impact
12 would be so great for me. We're not young
13 anymore, but we've enjoyed living here in this
14 space over all of these years. We actually
15 enjoy it. It's a source of comfort for us.

16 So to look out and see people with
17 this front parking -- and I'm being sincere
18 here -- going into my -- in my view, gas, the
19 exhaust fumes, this is a dead end street.
20 Historically, we've had great problems with
21 trash pickups because the -- Anacostia is an
22 old area, historically. It has small streets.

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So the companies that come up in the District that do the trash and all of this, they have learned to maneuver, and they have learned to do it. So if this new development is allowed to go forth like it is with the parking in front, I don't know how it's going to do for us at all.

The emergency vehicles that come up during the time when we have snow emergencies, it's horrible. There is no way that we can maneuver, your cars can get hit. It becomes -- it's a great impact on us. Very much so.

As I said, this is a dead end street. It has a cul-de-sac there, and it has signs that tells you not to park in a certain circumference area. People don't really pay attention to it. As a result, you have the emergency vehicles that's trying to maybe save your life, or put out your fire, having to maneuver to get around this.

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1 I have nothing against Mr.
2 Washington and his development. I would like
3 to have good-looking -- good-looking single-
4 family dwellings up there. It would make me
5 feel good. It would help the neighborhood.
6 But as it is currently proposed, I'm not
7 against it at all. I'm not pleased. In fact,
8 it stressed me out a little bit.

9 I have pictures here that I
10 brought showing the traffic that Mr.
11 Washington may not see, because these are
12 people that are home on the weekends. I've
13 got sets of pictures that shows that the
14 people that actually live there now, when
15 they're home, there is no space for parking.
16 So if he is proposing in his plan to do 20
17 spaces, we know people have all of these cars,
18 so where are the other 20 cars going to go?

19 And when the Redskins play the
20 Cowboys, where are all those people going to
21 go?

22 CHAIRPERSON GRIFFIS: Right.

1 MS. CHAPMAN: They're going to
2 come up, and they want to park. And I
3 envision myself at 73 walking at the bottom of
4 my hill to come into my house. It's not a
5 good picture.

6 CHAIRPERSON GRIFFIS: Understood.
7 Thank you very much. Did you want to put
8 those pictures into the record?

9 MS. CHAPMAN: Yes. And this is a
10 diagram. This is my car. This is what they
11 took of the lot that they are proposing to
12 develop. This is my little car sitting there,
13 and so it shows that I do live right there.

14 CHAIRPERSON GRIFFIS: Okay.

15 MS. CHAPMAN: Thank you so much.

16 CHAIRPERSON GRIFFIS: Thank you
17 very much. Appreciate it.

18 Any questions for Ms. Chapman from
19 the Board? Mr. Etherly?

20 BOARD MEMBER ETHERLY: Thank you
21 very much.

22 Thank you very much, Mr. and Mrs.

1 Chapman, for your testimony. I would perhaps
2 be remiss if I didn't ask, first and foremost,
3 by virtue of your testimony, do we categorize
4 you as a Washington fan or as a Dallas fan?

5 (Laughter.)

6 You don't have to answer that.

7 MS. CHAPMAN: Well, since I'm
8 before this body, I'm going to say -- I'm
9 going to be non-committal, because I don't
10 know what the ratio is.

11 BOARD MEMBER ETHERLY: That is
12 okay. That has no bearing on the case
13 whatsoever.

14 (Laughter.)

15 MS. CHAPMAN: And may I add one
16 more thing?

17 BOARD MEMBER ETHERLY: Certainly.

18 MS. CHAPMAN: A lot of people do
19 not realize the historic nature of Anacostia,
20 and especially where I live. At the top of my
21 hill is a federally owned property. It's a
22 park. It's called Avalon Park. And years ago

1 people used to have reunions and the like.
2 And if you go down street, west going down my
3 hill, you are in the Frederick Douglass home.

4 So it's a place that should lend
5 itself to upgrading and beauty and
6 preservation. Thank you.

7 BOARD MEMBER ETHERLY: Thank you.
8 As I mentioned, there perhaps is a little bit
9 of tension here. It sounds like to me there
10 are two central issues, and I'm just speaking
11 very broadly. One is the parking piece, and
12 one is kind of the density aspect.

13 I've asked all of our applicants,
14 all of our -- the witnesses, the ANC, so I
15 want to kind of ask you the same question. Is
16 your concern primarily one that if this were
17 a smaller development, and the parking was in
18 the rear, it would be more in keeping with
19 your comfort level around what the type of
20 development should look like on W Street?

21 Or is it your -- I apologize if
22 I'm not phrasing this correctly, but -- let me

1 just put it straightforwardly. What are you
2 willing to give up? If you move the parking
3 to the back, does that settle your nerves a
4 little bit? Or does it also need to be
5 smaller in your opinion as well?

6 MS. CHAPMAN: Well, I'm like this.
7 I know that when you're in this business
8 you're in the business to make money. I have
9 nothing against that at all, and I think it's
10 an admirable thing to do. But when it impacts
11 my livelihood and my way of life, right now I
12 am leaning towards if they put this parking in
13 the back and the dumpster, I can't look out my
14 door and see a hideous dumpster, or some
15 company coming in the area.

16 That would be a thing that I would
17 say to Mr. Washington, "Proceed with your
18 project if you can do it like this."

19 BOARD MEMBER ETHERLY: Understood.

20 MS. CHAPMAN: Yes.

21 BOARD MEMBER ETHERLY: Understood.

22 And I appreciate your honesty and candor

1 there.

2 Mr. Chapman, I don't know if you
3 wanted to jump in there. I saw your hand
4 raised a moment ago.

5 MR. CHAPMAN: I have a question
6 about the rear of the building. They are
7 building eight houses behind this property
8 that he is planning to build on, and I don't
9 see any place around there for an alley or a
10 driveway or anything. That's all I have to
11 say.

12 BOARD MEMBER ETHERLY: Understood,
13 sir. Let me perhaps ask one final question,
14 Mr. Chair. And you heard a little bit of
15 discussion about the issue of storm water.
16 Now, you are located directly across from the
17 subject property. Have you had any experience
18 in terms of just your own property or with
19 regard to the street in terms of storm water,
20 any type of flooding issues, any type of
21 water-related issues on your side of the
22 street that you're aware of?

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1 MS. CHAPMAN: Not at all.

2 BOARD MEMBER ETHERLY: Okay.

3 Thank you. Thank you both for your time.

4 Thank you, Mr. Chair.

5 CHAIRPERSON GRIFFIS: Questions?

6 VICE-CHAIRPERSON MILLER: Ms.

7 Chapman, I want to compliment you on your

8 gardening. It's gorgeous and --

9 MS. CHAPMAN: I brought pictures,

10 too.

