

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

JUNE 26, 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., Ruthanne G. Miller, Chair, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

RUTHANNE G. MILLER      Chair  
MARC LOUD,                      Board Member  
JOHN A. MANN, II              Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

MICHAEL G. TURNBULL FAIA, Commissioner  
(OAC)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY                      Secretary  
BEVERLEY BAILEY              Sr. Zoning Specialist  
ESTHER BUSHMAN              General Counsel  
JOHN NYARKU                      Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

LORI MONROE, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

JOHN MOORE

The transcript constitutes the minutes  
from the Public Hearing held on June 26, 2007.

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

10:06 a.m.

CHAIR MILLER: The hearing will please come to order. Good morning, ladies and gentlemen. This is the June 26th morning Public Hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Ruthanne Miller. I'm the Chair of the BZA. Joining me today is Mr. Michael Turnbull to my right, on behalf of the Zoning Commission. To my left is Mr. Mark Loud, a Mayoral appointee. Next to him is Mr. John Mann representing NCPC. And I don't think I'll go through the whole row. But these are the Board Members and the others are staff and attorneys from OIG.

Also, Mr. Etherly, the Vice Chair, is not with us today because he's a new father. And so he's being excused from today's proceedings. And we wish him well.

Copies of today's hearing agenda are available to you and are located to my

1 left in the wall bin near the door. Please be  
2 advised that this proceeding is being recorded  
3 by a court reporter and is also web cast live.  
4 Accordingly, we must ask you to refrain from  
5 any disruptive noises or actions in the  
6 hearing room.

7 When presenting information to the  
8 Board, please turn on and speak into the  
9 microphone, first stating your name and home  
10 address. When you are finished speaking,  
11 please turn your microphone off so that your  
12 microphone is no longer picking up sound or  
13 background noise.

14 All persons planning to testify,  
15 either in favor or in opposition, are to fill  
16 out two witness cards. These cards are  
17 located to my left on the table near the door  
18 and on the witness tables. Upon coming  
19 forward to speak to the Board, please give  
20 both cards to the reporter sitting to my  
21 right.

22 The order of procedure for special

1 exceptions and variances is 1) statement and  
2 witnesses of the Applicant; 2) Government  
3 reports, including Office of Planning,  
4 Department of Public Works, DDOT, etc.; 3)  
5 report of the Advisory Neighborhood  
6 Commission; 4) Parties or persons in support;  
7 5) parties or persons in opposition; and 6)  
8 closing remarks by the Applicant.

9 Pursuant to Section 3117.4 and  
10 3117.5, the following time constraints will be  
11 maintained: the Applicant, Appellant, persons  
12 and parties, except an ANC, in support,  
13 including witnesses -- 60 minutes  
14 collectively; appellees, persons, and parties,  
15 except an ANC, in opposition, including  
16 witnesses -- 60 minutes collectively;  
17 individuals -- three minutes. These time  
18 restraints do not include cross examination  
19 and/or questions from the Board. Cross  
20 examination of witnesses is permitted by the  
21 Applicant or parties. The ANC within which  
22 the property is located is automatically a

1 party in a special exception or variance case.  
2 Nothing prohibits the Board from placing  
3 reasonable restrictions on cross examination,  
4 including time limits and limits on the scope  
5 of cross examination.

6 The record will be closed at the  
7 conclusion of each case, except for any  
8 material specifically requested by the Board.  
9 The Board and the staff will specify at the  
10 end of the hearing exactly what is expected  
11 and the date when the persons must submit the  
12 evidence to the Office of Zoning. After the  
13 record is closed, no other information will be  
14 accepted by the Board.

15 The Sunshine Act requires that the  
16 public hearing on each case be held in the  
17 open, before the public. The Board may,  
18 consistent with its Rules of Procedure and the  
19 Sunshine Act, enter an executive session  
20 during or after the public hearing on a case  
21 for purposes of reviewing the record or  
22 deliberating on a case.

1           The decision of the Board in these  
2           contested cases must be based exclusively on  
3           the public record. To avoid any appearance to  
4           the contrary, the Board requests that persons  
5           not engage the members of the Board in  
6           conversation. Please turn off all beepers and  
7           cell phones at this time, so as not to disrupt  
8           these proceedings.

9           The Board will now consider any  
10          preliminary matters. Preliminary matters are  
11          those which relate to whether a case will or  
12          should be heard today, such as a request for  
13          postponement, continuance, or withdrawal, or  
14          whether proper and adequate notice of the  
15          hearing has been given. If you are not  
16          prepared to go forward with a case today, or  
17          if you believe that the Board should not  
18          proceed, now is the time to raise such a  
19          matter. Does the staff have any preliminary  
20          matters?

21                 MS. BAILEY: Members of the Board,  
22                 to everyone, good morning. There is a

1 preliminary matter and it has to do with  
2 Application No. 17626. That application,  
3 Madam Chair, was withdrawn.

4 CHAIR MILLER: Thank you. Is that  
5 it for preliminary matters, this morning?

6 MS. BAILEY: That's it for  
7 preliminary matters that the staff has.

8 CHAIR MILLER: Thank you. Then,  
9 Ms. Bailey, would you please administer the  
10 oath?

11 MS. BAILEY: Would you please  
12 stand to take the oath?

13 CHAIR MILLER: Anyone who will be  
14 testifying today.

15 (Whereupon, the witnesses were  
16 sworn in.)

17 MS. BAILEY: Application No. 17627  
18 of RIA LLC, pursuant to 11 DCMR 3101.2, for a  
19 variance from the lot occupancy provisions  
20 under Section 43 of variance from the parking  
21 space requirements under Subsection 2117.4,  
22 and pursuant to 11 DCMR 3104.1 for a special

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1 exception allowing the conversion and addition  
2 to an existing building to permit a new eight-  
3 unit apartment house under Section 353. The  
4 property is zoned R-5-A. It's located at 1007  
5 Rhode Island Avenue, N.E., Square 3870, Lot  
6 49.

7 CHAIR MILLER: Thank you. Good  
8 morning.

9 MR. GLASGOW: Good morning.

10 CHAIR MILLER: Would you introduce  
11 yourself for the record?

12 MR. GLASGOW: Certainly. Members  
13 of the Board, for the record, my name is  
14 Norman M. Glasgow, Jr., of the law firm of  
15 Holland & Knight LLP. Here with me today on  
16 this application are Mr. Anthony Noble of the  
17 same law firm, Mr. Jason Saunders on behalf of  
18 the ownership entity, and the architect, Mr.  
19 Richard Markus, who's the architect for the  
20 project.

21 Proceeding -- before proceeding  
22 with the testimony of the witnesses, I'd like

1 to offer a brief opening statement, with the  
2 permission of the Board.

3 CHAIR MILLER: I just want to see  
4 if there's anybody else here for this case.  
5 Is there anybody here from the ANC in this  
6 case? Is the Chairman here? Okay. Do you  
7 want to just come forward and introduce  
8 yourself for the record, and then you can go  
9 back?

10 MR. SHELTON: Good morning, Madam  
11 Chair. I'm William Shelton, Chair of ANC 5B.

12 CHAIR MILLER: Okay. And I just  
13 have one quick question for you. Do you also  
14 have a written report or just testimony today?

15 MR. SHELTON: Just testimony.

16 CHAIR MILLER: Okay. Well we'll  
17 get to you.

18 MR. SHELTON: Okay.

19 CHAIR MILLER: All right. Thank  
20 you, very much. Okay.

21 MR. GLASGOW: Thank you. First,  
22 I'd like to confirm that the Board members

1 have received a copy of the Applicant's  
2 statement that was previously filed in this  
3 case. It was a statement of Applicant  
4 document.

5 CHAIR MILLER: Yes.

6 MR. GLASGOW: All right. Then  
7 also, there have been reports filed in this  
8 case from the DDOT and the Office of Planning.  
9 I wanted to confirm that the Board has those.

10 CHAIR MILLER: I don't believe we  
11 have DDOT's report.

12 MR. GLASGOW: Then we will see  
13 whether we can get -- get copies submitted to  
14 DDOT's report. Both DDOT and the Office of  
15 Planning, we submit, are supportive of the  
16 application and are supportive of the  
17 Applicant's revised layout of parking spaces.  
18 And we'll get a copy of the DDOT report to the  
19 members of the Board. It was filed a few days  
20 ago, I believe. In any event, we'll make sure  
21 you have that for the record.

22 The Statement of Applicant goes

1 through the special exception and variance  
2 relief requested by the Applicant to construct  
3 an addition to an existing 14-unit boarding  
4 house, so as to create eight condominium units  
5 with six parking spaces. And then I'll  
6 explain in more detail later. But the six  
7 parking spaces were arrived at in consultation  
8 with representatives of DDOT and the Office of  
9 Planning.

10 CHAIR MILLER: When you changed  
11 your plan to reduce it to six parking spaces,  
12 you added a drive isle that's 17 feet.

13 MR. GLASGOW: That is 17 feet,  
14 rather than the 20 feet.

15 CHAIR MILLER: Right. Are you  
16 contemplating amending the application to seek  
17 a variance for the drive isle requirement?

18 MR. GLASGOW: Yes. We would be --  
19 we would be amending the application to seek  
20 a drive isle variance from the 20 feet to the  
21 17 feet and for the number of -- of parking  
22 spaces. But they're -- that is -- that is

1 dependent upon whether the Board accepts that  
2 the Applicant has a nonconforming credit for  
3 four parking spaces, which I will discuss very  
4 shortly.

5 CHAIR MILLER: Can I ask you, is  
6 there -- was there some notice to the  
7 community with respect to the drive isle?  
8 Have you shown the new plans to the community  
9 and the ANC?

10 MR. GLASGOW: We discussed -- the  
11 community had raised an issue with respect to  
12 four of the parking spaces not having direct  
13 isle access and indicated that they wanted to  
14 have all -- all parking spaces have direct  
15 access. So that is -- that is what we have  
16 done.

17 CHAIR MILLER: I have one other  
18 question on a technical nature before you get  
19 into the substance.

20 MR. GLASGOW: Yes?

21 CHAIR MILLER: Do you think that  
22 you might need a variance from 2001.3 for an

1 addition to a nonconforming structure?

2 MR. GLASGOW: I --

3 CHAIR MILLER: In that -- well --

4 MR. GLASGOW: No. The structure  
5 itself I don't think is nonconforming. What  
6 they do is they just add -- when you have  
7 those type of things with the -- where there's  
8 a -- a width that is not conforming with  
9 respect to the side yard, as there is on the  
10 east side, it -- the addition itself conforms  
11 with all the requirements and has the -- has  
12 the side yard. It provides the required side  
13 yard.

14 CHAIR MILLER: Okay. I'd only  
15 raised this because I was looking at the  
16 definition of nonconforming structure. And it  
17 included yard.

18 MR. GLASGOW: Yes. Okay. What  
19 they do is they say that -- it said -- this is  
20 2100 -- this says the conforming -- the  
21 structure shall conform to percentage lot  
22 occupancy. It says the addition or itself

1 shall conform to use and structure  
2 requirements, neither increase or extend any  
3 existing nonconforming access. Well, we don't  
4 increase or extend any existing nonconforming  
5 aspect. That's why we weren't cited for that.

6 CHAIR MILLER: Right. Do you  
7 conform to lot occupancy?

8 MR. GLASGOW: Well, with respect  
9 to lot occupancy, we've asked for a variance  
10 from lot occupancy.

11 CHAIR MILLER: Right.

12 MR. GLASGOW: So you'd be asking  
13 for a variance in a variance. We used to have  
14 this discussion a lot with nonconforming  
15 structures and how many variances -- it's  
16 almost like how many variances sit on the head  
17 of a pin. When you have a nonconforming, you  
18 know, structure, the way it had been -- the  
19 rulings had been is that if your -- if your  
20 addition conforms, then you don't need any  
21 further relief from the nonconforming  
22 structure. And in this -- this case, we -- we

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1 asked for the variance for the lot occupancy.  
2 And I think we set forth why it is that we  
3 have that very technical area of relief.  
4 Because it's counted in lot occupancy, even  
5 though there's no building on it. And I think  
6 we go through the square footage in detail,  
7 how that is.

8           Historically, I don't think we've  
9 been cited for that type of a variance from  
10 that provision when you've asked for a  
11 variance from the underlying provision, which  
12 is the lot occupancy. Because it doesn't  
13 matter whether the structure was nonconforming  
14 or not. It is -- it's now -- we're now saying  
15 that yes, we are over lot occupancy. We're  
16 asking for a variance from that when we have  
17 an explanation why. So that is why we've  
18 proceeded the way that we have.

19           CHAIR MILLER:     Okay.     I just  
20 thought that a lot of the basis for this  
21 application is that you had a nonconforming  
22 side yard.

1 MR. GLASGOW: I think that part of  
2 it is, yes. It's because that we have that.

3 CHAIR MILLER: Right. Okay.

4 MR. GLASGOW: That is -- that is  
5 correct.

6 CHAIR MILLER: And I can see that  
7 it is redundant in these regulations. But  
8 anyway, the Board never requires anyone to  
9 seek a variance. I just note that it seems  
10 like it may fall within that regulation, as  
11 well. Okay. It's your choice. Go ahead.

12 MR. GLASGOW: All right. Thank  
13 you. All right, going forward again with --  
14 now, with the preliminary statement, the  
15 relief sought in this application is a special  
16 exception for R-5-A approval, due to the  
17 addition that's being constructed at the site.  
18 The apartment house use is permitted as a  
19 matter of right in the R-5-A district, but new  
20 residential development requires approval of  
21 the Board under Section 353.

22 The Applicant also meets all the

1 set back, FAR, and height requirements of the  
2 R-5-A district, but does have this technical  
3 area of relief for lot occupancy that's just  
4 been discussed with the Board. Due to the  
5 application of the regulations, we're in a  
6 building that was originally constructed in  
7 1925. Adjacent to the 1925 portion of the  
8 building, there's an existing nonconforming  
9 side yard that's less than five feet and was  
10 therefore included in lot occupancy, even  
11 though there is no structure in that area.

12 The Applicant's statement sets  
13 forth how all the standards for special  
14 exception relief for new R-5-A development are  
15 met and the basis for the variance relief --  
16 for the very minor lot occupancy variance, and  
17 a variance from the isle width requirements,  
18 so as to provide six directly accessible  
19 parking spaces with an isle width of 17 feet.

20 When I first started practicing,  
21 up until about 1985, isle widths were 14 feet.  
22 And the -- and DDOT and the Office of Planning

1 and ultimately the Zoning Commission increased  
2 the isle widths from 14 feet to 20 feet. So  
3 we're -- we would submit that 17 feet is -- is  
4 a reasonable isle width. Obviously 20 feet is  
5 preferable, but when you look at the  
6 dimensions of the lot, when you have the nine  
7 foot wide parking space, 17 foot wide isle  
8 width, and then nine by 19 spaces, we --  
9 because of the narrowness of the lot, 45 feet,  
10 we run out of space with a nine foot wide  
11 space, a 17 foot wide isle, and a 19 foot long  
12 space. And that's how you can maximize  
13 parking, I think, as you -- as you've seen in  
14 the plans that we have. We've maximized the  
15 number of parking spaces on site with direct  
16 isle access.

17 All of this is set forth in the  
18 Applicant's statement at pages 6-18. In  
19 addition, there are exhibits to the Statement  
20 of Applicant in support of its meeting its  
21 burden of proof. In our initial filing, only  
22 one page of exhibit F was filed, and we

1 understand that all three pages of Exhibit F  
2 are now in the -- in the record. And that  
3 shows the car ownership in the two census  
4 tracks. Because this is right on the border  
5 of two census tracks. So we submitted the --  
6 the figures -- the car ownership figures for  
7 both census tracks. And they show that a .75  
8 ratio of parking is -- is reasonable in that  
9 area.

10 It is the Applicant's submission,  
11 as will be shown by the testimony of the  
12 witness, that due to -- due to the provision  
13 of all the required yards and courts -- for  
14 instance, our rear yard is 50 feet and a rear  
15 yard of 20 feet is required in this zone. And  
16 we have the required side yards. That we  
17 provide sufficient set backs and open space  
18 around its buildings.

19 Concerning the parking variance,  
20 for a number of spaces the Applicant submits  
21 that it agrees with -- with DDOT and the  
22 Office of Planning that the six space layout

1 is preferable to the four space layout. And  
2 the community had objections to the four space  
3 layout, due to the direct accessibility of all  
4 spaces with a workable drive isle. The eight  
5 space layout was submitted, as there is no  
6 required parking provided on the site for the  
7 existing 14 unit rooming house. If you look  
8 at the site right now, there are no lined  
9 parking spaces. There is an asphalt area, but  
10 there are no lined parking spaces on the site.

11 A rooming house in the R-5-A  
12 district -- and this is a pre-'58 building,  
13 and therefore the Applicant is entitled to a  
14 credit of four parking spaces -- a rooming  
15 house in the R-4 -- R-5-A district requires  
16 one space plus one for each five rooming  
17 units, for a total of four parking spaces.  
18 That's pursuant to Sections 2101.1 and 2118.6.  
19 It means, when you do the one, and then you  
20 divide the five into the 14, you get like 3.8  
21 or whatever that number is. And so you round  
22 up to the next space. That's Section 2118.6.

1 So that's a total of four spaces. As a  
2 result, the original layout, in Applicant's  
3 view, complied with the requirements of the  
4 regulations because we had four directly  
5 accessible spaces right off the alley. And we  
6 were asking for relief, in order to not have  
7 direct accessibility to the other four spaces  
8 that were not required. Here, what we're  
9 doing is we're providing six spaces with  
10 direct accessibility.

11 As a result, if the Board  
12 recognizes that the nonconforming credit for  
13 four spaces for the existing use, then there  
14 is no reduction in number of required spaces.  
15 On the other hand, should the Board not  
16 recognize the nonconforming credit, which we  
17 do believe we're entitled to, then a variance  
18 would be required to provide six parking  
19 spaces, as opposed to eight, and a variance  
20 for the 17 foot wide isle, the granting of  
21 which both the Office of Planning and DDOT  
22 support.

1           Comprehensive Plan designates the  
2           site moderate density residential.     And  
3           therefore, from a density standpoint, the  
4           project is totally consistent with the  
5           Comprehensive Plan and the District's housing  
6           objectives for the Comprehensive Plan.  And we  
7           also not that in the R-5-A district, that .9  
8           FAR, the F-5-A district is one of the least  
9           dense zones as far as FAR development in the  
10          District of Columbia.

11           If there are no preliminary  
12          questions, I'd like to proceed forward with  
13          the testimony of the witnesses.

14           CHAIR MILLER:  I have a question.  
15          Because I'm not sure if the testimony's going  
16          to get to the credit issue that you brought  
17          up.  Is it your point that if the asphalt area  
18          had been lined for parking, would you be  
19          entitled to a credit?

20           MR. GLASGOW:  It would have to be  
21          lined and improved consistent with the -- with  
22          the regulations.     You can't just, for

1 instance, have -- just throw down a bunch of  
2 gravel and say that you have a parking area,  
3 under the regulations. There have been  
4 rulings going back oh to Jimmy Fahey and Joe  
5 Bottner and other prior Zoning Administrators  
6 that in order to have required parking,  
7 because sometimes it plays in your favor and  
8 sometimes it doesn't, you have to have lined  
9 spaces with a pervious -- an impervious  
10 surface that met the standards of the  
11 regulations at the time, or you don't have  
12 required parking. In other words, there were  
13 areas where it could have been to our  
14 advantage to have an area designated as  
15 parking on a lot. For instance, if it was in  
16 a front yard in -- in certain areas where  
17 you're not permitted to have that and, unless  
18 the -- the parking was improved and set forth  
19 under the standards of the Zoning regulations,  
20 you couldn't claim that as nonconforming.

21 CHAIR MILLER: So that is your  
22 distinction. It doesn't matter to you the

1 fact that there was room for four spaces.  
2 What's important in your line of argument is  
3 that they weren't lined and compliant with the  
4 regulations?

5 MR. GLASGOW: Right. Well, I  
6 think that is part one. Because, if you go  
7 the other way, then if we had -- then if we  
8 parked eight spaces on that surface, even  
9 though it was illegally and let's say that we  
10 had two rows of parking spaces, because this  
11 was a tourist home. And our understanding  
12 from Ms. Deloros Johnson, who's not able to be  
13 here today, but who lived about a block away  
14 from this property for years, that they used  
15 to stack cars in there every which way. And  
16 then I would say, okay, if we want to go that  
17 way, then we parked more than eight -- we  
18 parked eight or more cars back there. So we  
19 -- we have then the right to park eight spaces  
20 the way that it is right now, with no access  
21 or anything else. I mean, you -- that's why  
22 -- that's why the -- that's why the Zoning

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1 Administrators in the past have done that.  
2 Because otherwise you didn't know how -- it  
3 -- it was just a parking area. And then, if  
4 our -- our testimony is there were more than  
5 -- there were eight or more cars back there,  
6 then we didn't need a variance for that. We'd  
7 just throw eight cars back there however we  
8 wanted.

