

GOVERNMENT

OF

THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

JULY 16, 2002

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:35 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

JAMES HANNAHAM	Commissioner
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COMMISSION STAFF PRESENT:

Sheri M. Pruitt, Secretary, BZA  
 Beverly Bailey, Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

C-O-N-T-E-N-T-S

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

9:35 A.M.

CHAIRPERSON GRIFFIS: I would ask that this hearing now come to order, and greet all of you and say good morning. This is the July 16, 2002, Public Hearing of the Board of Zoning Adjustments. My name is Geoff Griffis.

I am the Chairperson today. Joining me is Ms. Ann Renshaw, the Vice Chair; also, Mr. Curtis Etherly, representing the Zoning Commission. With us all day today will be Mr. Hannaham. We have no representative from the National Capitol Planning Commission today, but I think we'll make it through it.

So also, staff joining us, Ms. Bailey on my far right, Mr. Nyarku (phonetic), who is on my left and will be soon on my right. Ms. Pruitt and Ms. Sansone is with us also, corporation counsel. Copies of today's hearing are available to you.

They are at the table at the door where you entered into the hearing room. Please be aware that these proceedings are being recorded. So of course, we must ask you to refrain from any disruptive noises or actions in the hearing room.

And also, on coming forward to speak to the Board you will need to turn the microphone on, and we'll walk you through all those technicalities. But I also need you to give us your name and your address for the record.

All persons also planning to testify need to fill

1 out two witness cards. Witness cards are on the table in front  
2 of us, and also, at the table where you entered into the hearing  
3 room. Those are to be filled out and when coming forward to give  
4 testimony they are to be given to the recorder, who is sitting to  
5 my right.

6 The order of procedures today for the special  
7 exceptions and variances will be, first, statement and witnesses  
8 of the applicant. Second, we will have all government reports  
9 attendant to the application.

10 Third, we would have the report of the Advisory  
11 Neighborhood Commission. Fourth would be parties or persons in  
12 support; fifth would be parties or persons in opposition, and  
13 sixth, we will have closing remarks by the applicant.

14 Cross-examination of witnesses is permitted by the  
15 applicant or parties. The ANC within which the property is  
16 located is automatically a party in the case. The record will be  
17 closed at the conclusion of each case, except for specific  
18 materials that the Board will request, and we will specify  
19 exactly what is required and when it should be submitted into the  
20 Office of Zoning.

21 After the record is closed it should go without  
22 saying that no other information will be accepted by the Board.  
23 The Sunshine Act requires that the public hearing on each case be  
24 held in the open and before the public.

25 The Board may, however, consistent with its Rules

1 of Procedure and the Sunshine Act, enter Executive Session during  
2 or after public hearings on a case for purposes of reviewing the  
3 record or deliberating on a case.

4 The decisions of the Board in these contested cases  
5 must be based exclusively on the record. To avoid any appearance  
6 to the contrary we do, of course, ask that persons present not  
7 engage Board members in conversation.

8 Please, at this time I would also ask that all cell  
9 phones and beepers be turned off so that we don't disrupt the  
10 proceedings and those giving testimony. I think we can now look  
11 to any preliminary matters.

12 Preliminary matters are those which relate to  
13 whether a case will or should be heard today, such as requests  
14 for postponement, continuances or withdrawals, or whether a  
15 proper and adequate notice of the hearing has been given.

16 If you are not prepared to go forward with a case  
17 today or if you believe that the Board should not proceed, now is  
18 the time to raise such a matter. Let me first go to staff to see  
19 if there are any preliminary matters before us.

20 MS. BAILEY: Members of the Board, Mr. Chairman,  
21 good morning.

22 CHAIRPERSON GRIFFIS: Morning.

23 MS. BAILEY: At this time we do not -- there is a  
24 preliminary matter concerning the first case, Mr. Chairman, but  
25 we were suggesting that that is done at the time the case is

1 called.

2 CHAIRPERSON GRIFFIS: Thank you. I would agree.  
3 Any -- does anyone else have any preliminary matters for any of  
4 the cases this morning? Good. Not seeing any indication, why  
5 don't we call the first case.

6 MS. BAILEY: Application No. 16897, of JBG/JER 6<sup>th</sup>  
7 Street, LLC, pursuant to 11 DCMR 3104.1, for a special exception  
8 from the roof structure requirements under section 411, and  
9 pursuant to 11 DCMR 3103.2, a variance from the lot occupancy  
10 requirements under section 772, a variance from the residential  
11 recreation space requirements under section 773 and subsection  
12 1706.4(f), a variance from the rear yard requirements under  
13 section 774, a variance from the parking drive aisle requirements  
14 under section 2117, a variance from the loading requirements  
15 under section 2201, and a variance from the Chinatown retail  
16 requirements under section 1705, for the construction of an  
17 apartment house in the DD/C-2-C District at premises 6<sup>th</sup> Street,  
18 between G and H Streets, Northwest, Square 486, Lots 8, 801, 802  
19 and 803. Please stand to take the oath.

20 WHEREUPON,

21 WAYNE QUIN,  
22 was called as a witness for the applicant, and having first been  
23 duly sworn, testified as follows:

24 MS. BAILEY: Thank you. Mr. Chairman, the  
25 preliminary matters. First, the applicant indicated that the

1 variance from the Chinatown retail requirement under section 1705  
2 is no longer needed for this project.

3 And secondly, there was a request for party status  
4 from the Avalon Bay Company, and our understanding is that that  
5 request has now been withdrawn for party status, and that company  
6 association is now supporting the project.

7 CHAIRPERSON GRIFFIS: Good. Thank you very much.  
8 Is there a representative from Avalon Bay here today? No. Okay.

9 And we do have this -- a letter that actually is changing their  
10 request, and we should note that their request for party status,  
11 of course, wasn't timely filed.

12 But in any case, I think we'll get into those  
13 details. We can accept that unless you have any other  
14 information to add to that.

15 MR. QUIN: No, I do not.

16 CHAIRPERSON GRIFFIS: Good. Okay. Then let me  
17 turn it over to you for introductions, and then also, if I'm not  
18 mistaken, for clarification of actually the relief being sought  
19 today.

20 MR. QUIN: Yes.

21 CHAIRPERSON GRIFFIS: Good.

22 MR. QUIN: I'll cover that. My name is Wayne Quin,  
23 with Christine Shiker, of Holland and Knight. We represent the  
24 applicant. This application provides the opportunity to further  
25 the residential construction renaissance that's taking place in

1 downtown D.C., which you all I'm sure are aware of.

2 As a result of this application, if of course the  
3 Board approves it, we'll be able to construct or the applicant  
4 will be able to construct 46 units of housing on an interior lot  
5 by having -- on a small lot which you have perhaps seen from our  
6 statement, about 6,000 square feet.

7 Whereas, the normal lot size for residential  
8 development, as our witnesses will establish, is somewhere  
9 between 15 to 25,000 square feet for the normal size. There's  
10 adverse ownership, as our testimony will also cover, on either  
11 side.

12 One is an actually existing development. So there  
13 was no way to expand the project any larger, and there were  
14 attempts in that, that will be described. The location is right  
15 across from MCI Center, across 6<sup>th</sup> Street just north of G Street,  
16 and it's in a mixed use area that's transitioning.

17 We are really pleased and excited about the major  
18 support that we have for this project, and the support for the  
19 variances and special exception that we seek from the Board, and  
20 let me just run through quickly the support.

21 First, ANC-6A has submitted a letter in unanimous  
22 support. The Penn Quarter Neighborhood Association, in support.

23 APOL (phonetic) in the MCI Center has submitted a letter in  
24 support. The Ackridge Company, Downtown Housing Now Committee,  
25 Mr. Doctor, the Downtown Cluster of Congregations and the Myreene

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1 Apartments, all in support.

2 And most recently, as just indicated, Avalon Bay  
3 Communities, Inc., has supported this application conditionally,  
4 which we will describe the changes that we have made to the  
5 application.

6 And also, we are pleased with the Office of  
7 Planning Report that's in support. In essence, let me just  
8 submit for the record, because of the changes that have occurred  
9 in order to resolve some of the concerns, three sheets of plans.

10 The first is a sheet showing the basement and  
11 ground level. The second is a sheet showing the typical floors  
12 in between and the third sheet is a roof structure plan that  
13 shows the top above the roof and how the roof structure's laid  
14 out.

15 CHAIRPERSON GRIFFIS: Other elevations --

16 MR. QUIN: Of the elevations --

17 CHAIRPERSON GRIFFIS: -- in that submission, or  
18 have they not changed?

19 MR. QUIN: They've previously been submitted for  
20 elevations.

21 CHAIRPERSON GRIFFIS: Correct.

22 MR. QUIN: And except for the rear setback.

23 CHAIRPERSON GRIFFIS: Okay.

24 MR. QUIN: It has not changed and we have a  
25 rendering which is on the front of the application that we've --

1 the plans that we've previously submitted. This one is rendered;  
2 that is the building that you can see that's mounted on the east  
3 easement.

4 CHAIRPERSON GRIFFIS: Okay. And you're prepared to  
5 walk us through the changes in terms of the elevation and --

6 MR. QUIN: Absolutely.

7 CHAIRPERSON GRIFFIS: Okay.

8 MR. QUIN: Our architect will do that. I'm going  
9 to cover a little bit as to the scope of relief, because we made  
10 major changes in areas of relief. The actual -- let me just  
11 start by the -- the basic -- the reason for the relief that is  
12 sought is the small size of the site, the adverse ownership and  
13 the shape to a certain degree, which will be explained, which the  
14 shape and size, as you know, furnishes a classic basis for  
15 variance relief, and also, in this case, a special exception.

16 However, we have been able to reduce the areas of  
17 relief by three areas, and so I'd like to make the record very  
18 clear on what we have eliminated. We have eliminated the request  
19 for a variance from the Chinatown retail requirement. That was  
20 mentioned by Ms. Bailey.

21 Secondly, we have eliminated the requirement for a  
22 loading dock variance, which we do not need because of the  
23 reduction in number of units, from 55 down to 46, takes us below  
24 the threshold of providing the loading.

25 And third, we had a variance for the isle width for

1 driveway access and that has been eliminated. So those three  
2 areas have been eliminated from this application, and I would  
3 like to file --

4 CHAIRPERSON GRIFFIS: How was that eliminated, the  
5 aisle width?

6 MR. QUIN: The aisle width by redesigning.

7 CHAIRPERSON GRIFFIS: Repositioning the parking?

8 MR. QUIN: The parking.

9 CHAIRPERSON GRIFFIS: Okay. And you'll show us  
10 that.

11 MR. QUIN: And we have some -- we did -- our  
12 parking number is not as great as it previously was.

13 CHAIRPERSON GRIFFIS: Correct.

14 MR. QUIN: So we were able to not have to put the  
15 space in an area that would require the narrowing. The narrowing  
16 was only for 19 feet, even as originally filed.

17 CHAIRPERSON GRIFFIS: Correct.

18 MR. QUIN: So we were able to reshape the parking  
19 area. So --

20 CHAIRPERSON GRIFFIS: I see. Okay.

21 MR. QUIN: Okay. And you'll see a document that  
22 shows the changes that we have filed in this application that we  
23 seek. And rather than going through that I think it might be  
24 more helpful to tell you specifically what we are requesting.

25 First, we still need a rear yard variance. But

1 what we have done is we've set the building back ten feet from  
2 the alley above the third floor. So in effect, we are providing  
3 a rear yard above the third floor, as you know, and we could also  
4 provide a rear yard above 20 feet in -- normally in the zone.

5 We are higher than that. We're about 30 feet, but  
6 this was worked out with Avalon Bay to address their concern  
7 about light and air. The second area of relief is lot occupancy.

8 We still need that, but we are now, rather than  
9 being 100 percent -- approximately 100 percent lot occupancy, we  
10 are at 88 percent lot occupancy, which is eight percent higher  
11 than the specified lot occupancy limitation.

12 The third area is the residential recreation space.

13 We do need those variances, but by virtue of reducing the gross  
14 floor area, a little over 6,000 square feet, the amount that we  
15 are seeking is reduced, so that we're now providing about 2.1  
16 percent of the gross floor area for residential recreation space,  
17 and that will be addressed by our witnesses, as well.

18 So those are the only three variances. The other  
19 area of relief relates to the roof structure, which is the same  
20 as originally requested, and that is because of the width of the  
21 lot, putting in the core, we can't make the setback requirement  
22 unless we shorten the edges, which you can see on either side of  
23 the penthouse they're like shorter wings.

24 If we made those 18-6, which is the other  
25 requirement under the Regulations, it would go straight up and

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1 violate the Regulations because we wouldn't have the setback  
2 requirement. So we reduced it and we do meet the setback  
3 requirements, but we also by doing that do not meet the equal  
4 height -- walls of equal height requirement.

5 So that's the special exception. So those are the  
6 four areas of relief. They all relate and are all based upon the  
7 unusual size of the site, which is well below the normal lot. So  
8 we think we meet that.

9 We filed a statement, which I think covers the  
10 basis for our relief. And rather than my going into a summary of  
11 that anymore I think I'd rather just proceed with the -- and in  
12 light of the support that we have with no opposition, I'd like to  
13 proceed with our first witness, unless there's a question.

14 CHAIRPERSON GRIFFIS: Any questions from the Board  
15 at this time? Okay. I think that'd be great.

16 MR. QUIN: We'd like to first call Stewart Bartley,  
17 JBG Associates, and I submit his resume for the record and ask  
18 that he be accepted as an expert in real estate investment and  
19 development, with a specialization in residential development.

20 And if there are questions after you have seen the  
21 résumé, Mr. Bartlett will be glad to answer those, but I would  
22 like him accepted as an expert.

23 CHAIRPERSON GRIFFIS: Good. Board members, why  
24 don't we take a quick moment to go through the résumé and I'll  
25 take comments on that. Let me also just take this time while the

1 Board takes a look at that, and I think it is certainly always a  
2 positive step when one comes in initially with some concern in  
3 opposition and that changes as you go into it.

4                   However and importantly, clearly, we don't run a  
5 popularity contest and still the tests that are before us as  
6 outlined in the Zoning Regulations need to be met. But that  
7 being said, any questions? We are looking at accepting expert  
8 witness in real estate development investment, did you also say,  
9 Mr. Quin?

10                   MR. QUIN: Investment and development and  
11 specialization in real estate. He has been accepted by this  
12 Board as an expert in the identical areas before in a previous  
13 case.

14                   CHAIRPERSON GRIFFIS: Any concerns? Questions? So  
15 I can take it as a consensus to accept him as an expert witness?  
16 Very well. Please continue.

17                   MR. QUIN: Thank you.

18                   Mr. Bartley, would you proceed?

19                   MR. BARTLEY: Thank you, Mr. Quin. Good morning,  
20 Mr. Chairman and members of the Board.

21                   CHAIRPERSON GRIFFIS: Morning.

22                   MR. BARTLEY: We appreciate the opportunity to be  
23 before you here today. My name is Stewart Bartley. I'm Managing  
24 Director of the Residential Division of the JBG Companies. We're  
25 located at 5301 Wisconsin Avenue, Northwest, in Washington.

1           As many of you may know, the JBG Companies is a  
2 locally owned and operated real estate developer and investor  
3 covering a wide range of product types. We currently have  
4 approximately 3,000 units in the metropolitan area of  
5 residential, and we have approximately 4,000 units of residential  
6 development in our current pipeline.

7           And we're pleased to say that of those 4,000 units  
8 there are seven projects numbering over 1200 units that are in  
9 the District of Columbia, and specifically in the downtown and  
10 near downtown areas.

11           The applicant that's before you today, JBG/JER 6<sup>th</sup>  
12 Street, LLC, is a joint venture between the JBG Companies as the  
13 managing partner and developer, and the J. E. Robert Companies,  
14 who is our financial partner. This particular project is -- has  
15 an interesting history.

16           We've owned this site for at least two years now, I  
17 would say. Of the seven projects, the other six projects in the  
18 downtown development, most of those projects are substantially  
19 larger than this. Our primary business is projects that are in  
20 the 140, 150 units and up category.

21           We had similar visions for this location when we  
22 identified this investment opportunity. But unfortunately, we  
23 were unable to acquire an additional piece immediately adjacent  
24 to the south that would have enabled us to build a larger  
25 residential project.

1                   And thus, we could have avoided many -- we believe  
2 many of these variances because we would have had a much more  
3 normal sized site. Also, we were hopeful that we would  
4 incorporate the building immediately to the north, which we also  
5 own, which is currently leased to the Rock Sports Bar.

6                   But after consultation with Historic Preservation  
7 staff, we concluded that redevelopment of that property, that  
8 there was a high likelihood that we would run into some  
9 difficulties in terms of Historic Preservation on that site.

10                   So rather than attempt to go against that grain, we  
11 elected to really focus on the site that's before you today,  
12 which is our develop able site.

13                   CHAIRPERSON GRIFFIS: Those Preservations are a  
14 tough group, aren't they.

15                   MR. BARTLEY: Well, they have an important role to  
16 fill, and we've --

17                   CHAIRPERSON GRIFFIS: Very difficult.

18                   MR. BARTLEY: -- appreciated their -- working with  
19 them on other sites in the area, and we certainly recognize that  
20 that contributes to the character of what we're trying to create  
21 downtown.

22                   CHAIRPERSON GRIFFIS: Indeed. Let me just  
23 interrupt you, if you don't mind. First of all, did you get any  
24 sort of statement from Preservation regarding that building?

25                   MR. BARTLEY: Nothing in writing.

1 CHAIRPERSON GRIFFIS: Okay.

2 MR. BARTLEY: We just -- we met with them on site  
3 and discussed the history of that site and the perceived level of  
4 interest in potentially designating that building, if we wanted  
5 to demolish it, so.

6 CHAIRPERSON GRIFFIS: Okay. And I think the Board  
7 can -- has an understanding of that. That -- let me just put it  
8 to you that that was one of the concerns in terms of the  
9 description of having a small site not being required to the  
10 south, but knowing the ownership to the north we were wondering,  
11 in fact, why that wasn't incorporated.

12 So that brings us some good information. I'm not  
13 sure how much more the Board will want to investigate that, but I  
14 will let you continue.

15 MR. BARTLEY: Okay. Thank you. As our counsel's  
16 indicated, we're very pleased with the level of support for the  
17 project. We've met with a number of stakeholders, again,  
18 beginning -- probably one of our first ones was with the Historic  
19 Preservation staff.

20 But we're pleased with the support of ANC-6A and  
21 Downtown Housing Now, Downtown Cluster of Congregations.  
22 Certainly, the Office of Planning was very helpful in giving us  
23 guidance, and actually, in encouraging us to work with our  
24 neighbors to the east, Avalon Bay, to reach an acceptable  
25 compromise and address their concerns.

1                   And I'd like to take this opportunity to say we  
2 certainly appreciate Avalon Bay's willingness to work with us and  
3 reach a mutually acceptable compromise on their particular areas  
4 of concern.

5                   There may be a silver lining, as a number of people  
6 asked me about the availability of for sale housing downtown. As  
7 you -- this Board may know, JBG's primary business is rental  
8 housing.

9                   Because we are forced to develop this site as a  
10 much smaller site than our normal one, our current business plan  
11 is that this would be a for sale, home ownership, condominium  
12 project.

13                   Now, to the specific areas of relief that we need,  
14 again, most of these are driven by -- as I think our application  
15 laid out -- the relatively small size of this site.

16                   And the dimensions, you know, it should be noted  
17 that in this type of a high rise structure the type of core of  
18 elevators and fire stairs and such that we're building on this  
19 building would be sufficient to support a development of 150  
20 units.

21                   So you know, a big, driving factor, as I'm sure the  
22 Board can appreciate, is the fact that certain of these common  
23 areas, you know, can only get so small and be viable and meet  
24 Code.

25                   CHAIRPERSON GRIFFIS:   And when you talk common

1 areas, what you've done is just describe in fact the elevators at  
2 a certain site.

3 MR. BARTLEY: The elevator core.

4 CHAIRPERSON GRIFFIS: The egress stairs.

5 MR. BARTLEY: The egress stairways and the common  
6 hallways.

7 CHAIRPERSON GRIFFIS: Okay.

8 MR. BARTLEY: So again, the lot occupancy and rear  
9 yard are really the -- you know -- primarily driven by this small  
10 size. I would ask to clarify as we go forward, I thought we were  
11 still seeking 100 percent lot coverage at the lowest of --

12 MR. QUIN: Oh, we are, but I was talking -- I'm  
13 sorry.

14 MR. BARTLEY: Yes.

15 MR. QUIN: The point I was making is above the  
16 third floor.

17 MR. BARTLEY: Oh, yes. Yes. Okay.

18 MR. QUIN: We are -- we meet lot occupancy above  
19 the third floor at 88 percent, as opposed to 80 percent, but we  
20 still need the basic variances for rear yard and for lot  
21 occupancy. If I didn't make that clear, I apologize, because I  
22 meant to.

23 MR. BARTLEY: Okay.

24 CHAIRPERSON GRIFFIS: That's a good clarification.

25 MR. BARTLEY: Thank you.

1 CHAIRPERSON GRIFFIS: We look at lot occupancy on  
2 the ground, correct.

3 MR. BARTLEY: That's right.

4 CHAIRPERSON GRIFFIS: Okay. Good.

5 MR. BARTLEY: And again --

6 MR. QUIN: Although, as I pointed out, in that zone  
7 you -- for rear yard --

8 CHAIRPERSON GRIFFIS: Indeed, the 20 feet above.

9 MR. QUIN: Yes.

10 CHAIRPERSON GRIFFIS: Indeed. Okay.

11 MR. QUIN: Yes.

12 MR. BARTLEY: And again, our architect can describe  
13 the technical aspects of these in more detail, but in particular,  
14 at the ground and below, certainly, one of the greatest  
15 challenges of a site of this size, getting enough parking,  
16 getting, you know, adequate ingress and egress into the parking  
17 areas is certainly a challenge.

18 In this particular development we are only going  
19 down one level because, again, as -- is if we were to continue to  
20 attempt to go further down, the marginal yield of additional  
21 parking would be very small, given the level of ramps and such  
22 required to get there.

23 The rear yard, again, is really driven by the need  
24 to develop floor plates that will give us adequate unit size to  
25 make this project economically viable. We had originally hoped

1 to develop the property with -- and as originally filed -- with  
2 five units per floor.

3 In working on this compromise with Avalon Bay we  
4 have -- we've reduced that to four units per floor on the --  
5 above the third floor, and that accounts for the difference in  
6 unit count. Were we to develop this site strictly to the by-  
7 right nature, we believe we could only get three decent sized  
8 units, perhaps four extremely small units per floor, but we don't  
9 believe that that would be economically viable, as our witnesses  
10 later will testify.

11 As to the recreational space requirements, we  
12 believe that we're providing the types of amenities that  
13 residents and owners of a small building like this would like to  
14 have and would expect to have. We will have a fitness center,  
15 and more importantly we believe, a roof-top deck.

16 That is one thing that we've been working very hard  
17 to try to accomplish in all of our projects, is to get some type  
18 of amenity space on the roof, as we see that to be something that  
19 our residents would really appreciate, and also, in consulting --  
20 consultation with Office of Planning, something that they believe  
21 would be a useful recreational space.

22 As I'm sure some of these members of the Board  
23 know, that it's JBG's view and my view personally that the  
24 primary recreational space, amenities that our residents will be  
25 looking to are not those that are inside the building, but those

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1 that are provided by the environment of living in downtown D.C.,  
2 and particularly in the east end where we have so many  
3 opportunities for entertainment.

4 The roof structure, again, I'll leave that for  
5 those to describe, more technical. The only comment that I'll  
6 make is that we do believe that the solution that the architects  
7 have arrived at is a handsome solution to the roof structure on  
8 this, again, very small and almost square site.

9 With that, I think I'll close my testimony and I  
10 would be happy to answer any questions, but would then turn it  
11 over to our architect, Tony D'Agostino, of RTKL, too. He can  
12 provide a more technical description of the areas of relief, and  
13 particularly those changes that have been made as part of this  
14 compromise with Avalon Bay. Thank you.

15 CHAIRPERSON GRIFFIS: Thank you.

16 MR. QUIN: Our next witness is Antonio D'Agostino,  
17 of RTKL, and I'd like to submit him also as an expert in the  
18 field of architecture, including residential development.