11 VICE-CHAIRPERSON MILLER: Okay. I

12 want to ask you about the aesthetics here,

13 because, you know, what's on the table is

14 putting the parking in the rear, which is a

15 huge aesthetic issue I understand. And I

16 don't think it said how far back the houses

17 are going to be, and I don't know, really, the

18 distance between your house and the project,

19 the structures.

20 But what's being considered is

21 that there would be one less building, because

22 that's where the drive aisle would be. What

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1 is your opinion? Aesthetically, would it be
2 okay with landscaping -- perhaps you have some
3 kind of ideas about that, but as far as your
4 view across the street?

5 MS. CHAPMAN: Well, I wouldn't
6 want to look up and see where they've got some
7 big floodlights out there for the protection
8 of these people, which is their due to have
9 protection, but I wouldn't want to. As I
10 said, I am directly in front of this, and I
11 wouldn't want to see a floodlight that is
12 shining in my bedroom at all times.

13 VICE-CHAIRPERSON MILLER: Right.
14 So lighting is one issue.

15 MS. CHAPMAN: Yes, it is.

16 VICE-CHAIRPERSON MILLER: Thank
17 you. Anything else? Landscaping probably
18 would be an issue.

19 MS. CHAPMAN: Yes, probably.

20 VICE-CHAIRPERSON MILLER: Okay.
21 But it would be a lot better, I understand,
22 from your point of view --

1 MS. CHAPMAN: Yes.

2 VICE-CHAIRPERSON MILLER: -- just
3 putting the parking in the back.

4 MS. CHAPMAN: Exactly.

5 VICE-CHAIRPERSON MILLER: Okay.
6 That's all my questions. Thank you.

7 CHAIRPERSON GRIFFIS: Good. Thank
8 you very much.

9 Any other questions from the
10 Board?

11 (No response.)

12 Any cross? No cross?

13 (No response.)

14 Thank you very much, Mr. and Mrs.
15 Chapman. Thank you for having the patience to
16 be with us today.

17 Let's move ahead. Yes. Good
18 morning.

19 MS. CALLAHAN: My name is Cara
20 Callahan, a resident of 1829 W Street. Our
21 home is all the way at the top of the hill,
22 the very last home that is nearest the park.

1 And the cul-de-sac itself is very small. It
2 doesn't have the space that a lot of cul-de-
3 sacs would have. Whenever it was developed or
4 cut or whatever, they really didn't give it
5 ample space, so everything is really kind of
6 cramped.

7 Even though it gives you a little
8 bit of wiggle room -- just a little -- we're
9 still experiencing like when events are
10 happening, and people are going to the
11 apartment buildings down the street, and
12 people come all the way up the hill, and then
13 they're hitting cars, and we never know who
14 hits them. And they never leave notes, they
15 don't knock on your door. You know, the
16 parking is so congested, just to even think
17 about another 20 or so cars, okay.

18 Now, I did hear the gentleman say
19 that they would have some parking, but what is
20 the likelihood that that's going to be able to
21 support all of the other possible vehicles
22 that may be owned by the residents of his

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1 establishments. Right now, just to even think
2 about other cars parked on that street is a
3 nightmare. It is truly a nightmare,
4 especially where this couple resides.

5 On our end, it's a little less
6 congested, just a little less, just a little.
7 But especially where they are, it's like dead
8 center. Everything is right there. And I
9 just don't see where -- I just don't see where
10 we could support that kind of parking
11 arrangement.

12 As far as visibility of the
13 Capitol, and overlooking the city, that's one
14 of the selling points. If we were ever to
15 want to sell, or the marketability of our
16 home, or the property value, it helps to
17 increase that for us. And as long as the
18 structure doesn't prevent us from being able
19 to keep that view, that's okay with me.

20 CHAIRPERSON GRIFFIS: Okay.
21 Excellent. Excellent points.

22 MS. CALLAHAN: And, please, if the

1 parking could be in the rear, that would be so
2 much better.

3 CHAIRPERSON GRIFFIS: Good.

4 MS. CALLAHAN: Really.

5 CHAIRPERSON GRIFFIS: Okay, good.

6 Let me address this, because I don't want to
7 mislead or raise expectations. We're not here
8 to judge whether they have the number of
9 parking spaces that is correct.

10 MS. CALLAHAN: Right.

11 CHAIRPERSON GRIFFIS: In fact,
12 they are meeting the requirements. We could
13 not ask for them to have a higher requirement
14 than someone else in some other area or right
15 next door. So our regulations tell them there
16 is a certain amount of parking that you have
17 to provide, these are the sizes, this shape,
18 this is where it's supposed to go.

19 They've met all that, except for
20 this is where it's supposed to go. So we're
21 actually talking about placement on this.
22 Okay.

1 MS. CALLAHAN: Okay.

2 CHAIRPERSON GRIFFIS: So the other
3 piece of this is -- all right. I'm going to
4 leave it at that. Questions?

5 VICE-CHAIRPERSON MILLER: One of
6 the things that we look at in special
7 exceptions, though, is, you know, is there an
8 adverse impact, so -- you know, on the
9 surrounding neighbors. And I'm just -- I
10 don't totally understand this -- the view
11 thing that you were talking about.

12 And you said as long as it doesn't
13 obstruct your view, but you have -- you know
14 how tall it is supposed to be at this point.
15 Do you have an opinion whether -- it sounds
16 like it's not at this point, but I don't
17 really know what your perspective is on that,
18 what you meant.

19 CHAIRPERSON GRIFFIS: There's
20 nothing in the record that says that this --

21 VICE-CHAIRPERSON MILLER: That we
22 protect all views, I understand. Is that what

1 you meant?

2 CHAIRPERSON GRIFFIS: No, that's
3 not what I meant.

4 VICE-CHAIRPERSON MILLER: Okay.

5 CHAIRPERSON GRIFFIS: There is
6 nothing -- do any of you feel that this would
7 in any way obstruct your view?

8 SEVERAL: No.

9 CHAIRPERSON GRIFFIS: No. There's
10 nothing in the evidence.

11 VICE-CHAIRPERSON MILLER: Okay.

12 CHAIRPERSON GRIFFIS: That's not
13 what is at issue.

14 VICE-CHAIRPERSON MILLER: That's
15 what I didn't understand.

16 MS. CALLAHAN: That was just a
17 comment I made. As long as it doesn't
18 obstruct the view --

19 VICE-CHAIRPERSON MILLER: That's
20 what you're saying, as long as it doesn't.
21 You don't know that it does. You're not
22 saying that it does. Is that correct?