9 CHAIR MILLER: Just so that we  
10 understand your argument though, there's a  
11 difference between eight cars being stacked  
12 illegally and space -- asphalt space for four  
13 cars that actually fit in the dimension right  
14 now?

15 MR. GLASGOW: Well, there -- there  
16 is, but remember, if you had -- if there's  
17 just a paved parking area and they packed --  
18 let's say that they stacked the parking spaces  
19 as we originally showed on our plans, you  
20 know, one deep, and they just -- they just  
21 went ahead and did that, then we would say we  
22 had nonconforming rights for eight spaces that

1 would be stacked, because it's a pre-'58  
2 building and you would have an area that would  
3 accommodate eight spaces. If they used it for  
4 eight spaces, then we would say we have eight  
5 nonconforming spaces, four of which are  
6 directly accessible, four of which had  
7 nonconforming rights not to have direct  
8 access, and we'd have our eight spaces.

9 CHAIR MILLER: And the previous  
10 use, though, was of this boarding house that  
11 was required to have four spaces, correct?

12 MR. GLASGOW: That's correct.

13 CHAIR MILLER: And what's your  
14 knowledge as to how that parking area was  
15 used?

16 MR. GLASGOW: By way of proffer,  
17 my understanding is that cars were just  
18 stacked into that asphalt area in the back.

19 CHAIR MILLER: Okay. Any other  
20 questions from the Board on this? Okay. I  
21 don't think we're going to decide that issue  
22 right now, so you can proceed.

1           MR. GLASGOW: All right. In any  
2 event, if the Board does -- does not agree, we  
3 have asked for the variance relief. We've --  
4 we've left it so that we can proceed forward  
5 with the parking either way. Either we can  
6 get a variance for reduction of two, or -- or  
7 the Board grants us the variance from the isle  
8 width and we provide six parking spaces for  
9 the eight -- for the eight units.

10           Next, I'd like to call Mr. Jason  
11 Saunders. Would you please identify yourself  
12 for the record and proceed with your  
13 testimony?

14           MR. SAUNDERS: Good morning. My  
15 name is Jason Saunders. I'm here representing  
16 RIA LLC, the owners of the property at 1007  
17 Rhode Island Avenue, NE. We're here today  
18 because, as the owners of this property, we  
19 want to improve upon it and so we're here  
20 today asking for this special exception relief  
21 to allow the addition to the existing  
22 building, and then to convert it from its

1 existing use at the 14 unit, to the eight unit  
2 apartment house that we're looking to do there  
3 in the variance relief from the center of lot  
4 occupancy provisions and, as Mr. Glasgow just  
5 went over, if required, the relief from the  
6 parking. Okay?

7 And we have our architect here,  
8 Mr. Rich Markus, who can go through more  
9 thoroughly how we meet our burden for zoning  
10 relief.

11 MR. MARKUS: My name is Rich  
12 Markus. I'm the architect on the project. My  
13 first impression of this project, I drove up  
14 Rhode Island Avenue and, in this area, it's an  
15 R-5-A zone, there's a mixed uses there.  
16 There's a -- that's a map on the -- on the  
17 left there. There's a Metro, the Home Depot  
18 is behind it. There's a bank of this, within  
19 a block. There's a -- a few single family  
20 houses. There's apartment buildings and  
21 churches. There's -- there's quite a mixed  
22 use of -- of properties in this area.

1           The building itself is on the  
2 street. First driving up to it, it appears  
3 different from the buildings adjacent to it.  
4 Those are all single family houses. And it  
5 -- this building itself kind of fronts the  
6 street a little bit differently. It -- it  
7 doesn't have the defining characteristics of  
8 the houses next to it. They -- they have  
9 porches and kind of mixed roofs and things  
10 that -- that speak that it's a single family  
11 house. This -- this property itself, I  
12 believe, when it was -- when it was built, as  
13 a -- as an architect, it looked to me like it  
14 was a multifamily house when it was build,  
15 just the way it fronts the street and the  
16 massing of it.

17           The owners adjacent just  
18 testified. They -- this was a boarding house  
19 before. They -- they wanted to improve this  
20 building, looking at what was appropriate for  
21 the area and what they could do with the  
22 property. And they determined that, with

1 looking at the square footage, that we could  
2 put on and what was appropriate for sales  
3 points and stuff, he'd have to speak more  
4 specifically to that, but we wanted to put in  
5 eight units, mixed with one bedroom and two  
6 bedroom that would sell -- sell for a price  
7 that they thought would work well in this --  
8 in this area.

9 The -- the first thing that they  
10 did when they bought the property was -- it  
11 was in a bad condition, they cleaned it up.  
12 There was some -- the lot, it was just trash  
13 and overgrown trees, they took care of that.  
14 There's been some demolition inside the  
15 building. It's all secure and safe. They put  
16 a fence around it, just to secure the whole  
17 property.

18 The -- the three things, as we  
19 developed the -- the ideas of what they wanted  
20 to move forward with, the issues that we came  
21 up on and one, because it's in R-5-A use and  
22 Chip has already kind of discussed this, we

1 automatically, with a new residential  
2 development, have to go before the Board as a  
3 special exception. So that was the first  
4 issue. And, in order -- and pursuant to that,  
5 we talked with the Office of Planning and also  
6 DDOT and worked through the parking issues and  
7 -- and they're all in approval. And I think  
8 you have those reports.

9           The second thing is the lot  
10 occupancy issue. And the -- the existing  
11 building, with the nonconforming side yard,  
12 you can see it on the building -- the property  
13 on the -- or the drawing on the right, the  
14 dark area shaded -- the darker shaded area,  
15 that long strip. That's less than four feet  
16 wide. That's -- that's a side yard that does  
17 not conform to the zoning requirements. And  
18 what happens is you have to include that in  
19 the lot occupancy calculation, even though  
20 there's no building built there. So when we  
21 did the -- did the whole lot occupancy  
22 calculation, we actually exceeded slightly.

1 That's about 42 percent. And the relief that  
2 we're asking for there is actually, if you  
3 take off the square footage of that zone,  
4 there's 2.8 percent of the entire lot, we  
5 actually come underneath the 40 percent. So  
6 we're actually asking for relief of something  
7 that's not constructed. It's an open area.  
8 So that was the second part of relief.

9 The third is parking. In an R-5-A  
10 zone, we wanted to get eight units. And  
11 you're required to have one parking space per  
12 unit. So that -- that equals eight spaces.  
13 So there's an issue about whether we have four  
14 spaces coming from the previous use. We -- in  
15 our first scheme, we actually had eight  
16 parking spaces. Four of them had direct  
17 access to the alley. Four of them were  
18 tandem. And, in discussion with the -- with  
19 the neighborhood, and also with DDOT and  
20 Office of Planning, we came up with the six-  
21 space configuration. Even though, because of  
22 the width of the lot, we can't fit the -- the

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1 proper 20 foot alley or driveway in between.  
2 So we're asking relief of that. But the --  
3 that was the third area of relief and that's  
4 how we addressed it.

5 I think there will be some other  
6 questions, but that --

7 CHAIR MILLER: If you're ready for  
8 questions, I'd like to know if you can show,  
9 what is the exceptional condition of this  
10 property under the variance test, when you go  
11 through the variance test, that leads to a  
12 practical difficulty in complying with the  
13 regulations governing both the lot occupancy  
14 and the parking?

15 MR. MARKUS: Well, the first issue  
16 is the existing building. The existing  
17 building was built in 1925. And because of  
18 the -- the width and the way it was  
19 constructed, it was built with a nonconforming  
20 side lot. This building was built before the  
21 zoning code was in place. And because it's  
22 less than five feet from the property line,

1 the edge of the building to the property, you  
2 actually have to include that square footage  
3 in your calculation of lot occupancy. And  
4 it's a little bit strange because, even though  
5 you include it, there's no built structure  
6 there. So the -- the -- the hardship is that  
7 the existing building is causing the hardship,  
8 in order to calculate that square footage. Is  
9 that clarifying anything?

10 CHAIR MILLER: No. I mean, I  
11 think you need to connect the dots a little  
12 bit more, though. Why can't you comply with  
13 the regulations because of that side yard  
14 nonconformity? Are you saying the exceptional  
15 condition is the side yard, that it counts as  
16 lot occupancy and you can't use it? But you  
17 could use it. You could go -- expand that  
18 way. Isn't that correct?

19 MR. MARKUS: Yes. That -- well,  
20 that's a financial issue. Because, to expand  
21 four feet of a building, you actually have to  
22 take down the side. It's -- it's actually --

1 the intention was to kind of keep the existing  
2 building. If -- if you look at the -- the  
3 site plan, it's pretty clear. The existing  
4 building is kept intact. And the addition,  
5 which meets the set backs around the side, is  
6 -- is very simply kind of attached to the  
7 existing building. We're -- we're renovating  
8 the interior of the building. So the intent  
9 was to kind of keep the building as it was and  
10 put the addition directly on the back.

11 CHAIR MILLER: Okay. That takes  
12 us more in the direction that we need to hear.  
13 I mean, you're saying there would be a  
14 practical difficulty in going to the side, for  
15 financial reasons.

16 MR. MARKUS: Absolutely.

17 CHAIR MILLER: Because of the way  
18 you already have an improved building on the  
19 lot?

20 MR. MARKUS: Yes.

21 CHAIR MILLER: Why is it a  
22 practical difficulty to comply with the

1 regulations and have it be smaller in lot  
2 occupancy?

3 MR. MARKUS: That goes to --  
4 that's also a financial and economic issue.  
5 What they determined, in order to develop this  
6 property, they needed to hit certain numbers.  
7 Maybe Jason can speak to that a little bit  
8 more. But what they needed or what they were  
9 trying to do was make certain sized units that  
10 they thought would work in this area that  
11 would sell for a certain amount, so they  
12 wouldn't be priced out of the area. And, in  
13 order to make it work financially, they needed  
14 to hit the eight units. There's five one  
15 bedrooms and there's three two bedrooms of a  
16 certain size. They're -- they range from just  
17 under 500 square feet to the largest one is  
18 about just over 800 for the two bedrooms. So  
19 that was -- that also came from an economic  
20 standpoint.

21 MR. GLASGOW: And also, Mr.  
22 Markus, that was necessary in order to be able

1 to utilize the .9 FAR that's permitted on the  
2 site.

3 MR. MARKUS: Correct.

4 CHAIR MILLER: Okay. So  
5 basically, what I'm hearing and it isn't in  
6 the papers and we might need more on this, but  
7 that the practical difficulty was financial,  
8 as a result of the fact that you're working  
9 with something that's already existing on the  
10 property. And therefore, you have to work  
11 within the constraints that are on the  
12 property. I'm paraphrasing it, but --

13 MR. GLASGOW: Sure.

14 CHAIR MILLER: Because that is  
15 what the Board would be looking at, you know.  
16 And I'm sure the community would be asking why  
17 can't you just do six units and comply with  
18 the regulations or seven units. And that's  
19 the basic question. And your answer sounds  
20 like it's for financial reasons. But that's  
21 not in the papers. So it might need to be a  
22 little more developed.

1                   MR. GLASGOW: All right. We can  
2                   -- we can have Mr. Saunders address that. But  
3                   -- but also, I think that certainly we have  
4                   gotten on the record that just removing the  
5                   side wall to move a piece of the building over  
6                   four feet, to at least -- and partly, as we  
7                   understand some of the persons that have  
8                   concerns about this, they -- they want more  
9                   open space, not less. So that you would have  
10                  a very expensive proposition of removing the  
11                  wall on the east side of the building, moving  
12                  it four feet, just to gain back that space  
13                  that's in lot occupancy, and decreasing open  
14                  space around the buildings.

15                 CHAIR MILLER: If you did that,  
16                 hypothetically, which obviously doesn't sound  
17                 like a good solution, but if you did that,  
18                 since you're given that lot occupancy as if  
19                 you are using it, if you used that on the side  
20                 would you have been able to build the eight  
21                 units on that?

22                 MR. GLASGOW: You could still

1 build eight units. But what you would have to  
2 do is you'd have to take a couple of -- of  
3 feet off of the building in a different  
4 location; a part of the building where we have  
5 significant set backs on all sides. So it --  
6 that didn't seem to make any sense. For  
7 instance, we have a 50 foot yard rear yard,  
8 where we're required to have a 20 foot yard  
9 rear yard. And our side yards are well in  
10 excess of that required by the regulations.

11 CHAIR MILLER: And do you have a  
12 feasibility study or something that came up  
13 with this conclusion that eight units is  
14 really what was going to be the only feasible  
15 option?

16 MR. GLASGOW: I -- I think we can  
17 submit something for the record on that.  
18 Jason, did you want to -- Mr. Saunders, do you  
19 want to address part of that, at this point or  
20 submit it for the record?

21 MR. SAUNDERS: Okay. To that, we  
22 don't have a feasibility study with us here

1 today to submit right now. However, because  
2 of the -- the price that was paid for the  
3 building at acquisition, because of the cost  
4 of the renovation, because of the cost of  
5 carry, because of the market that exists in  
6 that area, and because of the -- the decreases  
7 in the market price that are going on as we --  
8 as we speak, the economics just do not, you  
9 know, work for where -- what we want to sell  
10 to be able to provide an affordable option for  
11 people to live in the city limits on -- in an  
12 area such as Rhode Island Avenue, where  
13 they're close to a Metro and -- and other  
14 services that they can enjoy in the city,  
15 without being priced out of something that,  
16 you know, is -- is enjoyable for them.

17 MR. GLASGOW: I think and -- and  
18 Madam Chair, and that is in contrast to the --  
19 the 14-unit boarding house that we have a C of  
20 O for right now. So that you have to take  
21 into account the existing use that -- that's  
22 permitted. And it was hoped that -- that it

1 would be deemed that this is a preferable use  
2 in that location.

3 CHAIR MILLER: As I said, I'm sure  
4 that that's true. And that's something that  
5 the Board takes into consideration. But we're  
6 dealing with a variance test. And so, I just  
7 want to make sure that we are looking at the  
8 real factors.

9 MR. GLASGOW: Yes. And -- and I  
10 think fortunately for the -- for -- for us in  
11 this case with the variance test, we're not  
12 asking to gain square footage, you know, per  
13 say. I mean, we're -- we're within our -- our  
14 FAR. We would have a much different situation  
15 if we were asking for all of this to -- and we  
16 were going over the .9 FAR. All we're talking  
17 about is how do you configure -- reasonably  
18 configure it so that it's not a practical  
19 difficulty, that .9 FAR on the site.

20 CHAIR MILLER: Okay. I think that  
21 the relationship is probably similar with  
22 respect to the parking; that you can't provide

1 enough parking because you want the eight  
2 units. And that's what's driving the  
3 requirement for the parking. So we're still  
4 at why you have to have the eight units, is my  
5 point. And I think what the community is  
6 concerned about too.

7 MR. GLASGOW: Yes. I think there  
8 is an issue as to whether there should be six  
9 units or eight units.

10 CHAIR MILLER: Right.

11 MR. GLASGOW: I mean, partly what  
12 we have heard is we would support your project  
13 if you had six units and didn't have an  
14 addition on the back. Well, we don't need to  
15 have a case for that. So it -- it doesn't  
16 present a -- an option that's very attractive  
17 for the owner. Because, if you have six  
18 parking spaces and six units, in fact I guess  
19 you could say depending upon how you rule on  
20 our parking credit, we still need a variance  
21 from the isle width because of the narrowness  
22 of the lot. And so, to -- I guess, to come

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1 before the Board and -- and have that and the  
2 carry and everything to -- to not have an  
3 addition and to have the number of units you  
4 can already have is -- that wasn't  
5 particularly attractive to the -- to the  
6 Applicant. And that may be part of the reason  
7 why we have the -- the impasse that we have  
8 right now with some of the members within the  
9 community as to, you know, what -- what we're  
10 coming to the Board for and what they would  
11 prefer to see on the site. Particularly when,  
12 yes, we do have a lot occupancy variance, but  
13 every -- but we do believe that is very  
14 technical in nature and very minor in nature,  
15 when you go through the square footage that  
16 are -- that are set forth in the Statement of  
17 Applicant. And you look at the rear yard that  
18 is provided and the side yards that are  
19 provided on the site.

20 CHAIR MILLER: While you've  
21 touched on that, could you explain further the  
22 lot occupancy, why you think that's so minor?

1 MR. GLASGOW: Sure.

2 CHAIR MILLER: Between the 38  
3 percent figure, the 40 percent figure, and the  
4 42 percent figure?

5 MR. GLASGOW: Okay. And I'll also  
6 look at -- when you look at the -- the square  
7 footage that are involved, and I'm now at page  
8 11 of the statement, because we tried to lay  
9 that out in some detail, the area of the -- of  
10 the side yard is 143 square feet, the  
11 nonoccupied side yard. It's at -- towards the  
12 bottom of page 11, of the Statement of  
13 Applicant. And, when you compute the  
14 nonconforming -- the -- the area that's over  
15 the allowable lot occupancy, that's 104 feet.  
16 So it's less than the area that's been  
17 attributed to -- that's -- that's why those  
18 percentages came out the way they are. And I  
19 know they're a little bit odd. And that's --  
20 that's the reason why. That's why we wanted  
21 to go through those square footage so that the  
22 Board could see, we have 143 square feet of

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1 area charged to lot occupancy by -- by virtue  
2 of the 1925 building, that we don't have any  
3 building on. And our request for the variance  
4 relief is only 104 square feet in excess of  
5 the percentage of lot occupancy, which  
6 includes that 143. So if you look at the  
7 differential, if we had built it all the way  
8 out, we'd have more area actually occupied by  
9 building than what we're asking for. So  
10 that's why the percentages come out a little  
11 bit odd, as to what the actual building  
12 footprint is.

13 CHAIR MILLER: Do you want to  
14 touch upon the variance test for the parking?

15 MR. GLASGOW: Sure.

16 CHAIR MILLER: Okay.

17 MR. GLASGOW: With respect to the  
18 parking, particularly when you have a -- a lot  
19 and you're providing a -- the lot width is  
20 what is contributing to the isle width. And  
21 that is, we have a nine -- we have spaces that  
22 are nine by 19. We have an isle width that's

1 17 feet. And then we have spaces on the west  
2 side that are nine by 19. So we have spaces  
3 that are -- that are perpendicular to the  
4 alley, which are nine feet wide. Then we have  
5 a 17 foot isle. And then we have spaces that  
6 are parallel to the alley which are 19 feet in  
7 length. If we had three more feet of lot  
8 width, so it's the narrowness of the lot, they  
9 we would comply and we wouldn't need the -- we  
10 wouldn't need the relief. Because otherwise  
11 you can -- you can only directly pull off the  
12 alley. And you could never have a situation  
13 where you could have a row -- have an isle  
14 width providing spaces. And so you'd have  
15 this area in the interior of the lot that you  
16 -- that is just unusable, even though it is  
17 already paved for parking.

18 CHAIR MILLER: Thanks. Okay. I  
19 see that. But can you go through the three  
20 part variances?

21 MR. GLASGOW: Sure.

22 CHAIR MILLER: What's exceptional

1 about the property and what --

2 MR. GLASGOW: The exceptional  
3 about -- about the property is -- is the -- is  
4 the narrowness of the -- of the lot. We have  
5 the narrowness of the lot. We have the  
6 existing improvement on the lot, in that it is  
7 already paved for parking. And essentially,  
8 that area that's paved for parking, you  
9 couldn't use half of it or more than half if  
10 you didn't have an isle width variance. So  
11 that is a practical difficulty with respect to  
12 that paved area that has been used for parking  
13 -- historically used for parking. And then --  
14 then suddenly, you can't use it. Otherwise,  
15 we would need the variance to go back to the  
16 eight unit plan and stack the parking spaces  
17 that way. But we're not -- we -- we have  
18 agreed with the community that the spaces  
19 should have direct isle access. We have  
20 agreed with the Office of Planning that the  
21 spaces should have direct isle access, and  
22 with the Office -- and with DDOT. So we don't

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1 want to go back there.

2 CHAIR MILLER: Okay. I mean,  
3 personally, I can see that the plan makes  
4 sense. My question is, just in looking at the  
5 variance test, when you talk about the  
6 narrowness of the lot, is this an  
7 exceptionally narrow lot, compared to other  
8 lots in the neighborhood?

9 MR. GLASGOW: I don't think that  
10 it --

11 CHAIR MILLER: Or is it just the  
12 confluence of both the lot with the  
13 improvement on it?

14 MR. GLASGOW: It's the confluence.

15 CHAIR MILLER: Okay.

16 MR. GLASGOW: It's when you take  
17 it all together, you have a practical  
18 difficulty. I would want to say that the  
19 narrowness, in and of itself, meets the test.  
20 But when you have the narrowness and you have  
21 the paved area that has existed for years.  
22 And then suddenly you can't use half of it or

1 more, then that is -- or we believe that is a  
2 practical difficulty.

3 CHAIR MILLER: I'm just not  
4 following that part. What do you mean you  
5 can't use half of it?

6 MR. GLASGOW: Well, you couldn't  
7 use -- well, unless we get a variance either  
8 for the direct isle -- either from the  
9 accessibility, you would have this paved area  
10 that -- that you could not use for parking,  
11 that has been used for parking for years. And  
12 we believe that's a practical difficulty.