19 CHAIRPERSON GRIFFIS: You've been before us before,  
20 correct?

21 MR. D'AGOSTINO: This is the first time that I  
22 speak personally.

23 CHAIRPERSON GRIFFIS: Oh, indeed.

24 MR. D'AGOSTINO: Yes. I have --

25 CHAIRPERSON GRIFFIS: All right. Well, we'll give

1 you a hard time, then. Okay. Let us take a second --

2 MR. D'AGOSTINO: Certainly, absolutely.

3 CHAIRPERSON GRIFFIS: -- and look over Mr.  
4 D'Agostino's résumé. I can tell you as the Board looks at it  
5 that, clearly, we look to similar projects and time in the  
6 profession. I think Mr. D'Agostino fits all of our basic  
7 requirements.

8 Are there any questions or concern? Looking down,  
9 he has numerous residential projects in this city, as well as  
10 planning and commercial. Any concerns, questions, probings?  
11 Then I will take that as a consensus to accept Mr. D'Agostino as  
12 an expert witness in architecture, with specific experience in  
13 residential design, and welcome you this morning.

14 MR. D'AGOSTINO: Thank you. Good morning,  
15 Chairman; good morning, Board. For the record, my name is Tony  
16 D'Agostino. I'm an Associate Vice President with RTKL  
17 Associates, 1250 Connecticut Avenue, Northwest, in the city.

18 What I'd like to do since the general parameters of  
19 the neighborhood and our neighbors have been established, what  
20 I'd like to do if I may is focus a little bit more on this site  
21 itself. This site is 75 feet wide, 85 feet deep, which renders a  
22 foot-plate or square footage of 6375, 6,375 square feet.

23 And this site is, as you can tell by the  
24 dimensions, it's a very square site and a very small site, and  
25 quite honestly, it has been a challenge, a very exciting

1 challenge to try to develop luxury apartments with this type of a  
2 floor plan or square footage, I should say.

3 We have developed with the -- as you know -- with  
4 modifications, recent modifications, 46 units. There are 23 one-  
5 bedrooms and there are 23 two-bedroom plus dens. The major  
6 difference -- excuse me. I apologize. I'm fighting a cold.

7 The major differences that have occurred recently  
8 are all along the alley side, as you guys -- as everybody is  
9 aware of, and can see from the package that is before you. The  
10 units in the front have not changed. They remain the same.

11 The units in the back, they go from three one-  
12 bedroom units to two one-bedroom units, although slightly larger  
13 than the original three. And this is from the fourth floor  
14 through the 12<sup>th</sup> floor of the building.

15 The number of spaces is 12 spaces for those --  
16 parking spaces for those units. That's one per four ratio, and  
17 that kind of sets the parameters of where we are today.

18 We have -- the challenges that have made this  
19 project exciting for us is the fact that regardless of whether  
20 you have 46 units or regardless of even up to 150 units, your  
21 core, which is your elevators and your stairs and actually  
22 associated mechanical and electrical spaces, remain the same.

23 The square footage remains the same. And so as you  
24 can imagine, on a site for 150 units or a site that's 15 to  
25 20,000 square feet, you're left -- you have a lot more square

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1 footage left over to design the proper number of units with the -  
2 - and do it by right, and without relief from the city.

3 CHAIRPERSON GRIFFIS: So your point is, you've got  
4 this square footprint of a building.

5 MR. D'AGOSTINO: Yes.

6 CHAIRPERSON GRIFFIS: The core takes up a certain  
7 percentage of that, no matter what.

8 MR. D'AGOSTINO: No matter what.

9 CHAIRPERSON GRIFFIS: Just to get the elevators and  
10 the stairs in.

11 MR. D'AGOSTINO: Right.

12 CHAIRPERSON GRIFFIS: Wait a minute, now. I know  
13 your point. I lost it a little bit there. And so your point is  
14 that in order to fit just the units in to make it a viable  
15 project at any scale, it has to have a certain amount of units.

16 MR. D'AGOSTINO: Right. There --

17 CHAIRPERSON GRIFFIS: Okay.

18 MR. D'AGOSTINO: Correct. There's -- excuse me.  
19 Like I -- I guess the issue is that the -- we have two elevators  
20 and we have two stairs. These are required by Code, regardless  
21 of the size of the building.

22 We could have had a -- you know -- in the zone that  
23 we are at we could have had a 4.5 residential FAR, which meant a  
24 six-story building, and put us basically in the same kind of --  
25 the same construction type that we are now.

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1                   And once you have those parameters, the Code  
2 automatically dictates some of the amount of this -- of core area  
3 that is required to safely service the building. This -- these  
4 dimensions, the dimensions of the elevators and the stairs, do  
5 not change.

6                   If your building has fewer units or has more units,  
7 they are the same. And so as you can imagine, if you have a  
8 larger foot-plate, excuse me, you have a lot more square footage  
9 to design units, to leave 20 percent of the lot open and to be  
10 pure yard requirements.

11                   The -- just the unusual size of this size of this  
12 site, and somewhat the fact that it's square makes this very  
13 difficult to achieve and --

14                   CHAIRPERSON GRIFFIS: Okay. And so it clearly --

15                   MR. D'AGOSTINO: -- and have luxurious --

16                   CHAIRPERSON GRIFFIS: -- the demand for the units -

17 -

18                   MR. D'AGOSTINO: -- and have luxurious units.

19                   CHAIRPERSON GRIFFIS: -- and the size obviously  
20 impact per yard of the lot occupancy. Okay. I think -- everyone  
21 have an understanding of that? Okay.

22                   MR. D'AGOSTINO: Okay. So well, the changes, like  
23 I said, I don't know if -- you can see it all in the packet in  
24 front of you. If you'd like, I can --

25                   CHAIRPERSON GRIFFIS: Yes, we like big pictures.

1 MR. D'AGOSTINO: Right. Yes. Excuse me one  
2 second.

3 CHAIRPERSON GRIFFIS: Sure. Actually, if you  
4 would, bring the easels up closer when you do set up so that --  
5 great. And you don't -- you can tilt it out because I need  
6 everyone here to see it, too. Keep going. There, that's good.

7 And before you get into that, you also made a point  
8 in terms of the parking and you've indicated that you are at the  
9 proper required one to four. So it's not an issue for us, and  
10 the issue essentially for the parking was -- and if you'll look  
11 at the resubmitted drawings, it's fairly clear that if you went  
12 down another level you're actually all ramp, basically.

13 MR. D'AGOSTINO: Correct, yes.

14 CHAIRPERSON GRIFFIS: Just to get down to another  
15 level that has a couple more parking.

16 MR. D'AGOSTINO: That's correct.

17 CHAIRPERSON GRIFFIS: So it's actually more  
18 efficient in this size of a lot to have one level of parking than  
19 two.

20 MR. D'AGOSTINO: That is correct.

21 CHAIRPERSON GRIFFIS: Okay.

22 MR. D'AGOSTINO: That is correct. Very briefly, as  
23 you can see, the typical floor plate has the ten-yard setback  
24 that has been -- ten-foot -- I'm sorry -- ten-foot setback that  
25 has been negotiated with Avalon Bay, and the resulting floor

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1 plates.

2 You can see the two larger units in the front and  
3 the two larger -- and the two one-bedrooms in the back that have  
4 changed from the initial application.

5 CHAIRPERSON GRIFFIS: Right.

6 MR. D'AGOSTINO: And the -- there -- the elevation  
7 in the back pretty much respects what you see in the original  
8 package before you. I think the fenestration would be adjusted,  
9 but would remain the same as what is in the packet that was  
10 submitted earlier.

11 CHAIRPERSON GRIFFIS: But you don't have a site  
12 elevation that actually shows us the new shape; I mean, what this  
13 is actually --

14 MR. D'AGOSTINO: No.

15 CHAIRPERSON GRIFFIS: -- taking on is like an L-  
16 shape almost, correct?

17 MR. D'AGOSTINO: Right.

18 CHAIRPERSON GRIFFIS: You've got a base that's 30  
19 feet high and a tower that's flush on the front of the building.

20 MR. D'AGOSTINO: Correct.

21 CHAIRPERSON GRIFFIS: Okay.

22 MR. D'AGOSTINO: We do not have that at this time.

23 CHAIRPERSON GRIFFIS: That's fine. I can draw it  
24 up fast.

25 MR. D'AGOSTINO: Okay.

1 CHAIRPERSON GRIFFIS: Good.

2 VICE CHAIRPERSON RENSHAW: Mr. Chairman --

3 CHAIRPERSON GRIFFIS: Yes.

4 VICE CHAIRPERSON RENSHAW: -- that was good to have  
5 that clarification of yours, because when you talked about  
6 setting back in the rear of the building I thought it was going  
7 to be a staggered setback. In other words --

8 MR. D'AGOSTINO: No.

9 VICE CHAIRPERSON RENSHAW: -- starting with the  
10 fourth floor and then staggered back on the fifth floor and on  
11 the sixth.

12 MR. D'AGOSTINO: No.

13 VICE CHAIRPERSON RENSHAW: It's not.

14 MR. D'AGOSTINO: No.

15 VICE CHAIRPERSON RENSHAW: It's all one.

16 MR. D'AGOSTINO: It's one. It's one set -- one  
17 setback at the top of the third floor, and it sets back ten foot  
18 and then goes up the remaining floors.

19 VICE CHAIRPERSON RENSHAW: So the Chairman's  
20 diagram he's drawn for us is very helpful. Thanks.

21 MR. D'AGOSTINO: Sure.

22 CHAIRPERSON GRIFFIS: We won't submit it into the  
23 record. It's not very clean.

24 MR. D'AGOSTINO: Before you, you have the new  
25 parking layouts and I think -- I don't want --

1 CHAIRPERSON GRIFFIS: Yes. We don't have anything

2 --

3 MR. D'AGOSTINO: -- yes, I don't want to go --

4 CHAIRPERSON GRIFFIS: -- no questions in that.

5 MR. D'AGOSTINO: -- into this. It looks like  
6 everything has been --

7 CHAIRPERSON GRIFFIS: Yes. Let's just focus on  
8 what we're --

9 MR. D'AGOSTINO: And I think this one, unless you  
10 have specific questions for --

11 CHAIRPERSON GRIFFIS: Oh, yes.

12 MR. D'AGOSTINO: -- first floor, we can --

13 CHAIRPERSON GRIFFIS: Oh, first floor?

14 MR. D'AGOSTINO: This is the --

15 CHAIRPERSON GRIFFIS: This is the roof.

16 MR. D'AGOSTINO: I'm sorry. This is the roof plan.

17 VICE CHAIRPERSON RENSHAW: Yes.

18 MR. D'AGOSTINO: I'm sorry. I got --

19 CHAIRPERSON GRIFFIS: Which way do you want to go,  
20 first?

21 MR. D'AGOSTINO: No. No. We can talk about the  
22 roof, please. I can answer questions, if that's going to be the  
23 quickest way to do it.

24 CHAIRPERSON GRIFFIS: Excellent. First of all, the  
25 quick statement that 411 is -- I'm saying this sarcastically

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1 because the record doesn't always pick that up -- one of the most  
2 beautifully crafted sections of our Regulations, 411.

3           Clearly, what you've stated coming in here is that  
4 you are actually caught in a bind: if you're in conformity in  
5 one aspect of 411, you're in nonconformity in the other. I think  
6 that does arise clearly out of the site.

7           This is a special exception, however. So we look  
8 at different tests for that. One -- and also, within the  
9 jurisdiction of the Board is -- let's just call it a design  
10 review, but we can in fact look to what materials are.

11           I think it's fairly clear and I don't think we need  
12 to spend a lot of time going through all of it, but I do want to  
13 point out to the Board that I think it's actually a fairly  
14 successful way of coming into a brief conformity with 411 in  
15 terms of having those two wings at a lower level that conform to  
16 the setback; yes, indeed.

17           And if I'm not mistaken, the materials on that,  
18 there were -- the two small pieces were an EFAS (phonetic). What  
19 is the main penthouse?

20           MR. D'AGOSTINO: It's EFAS, as well.

21           CHAIRPERSON GRIFFIS: It is. Okay. But it --

22           MR. D'AGOSTINO: Yes, but -- I'm sorry.

23           CHAIRPERSON GRIFFIS: You're certainly -- you're  
24 anticipating what we're looking at is there's reveals in that  
25 that actually articulate the larger piece, and the most

1 pertinent, I think, is the flagpole that's on there.

2 Is that -- and so I think when we look at it we are  
3 looking at exactly all those elements, and I think that will be a  
4 very important point for us to either approve or deny the special  
5 exception. My point directly being, those won't go away if we  
6 approve it, correct? Maybe I should put that to the JBG person.

7 MR. BARTLEY: Is that the flagpole in particular?

8 CHAIRPERSON GRIFFIS: Well, the flagpole, but just  
9 the articulation of the penthouse.

10 MR. BARTLEY: No. This is the design as we  
11 envision it.

12 CHAIRPERSON GRIFFIS: Okay.

13 MR. BARTLEY: I mean, we certainly have to work  
14 with the Chinatown review process.

15 CHAIRPERSON GRIFFIS: Right.

16 MR. BARTLEY: And so I'm sure there'll be some  
17 elements incorporated in it, but at this point we're not  
18 anticipating deleting anything.

19 CHAIRPERSON GRIFFIS: Good. Because I do think  
20 it's an important piece. I mean, one, I think the 411 was  
21 written for a commercial law office building that accommodates a  
22 single penthouse, and we've seen this before.

23 But specifically in this case, in a residential  
24 application it becomes difficult, especially as you're trying to  
25 do, is put a roof terrace on and how do you accommodate that.

1 Oh, and while I'm on that, are we -- part of the  
2 residential rec is the dimension of that outside space, is that  
3 not correct, that we're looking at?

4 MR. D'AGOSTINO: That's correct.

5 CHAIRPERSON GRIFFIS: Okay. And our Regulations  
6 state that it has to be no less than 25 feet, I think it is.

7 MR. D'AGOSTINO: That's right.

8 CHAIRPERSON GRIFFIS: And this isn't. Now, the  
9 first question in terms of design, then, on the roof, what I'm  
10 looking at in terms of 7A on the resubmitted sheets, it appears  
11 that the deck, the tapers, cover only a third of the front  
12 portion of the building. Is that correct?

13 MR. D'AGOSTINO: The deck, I'm sorry?

14 CHAIRPERSON GRIFFIS: Yes. The actual, usable  
15 outside space there.

16 MR. D'AGOSTINO: Yes. It's --

17 CHAIRPERSON GRIFFIS: So it --

18 VICE CHAIRPERSON RENSHAW: Mr. Chairman.

19 CHAIRPERSON GRIFFIS: Yes.

20 VICE CHAIRPERSON RENSHAW: Just to ask, is the deck  
21 in the front of the building --

22 MR. D'AGOSTINO: Yes, it is.

23 VICE CHAIRPERSON RENSHAW: -- right as we see it?

24 MR. D'AGOSTINO: Yes.

25 CHAIRPERSON GRIFFIS: There's a canopy on the

1 rendering that you're looking at --

2 VICE CHAIRPERSON RENSHAW: Okay.

3 CHAIRPERSON GRIFFIS: -- that canopy or some sort  
4 of trellis that's covering that open. Now, that's -- yes.

5 MR. D'AGOSTINO: That's correct.

6 CHAIRPERSON GRIFFIS: And the usable space is  
7 essentially defined around that area. Is that correct?

8 MR. D'AGOSTINO: That is correct.

9 CHAIRPERSON GRIFFIS: Is there any reason why it  
10 didn't extend out to each corner of the building?

11 MR. D'AGOSTINO: Yes. There are two issues that  
12 kind of set the parameters for that. The nature of the site was  
13 so tight that to get the structure to work with the parking and  
14 with the units, the columns have really been locked into place by  
15 those parameters.

16 As you get to the rooftop and that structure comes  
17 through and your support points for the roof deck, because the  
18 roof deck essentially -- very quickly -- has a step in it, in  
19 order to achieve the penthouse height requirement.

20 And so in order for the structure to work we were  
21 kind of confined to those dimensions.

22 CHAIRPERSON GRIFFIS: You mean, you step down to  
23 the roof terrace?

24 MR. D'AGOSTINO: It's step-down from the rest of  
25 the outside the -- the unusable portion of the roof, but no, as

1 you enter it, no.

2 CHAIRPERSON GRIFFIS: I see.

3 MR. D'AGOSTINO: You enter it straight. The  
4 elevator on the penthouse level drops you off at the height of  
5 the roof deck. And so, but around you the structure steps, which  
6 is -- which has been done numerous times in the city when we're  
7 up against a height limit and we're trying to get this amenity in  
8 a building.

9 CHAIRPERSON GRIFFIS: Okay. So you have -- in this  
10 you have three bays, structural bays.

11 MR. D'AGOSTINO: Yes.

12 CHAIRPERSON GRIFFIS: Four columns that I can call  
13 rows, and your point is? Looking east to west you have columns  
14 one, two, three and four. And your point is, the structure  
15 between one and two and three and four are different than in the  
16 center between two and three.

17 MR. D'AGOSTINO: Yes. That is -- yes.

18 CHAIRPERSON GRIFFIS: Okay. And that difference  
19 actually means that the north and south framing of this is larger  
20 and taller than the center.

21 MR. D'AGOSTINO: Yes. If I understand your  
22 question, yes.

23 CHAIRPERSON GRIFFIS: Okay. And then even -- so if  
24 you stepped up and you actually animate it, if you put pavers on  
25 that portion you're indicating that there would be a height

1 problem?

2 MR. D'AGOSTINO: Yes, there would be a problem.

3 CHAIRPERSON GRIFFIS: Because your parapet would  
4 move up?

5 MR. D'AGOSTINO: No. The -- you would have -- you  
6 would need steps to go from the portion that is today the roof  
7 deck to the portions that are adjacent to it.

8 CHAIRPERSON GRIFFIS: Okay.

9 MR. D'AGOSTINO: And that's what put the limitation  
10 on the size from a structure standpoint.

11 CHAIRPERSON GRIFFIS: Just the steps?

12 MR. D'AGOSTINO: Well, there -- we -- there are ADA  
13 issues about the -- about accessibility to the roof deck, and  
14 there are issues regarding the size with going into the egress,  
15 as well, that is dictated by Code.

16 MR. BARTLEY: Mr. Chairman, if I could jump in,  
17 too, because this is a question that I asked, as well. I mean,  
18 we would like to have a larger roof deck, if possible. But my  
19 understanding, there were also -- I think you alluded to that  
20 there were a couple issues, that there were issues of loading and  
21 egress, if that's -- and that that's the other constraint about  
22 the size of this particular roof deck.

23 CHAIRPERSON GRIFFIS: Okay. And just to clarify  
24 that point, if you increase the size, you actually increase the  
25 Code occupancy --

1 MR. D'AGOSTINO: Yes, absolutely.

2 CHAIRPERSON GRIFFIS: -- of that area.

3 MR. D'AGOSTINO: Yes.

4 CHAIRPERSON GRIFFIS: That would then --

5 MR. BARTLEY: Yes, correct.

6 CHAIRPERSON GRIFFIS: -- that would then require  
7 another --

8 MR. BARTLEY: Would require another means of  
9 egress, I believe.

10 CHAIRPERSON GRIFFIS: -- stair coming down.

11 MR. D'AGOSTINO: Yes.

12 CHAIRPERSON GRIFFIS: Okay. That's more clear, and  
13 I think that was in the submitted piece.

14 MR. D'AGOSTINO: Yes, it was, because --

15 CHAIRPERSON GRIFFIS: Okay. And just to reiterate,  
16 clearly, the understanding is the setbacks are okay with that.  
17 What we have is in fact the differing roof height to the  
18 penthouse. Our Regulations require a single roof height. So  
19 that's what we're looking at.

20 MR. D'AGOSTINO: That is correct.

21 CHAIRPERSON GRIFFIS: Again -- well, I'm clear on  
22 that. Any other questions? Yes, sir.

23 COMMISSIONER HANNAHAM: I believe that Mr. Bartley  
24 mentioned earlier discussions with the Historic Preservation  
25 folks, and he decided against demolition. I wondered if you

1 considered other alternatives besides demolition.

2 MR. BARTLEY: We did. We considered, for example,  
3 cantilevering over all or a portion of the Rock, and we decided  
4 that that was some combination of technically and economically  
5 unfeasible to achieve. We thought briefly about a partial  
6 demolition.

7 Our experience on another site is that that's --  
8 you know -- that's pretty difficult, too, and that's -- and  
9 becoming increasingly difficult. So I might also add that the  
10 Rock has a lease, and you know, the right to occupy that space  
11 for a number of years.

12 So there's that. There's also that underlying  
13 economic factor, is that we'd have to come to some agreement with  
14 them. But really, the partial demolition, which we're doing on E  
15 Street, was quite an ordeal, I think. So that was --

16 COMMISSIONER HANNAHAM: So you did look at those  
17 but it didn't seem like an economic --

18 MR. BARTLEY: We did; we did examine those other  
19 possibilities, yes.

20 COMMISSIONER HANNAHAM: Okay. Thank you.

21 (Pause)

22 MR. QUIN: Mr. Chairman, just for the record, your  
23 question about why you could not expand it is set forth at page  
24 12 in our statement. We covered that specifically and Mr.  
25 Bartley just described it.

1 CHAIRPERSON GRIFFIS: That's probably why I had it  
2 in mind.

3 MR. QUIN: Okay. That concludes the testimony of  
4 our architect. Unless there are further questions we'd like to  
5 proceed to our economic -- real estate economic consultant as our  
6 next witness.

7 CHAIRPERSON GRIFFIS: Good. Why don't we move --  
8 well, and just for my clarification, again, to restate that the  
9 loading has gone away.

10 MR. QUIN: That's correct.

11 CHAIRPERSON GRIFFIS: Based on the units.

12 MR. QUIN: Based on unit count, yes.

13 CHAIRPERSON GRIFFIS: Okay. Good. And is there --  
14 Board members, is there any concern -- I did skip by it pretty  
15 quickly, but is there any concern in terms of the ground level?  
16 Is there an understanding of how it -- the building's going to be  
17 loaded and unloaded?

18 VICE CHAIRPERSON RENSHAW: Mr. Chairman, there is  
19 the statement in the Avalon Bay letter about loading from 6<sup>th</sup>  
20 Street through the front entry, and I think we should discuss  
21 that.

22 CHAIRPERSON GRIFFIS: Okay. Is that something the  
23 architect can discuss or --

24 MR. QUIN: The architect can discuss that, yes.

25 MR. D'AGOSTINO: The -- essentially, move-ins could

1 happen in two ways. There's -- there is the possibility to move  
2 in through the front door on 6<sup>th</sup> Street. There's also the  
3 possibility to keep the space that was once envisioned as the  
4 service -- as a service loading dock, and appropriate that for  
5 move-in/move-out on an as-needed basis.

6 That portion of the building there still has to be  
7 passageway for waste management pickup. So that back corner of  
8 the building still has a platform that will remain, and passage  
9 to the alleyway. So there are two options that can be pursued by  
10 the applicant.

11 CHAIRPERSON GRIFFIS: And do you have any knowledge  
12 -- there is a statement in the record about the size of moving  
13 vans, and quite frankly, the Board has heard numerous different  
14 stories on that.

15 Do you have any knowledge in terms of when you're  
16 designing residential buildings what are the typical for this  
17 unit size, typical trucks that you might be looking at?

18 MR. D'AGOSTINO: I think the typical truck size, in  
19 all honesty, given the nature of where it is and I think you  
20 would probably see because of the bigger units, a 30-foot  
21 straight U-Haul-type truck. I think that probably the majority  
22 of them would be smaller. That's my personal opinion.

23 CHAIRPERSON GRIFFIS: Okay.

24 MR. D'AGOSTINO: I think most of them would be  
25 smaller, but occasionally --

1 CHAIRPERSON GRIFFIS: And the provisions for if  
2 there was a full-size semi that came in that had four units  
3 moving in at once, how would that be accommodated? Would that be  
4 through the front?

5 MR. D'AGOSTINO: I think that would have to be  
6 through the front.

7 CHAIRPERSON GRIFFIS: Or they could offload it to  
8 smaller trucks and facilitate bringing it in the back end of the  
9 building or --

10 MR. D'AGOSTINO: Yes. I mean, there are a number  
11 of -- there are always other options --

12 CHAIRPERSON GRIFFIS: Right.

13 MR. D'AGOSTINO: -- that you can pursue. But I  
14 think the most obvious one would be to be able to get the space  
15 available in front of the building for that allotted time.