1 MS. CALLAHAN: Right. Without it
2 actually being there --

3 VICE-CHAIRPERSON MILLER: Okay.

4 MS. CALLAHAN: The only thing I
5 would really like to say is that it would be
6 better for us as residents to have the parking
7 in the rear.

8 CHAIRPERSON GRIFFIS: Sure.

9 MS. CALLAHAN: That's our stand on
10 it.

11 CHAIRPERSON GRIFFIS: Yes. No
12 question. Mr. Moore is putting a design
13 element onto it, saying, why don't you capture
14 your view, if you're going to build these
15 things? Everyone else is enjoying this
16 spectacular view of the city. Move this
17 building forward, and you're going to have a
18 better view of the city. am I correct?

19 MR. MOORE: Yes, Mr. Chair. I as
20 just dreaming about there being a location --

21 CHAIRPERSON GRIFFIS: I know.

22 MR. MOORE: -- west of the river.

1 CHAIRPERSON GRIFFIS: And your
2 dreams were fuzzy for some of us. So
3 hopefully we've brought clarity to all.

4 Okay. Anything else? I'll show
5 you it. Okay. Thank you very much.

6 MS. CALLAHAN: Okay.

7 CHAIRPERSON GRIFFIS: We
8 appreciate it. If there's no cross? Very
9 well.

10 Anyone else here present that
11 would like to provide testimony before the
12 Board?

13 (No response.)

14 Not noting any other persons
15 present to provide additional testimony, let's
16 do last followup questions from the Board,
17 Office of Planning, or the applicant. The
18 applicant can come up. We can see where we
19 end with this one. Yes.

20 VICE-CHAIRPERSON MILLER: Mr.
21 Moore, could you just address for me -- and I
22 think I asked this of you before, but I'm just

1 still not clear. With the parking in the
2 rear, why is this project either in character
3 with the neighborhood or not? And I ask that
4 because there has been some testimony about
5 that this neighborhood is single-family
6 detached dwellings, and it -- I understood
7 some of the testimony to be challenging
8 whether or not it's in character with the
9 neighborhood. So can you address that?

10 MR. MOORE: The block's design is
11 the eastern half -- portion of the block is
12 more single-family homes, ownership houses.
13 The western end of the block, closer to 16th,
14 is more multi-family. I have -- all of the
15 buildings, that's the eastern end where the
16 homes -- private homes are, and the multi-
17 family buildings, are basically all on the
18 same building line as you go on the block. So
19 that is the existing character of the
20 neighborhood right now.

21 This would put a gap in the
22 character by moving the houses to the rear off

1 of that building line. So that's the
2 inconsistency we see with respect to
3 character.

4 VICE-CHAIRPERSON MILLER: But the
5 structure itself is in character, in your
6 opinion?

7 MR. MOORE: There is nothing wrong
8 with the structure being a maximum 34 feet
9 high, which wouldn't exceed the height of some
10 of the other buildings, although the elevation
11 would make some of the buildings now west of
12 it seem to be lower. But it's simply the
13 elevation, so there's nothing wrong with the
14 height of it, it's just the location of it.

15 VICE-CHAIRPERSON MILLER: And the
16 density is in character.

17 MR. MOORE: Without saying so, the
18 density obviously would be addressed, if the
19 recommendation -- if OP's recommendation
20 building -- an easement was built in. You
21 couldn't do it without removing the building,
22 and that would reduce the density somewhat.

1 VICE-CHAIRPERSON MILLER: Okay.

2 Thank you.

3 BOARD MEMBER ETHERLY: If I could,
4 Mr. Chair, let me follow up with the
5 applicant. Obviously, there has been a great
6 deal of testimony, a lot of things kind of
7 added into the record. I don't want to
8 retread any of that ground. I think the
9 record has been adequately filled on both
10 sides.

11 I would perhaps just with my
12 question highlight maybe a couple of items
13 that I think are still outstanding, and I
14 perhaps want to just maybe direct a little bit
15 of the applicant's final comments to those
16 areas.

17 One would be kind of talking a
18 little bit about the issue of storm water
19 management, as you heard a little bit of the
20 exchange in terms of my questioning with the
21 Office of Planning. So I'd perhaps like to
22 invite some discussion about where the

1 applicant feels they may be at this point in
2 terms of its thinking about storm water
3 management.

4 I think clearly the landscaping
5 piece is a work in progress, and I feel, as
6 just one Board member, that there probably
7 would be some utility in seeing a little
8 further development of the landscaping plan
9 along those lines.

10 Again, I think I'm fairly clear on
11 kind of both sides of the fence, if you will,
12 no pun intended, with regard to the parking
13 issue. I think it kind of just is what it is.
14 I think the applicant has offered more than
15 adequate testimony and statements with regard
16 to why the parking is where it is from the
17 applicant's standpoint. And I think clearly
18 we've heard quite a bit from the ANC and
19 members of the community about their
20 perceptions.

21 So that's a long-winded way of
22 saying I'm kind of fine on those points. But

1 the issue of storm water management I feel is
2 still somewhat fuzzy for me, so I'd want to
3 perhaps invite a little bit of discussion
4 about that, and perhaps as part of that the
5 whole issue of the retaining wall and what
6 you're thinking about doing with respect to
7 those types of considerations.

8 Okay. That was a long-winded
9 prefatory statement, but hopefully there is a
10 little bit of some guidance there for you.

11 MR. WASHINGTON: Sure.

12 BOARD MEMBER ETHERLY: Thank you.

13 MR. WASHINGTON: I think my
14 partner is better qualified to address the
15 technical aspects of the storm water
16 management. But what I will say is that it is
17 something that we are very aware of,
18 especially after meeting with OP and DDOT.

19 Now, the other thing we were very
20 aware of was the water issues as it relates to
21 the properties on Gaylen Street. And one
22 thing that we were considering when we were

1 thinking about the parking in the rear was,
2 you know, we think part of the reason there is
3 so much water is because it's low-lying
4 ground. The water is running down from our
5 lot.

6 We think, you know -- I'm not
7 saying this because I'm opposed to putting
8 parking in the rear, I'm simply saying that
9 with parking in the rear the storm water
10 management issue will be even more greatly
11 magnified because of the possibility that
12 water could run down -- more water could run
13 down to those buildings in the rear.

14 So I hope that answers your
15 question. It's kind of a general response,
16 but we -- storm water management is --

17 BOARD MEMBER ETHERLY: No, I think
18 it does, and perhaps the best we can do with
19 my question is really just use it as a
20 highlight. There is probably some additional
21 specificity that I think I would benefit from,
22 because I think it's going to be a

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1 consideration both -- if your parking remains
2 in the front, I think it's going to continue
3 to be a consideration for just the integrity
4 of the rear of the property.