13 That whole area, I -- I don't  
14 think anybody disputes, in the back, is all  
15 paved and has been used for parking. Without  
16 some type of relief from the regulations, the  
17 only thing that you could do is pull four  
18 parking spaces in there. Unless you go back  
19 to -- one of the positions that we said the  
20 Board could take is that this whole area has  
21 been used for parking. It is not lined and  
22 striped. You can use it as it has been used

1 in the past. And we would say thank you. We  
2 can park -- we can get eight spaces back  
3 there. There -- they don't comply with the  
4 zoning regulations. But that's what that area  
5 has been used for.

6 So without some type of relief,  
7 you couldn't use a significant portion of that  
8 paved area for parking. You'd either have to  
9 have an isle access variance or you have to  
10 have an accessibility -- you have to have no  
11 direct -- no direct isle access.

12 CHAIR MILLER: Just so I  
13 understand your argument, couldn't you use it  
14 for four legally lined parking spaces?

15 MR. GLASGOW: We could if you --  
16 if you accept our nonconforming argument. And  
17 we'd say yes, we have eight spaces. We have  
18 four nonconforming credit and we have four  
19 legal parking spaces. But you would still  
20 would have a big asphalt area back there  
21 that's been used for parking that's now not  
22 usable for that purpose. I mean the asphalt

1 area that's been parked exists. It has been  
2 there for years and years.

3 CHAIR MILLER: Right. And under  
4 the regulations, four were allowed, correct,  
5 for the previous use?

6 MR. GLASGOW: Well, we're saying  
7 four were required for the previous use. And  
8 it was never properly established on the lot.

9 CHAIR MILLER: Okay. Any  
10 questions? Yes?

11 COMMISSIONER TURNBULL: Thank you,  
12 Madam Chair. I wonder if I could ask Mr.  
13 Markus, in looking to look at this project, we  
14 look at any adverse effects to the neighboring  
15 property. And looking at the zoning regs and  
16 the map, can you explain or tell us how this  
17 design fits in with the residential character  
18 of the existing streets? I'm looking at a  
19 couple of four squares that are probably  
20 adjacent. There's porches. Can you talk a  
21 little bit about the residential quality of  
22 your project and how it fits in with the

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1 neighbors?

2 MR. MARKUS: Well, we're -- we're  
3 -- there's an existing building that we're  
4 taking and we're leaving.

5 COMMISSIONER TURNBULL: You're  
6 taking off the skin.

7 MR. MARKUS: Well, no. Actually,  
8 we're just leaving it. We -- we -- the  
9 intention was to -- there's a little bit of --  
10 if I could show you a little bit more.  
11 There's -- it's a brick face now. It was --  
12 it's -- it's in need of repair. The intent  
13 was to kind of upgrade it to a more  
14 contemporary feeling. But there's some --  
15 there's some vinyl siding that was added here  
16 or there. It was kind of put onto the back.  
17 There was vinyl siding that was added at the  
18 entry of the existing building and filled in.  
19 And it's -- it's a little bit of a mishmash  
20 right now. The intent is to kind of pull it  
21 together. We're actually leaving the skin of  
22 the building. We're -- we're just applying

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1 something to it, just to kind of bring it  
2 together as a design with the -- with the  
3 existing house and the addition,  
4 aesthetically.

5 But we are working with an  
6 existing building. It doesn't have a porch.  
7 There's -- there's -- it doesn't look like the  
8 houses right next to it. They have a lot of  
9 -- it's a different character. They have a  
10 lot of detailing. This building is just a  
11 simple box, basically. And that's the way it  
12 was and that's what we're dealing with.

13 The addition that -- that we're  
14 putting on, we're trying to -- to keep it --  
15 you can see on the site plan, we're pulling it  
16 in from the sides to try and keep it away from  
17 the lot lines as far as we can. But the  
18 interior is just -- it's almost a square.  
19 It's a very simple rectangle. We're trying to  
20 keep it back from the property line as much as  
21 possible in order to fit the parking and have  
22 some landscaping in the back. But keeping the

1 existing building exactly the way it is,  
2 putting on a very simple box addition, just  
3 trying to maintain the -- the existing  
4 aesthetic of the house, as far as massing  
5 goes. The addition is -- I think is -- is  
6 complimentary to that. It's not -- I think  
7 the building itself is actually different from  
8 the buildings next to it.

9 COMMISSIONER TURNBULL: Yes. I  
10 guess I'm -- I guess where I'm going is that  
11 although the existing building is not the most  
12 dramatic in looking and in meeting with the  
13 other ones, it is brick. I guess I'm  
14 concerned that the -- and again, we're only  
15 looking at black and white drawings. That's  
16 what the Board has to look at.

17 MR. MARKUS: Sure.

18 COMMISSIONER TURNBULL: And trying  
19 to look at the character and the neighborhood,  
20 and I see plywood paneling system going on.  
21 And I guess I'm worried that it may be looking  
22 more commercial than it is residential in this

1 area. There's homes on both sides of the  
2 street. There is obviously more residential  
3 type bigger buildings at the ends of the  
4 blocks, but those are at other street. But  
5 within the context of the street itself, I'm  
6 just concerned that the panelized system may  
7 stand out more so than what the existing  
8 building does right now.

9 MR. MARKUS: Yes.

10 COMMISSIONER TURNBULL: I'm also  
11 concerned that at the back where you're adding  
12 on, you've got a two story unit at the back  
13 that's got a stair that goes up to a deck.  
14 And I'm worried about the privacy from this  
15 huge deck of this apartment looking over the  
16 other neighbors. So I'm worried about context  
17 in the neighborhood. I'm worried about  
18 adverse effects to the neighbors and how it  
19 reacts and fits in with the neighborhood.

20 MR. MARKUS: Yes.

21 COMMISSIONER TURNBULL: And again,  
22 maybe it will. But, from these black and

1 white drawings that I've got, there are some  
2 concerns. At least I'm concerned. This Board  
3 member is concerned about how well this really  
4 fits in with the neighborhood.

5 MR. MARKUS: Yes. Well, I -- I  
6 would also say -- I mean, it sounds like your  
7 reaction might just be more of this particular  
8 block. Because there's -- the -- the  
9 aesthetic of this building is more -- is  
10 similar to the building at 1300 Rhode Island,  
11 which is -- is -- it hasn't started  
12 construction. But that's about a block and a  
13 half up. That's -- that's a more modern  
14 aesthetic. That's going to be condominiums.  
15 There are apartment houses which are similar  
16 in mass to this -- this particular building.  
17 But the intent in -- in what you see in the  
18 black and white drawings, is -- is just a more  
19 contemporary skin to the building, just to --  
20 to kind of bring it up to a more contemporary  
21 feel. And it's -- it's already kind of a  
22 different aesthetic. So that -- that was just

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1 the decision to kind of --

2 COMMISSIONER TURNBULL: Well, I  
3 really can't judge this building by another  
4 building two or three blocks away.

5 MR. MARKUS: Sure.

6 COMMISSIONER TURNBULL: I want to  
7 look at the context of this building where it  
8 is. And, as I said, from the black and white  
9 drawings, I really can't get a good feeling as  
10 to how this building fits in with its  
11 neighbors. I think we're going to need some  
12 more; either some renderings, some color  
13 drawings, or something that's going to explain  
14 to us what this really looks like. That's my  
15 thoughts, Madam Chair. I'm just a little  
16 concerned, at this point, that it's -- the  
17 building is big. I mean, you can tell in the  
18 front. It is a big building. It does dwarf  
19 the others, the existing one does. But the  
20 other one -- I'm just a little bit concerned  
21 that it's going a little bit more commercial.  
22 And I just have some fears for the neighbors

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1 and how it fits in contextually with the  
2 neighborhood.

3 CHAIR MILLER: I think that's an  
4 appropriate request. Is that something that  
5 you can provide to the Board? The Board  
6 really should be able to make that request.

7 MR. GLASGOW: Yes. We can submit  
8 that for the record.

9 CHAIR MILLER: Thank you. Okay.  
10 Any other Board questions now? Do you have  
11 more in your initial presentation?

12 MR. GLASGOW: No. That concludes  
13 the -- the direct presentation.

14 CHAIR MILLER: Okay. Now, Mr.  
15 Shelton, the ANC's a party in the case,  
16 automatically. Do you have any cross  
17 examination for the Applicant? It's not  
18 required. But if you do, you -- okay. We'll  
19 wait to call on you later for your testimony.  
20 Then, good morning, Mr. Moore. We might as  
21 well go to Office of Planning.

22 MR. MOORE: Good morning. I'm

1 John Moore of the Office of Planning. I  
2 apologize for being late. I was scheduled to  
3 come at 1:00 today.

4 After reviewing this application,  
5 the Office of Planning finds that it meets the  
6 standards under 353 for the special exception  
7 and, in our opinion, it meets also the  
8 variance tests. Anticipating that there would  
9 be many outstanding, we recommend and support  
10 the application and respond to questions.

11 COMMISSIONER TURNBULL: Mr. Moore,  
12 you've obviously just heard my comments to the  
13 Applicant about the context and the --

14 MR. MOORE: Yes, I did.

15 COMMISSIONER TURNBULL: And you  
16 obviously agreed that it does fit in. My main  
17 concern is that it seems to be going just a  
18 little bit more commercial with the plywood  
19 paneling system. But again, I really can't  
20 tell because of the drawings. To me, it's  
21 kind of sketchy right now. And I'm just  
22 concerned that I've got a couple of four

1 squares. I've got some homes here with  
2 porches. And this thing's being dwarfed. I'm  
3 worried about the deck on the back; the  
4 privacy issue, overlooking yards. And I've  
5 got this tower up on top that the best units  
6 of -- well, never mind. But it's that the one  
7 unit is an impact on privacy, I think. But  
8 that's my thoughts on it.

9 MR. MOORE: Yes. I agree with you  
10 in terms of your assessment that the building  
11 may look more commercial than residential.  
12 The standard by which the building should be  
13 measured is the apartment building at the  
14 corner of the block, which is brick, of  
15 course. So then the Applicant should  
16 consider, and I think they are probably  
17 leaning in that direction now, at least some  
18 brick facade on the front of the building to  
19 make it look more in character with the rest  
20 of the units on the block.

21 As I mentioned, if you look on  
22 page -- I think it's page 5 of the OP report,

1 you'll see the apartment building on the  
2 corner. By the way, there's no parking to  
3 that building. It's much wider than this one.  
4 So the standards by which this one should be  
5 measure should be that building. If it looks  
6 something like that, at least it's more in  
7 character with the rest of the block.

8           Regarding the stairway that leads  
9 to the balcony or whatever you want to call it  
10 up front, when we met with the Applicant, we  
11 discussed that. By the way, when we met with  
12 the Applicant, we also started from ground  
13 zero, being what if you did what you could do  
14 on the maximum under matter of right, which is  
15 a maximum you get of six units.

16           It is, of course, and the Chair  
17 and I have had this philosophical discussion  
18 on other cases, it's the Applicant's choice,  
19 in terms of what they want to do. In this  
20 case, they've cited economics. If you notice,  
21 we didn't cite economics in the OP report.  
22 But that is what they say is driving what they

1 are doing, and the market they are trying to  
2 attract. That's what they told us when we met  
3 with them.

4 We believe, if you accept that  
5 they can develop a property as they want to,  
6 as long as it's within regulations with some  
7 relief, then there is a variance test that I'm  
8 going to address that can be met. The lot is  
9 narrow, when compared to the other apartment  
10 building lot on the block. It's much narrower  
11 than that. Being only 45 feet, we know they  
12 can only legally get four parking spaces in  
13 there, existing right now. I don't care how  
14 deep the lot is, the width is what's going to  
15 control how much parking you'll get on the  
16 lot.

17 Now, when we met with DDOT to go  
18 over this issue, the Office of Planning  
19 definitely did not support eight stacked  
20 parking spaces on the lot. And, in  
21 negotiations and discussions with the  
22 Applicant and DDOT, we realized that you can

1 put six on there, legally, according to the  
2 regulation. I think it 2117. And that's what  
3 we agreed. DDOT -- I think you've probably  
4 got the copy of the DDOT report, basically  
5 saying we will support that, given the three  
6 attracted alternatives: there is parking  
7 permitted on the three surrounding blocks and  
8 the Metro station is within walking distance  
9 and Rhode Island Avenue is a major bus  
10 corridor. With those in mind, we figured that  
11 the area could, and of course we yield to the  
12 experts on this, could accommodate two  
13 additional cars in the public space.

14 I may not have covered all of your  
15 points. If I didn't, just ask me and I'll be  
16 glad to try to address them.

17 COMMISSIONER TURNBULL: No. It's  
18 the things you've touched on when you talked  
19 about the bricks. I mean, again, I'm looking  
20 at the context of this particular neighborhood  
21 and how this building fits in with it. And I  
22 think you pointed out your comments that you

1 had made to the Applicant.

2 MR. MOORE: Okay. One other point  
3 I didn't make. With respect to the adverse  
4 impact on neighboring property, be mindful  
5 that the structure itself -- the massing of  
6 the building itself, the depth is going to  
7 beyond the depth of either structure on the  
8 sides. And there is a security fence --  
9 privacy fence on that side -- on both sides of  
10 the property right now. It may be an issue of  
11 the height. And I don't think you can build  
12 a fence high enough, of course, to stop one's  
13 view from the upper level. That may be  
14 something that can be discussed with the  
15 Applicant. I don't think that the Applicant  
16 would want to lose the project because there's  
17 no way to handle the viewing area from up  
18 above, on the second floor. I think something  
19 can be discussed.

20 COMMISSIONER TURNBULL: Well, the  
21 viewing area's only for one unit. I mean,  
22 it's not for all the units. It's just for one

1 unit.

2 MR. MOORE: Yes. I see. And  
3 which is even more reason to believe that they  
4 should be willing to negotiate and discuss  
5 that.

6 COMMISSIONER TURNBULL: Okay.  
7 Thank you for your comments.

8 MR. MOORE: Sure.

9 CHAIR MILLER: I just want to  
10 follow up with Commissioner Turnbull's  
11 questioning. With respect to that viewing  
12 area, did you take a position whether you  
13 think that that has an adverse impact on the  
14 privacy of the neighbors?

15 MR. MOORE: We chose to take a  
16 narrow view.

17 CHAIR MILLER: Yes?

18 MR. MOORE: That says given the  
19 depth of the new addition, versus the depth of  
20 the adjacent structures, that on banners, that  
21 wouldn't be an adverse impact on the privacy  
22 of those neighbors. There's a particular

1 slant to that, that may have been discussed in  
2 the session already. If not, I don't think  
3 it's the Office of Planning's position to be  
4 the one to put it on the record. But there is  
5 a particular risk about this particular  
6 privacy of one of the neighbors that could be  
7 relevant. From the person's perspective, it's  
8 very relevant. Excuse me for sort of skirting  
9 around it, but I don't think it's something  
10 that I should put on the record.

11 CHAIR MILLER: Okay. So if the  
12 neighbor has a concern, then we'll hear it  
13 from the neighbor, supposedly.

14 MR. MOORE: I'm saying one of the  
15 neighbors has a very particular concern.

16 CHAIR MILLER: Okay. Okay. And  
17 what was your point with respect to the brick?  
18 Was that something you are recommending that  
19 they do? Or is that something that they are  
20 doing?

21 MR. MOORE: Because we've had  
22 frustrations in the past in terms of trying

1 to, in essence, design what a new building  
2 should look like in context to the existing  
3 community and have been somewhat unsuccessful  
4 with that, it's not mentioned. There's no  
5 urban design component to our report. When  
6 Mr. Franklin brought the issue up, then it  
7 appeared to me, as I said when we met with the  
8 Applicant, the standard is the only other  
9 multifamily structure in the block. How much  
10 in or out of character is that building?  
11 Okay? That building's pretty much in  
12 character, although there's a variety of  
13 development type along the block. But that  
14 one, especially given its prominence on the  
15 corner, take Mr. Franklin's comments about the  
16 commercialism, in terms of how the building  
17 looks, and then put the building on that  
18 corner. It's more profound if you put that  
19 same kind of structure on the corner. So as  
20 we know that you would never recommend that,  
21 I'm saying let's make the building closer to  
22 the existing multifamily building on the

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1 block, as opposed to the way it looks right  
2 now. At least the front facade.

3 CHAIR MILLER: Yes. I guess  
4 Commissioner Turnbull was saying though, he  
5 wanted to see how it looked in the context of  
6 the immediately surrounding buildings, as  
7 opposed to another apartment building a little  
8 distance away. Do you have a comment on that,  
9 on how it fits in with the immediate houses?  
10 You've been looking at them that way, right?

11 MR. MOORE: Because they're in the  
12 R-5-A, basically, any kind of residential  
13 structure is permitted, I would be hesitant to  
14 measure it -- and again, this goes back to the  
15 case we had a couple weeks ago that you're  
16 aware of -- do we measure it against what's  
17 adjacent to it on both sides or do we look  
18 overall at the character of the block? And I  
19 think, in this case, we took the long view.

20 COMMISSIONER TURNBULL: And I  
21 know, and I can see your point on that. And  
22 I can see by the fact that you've included a

1 picture of that in your report, it's a well  
2 designed, looks like brick on all sides.

3 MR. MOORE: It is.

4 COMMISSIONER TURNBULL: It's a  
5 very substantial looking building. And  
6 obviously, from the standpoint of fitting in  
7 with the residential neighborhood, it's being  
8 of a substantial quality, it would fit in. I  
9 see your point entirely.

10 CHAIR MILLER: Mr. Moore, what's  
11 happening with the landscaping of the parking  
12 lot? I think you referenced in your report  
13 that you wanted to hear from DDOT on that.  
14 And we just got the DDOT report. I don't know  
15 if they reference it in there.

16 MR. MOORE: Did you get the DDOT  
17 report?

18 CHAIR MILLER: We just got it  
19 about the hearing.

20 MR. MOORE: They recommend -- it's  
21 on page two. I can't find it, but somewhere  
22 it said build according to DDOT standards.

1 CHAIR MILLER: I mean, I guess I  
2 can see that it says that the Applicant should  
3 design the parking area to have the required  
4 screening from neighboring residential  
5 properties and landscape a minimum five  
6 percent of the total parking area as required  
7 by the zoning regulations.

8 MR. MOORE: Yes, ma'am.

9 CHAIR MILLER: But don't you  
10 sometimes or almost all of the time see some  
11 kind of plan though, that shows the  
12 landscaping?

13 MR. MOORE: Well, as a matter of  
14 fact, I believe that the Applicant has such a  
15 plan. As a matter of fact, they scribbled it  
16 the day we met with them and DDOT. You can  
17 ask if it's a part of their submission.

18 MR. MARKUS: Can I answer that?

19 CHAIR MILLER: Yes, please.

20 MR. MARKUS: It's actually in the  
21 application. The discussion with the DDOT.  
22 It's on the site plan A002. There's just --

1 there's some wood privacy fence, 42 inch  
2 minimum height on both sides of the property.  
3 There's landscaping, trees and shrubs to cover  
4 a minimum five percent of parking area. We  
5 just showed it as kind of a graphic piece  
6 right now. It's not all figured out. It's --  
7 and then also lighting for parking area  
8 surface. Those were the -- the main issues at  
9 DDOT, and that's reflected in that plan.

10 CHAIR MILLER: Great. I see that.  
11 Thank you. And does that satisfy the Office  
12 of Planning?

13 MR. MOORE: We negotiated with  
14 DDOT.

15 CHAIR MILLER: Okay. Great. And  
16 Mr. Moore, when you've gone out to the site,  
17 has it been your observation that there's  
18 sufficient on street parking?

19 MR. MOORE: Yes. Yes.

20 CHAIR MILLER: Okay.

21 MR. MOORE: Because we're talking  
22 two cars. We're not talking a great deal

1 here.

2 CHAIR MILLER: And also, I believe  
3 it was your assessment that there is  
4 sufficient schools in the neighborhood.  
5 Correct?

6 MR. MOORE: Yes, there is.

7 CHAIR MILLER: Okay.

8 MR. MOORE: And I believe you must  
9 have -- I thin you have a referral letter  
10 from Housing?

11 CHAIR MILLER: We do. But I think  
12 it that referral it was before the parking  
13 plan had changed and it was critical of the  
14 parking plan.

15 MR. MOORE: We were unable to  
16 communicate with them prior.

17 CHAIR MILLER: Okay.

18 MR. MOORE: So we did send them a  
19 copy of both the OP report and the DDOT  
20 report. It's a settlement that came up after  
21 they sent their submission in.

22 CHAIR MILLER: Okay. You haven't

1 heard from them since then, have you?

2 MR. MOORE: No.

3 CHAIR MILLER: Okay. Any other  
4 questions from Board members?

5 MEMBER LOUD: Good afternoon, Mr.  
6 Moore. Just one question about your report.  
7 Were you able to draw a conclusion from your  
8 meetings with the Applicants and your review  
9 of the record as to whether or not the project  
10 would be feasible at less than eight units?