16 CHAIRPERSON GRIFFIS: I see. Right, just a  
17 temporary no-parking permit.

18 MR. D'AGOSTINO: Right. Exactly.

19 CHAIRPERSON GRIFFIS: Okay.

20 MR. D'AGOSTINO: Exactly.

21 CHAIRPERSON GRIFFIS: Other questions?

22 VICE CHAIRPERSON RENSHAW: Are there meter spaces  
23 in front of the building, or would these trucks be taking up  
24 metered spacing -- spaces?

25 MR. D'AGOSTINO: Boy --

1 CHAIRPERSON GRIFFIS: We've got photographs; we can  
2 take a look.

3 MR. D'AGOSTINO: Yes, I'm sorry. I don't remember  
4 --

5 VICE CHAIRPERSON RENSHAW: And also, the side  
6 entrance, Mr. D'Agostino --

7 MR. D'AGOSTINO: Yes.

8 VICE CHAIRPERSON RENSHAW: -- that you mentioned,  
9 is that a narrow alleyway going to the rear alley?

10 MR. D'AGOSTINO: No. I'm sorry. It would be  
11 directly onto the rear alley.

12 VICE CHAIRPERSON RENSHAW: Directly onto the rear  
13 alley.

14 MR. D'AGOSTINO: Correct.

15 CHAIRPERSON GRIFFIS: You do have a curb in fact  
16 right in front of your building. Is that correct?

17 MR. D'AGOSTINO: Yes. Yes. I was just reminded of  
18 that. We -- this is currently a parking lot that is served from  
19 us. So there are no meters directly in front of that.

20 CHAIRPERSON GRIFFIS: So you could accommodate like  
21 a '50s design of drive into your unit.

22 MR. D'AGOSTINO: We could; we could. I think I can  
23 accurately characterize Avalon Bay's concern -- I see Richard  
24 Koch is here from Avalon Bay -- as not blocking the alley, the  
25 entrances to both their parking garage and our parking garage, is

1 their primary concern --

2 CHAIRPERSON GRIFFIS: Okay. You --

3 MR. D'AGOSTINO: -- by trucks pulling up there and  
4 blocking the alley.

5 CHAIRPERSON GRIFFIS: -- you've got a 75-foot  
6 frontage.

7 MR. D'AGOSTINO: Right.

8 CHAIRPERSON GRIFFIS: So if you blocked it off  
9 you'd be blocking off parking in front of your building.

10 MR. D'AGOSTINO: Right.

11 CHAIRPERSON GRIFFIS: It wouldn't be --

12 MR. D'AGOSTINO: Right. That's correct.

13 CHAIRPERSON GRIFFIS: Clearly wouldn't be any  
14 common sense if you parked down the block and walked it all up  
15 there. Okay. I think we just need a handle on, you know, the  
16 realities of how it would actually function. All right. No  
17 other questions on that?

18 (Pause)

19 CHAIRPERSON GRIFFIS: Okay. I think it might be  
20 advantageous to walk us through, first of all, the alley system  
21 and then you had indicated that there's a possibility of using  
22 what was anticipated at one point as a service loading -- the  
23 loading dock.

24 Just walk us through quickly how a vehicle would  
25 travel. Do you have a site plan at this scale?

1 MR. D'AGOSTINO: No, I do not.

2 CHAIRPERSON GRIFFIS: Do we have a site plan in --  
3 Office of Planning put in a site plan or an aerial?

4 MS. BROWN-ROBERTS: I think there was an aerial --

5 CHAIRPERSON GRIFFIS: Okay. Board members, let's  
6 go to the aerial documentation and -- that's the wrong case.  
7 Okay. Do you have that? All right. Did -- on the north side  
8 you have the wide alley. It's 30 feet, if I recall, correct?

9 MR. D'AGOSTINO: Yes.

10 CHAIRPERSON GRIFFIS: It goes back in to feed the  
11 north-south alley, which is 15 feet.

12 MR. D'AGOSTINO: Sixteen feet.

13 CHAIRPERSON GRIFFIS: Sixteen feet.

14 MR. D'AGOSTINO: Yes.

15 CHAIRPERSON GRIFFIS: Not splitting hairs.

16 MR. D'AGOSTINO: Right.

17 CHAIRPERSON GRIFFIS: It's less than 30. Okay. So  
18 you would take the right turn onto that alley traveling south,  
19 and then get into the loading bays of the building, if need be,  
20 or the -- there's the parking access and vehicle access to the  
21 building. Is that correct?

22 MR. D'AGOSTINO: Yes. I think that would be  
23 possible for the small trucks to achieve.

24 CHAIRPERSON GRIFFIS: Okay. Now, there's an alley  
25 on the south side of the building.

1 MR. BARTLEY: No, that's not -- there is no alley.

2 MR. D'AGOSTINO: There's no alley.

3 CHAIRPERSON GRIFFIS: Okay.

4 MR. BARTLEY: It's to the east.

5 MR. D'AGOSTINO: There's one to the east and one to  
6 the north, right after the Rock.

7 CHAIRPERSON GRIFFIS: Okay. So your structure,  
8 there's another existing structure and then there's a vacant  
9 parcel?

10 MR. D'AGOSTINO: There's a vacant parcel.

11 MR. BARTLEY: Correct, and we own that vacant  
12 parcel, the -- this --

13 CHAIRPERSON GRIFFIS: And that's Lot 9, was it?

14 MR. BARTLEY: You have me at a disadvantage without  
15 a --

16 CHAIRPERSON GRIFFIS: Lot 5.

17 MR. D'AGOSTINO: It's Lot 5 here.

18 CHAIRPERSON GRIFFIS: Okay.

19 MR. QUIN: Look at Tab A.

20 CHAIRPERSON GRIFFIS: Good.

21 MR. QUIN: That will show you, and it's the last  
22 exhibit that shows the lot configurations.

23 CHAIRPERSON GRIFFIS: Right.

24 MR. QUIN: Lot 5 is the lot to the south.

25 CHAIRPERSON GRIFFIS: Okay. There was just some

1 question about if there were smaller alleys feeding that. I  
2 think we're clear. Is everyone clear about that?

3 VICE CHAIRPERSON RENSHAW: Well, since Avalon Bay  
4 has put forth a condition that the loading be in the front, have  
5 you agreed to that?

6 MR. QUIN: Yes.

7 VICE CHAIRPERSON RENSHAW: You have agreed. Is  
8 there any way that you might be able to load from the 30-foot  
9 alley to the side of your building, since that's ample space, any  
10 kind of a doorway that is going to be there that would lead  
11 directly into an elevator?

12 MR. BARTLEY: I don't see a way to actually go  
13 through the wrong space. It covers 100 percent of that lot. I'm  
14 sure as a practical matter that trucks will park there and bring  
15 their goods around either to the back or the front. It's  
16 probably equidistant, really, if one parked a truck in that 30-  
17 foot space.

18 VICE CHAIRPERSON RENSHAW: But you have no doorway?

19 MR. BARTLEY: No.

20 VICE CHAIRPERSON RENSHAW: No, okay.

21 MR. BARTLEY: There's no -- there currently is no  
22 doorway and there's no provision for a connection through from  
23 the subject lot through the Rock building.

24 (Pause)

25 MR. QUIN: Thank you. Okay. Thanks, Tony. I

1 think we'll proceed now with Mr. -- with Len.

2 CHAIRPERSON GRIFFIS: Let us have a 30-second delay  
3 here.

4 (Off the Record)

5 VICE CHAIRPERSON RENSHAW: There was some  
6 confusion, hence, all of the questions that we have been putting  
7 to you.

8 MR. BARTLEY: That's quite all right. We can  
9 appreciate that. You should see us trying to describe the site  
10 to people sometimes.

11 CHAIRPERSON GRIFFIS: Okay. I think there's a  
12 lesson to be learned here. A nice big site plan would be very  
13 helpful. However, I think we have a good understanding. That's  
14 your aerial, and that's what we have.

15 We're looking at it from -- OP has an excellent one  
16 that actually demarcates all of this site. The difficulty with  
17 the aerials clearly is the scale, and it's hard to differentiate  
18 whether it's a vacant lot, a building or an alley.

19 I think we have total clarification and I will  
20 restate it so that I believe it's correct. There is a 30-foot  
21 alley on the north side of the subject site. It runs east-west.  
22 It accesses a 15-foot alley. It runs north-south past the  
23 building.

24 The load -- the parking, the vehicle access to the  
25 building comes from the 15-foot alley and you drive in west down

1 the ramp. And there it is.

2 MR. BARTLEY: Mr. Chairman, I'm informed we do have  
3 a large-scale site plan. Unfortunately, we don't have 15 copies  
4 to submit for the record.

5 CHAIRPERSON GRIFFIS: Do you have it on board here?

6 MR. BARTLEY: Can we -- we have it on board. We  
7 could show it --

8 CHAIRPERSON GRIFFIS: Put it up on the board.

9 MR. BARTLEY: -- if you're -- if that would be  
10 acceptable.

11 CHAIRPERSON GRIFFIS: We'll get a copy of it later.

12 MR. QUIN: Okay.

13 CHAIRPERSON GRIFFIS: Yes. There is parking north  
14 and south on the street and they're metered, if you look at the  
15 photographs that were submitted. What -- the interesting piece  
16 is there is actually no parking in front of this building because  
17 there's a large curb cut, because if I'm not mistaken, this was  
18 surface parking, correct?

19 (Pause)

20 MR. QUIN: Okay. This is a survey of the site and  
21 just -- is here. North is that way. This is the Arena Café.  
22 This is the Myreene apartment building, which is currently being  
23 renovated, a four-story structure that has been abandoned, or had  
24 been abandoned until recent purchase.

25 This is a surface lot that Lee Dapton (phonetic)

1 owns. We're currently permitting Avalon Bay to stage on that  
2 site some of their construction materials. This two-story  
3 masonry structure is occupied by Gallery Place -- owned and  
4 occupied by Nick Wilson, Memphis Printing Company.

5 It was a property that we had endeavored to acquire  
6 and we weren't successful. This is the subject site currently  
7 used as a surface parking lot, and this three-story masonry  
8 structure is the Rock. It's a sports bar. Its leased 100  
9 percent to the Rock.

10 VICE CHAIRPERSON RENSHAW: Mr. Quin, excuse me.  
11 Could you please help her with the microphone just so we can pick  
12 up everything that you're saying, please.

13 MR. QUIN: Can I pick it up?

14 CHAIRPERSON GRIFFIS: Yes.

15 MR. QUIN: A little bit. Okay. This three-story  
16 masonry structure is the Rock Sports Bar. This is the 30-foot  
17 alley that runs east-west from 6<sup>th</sup> Street. The portion -- it had  
18 previously run through to 5<sup>th</sup> Street, but was closed as part of  
19 the Avalon Bay development, or prior to Avalon Bay's acquisition,  
20 I believe.

21 CHAIRPERSON GRIFFIS: Okay. I think all we need to  
22 do is take -- if you Board members would focus on the fact that  
23 the 6<sup>th</sup> Street, the front entrance, you pull into the 30-foot  
24 alley, you take a right into the 15-, 16-foot alley and you  
25 access the building from the rear.

1 MR. BARTLEY: Yes. Or alternatively, one could  
2 approach from the south through the 15-foot alley.

3 CHAIRPERSON GRIFFIS: Is it open to G Street?

4 MR. BARTLEY: It's open to G Street and my  
5 understanding, it will remain open to G Street.

6 CHAIRPERSON GRIFFIS: Oh, all right. Everybody  
7 clear?

8 VICE CHAIRPERSON RENSHAW: But again, you own the  
9 lot that is right next to the printing company to the south.

10 MR. BARTLEY: Correct.

11 VICE CHAIRPERSON RENSHAW: To the south.

12 MR. BARTLEY: Correct.

13 VICE CHAIRPERSON RENSHAW: Okay.

14 CHAIRPERSON GRIFFIS: Okay. And of course, we'll  
15 just take a copy of that into the record so that we can --

16 MR. BARTLEY: Okay. We'll have to submit that at a  
17 later date.

18 CHAIRPERSON GRIFFIS: Exactly. That's fine. Okay.  
19 Other questions? Then where did we interrupt you? If you  
20 wouldn't mind just turning the mike on.

21 MR. QUIN: Sorry. Leonard Bogorad, an expert in  
22 real estate economics, and I think his résumé either had been or  
23 is being submitted to you, as well as his report.

24 CHAIRPERSON GRIFFIS: Oh, good. There's a written  
25 submission?

1                   MR. QUIN:     Yes.     That way, I think he can  
2 abbreviate his presentation.

3                   CHAIRPERSON GRIFFIS:   Yes, that would be pertinent.

4                   And if I'm not mistaken, Board members, if you wouldn't mind  
5 taking a look at the résumé submitted for us. Clearly, the case  
6 is not being rested on an economic issue.

7                   Actually, the economic issue, if I understand it  
8 correctly as stated in the written submission, arises out of the  
9 size of the lot and the land itself. And so what we are about to  
10 hear is testimony that will convince us or not that that aspect  
11 is also a reality in terms of the difficulty in developing this  
12 site for the residential and manner of right use. Is that  
13 correct?

14                   MR. QUIN:     That's correct. It's basically the size  
15 of the site and the shape, and this location provides the  
16 practical difficulty and the unusual situation. That results in  
17 the maximum that we can build.

18                   And when you deal with economics it has an obvious  
19 impact on the economics. All we're saying is if you were --  
20 tried to make it work without the variances, you would not have a  
21 marketable project. Is that true?

22                   MR. BOGORAD:   Yes, it is not -- it would not be a  
23 financially viable project.

24                   MR. QUIN:     Okay.

25                   CHAIRPERSON GRIFFIS:   Okay. Any issues, questions

1 about the résumé, and it's Bogorad?

2 MR. BOGORAD: Bogorad, yes.

3 CHAIRPERSON GRIFFIS: Bogorad. Okay. Mr. Bogorad  
4 is an expert witness in -- I'm sorry. Would you just restate it  
5 briefly?

6 MR. QUIN: Real estate economics.

7 CHAIRPERSON GRIFFIS: Real estate economics.  
8 Questions? Very well. We can take it as an expert witness, and  
9 I would ask you just to summarize. I think we have a firm  
10 understanding of what you're trying to say and the written  
11 submission may go well into that. So let me let you continue.

12 MR. BOGORAD: Okay. Thank you, Mr. Chairperson and  
13 the Board. Yes. I'll try to be very brief. As you've just  
14 heard, we were retained to conduct basically an economic  
15 feasibility analysis of this proposed development, looking at  
16 what would be feasible if variances were not granted, and what  
17 would happen if the variances were granted, as more typical of  
18 what would occur in a more normal site.

19 I think you can tell from my résumé that our firm  
20 and myself have been involved in a lot of condominium and rental  
21 apartment projects in the District and in suburban areas, as well  
22 as throughout the country.

23 So we have a good understanding of what is  
24 necessary financially to make a project actually doable. As you  
25 heard, the site of this proposed development is only .15 acres,

1 or 6375 square feet, and this is extraordinarily small for an  
2 apartment development site.

3 If the site were developed by right with no  
4 variances it could accommodate only 44,310 salable square feet;  
5 at most, 42 rather small units or a fewer number of some larger  
6 units. With the requested variances the site can accommodate 20  
7 percent more salable space, about 53,000 square feet in 46 units.

8 It's still a small project, but as it turned out  
9 based on our analysis we found that it was just big enough to be  
10 economically feasible with the variances. I think a later  
11 witness will put the size of the site more in context, but it's  
12 been mentioned this is exceptionally small.

13 All the other major projects downtown at this point  
14 that are in the works are in the 15,000 to 45,000 square foot  
15 site range. All of the planned or under construction projects  
16 have 100 or more units and more than half of them have 200 or  
17 more units.

18 So that's really what's driving the financial  
19 problems with the site if you don't get the variances approved.

20 CHAIRPERSON GRIFFIS: How does that -- I'm not sure  
21 I understand your point of how does it relate to --

22 MR. BOGORAD: Sure.

23 CHAIRPERSON GRIFFIS: -- number of units in the  
24 other buildings around downtown, and what does it matter that  
25 there are 200 a block away or across an alley?

1 MR. BOGORAD: Yes. I was just trying to make it  
2 clear, this -- you know -- because this -- it`s certainly  
3 possible to do a condominium development downtown in a normal  
4 site in an economically feasible fashion.

5 So I would not be here saying you need a variance  
6 to do any kind of condominium development. Rates of return are  
7 acceptable now, certainly, on a normal kind of site.

8 But as I'll get into in a minute, it basically gets  
9 back to the amount of cost relative to the revenues, given the  
10 size of the site that make this site not feasible unless you can  
11 accomplish some of the changes that have been requested.

12 CHAIRPERSON GRIFFIS: So your point in comparison  
13 is the fact that typically this is what has happened. It's 100  
14 or above units based on the economics of building a building.

15 MR. BOGORAD: Right. And as has been discussed,  
16 many of the same core factors, the same elevators and so on work  
17 for 150 units as work for a very small project that would be  
18 allowed by right here.

19 And yet -- so you have the same costs that have to  
20 get spread over much less revenues, and that's really what's  
21 driving the problem here economically.

22 CHAIRPERSON GRIFFIS: Okay.

23 MR. BOGORAD: The -- and the development profits,  
24 if you develop this by right the development profit is the  
25 percentage of sales proceeds, as is detailed in the report there,

1 would be only 4.5 percent and that's versus the required 15 to 20  
2 percent for investors and developers, and 13 percent is the  
3 absolute minimum.

4 So this is way below that. Another measure of  
5 return, the unleveraged internal rate of return would be only  
6 10.1 percent, and we generally find for this kind of condominium  
7 project that you need a 25 to 30 percent rate of return, and  
8 certainly, about 20 percent is the absolute minimum.

9 CHAIRPERSON GRIFFIS: Okay. And the point there,  
10 not getting into all the specifics of rates of return and  
11 internal rates of return, et cetera.

12 MR. BOGORAD: Okay.

13 CHAIRPERSON GRIFFIS: But the point there, if I  
14 understand it, is the fact of the matter, in your pro forma if  
15 you can't show you're going to make a certain amount of money,  
16 you can't get this financed.

17 MR. BOGORAD: Exactly right.

18 CHAIRPERSON GRIFFIS: And it doesn't matter who the  
19 developer is at one level, and that's where it goes to in terms  
20 of the viability of actually anybody building on this site. Is  
21 that correct?

22 MR. BOGORAD: Exactly right. It would not be  
23 built, in our opinion, given the economic realities of it.

24 CHAIRPERSON GRIFFIS: Okay.

25 MR. BOGORAD: And again, the costs -- the really --

1 the thing that's really driving this is that you have major  
2 development expenses, site work, excavation and elevators and so  
3 on and so forth that are virtually identical with this small  
4 project as they would be for a larger one.

5 MR. QUIN: I think that probably answers the  
6 questions of the Board. I don't want to --

7 CHAIRPERSON GRIFFIS: I think it does. I think  
8 that pretty much covers it, unless there's other -- we seem to be  
9 going back to the same point in terms of the size and the  
10 viability of the project.

11 And I think it's fairly straightforward in actually  
12 scanning some of this. We will take great -- make a joke on  
13 that. Board members, any other questions on financing and  
14 economics? Everyone understands the level of, well, what's being  
15 presented?

16 Okay. Clearly, the Board is -- takes with great  
17 care, concern and focus when economic issues come before us for  
18 area variances. And so I think it's fairly clear on how this is  
19 factoring in with that respect. So any other questions? Some,  
20 no need for but last statements, summaries?

21 VICE CHAIRPERSON RENSHAW: Just to say --

22 CHAIRPERSON GRIFFIS: Ms. Renshaw.

23 VICE CHAIRPERSON RENSHAW: -- Mr. Chairman, that  
24 the report handed to us by Holland and Knight, though, talks so  
25 persuasively that the critical mass had to be the 55 units. And

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1 now we are back to 46 units, but that we'll now say is your  
2 critical mass and you can't go below that.

3 MR. BOGORAD: Yes. I mean, this is really at the  
4 very bottom of the acceptable range with the variances, and I  
5 think that is an important point. It's -- we would clearly like  
6 to see larger, and it would be more profitable and -- but it is  
7 just profitable and would be finance-able, we think, at this  
8 size, but no less.

9 VICE CHAIRPERSON RENSHAW: All right. Thank you  
10 for that.

11 CHAIRPERSON GRIFFIS: Good. Thank you very much.

12 MR. BOGORAD: Thank you.

13 MR. QUIN: Mr. Chairman and members of the Board,  
14 our last witness and our clean-up hitter is Mr. Steven Sher. He  
15 will be brief, no more than two --

16 MR. SHER: Never happen.

17 MR. SHER: -- two minutes.

18 CHAIRPERSON GRIFFIS: I was going to say, that's no  
19 guarantee, is it?

20 MR. QUIN: Yes, it's a guarantee.

21 CHAIRPERSON GRIFFIS: Okay.

22 VICE CHAIRPERSON RENSHAW: But don't we have to  
23 review Mr. Sher's résumé?

24 MR. SHER: I agree.

25 CHAIRPERSON GRIFFIS: Are you submitting him as an

1 expert witness?

2 MR. QUIN: Yes, in urban planning.

3 CHAIRPERSON GRIFFIS: Okay. Has the résumé changed  
4 since last we saw it?

5 MR. SHER: No, sir.

6 CHAIRPERSON GRIFFIS: Okay. Any questions, Board  
7 members? I take that as a consensus that we can accept it as an  
8 expert witness. And I would just underscore the fact that we do  
9 have two other cases that we're very concerned about getting to.  
10 This is a very complicated and important case so we've taken the  
11 time that we do need.

12 But there's no reason to be redundant on issues  
13 that we've kind of covered. So I will set it to you to walk us  
14 through your report.

15 MR. SHER: I'd like to have you turn to the last  
16 two pages. Next to the last page is an aerial photograph and the  
17 reason for spending just a little bit of time with this is, this  
18 is a 1995 aerial photograph.

19 CHAIRPERSON GRIFFIS: Indeed.

20 MR. SHER: And I wanted to just, as you see the  
21 site, which is sort of in the lower center portion of the square,  
22 underscore what's happened in that neighborhood, because this  
23 doesn't show, for example, the MCI Center, which has replaced 613  
24 G Street, 601 G Street and the parking lot in the lower left-hand  
25 corner of the property.

1           It doesn't show the development underway right now  
2 for Gallery Place, which is on the south side of H Street and  
3 east-west of 6<sup>th</sup> Street on the left center portion of the  
4 property.

5           It doesn't show the Avalon Bay apartment house,  
6 which is well under construction immediately east of the property  
7 on that parking lot, and it doesn't show up in the upper right-  
8 hand corner the Paradigm apartment building at 450 Mass Avenue,  
9 which is a hole in the ground at this point, underway, as well.

10           All of that is to underscore that residential  
11 development and other development is very much occurring in this  
12 area, changing the character of the area consistent with the  
13 city's goals and desires for what should happen in this location.

14           The last page, which is Attachment 2, is just a  
15 comparison to again underscore the small size of this site  
16 relative to other residential development sites in housing  
17 priority areas A and B. There are six other sites listed which  
18 range in size from a little under 15,000 square feet to as high  
19 as about 45,000 square feet, all substantially larger sites than  
20 the subject property, which is only 6,375 square feet.

21           The average size is somewhere in the range of  
22 30,000 square feet. And as you have recognized earlier, the  
23 difficulties in developing a site of this size, given the core  
24 and all the factors that relate to the number of buildable units  
25 you can surround that core with, basically underlie the reason

1 for our relief before the Court.

2 The written report explains that all in detail, but  
3 I will not add anything further at this point.

4 CHAIRPERSON GRIFFIS: Thank you. Questions?

5 VICE CHAIRPERSON RENSHAW: Mr. Sher, would you just  
6 explain to the Board what else could have been done with that  
7 site, small as it is?

8 MR. SHER: That's -- it is an interesting question  
9 and I don't want to spend a lot of time on it. It is in Housing  
10 Priority Area B under the Downtown Development District. Since  
11 it is a parking lot, any development that occurs on that site  
12 would be new development; therefore, subject to the DD.

13 The DD requires a minimum of 4.5 FAR of housing on  
14 this site. It also requires a minimum of the .5 FAR retail,  
15 which we are satisfying on the adjoining property and no relief  
16 is required here.

17 But in order to build that 4.5 FAR of residential,  
18 and if you kept to the rear yard requirement, if you kept to the  
19 lot occupancy requirement, you would be in at least a six-story  
20 building.