5 And, of course, I would agree with
6 you. I think it would indeed be more of a
7 consideration if you were to move that
8 impervious surface towards the rear of the
9 properties. I think either way there is
10 probably going to be some more information
11 that would be helpful to me --

12 MR. WASHINGTON: Right.

13 BOARD MEMBER ETHERLY: -- before
14 I'm ready to move forward. I'm just going
15 through my mental checklist. I think I'm --
16 I'd like to see perhaps further detail on the
17 landscaping side, but with particular
18 attention to the treatment of the -- of the
19 front of W Street, if, in fact, the parking is
20 forward of the project. And clearly that's
21 the issue of the application in front of us.

22 I think that concludes it for my

1 closing questions, Mr. Chair. Thank you.

2 CHAIRPERSON GRIFFIS: Any other
3 questions or clarifications?

4 (No response.)

5 Okay. Where are we?

6 BOARD MEMBER ETHERLY: If I could,
7 Mr. Chair, I -- this will be the close of my
8 questions. But let me come back to, again,
9 what perhaps is just a central question here,
10 and maybe try to invite some comment on this
11 one from the applicant. It sounds as though
12 there definitely has been attention and detail
13 paid on the part of the applicant to
14 considerations around the community character
15 and the neighborhood character that currently
16 exists on W Street.

17 Is it the applicant's testimony
18 and belief that, one, from an aesthetic
19 standpoint you've endeavored to try to be
20 respectful, if you will, of the architectural
21 character and fabric of W Street? It's your
22 sense that the property you're attempting to

1 develop on this site, you've tried to remain
2 true, if you will, to the spirit of the
3 community as it currently exists, would that
4 be an accurate statement?

5 MR. WASHINGTON: Yes, it would.

6 BOARD MEMBER ETHERLY: Okay. With
7 respect to the issue of parking, is it your
8 sense that the challenges that are presented
9 by the topography of this site are such that
10 the absolute best scenario for you, given all
11 the considerations that you have to deliver a
12 product that's going to be in keeping with the
13 market, it's your testimony that the best
14 absolute placement for your parking is going
15 to be the front of this property?

16 MR. WASHINGTON: Let me take this
17 opportunity to --

18 BOARD MEMBER ETHERLY: And treat
19 that as open-ended.

20 MR. WASHINGTON: Yes.

21 BOARD MEMBER ETHERLY: Because I
22 know that is probably the meat of the issue

1 here.

2 MR. WASHINGTON: Okay. After
3 hearing from the ANC last night, and getting
4 the report from DDOT just yesterday, and also
5 taking into consideration OP's report, and
6 also hearing the testimony of the residents
7 that kindly showed up today, what we'd like to
8 do is go back and revise the plan to show
9 parking in the rear with the 20-foot drive
10 aisle, and then come back to present that plan
11 to the Board.

12 I think, you know, there are some
13 challenges with the site in the rear, as it
14 begins to slope off. There is a mention of
15 possibly having to put a retaining wall back
16 there to keep the parking lot as level as
17 possible, and that may be also necessary to
18 provide the necessary storm water management,
19 so the water doesn't run down the hill.

20 But that's something I'd like to
21 explore with my engineer and my partners and
22 then come back in, say, three weeks with a

1 revision to this plan, showing the parking in
2 the rear, if possible.

3 CHAIRPERSON GRIFFIS: Go ahead.

4 BOARD MEMBER ETHERLY: I would say
5 I definitely appreciate that. Let me just
6 offer, as a counterpoint, you know, clearly,
7 there was a lot of testimony on both sides
8 here. Don't take -- you know, I wouldn't take
9 any of our questioning to perhaps suggest a
10 certain outcome.

11 Clearly, there are some concerns
12 that have been flagged in a very clear way by
13 the Office of Planning, by the testimony from
14 your neighbors. If there is a case to be made
15 for the variance, you know, I mean, I don't
16 have to tell you this. Of course, you make
17 it, you stand on it and you make it.

18 I appreciate your willingness to
19 go back to the drawing board, if you will, and
20 look at some other options. Definitely, I
21 think either way you go look at that storm
22 water management issue. I think the

1 landscaping is definitely going to be a
2 helpful piece, again, whatever direction you
3 decide to ultimately go in, but I appreciate
4 your willingness to hear the testimony that
5 has been presented today, again, both from the
6 Office of Planning and the members of the
7 community that have been patient enough to be
8 with you.

9 I haven't heard anything to
10 suggest at all that there has been a lack of
11 dialogue around this project, but, of course,
12 dialogue is a good thing. But it sometimes
13 doesn't result in everyone still being happy.

14 So for the third time, I'll just
15 simply say thank you for that willingness to
16 consider that.

17 Thank you, Mr. Chair.

18 CHAIRPERSON GRIFFIS: Good. Thank
19 you very much.

20 Anything further, then?

21 (No response.)

22 I think it's a very productive

1 direction that you're thinking of going. And
2 let me start off by saying, yes, we will then
3 set this for -- well, we'll figure out what we
4 set it for, in addition to -- but keeping the
5 record open.

6 First of all, you know, this Board
7 should be very familiar -- and I know that we
8 are familiar in the R-5-A and the review of
9 houses, and the worst that I've seen, not
10 mentioning a case, is the townhouses that have
11 the garages straight in front, and the curb
12 cuts it all in, and you park on the first
13 floor, and then you walk up this thing. And
14 it's got to be the most typical suburban
15 topology that I've ever seen. Thank goodness
16 we haven't seen a lot of it come through this
17 Board.

18 This didn't even start there. It
19 started, I think, a much better position. I
20 don't disagree with the Office of Planning's
21 concern, impassioned concern, about what the
22 impact is in putting in the parking. So I

1 think we're in the right direction, and I
2 think that obviously we're going to be open
3 for how this works for everyone's benefit in
4 reanimating this site.

5 Well, so we'll look forward to
6 seeing additional plans and how it is
7 accommodated and moving the parking into the
8 rear, if that can happen.

9 With that, then, I don't see
10 anything else that we're keeping the record
11 open for, except for the review of these
12 plans. Let's talk schedule. I think it would
13 be important for the Office of Planning to
14 review this and do a subsequent revision
15 analysis, which shouldn't take that long, as
16 we are very clear on the elements that need to
17 be reviewed.

18 How long do you think you need to
19 have plans to the Office of Planning and the
20 ANC?

21 MR. WASHINGTON: Two weeks?

22 CHAIRPERSON GRIFFIS: Yes. Okay.

1 Two weeks could go -- yes?

2 MR. MOORE: Mr. Chair, may I
3 suggest that they also provide them to DDOT,
4 because we want the parking lot to be done in
5 accordance with DDOT standards.