11 MR. MOORE: Mr. Loud, we asked  
12 that question directly of the Applicant. And  
13 they basically told us that -- the easiest  
14 thing, of course, would have been to do the  
15 building as is, as standing. It's to convert  
16 it from 14-unit rooming house to apartments.  
17 But the Applicant is an enterprise and is in  
18 business. And they had to look at what do  
19 that mean in terms of a bottom line? Are we  
20 in the red or black in terms of doing  
21 something. And, although they didn't provide  
22 us any specific data, in terms of the

1 economics of the project, I could understand  
2 that they weren't going to develop it unless  
3 they could see -- and let's face it, they're  
4 in business for profit. We're public  
5 servants. They're not. They should be able  
6 to provide you numbers if you need them, of  
7 course.

8 MEMBER LOUD: No. I understand  
9 that. My question was more from OP's  
10 perspective, to sort of amplify your existing  
11 testimony, was there a firm conclusion drawn  
12 that either the project could not go forward  
13 with less than eight or it could go forward  
14 with less than eight. And I think I heard  
15 your answer.

16 MR. MOORE: Well, a bit more  
17 specific, from OP's perspective, the first  
18 evaluation we make is, is this project  
19 consistent with the Comprehensive Plan? And  
20 yes, it is. Okay? If it's consistent with  
21 the Comprehensive Plan, what are the offshoots  
22 from that, that make it difficult for the

1 Office of Planning to support? And can we  
2 negotiate those away?

3 We could not negotiate the  
4 Applicant saying that economics are going to  
5 drive us having to do more than just convert  
6 the existing building. As I said, you can ask  
7 for support from them, but our first premise  
8 was, if it's consistent with the Comprehensive  
9 Plan, zoning permit, housing development in  
10 the R-5-A district, and therefore, we are  
11 leaning favorable towards it if everything's  
12 valid.

13 MEMBER LOUD: It only comes up, at  
14 least for me, in the context of the practical  
15 difficulty analysis that the Board has to  
16 undertake. And the testimony in your report  
17 being primarily that what drives the practical  
18 difficulty is their being able to only build  
19 on 38 percent of the lot, and if they had this  
20 additional percentage to build on, that turns  
21 the level in their favor in terms of making  
22 the whole project financially feasible. So I

1 just wanted to have some clarification, I  
2 guess, as we move into our deliberation about  
3 where OP stood on that issue.

4 MR. MOORE: I'm looking for --  
5 there's a comment the Chair made at last  
6 month's meeting about existing uses on  
7 property being -- you can take into  
8 consideration that properties already exist on  
9 a property when you're going to try to develop  
10 it. I haven't found it exactly stated.

11 CHAIR MILLER: That's correct.  
12 That's what I was discussing with Mr. Glasgow  
13 a little bit. We were talking about other  
14 properties that were vacant. And I was saying  
15 that there's a difference between that and  
16 properties where there is already an  
17 improvement upon the property. And then  
18 that's often an exceptional condition because  
19 you have less flexibility to build on that  
20 because you have to build around, you know,  
21 what's already there. Is that what you mean?

22 MR. MOORE: That's basically what

1 I was after.

2 CHAIR MILLER: Yes. So that's a  
3 difference I see. Yes.

4 MR. MOORE: Yes.

5 CHAIR MILLER: Also, just for  
6 clarification of what I might be saying is,  
7 with respect to the practical difficulty and  
8 asking for the financial information, that,  
9 you know, we have had cases like that where  
10 there's improvements on the property and that  
11 the developer is constrained in what they can  
12 do that's financially feasible to make the  
13 property work. And then we have seen studies  
14 done that that's why they have to have a  
15 certain number of units to make it work, as  
16 opposed to just making a profit -- doing more  
17 and more to make a profit. There's a  
18 practical difficulty element.

19 MR. GLASGOW: Yes. We will submit  
20 that, Madam Chair, for the record. But -- but  
21 also, with respect to this project, as opposed  
22 to -- because I've had some of the projects

1 where we've gone out -- we've had -- had some  
2 major FAR variances and everything else and  
3 had lengthy economic reports, you know, that  
4 go along with that. Which we -- we think this  
5 case is a little bit different because we're  
6 not asking for any extra FAR. It's just how  
7 do you put .9 FAR on this site? That's sort  
8 of where we are on this one, as opposed to the  
9 other ones. Because I -- I'm hopeful that  
10 we're not going to be held to the same  
11 standard as cases where we've gone from let's  
12 say two and a half FAR to three and a half FAR  
13 and adding -- you know, coming to the Board  
14 and saying let us have this building be 30,000  
15 square feet bigger than it would be otherwise.  
16 I mean, we're -- we're essentially saying let  
17 us put -- let us organize this building a  
18 little bit differently on the square than what  
19 the regs would require and please take into  
20 account that we're having a strip of property  
21 that we're getting charged lot occupancy for  
22 that we don't have anything sitting on. So I

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1 think that's a -- that's a different kind of  
2 -- of report and a different type of analysis  
3 than the latter.

4 CHAIR MILLER: I agree. We're not  
5 looking for any, you know, huge financial  
6 studies. But I do just want to say and, you  
7 know, it's on the record, we recently had a  
8 case where it was very convincing where they  
9 showed us a real estate -- I don't know if  
10 agents the word -- but anyway, did an  
11 assessment saying here are the options of what  
12 you could do with this property. And  
13 basically, there really was only one that made  
14 sense, you know.

15 MR. GLASGOW: Right.

16 CHAIR MILLER: So I have a feeling  
17 that often you know all this information, but  
18 we really don't. And so we just have to  
19 follow, you know, what is the practical  
20 difficulty here? It isn't just that it's  
21 narrow.

22 MR. GLASGOW: No. We think --

1 CHAIR MILLER: You know, we have  
2 to connect the dots.

3 MR. GLASGOW: Oh yes. We're  
4 clear. It's -- it's more than just the  
5 narrowness of the site. It's the improvements  
6 of the buildings, both the park -- both the  
7 building itself and the parking area that's  
8 already improved.

9 CHAIR MILLER: Okay. Any other  
10 Board questions. Do you have any questions of  
11 the Office of Planning?

12 MR. GLASGOW: No cross  
13 examination.

14 CHAIR MILLER: And you do have  
15 their report? Is that correct?

16 MR. GLASGOW: Yes.

17 CHAIR MILLER: Okay. Mr. Shelton,  
18 do you have any?

19 MR. SHELTON: No.

20 CHAIR MILLER: Okay. Okay. Then  
21 I think at this point, we're ready to go to  
22 the ANC for your testimony.

1                   MR. SHELTON: Good morning, Madam  
2 Chair and members of the Board. My name is  
3 William Shelton. I'm the Chair of ANC 5B.  
4 And the ANC has reviewed RIA's proposed  
5 development of this site. And the ANC really  
6 has not taken a firm position on it because of  
7 the sensitive nature of the affected residents  
8 concerns about the development.

9                   What we really believe is that the  
10 developer and the residents there need to sit  
11 down with some more time. I think that, as  
12 Commissioner Turnbull said, you know, we --  
13 the -- the residents there are concerned about  
14 the rooftop portion of the development.  
15 They're also concerned about the number of  
16 units. They're concerned about the parking  
17 issues. And I think that the two parties  
18 really need to sit down. I mean, I attended  
19 a meeting that the two parties had together  
20 and we left the meeting with both of them not  
21 being that far off of where they need to be.  
22 And I think some more time really needs to be

1 devoted to doing this. I think that, you  
2 know, it is our custom -- it is customary for  
3 us as a commission, if the single member  
4 district and its constituents are not  
5 supportive of a project, for the entire  
6 commission not to weigh in on it until that  
7 single member district and its constituents  
8 bring it to us to say whether or not they're  
9 for it or against it.

10 So, you know, the developer  
11 approached us a couple of times to sit down  
12 before the Commission, and we would not allow  
13 it because the single member district really  
14 had some issues that were not resolved. So it  
15 is our, you know -- you know, it's our  
16 opinion, as a Commission, that, you know, we  
17 think that they need more time to sit down and  
18 go through some kind of conversation about  
19 where they -- to go. And I also agree. And  
20 Mr. Moore and I had a conversation with this  
21 also, that I can't believe that the developer  
22 is willing to lose a project like this just

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1 because of the rooftop nature of it. So I  
2 think that they -- the two of them really need  
3 to sit down and go through a little bit more  
4 of a conversation about in this matter.

5 CHAIR MILLER: Thank you. What  
6 two are you referring to? Who needs to sit  
7 down together?

8 MR. SHELTON: Well, the single  
9 member district representative, Commissioner  
10 Chandler, is behind this. And there are  
11 several neighbors that live there who have  
12 some very worthwhile concerns. And while --  
13 you know, while that they know that the  
14 building right now has nothing going on there  
15 and it's abandoned, and -- and we understand  
16 that there's something that's going to happen,  
17 but you also have to realize this is a  
18 neighborhood that has two dynamic projects  
19 that are up and coming. So they are really  
20 very concerned about something else coming and  
21 them not having an opportunity to weigh in on  
22 it.

1           And, as I said to the developers,  
2           you know, this is a very unique situation.  
3           Because even, you know, the -- you know, the  
4           team referenced the project on the other end  
5           of Rhode Island Avenue, which is -- what is  
6           unique about this project as compared to that  
7           one is that the developer had a plan in the  
8           beginning, and the community sat down with the  
9           developer and completely tore apart the plan  
10          and had them to go back through and really  
11          make some very serious points that the  
12          community had. And I think that that could  
13          happen here.

14                 I mean, you've got a group of  
15          residents who are very much active in terms of  
16          their community and have lived there for years  
17          and understand what they would like to see.  
18          And you also have a developer who understands  
19          and has a plan that he wants to do. So to  
20          have the two of them sit down again and really  
21          come together and figure out something that  
22          both parties are amenable, I think is very

1 much doable here.

2 CHAIR MILLER: And why hasn't it  
3 happened yet?

4 MR. SHELTON: I think because, you  
5 know, I don't -- in my opinion, the reason why  
6 it hasn't happened is I think that no one has  
7 kind of tied them two together and said that  
8 it needs to happen. I think that the -- the  
9 other part of it is that there were some  
10 things that were said and promised that the  
11 community kind of felt were not included in  
12 their original opinions -- original comments.  
13 So I think that to say now everybody's got to  
14 sit down or this project does not come to  
15 fold, really ties both hands together to kind  
16 of make some kind of inroads. So -- and I  
17 know that they have had, I think, two or three  
18 meetings and discussions. I think that's how  
19 -- three meetings -- that's how the, you know,  
20 the parking issues have kind of resolved --  
21 evolved.

22 But I think that, you know, and I

1 know that there are a couple other meetings  
2 that they're -- wanted to be scheduled but  
3 could not happen. But I really think that  
4 this is something that both parties -- they're  
5 not that far off. I mean, it's not -- it's  
6 not completely we don't completely want it,  
7 versus we have to do it. It's one of those  
8 things where there are issues that the  
9 community is very concerned about. I mean,  
10 when you talk about a building that sits smack  
11 in the middle of two houses that have been  
12 there for a long time, I mean, you really do  
13 have some sense of -- some concerns.

14 I think, you know, when you start  
15 talking about the other buildings that  
16 surround that building -- this -- this  
17 proposed project, they really don't have  
18 houses right next to them. They are single  
19 standing buildings that border houses within,  
20 you know, a couple -- a half a block or  
21 something like. This is a building that's  
22 right in the middle of -- of, you know,

1 houses. And I think that that's what's  
2 warrant some more conversation between the two  
3 parties.

4 CHAIR MILLER: Thank you.,  
5 Questions from the Board?

6 MEMBER LOUD: Just a couple of  
7 quick questions. Good afternoon,  
8 Commissioner.

9 MR. SHELTON: Good afternoon.

10 MEMBER LOUD: Just in terms of  
11 your ANC, so your ANC is not taking an  
12 official position for it or against it at this  
13 point?

14 MR. SHELTON: No, we're not. I  
15 mean, I -- I think that we -- we can't take a  
16 position for it or against it because, as a  
17 Commission, we have not, as a body, reviewed  
18 the entire case. I mean, I -- like I said, I  
19 attended a meeting with the developer and the  
20 community. I also -- my single member  
21 district just happens to abut this project on  
22 the -- on the Rhode Island's -- on the Rhode

1 Island side of the -- the upper Rhode -- the  
2 Brentwood and Rhode Island side of the  
3 project. So I've had an opportunity to see it  
4 and look at it. But we have not been able to  
5 take a position for it or against it.

6 MEMBER LOUD: Okay. And then your  
7 testimony, in several points, alluded to there  
8 being an almost convergence of viewpoint  
9 between what you described as both parties?  
10 And could you elaborate on that, at least to  
11 your understanding. Where are the points  
12 where the parties are really very close now?

13 MR. SHELTON: Well, I think the --  
14 the parties are probably close. You know, I  
15 think the parking issue is something that the  
16 parties could probably sit down and maybe  
17 resolve. I think they're probably a little  
18 far off on the rooftop. You know, you have a  
19 -- a -- a home owner that lives right there  
20 who really has her privacy issues at the  
21 matter with this rooftop. And I think that  
22 that's a very worthwhile concern. I mean,

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1 someone who owns a home and who has been there  
2 for a while and then has a rooftop that might  
3 potentially look over into her property.  
4 That's a very worthwhile concern.

5 The other thing I think that  
6 probably are some concerns is the number of  
7 units. I think that, you know, and I  
8 understand from the developer that there are  
9 some financial reasons for why the number of  
10 units were set. I think that that needs to be  
11 explained in a little bit more detail to the  
12 community. Have the community to understand  
13 this and have the community to kind of figure  
14 out how that can come about some different  
15 other ways.

16 So I think that -- and I think  
17 just overall, whatever conversation is had  
18 between the two parties, it really has to be  
19 something that is give and take. It can't be  
20 the type of situation where the community says  
21 something and it's not heard. I think it  
22 really has to understand. And, I mean, this

1 is a very -- it's not unique to what's going  
2 on in the city, but in terms of our -- our --  
3 our commissioned area, this is one of the few  
4 projects that we've ever had that's been smack  
5 dab in the middle of home owners. I mean,  
6 right in the middle of two home owners with  
7 than less than, you know, a certain amount of  
8 feet from them

9 MEMBER LOUD: And I want to ask  
10 this the right way.

11 MR. SHELTON: Okay.

12 MEMBER LOUD: I mean I really  
13 don't want to cast aspersion anywhere. But  
14 have the Applicants been forthcoming in  
15 sharing some of the economic drivers that  
16 place them sort of where they are, in terms of  
17 the number of units? Has your community  
18 requested that information? Have they not  
19 been responsive?

20 MR. SHELTON: I think I'd have to  
21 let -- I mean, the single member district  
22 representative is behind me. I think he would

1 have to -- you know, he's been the one who's  
2 community has been sitting down with the  
3 development team and discussing it. And, from  
4 my understanding, there have been some  
5 discussions about the economics of the  
6 project.

7 But, when you start talking about  
8 community folks, community folks really have  
9 to really -- you have to really get nuts and  
10 bolts with the economics. Somebody has to  
11 come -- and then sometimes there's some trust  
12 issues. I think if someone came that  
13 represented whatever -- whatever the economic  
14 factor is and said this is the way it is, then  
15 the community might be a little bit more  
16 inclined to believe exactly what they're  
17 saying.

18 I mean, it's tough to say -- for a  
19 developer to sit down and tell a community  
20 that this is the way it's going to be. I  
21 mean, they're coming from a development  
22 component of it. I don't know whether or not

1 anyone from their financial team or the folks  
2 who are helping them to put together the  
3 financial team ever sat down with the  
4 community. That's something that could have  
5 happened. I don't know. The Commissioner in  
6 the community would have to tell us that. I  
7 don't know that.

8 COMMISSIONER TURNBULL: Madam  
9 Chair? I wonder if I might -- Commissioner  
10 Shelton, I just wanted to pick up on something  
11 that Mr. Loud had brought up. You haven't  
12 taken -- ANC 5B has not taken any action at  
13 all on this, other than the single member  
14 districts. Is it your feeling that the ANC  
15 would like to, at some point, weigh in on  
16 this?

17 MR. SHELTON: Oh. I think the ANC  
18 would like to weigh in on it. But I think,  
19 like I said, it's -- it's just customary for  
20 us, you know, as a Commission, that we never  
21 really usurp the will of the Commissioner --  
22 the single member district Commissioner that's

1 affected and his constituents. And, you know,  
2 for us to do that would be a precedent that we  
3 really would not like to set; that we're going  
4 completely against, you know, our constituents  
5 versus a developer. I mean, we can't do that.  
6 So what our position is to allow them to have  
7 some more time to be able to kind of sit down  
8 and, you know, even though we are in our  
9 recess period, which is not something that we  
10 traditionally do. But if we had to, as the  
11 Chair, I would, you know, pull all of the  
12 parties back together, or at least our  
13 Commission back together to -- once the  
14 community and the development team has sat  
15 down and come to some consensus with this, is  
16 to bring us back together so we can weigh in  
17 on this.

18 COMMISSIONER TURNBULL: Okay. So  
19 your feeling is that this Board ought to wait  
20 until this process has happened and we get  
21 that feedback from not only the single member  
22 district, but your ANC as well?

1                   MR. SHELTON:    That would be my  
2                   valued opinion, absolutely.

3                   COMMISSIONER   TURNBULL:        Okay.  
4                   Thank you.

5                   CHAIR MILLER:    How much time are  
6                   you thinking about?   One more ANC meeting,  
7                   like July?

8                   MR. SHELTON:    Well, I know you all  
9                   are recessed, I think, in August.   Correct?

10                  CHAIR MILLER:    Yes.

11                  MR. SHELTON:    You know, I think  
12                  that understanding -- and I know the  
13                  development team has some unique issues in  
14                  terms of the financing of the building.  So I  
15                  don't know whether or not -- I mean, I think  
16                  if we can get this done as soon as possible.  
17                  I mean, you know, for me to pull the  
18                  Commission back together for a special meeting  
19                  on this, sooner rather than later, would be  
20                  something that I think the Commissioners would  
21                  be willing to do.  If we start talking about  
22                  later, then we're pushed up against some other

1 issues that are coming before the Commission.  
2 So we'd like to do it sooner, rather than  
3 later.

4 CHAIR MILLER: Okay. Thank you.  
5 Any other questions. Mr. Glasgow, do you have  
6 any cross examination?

7 MR. GLASGOW: I did have one --  
8 one brief question that we wanted to have a  
9 little bit of clarification on. There was a  
10 comment that maybe there were some things that  
11 the developer had offered that -- that weren't  
12 followed through on. We want to know what  
13 those are, if you know.

14 MR. SHELTON: Mr. Glasgow, I'd --  
15 I'd have to yield to the single member  
16 district Commissioner who really was in  
17 conversations with you all on a consistent  
18 basis about those.

19 MR. GLASGOW: Right.

20 MR. SHELTON: And I know that  
21 there were, you know, at the one meeting that  
22 I attended, there were some -- just I -- you'd

1 just hear some comments from some of the  
2 constituents on some of the things that they  
3 had said to the development team weren't  
4 really taken fully. And I don't know whether  
5 or not they weren't taken because of some  
6 mitigating circumstances, in terms of  
7 financing. But I think that that was not  
8 conveyed directly to them. So I don't know.  
9 I'd let the -- you know, Commissioner Chandler  
10 kind of comment on that.

11 MR. GLASGOW: Okay. But that  
12 wasn't anything that you understood where we  
13 had offered something and then pulled it off  
14 the table?

15 MR. SHELTON: No. No. No.  
16 Nothing like that.

17 MR. GLASGOW: Okay. All right.  
18 Then I misunderstood. Okay.

19 CHAIR MILLER: Okay. Thank you.  
20 And I know the Commissioner for the single  
21 member district is here. You can either  
22 testify now, if you want, or else you can

1 testify when I call persons in support or  
2 opposition. You're here now. If you'd like  
3 to speak now though, we can do that.

4 MR. CHANDLER: Well, I -- I can  
5 speak now.

6 CHAIR MILLER: Why don't we do  
7 that?

8 MR. CHANDLER: Commissioner 5B-03.  
9 Basically, I submitted a letter in opposition.  
10 And I also enclosed that letter to the Office  
11 of Zoning, with a petition with all of the  
12 neighbors -- with the surrounding area, Rhode  
13 Island Avenue, 12th Street, Bryant, who are  
14 all impacted by this project.

15 I came to this project several  
16 times. We had several meetings. As the way  
17 it stands now, my neighborhood is very angry.  
18 They're very upset and they're at a point  
19 where they don't want to have another meeting.  
20 To have another meeting is a slap in their  
21 face. And I'll tell you why.

22 Why is it a slap in their face?

1 The very first meeting we had on this project,  
2 we asked and we put to the table the number of  
3 units we had an issue with. We had a number  
4 of units issue. That was it from -- from  
5 eight, and we said could it be six. And they  
6 said well let's -- let's try to work this out.  
7 Let's have some other meetings. So we  
8 couldn't get everything accomplished in that  
9 meeting because we were on a time constraint.  
10 So I set up a second meeting with them. And  
11 then several other issues came about. The  
12 issues with the rooftop, privacy issues,  
13 quality of life. These people were heavily  
14 impacted with it.