21 And that, too, goes to the question of why we need  
22 relief, because you can't just build a two- or three-story walk-  
23 up here because you have to get at least four and a half FAR,  
24 which takes you up at least six stories, which means you need an  
25 elevator, which means you need two elevators, two sets of stairs

1 and all the rest of those things.

2 So if you're going to go up six stories and build  
3 that much, put in that much infrastructure, there's no reason not  
4 to take that up to the maximum permitted, because otherwise you  
5 can't do anything.

6 CHAIRPERSON GRIFFIS: And as stated, the new  
7 regulations for that site actually have co-FAR.

8 MR. SHER: There's no maximum FAR.

9 CHAIRPERSON GRIFFIS: Right.

10 MR. SHER: But there is still a minimum FAR  
11 required --

12 CHAIRPERSON GRIFFIS: Indeed.

13 MR. SHER: -- of 4.5.

14 CHAIRPERSON GRIFFIS: Indeed. Well, I think that's  
15 an excellent point to bring up and a good question. Clearly,  
16 this is focused to be residential, and so therefore, you go into  
17 where we are now with this particular application is how do you  
18 make a residential development work. Is that correct?

19 MR. SHER: That is correct.

20 CHAIRPERSON GRIFFIS: Okay.

21 MR. SHER: And again, the plan provisions which are  
22 set forth in the outline all specifically call for making this  
23 part of residential going from Pennsylvania Avenue up to Mt.  
24 Vernon Square.

25 CHAIRPERSON GRIFFIS: Okay. Any other questions?

1 Let's take a minute to -- it's a good outline of the report and I  
2 think it is very helpful. I would note on page 6, going towards  
3 the standards and it's outlined as has been stated, the  
4 extraordinary situation and conditions, clearly, the small size  
5 we've talked extensively about.

6 The adjoining property, it actually is noted that  
7 there is potential -- I would just say historic issues with the  
8 adjoining property. And then the DD requirement of the FAR, 4.5  
9 per residential at 80 percent maximum lot occupancy, clearly,  
10 we're in understanding of that with a 6,000 square foot  
11 configuration in the lots it would be tight.

12 Okay. Any other questions? Good. Thank you very  
13 much.

14 MR. QUIN: Mr. Chairman, members of the Board, that  
15 completes our direct presentation.

16 CHAIRPERSON GRIFFIS: Fabulous. Questions from the  
17 Board? Okay. Let's move quickly on then to Government reports -  
18 - Office of Planning. If they would -- we would welcome them  
19 this morning and they can walk us through their report.

20 MS. BROWN-ROBERTS: Good morning, Mr. Chairman, and  
21 members of the Board. I am Maxine Brown-Roberts from the Office  
22 of Planning. The subject site is zoned in DD/C-2-C, a zoning  
23 district with an overlay intended to achieve a mix of residential  
24 and commercial development.

25 The property is also within the Chinatown area of

1 DD District. This area is so designated to protect the ethnic  
2 and cultural nature of the Chinatown area. Regarding the  
3 variances, as we heard this morning, I think the thrust of the  
4 uniqueness goes to the site, the size -- the small size of the  
5 property, the lot area and the rear yard variances.

6 The property is unique due to an exceptional  
7 situation caused by size -- the small size of the lot area.  
8 Although the property appears square, level and development of  
9 the property small for modern construction and applicable zoning  
10 standards.

11 The relatively small size and square shape does not  
12 allow for the distribution of various zoning requirements. Lot  
13 occupancy and the rear yard setback will truncate the building  
14 area to an exceptionally narrow space.

15 There has been some concern that without this  
16 setback the light and air along the alley will be blocked. To  
17 alleviate such a situation the applicant has proposed to provide  
18 a ten-foot setback from the property line from the fourth floor  
19 upward.

20 Therefore, a variance -- granting the variance will  
21 not be detrimental to the community and will fulfill the intent  
22 of the Zoning Regulations and map. Regarding the residential  
23 recreational space, granting the variances from these  
24 requirements would not impair the integrity of the Zoning  
25 Regulations.

1           The applicant is providing some space that will  
2           serve the residents, and so will satisfy the intent of the Zoning  
3           Regulations.     Further, there are a number of recreational  
4           facilities, such as the MCI Center and other -- and the mall in  
5           close proximity to the site.

6           Regarding the special exception for the rooftop  
7           structure, section 411.11 of the Zoning Regulations allows for  
8           deviations from the requirements of Section 411.15.   Granting the  
9           special exception to allow two inclusions would not impair the  
10          intent of the roof structure requirements.

11          The enclosure will not affect the light and air of  
12          adjacent buildings, as the height of the building and the fact  
13          that the enclosures would only be seen from other high points.  
14          Additionally, the highest enclosure is located in the center of  
15          the building and, therefore, will not block the light and air of  
16          adjacent buildings in stream.

17          The Office of Planning therefore recommends that  
18          the Board approve the requested variances and special exception.

19          Thank you, Mr. Chairman.

20                 CHAIRPERSON GRIFFIS:   Thank you very much.   Are  
21                 there any questions from the Board for Office of Planning?   Does  
22                 the applicant have any questions of the Office of Planning, and  
23                 did you receive their supplemental report?

24                 MR. QUIN:   Yes, we did.

25                 CHAIRPERSON GRIFFIS:   Okay.

1 MR. QUIN: No questions.

2 CHAIRPERSON GRIFFIS: Thank you. Ms. Renshaw.

3 VICE CHAIRPERSON RENSHAW: Just a question for  
4 either the Office of Planning or the applicant. I note on the  
5 color photographs that were in our packets there is a mural on  
6 the side of a building that is the space to be developed. Is  
7 that correct? And I wondered if that mural is going to be saved  
8 or what special requirements.

9 MS. BROWN-ROBERTS: I would ask the applicant to  
10 answer that, because we have no knowledge.

11 VICE CHAIRPERSON RENSHAW: All right.

12 MR. BARTLEY: We do not have any plans to try to  
13 save that mural. It would be covered by the development.

14 VICE CHAIRPERSON RENSHAW: Has the Humanities --  
15 Arts and Humanities Office asked you to do anything with that --

16 MR. BARTLEY: No.

17 VICE CHAIRPERSON RENSHAW: -- to try to save it?

18 MR. BARTLEY: No, they have not.

19 VICE CHAIRPERSON RENSHAW: Do you know anything  
20 about the artist? Has anybody approached you?

21 MR. BARTLEY: I have not been approached by anyone  
22 and I do not know anything about that artist.

23 VICE CHAIRPERSON RENSHAW: And the ANC did not ask  
24 for --

25 MR. BARTLEY: The ANC did not ask anything.

1 VICE CHAIRPERSON RENSHAW: -- this to be saved?

2 All right.

3 CHAIRPERSON GRIFFIS: Okay. Is that a banner  
4 that's applied to the building or is it actually painted on the  
5 building?

6 MR. BARTLEY: I believe it's painted on, but I  
7 don't know.

8 CHAIRPERSON GRIFFIS: Okay. All right. Well,  
9 there it is. Probably worth looking into. It's an interesting  
10 point. You know, the city that had vacant lots and we tried to  
11 animate the sides of buildings and were frankly not very visually  
12 effective, one might say, and now we're having to deal with the  
13 temporary beautifications.

14 But it may well be looking into and getting  
15 research; if not, just getting it documented by photographs and  
16 put it into the new D.C. Museum.

17 MR. BARTLEY: That's what we've done on other  
18 sites.

19 CHAIRPERSON GRIFFIS: Indeed.

20 MR. BARTLEY: And that's a good idea.

21 CHAIRPERSON GRIFFIS: Good. All right. Before we  
22 go too farther down our -- outside our jurisdiction let us move  
23 on to other reports for -- ANC report, which -- let's just  
24 highlight and summarize, I believe it is Exhibit 31. Ms.  
25 Renshaw, you have that?

1 VICE CHAIRPERSON RENSHAW: Yes, a letter from ANC-  
2 6A, and it is signed by the Presiding Chair, Vice Chairman  
3 Daniel Pernell, III. And in brief he states that at its  
4 regularly scheduled meeting on July 11, 2002, a quorum was  
5 present.

6 ANC-6A voted unanimously to support the request for  
7 special exception and variance relief for the project. I just  
8 want to mention, Mr. Chairman, that this letter is very complete  
9 and it serves as an example of how ANCs can develop the argument  
10 for an applicant in support of a project.

11 CHAIRPERSON GRIFFIS: Good. Thank you, Ms.  
12 Renshaw. However, it was filed late, if I'm not mistaken.

13 VICE CHAIRPERSON RENSHAW: It was. We received it  
14 today.

15 CHAIRPERSON GRIFFIS: Okay. Any objection to  
16 waiving the rules to accept the ANC report? Okay. Any  
17 objections to holding it up as an example -- no. Okay.

18 VICE CHAIRPERSON RENSHAW: Better not be.

19 CHAIRPERSON GRIFFIS: Okay. Let us move on then.  
20 In terms of other government reports, I don't have any notes --  
21 rather DDOT did file a report. Didn't I see that? Am I mistaken  
22 on this case? Are you aware of a DDOT report?

23 MR. QUIN: I do not believe there's a DDOT report.

24 CHAIRPERSON GRIFFIS: Okay. I'm probably mistaken.  
25 Let's move on, then. If it does come up we can note it. I

1 would just reiterate what has already been stated. There are  
2 numerous letters of support from the adjacent -- does the  
3 Ackridge Company have an adjacent project?

4 MR. QUIN: The Gallery Place project.

5 CHAIRPERSON GRIFFIS: Indeed. Indeed, and that was  
6 stated in the letter and they had talked about that. Downtown  
7 Cluster of Congregations is also in support of that, and  
8 actually, is in strong support in terms of the residential and  
9 providing residential in the downtown area.

10 That kind of takes the flavor of all the other  
11 letters. I also believe -- okay. Any others?

12 SECRETARY PRUITT: Excuse me.

13 CHAIRPERSON GRIFFIS: Yes.

14 SECRETARY PRUITT: I just wanted to indicate that  
15 Councilman Contanyo (phonetic) also sent in a letter on this  
16 particular case.

17 CHAIRPERSON GRIFFIS: Is that right?

18 MR. QUIN: I was not aware of that.

19 SECRETARY PRUITT: We had an error -- a problem  
20 with having -- with getting the cases confused.

21 CHAIRPERSON GRIFFIS: Okay. Yes. I didn't see  
22 that. It is confusing. We did receive numerous letters from  
23 council members this morning. They are going appropriately into  
24 the files, but it's not my understanding that we have it on this  
25 one.

1                   MEMBER ETHERLY: Mr. Chair, it was noted that we  
2 do, of course, have letters for -- now from Avalon Bay.

3                   CHAIRPERSON GRIFFIS: Yes.

4                   MEMBER ETHERLY: I think Mr. Quin noted that we  
5 have a representative from Avalon Bay. I don't necessarily feel  
6 it's necessary to receive any comment, but if it's useful to have  
7 that filled in, that's a possibility.

8                   CHAIRPERSON GRIFFIS: There is a representative  
9 from Avalon Bay here? Did you want to make a statement or just  
10 your letter? Why don't we do that now, then.

11                   MR. KOCH: Good morning, Board. My name is Richard  
12 Koch. I'm a development director for Avalon Bay. I'm here for  
13 three reasons; one, to deliver you the original, revised letter  
14 that we do have copies of.

15                   The second reason is I want to compliment the  
16 applicant on their cooperation to revise their plan to  
17 accommodate our concerns, and I know it was not done  
18 wholeheartedly, because there are some financial disadvantages as  
19 a result of it. But we respect their willingness to cooperate  
20 and we appreciate that.

21                   I guess the third thing I wanted to reinforce to  
22 the Board is we believe, as a residential developer in this  
23 location, that we need additional residential housing in order to  
24 support retail and the services that are going to be required to  
25 make this a living downtown.

1           And therefore, we would wholly support the  
2 construction of the residential development on this site as  
3 proposed by the applicant. And I guess as a selfish request, I'm  
4 hoping we can get the Board to approve their application today so  
5 that they can move forward quickly with their construction, so  
6 that it would have the least amount of impact on our residents  
7 that'll be moving into the site.

8           And I think you're all aware of the tax abatement  
9 legislation that has been passed, JBG and as well as Avalon Bay  
10 has worked very hard to benefit from that, and that is part of  
11 the economic considerations that we all are looking at when we're  
12 developing in downtown.

13           And the sooner that they can move forward, the  
14 faster they will be able to assure themselves that they'll be  
15 able to benefit from that. And if -- unless the Board has any  
16 other questions of me, that's all I had to say.

17           CHAIRPERSON GRIFFIS: Good. Thank you very much,  
18 and we appreciate your presence here. Just to reiterate, if I  
19 understand you correctly, you actually have now changed your  
20 status and are in support of the project, and you are in support  
21 of what has been presented today as the setback of this building  
22 above the 30-foot line to setting back ten feet. Is that  
23 correct?

24           MR. KOCH: That's correct.

25           CHAIRPERSON GRIFFIS: Okay. Any other questions?

1 Any cross-examination, Mr. Quin?

2 MR. QUIN: No cross-examination.

3 CHAIRPERSON GRIFFIS: Indeed. Thank you very much.

4 MR. KOCH: Thank you.

5 CHAIRPERSON GRIFFIS: We appreciate your time.

6 Okay. That fills out my notes on all the submissions for the  
7 application. Is that correct, everyone's understanding? Very  
8 well. Why don't we turn to the applicant, then, for any closing  
9 remarks that they might have.

10 MR. QUIN: Closing remark. Only that we would say  
11 that based upon the testimony of record and the evidence of  
12 record that it's very clear that we've met the test under the  
13 various variances that have been now reduced in terms of quantity  
14 and in terms of number.

15 And we would hope that you could support -- and  
16 also, in view of the position of Avalon Bay to try to move this  
17 case forward as fast possible, we would request expedited  
18 approval and a summary order.

19 CHAIRPERSON GRIFFIS: Okay. Thank you very much.  
20 Board members, any last questions, clarifications? Are you  
21 prepared to move forward today? Okay.

22 I would move the approval of Application 16897, of  
23 the 6<sup>th</sup> Street, LLC, for the special exception relief from the  
24 roof structure requirements under 411, also from the variance of  
25 lot occupancy requirements under 772, and also, variance from the

1 residential recreations based requirements outlined in 773, and  
2 also the subsections in Chapter 1708.

3 SECRETARY PRUITT: Excuse me.

4 CHAIRPERSON GRIFFIS: And the rear yard  
5 requirements under 774.

6 SECRETARY PRUITT: But you're only allowing ten  
7 feet. So you're --

8 CHAIRPERSON GRIFFIS: Indeed.

9 SECRETARY PRUITT: -- we should indicate that.

10 CHAIRPERSON GRIFFIS: And let me clarify each of  
11 those reliefs through discussion, but let me take a second on the  
12 motion.

13 MEMBER ETHERLY: Second of Mr. Chair.

14 CHAIRPERSON GRIFFIS: Thank you very much. First  
15 of all, let me just state that, clearly, what's been presented in  
16 terms of the rear yard variance -- okay. Well, I'm going to pose  
17 the fact that what has been presented and is being voted on is  
18 the ten-foot setback above the 30-foot line from the alley; also,  
19 the lot occupancy, which is maintaining the 100 percent but is --  
20 clearly been outlined, moving back with the part of that setback.

21 Residential recreation space also in terms of  
22 percentage in fact has dropped from the original application. I  
23 believe it was stated as 2.1 percent, and then the roof structure  
24 special exception. All of these I find the variances, well, and  
25 the special exception, are very closely tied in a line.

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1           Clearly, it was outlined, the smallness of the  
2 site, which gives its practical difficulties in terms of --  
3 actually, in terms of developing a residential project, but I  
4 think even more important, or as important, is fulfilling the new  
5 Downtown District and residential area.

6           It's been stated by -- in fact, the representative,  
7 Mr. Koch, from Avalon Bay restated the fact eloquently, and that  
8 is the need for residential density in order to make the entire  
9 area work, not just one's particular site, but how this site fits  
10 into the larger urban fabric, and fulfills the mission of  
11 bringing density and animation to our downtown streets.

12           And that goes directly into the residential rec  
13 area, which I think the Board feels and has stated previously,  
14 but I think in this particular one, especially in the area that  
15 it is, it is important to have common areas and enjoyable spaces  
16 in interior.

17           But it's also as important to make sure that those  
18 people are out on the streets giving livability and liveliness to  
19 our streets, which also diminish the unsafe areas of the city as  
20 more people are walking and shopping and just enjoying the city.

21           Rear yards, lot occupancy I think are very closely  
22 tied and that was clearly laid out that with the smallness of the  
23 site how one accesses, how one parks it and also how it  
24 accommodates units that are in fact required to make this a  
25 viable development, are convincing.

1 MR. QUIN: Mr. Chairman.

2 CHAIRPERSON GRIFFIS: Yes, sir.

3 MR. QUIN: I have one minor point of clarification,  
4 very minor. But it's really not 30 feet. It's from the third  
5 floor up that the -- the roof of the third floor.

6 CHAIRPERSON GRIFFIS: Did I mis-state that?

7 MR. QUIN: You said 30, 30 feet.

8 CHAIRPERSON GRIFFIS: Yes.

9 MR. QUIN: It could be 31. It could be --

10 CHAIRPERSON GRIFFIS: Okay. It's the --

11 MR. QUIN: -- 29  $\square$ , but whatever --

12 CHAIRPERSON GRIFFIS: Third floor.

13 MR. QUIN: -- it's the third floor.

14 CHAIRPERSON GRIFFIS: Indeed.

15 MR. QUIN: As opposed to 30 feet.

16 CHAIRPERSON GRIFFIS: My notes have you saying  
17 that, but I was always writing 30 feet. So a good clarification  
18 above the third floor, and it's still -- roughly, it would --  
19 well, it probably won't be close. Anyway, above the third floor.

20 So that's a good clarification. I don't think that  
21 affects the motion itself. I can say more, but perhaps not need  
22 to. Let me give others an opportunity -- oh. Let me just  
23 restate, clearly, the units have dropped from 46 down to 6,000  
24 plus square footage.

25 It goes directly to the uniqueness of the small

1 site. It has been stated by the experts that in fact a typical  
2 or more typical or more -- well, let's say an easier development  
3 would clearly look to 15 to 20,000 square foot site, which would  
4 accommodate a larger floor plate, which would accommodate the  
5 balancing the core factor with the usable and rent -- or salable  
6 square footages.

7 It was also stated the fact that there was an  
8 adverse ownership, not allowing any expansion in the site, and  
9 that was pursued. And then, of course, the historic nature of  
10 the -- or the potential historic nature of the building to the  
11 north, and that's all I need to say.

12 Other Board members' comments, speak to the motion,  
13 against the motion?

14 VICE CHAIRPERSON RENSHAW: Mr. Chairman, just one  
15 clarification. This has dropped from 55 to 46 units.

16 CHAIRPERSON GRIFFIS: That's what I have in my  
17 notes. Is that correct? Indeed.

18 VICE CHAIRPERSON RENSHAW: Yes. I thought that you  
19 said it had dropped from 46.

20 CHAIRPERSON GRIFFIS: Oh.

21 VICE CHAIRPERSON RENSHAW: So in any case.

22 CHAIRPERSON GRIFFIS: I'm mis-stating all over the  
23 place this morning.

24 VICE CHAIRPERSON RENSHAW: We forgive you. But  
25 just to say how good it is to see residential development in the

1 downtown, since years ago -- I hate to say how many years --  
2 perhaps at a time when Mr. Sher was working on such projects, I  
3 was part of his Downtown Study, wanting a living downtown,  
4 working towards that.

5 So it's great to see at long last these buildings  
6 coming to the fore, and the fact that people will be living  
7 downtown and being a part of our urban fabric on a day to day  
8 basis. So congratulations.

9 CHAIRPERSON GRIFFIS: Okay. And Ms. Renshaw, well  
10 said. And also, I think this is evidenced in this case, is how  
11 the two -- or other residential developments on a single square  
12 or a single block can work together in order to make sure that  
13 they all actually are good projects, let us say.

14 Let me also for clarification of the motion in  
15 terms of the residential recreation space, we have the dimension  
16 relief that was also going to -- I would include that clearly in  
17 the motion, but we were looking at reducing the 25-foot  
18 dimensions.

19 I believe that's 20 feet by 26, as provided, and  
20 that will all be very well -- that is in the record and should be  
21 part of the motion for approval. So any other questions, or  
22 rather, comments speaking to the motion?

23 MEMBER ETHERLY: Mr. Chair, just to be sure, a  
24 matter of clarification. We received the testimony from the  
25 representative from Avalon Bay. The Avalon Bay letter dated July

1 12<sup>th</sup>, revised July 15<sup>th</sup>, which I believe the applicant has a copy  
2 of, did reference essentially three conditions for their  
3 approval, one of which we've already discussed in detail, the  
4 ten-foot setback, as it relates to the trash collection and  
5 recycling collection, and also, the loading from 6<sup>th</sup> Street, those  
6 items are already understood, so to speak, by the applicant and  
7 included in your proposal.

8 So we don't need to necessarily include those as  
9 additional conditions on the motion. I just wanted to clarify  
10 that that's already enclosed in the application. Thank you, Mr.  
11 Chairman.

12 CHAIRPERSON GRIFFIS: Thank you. I think it's an  
13 excellent clarification. It was my assumption also that that was  
14 part of the submitted application and what we viewed. And so it  
15 will be what is approved. Other -- anything else? Very well.

16 Let me ask for all those in favor, signify by  
17 saying aye.

18 (Chorus of Ayes.)

19 CHAIRPERSON GRIFFIS: And opposed. Let us All  
20 right vote, and it was requested a summary order today. So I  
21 think we can accommodate that.

22 MS. BAILEY: The vote is recorded as four zero one  
23 to approve the application. Mr. Griffith made the motion. Mr.  
24 Etherly second. Mrs. Renshaw, Mr. Hannaham are in support. Mr.  
25 Zaidain is not present today and not voting, and the application

1 is approved as amended.

2 And then lastly, Mr. Chairman, there some graphics,  
3 some large-scale graphics. We had asked for copies of those. So  
4 that is to be provided at a later date.

5 CHAIRPERSON GRIFFIS: Excellent. Thank you. But  
6 yes, we will just need copies of the record.

7 MR. QUIN: We're actually going to submit that  
8 today.

9 CHAIRPERSON GRIFFIS: Perfect. That being done, I  
10 thank you all. Have a great afternoon.

11 MR. BARTLEY: Thank you, members of the Board.

12 CHAIRPERSON GRIFFIS: And let's move quickly onto  
13 the next case.

14 (Off the Record)

15 MS. BAILEY: Mr. Chairman, can we proceed now?

16 CHAIRPERSON GRIFFIS: Oh, yes, please.

17 MS. BAILEY: Okay. Application number 16894 of the  
18 Episcopal Diocese of Washington, pursuant to 11 DCMR 3104.1, for  
19 a special exception to establish a child development center for  
20 95 children, ages 3 months to 12 years, and 22 employers under  
21 section 205, in an R-3 District at premises 2001 14<sup>th</sup> Street,  
22 Southeast, Square 5774, Lot 836.

23 Please stand to take the oath. Please raise your  
24 right hand.

25 WHEREUPON,

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CHERYL BELL,

was called as a witness for the applicant, and having first been  
duly sworn, testified as follows:

CHAIRPERSON GRIFFIS: Good morning.

MS. BELL: Good morning.

CHAIRPERSON GRIFFIS: Thank you for your patience.

I think we will get through this one fairly quickly.

MS. BELL: Great.

CHAIRPERSON GRIFFIS: Let me have you introduce  
yourselves, who's at the table now, and then I will interrupt you  
briefly.

MS. BELL: Certainly. Mr. Chairman, members of the  
Board, my name is Cheryl Bell, and I will be representing the  
Chapel of St. Philip the Evangelist Episcopal Church today,  
requesting their special exception to operate St. Philip's Child  
Development Center.

I'm affiliated with Latham and Watkins, but I'm not  
yet admitted to the Bar.

CHAIRPERSON GRIFFIS: I see.

MS. BELL: Therefore, I'm making this presentation  
to you under the guidance and direction of D.C. Bar member and  
Latham and Watkins attorney, Nestor Davis.

CHAIRPERSON GRIFFIS: Okay.

MS. BELL: Sitting behind me. Also joining me at  
the table is Mr. Otis Johnson, who is St. Philip's Architect. He

1 is the principal at an architect and engineering firm, and he'll  
2 be making a testimony a little later today.