6 CHAIRPERSON GRIFFIS: Sure, sure.

7 MR. MOORE: I don't think there's
8 any problem with it.

9 CHAIRPERSON GRIFFIS: Okay. We'll
10 make note of that and get that analysis in
11 also. That would put us to -- I have no clue.

12 BOARD MEMBER ETHERLY: As we
13 perhaps think how to move forward, Mr. Chair,
14 I agree with the direction that you're moving
15 in. I think perhaps one of the central
16 questions might be whether or not we just move
17 -- you know, allot enough time for the revised
18 plans, for the opportunity for the ANC to look
19 at those plans.

20 I'm perhaps not leaning towards
21 another public hearing step, because I think
22 we've heard more than adequate testimony from

1 members of the community, and I think I'm
2 fairly clear on where the ANC is.

3 Perhaps the only open question is,
4 you know, is there another public hearing so
5 the ANC could testify on the record if there
6 is any additional comment regarding the
7 revised plans, or whether or not we just allot
8 enough time between where we are today and the
9 decisionmaking for the ANC to comment.

10 CHAIRPERSON GRIFFIS: That's the
11 question. Is the applicant wanting us -- an
12 additional hearing, so that they might address
13 elements for the Board? Or do you think you
14 can accomplish this in written -- in
15 submissions?

16 MR. WASHINGTON: I think we can
17 accomplish it in submissions.

18 CHAIRPERSON GRIFFIS: Okay.

19 BOARD MEMBER ETHERLY: That would
20 tend to be -- to be my desire, Mr. Chair.

21 CHAIRPERSON GRIFFIS: Absolutely
22 agree.

1 Ms. Hudson, schedule-wise, in
2 terms of the SMD looking at these plans, do
3 you have any conflicts in turning that around
4 in the next three weeks? If you got it in two
5 weeks, had a week to look at it, and had a
6 week to get some comments into the Board?

7 MS. HUDSON: That's fine. I'll do
8 that.

9 CHAIRPERSON GRIFFIS: Okay.

10 MS. HUDSON: Let's see, that would
11 February -- the second week in February, is
12 that what we're looking at?

13 CHAIRPERSON GRIFFIS: It certainly
14 won't be any earlier than that.

15 MS. HUDSON: That's fine. The
16 second week in February.

17 CHAIRPERSON GRIFFIS: Okay. Good.
18 Yes, I'm just trying to get the actual -- the
19 tightest it could be, and now we'll get into
20 reality.

21 MS. HUDSON: Because we'll have
22 our ANC meeting that -- next week, so -- in

1 the next few weeks.

2 CHAIRPERSON GRIFFIS: Well, we're
3 trying to figure out a date when to set this
4 for for decisionmaking. Let's just recap some
5 of the things that we're looking for.
6 Obviously, we're just going to have a new
7 plan, as you're proposing for the location of
8 the structures and the parking.

9 I think this landscape plan
10 somewhat -- for what it is was informative.
11 Obviously, the Board would like to know what
12 you're planning overall. So whether it will
13 be -- how you're going to take the water off
14 the parking, if you're going to plant, what
15 you're going to plant in the front, in the
16 rear, I would get as much conceptual detail as
17 you can, as much detail as you can.
18 Obviously, that will facilitate no additional
19 need of time or questions of the Board, and I
20 think that it will be pretty clear.

21 All right. What do we have?

22 SECRETARY MOY: What we have here,

1 Mr. Chairman, if -- I think the applicant said
2 they would have revised drawings for you in
3 about two weeks, was it? Did you say two
4 weeks, or one week?

5 MR. WASHINGTON: Yes. Yes, two
6 weeks.

7 SECRETARY MOY: And the ANC would
8 meet around the middle of February, so that's
9 pretty consistent. So, and possibly response
10 time, if you need that. So we're looking at
11 either a special public meeting toward the end
12 of February, or at your regular decision
13 meeting in March, March 6th.

14 MS. MONROE: Mr. Chairman, I just
15 want to point out one thing. Ms. Hudson is
16 not -- as she said, I think, not representing
17 the entire ANC, but only the SMD.

18 CHAIRPERSON GRIFFIS: I know.

19 MS. MONROE: Are you comfortable
20 with that, with the no hearing, there would be
21 no -- they would have no chance for us to --

22 CHAIRPERSON GRIFFIS: We're asking

1 the indulgence of the applicant to allow Ms.
2 Hudson to review the revised -- if there's any
3 difficulty in that, I'd hear it, I'm sure,
4 but --

5 MS. MONROE: On behalf of the
6 whole ANC, though.

7 CHAIRPERSON GRIFFIS: No, on
8 behalf of the SMD.

9 MS. MONROE: Okay.

10 BOARD MEMBER ETHERLY: Yes, I
11 would agree, Mr. Chair. Again, I think Ms.
12 Hudson's testimony was very clear as to where
13 the ANC was. I feel comfortable that there
14 has been more than an adequate opportunity for
15 the ANC to weigh in. I agree with the way
16 you've phrased it, with the applicant's
17 indulgence.

18 Be sure to keep that channel of
19 communication open. But just to help keep us
20 moving forward, I don't feel an overwhelming
21 need for additional time for an ANC meeting,
22 and then an actual vote on what the revision

1 would be.

2 MS. HUDSON: If we don't get an
3 actual vote --

4 CHAIRPERSON GRIFFIS: Come on up
5 and sit.

6 MS. HUDSON: Maybe I'm
7 misunderstanding a little. If we -- so pretty
8 much we're going to take my testimony today
9 and call it as official testimony. Therefore
10 --

11 CHAIRPERSON GRIFFIS: No. What
12 we're going to do is we're going to -- we're
13 asking the applicant to provide you with their
14 revised drawings. And we're allowing the
15 record to stay open for you --

16 MS. HUDSON: Okay.

17 CHAIRPERSON GRIFFIS: -- as a
18 single member ANC representative,
19 Commissioner, to write a letter in on your
20 analysis or what you see in that -- in the
21 revised plans.

22 MS. HUDSON: Well, if my --

1 CHAIRPERSON GRIFFIS: If you want
2 to get a group of the folks in the
3 neighborhood together and get a consensus,
4 that's fine, let us know what it is. The
5 issues and the elements are not changing,
6 right?

7 MS. HUDSON: Okay. So if the
8 issues and elements aren't changing, so if my
9 ANC does come to a conclusion because we do
10 have a meeting in the next week and a half --
11 if we do come up to a conclusion and we vote
12 as an ANC, will we be given great weight in
13 our next -- during the submission process?
14 That's where I'm confused.