15 And let's be very clear. Rhode  
16 Island Avenue supports that -- that area  
17 supports five existing neighborhoods. That  
18 area, with parking, is unbelievable. Many of  
19 our residents can't even park in front of  
20 their own home. And, at the certain time of  
21 the day, you can't park in front of Rhode  
22 Island Avenue. So where does that place those

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1 people who want to live at 1007? They have to  
2 come around into the existing neighborhood.  
3 Because let's make -- let's make it very  
4 clear, that parking lot will not sustain eight  
5 units.

6           And the issue around that whole  
7 particular 1007, when it was a rooming house,  
8 it became a place of ill repute. It became a  
9 place where whores and drug addicts resided.  
10 The neighborhood fought and the various  
11 commissioners fought to have that area -- that  
12 home closed down. She fought for a very long  
13 time. And I was part of those residents that  
14 fought. So when we asked them, when you came  
15 into the neighborhood on 1007 with this  
16 particular project with the history that has  
17 -- and following 1007, and the areas of the  
18 concern that the neighbors have, they have  
19 several issues of concern, did you ever think  
20 about coming to us on the planning issues and  
21 say what would you like to see in this  
22 particular spot.

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1                   When I received the first letter  
2                   in February 2007, when we asked them at the  
3                   very first meetings that we held, when were  
4                   you -- when did you take over the project, in  
5                   2005? You hold onto a project for two years  
6                   and come to us the very first meeting with the  
7                   full layout of the whole plan. So I said to  
8                   them, it seems to me you've already made up  
9                   your mind what you want it to look like. So  
10                  you don't want any input of the community. So  
11                  let's try to talk. Let's try to find some  
12                  ways that we can find some common grounds  
13                  here. And what -- at their -- their last and  
14                  third and final meeting, that was three hours  
15                  and 25 minutes long, when I asked them, I said  
16                  now you came into this meeting. Prior to  
17                  this, we asked you could you reconfigure the  
18                  parking, could you reduce the number, could  
19                  you take away the -- the rooftop that is  
20                  affecting the quality of life issues on both  
21                  sides of those neighbors? Both neighbors had  
22                  a lot of issues with that. It wasn't just

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1 one, it was both. Actually, it was really  
2 six. Because, not including the other four  
3 neighbors that are -- that are behind it. So,  
4 when you have a rooftop access to one unit,  
5 who's to say how many people have access to  
6 that unit? You'll have a party going on.

7 And see this people -- these  
8 people are very beaten down with this issue of  
9 1007. We want -- we have been fighting for a  
10 very long time. And this community would like  
11 to see something there. But we also would  
12 like to have a say so. We are very concerned.  
13 Because one, these are home owners who have  
14 been there four, five, and six generations.  
15 And they are very concerned with that whole  
16 issue surrounding 1007.

17 So I came to them and I said I  
18 want you to understand, I only represent my  
19 community. And I will represent them with my  
20 dying breath. If it's not clear that you  
21 don't understand, if you want to come into  
22 this community, listen to the community.

1 Listen to their needs. Listen to their cries.  
2 Listen to their concerns. As a developer,  
3 we'd like to see everything grow. And we're  
4 not against any kind of growth here. But we  
5 -- what we want to understand, the continuity  
6 of their lives and the quality of lives and  
7 the public safety issues that concern about  
8 that parking and how that alley -- how that  
9 alley way is -- is. Many of my neighbors, the  
10 way the alley is now, the way it's defined,  
11 can't even sustain six cars parking there,  
12 because my neighbor's homes have been their  
13 parking -- their parking lots, their walls,  
14 their back yards, their fences, have been torn  
15 down as all the traffic that was surrounding  
16 1007.

17 So when we had that very first  
18 meeting, we walked their whole entire team  
19 back there to see what we were talking about.  
20 We want you to see what we've been living  
21 with; what we've had to deal with for quite  
22 some time. And it seems to me, if someone has

1 the initiative to take the -- the developers,  
2 the community saying here we are; we'd like to  
3 walk with you and show you what our concerns  
4 are. And it seems to me after that second and  
5 third meeting, they weren't even addressed.  
6 so that's a slap in my community's face that  
7 just says one, we don't care. It's all about  
8 dollars and cents. And that's not what it's  
9 about. It's about quality of life and people  
10 living and people planning to live there for  
11 the rest of their lives.

12 CHAIR MILLER: Commissioner  
13 Chandler, I just want to ask you a couple of  
14 questions. Because it sounds like you don't  
15 necessarily believe that you need more time  
16 for meetings. I don't know. But --

17 MR. CHANDLER: If -- if you -- if  
18 -- at this point, listening to my -- my -- my  
19 members of my community and listening to them,  
20 and listening to their concerns prior to  
21 coming here, and having them all come and take  
22 off time from their jobs, these people are

1 very at a breaking point.

2 CHAIR MILLER: Well, where are  
3 they all sitting in here?

4 MR. CHANDLER: They're at a point  
5 that they're -- they just cannot -- they have  
6 done all they can to try to work -- to weigh  
7 on this. And to have them to -- to have the  
8 audacity to ask to say could we have another  
9 meeting, can we extend the time, can we come  
10 back to you; these people are very at a point  
11 where they really don't want to come back.  
12 And I don't blame them.

13 CHAIR MILLER: Okay. And anyone  
14 who is here who wants to testify will have  
15 that opportunity. Let me just ask you, what  
16 it is about the eight units that's of concern?  
17 What bad impacts do you anticipate?

18 MR. CHANDLER: It's quality of  
19 life and how it would look and how -- how many  
20 people are back there and what -- how it comes  
21 out in FAR, the quality of life on both sides  
22 of the neighbors who are very concerned with

1 eight units. Eight units already -- and let's  
2 be very clear. When they say a 14-unit  
3 building, that was a rooming house. It only  
4 -- it didn't have a living room, it didn't  
5 have a dining room, it didn't have a kitchen,  
6 and it didn't have a bathroom. Those were 14  
7 rooms.

8 So that -- let's make it very  
9 clear. When you add onto something like that,  
10 you have to make it bigger. So if you're  
11 making it bigger, with the area that is that  
12 big, that's going to -- with that appendance,  
13 that's coming out. It's affecting all of the  
14 quality of life of all of the neighbors on  
15 both sides and the neighbors behind. And, in  
16 fact, I can see it from my front yard.

17 CHAIR MILLER: Okay. And, in your  
18 opinion, is six okay?

19 MR. CHANDLER: It's too big. Six  
20 would be a lot better. If they took -- if  
21 they reduced the number and took away that  
22 rooftop, we have a lot of -- and let's be very

1 clear, when people use a rooftop, it says to  
2 the community it's party time.

3 CHAIR MILLER: Thank you. Any  
4 other questions.

5 MEMBER LOUD: There was some  
6 testimony -- first of all, let me commend you  
7 on your service to your community. It comes  
8 across very clearly how passionately you serve  
9 your community. And I'm struck by the fact  
10 that this is not something that you're  
11 personally vested in, from your testimony, but  
12 you are parlaying the concerns of your  
13 community.

14 There was some testimony earlier  
15 that some of the drill down of the issues have  
16 resulted in the rooftop really being a key  
17 issue, vis a vis some of the other issues.  
18 And I just wanted to get your reaction to  
19 that. I mean, do you view the rooftop as on  
20 the same level as the number of units? Or is  
21 there some stratification from your community  
22 of concerned constituents about the hierarchy

1 of these issues?

2 MR. CHANDLER: I think the rooftop  
3 was one of the biggest problems. I think in  
4 -- and let's make it very clear, there were  
5 several areas of concern. And no one is  
6 greater or less than the other area. And I  
7 said to the developer, I said there are four  
8 areas of concern here. If you came to my  
9 community after listening to their concerns --  
10 and let's make it very clear, I know that  
11 they're in the business to make money -- but  
12 if you say that we're willing to listen and we  
13 listened to your four major concerns, if we  
14 took away one, two, maybe even three. But  
15 there was no give and take. It was no  
16 bending. It was no bending at all.

17 And then, at the last meeting, to  
18 find out that they want a time constraint with  
19 their bank with the financial issues, see, had  
20 they been very clear from the first meeting  
21 about that, then we could have set up several  
22 meetings and we could have tried to

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1 reconfigure that, rework this, and come to an  
2 agreement before that bank loan expired. We  
3 could have done everything. We would have  
4 moved heaven and earth to have so many  
5 meetings to the point that my neighbors would  
6 have really been worn out.

7 But they're worn out now. And you  
8 can't -- and you can't keep saying okay, we're  
9 going to have another meeting. We're going to  
10 have another meeting. If the neighborhood  
11 says -- and let's be very clear -- if a  
12 community says that they don't want something,  
13 people should listen to those concerns and  
14 those cries of community. Because, at the end  
15 of the day, the developer goes home; probably  
16 to their own wonderful homes that probably  
17 will never have to deal with my -- what my  
18 community has to deal with. And they have to  
19 deal with it on a daily basis. When it's said  
20 and done, if this goes forth, and then once  
21 it's built, they have to live with that  
22 forever. And that's their quality of life

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1 that they -- they have to look at this  
2 forever.

3 And I should have major concerns  
4 and they have major concerns, because at the  
5 bottom of -- at the end of the day, if this  
6 goes through and that rooftop was placed  
7 there, if these numbers of units were not  
8 reduced, you have to look at that and you have  
9 to say to yourself, this is what they built in  
10 my community. Now, do I really want to live  
11 here any more? Because the bottom line is, if  
12 they wanted condos, they would have lived in  
13 a condo unit. They wanted single family  
14 homes. They wanted an area where their  
15 children could play in the front yard and the  
16 back yard; where everyone knows everyone.

17 I live in a community where  
18 everyone knows everyone. We know your  
19 grandparents, your children, your fathers,  
20 your boyfriends, your ex-wives, your ex-  
21 husbands; we know everything. And that's an  
22 area of concern. Because now we have a whole

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1 group of people that have invaded our  
2 neighborhood. And my -- my -- my community is  
3 at arms. We are fighting everything that is  
4 dumped in Ward 5.

5 And I have four existing projects.  
6 I have a 250 unit project coming there to  
7 Rhode Island Avenue. And we haven't even  
8 addressed the continuity of how that will flow  
9 into all of the other traffic. Because see,  
10 let's make it very clear. If you have a 250  
11 unit at 10th and Rhode Island, which is only  
12 a block away from where this is, and you have  
13 another building coming up at 13th and Rhode  
14 Island Avenue, how much can an area sustain?  
15 We're going to have parking issues. We're  
16 going to have public safety issues. We're  
17 going to have quality of life. We have people  
18 coming into -- in an already existing  
19 neighborhood. We have people who come out who  
20 view life differently, who look at things  
21 differently. We want to try to find some  
22 continuity in everything. So we could have

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1 one, beautiful, flowing neighborhood.

2 MEMBER LOUD: Would your community  
3 view an eight unit project without a rooftop  
4 just as adversely as the proposed eight unit  
5 with the rooftop?

6 MR. CHANDLER: At this point,  
7 listening to them, the eight units is not  
8 going to fly. I would have said maybe six  
9 units and maybe probably the rooftop. We  
10 could have worked with that. We could have  
11 worked with that. But that appendance, as the  
12 way it stands -- and I wish you guys could see  
13 how small that parking lot is. If you add an  
14 existing appendance on the back of that, with  
15 eight more units, it takes up half of the  
16 parking lot. That's already gone. And let's  
17 be clear, that is an old, outdated parking lot  
18 that can't even sustain -- and when we -- we  
19 had so much issues surrounding that parking  
20 lot. People would -- people who didn't even  
21 live in the neighborhood utilizes that.  
22 Before they fenced it off, people -- we had

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1 issues of that. So we have issues that flowed  
2 up and down that aisle.

3 And let's be very clear. Your  
4 eight units, most people don't drive one car.  
5 Most people own two cars. So that's 16 cars  
6 already. Even if you had six, most people  
7 still own two cars. So that's 12 cars. Where  
8 are those other cars going park? In front of  
9 my neighbors' homes. Where are they going to  
10 park? Because most of my neighbors behind me  
11 who've come to testify -- and I can -- I can  
12 attain to this -- most of them own two to  
13 three cars already, and have parking issues.

14 CHAIR MILLER: Any other  
15 questions?

16 COMMISSIONER TURNBULL: Madam  
17 Chair?

18 CHAIR MILLER: Sure.

19 COMMISSIONER TURNBULL:  
20 Commissioner Chandler, thank you for your  
21 testimony. You've very impassioned. I'm sure  
22 the people you represent like you very much

1 for your involvement on this.

2 I guess, from our standpoint,  
3 we're just -- as Mr. Loud was saying -- we  
4 need to get to somewhere ourselves, in order  
5 to weigh in on all of this. And I think  
6 hopefully there is some movement between six  
7 and eight. And obviously, the biggest thing  
8 for you that I see right now is obviously the  
9 roof deck and that tower up there are  
10 obviously a big issue.

11 I would hope that your single  
12 member district would somehow be able to meet  
13 with the Applicant again. I mean, I know you  
14 feel that you've tried and you were not  
15 successful. But I think that, from the  
16 standpoint of the Board trying to get  
17 somewhere, we would hope that you would get  
18 together and somehow try at least one more  
19 time to work this out.

20 MR. CHANDLER: I'll -- I'll say  
21 this. I would love to come to them. But the  
22 only way I would come to them is listen to my

1 community, what they want. I only represent  
2 them. And I'm telling you right now, from  
3 what I've gotten from them, number of units  
4 and the rooftop is a major issue. And they  
5 don't -- trust me -- if they don't -- and if  
6 I come to them -- if they're willing to sit  
7 down -- and -- and I'll say to you publicly,  
8 on the record, and let's make this very clear,  
9 if I set up another meeting with my community,  
10 I want in writing that you're going to reduce  
11 the number and take away the rooftop. If not,  
12 my neighborhood doesn't want to meet with  
13 them. And I think they -- if you listen to  
14 the other concerns of all the neighbors here,  
15 and there were quite a few here at 9:30 that  
16 had to leave, you -- I think if you -- if you  
17 listen to the concerns, you will understand  
18 the cries of my community. And I think the  
19 developer is not -- it's not give and take  
20 with them.

21 CHAIR MILLER: Okay. Thank you.  
22 I just want to comment on all of this. I

1 think that it is ideal when the developers and  
2 the community can work together and come to  
3 solutions. But it does get to some point  
4 where perhaps, you know, that's not going to  
5 happen. And that's -- and then the BZA just  
6 deals with -- we gather the information and  
7 make the decision, based on our regulations.

8 So that's what we're doing today.  
9 And any members of the community, we would  
10 love to hear from them and get whatever  
11 information they have to give us.

12 So, Mr. Glasgow, do you have any  
13 cross examination for Mr. Chandler?

14 MR. GLASGOW: Just very briefly.

15 CHAIR MILLER: Okay.

16 MR. GLASGOW: And that is, Mr.  
17 Chandler, with respect to the number of cars  
18 per household, are you aware of the census  
19 data that has been generated by the District  
20 of Columbia Government, which is part of this  
21 record, that shows that there is about .75  
22 cars per household unit in the census tract

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1 that the subject site is located on and the  
2 census tract directly across Rhode Island  
3 Avenue, which is where Mr. Shelton's single  
4 member district is?

5 MR. CHANDLER: I'm aware of that.  
6 But are you also aware of how --

7 MR. GLASGOW: You already answered  
8 the question.

9 MR. CHANDLER: Wait a minute. If  
10 you're going to ask me a question, let me  
11 finish.

12 CHAIR MILLER: No. No. Mr.  
13 Chandler. Mr. Chandler, this isn't an ANC  
14 meeting or whatever. We have certain rules  
15 here. And --

16 MR. CHANDLER: Okay. Yes, I'm  
17 aware of that.

18 MR. GLASGOW: Okay. Thank you.

19 CHAIR MILLER: Thank you.

20 MR. CHANDLER: Thank you.

21 CHAIR MILLER: At this point then,  
22 you can take a seat, Mr. Chandler and Mr.

1 Shelton, unless you're going to be cross  
2 examining some of the witnesses that are  
3 coming up? Okay. So you can take a seat in  
4 the audience.

5 And now are there people in the  
6 audience in support of this application that  
7 would like to come forward? Not seeing any,  
8 then are there individuals in the audience who  
9 would like to testify in opposition to this  
10 application? Good morning. Can you identify  
11 yourself for the record, say your name and  
12 address, please?

13 MS. PAIGE: Good morning. Yes.  
14 My name is Patricia A. Paige. I live at 1012  
15 Bryant Street N.E. I am -- I live in the back  
16 of the building. I have no problem with a  
17 condo. But the only problem that I have is  
18 the parking. What I've seen there was -- it  
19 wasn't a boarding house, it was a tourist  
20 home. And there before they decided to put  
21 what they were going to put a 14 bed and  
22 breakfast. The neighbors and I, we decided no

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1 bed and breakfast. So they came up with the  
2 tourist -- I mean with the eight unit condo.

3 I am against the parking of eight  
4 cars because I live directly in the back. And  
5 if they are pulling out in the back, they will  
6 -- they will hit my fence. I have had cinder  
7 blocks put up prior -- previous in the past  
8 because I've had that problem with the parking  
9 there.

10 And that's the only problem that I  
11 have. I don't have -- I don't live adjacent  
12 to the place where they're putting -- but the  
13 part I have is the eight car parking. I can't  
14 see an eight car. I can probably see a six  
15 car, but not an eight car.

16 CHAIR MILLER: Okay. Their  
17 proposal, as of now, is six.

18 MS. PAIGE: Yes. But and -- and  
19 really, six is going to be -- because like I  
20 live -- I have a two -- I have two cars in my  
21 home. And like Mr. Chandler and all the  
22 neighbors, it's going to be a problem in

1 parking. I have a problem parking there. I  
2 can leave and I come back -- go to the Giant  
3 and come back and I have no parking space. So  
4 my concern is parking.

5 CHAIR MILLER: As far as hitting  
6 your fence, does it change whether it's one  
7 car or six cars? Is it just because there  
8 will be more cars, they'll be more likely?

9 MS. PAIGE: More cars.

10 CHAIR MILLER: Okay.

11 MS. PAIGE: I could really -- I  
12 could really see four cars. Four -- you know,  
13 four cars. But I mean, six to eight, that's  
14 a lot of cars.

15 CHAIR MILLER: You have two cars?

16 MS. PAIGE: Yes.

17 CHAIR MILLER: And do you park on  
18 your property or on the street?

19 MS. PAIGE: On my property.

20 CHAIR MILLER: Okay.

21 MS. PAIGE: I mean, on the street.

22 I'm sorry. On the street. Yes.

1 CHAIR MILLER: On the street?  
2 Okay. And you have trouble finding spaces  
3 now?

4 MS. PAIGE: Yes. Yes. Yes.

5 CHAIR MILLER: Okay. Because  
6 that's --

7 MS. PAIGE: We have -- we have the  
8 parking sticker -- the Ward 5 parking sticker.

9 CHAIR MILLER: You have zoned  
10 parking?

11 MS. PAIGE: Zoned parking.

12 CHAIR MILLER: And you still have  
13 trouble finding a space?

14 MS. PAIGE: Yes, ma'am. Yes  
15 ma'am.

16 CHAIR MILLER: Okay. Did you talk  
17 with the Office of Planning at all, or Mr.  
18 Moore about your parking?

19 MS. PAIGE: No. No, sir. I mean,  
20 no ma'am. Excuse me.

21 CHAIR MILLER: Okay. Because  
22 Office of Planning found that there was plenty

1 of on street parking.

2 MS. PAIGE: Oh no. No. No.

3 CHAIR MILLER: Is it at certain  
4 hours, or is it just all the time?

5 MS. PAIGE: Well, by me working  
6 here, I catch the train. But my husband, he  
7 -- you know, he parks -- I mean, he leaves and  
8 he comes. And then I have family members that  
9 live in the neighborhood. My neighbors live  
10 in the neighborhood. And it's just -- it's  
11 really -- and when I'm home, I may leave out  
12 to go to the Giant or to the store, and it's  
13 hard parking.

14 CHAIR MILLER: And you don't have  
15 a concern with the privacy? You're right  
16 behind and there's --

17 MS. PAIGE: I'm in the -- I have a  
18 deck. And I would have the -- I would have a  
19 problem with the parking. The only thing that  
20 saves my privacy is that I have a neighbor  
21 that has a tree. But it -- when they're going  
22 to get the tree torn down, I would have a

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1 problem with the -- the deck problem.

2 CHAIR MILLER: Do you have a tree  
3 that protects your privacy? Is that what  
4 you're saying?

5 MS. PAIGE: There are trees in the  
6 alley, in the neighbor's yard.

7 CHAIR MILLER: Okay. Okay.

8 MS. PAIGE: Yes. Because see, I'm  
9 in the back. My neighbor's on the side,  
10 that's two different. But I'm in the back of  
11 the parking. And I do have a deck where I  
12 could -- I could see the parking -- their  
13 parking, if they have parking. Or if they  
14 have a high deck, I could see that from my  
15 deck that I set up high.