3 CHAIRPERSON GRIFFIS: Okay. Good.

4 MS. BELL: Great.

5 CHAIRPERSON GRIFFIS: Is there anyone else here  
6 that's giving testimony as part of this application that isn't  
7 part of your case? Anyone here attendant to this application  
8 this morning, either in opposition or support? Okay. Are you  
9 calling all these folks?

10 MS. BELL: I'm not, unless you request it.

11 CHAIRPERSON GRIFFIS: All right. But they're all  
12 part with you. Is that correct?

13 MS. BELL: They are.

14 CHAIRPERSON GRIFFIS: Okay. So I don't have any  
15 persons in support or opposition. Okay. I mean, rather, outside  
16 of --

17 MS. BELL: In opposition.

18 CHAIRPERSON GRIFFIS: -- the folks that you have  
19 brought here. All right. Just trying to get an assessment here.  
20 First of all, the Board has received the entire file.

21 What I'm going to ask you to do is summarize for us  
22 the existing condition proposed, and then this is a special  
23 exception. We're all very well aware of what we need to be  
24 looking at. And I think what I'd like to do is move this on  
25 pretty quickly.

1           So I'm going to have people abbreviate their  
2 testimony and we'll see how much we need to actually get into the  
3 plans as we roll. So just to set out again, I think it's going  
4 to be more effective if I and the Board interrupts you with  
5 questions as you go through and as everyone goes through, and  
6 that way we can get to the heart of what we need and get you guys  
7 out of here in time for lunch.

8           So with that, I'll turn it over to you and ask you  
9 to continue.

10           MS. BELL: Great. The Chapel of St. Philip the  
11 Evangelist Episcopal Church has been a vibrant member of the  
12 Anacostia community since 1887. It has participated in many  
13 community outreach programs, the newest of which is the proposed  
14 St. Philips Child Development Center.

15           There is a great community need, as I'm sure the  
16 Board realizes, in D.C. in general, and in particular in the  
17 Anacostia community of affordable and accredited childcare  
18 services. One in five Anacostia families is in poverty.

19           The church has recognized this need and is trying  
20 to step to the plate and provide additional services. In  
21 addition, the church is doing a wondrous job in trying to provide  
22 the state of the art facilities that are available in other  
23 neighborhoods and other communities throughout D.C.

24           It's invested over \$2.4 million in renovation of  
25 the church in order to provide for the Child Development Center.

1 This sort of renovation has included things such as handicapped  
2 rest rooms, elevators that are large enough to accommodate  
3 wheelchair facilities, removal of asbestos and lead-based paint.

4 In addition, the Child Development Center facility  
5 portion of the church is absolutely full of tables, rugs, desks,  
6 chairs, computers, educational equipment, play equipment, all of  
7 these things just ready for the children who would use its  
8 services.

9 CHAIRPERSON GRIFFIS: Not to mention --

10 MS. BELL: Yes.

11 CHAIRPERSON GRIFFIS: -- if I'm not mistaken,  
12 again, the plans, also a cafeteria and gym are in -- and a full  
13 commercial kitchen, too.

14 MS. BELL: Exactly.

15 CHAIRPERSON GRIFFIS: Wow.

16 MS. BELL: We're ready.

17 CHAIRPERSON GRIFFIS: Quite a standard we're  
18 looking at for -- not used to this, the time and -- okay. Thank  
19 you.

20 MS. BELL: Building for the facility has been  
21 completed, pending a final inspection by the District of  
22 Columbia.

23 CHAIRPERSON GRIFFIS: A building inspection, you  
24 mean?

25 MS. BELL: Yes.

1 CHAIRPERSON GRIFFIS: Okay.

2 MS. BELL: St. Philip's Child Development Center  
3 will offer a safe, caring and creative environment for children  
4 from Washington, D.C. The Center is exploring various innovative  
5 curriculum options, including the imparting of the values of  
6 cooperation, honesty, communication skills, conflict resolution,  
7 reading literacy program for preschoolers, a beautification  
8 project for the community, mentoring program for at-risk youth,  
9 et cetera.

10 The Center is planning to fulfill its aims of  
11 excellence by hiring a staff that are well above par, not only  
12 meeting D.C. requirements, but also meeting the specific church  
13 requirements of integrity and honesty.

14 But in addition, the church requires additional  
15 training for sexual misconduct and on harassment. So these are  
16 above and beyond basic D.C. requirements. St. Philip's --

17 CHAIRPERSON GRIFFIS: In terms of the number of  
18 employees, it's anticipated that it will not exceed 22. Is that  
19 correct?

20 MS. BELL: It will not exceed 22.

21 CHAIRPERSON GRIFFIS: Okay.

22 MS. BELL: The Child Development Center Committee  
23 is very active, is quite informed. It's visited local CDCs in  
24 order to get ideas on supervision, et cetera. The Reverend Lewis  
25 and the Senior Warden have attended training, numerous training

1 events in connection with this.

2 CHAIRPERSON GRIFFIS: Okay. And that could -- and  
3 I don't think we have any concern in terms of the program.

4 MS. BELL: Great.

5 CHAIRPERSON GRIFFIS: But that's clearly above and  
6 beyond the requirements under 205, which go to applicable Code  
7 and licensings, correct?

8 MS. BELL: Wonderful, yes.

9 CHAIRPERSON GRIFFIS: But in terms of Code and  
10 licensing, that's certainly this facility's -- it's the testimony  
11 that's presented today that it is in compliance or will be in  
12 compliance once the C of O and the licensing is in place.

13 MS. BELL: Certainly.

14 CHAIRPERSON GRIFFIS: Okay.

15 MS. BELL: Some of the operational details that I  
16 should add to help you all with that decision is that we don't  
17 plan to have over 22 employees, but those employees will include  
18 six teachers, six assistant teachers, three aides, two food  
19 service handlers, one housekeeper, one office manager, one head  
20 teacher and one director utilizing this space.

21 CHAIRPERSON GRIFFIS: Okay.

22 MS. BELL: And the hours and days of operation will  
23 be from 6:00 a.m. to 6:00 p.m., Monday through Friday. The drop-  
24 off and pickup of the children will be secured by the applicant.  
25 Trash removal will be -- will happen on a daily basis. The

1 property will be kept --

2 CHAIRPERSON GRIFFIS: All right. Before you go too  
3 fast on those.

4 MS. BELL: Certainly.

5 CHAIRPERSON GRIFFIS: The fourth one you noted in  
6 terms of drop-off and pickup will be secured by the applicant,  
7 we'll just need a little detail on that. There's just parking  
8 spaces for 19, if I'm not mistaken --

9 MS. BELL: Yes.

10 CHAIRPERSON GRIFFIS: -- in the application. There  
11 is a drive-in and how is it going to be accommodated in terms of  
12 the drop-off and pickup?

13 MS. BELL: Perhaps I should defer this question to  
14 Mrs. Ford, who will be the director of the program.

15 CHAIRPERSON GRIFFIS: Okay. And then in terms of  
16 trash, the next one also is trash removal, which you may want to  
17 talk about. You're actually having commercial pickups daily?

18 MS. BELL: Yes.

19 CHAIRPERSON GRIFFIS: Okay. Then going back to  
20 drop-off and pickup.

21 MRS. FORD: The drop-off and pickup will occur in  
22 this manner. The 14<sup>th</sup> Street is our main entrance, which is also  
23 parallel parking. We have a parking lot which sits at the corner  
24 of 14<sup>th</sup> and B. It accommodates 19 vehicles and we're required to  
25 have six.

1 CHAIRPERSON GRIFFIS: Okay. But all 19 spaces  
2 don't go just to the Child Development Center. Is that correct?

3 MRS. FORD: Majority of them, because during the  
4 day -- our Outreach Program during the day is limited. It's  
5 mainly at night. We have two groups during the day, and if I'm  
6 not mistaken, that's the 12-Step Program, and they are community  
7 people that are involved, and they use -- they basically walk.

8 CHAIRPERSON GRIFFIS: Okay. And that goes to the  
9 practical use.

10 MRS. FORD: That's correct.

11 CHAIRPERSON GRIFFIS: I mean, a daily use you  
12 probably won't need more than what you're actually providing.  
13 However, in terms of the Zoning Regulations, if we were to go  
14 through the entire count of the uses, that was my concern.

15 MRS. FORD: Yes, it is.

16 CHAIRPERSON GRIFFIS: Are we adding up to many more  
17 than 19? Clearly, the required number --

18 MRS. FORD: Is six.

19 CHAIRPERSON GRIFFIS: -- would be 19. Right.

20 MRS. FORD: But we have parking space for 19.

21 CHAIRPERSON GRIFFIS: Exactly.

22 MRS. FORD: That includes visiting, if parents came  
23 to tour the facility, prospective clients we would have.

24 CHAIRPERSON GRIFFIS: What's the parking  
25 requirement for a church?

1 MRS. FORD: One to ten.

2 MS. THOMAS: The parking requirements, according to  
3 section 2101, Mr. Chairman, as we reviewed it required one space  
4 for four employees in this instance. And --

5 MRS. FORD: What church --

6 MS. THOMAS: I'm not exactly sure about a church.  
7 We just reviewed it for this one.

8 CHAIRPERSON GRIFFIS: Indeed. And I don't know  
9 that we need to walk too far down that. I just wanted to make a  
10 clarification when one would, for the Board's purposes, if we  
11 have -- sure we have a surface parking of 19, but how much more  
12 in terms of the Regulations is demanded of that surface parking.

13 So but, in order for you to be clear, I'm not  
14 talking about the actual use -- your use of it. I'm talking  
15 about the Zoning Regulations demand that would outline for the  
16 surface parking.

17 They're two different things, and I think the Board  
18 is very understanding of the practicality, the daily use, the  
19 real use of it. Okay. Do we have clarification?

20 MS. SANSONE: Mr. Chairman, the Zoning Regulations  
21 for the -- currently require one parking space for every ten  
22 seats of occupancy, unless if the seats are not fixed then it's  
23 one per every square feet usable proceeding.

24 Or if it's benches then each 18 inches of bench are  
25 considered one seat. So it depends, but the -- I should also

1 mention that at one point in time there was no parking  
2 requirement for churches.

3 CHAIRPERSON GRIFFIS: Right.

4 MS. SANSONE: I don't recall the date in which that  
5 became effective.

6 CHAIRPERSON GRIFFIS: Right. And I think the other  
7 important piece for this application is the fact that the  
8 existing structure is just being renovated to accommodate this,  
9 and it's not expanding. And yet, certainly, there is an -- well,  
10 there it is.

11 It's not a great concern to me, but I wanted to  
12 bring it up in terms of filling out all the information on this.

13 Okay. And you were walking us down very pertinent points,  
14 trash.

15 MS. BELL: Trash.

16 CHAIRPERSON GRIFFIS: I believe you were going to  
17 talk about meals and that.

18 MS. BELL: Right. Three meals will be provided on  
19 a daily basis.

20 CHAIRPERSON GRIFFIS: Okay. And we just heard that  
21 there's actually a commercial kitchen.

22 MS. BELL: There is.

23 CHAIRPERSON GRIFFIS: Okay.

24 MS. BELL: Breakfast, lunch and an afternoon snack.

25 And as the Board is aware, we're appearing before you again

1 today. We actually were here on February 8<sup>th</sup>, 2000, and this  
2 Agency granted St. Philip's a special exception to establish and  
3 operate a childcare facility for 55 children and seven teachers  
4 within a section of the St. Philip's Episcopal Church.

5 Approval was granted for seven years. However,  
6 we're appearing before you again because, based on the increased  
7 community need for childcare, St. Philip's has decided to  
8 increase the number of children to 95 and the employees to 22,  
9 and has made additional renovations to the building to  
10 accommodate these changes. This is why we're filing for a new  
11 application today.

12 CHAIRPERSON GRIFFIS: Wow. That's actually  
13 interesting news. Do we have the old order? Was that submitted?  
14 Office of Planning was not aware of that, either?

15 MS. BAILEY: No. No, Mr. Chairman.

16 CHAIRPERSON GRIFFIS: Wow. Why don't we take the  
17 BZA number, if that can be said into the record on the mike. Oh,  
18 we're getting a copy. Good.

19 MS. BAILEY: We have a copy of the old order, Mr.  
20 Chairman, and it's 16529. I'll make copies.

21 CHAIRPERSON GRIFFIS: Thank you very much. And  
22 that was -- the date on it?

23 MS. BAILEY: It was dated February 8<sup>th</sup>, 2000, was  
24 when it was issued, February 8<sup>th</sup>, 2000, and it has eight  
25 conditions.

1 CHAIRPERSON GRIFFIS: Wow. Let's take a look at  
2 that. That would have -- that's very helpful information. In  
3 fact, it would have been pertinent for Office of Planning,  
4 actually, to review that also. However, we have that now.

5 Once we get this thing, we're going to take just  
6 two minutes while she makes copies of that and then we'll get  
7 back to that piece.

8 (Off the Record)

9 CHAIRPERSON GRIFFIS: -- now in front of us, there  
10 are eight conditions. I think we can take a look at that. Do  
11 you want to just give us a quick clarification of -- certainly,  
12 it's pertinent in terms of not coming in as a minor modification,  
13 because the time has lapsed from the old order.

14 MS. BELL: Right.

15 CHAIRPERSON GRIFFIS: So clearly, this makes it for  
16 a new application for a special exception. But -- well, maybe  
17 I've answered my own question, unless there's anything you add to  
18 that.

19 MS. BELL: There's not.

20 CHAIRPERSON GRIFFIS: Okay.

21 MS. BELL: Just looking at the conditions that were  
22 attached to our previous approval of our old application,  
23 condition number one has changed because we want to go younger  
24 with three months through 12 years.

25 And condition number two has changed because we

1 want to allow for at least 95 children. Conditions three through  
2 seven --

3 VICE CHAIRPERSON RENSHAW: And the number of  
4 employees is changing.

5 MS. BELL: The number of employees is changing,  
6 thank you, to not exceed 22, is condition number two. Conditions  
7 three through seven we are going to meet, planning to meet, the  
8 hours and days of operation from 6:00 to 6:00, Monday through  
9 Friday.

10 Drop-off and pickup secured by the applicant.  
11 Trash removal carried out on a daily basis. Property kept free  
12 of debris at all times and lunch is provided on the premises. In  
13 fact, for condition number seven --

14 CHAIRPERSON GRIFFIS: Right.

15 MS. BELL: -- we are adding two additional meals.

16 CHAIRPERSON GRIFFIS: I'm not sure that necessarily  
17 needs to be a condition.

18 MS. BELL: We don't want the kids to go hungry.

19 CHAIRPERSON GRIFFIS: That means we can show up and  
20 make sure that you're serving lunch?

21 (Laughter)

22 CHAIRPERSON GRIFFIS: Okay.

23 MS. BELL: Great.

24 CHAIRPERSON GRIFFIS: All right. Other questions?

25 I think it's fairly straightforward what we're looking at here.

1       What I would propose we do, if it's accommodating to you, is  
2       that we move on to Office of Planning reports, hear them and if  
3       there is issues that come up, you can bring up your witnesses as  
4       needed to answer questions or make clarifications for the Board.

5               And if that's not objectionable, we'll move on to  
6       Office of Planning. Very well. Let's do that, then.

7               MEMBER ETHERLY: And Mr. Chairman, just a matter of  
8       clarification.

9               CHAIRPERSON GRIFFIS: Yes.

10              MEMBER ETHERLY: For our own proceedings, we are  
11       not treating this as a modification, due to the fact that the  
12       six-month time frame has lapsed.

13              CHAIRPERSON GRIFFIS: Unless Board member staff or  
14       corporate counsel has a problem with it, it actually is -- I  
15       think we're more used to having people try and slip in with  
16       modifications, even though the time has past, and this actually  
17       seems to be a fairly proper way of doing it, bringing in new  
18       special exception.

19              I think the point in fact of having us have known  
20       that before would have been helpful in our own review of the case  
21       file, but others may disagree with me. Does corporation counsel  
22       have any opinion on that? None. Okay.

23              VICE CHAIRPERSON RENSHAW: Mr. Chairman.

24              CHAIRPERSON GRIFFIS: Yes.

25              VICE CHAIRPERSON RENSHAW: Do we void this

1 application with today's proceedings?

2 CHAIRPERSON GRIFFIS: If I'm not mistaken, clearly,  
3 if this application today is approved that would supersede the  
4 prior application. So it would be -- hold on a second.

5 (Pause)

6 CHAIRPERSON GRIFFIS: Okay. Quick question  
7 regarding the previous order of January 19, 2000. Was there a  
8 certificate of occupancy pulled on the building?

9 MS. BELL: No, there was not.

10 CHAIRPERSON GRIFFIS: There was not. So there was  
11 never any childcare provided in this -- in the building. Is that  
12 correct?

13 MS. BELL: That's correct.

14 CHAIRPERSON GRIFFIS: So actually, this order is  
15 voided on its own. Well, we're getting more and more  
16 clarification as we go. So let's move on, Office of Planning.  
17 Clearly, now, we are not even entertaining a modification of a  
18 previous order. We are on a standalone special exception.

19 MS. THOMAS: Good morning, Mr. Chairman, Members of  
20 the Commission. I'm Karen Thomas, presenting the Office of  
21 Planning's report on the applicant's proposal to operate a Child  
22 Development Center for 95 child, ages three months to 12 years,  
23 and 21 persons staffing the Center.

24 Initially, the Center hopes, as it was presented to  
25 the Office of Planning, hopes to have 55 children in attendance,

1 and the proposal requests a maximum of 95 to accommodate growth  
2 in its enrollment.

3 This site has an outdoor play area of 1526 square  
4 feet. In an R-3 zone the application for a Child Development  
5 Center has to meet the test of section 2052 through 2058,  
6 including meeting all applicable Code and licensing requirements.

7 The applicant has stated that the Department of  
8 Health visited the site and informed the applicant that the  
9 building can accommodate up to 95 children. If this application  
10 for the special exception is approved, the proposal will fully be  
11 reviewed by DCRA prior to obtaining its certificate of occupancy  
12 to operate the Center.

13 Section 2053 requires the location and the design  
14 not create objectionable traffic conditions and unsafe conditions  
15 for picking up and dropping off children or elderly persons. The  
16 main entrance is located on 14<sup>th</sup> Street, Southeast.

17 This street has a divided right-of-way which allows  
18 one-way traffic on either side of the right-of-way. The  
19 applicant has stated that there will be an assigned staff member  
20 at the main entrance at drop-off and pickup times.

21 Parents may park for short periods in the adjacent  
22 parking lot to the south, including the ample, on-street parking  
23 in the church's facility, including at the front of the main  
24 entrance on both sides of 14<sup>th</sup> Street, and on U and V Streets to  
25 the north and south.

1                   Parking restrictions were not observed on either U  
2 or V Streets. In addition, DDOT's review has also stated that  
3 the proposed use will not negatively affect on-street parking in  
4 the neighborhood. No traffic problems or unsafe conditions will  
5 be created by the proposed childcare center.

6                   2054 requires the Center to provide sufficient off-  
7 street parking spaces to meet the reasonable needs of teachers or  
8 other employees and visitors. Section 2101 of the Zoning  
9 Regulations require one parking space for four teachers and other  
10 employees.

11                   In this instance, six parking spaces will be  
12 required. The applicant is providing 19 onsite parking spaces.  
13 And again, children will be dropped off and picked up in front of  
14 the building along 14th Street, and there should be no need to  
15 park for any extended period in the parking lot or along the  
16 street.

17                   2055 requires the Center, including any outdoor  
18 play area space provided, shall be located and designed so that  
19 there will be no objectionable impacts on adjacent or nearby  
20 properties due to noise or activity or other visual -- or other  
21 objectionable conditions.

22                   The outdoor play area of the proposed facility will  
23 be located to the rear of the building, abutting the back yard of  
24 two residences. The area is fenced by chainlink on all sides.  
25 The play area is accessed by a lower level basement door and

1 stairway located to the rear of the building.

2 Due to the age differences. the children will not  
3 be scheduled to have outdoor play at the same time and all play  
4 activities will be supervised. For these reasons, the impact of  
5 noise or activity from the childcare center will have a minimal  
6 impact on adjacent properties.

7 OP recommends, however, that the applicant restrict  
8 the hours of outdoor play to begin no earlier than 9:00 a.m. at  
9 the rear of the property to minimize the noise in the back of the  
10 play area on neighboring residential properties.

11 2056 requires the Board -- allows the Board to  
12 require special treatment in the way of design, screening of  
13 buildings, planting and parking areas, signs or other  
14 requirements, as it shall deem necessary to protect adjacent and  
15 nearby properties.

16 The existing appearances of the building will not  
17 be changed, and at this time the applicant has -- but at this  
18 time, rather, the applicant has a banner to advertise enrollment  
19 at the childcare center. OP recommends that any future sign be  
20 small, discreet, so as not to detract from the residential  
21 character of the historic neighborhood.

22 As such, the childcare center will have minimal  
23 impact on adjacent properties, and therefore, will not need any  
24 special screening. 2057 requires any outside play area to be  
25 located so as not to result in endangerment to the individuals in

1 attendance at the Center, traveling between the play area and the  
2 Center itself.

3 The applicant has informed OP about discussions it  
4 had with the principal of Ketcham Elementary School, located at  
5 1990 15<sup>th</sup> Street, Southeast, concerning the use of their play  
6 facilities as an off-site play area.

7 This would involve a one-block walk, including  
8 crossing 14<sup>th</sup> street in front of the main entrance. This is a  
9 short, divided residential street with a small park area at the  
10 division, creating one-way directional traffic on both sides of  
11 the park.

12 The children would be scheduled to visit the  
13 elementary school when it is in session and when traffic is at a  
14 minimum during the daytime. OP recommends that caution be  
15 exercised in transporting children to and from the center to the  
16 off-site play area.

17 Finally, 2058 requires -- allows the Board to  
18 approve more than one childcare center in a square or within  
19 1,000 feet of another Child Development Center. The closest  
20 Child Development Center OP found was located at the Ambassador  
21 Baptist Church at 1412 Minnesota Avenue in Square 5615, and  
22 that's approximately three blocks away to the east.

23 Although the hours of operation are similar, 6:30  
24 a.m. to 6:30 p.m., the traffic movement should not be impacted,  
25 since the new Center is not located along the same street. In

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1 addition, the combined operations of both centers should not  
2 significantly increase the impact of noise and traffic on the  
3 adjacent neighborhood.

4 With respect to Agency comments, according to the  
5 Department of Transportation the proposed Child Development  
6 Center should have no significant impact on local traffic or  
7 parking. Site visits at various times by OP and DDOT indicated  
8 no significant traffic and available on-street parking.

9 In summary, therefore, as demonstrated above, OP  
10 believes the application meets the standards of section 205 for  
11 approval of a special exception. And based on the facts  
12 presented the Office of Planning recommends that the Board  
13 approves the special request exception, with the condition that  
14 the scheduled playtime at the play area to the rear of the  
15 property begin no earlier than 9:00 a.m. Thank you, Mr.  
16 Chairman.

17 CHAIRPERSON GRIFFIS: Thank you very much. Does  
18 the applicant have any questions of the Office of Planning and  
19 their report? Do you have copies of it?

20 MS. BELL: Do we? Yes.

21 CHAIRPERSON GRIFFIS: Okay. Well, we should --  
22 let's get you a copy, at least. The question of Office of  
23 Planning and also of the applicant, in the Department of  
24 Transportation clearly stated in their memo to the Board that  
25 they did not see any adverse impact, and they talked about the

1 parking.

2 But one note that I looked at was that they said  
3 that you could possibly do an onsite drop-off and pickup and have  
4 a more efficient parking if there was restriping done on that  
5 lot.

6 I'm wondering to OP whether you ever saw -- did  
7 they actually ever sketch anything out in that realm?

8 MS. THOMAS: No, sir.

9 CHAIRPERSON GRIFFIS: Okay. I would just put it to  
10 the applicant that you might want to contact the person that did  
11 the report and see if you could get their ideas, and it may well  
12 be worth looking at in terms of future progressive use of this.

13 I think everyone would want to maximize the  
14 efficiency of parking, no matter how many you have. So any other  
15 questions of Office of Planning? Yes, Mr. Etherly.

16 MEMBER ETHERLY: Mr. Chair, really no direct  
17 question of Office of Planning; a couple of questions were raised  
18 by the report that might be just for the applicant to respond to,  
19 if you think it's appropriate.

20 CHAIRPERSON GRIFFIS: Good. I think that's fine.

21 MEMBER ETHERLY: Okay. I believe it was Ms. Bell  
22 identified Ms. Ward as the individual who will be serving as the  
23 director of the facility. Is that correct?