15 BOARD MEMBER ETHERLY: So as I
16 understand it, and I agree -- it's a fair
17 question. Is there -- would there be an
18 opportunity for the ANC to in fact get into
19 the record --

20 MS. HUDSON: Yes, for great
21 weight, yes.

22 BOARD MEMBER ETHERLY: -- with

1 revision of the proposal. I would hazard a
2 guess that the -- it's tough, because there is
3 a time -- there is a -- I don't want to speak
4 too far ahead on this. Yes.

5 VICE-CHAIRPERSON MILLER: Can I
6 jump in here? Ms. Hudson, the full ANC should
7 have an opportunity to review the revised --

8 MS. HUDSON: Right.

9 VICE-CHAIRPERSON MILLER: -- plan,
10 and if they have a vote in a meeting in
11 accordance with the great weight requirements,
12 then I don't see any reason why we wouldn't
13 give that report great weight.

14 MS. HUDSON: Okay.

15 VICE-CHAIRPERSON MILLER: But it
16 needs to now address the new plan.

17 MS. HUDSON: Right, that's what
18 I'm saying, if we address the new plan.

19 VICE-CHAIRPERSON MILLER: I don't
20 know if it's going to be ready in a week and
21 a half or not. You have to coordinate
22 together.

1 MS. HUDSON: Okay. That's fine.

2 CHAIRPERSON GRIFFIS: Right.

3 BOARD MEMBER ETHERLY: I would
4 agree, Mr. Chair. So I think the challenge is
5 if it happens over the next two weeks, I mean,
6 there is a possibility you might not have it
7 in hand in time for your regularly scheduled
8 meeting.

9 MS. HUDSON: Right.

10 BOARD MEMBER ETHERLY: If there is
11 a way of getting notice out hosting a special
12 meeting, just to deal with this particular
13 piece of business, and you can then get it
14 back to the Board in time for its March
15 decisionmaking, I agree with Mrs. Miller, I
16 want to afford the ANC every opportunity to do
17 that.

18 If, however, you think there might
19 be a challenge in terms of doing that, again,
20 the applicant is probably going to take, you
21 know, two weeks or so to get its work done.
22 You already have a regularly scheduled meeting

1 set up for -- was it next week?

2 MS. HUDSON: Yes, the 6th,
3 February 6th.

4 BOARD MEMBER ETHERLY: So chances
5 are you're probably not going to have anything
6 in front of you --

7 MS. HUDSON: Right.

8 BOARD MEMBER ETHERLY: -- for that
9 meeting.

10 MS. HUDSON: Right.

11 BOARD MEMBER ETHERLY: So you'd
12 probably be looking at a special meeting. I'm
13 getting a little too far afield into the ANC's
14 workings here.

15 MS. HUDSON: Special meetings
16 don't do too well with --

17 BOARD MEMBER ETHERLY: Understood,
18 and it's a challenge for a lot of ANCs. So
19 part of the issue is, you know, I would
20 probably say the best we can leave it is,
21 whatever you can get to us from the ANC,
22 either in your own capacity as SMD or if the

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1 full ANC is able to chew on it at some later
2 point in February, get to us and, you know, I
3 would say we still move forward with a
4 decision on March 6th, Mr. Chair.

5 CHAIRPERSON GRIFFIS: Excellent.
6 I totally agree. Any difficulty in that from
7 the applicant's perspective in meeting those
8 deadlines?

9 MR. WASHINGTON: No.

10 CHAIRPERSON GRIFFIS: Okay. Very
11 well. Any questions on procedure or in what
12 is requested into the record?

13 MR. BLANCHARD: Just for
14 clarification, if the applicant submits in the
15 next two weeks revised plans to OP, DDOT, and
16 the ANC, and they provide a revised analysis,
17 or whatever, what would be our deadline for
18 any additional comment or submitting those
19 plans to the BZA prior to the 6th of March?

20 In other words, I'm thinking, is
21 there some filing deadline --

22 CHAIRPERSON GRIFFIS: Sure.

1 MR. BLANCHARD: -- maybe a week
2 before your March 6th meeting, or the Thursday
3 before, or whatever?

4 CHAIRPERSON GRIFFIS: Right. I
5 would say the Wednesday before by 3:00 we
6 could have your responses to any of the agency
7 reports, which of course puts a tight timeline
8 on the turnaround for DDOT and Office of
9 Planning. Is that terribly cumbersome?

10 MR. MOORE: Of course, but we
11 cross other hurdles. No problem.

12 CHAIRPERSON GRIFFIS: Okay. We'll
13 run through the times again, just to make sure
14 everyone is of the same understanding.

15 MS. BAILEY: Mr. Chairman, Mr. Moy
16 can do that for you, the times. Didn't you do
17 the times?

18 SECRETARY MOY: Well, the only
19 time I have is the -- work backwards here.
20 The decision would be at its regular public
21 meeting on March 6th. The applicant's
22 response is due Wednesday, February 27th. And

1 here these other dates are a little
2 sophomoric, because they're going to be
3 submitting revised plans to other parties and
4 to the Board within the next two weeks, which
5 puts us around February 14th. Does that sound
6 about right, the 14th, February 14th? Is that
7 a good date?

8 MR. WASHINGTON: Yes, that's a
9 good date.

10 (Laughter.)

11 MR. MOORE: Excuse me. Is that
12 when the OP revised report is due to the
13 Board?

14 CHAIRPERSON GRIFFIS: No, that's
15 when you get the plans.

16 MR. MOORE: Thank you.

17 CHAIRPERSON GRIFFIS: And then,
18 you'll have until, as Mr. Moy said, the -- you
19 said the 27th. I think we may have said --
20 yes, the 27th.

21 SECRETARY MOY: Is that okay with
22 the applicant?

1 MR. WASHINGTON: Yes, it is.

2 CHAIRPERSON GRIFFIS: Oh, wait.
3 That does put it in late. Hold on. Yours is
4 the 21st.

5 SECRETARY MOY: We can make it the
6 21st for --

7 CHAIRPERSON GRIFFIS: Can you get
8 it in the 14th?

9 SECRETARY MOY: -- OP supplemental
10 and DDOT.

11 CHAIRPERSON GRIFFIS: Return to
12 the Board on the 21st. Okay.

13 SECRETARY MOY: Okay?

14 CHAIRPERSON GRIFFIS: And then,
15 the applicant -- everything is in by the 28th
16 at 3:00.

17 SECRETARY MOY: 27th.

18 CHAIRPERSON GRIFFIS: Or you want
19 it the 27th.

20 SECRETARY MOY: 27th.

21 CHAIRPERSON GRIFFIS: 27th. Okay.

22 SECRETARY MOY: That would be --

1 that's the Wednesday.