16 CHAIR MILLER: Oh, you can see the  
17 parking?

18 MS. PAIGE: Yes. Yes.

19 CHAIR MILLER: But they are going  
20 to be landscaping it. Did you see their  
21 landscaping plan?

22 MS. PAIGE: No.

1 CHAIR MILLER: Okay. You probably  
2 should look at that. I was wondering about  
3 the rooftop deck that they were going to have.

4 MS. PAIGE: I can't -- I can't --  
5 I probably couldn't see the rooftop.

6 CHAIR MILLER: Okay.

7 MS. PAIGE: It wouldn't affect me.  
8 The rooftop wouldn't affect me.

9 CHAIR MILLER: Okay.

10 MS. PAIGE: But the parking would  
11 affect me as far as them coming in and backing  
12 out. Because this is my back and this is  
13 their parking area right here.

14 CHAIR MILLER: Okay. Okay.  
15 Great.

16 MS. PAIGE: And it's a very narrow  
17 alley.

18 CHAIR MILLER: Any Board  
19 questions? Okay. Thank you. Wait. Mr.  
20 Glasgow might have a question for you. Do  
21 you?

22 MR. GLASGOW: I just have one

1 question. When you look at -- when you look  
2 at the -- our revised plan, the first plan  
3 that we had would have had all the parking  
4 spaces at one time or another would have  
5 backed out into the alley. I think if you  
6 look at the revised plan now, which is shown  
7 up on the board, there's only one parking  
8 space that backs out into the alley. Yes.  
9 Thank you. The rest, you would come in and  
10 turn around and go back out. And the one on  
11 the plan there, that's on the east side of the  
12 lot. Isn't that where the big wide part of  
13 the alley is on the back?

14 MS. PAIGE: This is my house.

15 MR. GLASGOW: Right.

16 MS. PAIGE: And this is where my  
17 back is.

18 MR. GLASGOW: Right.

19 MS. PAIGE: This is coming out of  
20 my back.

21 CHAIR MILLER: Ms. Paige, they  
22 need you on a microphone to get you on the

1 record.

2 MS. PAIGE: Oh, I'm sorry.

3 CHAIR MILLER: Your voice is  
4 carrying, but the reporter needs it. No. We  
5 want to hear what you have to say, though.  
6 That was interesting to see where your house  
7 it. Okay.

8 MS. PAIGE: That's -- that's --  
9 that's the back of my house, where the clip  
10 is. Right -- this is my back. Yes. And it's  
11 a fence back there. I have a privacy fence.  
12 I had to put cinder blocks up because, in the  
13 past, when they back out they would break my  
14 back -- my back gate.

15 MR. GLASGOW: Yes.

16 MS. PAIGE: So, when they come  
17 out, they pull out from the right side, they  
18 pull out towards my back yard in my back.

19 CHAIR MILLER: Mr. Markus, can you  
20 show why only one car will be backing into the  
21 alley? Which one?

22 MS. PAIGE: When they come out of

1 that parking space there, they're coming out  
2 and they going to back, back. Out -- come out  
3 -- they're coming out that way, where you're  
4 coming too fast out.

5 MR. MARKUS: This will actually  
6 back out into the drive, and then pull out  
7 into the --

8 MR. GLASGOW: Rich, you need to be  
9 on the mike. Pull the plan over with you.

10 MR. MARKUS: Can you see? Her  
11 house is right here. This -- the alley  
12 actually gets wider at this point too. This  
13 is accurate to how the -- how the alley goes.  
14 It's straight here and then there's a wider  
15 portion that goes to another piece over here.  
16 The -- the intention is that these cars, when  
17 there were four spots directly accessible to  
18 the -- to the alley, they -- you know, it was  
19 definitely a problem. They would back in and  
20 potentially hit this wall. That's the problem  
21 that -- that you were having before, right?

22 MS. PAIGE: Right.

1           MR. MARKUS:    So, with this new  
2 layout, the intention is to have this drive  
3 and this car would back out, and then it would  
4 pull forward.    So it's a -- you're not  
5 actually backing into the alley to move out.  
6 You're actually just -- you're -- you're  
7 turning around in the drive and then pulling  
8 out.    So it's less likely to -- to -- to  
9 impact your fence.

10           MS. PAIGE:    Now who's to say that  
11 they will do that, you know?

12           CHAIR MILLER:   And the other two,  
13 though, the ones that are behind each other,  
14 they would -- one might back out, but it would  
15 be in the wide part of the alley?

16           MR. MARKUS:    Yes.    The intention  
17 was, we flipped it so that the two over here,  
18 if they had to back out, they'd back into the  
19 wide part.    And then you can go forward.

20           CHAIR MILLER:    Okay.

21           MS. PAIGE:    But there's a garage  
22 back there.    That's -- well, I'll let the

1 neighbor talk about that.

2 CHAIR MILLER: Okay.

3 MR. GLASGOW: We believe that  
4 we've shown accurately where the alley is and  
5 where the garage is on the -- on the site  
6 plan. It's -- we believe it's quite a  
7 distance.

8 MS. PAIGE: No. No, it's not.

9 CHAIR MILLER: Oh. Well, where is  
10 it on there? Can we see the garage she's  
11 talking about?

12 MR. MARKUS: The garage is  
13 actually part of this property here. And it's  
14 -- it's right here. It's accessed -- you  
15 might be able to see it on the --

16 CHAIR MILLER: Well, that was  
17 pretty good identification. That does it for  
18 me right now. Do you need to see more on  
19 that? Okay. Thank you, very much.

20 MS. PAIGE: You're welcome.

21 CHAIR MILLER: Is there anybody  
22 else here who wishes to testify on this case?

1 MR. HALL: My name is Leroy Hall.

2 Can you hear me?

3 CHAIR MILLER: Yes.

4 MR. HALL: I live on Rhode Island  
5 Avenue, across the street from the project.  
6 First, let me take a second to say, because of  
7 the citizens have other things to do, we'd  
8 appreciate it if these meetings could start on  
9 time. We were here early. And if -- I hope  
10 we don't have to come back for any other  
11 hearings. But we'd appreciate it if they  
12 could start at the time that you have  
13 scheduled.

14 CHAIR MILLER: And I'm sorry about  
15 that.

16 MR. HALL: Yes. We didn't hear  
17 that at the beginning.

18 CHAIR MILLER: Yes. I'm sorry.  
19 Today, there was a problem with the Metro as  
20 there was last week. A lot of us come in by  
21 Metro.

22 MR. HALL: Yes. Okay. All right.

1 My solution to this is that, based on the cost  
2 factors, they -- they want to make a profit.  
3 We understand all that. That's -- I was  
4 coming here today and I just happened to come  
5 down First Street and R NW, and right near  
6 Florida Avenue, and I saw a big unit condo  
7 arrangement going up or conversion. And they  
8 had one and two bedrooms. And it was running  
9 \$2-300,000 range. So, based on what we have  
10 talked about in some of the meetings, it seems  
11 to me that they should get rid of the one  
12 bedroom units and make five two bedroom units  
13 at \$300,000 a piece. They'd recover, I think,  
14 most of their money. I don't know whether  
15 they'd make a big profit. But the number of  
16 spaces shouldn't be any question. Eight  
17 spaces didn't make any sense in the first  
18 place. Because they couldn't -- four of the  
19 cars couldn't get out.

20 And there was something on this  
21 plan, I noticed, for the rooftop, a spiral  
22 staircase. Unfortunately, we don't have

1 enough sections to read this stuff. I have  
2 one section in the back and the spiral  
3 staircase looks like it stops before it gets  
4 to the roof. But that was put there, from  
5 what we understand, because of the air  
6 conditioning units. And -- but that one party  
7 who has that penthouse would be able to use  
8 that deck also.

9 Well, they could reduce the costs  
10 by not having centralized air conditioning in  
11 the first place. That would help. They could  
12 have individual wall mounted air conditioners  
13 for each apartment. In my house, we don't  
14 have centralized air and in 30 years there  
15 with using three air conditioners to air  
16 condition the whole house very effectively.  
17 It doesn't cost much.

18 Also, that the testimony about the  
19 original 14 units, I think that has been  
20 covered. That was a sort of a false argument.  
21 But if we can reduce the spaces to the  
22 apartment units to six, we're somewhat in

1 agreement with that. But if they made five  
2 good two bedroom units, I think they would  
3 have a better market. People generally want  
4 more than one bedroom. And we're not looking  
5 for temporary people to move in here like  
6 we've had before. They'd be more family  
7 oriented with two bedrooms. And I think it  
8 would be, you know, just more attractive.

9 The building is -- you don't know  
10 what the building looks like. You need some  
11 photographs. The building does not fit in,  
12 based on the way it was configured by the  
13 earlier owners trying to make a hustle with  
14 it. So there's nothing we can do about the  
15 appearance of the building. There's no front  
16 porch. All the houses have front porches in  
17 the 1000 block of Rhode Island Avenue. They  
18 all have several feet of space between them,  
19 at least 20 feet of space between each house.  
20 This house has no space. It's on the property  
21 line for the houses on each side of it.

22 It's -- and I guess you can't make

1       them tear it down. But to get the best uses  
2       of it, I'm saying five two bedrooms would be  
3       their best bet, if not six is the most. And  
4       the parking has to be six. It can't be eight  
5       and it can't be eight units. So the fact of  
6       the matter is we don't need any condo  
7       development there. We've got enough condo  
8       development in Ward Five. And there was only  
9       one family living there in that house when it  
10      was built. So my solution, if they would do  
11      that, I think maybe you'd find some common  
12      ground for all this and you could pass on this  
13      project.

14                    If you have any questions, I'd be  
15      glad to answer.

16                    CHAIR MILLER: I don't think so  
17      for me. Thank you, very much. Do any of the  
18      other Board members have any questions.

19                    MR. HALL: I hope it doesn't  
20      shorten the meeting.

21                    CHAIR MILLER: I appreciate your  
22      testimony. Is there anybody else in the

1 audience who wishes to testify? Come forward  
2 if you do. Anybody else? You can all come  
3 forward at this point so we don't have that  
4 lag. I'm sorry, Mr. Glasgow, did you have a  
5 question for the previous witness? I'm sorry.

6 MR. GLASGOW: I'll see whether any  
7 points can be covered by the time the other  
8 three -- and I can also do things in closing.

9 CHAIR MILLER: Okay. Okay. Who  
10 wants to go first?

11 MR. HASKINS: I will.

12 CHAIR MILLER: Okay.

13 MR. HASKINS: My name's James  
14 Haskins. Can you hear me?

15 CHAIR MILLER: Kind of. Barely.  
16 Right.

17 MR. HASKINS: My name's James  
18 Haskins. I live at 2414 12th Street. I have  
19 a garage that's in the alley that we were just  
20 talking about a little while ago. Well,  
21 that's not, I guess, a terrible concern of  
22 mine. I have had, you know, trouble with

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1 traffic in the alley. And my concern is that,  
2 with a multi-use or a multi-unit apartment or  
3 condo, that the traffic through the alley is  
4 going to increase. And it is -- it is a  
5 narrow alley. And -- and even now, you know,  
6 there's a lot of -- of traffic coming through  
7 there. So that's -- that's mainly, if I have  
8 a concern, that is my concern. And I'm here  
9 to basically support the -- the community in  
10 what we are trying to do here. I just want to  
11 be supportive of the other members, my  
12 neighbors.

13 Also, kind of -- I guess I didn't  
14 like the way the project started either. You  
15 know, we -- I didn't come in, in the beginning  
16 of it. And I'm not sure what all of the --  
17 the ramifications were in the beginning. But  
18 I do know that we would have liked to have  
19 more of an input or more of a say on how that  
20 property would have been used. I think some  
21 things I heard was that, you know, it was  
22 going to be affordable homes. And -- and we

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1 do need more affordable homes. We need homes  
2 for seniors and -- and -- and in the community  
3 where we live is a lot of seniors there. And  
4 I think that would have been something that we  
5 would have been much more supportive of. You  
6 know, if -- if the developer had come and said  
7 well, you know, what exactly what type of  
8 construction would you like to see? What type  
9 of use would you like to see? What would make  
10 you more comfortable in your neighborhood?  
11 And I think there's something that we -- that  
12 we would have been more interested in. But we  
13 didn't have that option. We didn't have that  
14 option. The only option we had was the condos  
15 and -- and -- and the transient nature of what  
16 condos bring into the community.

17 Our community is more of a -- of a  
18 -- it's isolated. It's a dead end type of  
19 place. There's not a lot of through traffic.  
20 And we enjoy that. You know, we enjoy that.  
21 We enjoy that quiet place. And -- and -- and  
22 I do believe that, as it was with that

1 property when it was being used as a boarding  
2 house or tourist home or what have you, it did  
3 disrupt our quality of life with the traffic  
4 coming through there, with the type of people  
5 that came through there.

6 And while this is not the same, it  
7 still would bring more people into our  
8 community, which it's not really designed to  
9 handle more people. It's like we -- like it's  
10 been discussed, is we've -- we have basically  
11 homes, you know, single family homes there.  
12 I mean, I -- I live closer to the apartment  
13 building on the corner that you discussed.  
14 And I'm not happy with that building because,  
15 you know, the people that live there park in  
16 front of my house. I have a garage in the  
17 back, of course, but I have another vehicle  
18 too that I park on the street.

19 And -- and the churches. There  
20 are three churches there. And, on Sunday,  
21 there's no place to park. You know, at least  
22 on my part of, you know, 12th Street. So --

1 and the people in the apartment building does  
2 park in front of my house. And I understand  
3 that that's okay, you know. I don't make a  
4 big fuss out of it. But if they don't have  
5 parking stickers or if they have Maryland  
6 tags, I call the appropriate, you know,  
7 enforcement. And that's all I can do. But  
8 I'm not happy with that either.

9 And, you know, that's -- that's  
10 basically, I guess, my position. You know, I  
11 -- I -- I would like to -- I'm not opposed to  
12 sitting down and talking again. But I  
13 understand from our conversations that we had  
14 with the developers before is that they've  
15 already tied their wagon to the financial  
16 package that they have. And, you know, and we  
17 -- and we tried to work through that. But,  
18 you know, our neighbors -- our neighbors have  
19 issues with the -- with the -- the -- the --  
20 the back that's being built. And -- and I --  
21 I stand with them on that. I -- I'd go with  
22 a six unit as opposed to an eight, because I

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1 see that as less people. I see that as less  
2 cars.

3 So we are -- we are, you know,  
4 we're not opposed to negotiating. But we  
5 don't want to have stuff just, you know,  
6 stuffed down our throats either. You know,  
7 and I think that's probably why we're here,  
8 more than anything. You know, it's because we  
9 just didn't want to have someone just come in  
10 and tell us what we -- what we were going to  
11 have there.

12 But that's -- that's pretty much  
13 my position.

14 CHAIR MILLER: Thank you. You  
15 know, we have reports, like from DDOT who  
16 looks at parking and traffic. And I don't  
17 think they said anything about this alley  
18 traffic. And so I'm just wondering, what is  
19 that all about? How many houses are on the  
20 alley? You know, you said there's not a lot  
21 of through traffic. So what's the alley  
22 traffic you're concerned about?

1                   MR. HASKINS: Well, there's the --  
2                   I don't know if there -- if you can see -- I  
3                   can't see it on the map, but yes. When the  
4                   Metro -- the Metro is not that far away. So  
5                   if people come into the neighborhood and park  
6                   on our street to -- to walk to the Metro,  
7                   that's one traffic scenario. Another traffic  
8                   scenario is that there are churches there.  
9                   The Israel Baptist Church; there's Ala Papis,  
10                  and then there's another huge Christian church  
11                  that's just been build on Rhode Island. And  
12                  those people park down in our neighborhood too  
13                  on Sundays, as well as through the week when  
14                  they have things going on in their churches  
15                  through the week. So that's another traffic  
16                  impact.

17                  Through traffic, coming down  
18                  through the alley, that area there's --  
19                  there's -- there's two alley lanes, for lack  
20                  of a better way to put it. There's the alley  
21                  that goes directly behind the property in  
22                  question here. And then there's an alley that

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1 runs perpendicular to that -- that alley. Now  
2 the traffic usually that comes through the  
3 alley are -- are the those people who may park  
4 on Rhode Island Avenue who don't want to go  
5 all the way up Rhode Island and turn around  
6 and go back the other way. They come around  
7 Rhode Island and turn on 12th Street and come  
8 through the alley to 10th Street to go back  
9 down Rhode Island that way. So that's --  
10 that's one scenario of -- of -- of how the  
11 traffic comes through the alley.

12 Other instances is when, you know,  
13 people have guests that they do the same  
14 thing. They come through the alley. You  
15 know, and there's -- she have kids. And there  
16 are kids that play in the alley and stuff like  
17 that too. So, those are concerns, you know.  
18 Of how, you know, the traffic goes through the  
19 alley. And if there's a -- a -- a place --  
20 the place that they're talking about building  
21 with the six parking spaces, then those people  
22 are going to be traveling through the alley

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1 too.

2 I park. My garage is in there.  
3 So I may have a better indicator of how the  
4 alley travel is, maybe than a lot of other  
5 people. Because my garage is facing the open  
6 space that they talk about facing the alley.  
7 And sometimes there are, you know, instances  
8 when maybe somebody's working at another home  
9 on the block and they are parked in front of  
10 my garage. You know, and I might not be able  
11 to get out. I mean, I -- I have those type  
12 of issues. I've had issues where, you know,  
13 people from around the street might park in --  
14 in my -- in my space. And I have to tell  
15 them. Or somebody might put a junk car there.  
16 So there are lots of different things that go  
17 on.

18 CHAIR MILLER: Okay.

19 MR. HASKINS: And, you know, so  
20 that's -- it's -- it gets busy.

21 CHAIR MILLER: Okay. Any other  
22 questions? Do you want to hold your questions

1 until they all go, or do you have a question  
2 for Mr. Haskins?

3 MR. GLASGOW: I'll just ask one  
4 question.

5 CHAIR MILLER: Okay.

6 MR. GLASGOW: When we had the  
7 first meeting out at the community, a part of  
8 that meeting was in the alley. And we were  
9 there probably a half hour or 40 minutes, as  
10 I recall. Did you recall whether there was  
11 any car that came down the alley during that  
12 meeting?

13 MR. HASKINS: No. There wasn't  
14 any cars that came through there when I was  
15 standing there.

16 MR. GLASGOW: All right.

17 CHAIR MILLER: Okay. Next?

18 MR. HASKINS: And that's without,  
19 you know, your place being built too.

20 MS. VANBUREN: My name is Maya  
21 VanBuren. I live on 1009 Rhode Island Avenue.  
22 I'm right next door to the property. I'm

1 going to leave the parking alone because I  
2 think it has been ironed out for quite some  
3 time now.

4           The problem that I have with that  
5 -- with that project going on next door to me  
6 is actually the addition, which is an  
7 additional 25 feet, that's going to stretch  
8 out right along my yard. Together with the --  
9 with the deck up top on the roof, everybody  
10 will be able to look into my back yard. I  
11 don't -- I'm not sure how you can squeeze an  
12 eight condo building in between two little  
13 single family home houses. We have fairly big  
14 back yards. But those are family back yards  
15 with plenty of kids, green grass, not a  
16 parking lot.

17           As it was said before, we had  
18 three meetings when all these issues were  
19 addressed. And every time we came back to the  
20 meeting, none of that was resolved. So I  
21 really don't see where that is going.

22           The house really does not fit into

1 that neighborhood. My house has been built in  
2 1917. It's an old looking home. The  
3 contemporary style, I think it would throw the  
4 neighborhood off. You're adding a lot of  
5 people into that little stretch. Because that  
6 Rhode Island Avenue, that block has basically  
7 maybe seven or eight single family homes in it  
8 and that's it. It's a quiet neighborhood.  
9 You will be adding a lot of people, a lot of  
10 traffic, and the privacy issue that I have a  
11 big problem with, especially with that  
12 addition and all that parking in the back.  
13 Because there will be people coming in and out  
14 and everybody will be basically going -- you  
15 know, looking through my yard.

16 CHAIR MILLER: When you talk about  
17 privacy, do you mean also on the ground, that  
18 people coming in and out, like to go to the  
19 parking lot, will be looking into your yard?

20 MS. VANBUREN: Well, if they go --  
21 if they drive through the alley to get into  
22 the parking, yes. They will -- my back yard

1 is right there. So whoever is driving  
2 through, will be able to look, you know, into  
3 my back yard as well.

4 CHAIR MILLER: But their rear and  
5 your rear, isn't it divided by a fence?

6 MS. VANBUREN: Yes. I did put a  
7 privacy fence in there. Yes. It's not  
8 finished though.

9 CHAIR MILLER: Oh. Okay. Okay.  
10 So that helps.

11 MS. VANBUREN: Right. Another  
12 thing also was I didn't -- that was actually  
13 not discussed in one of our meetings, I was  
14 very curious about the trash. Where are they  
15 going to add the trash? Just because those  
16 people will not have a back yard. They will  
17 not care where the dumpsters are going to be.  
18 I sit in my back yard and barbecue. Will I be  
19 smelling their -- their trash that they're  
20 going to put out into the back alley?