24 MRS. FORD: Yes, correct, Mrs. Ford.

25 MEMBER ETHERLY: Mrs. Ford. My apologies, Mrs.

1 Ford. Thank you very much for joining us this morning. I just  
2 wanted to follow up on a couple items that were raised by the  
3 Office of Planning report; nothing significant, but I just want  
4 to get a flavor for the area around the church and the facility.

5 There was mention in the Office of Planning report  
6 the median strip that proceeds, I believe it's one-way north to  
7 south on 14<sup>th</sup> Street, Southeast, in what appears to be the front  
8 of the church, and that's one-way traffic on both sides of the  
9 median strip.

10 MRS. FORD: Yes.

11 MEMBER ETHERLY: The side of the median strip that  
12 precedes nearest to the church, does -- I mean, do you have a  
13 sense for how frequently traffic uses that side, or I mean, does  
14 traffic tend to just choose either side; it really doesn't  
15 matter?

16 MRS. FORD: It's very minimal, very light.

17 MEMBER ETHERLY: Okay.

18 MRS. FORD: A little too --

19 MEMBER ETHERLY: Okay. Okay. Traffic is very  
20 light on that. That's definitely helpful. We have a number of  
21 pictures in the file that illustrate the parking lot, but I  
22 wanted to get a sense for proximity of residences to your parking  
23 lot area.

24 There appears to be some fencing around the parking  
25 lot itself. Do you have homes that are immediately adjacent to

1 the parking lot just on the other side of the fence, away from  
2 the church?

3 MRS. FORD: Yes. There is one house on the V  
4 Street side of the parking lot.

5 MEMBER ETHERLY: Okay.

6 MRS. FORD: I think in one of the pictures you may  
7 see it. It's a yellow awning, yellow side of a building.

8 MEMBER ETHERLY: Okay. I believe I see that.  
9 Okay. Okay.

10 MRS. FORD: The left side of the house.

11 MEMBER ETHERLY: Okay. Do you have lighting on  
12 either the parking lot area or the play area? By lighting I mean  
13 like exterior lighting for the -- you know -- for patrons or  
14 visitors to the church at --

15 MRS. FORD: Yes. There's exterior lighting in the  
16 parking lot.

17 MEMBER ETHERLY: Okay. On the parking lot. And  
18 how about the play area?

19 MRS. FORD: Yes.

20 MEMBER ETHERLY: Okay.

21 MRS. FORD: Yes.

22 MEMBER ETHERLY: Okay. Two final questions, Mr.  
23 Chair, and I am all set. Office of Planning made a reference to  
24 the fact of a 9:00 a.m. suggested start time for outdoor play  
25 activities.

1 Do you have any concerns about a proposed end time.  
2 Office of Planning didn't make any mention of this, but do you  
3 have -- let us get a sense first of what you would anticipate  
4 being the end time for your -- for patrons of the Center who  
5 might be playing outside?

6 MRS. FORD: Prior to 9:00?

7 MEMBER ETHERLY: Let's say your start time is 9:00  
8 a.m. in terms of, you know, beginning to bring young people  
9 outside into the play area. How late would you anticipate having  
10 young people out, and perhaps Reverend Lewis might have a better  
11 sense, but.

12 MRS. FORD: Okay. The play time area would  
13 normally start around 10:00.

14 MEMBER ETHERLY: Okay.

15 MRS. FORD: The average scheduled time from 9:00 to  
16 10:00 is circle time and learning activity with the Child  
17 Development Center. From 12:00 to 2:00 it's lunch and nap time,  
18 and then they are to go outside between 3:00 and 4:00.

19 MEMBER ETHERLY: Okay. Okay. So you wouldn't  
20 anticipate --

21 MRS. FORD: So that's an hour a.m. before lunch and  
22 a hour in the afternoons that --

23 MEMBER ETHERLY: Okay. So what do you think would  
24 be the latest that you would have children outside? Would it --  
25 I mean, would it be 4:00 o'clock or do you think you'd probably

1 start pulling the young people back in 5:00 o'clock, 6:00  
2 o'clock?

3 MRS. FORD: The latest, 5:00.

4 MEMBER ETHERLY: Okay. Okay. I'm just trying to  
5 get a sense for the benefit of that residence that's adjacent to  
6 the property, you know, any concerns about noise and that type of  
7 thing. I would definitely note to my colleagues that the Center  
8 has a nap time.

9 It would be great for the Board to consider some  
10 type of similar practice.

11 (Laughter)

12 MEMBER ETHERLY: Nap time as well as lunch;  
13 highlight that for the record. But in all seriousness, my final  
14 question -- thank you very much, Mrs. Ford, for your responses.  
15 There was reference to the possibility of using the Ketcham  
16 Elementary School facility as an off-site play area.

17 Has there been any formalized agreement there or  
18 further discussions ongoing regarding that possibility?

19 MRS. FORD: The formalized agreement would be for  
20 the school-age children.

21 MEMBER ETHERLY: Okay.

22 MRS. FORD: That are five and up.

23 MEMBER ETHERLY: Okay.

24 MRS. FORD: The playground equipment accommodates  
25 that age group.

1 MEMBER ETHERLY: Okay. So you're still -- you've  
2 already reached that agreement or you're still involved in  
3 discussions with Ketcham?

4 MRS. FORD: Still involved in discussion.

5 MEMBER ETHERLY: Okay. Okay. It might definitely  
6 be useful at the appropriate point to be sure that you have a  
7 written agreement, which I'm sure DCPS is going to require anyway  
8 for insurance purposes, but that probably would be a helpful item  
9 to just round out our information here.

10 Thank you very much, Mr. Chair. That concludes all  
11 my questions.

12 CHAIRPERSON GRIFFIS: Thank you, Mrs. Ford.

13 MRS. FORD: Thank you.

14 VICE CHAIRPERSON RENSHAW: Mr. Chairman.

15 CHAIRPERSON GRIFFIS: Yes.

16 VICE CHAIRPERSON RENSHAW: I'd like to follow up on  
17 Mr. Etherly's comments and questions about the outdoor activity.  
18 Mrs. Ford, you have 95 children, I mean, starting with 55, going  
19 to 95. The ages are going to be three months to 12 years.

20 With your older -- with the children who will be  
21 outside, will they go outside per age grouping? Will you have,  
22 say, 20 minutes with the older children and then they are brought  
23 in? I'm just thinking of 50 children outdoors for an hour?

24 MRS. FORD: Yes, my sentiments exactly.

25 VICE CHAIRPERSON RENSHAW: Or more?

1 MRS. FORD: This is a picture of one of the  
2 particular playground equipments that we are contracting -- have  
3 a contract on, and this equipment can accommodate up to 45  
4 children. However, it's for the age group of two through 12.

5 And by DCRA law you cannot have all age groups out  
6 at the same time. So that's why you have a scheduled events of  
7 activities. And say, for instance, example, 2:00 o'clock -- I  
8 mean -- two-year-old -- the two-year-olds will be out from 10:00  
9 to 10:30, while the older children, the three and four-year-olds  
10 may be on another type of activity within the Center.

11 And then they'll rotate within that two-hour frame  
12 from 10:00 to 12:00 to use the playground.

13 VICE CHAIRPERSON RENSHAW: And then at 12:00  
14 o'clock to 2:00 o'clock it's lunch and nap time?

15 MRS. FORD: That's correct.

16 VICE CHAIRPERSON RENSHAW: So all of your children  
17 will not be outside at once.

18 MRS. FORD: No.

19 VICE CHAIRPERSON RENSHAW: And the largest grouping  
20 of children outside would be?

21 MRS. FORD: The largest grouping, once we ever get  
22 to that capacity, would be the school-age children, which is 20.

23 VICE CHAIRPERSON RENSHAW: Twenty children at one  
24 time.

25 MRS. FORD: Twenty, correct. But for our children,

1 preschoolers, the largest group is 15.

2 VICE CHAIRPERSON RENSHAW: Do you have a hotline in  
3 case neighbors want to talk to you about the noise level?

4 MRS. FORD: Well, the way I've structured my  
5 schedules, it -- the children will not always be on the  
6 playground. The teachers will have some of them on nature walks,  
7 walking throughout the community, as well as a fewer group on the  
8 playground, less than 10 or 12.

9 VICE CHAIRPERSON RENSHAW: All right. That sounds  
10 like a good plan to have some diversity in the --

11 MRS. FORD: Yes, because the --

12 VICE CHAIRPERSON RENSHAW: -- in the recreation.

13 MRS. FORD: Yes. The noise can be unbearable,  
14 because I'm not too thrilled about the noise myself. But you  
15 have to make -- that's one thing about childcare. You have to be  
16 very creative.

17 VICE CHAIRPERSON RENSHAW: Well, it sounds like  
18 you're addressing the problem before you start, and that's a good  
19 point. The lighting, is the lighting in the parking area and on  
20 the playground pointed downwards, and does not diffuse into the  
21 neighborhood?

22 MRS. FORD: Correct.

23 VICE CHAIRPERSON RENSHAW: All right. And is there  
24 any other screening that is going to be necessary to kind of  
25 buffer the playground area against the residential area?

1 MRS. FORD: We do have a solid -- correct me. It's  
2 a -- yes, it's a solid six-foot wood fence.

3 MR. JOHNSON: There's a board on board, six-foot  
4 board on board fence.

5 VICE CHAIRPERSON RENSHAW: And that's around your  
6 play area and the parking area?

7 MR. JOHNSON: It separates the play area from the  
8 residential.

9 VICE CHAIRPERSON RENSHAW: All right. And that is  
10 Mr. Johnson, the architect.

11 MR. JOHNSON: Yes.

12 VICE CHAIRPERSON RENSHAW: Thank you, Mr. Johnson.

13 MR. JOHNSON: Sure.

14 VICE CHAIRPERSON RENSHAW: I think I've gone  
15 through noise control and screening and lighting. Just the  
16 aspect of the sign, you now have a banner. How large is your  
17 banner that OP had mentioned in its report?

18 MRS. FORD: I believe the banner is, what, 12 feet?  
19 Is it?

20 MS. THOMAS: Yes. It looked like around 12 feet.

21 MRS. FORD: About 12 feet.

22 MS. THOMAS: It's not an obstacle.

23 MRS. FORD: Yes.

24 VICE CHAIRPERSON RENSHAW: We have a picture of it  
25 here in our file. And OP is suggesting a more -- just a sign, a

1 plaque on the door? Is that what you're suggesting?

2 MS. THOMAS: Yes. We suggested something that's  
3 more appropriate to a historic district. We didn't make any  
4 specific site suggestion, until they probably went to Regulations  
5 to look at what the specifics of that type of building or the  
6 historic neighborhood.

7 But we do suggest that if, you know, simple sign in  
8 character, keeping in character with the historic neighborhood.

9 VICE CHAIRPERSON RENSHAW: Do you have any  
10 information that you could give the Board at this time about a  
11 more appropriate sign than a banner?

12 MR. JOHNSON: Let me make a comment, please.

13 VICE CHAIRPERSON RENSHAW: Yes.

14 MR. JOHNSON: The sign -- existing sign now, the  
15 temporary sign, the intent is that sign will come down once the  
16 Center is open and a more appropriate sign will be placed there.

17 VICE CHAIRPERSON RENSHAW: And the size of the  
18 appropriate sign would be about what?

19 MR. JOHNSON: Right. That hasn't been decided yet,  
20 but -- go ahead.

21 MRS. FORD: Yes. The appropriate size of that  
22 sign, they have been ordered from Staples, I believe is the half  
23 of a page of eight by ten. They're on order, and that's to go on  
24 the front main entrance of the 14<sup>th</sup> Street side of the school, the  
25 church.

1 VICE CHAIRPERSON RENSHAW: Thank you.

2 CHAIRPERSON GRIFFIS: So it's more like a plaque.

3 MRS. FORD: Yes, it's a plaque.

4 VICE CHAIRPERSON RENSHAW: Okay.

5 CHAIRPERSON GRIFFIS: Anything else?

6 VICE CHAIRPERSON RENSHAW: No, that's it.

7 CHAIRPERSON GRIFFIS: Any other comments? Good.

8 Then let's move on, then, and look to the -- we do have a letter  
9 of -- it a DDOT and it's put in. Department of Health, we also  
10 have as Exhibit No. 21 if I'm not mistaken, also has no  
11 objection, and they have other jurisdictions to worry about.  
12 Also, the ANC-6C, Exhibit No. 26.

13 VICE CHAIRPERSON RENSHAW: Oh, we have a letter,  
14 Mr. Chairman, from Tammi Green, the Chairman of ANC-6C, that is  
15 dated June the 13<sup>th</sup>, but it was received July the 15<sup>th</sup>. So I think  
16 we have to waive this in.

17 CHAIRPERSON GRIFFIS: I see it. Any objection to  
18 waiving of rules to accept the ANC report?

19 VICE CHAIRPERSON RENSHAW: The ANC report, though,  
20 Mr. Chairman, just stated that ANC-6C is in full support --

21 CHAIRPERSON GRIFFIS: Right.

22 VICE CHAIRPERSON RENSHAW: -- of the St. Philip's  
23 Childcare Center. However, there is no mention of the date of  
24 the public meeting and whether or not a quorum was present at the  
25 vote.

1 CHAIRPERSON GRIFFIS: Okay. Does the applicant  
2 have any additional information from the ANC or knowledge of  
3 that? Yes, sir.

4 MRS. FORD: This is Reverend William Lewis.

5 REVEREND LEWIS: We did appear before the ANC  
6 twice.

7 CHAIRPERSON GRIFFIS: Okay.

8 REVEREND LEWIS: At the Executive Session meeting  
9 the last Monday in May, and then on the first Monday in June at  
10 the General Meeting.

11 CHAIRPERSON GRIFFIS: Okay.

12 REVEREND LEWIS: And the decision was unanimous at  
13 the General Meeting.

14 VICE CHAIRPERSON RENSHAW: Reverend Lewis, do you  
15 have the -- do you know how many Commissioners were present?

16 REVEREND LEWIS: I don't know the exact number.

17 VICE CHAIRPERSON RENSHAW: All right. But if those  
18 -- it was --

19 REVEREND LEWIS: But of those who were present it  
20 was unanimous.

21 VICE CHAIRPERSON RENSHAW: And was this advertised  
22 in the immediate area that you were going to appear at this ANC  
23 meeting? Was there advance publicity of your presentation at the  
24 ANC meeting?

25 REVEREND LEWIS: Well, we went to the Executive

1 Meeting, and then after that we were invited to come to the  
2 General Meeting. So my assumption is that the ANC would have  
3 publicized the meeting.

4 VICE CHAIRPERSON RENSHAW: All right.

5 CHAIRPERSON GRIFFIS: Okay. And I don't think --

6 REVEREND LEWIS: Thank you.

7 CHAIRPERSON GRIFFIS: -- Ms. Renshaw is indicating  
8 that it was your response that they didn't do that.

9 VICE CHAIRPERSON RENSHAW: That is not.

10 CHAIRPERSON GRIFFIS: But what she's going to is  
11 the fact that we cannot give this letter great weight in our  
12 deliberations, because it actually is not fulfilling its  
13 obligations in terms of the information that it's giving.

14 And that's why we're trying to elicit it. It's  
15 important to know that you did present and there was a full  
16 Board meeting, but again, without further -- we can take it in  
17 for what it is in our deliberations, but not accord it great  
18 weight.

19 CHAIRPERSON GRIFFIS: James Hannaham.

20 COMMISSIONER HANNAHAM: I was looking at the  
21 letterhead of the ANC and I note that there are four vacancies.  
22 So a total of nine people. So you might have had as many five  
23 present at the meeting.

24 REVEREND LEWIS: Yes.

25 COMMISSIONER HANNAHAM: So you probably had a

1 quorum.

2 CHAIRPERSON GRIFFIS: What can I say. Okay. Other  
3 information? Anything I've missed? Then let's go to the  
4 applicant for any summation or points that we haven't touched  
5 upon that need to be brought to our attention.

6 MRS. FORD: In summation, the community is in full  
7 support of this Childcare Center. It has a great need for  
8 additional childcare and St. Philip's aspires to provide only the  
9 best of such childcare.

10 As I think has been demonstrated here today, we've  
11 met the requirements of 11 DCMR section 205, and unless the Board  
12 would like to hear further testimony from our architect, I'm  
13 prepared to make it a conclusion. Therefore, in conclusion --

14 CHAIRPERSON GRIFFIS: And this -- are there  
15 questions of the architect? Do we need to walk through plans? I  
16 don't see the need for it. Okay.

17 MRS. FORD: Great. Because the need is great and  
18 because the basis for our relief is clear and clear, the  
19 community is eager to see the facility open in the fall. We  
20 respectfully request a summary decision on this matter. Thank  
21 you.

22 CHAIRPERSON GRIFFIS: Okay. And that would be  
23 requested in -- decision in summary order. Any other final  
24 clarifications needed by the Board? Is the Board prepared to go  
25 forward today? Okay.

1                   MEMBER ETHERLY: Mr. Chairman, I would be prepared  
2 to move forward, and would move approval of Application No.  
3 16894, of the Episcopal Diocese of Washington, pursuant to 11  
4 DCMR section 3104.1, for special exception to establish a Child  
5 Development Center for 95 children, ages three months to 12  
6 years, and not more than 22 employees under section 205, at  
7 premises 2001 14<sup>th</sup> Street, Southeast in an R-3 district, Square  
8 5774, Lot 836, and would look for a second to that motion.

9                   COMMISSIONER HANNAHAM: Second, Mr. Chairman.

10                  CHAIRPERSON GRIFFIS: Do you want to add.

11                  COMMISSIONER HANNAHAM: Second, Mr. Chairman.

12                  CHAIRPERSON GRIFFIS: Good. Thanks, and motion has  
13 been seconded. However, I think there were some conditions that  
14 were to be added.

15                  MEMBER ETHERLY: Exactly, Mr. Chairman, and my  
16 apologies, just as a matter of clarification and then I'll seek  
17 to insure that my seconder, Mr. Hannaham, is still on board.

18                  COMMISSIONER HANNAHAM: I'm on board.

19                  MEMBER ETHERLY: As a condition to the approval,  
20 pursuant to the Office of Planning, the recommendation that, if I  
21 recall correctly, play times would not commence any earlier than  
22 9:00 a.m. in the play area to the rear of the property.

23                  The age range for the child population to be  
24 serviced by the daycare center will be three months to 12 years.  
25                  Essentially, Mr. Chair, do we need to replicate a portion of the

1 conditions that were outlined in the prior BZA application?

2 CHAIRPERSON GRIFFIS: Indeed. I think it would be  
3 important to follow those and change the pertinent points that  
4 are needed to change, which would be conditions --

5 MEMBER ETHERLY: Terrific.

6 CHAIRPERSON GRIFFIS: -- one, two and seven.

7 MEMBER ETHERLY: Okay. Once again, the ages of the  
8 children shall be three months to 12 years. The number of  
9 children shall not exceed 95. The number of employees shall not  
10 exceed 22, as condition number two.

11 The hours and days of operation for the Center  
12 shall be 6:00 a.m. to 6:00 p.m. Is that correct understanding?  
13 Monday through Friday. Drop-off and pickup of the children shall  
14 be secured by the applicant.

15 I believe it's probably appropriate to maintain  
16 that language, unless there's any desire to go into more  
17 specificity.

18 CHAIRPERSON GRIFFIS: I think we might just change  
19 the language on that one to read, "secured by the applicant as  
20 outlined in its testimony," or however we want to work it that  
21 it's been presented to us how it's going to happen.

22 MEMBER ETHERLY: Understood. Trash removal shall  
23 be carried out on a daily basis. The property shall be kept free  
24 from debris at all times. Breakfast, lunch and afternoon snack  
25 shall be provided on the premises.

1 CHAIRPERSON GRIFFIS: Is the applicant requesting a  
2 time period for this? The previously clearly was seven years.  
3 Are you requesting the same time frame? Yes? Okay.

4 MEMBER ETHERLY: Okay. And approval for --  
5 approval shall be for seven years. Should some language be  
6 included that brings the applicant back after a time certain, or  
7 is that understood if it's signed on that point?

8 MS. PRUITT: You've stated that on -- it's good for  
9 seven years. So at the end of like probably the sixth year if  
10 they want to continue, they would then have to reapply.

11 MS. BELL: Although, Mr. Chair, we would expect no  
12 limit on the proposal if you're willing to offer that.

13 CHAIRPERSON GRIFFIS: You mean no limit on the  
14 order? I am not --

15 MS. PRUITT: We generally do not do childcares with  
16 no limits.

17 CHAIRPERSON GRIFFIS: Right.

18 MS. BELL: What's the limit?

19 MS. PRUITT: The most we've seen recently has been  
20 years.

21 MS. BELL: Ten years.

22 MEMBER ETHERLY: Okay. So if I understand  
23 correctly, the applicant is requesting that the Board consider  
24 approval for ten years?

25 VICE CHAIRPERSON RENSHAW: I would suggest seven.

1 CHAIRPERSON GRIFFIS: Any other comments on that?

2 COMMISSIONER HANNAHAM: I would go along with ten  
3 years.

4 CHAIRPERSON GRIFFIS: Discussion.

5 VICE CHAIRPERSON RENSHAW: Well, I think that since  
6 we had it -- an application from this party in the past, in 2000,  
7 and nothing has happened, I take it from there, and you spoke  
8 about the great need in the community which is going to be met  
9 with this application, I really feel that this is a new  
10 operation.

11 You don't have a track record to put before us so  
12 that I would suggest we go with the seven years. That seems to  
13 be an ample period of time, and then in seven years we'll be able  
14 to review and possibly extend it for ten years thereafter.

15 But since this is the first time out of the gate,  
16 perhaps seven years would be a reasonable time period.

17 CHAIRPERSON GRIFFIS: And this --

18 COMMISSIONER HANNAHAM: True, but -- I'm sorry.

19 CHAIRPERSON GRIFFIS: Go ahead.

20 COMMISSIONER HANNAHAM: My feeling is that they  
21 have already done a trial run and have been very successful.  
22 They've shown a responsiveness to the needs of the community and  
23 have run an effective operation.

24 VICE CHAIRPERSON RENSHAW: I did not understand  
25 that there had been a trial run.

1 COMMISSIONER HANNAHAM: Well, seven years, to me,  
2 is a good period.

3 MS. BELL: No.

4 VICE CHAIRPERSON RENSHAW: No. No. No. There had  
5 --

6 MS. BELL: We've never -- it's not open yet.

7 COMMISSIONER HANNAHAM: Oh, it's not open.

8 VICE CHAIRPERSON RENSHAW: It's not open.

9 COMMISSIONER HANNAHAM: Okay. I misunderstood,  
10 then. But I still would argue for the longer period of time. I  
11 think the applicant has presented a very convincing case of a  
12 very highly professional operation.

13 It's meeting a really significant need in the  
14 community. I would still maintain --

15 CHAIRPERSON GRIFFIS: So you'd support ten years.

16 COMMISSIONER HANNAHAM: -- responding to the  
17 request for ten years, yes.

18 CHAIRPERSON GRIFFIS: Okay. To give some  
19 background, it's been this Board's experience from my  
20 understanding of, you know, from being on it, that in fact Child  
21 Development Centers at first inception starting off actually  
22 range from approvals of three to five years.

23 So actually, seven is going beyond what would -- if  
24 one was to say what normally takes place; I think Ms. Renshaw's  
25 point she has made. But I'd give some context to it and would

1 turn to Mr. Etherly as the proposed motioner to clarify what the  
2 motion will be for.

3 MEMBER ETHERLY: Mr. Chair, with that clarification  
4 and reference to more traditional practice, I would be inclined  
5 to go with the seven-year time frame in the motion, if my  
6 seconder would still support me.

7 COMMISSIONER HANNAHAM: I still would support that  
8 with seven.

9 MEMBER ETHERLY: Okay. Okay. So the approval  
10 would be for seven years. And at which time the applicant would  
11 return before the Board for subsequent approval. That would  
12 conclude all the conditions, unless my colleague has an  
13 additional one.

14 VICE CHAIRPERSON RENSHAW: Just to add, I'm  
15 referring to St. Philip's conditions that it has listed -- it's  
16 Exhibit No. 3 -- and would add that the applicable Codes and  
17 licensing requirements will be met and maintained, and sufficient  
18 off-street parking spaces shall be provided for the teachers,  
19 employees and visitors. I would add those, too.