2 CHAIRPERSON GRIFFIS: Correct.

3 MS. HUDSON: But Wednesday is the
4 28th.

5 SECRETARY MOY: Oh, that's right.
6 I was looking at the wrong schedule. Okay.
7 Let's make it the 28th.

8 CHAIRPERSON GRIFFIS: Okay.
9 Anyone have questions? None?

10 (No response.)

11 Very well. Somebody will take
12 copious notes. Call in to the Office of
13 Zoning if we have questions on that, but just
14 know you guys are diligently moving ahead in
15 the next two weeks. Everyone else is going to
16 get provided those. Once you get it, you'll
17 have a week to turn it around. Let's get it
18 up here all ready to roll on the 6th.

19 If there's nothing further, then,
20 with this, any procedural questions? Any
21 other scheduling questions?

22 (No response.)

1 Very well. We thank you all very
2 much. We do appreciate it. A lot of great
3 information in. We'll look to have a full
4 record and make a decision on this on the 6th.

5 If there's nothing further, then,
6 thank you all very much. Anything further for
7 the Board for this morning's session, Ms.
8 Bailey?

9 MS. BAILEY: No, Mr. Chairman.

10 CHAIRPERSON GRIFFIS: Very well.
11 Let's adjourn.

12 (Whereupon, at 12:30 p.m., the
13 morning session was adjourned.)

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1 disrupt the transmission.

2 If you would fill out two witness
3 cards, as you may well be addressing the
4 Board, we can get that to the Court Reporter
5 sitting on my right.

6 I don't know that we -- well,
7 there it is. I think I can dispense with the
8 rest of the opening. And as we obviously have
9 preliminary matters in this case that we want
10 to get to right away, and if we go into the
11 case, I can have you all sworn in again if
12 need be.

13 But with that, let me say good
14 afternoon, Ms. Bailey. Also, Ms. Monroe with
15 the Office of Attorney General is with us; Mr.
16 Moy with the Office of Zoning.

17 Are there any other initial
18 preliminary matters that I should make note of
19 outside of that of a postponement in the first
20 case?

21 (No response.)

22 Excellent. In which case why

1 don't we get right to it, dispense with all of
2 the formalities and let's get informal. Let's
3 bring it up to the table.

4 Mr. Alberti, if you would
5 introduce yourself for the record, please.

6 MR. ALBERTI: Yes. My name is
7 Nicholas Alberti. I'm representing ANC-6A.

8 CHAIRPERSON GRIFFIS: Okay. And
9 last we met, you had asked for a postponement
10 to gather more information, etcetera. We're
11 here again asking for a postponement, although
12 there seems to be some new details in this.

13 MR. ALBERTI: Yes. Just yesterday
14 I received a copy of a letter from DCRA. The
15 letter was sent to the owner declaring the
16 permits for the property invalid. I believe
17 I faxed a copy to your offices.

18 CHAIRPERSON GRIFFIS: Yes.

19 MR. ALBERTI: So you may have seen
20 it. But the Zoning Administrator has given
21 the owner until February 5th to respond, and
22 so the matter still remains open until the

1 owner has an opportunity to respond to the
2 charges.

3 CHAIRPERSON GRIFFIS: Okay. So
4 you're wanting to hold on to this until this
5 matter is actually resolved.

6 MR. ALBERTI: Yes.

7 CHAIRPERSON GRIFFIS: I see.

8 MR. GREEN: Good afternoon, Mr.
9 Chairman, members of the Board. My name is
10 Matthew J. Green, Jr. I'm an Assistant
11 Attorney General stationed at the Department
12 of Consumer and Regulatory Affairs.

13 Yes, we have talked with the ANC
14 in reference to the letter that was sent, and
15 that was sent by the Zoning Administrator, and
16 he has sought certain actions on the part of
17 the owner of the property, and we do consent
18 to the continuance that is requested by the
19 ANC.

20 CHAIRPERSON GRIFFIS: Do you have
21 any details of what -- the basis of believing
22 that this isn't a real permit? I mean, the

1 letter says that they don't have a record of
2 it.

3 MR. GREEN: Well, when you look at
4 -- and I just might go through a couple of
5 things. When you look at what is going on
6 here, first of all, we do -- our records --
7 that is, our records at the Department of
8 Consumer and Regulatory Affairs show a file,
9 a job tracking number, which is 4442E6.

10 However, as we point out, there is
11 no application for this particular tracking
12 number at this address. When you look at it
13 -- again, at the permit itself, you have to go
14 through a certain process in order to get to
15 technical planning review.

16 And in our -- it's our position
17 that technical planning review has not taken
18 place, because, again, there is no
19 application, nothing was submitted to the
20 review branch clerk who then, in turn, would
21 make the issuance. That did not take place.
22 As I said, that's a prerequisite.

1 Furthermore, our records indicate
2 that no permit for this subject property was
3 issued on May 1, 2006, even though the
4 document that the -- that has been shown --
5 that is, the permit has been shown to have a
6 date of May 6th. Our records don't indicate
7 that any such permit was issued for that
8 particular date.

9 I will also point out that the
10 subject property is located at 1405 North
11 Carolina Avenue, N.E., yet the permit
12 displayed an address of 1405 North Caroline
13 Avenue.

14 CHAIRPERSON GRIFFIS: I get all
15 that. So what you're saying --

16 MR. GREEN: Those things -- what
17 I'm saying is these little things, though they
18 might not draw one's attention to what's going
19 on, but when you look at them in an aggregate
20 --

21 CHAIRPERSON GRIFFIS: Sure.

22 MR. GREEN: -- there is a problem.

1 And we say to the owner of the property, "You
2 have an obligation to demonstrate to us that
3 our suspicions are wrong."

4 CHAIRPERSON GRIFFIS: Okay. I
5 understand that.

6 MR. GREEN: And that's what's
7 going on here, and that's why we came to the
8 conclusion that we did.

9 CHAIRPERSON GRIFFIS: And so what
10 you're saying is, you know, because DCRA never
11 makes a spelling error on a permit, and they
12 never lose plans or applications, that the
13 obligation of an owner should be to prove that
14 the paper they have in front of them is
15 legitimate. I get that from your letter. Not
16 a problem.

17 MR. GREEN: I would also point
18 out, Mr. Chairman, that one of the first
19 things on the permit that was noticed I guess
20 by the Zoning Administrator was that the name
21 of the director appeared twice. Now, his name
22 was Patrick Canavan, and it was -- if you

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1 looked at the permit it said Patrick Patrick,
2 and that one was in a lower case and the other
3 Patrick was in the upper case.