21 CHAIR MILLER: That's a very basic  
22 question. Yes. And I think that we can have

1 the Applicant address that. And also, I was  
2 wondering, if this were to go forward in some  
3 form, the fact that they will be landscaping  
4 the parking lot, somehow, would you be --

5 MS. VANBUREN: If you put six cars  
6 there, all those yards are the same sizes on  
7 Rhode Island Avenue, except for the -- the end  
8 units. This is -- it's not a huge yard. If  
9 you extend that -- that back 25 feet and you  
10 put six parking spaces in there, which has to  
11 be concreted out, I don't think you're going  
12 to have that much space for landscaping. I  
13 really don't.

14 CHAIR MILLER: Would you like to  
15 see their plan?

16 MS. VANBUREN: Of landscaping?  
17 Sure.

18 CHAIR MILLER: Okay.

19 MR. GLASGOW: I believe that that  
20 drawing is the one that's on the -- shows  
21 where the landscaping is and where the trash  
22 receptacle is. It's Sheet A002? It's that

1 board.

2 COMMISSIONER TURNBULL: The one  
3 that looks like the trash receptacle though is  
4 up against the fence of one of the yards.

5 MR. GLASGOW: Yes. Yes, it is.  
6 And it's -- and the building that it's closest  
7 to is to the new building.

8 MS. VANBUREN: Mine?

9 COMMISSIONER TURNBULL: Is that  
10 your yard there?

11 MS. VANBUREN: I don't know.  
12 Which -- which -- which side? Is that against  
13 my yard?

14 MR. GLASGOW: So her concern about  
15 the trash receptacle, it is right next to her  
16 yard.

17 MR. GLASGOW: Right. Yes. We --  
18 we can look and see how that -- that gets  
19 relocated. But everybody's trash is in their  
20 back yard or right next to their house,  
21 generally, and then it gets wheeled out or  
22 moved out. So it's not different from what

1 everyone else's trash is in all the houses on  
2 -- in the neighborhood. I don't know anybody  
3 that doesn't have their trash either right  
4 next to their back door or in their garage or  
5 something. And then they take it out when it  
6 gets moved out to be collected.

7 MS. VANBUREN: Yes. But it's from  
8 a single family home, not an eight condo unit.

9 MR. GLASGOW: We understand. But  
10 the use as a multi-family dwelling, setting  
11 aside for a minute the debate on the number of  
12 units is permitted in R-5-A. And we had  
13 multi-family use or multi-unit use is what's  
14 there right now by the existing C of O.

15 COMMISSIONER TURNBULL: There is a  
16 question about the landscaping. Although, on  
17 your plan there, you show landscaping in the  
18 corner, right? But if I go to the next sheet,  
19 which is the first floor plan, you have four  
20 air conditioners. You've got four air  
21 conditioning units in that same place.

22 MR. GLASGOW: That's Sheet A-200.

1                   COMMISSIONER TURNBULL:    Sheet A-  
2                   200.

3                   MR. GLASGOW:    Yes.   Look at Sheet  
4                   A-200.

5                   COMMISSIONER TURNBULL:    When I  
6                   look at Sheet A-200, I see four --

7                   MR. GLASGOW:    I -- I agree.

8                   COMMISSIONER TURNBULL:    -- four  
9                   mechanical units in the same place.   So --

10                  MR. MARKUS:    Yes.   You're right.  
11                  The landscaping plan is the more recent -- the  
12                  site plan is the more recent addition to this  
13                  whole set.   This was done with the -- after  
14                  talking with the DDOT and talking about the  
15                  landscaping.   That plan, we definitely have to  
16                  look at it and coordinate it all.

17                  MR. GLASGOW:    We need to submit a  
18                  revised sheet on that.   When we had the  
19                  meeting with -- with DDOT and with the Office  
20                  of Planning on the -- on reconfiguring the  
21                  garage, that plan was not coordinated with the  
22                  -- with the sheet A002.

1 COMMISSIONER TURNBULL: Okay.

2 MR. GLASGOW: But Sheet A002 is  
3 what's going to control with respect to the --  
4 if the Board were to approve the application,  
5 the parking layout and where the landscaping  
6 is.

7 COMMISSIONER TURNBULL: So then  
8 are the mechanical units going on the roof?

9 MR. MARKUS: There are -- there  
10 are some -- actually there are some mechanical  
11 units on the roof already.

12 COMMISSIONER TURNBULL: There's  
13 four units on the roof already. I believe on  
14 Sheet A202 --

15 MR. MARKUS: The roof plan.

16 COMMISSIONER TURNBULL: There's  
17 three in one little penthouse are and then  
18 there's one separate for that top unit.

19 MR. MARKUS: That's correct.

20 COMMISSIONER TURNBULL: And you  
21 get to those ones -- you get to the ones --  
22 the three in the little fenced area not

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1 through that unit. You actually climb up a  
2 roof ladder on the outside. Am I correct? To  
3 service those?

4 MR. MARKUS: Right. They -- yes,  
5 the -- the -- the deck -- well, for the -- for  
6 the individual unit, you would go through your  
7 own unit for the -- for the one that's for  
8 you. But the other ones, yes, they're on a  
9 public area that would be accessed from a roof  
10 ladder. Sure.

11 COMMISSIONER TURNBULL: So you  
12 still have more units to put somewhere?

13 MR. GLASGOW: Yes.

14 MR. MARKUS: They could be --  
15 there is enough space to put the rest of them  
16 -- we could work it out so they're up on the  
17 roof. It's -- the landscaping plan was added,  
18 so it just wasn't coordinated with the final  
19 look.

20 COMMISSIONER TURNBULL: Okay.  
21 thank you.

22 MR. GLASGOW: And I think that

1 we're going to, in our post hearing  
2 submission, we're going to be looking at the  
3 -- obviously at the roof deck in any event.  
4 And I think, Mr. Turnbull, by the time those  
5 other four units are up there, I think that  
6 that's -- almost that issue is going to  
7 resolve itself.

8 CHAIR MILLER: Could I ask if you  
9 could look at the landscaping plan again?  
10 Because, when I look at it right now, it looks  
11 like there's hardly any next to Ms. VanBuren's  
12 side and on her side is trash.

13 MR. GLASGOW: Yes. We can -- we  
14 can look at that. And that's -- that's part  
15 of depending upon, and it may be better to --  
16 to have part of the discussion here with the  
17 Board. One -- one item that we were looking  
18 at, and it would -- would require to Board to  
19 -- to look at the plan a little bit further  
20 with us, in the parking area. We were looking  
21 at the -- at the size of cars -- cars as they  
22 are today. And we have every space at nine by

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1 19. If we had I'll call it nine by 16 spaces  
2 on the west side of the property, you could  
3 put a three foot buffer on the east side and  
4 plant leland cypress or something like that  
5 and just -- and screen out that whole yard.  
6 And that's -- that's something that we want to  
7 look at with respect to -- to landscaping. We  
8 have discussed that internally. This morning  
9 we -- we assumed that there would probably be  
10 some post-hearing submissions and that would  
11 be something that we would -- you know, would  
12 take a look at. And so we'd want -- we would  
13 probably want to submit to the Board an  
14 alternative landscaping plan for that rear  
15 which would do some things with respect to how  
16 you -- how you treat the -- the side lot  
17 lines. And I think that that could be helpful  
18 in -- in addressing some of those concerns,  
19 along with what -- what's going to happen, I  
20 think, as a practical matter, as Mr. Turnbull  
21 and I were discussing as to the -- I think the  
22 roof deck's going to go away anyway, by the

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1 time you get those other four units up on that  
2 space. There isn't -- there isn't going to be  
3 a roof deck.

4 CHAIR MILLER: So the parking  
5 spaces, are those the ones where there are  
6 just the two spaces that you're talking about?  
7 Or the ones on the other side?

8 MR. GLASGOW: No. We're talking  
9 -- yes, you -- you could -- no. What you --  
10 what I was thinking of, and it depends upon  
11 where you want to put, you know, the most  
12 screening. If you reduce the spaces by nine  
13 by -- to we'll call it nine by 16, because I  
14 think we don't need to take away any of the  
15 width, and the width allows you a little bit  
16 more maneuvering space while you're in the --  
17 while you're using that 17 foot isle to move  
18 around.

19 So what I was -- what we were  
20 considering doing was sliding the entire  
21 parking area, if you will, three feet to the  
22 west. Okay? And that would give you a three

1 foot strip along the entire east property line  
2 where Ms. VanBuren's house is. And you could  
3 plant a row of leland cypress there or you  
4 could do whatever you want. It would also  
5 screen the -- the trash receptacle would now  
6 be behind a row of trees. So it -- it was  
7 doing a number of different things.

8 And so we would like to have the  
9 opportunity to submit a revised or an  
10 alternative plan there that would do that,  
11 recognizing then that we would need to have  
12 relief from spaces that are 16 foot in width  
13 and -- I mean 16 feet in length, but also  
14 thinking that that's probably a better  
15 distribution of parking spaces for the size  
16 cars that you have now anyway, when we -- when  
17 they -- when the 40 percent eight by 16 went  
18 into effect, it was 1985. There were still a  
19 lot of big cars. I know that that discounts  
20 the SUV phenomenon around here, but when you  
21 look at the city and what people are driving  
22 that are in the city, we think that a 16 foot

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1 length space is probably what the predominant  
2 space should be at this point in time.

3 CHAIR MILLER: So would an SUV fit  
4 in that?

5 MR. GLASGOW: Pardon me?

6 CHAIR MILLER: Would an SUV fit in  
7 that space?

8 MR. GLASGOW: No. They need to be  
9 in the nine by 19s. But a -- but a normal  
10 sized passenger car, even a four door car,  
11 will fit now. And I -- I measured my car this  
12 morning, it's a four-door Infinity, and it's  
13 15 feet long.

14 CHAIR MILLER: Okay. So there  
15 would be --

16 MR. GLASGOW: So that it would fit  
17 the space.

18 CHAIR MILLER: -- four with the  
19 smaller length?

20 MR. GLASGOW: Yes. If we had  
21 four, I'll call it nine by 16s, we would -- we  
22 could slide the whole parking area over three

1 feet and -- and create a landscape buffer on  
2 the east property line. And I think if you  
3 look at the -- at the houses, when you talk  
4 about the -- the depth that the proposed  
5 addition protrudes into what is now the entire  
6 rear yard, if you look at the house on the --  
7 on the west, we're not significantly further  
8 back than that house is. We're like within  
9 seven feet of where that -- where that house  
10 already is back on a rear yard. And there is  
11 -- there is a -- the house -- Ms. VanBuren's  
12 house extends further into the rear yard, by  
13 about eight feet, than the existing house  
14 does. So right now we're the house with the  
15 most rear yard. And we're -- we're asking to  
16 go into the rear yard as -- as others have  
17 done, yes, to a -- to a slightly greater  
18 extent. But we -- we're asking to have that  
19 same opportunity.

20 CHAIR MILLER: Can I just ask you  
21 what precedent there is for the nine by 16  
22 spaces?

1 MR. GLASGOW: Well, we could go  
2 eight by 16, but we don't need to.

3 CHAIR MILLER: Yes. But I mean,  
4 how common is this to do?

5 MR. GLASGOW: Oh, eight by 16?

6 CHAIR MILLER: Or nine by 16, I  
7 mean?

8 MR. GLASGOW: Well, if -- if nine  
9 by 16 is a problem, we'll make then eight by  
10 16. But I -- I think it's just better for the  
11 layout just to leave them at nine by 16.

12 CHAIR MILLER: No. That's fine.  
13 I was just wondering.

14 MR. GLASGOW: No. I have -- I've  
15 never asked for that before. All we need is  
16 the three feet in length. We don't need to --  
17 to have the width. And -- and when you pull  
18 out of a space, having a wider space -- we're  
19 using -- the way that you maneuver is you --  
20 you have your car in or out and you have part  
21 of your own space that you've just vacated to  
22 use as maneuvering space. So if it's a little

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1 bit wider, it's better. It's easier to  
2 maneuver around.

3 CHAIR MILLER: Thank you.  
4 Anything else, Ms. VanBuren? Okay. Next.

5 MS. FRANCIS: Good afternoon,  
6 everyone. I live at 1005 Rhode Island Avenue.  
7 I'm on the other side.

8 CHAIR MILLER: And what's your  
9 name?

10 MS. FRANCIS: I'm sorry. Yes. My  
11 name is TorAnna Francis. Yes.

12 COMMISSIONER TURNBULL: I'm sorry.  
13 Could you repeat your name?

14 MS. FRANCIS: Yes. It's TorAnna  
15 Francis. Okay. What happened was my sister  
16 and I, we had agreed to, you know, what was  
17 going on, you know, for the building or the  
18 project. And, but after -- and I welcome the  
19 change. And the reason why I welcome the  
20 change is because all that has been going on,  
21 you know, all through the -- all through the  
22 years.

1           My family and I, we've lived there  
2 since 1959. And we have seen a lot of changes  
3 with the, you know, house at 1007. So when we  
4 heard that a development was coming, you know,  
5 to change it from what it was, our family was,  
6 you know, really happy about that.

7           But, as I was listening to it,  
8 it's a, you know, a lot of, you know,  
9 concerns, you know, with the neighbors. And  
10 -- and I wasn't aware of, you know, all of the  
11 changes that had, you know, just started  
12 coming up, especially with the parking and  
13 with the -- the way the building, you know, is  
14 -- is being built. So that's all I have to  
15 say.

16           CHAIR MILLER: Thank you. You  
17 live next door on the other side, is that what  
18 you said?

19           MS. FRANCIS: Yes. It's 1005.  
20 Yes.

21           CHAIR MILLER: Okay.

22           MS. FRANCIS: Yes. I'm on the

1 side where the cars are going to be in the --  
2 on the east side of it.

3 CHAIR MILLER: Okay. Do you have  
4 any concerns about the landscaping of the  
5 parking lot that's going to be next to your  
6 yard?

7 MS. FRANCIS: Well, after looking  
8 at it and I see how -- maybe I could stand  
9 next to it.

10 MR. GLASGOW: We'll bring it to  
11 you.

12 MS. FRANCIS: Okay. Yes. At  
13 first before they started this, the way the  
14 parking lot was at 1007, the cars would come  
15 in --

16 CHAIR MILLER: Yes. I'm sorry.  
17 Everyone has to be on a mike.

18 MS. FRANCIS: Yes. At first, the  
19 way the parking lot was, the cars would come  
20 in and only park on this side of the parking  
21 lot. And it -- and that -- and that always  
22 had about maybe six cars. And there was only

1 one space for the owner at the front. So --  
2 and the parking lot is small. So -- so that  
3 -- that's -- after looking at this, I really  
4 don't see how a lot of cars can, you know,  
5 park there; especially if you're going to have  
6 like a truck or, you know, a large, you know,  
7 car.

8 CHAIR MILLER: Mr. Markus, can I  
9 just ask you a question as far as her property  
10 goes. She's shielded from the cars by a  
11 privacy fence. Is that right?

12 MR. MARKUS: Correct. The privacy  
13 fence is generally right on -- right next to  
14 the property line.

15 CHAIR MILLER: Right. That's what  
16 I thought. Okay. So that totally blocks the  
17 view of the cars, so she's not going to have  
18 a view of -- I just wanted to make sure you're  
19 not going to have a view of cars.

20 MS. FRANCIS: Yes. The fence is  
21 still there. And where the cars was parked,  
22 it did knock my fence down some. So -- and

1 the fence is still, you know, knocked down.  
2 The -- the owner never fixed the fence. So,  
3 you know, that's -- was one of my, you know,  
4 concerns also.

5 CHAIR MILLER: Okay. So there's  
6 going to be a new fence here though. So  
7 that's an improvement. Right?

8 MEMBER LOUD: Some of your other  
9 neighbors have testified that the number of  
10 units is problematic. What is your take on  
11 the number of units?

12 MS. FRANCIS: Okay. Well, I had  
13 missed a few -- I had missed a few of the  
14 meetings. And the one that I did come into  
15 was when they was -- was saying about the  
16 rooftop and extension of it. And so, at first  
17 I was, you know, to just trying to picture  
18 that because the house is a small house. It  
19 -- it was a family home with four -- four  
20 bedrooms and, you know, the downstairs and the  
21 basement. And after, you know, let's see, you  
22 know, after I just heard about the unit, then

1 I -- I was, you know, all happy for it. But  
2 after, you know, you know, listening today, I  
3 -- I -- I really don't see, you know, that the  
4 eight units. Maybe six units, I could see.

5 MEMBER LOUD: And do you have a  
6 reaction to the rooftop deck that originally  
7 had been proposed? I think Mr. Glasgow just  
8 stated that the four air conditioning units  
9 may end up eliminating the rooftop deck. But  
10 what's your take on the deck?

11 MS. FRANCIS: Okay. If -- if you  
12 see the -- the building now, it's already --  
13 they -- they started to build something at the  
14 top already. It's already like a -- a -- I  
15 want to say, it's not like a -- another part  
16 of it. But the way the front is made, the  
17 front is about maybe a roof -- a roof take of  
18 like already. Yes.

19 CHAIR MILLER: Any other  
20 questions? Mr. Glasgow, do you have any  
21 questions?

22 MR. MCGOVERN: No cross

1 examination.

2 CHAIR MILLER: Okay. Thank you,  
3 very much. So, at this point, I'll turn it to  
4 you for closing, Mr. Glasgow.

5 MR. GLASGOW: All right. Just  
6 very briefly, because I -- I do want to spent  
7 a little bit of time to go -- to make sure  
8 that we have our post-hearing submission  
9 straightened out. Is, we do believe that we  
10 have met all the elements of the burden of  
11 proof for the areas of relief that have been  
12 requested. I think that the -- that the  
13 hearing has been very helpful today, because  
14 we've had a sense, and we -- we appreciate the  
15 Board giving us an opportunity within the  
16 gambit of the cross examination to get -- to  
17 get in a context where we're talking to a  
18 person and finding out what their issues of  
19 concern are. Because, some of the community  
20 meeting, that has been difficult for the  
21 community and it's been difficult for us to  
22 understand what is going on and what the --

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1 what the issues are. And I think we've seen  
2 a little bit of that today. But -- so we  
3 finally now have an opportunity where we had  
4 some people here, one on one, and had more of  
5 a one on one discussion than we had in three  
6 community meetings. I think that that has  
7 helped. I think it's fortuitous, because we  
8 sought -- we understood now the rooftop is --  
9 looks like it's -- it's just -- it's causing  
10 just a lot of issues that it doesn't need to  
11 cause. And I guess almost fortuitously,  
12 because of what has to happen with some other  
13 systems within the building, it's -- I'm  
14 pretty convinced it's going to be gone anyway,  
15 or it's going to be three feet by three feet  
16 by the time you finish putting everything else  
17 up there. So I think we've got that part  
18 done.

19 I think that we have a -- a better  
20 understanding now as to the two adjacent  
21 neighbors and how it is that we can deal  
22 through -- through planting, screening, and

1 through our fencing, address those. And we  
2 want to have the opportunity to submit a  
3 revised site plan that -- that deals with  
4 that.

5 We believe that the number of  
6 parking spaces for the number of units, given  
7 the data that the District has, is  
8 appropriate. I mean, I've -- as the Board is  
9 aware and as the Commission's aware, I've  
10 worked on a lot of apartment units, a lot of  
11 condominiums throughout the city. And  
12 somewhere around .7 - .8 parking spaces per  
13 unit is what's being provided, generally, city  
14 wide. And the data that came out of this --  
15 the census track data that the District has  
16 supports that. I mean, Rhode Island Avenue is  
17 not a back community street. It's a major  
18 arterial through the -- through the city. So  
19 there's going to be a lot of traffic on Rhode  
20 Island Avenue. There's a lot of traffic in  
21 this area.

22 And this is -- this is an R-5-A

1 site. We're not asking relief for anything  
2 with respect to the -- to the uses. We are  
3 asking for relief for the number of units  
4 because of the number of parking spaces. I  
5 mean, that's -- if it wasn't for the number of  
6 parking spaces, we wouldn't be -- there  
7 wouldn't be any -- any issue with respect to  
8 how many units are you putting in that piece  
9 of property. If we had eight parking spaces,  
10 if we had a bigger lot, and we had eight  
11 parking spaces, there wouldn't be anything to  
12 discuss with respect to eight units. So it's  
13 only -- that's only being driven that we can  
14 only fit six parking spaces on the lot. And  
15 we believe that, fortunately for us, that the  
16 data shows that six parking spaces is enough  
17 parking for eight units, given that the  
18 overall density within the -- within both of  
19 those census tracts. So we -- it's a fairly  
20 large sample. And that's something that the  
21 District prepares. We don't prepare that.

22 With respect to the number of

1 units, we will get back and we will certainly  
2 deal with what -- what makes sense from our  
3 standpoint, from economics. But we think that  
4 we meet the burden of proof outside of that.  
5 And I think it is important information for  
6 the Board to have. But we do believe that we  
7 meet our burden of proof in any event with  
8 respect to lot occupancy, with respect to the  
9 parking reduction, should the Board determine  
10 that we need a parking reduction. Remember,  
11 we do have an argument that -- that we have  
12 nonconforming rights to those four parking  
13 spaces. And then all we're asking for is an  
14 isle width variance. And now, if the Board  
15 goes with the alternative site plan, the  
16 ability to reduce the size of those spaces to  
17 nine by 16. So we've got -- we've got a --  
18 with the revised site plan, a different -- a  
19 different configuration of parking spaces that  
20 does require an additional area of relief.