20 MEMBER ETHERLY: I'd be comfortable with that  
21 language. I think we've had some discussion before that, of  
22 course, the applicable Code and licensing requirements are going  
23 to be met, regardless, because you have to get that for all your  
24 appropriate licenses.

25 But you know, nevertheless, I'm comfortable with

1 having that language in there. That will be fine.

2 COMMISSIONER HANNAHAM: That's fine with me.

3 MEMBER ETHERLY: Okay.

4 CHAIRPERSON GRIFFIS: Further discussion on the  
5 motion?

6 MEMBER ETHERLY: Just to conclude, Mr. Chairman, I  
7 believe the applicant put forward a persuasive case, pursuant to  
8 section 205, regarding all of the relevant information and data  
9 points that are required for the special exception the occupant  
10 has spoken to.

11 Obviously, it's a process ongoing with Department  
12 of Health. We have a letter on file from that agency regarding  
13 their support for the need of the Center, and of course, the  
14 applicant is moving forward with the process in that regard.

15 We've reviewed the traffic conditions and parking  
16 conditions as relate to pickup and drop-off, and it is clear by  
17 the information contained in the application that the surrounding  
18 vicinity is able to support the traffic that's going to be  
19 generated to some minimal extent for the operation and activities  
20 at the Center.

21 Off-street parking is provided on site and the  
22 applicant has also, of course, agreed to take a look at the  
23 option. We're not talking about this from a condition  
24 standpoint, but the applicant has agreed to take a look at the  
25 possibility of doing something with the adjacent parking space,

1 in terms of perhaps creating drop-off, pickup within the confines  
2 of that space.

3 Of course, there's a play area that's going to be  
4 provided which will provide ample space and enjoyment  
5 opportunities for the patrons of the Center. With those and any  
6 other conditions as presented, Mr. Chairman, I think this  
7 application has been very persuasively and very capably made and  
8 I'm prepared to move forward.

9 CHAIRPERSON GRIFFIS: Any other discussion on the  
10 motion? I'd ask for all those in favor of the motion signify by  
11 saying aye.

12 (Chorus of Ayes.)

13 CHAIRPERSON GRIFFIS: And opposed? Very well. It  
14 was requested for summary order on this. I think we can  
15 accommodate that. The additional, before we record the vote,  
16 we're going to need that graphic of the playground equipment  
17 submitted into the record as it was presented here as part of the  
18 testimony.

19 Let us turn to staff who can record the vote.

20 MS. BAILEY: The vote is recorded as four zero one  
21 to approve the application. The motion was made by Mr. Etherly.  
22 Mr. Hannaham seconded. Mrs. Renshaw, Mr. Griffith in support.  
23 Mr. Zaidain is not present today.

24 And these were the conditions as noted by the  
25 Board, and the graphic on the -- the graphic that's before the

1 Board at this time is to be a part of the record. And unless you  
2 want me to go over the conditions, Mr. Chairman, that's it.

3 CHAIRPERSON GRIFFIS: I think we're okay. Is it  
4 your understanding of the conditions that were outlined? Very  
5 well. Then I wish you all a pleasant day and thank you for being  
6 here.

7 CHAIRPERSON GRIFFIS: And Ms. Bailey, when you're  
8 ready we can call the next case.

9 MS. BAILEY: Mr. Chairman, the case of the morning  
10 is Application No. 16895, of Debra M. Tunney, pursuant to 11 DCMR  
11 3103.2, for a variance from the minimum lot dimensions  
12 requirements under section 401, a variance from the width  
13 occupancy requirements -- lot occupancy requirements under  
14 section 403, a variance from the rear yard requirements under  
15 section 404, a variance from the open court requirements under  
16 section 406, a variance from the nonconforming structure  
17 provisions under section 2001.3, and a variance from the off-  
18 street parking requirements under section 2100.7, to allow  
19 additions to two row structures in the R-4 District at premises  
20 1513 and 1515 Independence Avenue, Southeast, Square 1072 South,  
21 Lots 21 and 22.

22 Please stand to take the oath.

23 WHEREUPON,

24 WARREN JONES,

25 was called as a witness for the applicant, and having first been

1 duly sworn, testified as follows:

2 MS. BAILEY: Thank you. Mr. Chairman, two quick  
3 matters on this, the first of which is the property was not  
4 posted for the correct number of days, and that does need to be  
5 waived, then, if the Board decides to accept the affidavit.

6 And additionally, the applicant did provide this  
7 morning a petition with a list of persons in support, and I'd  
8 like to pass that on at this time.

9 CHAIRPERSON GRIFFIS: Okay. While you do that let  
10 me welcome you all here and the Board thanks you for your  
11 patience. There -- as just indicated per your matter, this was  
12 not posted for a full 15 days. Is that correct?

13 MR. JONES: That is correct, sir, and we would like  
14 to apologize for that delay. There was some mis-communication  
15 between my clients and myself. For the --

16 CHAIRPERSON GRIFFIS: There it is.

17 MR. JONES: My name is Warren Jones. I'm the  
18 architect for the clients, Mr. Bill Moseley and Ms. Debra Tunney.  
19 And as I said, there was some miscommunication. We were both  
20 under the assumption that the other would be picking up the sign  
21 and posting it.

22 And once we realized that was not the case I came  
23 down immediately and picked up a sign and posted it the same day,  
24 which was July 8<sup>th</sup>.

25 CHAIRPERSON GRIFFIS: Okay. Let me just note that

1 this Board takes very seriously the posting of that, because  
2 frankly, we find that that is the most effective way to advertise  
3 to the community.

4 Although there is a mailing that is done, clearly,  
5 to residents in proximity, oftentimes that is not given the great  
6 attention that a nice, big, orange sign that is plastered on the  
7 side of the building.

8 MR. JONES: That's so.

9 CHAIRPERSON GRIFFIS: However, in light of the fact  
10 that, one, you have obviously put in a petition that looks to  
11 have adjacent neighbors, but also, in terms of a full eight days  
12 in the community, that as I can imagine most in the District are  
13 fairly dense and central, people are going to be walking by, and  
14 certainly ample time may have been available for eight days.

15 But let me hear whether the Board members have any  
16 concerns about waiving our rules to continue with this today.

17 VICE CHAIRPERSON RENSHAW: Mr. Chairman, I don't  
18 have any concerns because I note that the petitions that have  
19 been handed in today are dated June the 2rd, 2002. So the  
20 neighbors, it seems, have had prior warning, or shall we say,  
21 some announcement has been given to them that these pieces of  
22 property are being considered for development.

23 CHAIRPERSON GRIFFIS: Good. Excellent point. Any  
24 others? In fact, the note that's -- of the signatures outlines  
25 the BZA hearing, time and date and all that. Okay. Good. Well,

1 then, let us proceed and I'll take that as a consensus to waive  
2 our rules for this specific case regarding the posting of the  
3 property. And I will turn it over to you.

4 MR. JONES: Great. Thank you. The two properties  
5 in question, 1513 and 1515 Independence Avenue, are both two-  
6 story, single-family row dwellings. They are currently in a very  
7 deteriorated condition.

8 Most of the floor framing has rotted out due to  
9 water infiltration. The roof of 1513 is -- has collapsed or  
10 partially collapsed, and the properties as they stand now present  
11 a risk to the community.

12 What we propose to do is to renovate these  
13 properties, refurbish them and to provide a small addition to  
14 each property to make them more marketable so that they can  
15 become habitable and no longer pose a threat to the community.

16 As it stands right now, the properties are being --  
17 the backs of those properties are being used for drug use and  
18 drug activity, sales and usage, and we'd definitely like to see  
19 that situation corrected.

20 The six variances that we've applied for are --  
21 most of them actually are inherent in the property itself.  
22 Because of the unusually narrow width of the properties, they're  
23 on -- the property at 1513 is only 12.0 and a quarter inches from  
24 property line to property line.

25 And at 1515 the width is 12 foot zero and a half

1 inches. When you take into account the party walls between the  
2 units that gives you only an inside dimension of about 11 foot  
3 two inches, which is extremely narrow for a residential property,  
4 especially when you consider the fact that the property's only  
5 about 40 feet deep.

6 Well, the property line is only 40 feet from front  
7 to rear. The properties as they stand now are only about 36 feet  
8 deep, one, and the other is -- one property already extends to  
9 the rear property line.

10 The minimum lot dimensions, variance as I said is -  
11 - it's sort of there. Regardless of what we plan to do with that  
12 property, that was one variance that was required just because of  
13 the actual lot size itself.

14 Same thing with the nonconforming structure.  
15 Because of the other variances that threw us into that category  
16 and required us to apply for that variance, as well. The lot  
17 occupancy also is above -- currently above the required 60  
18 percent.

19 Lot 1513 has a current lot occupancy of 60 -- I'm  
20 sorry -- 87 percent, and Lot 1515 has a lot occupancy of 81  
21 percent, as they currently stand now. What we're proposing is  
22 again, to build a small addition to maximize the useful square  
23 footage in these two properties.

24 In the parking -- the off-street parking  
25 requirement we're also requesting a variance for that, because we

1 -- that was not part of the original application. But after the  
2 application was made it was made aware to us that we would also  
3 need that variance because the floor area ratio of 1515 increased  
4 by 25 percent, which kicked us into the category for parking  
5 requirement.

6 CHAIRPERSON GRIFFIS: Right. and that the change  
7 to the building was larger than 25 percent, meaning it's not  
8 exempt from additional parking requirements. Is that correct?

9 MR. JONES: That is correct. That is my  
10 understanding.

11 CHAIRPERSON GRIFFIS: So one is required?

12 MR. JONES: According to Ms. Deniro, one parking  
13 space is required because of the increase in floor area ratio. I  
14 was not aware of that at the time of the application, but like I  
15 said, that was brought to my attention after the application was  
16 made.

17 CHAIRPERSON GRIFFIS: This is outside the Historic  
18 District. Is that correct?

19 MR. JONES: That is correct.

20 CHAIRPERSON GRIFFIS: Okay. I think that was well-  
21 stated by Ms. Deniro. It does come into play. In fact, I think  
22 it's helpful in rounding out. Office of Planning may differ with  
23 my opinion. However, it's helpful in terms of rounding out the  
24 entire application.

25 I mean, we're looking at 515 square feet and 516

1 respectively for the two. So 25 percent increase on that is  
2 still the size of a small bathroom.

3 MR. JONES: Exactly.

4 CHAIRPERSON GRIFFIS: Mr. McGettigan, did you make  
5 -- want to comment on that?

6 MR. McGETTIGAN: It was just my understanding from  
7 the Zoning Administrator's Office that properties -- single-  
8 family properties in existence before 1958 are grandfathered one  
9 space. So in this case they would have one grandfathered space,  
10 even though there's no spaces -- on the site.

11 CHAIRPERSON GRIFFIS: Okay. Well, we'll get  
12 clarification of that before the end of this. Again, it's  
13 difficult without specificity. Both are right in some respects,  
14 in that the 25 percent change, and then the grandfathered aspect  
15 of it.

16 So we just need to figure out which way it's going.  
17 Clearly, you can't park on this lot.

18 MR. JONES: Exactly. Exactly.

19 CHAIRPERSON GRIFFIS: Or you could tear the house  
20 down and park on it.

21 (Laughter)

22 CHAIRPERSON GRIFFIS: Which probably doesn't fit  
23 into the general parameters of what we want in the city.

24 MR. JONES: One car.

25 CHAIRPERSON GRIFFIS: One car, one and a half cars,

1 a Volkswagen bus. All right. We're progressing a little bit;  
2 perhaps getting too hungry. So let us move on with this and look  
3 -- if you wouldn't mind -- clearly, uniqueness is set out, the  
4 narrowness, the entire square footage of the lot is notated.

5 You talked also about -- and frankly, I believe  
6 it's a strong uniqueness of this, too -- is the configuration at  
7 the rear actually creates an unsafe condition and is being  
8 utilized by -- and animated by drug activity.

9 Of course, a lot of that goes, too, that it's an  
10 unoccupied building, also. But I think it can be -- it's  
11 convincing to me that the niches and small areas in the back of  
12 those are very difficult to patrol, as one might say, in terms of  
13 just even when that might be a full building.

14 First question, this is investment properties? Is  
15 that correct? Or --

16 MR. JONES: That's correct.

17 CHAIRPERSON GRIFFIS: Okay. Do you want to speak  
18 briefly on the practical difficulties that you'll run into based  
19 on the uniqueness of the size of this site?

20 MR. JONES: Well, some of the difficulties  
21 architecturally speaking, as I stated earlier, the properties are  
22 only about 11 foot two inches wide on the interior. So that  
23 creates some interesting problems in terms of getting all the  
24 needed elements within the building, the kitchens, the bathrooms,  
25 vertical circulation, and that the main thing is that it's just

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1 so narrow and so shallow that it's very difficult to make these  
2 properties work and make them -- get them to a point where  
3 someone would actually want to buy them, which is the ultimate  
4 goal here.

5 We'd like to see those houses occupied and not  
6 vacant; so whatever we can do to that end.

7 CHAIRPERSON GRIFFIS: So what you're statement is,  
8 in fact, on each level, just to accommodate actually a kitchen  
9 facility, bathroom and your stairs with mechanical chase and all  
10 that, and a living room, basically two rooms, it would be almost  
11 impossible to do it in the current footprint.

12 MR. JONES: That's correct. The current layout  
13 that's in there now has an extremely small kitchen. It has a  
14 mechanical room in the back that's in very poor condition. The  
15 bedrooms are extremely small and there's practically no closet  
16 space as it stands now.

17 And going back with the same footprint would pretty  
18 much give us the same results. We would have very little storage  
19 space, a very small kitchen, practically no living room, and  
20 again, those things that would lead to a hardship regarding the  
21 future sales of these properties.

22 CHAIRPERSON GRIFFIS: Well, sales we're not  
23 concerned about.

24 MR. JONES: I see.

25 CHAIRPERSON GRIFFIS: But the matter of right use

1 of it, we are concerned about, which I think is what your  
2 intention of saying that is.

3 MR. JONES: Yes, sir.

4 CHAIRPERSON GRIFFIS: And a sale meaning someone  
5 would move in and live there. Okay. You indicated that the roof  
6 had collapsed. That's not necessarily a great concern. I mean,  
7 it's a concern, but it doesn't go directly into it.

8 However, what I'm looking at in terms of the  
9 existing front elevation and the proposed front elevation, there  
10 seems to be a fairly dramatic change there. Is there some reason  
11 for this architectural embellishment that's happening on top of  
12 the two structures?

13 MR. JONES: Well, there are two reasons for that.  
14 One reason, the client wanted to do something a little different  
15 with the elevation just to kind of make it stand out a little  
16 more, to differentiate it from some of the other houses in the  
17 neighborhood.

18 And also, one reason is that we'd like to raise the  
19 floor height to nine foot on the second floor. The existing  
20 floor height is already nine feet on the first floor, but we'd  
21 like to raise it on the second floor, as well, to give more  
22 volume to the space.

23 CHAIRPERSON GRIFFIS: So you're actually raising  
24 the height of the building?

25 MR. JONES: Yes, sir.

1 CHAIRPERSON GRIFFIS: What is the total height,  
2 then?

3 MR. JONES: Total height right now is about 20  
4 feet.

5 CHAIRPERSON GRIFFIS: Currently.

6 MR. JONES: Currently.

7 CHAIRPERSON GRIFFIS: But what are you raising it  
8 to?

9 MR. JONES: Oh, I'm sorry. We're raising it to  
10 about 22 to -- the parapet would be approximately 24 feet, if I'm  
11 not mistaken. I don't have it here --

12 CHAIRPERSON GRIFFIS: Right. If I'm not mistaken,  
13 in a residential zone we have to measure the height of the  
14 building from the front, the grade of the front to the ceiling in  
15 the top floor. So you're raising the ceiling a couple of feet,  
16 is what you're indicating.

17 MR. JONES: Only two feet, yes, sir.

18 CHAIRPERSON GRIFFIS: We're still within our height  
19 limitations. So it's not a great concern. All right. Well,  
20 part of -- clearly, you know, for the variances we have three  
21 tests. We were walking through the uniquely practical difficulty  
22 and then let's just call it the detrimental affects.

23 And overall, I don't see a lot -- I do see some  
24 difficulty in terms of this elevation. I can understand the fact  
25 of marketability, trying to differentiate the buildings from the

1 others.

2                   However, I think the fact of the matter of the  
3 newness and the layout, the new windows, however you treat the  
4 existing facade is going to be very marketable and will actually  
5 make it stand out even more-so.

6                   My point directly is the parapet -- and I don't  
7 know if it's a finished design or not -- I don't think it's very  
8 successful in terms of what you're actually trying to accomplish.

9                   I think it may be in fact a detriment in pulling these out as  
10 something separate that don't really ever fit in.

11                   And just from the pictures that you've submitted,  
12 those cornice and roof lines are identical all the way down the  
13 block. I don't think I have a problem and I don't think we have  
14 jurisdiction to go after the height.

15                   I don't have a problem with that and I think that's  
16 part of -- if that's what you're trying to do -- is fit these  
17 structures into contemporary usefulness. And raising the ceiling  
18 height's an important one, especially on the second floor in the  
19 bedroom.

20                   What I would caution is doing something that grand  
21 and sort of out there, because -- you know -- and I'm speaking  
22 just from a marketability standpoint -- it will probably deter  
23 from the attractiveness, as opposed to adding some sort of  
24 attractiveness to it.

25                   I mean, let the buildings and the interior

1 renovations sell themselves. I don't think you need that  
2 permanent signage out front. Signage, I say, but a parapet. So  
3 --

4 MR. JONES: That was a very preliminary design and  
5 we've looked at some alternatives to that parapet that's not  
6 quite as high, and another parapet that doesn't have the peach on  
7 it, as well. So there are different options that we can take.

8 CHAIRPERSON GRIFFIS: Yes. And I think the options  
9 abound. Even if you had a pen roof that sloped back away that  
10 would accommodate the height, where you needed to go, it wouldn't  
11 be that visible from the sidewalk level.

12 MR. JONES: Exactly.

13 CHAIRPERSON GRIFFIS: And would hold that line as  
14 you go across and you wouldn't even notice that the height had  
15 been increased. And then as people walked in they'd be surprised  
16 when they had higher ceilings than everyone else, and they'll  
17 sell like hotcakes.

18 Okay. Any other questions, comments, issues that  
19 we needed to get into on this?

20 (Pause)

21 CHAIRPERSON GRIFFIS: Okay. Let's move on, then,  
22 to Office of Planning report. Yes. Good.

23 MR. McGETTIGAN: Thanks, Mr. Chair. My name is  
24 David McGettigan, from the Office of Planning. The lot as we  
25 show in our report is exceptionally small, I think not only in

1 width and depth, but just in lot area.

2 We think that this is the cause for the uniqueness  
3 and that it meets that test. The second test of practical  
4 difficulty, I think that there's -- the site is so small and, as  
5 the applicant expressed, you just couldn't develop the interior  
6 of that into something livable. So we are comfortable with --  
7 that that's met.

8 As far as the adverse impacts, the existing units  
9 really almost take up most of the lot anyway. They already  
10 exceed the lot occupancy. The rear yards are negligible, so to  
11 speak. So these additions are not going to have a significant  
12 impact on the neighborhood and the air there, on the look of the  
13 rear or the light and air to the rear of the properties.

14 Therefore, we're supporting this application, as we  
15 note in our report, for all variances. Also, I did speak with  
16 the Single-member District for ANC-6B, and he was concerned  
17 about the gable.

18 So there was some mention at the meetings about the  
19 gable parapets not being in character with the existing row  
20 houses. And so I bring that up as one of their concerns. And  
21 I'll answer any questions.

22 CHAIRPERSON GRIFFIS: Good. Board have any  
23 questions of Office of Planning?

24 applicant have any questions of Office of Planning?

25 Have you seen the Office of Planning report?

1 MR. JONES: I have not seen that report, sir.

2 CHAIRPERSON GRIFFIS: Okay. We'll get you a copy  
3 before you go. Again, very thorough report that's submitted and  
4 it does go to exactly the test, as you've heard him just outline,  
5 and we appreciate the summary of the report.

6 There is some length to it. Any other questions  
7 and concerns of Office of Planning? If not, we can go to  
8 Department of Transportation report, which has no objection. We  
9 do need to waive that in, if I'm not mistaken.

10 If there's no objection to that, we can waive in  
11 the report exception. Have you seen any government reports on  
12 this case?

13 MR. JONES: The only report that I've actually seen  
14 is the report from the ANC.

15 CHAIRPERSON GRIFFIS: I see. Okay. Well, it would  
16 be interesting for you to have a copy also of the DDOT report.  
17 All this is submitted into the case file, which you could have  
18 gotten, but it'd be worth it before you go, having them for your  
19 records.

20 And the DDOT does in fact talk about 25 percent  
21 aggregate, which there seems to be some question regarding that.

22 But they did do a site visit and are in support of the  
23 application. They described the alley behind these residences as  
24 not the most accommodating for much of anything --

25 MR. JONES: No, it's not.

1 CHAIRPERSON GRIFFIS: -- outside of large areas of  
2 dumping trash. Hopefully, that will be remedied. And especially  
3 as more families of course live on that alley, more attention  
4 will be brought to it, and hopefully, that will get cleaned up.  
5 Okay. Other -- ANC report.

6 VICE CHAIRPERSON RENSHAW: Mr. Chairman, we have a  
7 letter from Kenan Jarboe, the chairperson of ANC-6B. It's dated  
8 June the 13<sup>th</sup>, and he states that at its regularly scheduled and  
9 properly noticed meeting on June 11<sup>th</sup>, 2002, ANC-6B voted nine to  
10 nothing, seven being a quorum, to support the application.

11 CHAIRPERSON GRIFFIS: Good. Thank you. Okay. Is  
12 anyone else here this afternoon to testify either in support or  
13 opposition of this application, Application 16895 of Debra M.  
14 Tuney (sic) -- Tunney; I'm sorry.

15 Okay. Not seeing a crowd of people rush the table,  
16 I can assume not. Let us go -- last question. It was noted --  
17 and I had forgotten about the ANC -- it was noted that the ANC  
18 also had concern about the gabled roof.

19 MR. JONES: Yes, sir.

20 CHAIRPERSON GRIFFIS: Or the penthouse. What I'd  
21 like to do is clarify, because I believe it will be a condition  
22 on any order that goes out, how that is dealt with. Do you want  
23 to help us in terms of framing something of that nature?

24 Meaning, is there an actual height that you're  
25 looking at that would be required? Also, are you adverse to, for

1 instance, holding any parapet parallel to the cornice and roof  
2 lines of the existing and adjacent buildings? Is there any sort  
3 of language that you would like to propose?

4 MR. JONES: I'm -- well, I guess I really can defer  
5 that question to my client as far as his matter of personal  
6 taste, I would imagine.

7 MR. MOSELEY: Well, I'm William Moseley, and I'm --  
8 with the roof line being the way it is, as long as we can create  
9 some height because we're trying to -- we don't have to have the  
10 peaks on the roof line. But I believe we do have maybe a foot of  
11 space that we can create some kind of height in the roof.

12 MR. JONES: Right.

13 MR. MOSELEY: Where it can give illusion of more  
14 space.

15 MR. JONES: Right.

16 MR. MOSELEY: And that's my idea, because the  
17 spaces are so small and you have to give some kind of illusion  
18 that there is some space. As long as we can move the roof line  
19 up some, where it can still be straight across in conjunction  
20 with the other row houses.

21 CHAIRPERSON GRIFFIS: Is the anticipation that the  
22 higher point would be at the front elevation and you actually  
23 have a flat but sloped roof to the rear?

24 MR. JONES: That's correct.

25 MR. MOSELEY: Right.

1 CHAIRPERSON GRIFFIS: Okay. And that's currently  
2 what's there?

3 MR. MOSELEY: That's currently what is there.

4 CHAIRPERSON GRIFFIS: And you want to move that up.  
5 And you want to move it up 12 inches?

6 MR. MOSELEY: Probably two feet.

7 MR. JONES: Two feet.

8 CHAIRPERSON GRIFFIS: Okay.

9 MR. JONES: Two feet, maximum.

10 MR. MOSELEY: And it could be from where the -- on  
11 the roof we can still create another -- maybe an octagon sort of  
12 shape on the roof line where it can go up and you really don't  
13 see it from the street level.

14 CHAIRPERSON GRIFFIS: Yes.

15 MR. MOSELEY: I guess I would have to draw  
16 something like that.

17 CHAIRPERSON GRIFFIS: Do you know what a pent roof  
18 is?

19 MR. MOSELEY: A pent roof.

20 CHAIRPERSON GRIFFIS: On ten -- this is what I  
21 think would be important without us designing it, which we should  
22 not do.