4 Again, when you look at all of
5 these things in an aggregate, it raises some
6 red flags.

7 CHAIRPERSON GRIFFIS: Right. I
8 don't disagree there is some concern. I guess
9 my frustration is why, after we've been
10 through this process, what -- when was the
11 appeal filed? Eight, nine months ago?

12 MR. ALBERTI: In June, yes.

13 CHAIRPERSON GRIFFIS: And just of
14 yesterday we have suspicions of the permit?
15 You know, I'm talking --

16 MR. GREEN: I can't answer that,
17 Mr. Chairman.

18 CHAIRPERSON GRIFFIS: I know. I
19 know. I'm not asking for it to be answered
20 necessarily. It's just -- it's a strange
21 predicament that we're in at this point. But
22 I'll ask my Board what they want to do.

1 We obviously have a postpone --
2 there's obviously nothing to do today,
3 frankly. We could dismiss this appeal, or we
4 could postpone it and give some assurance to
5 the ANC that they still have, you know,
6 viability of addressing their concerns if this
7 is found to be legitimate, and we may well
8 find that it isn't legitimate, in which case
9 it, again, has nothing to do with us. Yes?

10 VICE-CHAIRPERSON MILLER: Mr.
11 Green, what's the process if the owner comes
12 back on the 5th to challenge DCRA's position
13 on the permit?

14 MR. GREEN: You know, it depends
15 on what he says. I can assure you that our
16 Zoning Administrator, through his staff, is
17 exercising a high degree of concern and is
18 really on this case. And if he comes back and
19 he provides the information, we certainly will
20 sit down with the ANC and share what we have
21 found.

22 If he has -- for an example, if he

1 is trying to build a flat or something other
2 than a flat in an area that's -- where a flat
3 is not permitted, the Zoning Administrator
4 will say to him that he has to come to the
5 Board and seek some type of a variance or
6 exception or something.

7 We intend to do this. I mean, we
8 are not going to sleep at the wheel on this at
9 all. I can assure you of that, Ms. Miller.

10 VICE-CHAIRPERSON MILLER: Well,
11 what do you think the appropriate time for a
12 postponement would be?

13 MR. GREEN: You know, I really
14 don't want to give you a date. I think that's
15 a discretionary matter within the Board. We
16 will have an answer one way or the other on
17 the 5th of February. I think that 30 days out
18 from that would not be unreasonable.

19 CHAIRPERSON GRIFFIS: Opinion on
20 that?

21 MR. ALBERTI: I'm okay with the
22 timing. It's just that I would ask a

1 commitment from DCRA to continue to pursue
2 this case. I mean, I have no confidence that
3 they will. I mean, we are now six months past
4 -- as you pointed out, we're six months past
5 the time that I appealed. I have been in
6 constant contact with the Zoning Administrator
7 on this, asking for information, and now -- it
8 was just now that we got information.

9 I'm fine with a month from now,
10 but I would just urge DCRA to finish this off
11 and make a final resolution pending what the
12 owner has -- the owner's rebuttal.

13 MR. GREEN: I can say this. In
14 all honesty, Mr. Chairman, and members of the
15 Board, I've talked with the Zoning
16 Administrator, and he has demonstrated a
17 seriousness of purpose with regard to this.

18 CHAIRPERSON GRIFFIS: No one is
19 questioning that.

20 MR. GREEN: Yes. And we will not
21 let this slip through the cracks, and we will
22 cooperate with the ANC. I can assure you of

1 that.

2 CHAIRPERSON GRIFFIS: Good.
3 There's one more piece that we might want to
4 focus on on this permit, as we have it in the
5 record, as I read it. And it's alteration and
6 repairs to a three-family flat. So --

7 MR. ALBERTI: It's actually
8 alterations and repairs to a single-family,
9 conversion to a three-family flat. And it's
10 my understanding of the zoning laws a three-
11 family flat is not defined in the zoning
12 regulations.

13 CHAIRPERSON GRIFFIS: It's kind of
14 impossible. A flat is defined as --

15 MR. ALBERTI: A flat is defined as
16 two units.

17 MR. GREEN: Two units.

18 MR. ALBERTI: So it's an oxymoron.

19 CHAIRPERSON GRIFFIS: Probably not
20 even an oxymoron, because it doesn't work.

21 MR. ALBERTI: Right.

22 CHAIRPERSON GRIFFIS: All right.

1 Well, there it is. Fascinating all around.

2 Very well. Let's look -- we'll
3 hopefully have resolution and clarity, at
4 least in terms of the genesis of this permit,
5 by the first week, second week of February, 30
6 days prior to that. Do we have any room in
7 the schedule to slip this in? What do you
8 see?

9 (Pause.)

10 March is pretty booked up. Let's
11 look at -- geez.

12 (Pause.)

13 Any difficulty in making the
14 afternoon of the 13th of March?

15 MR. ALBERTI: That will be okay
16 for me, yes.

17 CHAIRPERSON GRIFFIS: Yes?

18 MR. ALBERTI: Yes.

19 MR. GREEN: March 13, 2005. 2007.
20 Yes, no problem.

21 CHAIRPERSON GRIFFIS: All right.
22 Perfect. We'll do that -- we'll call it the

1 first case in the afternoon, and hopefully
2 we'll have some resolution before that.

3 MR. ALBERTI: I hope so, too.
4 Thank you.

5 CHAIRPERSON GRIFFIS: Great.
6 Thank you very much.

7 Okay. Anything else?

8 VICE-CHAIRPERSON MILLER: This
9 probably goes without saying, but if it is
10 resolved sooner, would you let the Office of
11 Zoning know that, or --

12 MR. GREEN: Oh, absolutely.

13 VICE-CHAIRPERSON MILLER: Okay.
14 Thank you.

15 MR. GREEN: Absolutely.

16 MR. ALBERTI: We will, we will.

17 VICE-CHAIRPERSON MILLER: Thank
18 you.

19 CHAIRPERSON GRIFFIS: Perfect.
20 Any other questions we can answer on this
21 case?

22 (No response.)

1 Ms. Bailey, any other business for
2 us?

3 MS. BAILEY: Not from me, Mr.
4 Chairman.

5 CHAIRPERSON GRIFFIS: Fascinating.
6 Anything else?

7 (No response.)

8 Very well. Thank you all very
9 much. Have a great afternoon.

10 MR. GREEN: Thank you, Mr.
11 Chairman, members of the Board.

12 CHAIRPERSON GRIFFIS: Let's
13 adjourn.

14 (Whereupon, at 2:07 p.m., the
15 afternoon session was adjourned.)

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