21 With respect to the issue that was  
22 raised early on by Commissioner Turnbull, we

1 will be getting some additional renderings and  
2 we will look at -- we will look at and want to  
3 have the flexibility to look at a -- a revised  
4 elevation, depending upon what comes from  
5 those studies. We do have -- there was a  
6 comment made about photographs of the existing  
7 site. I mean, we -- we have fairly extensive  
8 photographs of the existing site that show the  
9 existing front of the building, what it is  
10 now, the sheet A-001 has just a front -- just  
11 shows the front elevation of the building now.  
12 It is brick and it's got some -- it's got some  
13 type of, I guess, cast concrete or something  
14 on that. You would call that feature -- I'll  
15 call it a feature for lack of a better term,  
16 it's on the -- it's -- it's on this sheet.  
17 It's A-001. This is the -- well, it's -- so  
18 we're -- we're trying to figure out. We --  
19 you do play the hand that you're dealt. And  
20 now we're trying to figure out what -- what to  
21 do with it. And maybe -- maybe there is a --  
22 maybe Commissioner Turnbull, there's a better

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1 solution than where we have. I -- I don't --  
2 I don't know. We're -- I -- I guess our --  
3 our view was that the solution that's there  
4 right now is not -- is not a good one, or that  
5 can be improved upon. I'll put it that way to  
6 be more generous with the comment, rather than  
7 just leaving it as it is and just putting an  
8 addition on the -- on the back. So we  
9 certainly want to have the opportunity to  
10 address that issue and address it with some  
11 elevations and see what the Board thinks with  
12 respect to how it is that we fit into the  
13 community, given the size and the -- and the  
14 bulk of the structure that we have.

15 And I think that when you look at  
16 the site plan of the houses next door, our  
17 building with the addition will -- yes, it  
18 will be slightly larger. But with respect to  
19 the -- to the house on the west, it's about  
20 the same size. And that's -- that's shown on  
21 sheet A-002, if you look at what the -- what  
22 the relative footprints are. They're not

1 significantly different.

2           And then we think that we should  
3 have the opportunity to -- to put an addition  
4 on the back of this property, just like our  
5 neighbors on either side have -- have done.  
6 And we do believe that the -- by the  
7 reorientation of the parking area, that we  
8 have addressed the backing in and backing out  
9 of the alley. I think that what we have is a  
10 very reasonable solution and it's oriented  
11 toward where the alley is the widest, where  
12 all of those alleys come together.

13           So, from that standpoint, we do --  
14 we do think that this has been -- it's been  
15 good to come to the hearing and -- and hear  
16 the feedback that we've gotten today. And we  
17 hope that the Board will keep the record open  
18 so that we can respond to that. And then,  
19 hopefully, move to a -- a resolution of this  
20 -- of this property, keeping in mind what the  
21 existing, you know, use is. Not that it's  
22 going to be some of the horrible uses that it

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1 was in the past. But we do have to take into  
2 consideration what the alternative uses are  
3 that we could put it to a matter of right at  
4 this point in time. And that -- that,  
5 obviously, when you go and improve the  
6 property and put a new facade on it and doing  
7 all of those type of things, this is not a cut  
8 and paste rehab on this piece of property.  
9 And that's why I wanted to make sure that the  
10 Board understood what the condition of the  
11 property is -- is today. So that we have to  
12 be able to be in a position to say all right,  
13 we're going to do something about this facade.  
14 We're going to do something about other  
15 portions of the building, as the architect,  
16 Mr. Markus, discussed earlier.

17 So we -- we have to be able to  
18 take all of that into account. Because it --  
19 it comes as a package. It would be great if  
20 it was simple enough to just say all right,  
21 you guys can have it just the way that you  
22 want and provide six units and that -- and

1 call it a day, and get rid of the rooftop. If  
2 it was -- if it was that simple, hopefully, we  
3 would have been smart enough to figure that  
4 out between now and the last year or so that  
5 the -- that the owners have struggled with  
6 dealing with the property and carrying it and  
7 trying to come up with some type of solution  
8 that makes sense for them and their lenders  
9 and everybody else that's involved in this.

10 And, with that, I'll conclude.  
11 And we'd like to submit -- we'd like to also  
12 submit with this, a -- a statement as to how  
13 we meet our burden of proof and a draft order  
14 and everything else that we -- that we need to  
15 submit on this application.

16 CHAIR MILLER: Okay. Ms. Bailey,  
17 do you want to review the list of what the  
18 Applicant will be submitting. And then we can  
19 add to it whatever might be left out?

20 MS. BAILEY: Sure, Madam Chair.  
21 The items that I have for the Applicant is a  
22 color rendering to demonstrate how the

1 building fits into the context of the adjacent  
2 buildings on the street. The Applicant is to  
3 provide an economic analysis of the financial  
4 feasibility of the project -- and those are my  
5 words, so please correct me if I'm not stating  
6 that properly; a site plan with a revised  
7 sheet A-200, as needed. The landscape plan is  
8 to be revisited and an alternative landscape  
9 plan the Applicant indicated would be  
10 developed. And I think the Applicant -- the  
11 last thing the Applicant offered was to do a  
12 revised statement, articulating what the  
13 practical difficulty of the case is. And  
14 those are five things that I have, Madam  
15 Chair.

16 CHAIR MILLER: Okay. I want to  
17 just jump in here a little bit. We're not  
18 really asking for an economic analysis. It is  
19 -- the Applicant said he was going to submit  
20 again, further development, I think, of the  
21 variance test, with respect to the variances.  
22 And that's basically what we're looking for.

1 When we were talking about the practical  
2 difficulty test though, we did explore  
3 whether, if economics was driving this, that  
4 that should be a part of it. We're not  
5 looking for a heavy duty economic analysis.  
6 We're really looking to understand what the  
7 exceptional condition is that's creating  
8 practical difficulties in complying with the  
9 regulations.

10 And I think we would accept a  
11 proposed order, if you wish to do it at the  
12 same time. And are you revising the roof  
13 plan? Are you revising the plans, in general?

14 MR. GLASGOW: Yes. We'll need --  
15 we'll need a revised roof plan because we need  
16 to show -- we need to make those two sheets  
17 consistent, where -- where we had those four  
18 --

19 CHAIR MILLER: Right.

20 MR. GLASGOW: -- AC units on the  
21 ground that aren't on the ground.

22 CHAIR MILLER: So we're getting a

1 revised roof plan, a revised landscaping plan.

2 MR. GLASGOW: Yes.

3 CHAIR MILLER: What else?

4 MR. GLASGOW: You may end up --  
5 and I think reserved the opportunity to -- to  
6 submit a revised facade, taking into account  
7 Mr. Turnbull's -- you know, when we do the  
8 study and we look at it, we may -- we may  
9 present an alternative and say we -- this is  
10 what we've -- what we filed and this is --  
11 this is another approach.

12 CHAIR MILLER: Okay. We're going  
13 to leave the record open for you to revise  
14 your drawings, whichever ones you need to.

15 MR. GLASGOW: Yes. Yes. We'd  
16 like to be able to coordinate them. Thank  
17 you. I don't want to be limited to certain  
18 sheets.

19 CHAIR MILLER: Okay. Exactly.  
20 Exactly. Oh. I would like to ask you if, in  
21 your post-hearing submission, if you want to  
22 address any further the crediting argument.

1 You said that there's a history of Zoning  
2 Administrative decision on that. If you want  
3 to add anything on that, the record would be  
4 open for that.

5 MR. GLASGOW: Madam Chair, those  
6 may be in the -- in the context of  
7 certificates of occupancy that were -- that  
8 were issued. It may or may not be something  
9 like a -- like a ruling from Jimmy Fahey on a  
10 specific thing. Because I know there were a  
11 number of projects that are -- where we had a  
12 surveyor go out and say all right, here's our  
13 parking area. And they said all right, you've  
14 got a nonconforming credit.

15 CHAIR MILLER: Okay. So yes. If  
16 there was something, you could submit it. If  
17 there isn't, you know, anything in writing,  
18 then you're not obligated to. I just wanted  
19 to leave the record open in case you wanted to  
20 add to that.

21 MR. GLASGOW: Okay. All right.  
22 Thank you.

1 CHAIR MILLER: Yes. So --

2 MS. BAILEY: Just the ANC report?  
3 I don't know if we're going to leave the  
4 record open for that?

5 CHAIR MILLER: We can leave the  
6 record open for an ANC report. But I'm going  
7 to throw out a suggestion for how to schedule  
8 this. And then we can see. But certainly,  
9 the Applicant's filing will be served on the  
10 ANC, because the ANC is a party in the case.  
11 And I'll leave it up to the Applicant if you  
12 want to share some of your plans with the next  
13 door neighbors, I'm not going to order that.  
14 But it might be a good idea if they can see  
15 what's going on. Because some of this -- some  
16 of what I was hearing was that people didn't  
17 know what was going on and didn't have a say.  
18 And they're your plans. They don't  
19 necessarily have to have a say in what you're  
20 going to do. But it may ease some concern if  
21 it's not a mystery. But I'll leave that up to  
22 you. And the ANC will get them, in any event.

1           Okay. I think that what we're  
2 aiming for is our July 31st decision meeting.  
3 And then we would need to back up for dates,  
4 Ms. Bailey, when each of these would be due --  
5 well, all of them would be due. There's no  
6 required response from the ANC, but if they  
7 could be done in sufficient time for the ANC  
8 to have an opportunity to weigh in, that would  
9 be good. How much time do you need?

10           MR. GLASGOW: I'm -- I'm sorry.  
11 We're talking about how much time we need to  
12 prepare?

13           CHAIR MILLER: Yes We were  
14 thinking that the next realistic decision date  
15 is July 31st.

16           MR. GLASGOW: Right.

17           CHAIR MILLER: Unless you want  
18 longer?

19           MR. GLASGOW: I don't think my  
20 client's going to ask for that.

21           CHAIR MILLER: Okay. I didn't  
22 think you wanted longer. And next week's our

1 next one and that's too soon.

2 MR. GLASGOW: Yes. Yes. That's a  
3 little. What do we -- I guess, how -- how  
4 long can we -- how long can we take?

5 CHAIR MILLER: We just need a  
6 little bit of time for the ANC to see it and  
7 be able to comment, if they want to. They  
8 said that they would hold a special meeting to  
9 accommodate the schedule. So I don't know.  
10 Ms. Bailey, what's the last date that the  
11 ANC's report could come in?

12 MS. BAILEY: Two weeks -- well,  
13 actually, two and a half weeks from where we  
14 are today, if that's an appropriate time. Mr.  
15 Glasgow, two and a half weeks, we're taking  
16 perhaps submission by July 13th?

17 MR. GLASGOW: You're -- you're  
18 saying we would submit July 13th?

19 MS. BAILEY: Yes.

20 MR. GLASGOW: Okay.

21 CHAIR MILLER: But I would think  
22 -- do you need a little more time than that?

1 MR. GLASGOW: Yes. I think so. I  
2 think so.

3 CHAIR MILLER: I think they could  
4 have a little more time than that. Why  
5 couldn't they?

6 MS. BAILEY: A week later, July  
7 20th, would that give sufficient time for the  
8 ANC to meet? July 20th is on a Friday.

9 CHAIR MILLER: Do you want to come  
10 forward? I guess Mr. Shelton's not here. So  
11 Mr. Chandler, if that -- Mr. Shelton had  
12 indicated that they could have a special  
13 meeting to consider this, if you want it.

14 MR. CHANDLER: Oh, we definitely  
15 would like to meet them.

16 CHAIR MILLER: Okay. It's not --  
17 I'm not saying -- I don't believe that this  
18 would be a meeting. We're not talking about  
19 a meeting with the Applicant, per se. We're  
20 talking about the Applicant having served you  
21 with all the updated plans and everything, and  
22 then the ANC meeting to vote on it, if they

1 want to.

2 MR. CHANDLER: We sure would.

3 CHAIR MILLER: Okay.

4 MR. CHANDLER: We would. We would  
5 definitely welcome that. But how long are we  
6 talking before they submit the information to  
7 -- to me that I can submit to them?

8 CHAIR MILLER: Well, that's what  
9 we're looking at the calendar for.

10 MR. GLASGOW: We can -- we could  
11 -- I think what we were talking about,  
12 Commissioner, is that we would serve the  
13 entire ANC by -- by July 20th.

14 MR. CHANDLER: So now we're  
15 looking into something past July 20th? If you  
16 submit us by -- by the 20th?

17 MR. GLASGOW: Right.

18 CHAIR MILLER: You would have  
19 eleven days until our decision meeting. You  
20 would probably have to do it within a week of  
21 when you get it.

22 MR. CHANDLER: I can only speak

1 for myself and a few others that I know  
2 they're here. Being that we are in, you know,  
3 break -- we're on break. It's -- it's hard to  
4 say who's here or who's still not here. And  
5 it has to be done before the 31st of July?

6 CHAIR MILLER: Yes. Yes. So, I  
7 mean, Mr. Shelton did say that they would call  
8 a special meeting.

9 MR. CHANDLER: Yes. We can call  
10 one. We can call it. We'll move heaven and  
11 earth.

12 CHAIR MILLER: Okay. What day of  
13 the week? Oh, it doesn't matter. You're  
14 calling a special meeting.

15 MR. CHANDLER: We're calling a  
16 special meeting, so we're -- we -- if we have  
17 to, we will -- we will gather the forces and  
18 we will have -- we will sit down and we will  
19 discuss this.

20 CHAIR MILLER: Okay. Okay.  
21 Because, I mean, what --

22 MR. CHANDLER: With the notion

1 that I will receive all the information that  
2 -- so I can submit that these are the new  
3 plans added on -- the revised plan to this  
4 existing plan. Right? That we all mentioned.

5 CHAIR MILLER: All the things that  
6 we were talking about, the Applicant's going  
7 to serve on you.

8 MR. CHANDLER: Right.

9 CHAIR MILLER: Revised plans,  
10 landscaping, site, rooftop, everything, how  
11 their final project, with arguments also as  
12 to, you know, why they meet these tests. So,  
13 okay. So you could do that by the 20th?

14 MR. GLASGOW: Yes.

15 CHAIR MILLER: So, Ms. Bailey,  
16 when would the ANC report be due?

17 MS. BAILEY: Well, Madam Chair, I  
18 would imagine that the ANC would require all  
19 of the next week to discuss the project and  
20 get a report prepared.

21 CHAIR MILLER: Right.

22 MS. BAILEY: So my suggestion

1 would be the Monday before your hearing, which  
2 would be July 30th.

3 MR. CHANDLER: So you need it by -  
4 -

5 MS. BAILEY: So the ANC has all of  
6 the week.

7 CHAIR MILLER: I guess, if it was  
8 in the morning. Because I think -- I mean, I  
9 think it would be better if the Board had it  
10 by Monday morning.

11 MR. CHANDLER: Monday?

12 CHAIR MILLER: What's the date of  
13 that? July 30th?

14 MS. BAILEY: July 30th.

15 MR. CHANDLER: For the meeting on  
16 the 31st.

17 MS. BAILEY: Yes.

18 CHAIR MILLER: Yes. I mean, the  
19 sooner we get -- earlier would be better. But  
20 she's trying to stretch it. You know?

21 MR. CHANDLER: Okay. I -- I  
22 understand. If they can get it to me within

1 a timely manner and timely fashion, we can set  
2 up a meeting, I'm sure.

3 CHAIR MILLER: Okay. I mean,  
4 actually, I think that the Board usually gets  
5 their packages sent out on the Thursday  
6 before. So it would be better if we got it  
7 even by Friday. But I don't -- but she's  
8 concerned that that might not be enough time.  
9 What's the date of Friday?

10 MS. BAILEY: The Friday is the  
11 27th of July.

12 CHAIR MILLER: Oh. That's only  
13 seven days. Okay. Do you want it Monday to  
14 Monday, the 30th?

15 MR. CHANDLER: The 30th?

16 CHAIR MILLER: Yes. Okay.

17 MR. CHANDLER: Okay. So we're  
18 going to see it hand delivered to your office.

19 CHAIR MILLER: Do you want it hand  
20 delivered?

21 MS. BAILEY: Hand delivered or  
22 faxed.

1 MR. CHANDLER: We'll fax it.  
2 We'll hand deliver it. We'll do whatever. I  
3 -- I will make sure. I will bring it down  
4 here personally.

5 MS. BAILEY: Thank you

6 CHAIR MILLER: Okay.

7 MR. CHANDLER: We'll do both.  
8 We'll faxing and hand delivering.

9 CHAIR MILLER: If you can do that  
10 in the morning, that would be good. Because  
11 then they have to fax it to the Board members  
12 and we want to make sure we see it and have  
13 time to think about it before Tuesday. Okay.  
14 Good.

15 MS. BAILEY: Should I just repeat  
16 those dates so everyone is on the same page?

17 CHAIR MILLER: Sure. Yes. Okay.

18 MS. BAILEY: The decision is  
19 scheduled for July 31st. The Applicant is to  
20 submit all documents by July 20th. And the  
21 ANC is to respond no later than July 30th.

22 CHAIR MILLER: Okay. We have one

1 more request of the Applicant. Could you show  
2 the detailing on the privacy fences? Thank  
3 you.

4 MR. MOY: Madam Chair, while  
5 there's a pause, I just want for the staff's  
6 edification, to be clear on the zoning relief.  
7 From what we've heard today, that's everything  
8 that has been advertised, which is the lot  
9 occupancy of 403, the parking space  
10 requirements under 2117.4, the apartment house  
11 under Section 353, and of course the  
12 discussion about the driveway isle width, as  
13 well, which would be 2117.5. Just for the  
14 staff's clarification when this comes back for  
15 your decision.

16 MR. GLASGOW: I think Mr. Moy's  
17 referring to the -- in the alternative parking  
18 plan that we showed, with the six spaces,  
19 requires a drive -- driveway width isle  
20 variance for the 17 feet, rather than the 20  
21 feet.

22 MR. MOY: That's correct. Is that

1 correct?

2 MR. GLASGOW: That's correct.

3 MR. MOY: All right. I just  
4 wanted clarification on that.

5 MR. GLASGOW: And then we may have  
6 an alternative area of relief if the Board  
7 were to, on top of those areas, with the three  
8 foot buffer on the east side, we would have  
9 parking spaces that are -- we would have four  
10 parking spaces that are nine by 16, and we'd  
11 need to have relief for that also.

12 MR. MOY: And that would be  
13 2117.6. Is that correct? No? Okay. .4?

14 CHAIR MILLER: Are you looking at  
15 size of parking spaces, 2115?

16 MR. GLASGOW: Hold on a second.

17 CHAIR MILLER: Yes. Let's take  
18 one moment, please.

19 MR. GLASGOW: It would be the size  
20 of parking spaces.

21 CHAIR MILLER: Yes. That's 2115.

22 MR. GLASGOW: Yes. It's in 15.

1 Let's see. We can get a -- we can get a  
2 variance from just 2115 -- 2115.1, you'd have  
3 a variance from that for four parking spaces.

4 MS. MONROE: Look also at .4, Mr.  
5 Glasgow.

6 MR. GLASGOW: Yes. .4 -- that's  
7 the reason why I was going to .1, so that you  
8 don't have a couple of variances because of  
9 the 40 percent and the surface coverage --

10 MS. MONROE: So you think one  
11 would cover it? You don't have to deal with  
12 five? Okay. I just wanted to make sure we  
13 get it right.

14 MR. GLASGOW: Right. Right.  
15 That's why I was just thinking of 2115.1.

16 MS. MONROE: Okay.

17 MR. GLASGOW: And that would allow  
18 us to do the nine by 16 without any further  
19 discussion on that.

20 CHAIR MILLER: Okay. I'll just  
21 say that, if you study these regulations more,  
22 which I'm sure you know anyway, but if you

1 find that it really falls within another one  
2 in this parking size, we'll leave the record  
3 open for you.

4 MR. GLASGOW: All right. I -- I  
5 can think of about three places where you  
6 could have either one or multiple variances  
7 for this for the same thing.

8 CHAIR MILLER: Okay. All right.  
9 Is there anything else? Okay. Then that  
10 concludes this case. Thank you, very much.

11 MR. GLASGOW: Thank you.

12 CHAIR MILLER: Okay. Ms. Bailey,  
13 do we have anything else on the morning  
14 agenda?

15 MS. BAILEY: No. Not for the  
16 morning, Madam Chair. But in about seven  
17 minutes, we'll be in the afternoon. And we  
18 may want to -- because the cases for the  
19 afternoon have been withdrawn.

20 CHAIR MILLER: Right.

21 MS. BAILEY: So, in about seven  
22 minutes, we'll be able to just put on the

1 record that those cases have been withdrawn.

2 CHAIR MILLER: Okay.

3 MS. BAILEY: Unless you want to do  
4 it right now.

5 CHAIR MILLER: We can come back in  
6 seven minutes.

7 (Whereupon, the hearing was  
8 concluded at approximately 1:00 p.m.)

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