23 MR. MOSELEY: Yes.

24 CHAIRPERSON GRIFFIS: In accommodating for the  
25 height increase it would be that any height increase, the roof

1 line would be parallel with the existing roof lines, meaning you  
2 wouldn't have peaks as they're being shown.

3 MR. MOSELEY: Right.

4 CHAIRPERSON GRIFFIS: But your roof line would have  
5 a straight line.

6 MR. MOSELEY: Right.

7 CHAIRPERSON GRIFFIS: And basically, what you can  
8 do is from the front elevation you can create an angle through  
9 the back and you'll get your high point here, which is straight,  
10 and it diminishes the impact of the height increase, essentially,  
11 from the front elevation, but it gives you the height that you  
12 need.

13 MR. MOSELEY: Right.

14 CHAIRPERSON GRIFFIS: And then it slopes back.

15 MR. MOSELEY: Okay.

16 CHAIRPERSON GRIFFIS: Does that make sense?

17 MR. MOSELEY: It does make sense. It's not visible  
18 from the street.

19 CHAIRPERSON GRIFFIS: Yes, or not as visible.

20 MR. MOSELEY: Right.

21 CHAIRPERSON GRIFFIS: I mean, clearly, you know,  
22 this was adding six feet or so to the --

23 MR. JONES: And I'm not sure -- the concern that I  
24 had was that I'm not -- I don't know exactly how high the parapet  
25 is now above the level of the roof, because I was not able to get

1 up on the roof. I'm assuming --

2 CHAIRPERSON GRIFFIS: Indeed, and your framing's  
3 probably going to be different than it was.

4 MR. JONES: Right.

5 CHAIRPERSON GRIFFIS: It may be deeper than it used  
6 to be.

7 MR. JONES: The framing's going to be at least a  
8 foot deeper.

9 CHAIRPERSON GRIFFIS: Right. And then you were  
10 going to want some good insulation upon that.

11 MR. JONES: Right.

12 CHAIRPERSON GRIFFIS: So that you have some  
13 efficiency --

14 MR. MOSELEY: Yes.

15 MR. JONES: Exactly.

16 CHAIRPERSON GRIFFIS: -- in the house.

17 MR. JONES: Exactly.

18 CHAIRPERSON GRIFFIS: Okay. I don't have a problem  
19 in terms of limiting the height on it, but I would like to  
20 include some language with this regarding maintaining the  
21 horizontal line of the existing roof and the new secondary roof  
22 line.

23 MR. JONES: Just for clarification.

24 CHAIRPERSON GRIFFIS: Yes.

25 MR. JONES: When you say horizontal line are you

1 referring to the height of that line or just the fact that it is  
2 horizontal?

3 CHAIRPERSON GRIFFIS: Just the horizontal line.

4 MR. JONES: Okay.

5 CHAIRPERSON GRIFFIS: Basically, that would negate  
6 the opportunity of doing the kind of peaks that you have drawn  
7 now.

8 MR. JONES: Right. So we can do a -- we can raise  
9 it but it still has to be horizontal.

10 CHAIRPERSON GRIFFIS: Right.

11 MR. JONES: Right.

12 CHAIRPERSON GRIFFIS: Does the Office of Planning  
13 have any comments on that?

14 MR. McGETTIGAN: No.

15 CHAIRPERSON GRIFFIS: No. Board members? Good.  
16 Okay. Then I would -- does that complete -- let me give you an  
17 opportunity for closing remarks or any other last statements.

18 MR. JONES: Well, as we stated earlier, that we'd  
19 definitely like to see these properties get rehabilitated, and so  
20 that they no longer pose a threat to the community or provide an  
21 opportunity for illicit activities, and we respectfully request a  
22 summary decision in this matter.

23 CHAIRPERSON GRIFFIS: And I imagine you'd like a  
24 decision today, also.

25 MR. JONES: That would be my hope.

1 CHAIRPERSON GRIFFIS: So basically, the summary  
2 order -- let me just get clarification on last legal issues. Are  
3 we okay with parking? Do we have an understanding that there's  
4 actually a credit that rides with these individuals, and  
5 therefore, although it may increase to 25 percent, the intensity  
6 of use 25 percent that a parking space can be credited, is that  
7 correctly stated?

8 MS. SANSONE: Mr. Chairman, I believe that's  
9 correct. If you look in 2100.6, where there is an increase in  
10 intensity it's judged against the unit of measurement specified  
11 in the parking schedule. And the unit of measurement is the  
12 dwelling -- the one-family dwelling.

13 That is not actually being increased, even though  
14 the square footage is being increased. Therefore, there should  
15 be no parking requirement. The existing parking spaces on both  
16 lots would be grandfathered.

17 CHAIRPERSON GRIFFIS: Okay. That's actually  
18 another way -- well, good. That's very clear to me. Clear to  
19 the Board members? Okay. In which case, then, we are looking at  
20 a motion for approval of Application 16895, pursuant to a  
21 variance of minimum lot dimensions under section 401, variance  
22 from lot occupancy requirements 403, variance from the rear yard  
23 requirements under 404, a variance from the open court  
24 requirements under 406, variance from nonconforming structure  
25 provision under 2001.3, and I am striking the variance from off-

1 street parking requirements under 2100.7, if that is correct.

2 And this would allow additions to two row  
3 structures at 1513 and 1515 Independence Avenue. Have we ever  
4 had an application that dealt with two independent properties?

5 MS. SANSONE: Mr. Chairman, we have had  
6 applications that have dealt with developments that consist of  
7 multiple lots.

8 CHAIRPERSON GRIFFIS: Correct.

9 MS. SANSONE: This order could go out as one order,  
10 or it could be bifurcated as two orders if that was the  
11 applicant's preference. I mean, if we have --

12 CHAIRPERSON GRIFFIS: But in terms of the legal  
13 standing it doesn't -- it would not -- it doesn't become more  
14 complicated if it's one order for two properties, especially if  
15 they'll be separate owners?

16 MS. SANSONE: I would think so. In the event of  
17 any future sale of the property, it would be more convenient to  
18 the applicant to have two orders.

19 CHAIRPERSON GRIFFIS: Yes. I would think that we -  
20 - for our own purposes and for the applicant's purposes, we would  
21 bifurcate it and make two orders. They would essentially be  
22 identical. Let me just refer to plans to see if we are actually  
23 running into any points that would need clarification.

24 It looks not. The courts are created in symmetry  
25 on each of the separate pieces. Okay. In which case, I could

1 ask for a second on that.

2 VICE CHAIRPERSON RENSHAW: Second.

3 CHAIRPERSON GRIFFIS: Thank you very much, Ms.  
4 Renshaw. I think it has been pretty clearly stated and laid out,  
5 the uniqueness of this, one, just the dimensions of each of these  
6 lots, the narrowness of the depth, and also, in terms of their  
7 condition and what they are actually being used for at this  
8 point.

9 The difficulty of actually creating a habitable  
10 dwelling grows out of that uniqueness in terms of size and  
11 condition of the properties in question. And clearly, renovating  
12 these and getting them occupied is not going to impair the  
13 integrity of the zone map or plan, but rather, actually is of  
14 benefit to the surrounding area, and therefore, of benefit to the  
15 Zoning Regulations somewhat indirectly.

16 Concern clearly has been stated and walked through  
17 on several issues, but I think the most pertinent, as stated by  
18 the ANC and also by the Board, is the treatment of an increased  
19 height.

20 And it is -- has been stated that any sort of roof  
21 treatment and height increase would be treated similarly with the  
22 horizontal roof line of the existing and adjacent properties,  
23 accommodating an increase in height but establishing a similar  
24 parallel line for -- of the new roof height, and I would have  
25 others to add any discussion on that point.

1 VICE CHAIRPERSON RENSHAW: Not particularly on the  
2 roof line, Mr. Chairman, but just to note that the applicant had  
3 circulated a petition and that there are 28 neighbors in support  
4 of this application.

5 And I think that the petition was very descriptive  
6 of what is going to be done. And again, as you pointed out  
7 earlier, the petition had the date of the BZA hearing as good  
8 notice of when this applicant was going to be before us.

9 CHAIRPERSON GRIFFIS: Excellent point. Thank you,  
10 Ms. Renshaw. Any others? Good. Then I can ask for all those in  
11 favor of the motion signify by saying aye.

12 (Chorus of Ayes.)

13 CHAIRPERSON GRIFFIS: And opposed? Why don't we  
14 record the vote on that when Ms. Bailey's ready.

15 MS. BAILEY: Certainly, Mr. Chairman. The vote is  
16 recorded as 401 to approve the application as amended. The  
17 motion was made by Mr. Griffis. Mrs. Renshaw seconded. Mr.  
18 Hannaham, Mr. Etherly in support. Mr. Zaidain is not here today.

19 And that is, the variance for the off-street  
20 parking requirement has been eliminated. There is a condition  
21 that the applicant shall maintain the horizontal roof line of the  
22 -- the horizontal line of the existing roof line.

23 And there are two orders to be issued, Mr.  
24 Chairman, I'm assuming having the same number, but being an A and  
25 a B.

1 CHAIRPERSON GRIFFIS: I think that's an excellent  
2 point, yes. And I -- we will work to clarify the exact language  
3 that deals with that condition as it goes out. It should not be  
4 an encumbrance, because as I say, we probably increased your  
5 marketability -- no, we don't want to take credit for that.

6 (Laughter)

7 CHAIRPERSON GRIFFIS: Okay. With that, I wish you  
8 all --

9 MR. JONES: You can take credit.

10 CHAIRPERSON GRIFFIS: -- an excellent afternoon.  
11 Good luck with this. When are these going to be complete?

12 MR. JONES: Hopefully --

13 MR. MOSELEY: About in 120 days.

14 CHAIRPERSON GRIFFIS: Okay.

15 MR. JONES: Very soon.

16 MR. MOSELEY: Very soon.

17 CHAIRPERSON GRIFFIS: Great. Thank you all very  
18 much.

19 MR. JONES: Thank you.

20 MR. MOSELEY: Thank you.

21 CHAIRPERSON GRIFFIS: I guess we can adjourn our  
22 Board of Zoning Hearing of July 16, 2002, and we will be  
23 returning after lunch by 1:45.

24 (Whereupon, the foregoing Hearing went off the  
25 record 1:00 p.m., and went back on the record at

1 1:55 p.m.)

2 CHAIRPERSON GRIFFIS: Good afternoon, ladies and  
3 gentlemen. I will call this Hearing to order. This is the 16 of  
4 July, 2002, Public Hearing of the Board of Zoning Adjustment. My  
5 name is Geoff Griffis. I am Chairperson today.

6 Joining me is Vice Chairperson is Ann Renshaw;  
7 also, Mr. Curtis Etherly. Representing the Zoning Commission  
8 with us today is Mr. Hannaham, and representing the Office of  
9 Planning we have Ms. Bailey. And Ms. Pruitt will be out with us  
10 and Mr. Nyarku will also be with us; Ms. Sansone, representative  
11 of corporation counsel.

12 Copies of today's hearing are available to you.  
13 They are located at the table next to the door where you did  
14 enter into the hearing room. I will go through a few items for  
15 this afternoon. Please be aware that these proceedings are being  
16 recorded.

17 So there are several issues attendant to that.  
18 One, when coming forward you must give us your name and address.

19 We will also ask that you speak into a microphone at all times,  
20 and we will give you direction if those aren't working.

21 And we would ask that people refrain from any  
22 disruptive noises or actions in the hearing room during all of  
23 these proceedings. Additionally, persons planning to testify  
24 should fill out witness cards.

25 Witness cards are available at the table next to

1 the door. They are also on the table in front of us. Two cards  
2 should be filled out and given to the recorder upon coming  
3 forward to speak to the Board.

4 The order of procedures this afternoon for  
5 variances and special exceptions will be, first,. Statements and  
6 witnesses of the applicants; second, will be government reports  
7 attendant to the applications. Third, we will hear from the ANC  
8 member or the report submitted by the ANC.

9 Third -- rather -- fourth would be parties or  
10 persons in support. Fifth would be parties or persons in  
11 opposition, and sixth, we will have closing remarks by the  
12 applicant. Cross-examination of witnesses is permitted by the  
13 applicant or parties.

14 The ANC within which the property is located is  
15 automatically a party in the case, and the record will be closed  
16 at the conclusion of each case except for any material  
17 specifically requested by the Board.

18 We will make it very clear exactly what is  
19 requested by the Board when it should be submitted to the Office  
20 of Zoning. And the record, of course, will be then closed, or at  
21 the point where the record is closed. No other information will  
22 be accepted by the Board.

23 The Sunshine Act requires that the public hearing  
24 in each case be held in the open and before the public. The  
25 Board may, however, consistent with its Rules of Procedures and

1 the Sunshine Act enter Executive Session during or after a public  
2 hearing on a case for purposes of reviewing the record or  
3 deliberating on the case.

4 The decision of the Board in these contested cases  
5 must be based exclusively on the public record, and so we  
6 therefore ask you to avoid any conversations with the Board  
7 members so that we don't give the appearance to the contrary.

8 I would ask also that everyone turn off their cell  
9 phones and beepers at this time so we don't have any other  
10 disruptions to the proceedings. We will make every effort to  
11 conclude this afternoon's session by 6:00 o'clock.

12 I will update everybody if we look to go beyond  
13 that and check schedules. At this time I think we should  
14 consider any preliminary matters. Preliminary matters are those  
15 which relate to whether a case will or should be heard today,  
16 such as requests for postponement, continuance or withdrawal, or  
17 whether proper and adequate notice of the hearing has been given.

18 If you are not prepared to go forward with your  
19 case today, or you believe that the Board should not proceed with  
20 the case, now is almost the time to raise such a matter. Let me  
21 go to staff first to see if they have any preliminary matters  
22 before the Board.

23 MS. BAILEY: Mr. Chairman, members of the Board,  
24 good afternoon. And no, sir, we do not have any preliminary  
25 matters at this time.

1 CHAIRPERSON GRIFFIS: Okay. Good. I have one  
2 preliminary matter to bring to the attention of everybody. I am  
3 going to be shuffling the schedule this afternoon and calling the  
4 second case first, and we have two cases on.

5 So we will go to application of the Washington  
6 Hebrew Congregation first. Are there other preliminary matters?

7 Yes, ma'am. You're going to need to come forward and be on a  
8 mike.

9 MS. MARSHALL: Good afternoon.

10 CHAIRPERSON GRIFFIS: Good afternoon. I'm going to  
11 ask you just to touch the base of that microphone. You just need  
12 to push the button. There it is.

13 MS. MARSHALL: Okay. My name is Geraldine C.  
14 Marshall. I live at 1720 27<sup>th</sup> Street, Southeast Washington, Unit  
15 105, zip code 20020.

16 CHAIRPERSON GRIFFIS: Thank you.

17 MS. MARSHALL: I would like to have a postponement  
18 based on the fact that we, the tenants in the vicinity of the 27<sup>th</sup>  
19 Street -- and that's starting at 1500 block -- to the 1700 block,  
20 R Street from the 2600 block to the 3000 block, going over to Q,  
21 Park Place, we have not, nor did we know anything about this  
22 hearing until the notice was posted on the vacant property.

23 And we did not have enough time to get adequate  
24 information to this Board on the proposal that they have  
25 petitioned to do the zoning modification.

1 CHAIRPERSON GRIFFIS: Okay. First clarification,  
2 that actually is going to the Randle Heights Manor LP  
3 application. Is that correct?

4 MS. MARSHALL: Yes.

5 CHAIRPERSON GRIFFIS: Okay. Which is the second  
6 case of the afternoon. I think it's a very pertinent point for  
7 us to explore now, and what I would do is ask if it would be  
8 accommodating to you if we heard the first case, which I  
9 anticipate will not take us very long.

10 Then what I want to do is I'll bring you back up  
11 with the representative of the applicant and we can get to the  
12 bottom of notification.

13 MS. MARSHALL: Okay.

14 CHAIRPERSON GRIFFIS: And timing, and then discuss  
15 it at that point.

16 MS. MARSHALL: All right. Thank you.

17 CHAIRPERSON GRIFFIS: Good. Thank you very much.  
18 In which case, any other preliminary matters in any of the cases  
19 in the afternoon? Very well. Why don't we call our first case,  
20 then.

21 MS. BAILEY: Application No. 16898, of Washington  
22 Hebrew Congregation, pursuant to 11 DCMR 3104.1, for a special  
23 exception to allow the continued use of a child development  
24 center, that's 95 children and 24 staff, under section 205, in  
25 the R-1-B District at premises 3935 Macomb Street, Northwest,

1 Square 1798, Lot 28.

2 Please stand to take the oath.

3 WHEREUPON,

4 MARTIN SULLIVAN,

5 was called as a witness for the applicant, and having first been  
6 duly sworn, testified as follows:

7 CHAIRPERSON GRIFFIS: Good afternoon. Let me have  
8 you introduce yourselves, and then I'm going to interrupt you  
9 briefly.

10 MR. SULLIVAN: Good afternoon, Chairman Griffis and  
11 member of the Board. My name is Marty Sullivan. I'm with Shaw  
12 and Pittman, and we're here today on behalf of the Washington  
13 Hebrew Congregation. With me here from the Congregation is Susan  
14 Hanenbaum, the Executive Director of Washington Hebrew  
15 Congregation, and Rabbi Bruce Lustig, the Senior Rabbi of the  
16 Congregation.

17 CHAIRPERSON GRIFFIS: Good. Thank you. Is anyone  
18 here going to give testimony today for this application, 16898,  
19 Washington Hebrew Congregation? Okay. First of all, Mr.  
20 Sullivan, are you prepared to stand on the record with this case?

21 MR. SULLIVAN: Yes, we are.

22 CHAIRPERSON GRIFFIS: Okay. Then I think if  
23 there's no objection of the Board, we can move to that. I'm  
24 going to -- there will be some questions. So it won't be 100  
25 percent moving on with this. But the first thing I think we

1 would like to have addressed, and it was pointed out in your  
2 submission, and clearly is evident to the Board, that there was  
3 an order that lapsed in 1992.

4 I wondered if you wouldn't mind having the witness  
5 or yourself clarifying the reasoning and the little background  
6 attendant to that.

7 MR. SULLIVAN: Yes. I think --

8 CHAIRPERSON GRIFFIS: I may be mistaken on the  
9 date. So you can clarify that, too.

10 MR. SULLIVAN: It was 1997.

11 CHAIRPERSON GRIFFIS: Right.

12 MR. SULLIVAN: It was a five-year approval, the BZA  
13 approval for the -- was in 1992. Susan Hanenbaum, the Executive  
14 Director of the Congregation, will speak to that issue.

15 CHAIRPERSON GRIFFIS: Okay.

16 MS. HANENBAUM: Good afternoon. I have been the  
17 Executive Director of Washington Hebrew Congregation since 2000,  
18 the year 2000. My immediate predecessor, Mark Greenstein, had  
19 been the Executive Director beginning in 1992, and was Executive  
20 Director in 1997 when we became out of compliance.

21 However, we had tragic leadership problems at that  
22 time and Mr. Greenstein was undergoing severe problems the  
23 Congregation could not completely identify. He left our  
24 employment in 1998, and three months later at age 50 was  
25 diagnosed with early onset Alzheimer's.

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1                   So I think that explains how we found ourselves in  
2                   that position at that time.

3                   CHAIRPERSON GRIFFIS:   Okay.   Can you speak to how  
4                   the records are kept in terms of monitoring specifically the BZA  
5                   order and who would be in charge of being aware of when a new  
6                   application would go in?

7                   MS. HANENBAUM:   I can speak to you how they're kept  
8                   now and how they were kept.   Now, we have a perpetual calendar.  
9                   We have computerized and they are on our calendar, and of course,  
10                  we will have notice each year to myself as Executive Director and  
11                  a follow-up person on the administrative staff to make sure that  
12                  we are in compliance.

13                  In the past, it was just a file system and it was  
14                  in the memory bank of the Executive Director at that time.

15                  CHAIRPERSON GRIFFIS:   I see.   Okay.   Clearly, the  
16                  Board takes very seriously any orders that lapse and then have to  
17                  come in again.   I would say even more-so if we find that  
18                  applicants have let an order lapse and actually are in  
19                  nonconformance with a previous order.

20                  It does not appear from the submission of this  
21                  application that that second part is the case, and I think we'll  
22                  have you briefly talk about that, if need be.   Other issues?  
23                  Anything else Board members want to bring up?   In which case, why  
24                  don't we --

25                  VICE CHAIRPERSON RENSHAW:   Just -- Mr. Chairman,

1 just to ask Ms. Hanenbaum, you came into the leadership as  
2 Executive Director in 1998 or was it 2000?

3 MS. HANENBAUM: 2000.

4 VICE CHAIRPERSON RENSHAW: 2000.

5 MS. HANENBAUM: 2000.

6 VICE CHAIRPERSON RENSHAW: And did you review the  
7 order at that time?

8 MS. HANENBAUM: I did not review those files at  
9 that time.

10 VICE CHAIRPERSON RENSHAW: When did this come to  
11 your attention?

12 MS. HANENBAUM: Several months ago in going through  
13 old files. And there was other licensing involved in the Early  
14 Childhood Center which were in compliance. There was a lot of  
15 papers there. Had to go through it carefully.

16 Even then, we weren't sure that there was anything  
17 unusual that we didn't already have, and checked thoroughly till  
18 we found that we had -- we were out of compliance or thought we  
19 were out of compliance.

20 VICE CHAIRPERSON RENSHAW: And with applicable  
21 licenses you did not have any other --

22 MS. HANENBAUM: No. All's we had gone through, the  
23 annual licensing for all the different agencies involved and  
24 everything has gone forward in proper order.

25 VICE CHAIRPERSON RENSHAW: And so is this the last

1 step?

2 MS. HANENBAUM: Yes, this is the last and the only  
3 step that we have.

4 VICE CHAIRPERSON RENSHAW: To bring you back into  
5 compliance?

6 MS. HANENBAUM: Exactly.

7 VICE CHAIRPERSON RENSHAW: Okay.

8 CHAIRPERSON GRIFFIS: Okay. Is my understanding  
9 correct from the submissions that this application actually is to  
10 continue to operate, of course, and you are offering the similar  
11 conditions from the previous order. Is that correct?

12 MR. SULLIVAN: Yes, with the exception of the five-  
13 year approval period; the ANC-3C voted to approve for a ten-year  
14 period.

15 CHAIRPERSON GRIFFIS: Okay. Mr. Sullivan, let me  
16 turn it over to you, and if you want to, summarize or highlight  
17 any points for us. Otherwise, we can move on. I would intend on  
18 moving straight to Office of Planning and the other agencies'  
19 submissions.

20 MR. SULLIVAN: I think we have nothing further if  
21 the Board has no more questions.

22 CHAIRPERSON GRIFFIS: Okay. Any other questions at  
23 this time? We certainly can return to questions if there are  
24 any. Let us then go to Office of Planning for their report.

25 MR. MORDFIN: Good afternoon, Chairman and members

1 of the Board. I'm Stephen Mordfin, with the Office of Planning.

2 This is BZA Application No. 16898 for the Washington Hebrew  
3 Congregation Child Development Center.

4 This application is for a special exception to  
5 permit the continued operation of an existing Child Development  
6 Center with 96 students and a maximum staff of 24 at 2925 Macomb  
7 Street, Northwest.

8 The subject property is located within the R-1  
9 Zoning District. The Child Development Center was last approved  
10 by the Board in 1992 for a period of five years and no changes to  
11 the operation of the Center are proposed.

12 The subject application is in compliance with the  
13 criteria contained in section 205 as follows: as it was found to  
14 be in conformance with section 205 under BZA Application No.  
15 15646 in 1992, subject to conditions or approval.

16 A Certificate of Occupancy was issued for the use.  
17 All children are dropped off at the door or are walked inside  
18 from the parking lot. Six parking spaces are required by the use  
19 and there are 62 spaces within the parking lot.

20 The use does not utilize an off-site play area.  
21 There are no other child development centers within 1,000 feet,  
22 and the hours and days of operation remain as approved under the  
23 previous application.

24 The Office of Planning recommends approval of the  
25 application as submitted by the applicant, subject to the

1 conditions of approval that -- excuse me -- that the use --  
2 subject -- as submitted by the applicant, subject to the  
3 conditions as submitted by the ANC. That concludes Office of  
4 Planning's report.

5 CHAIRPERSON GRIFFIS: Good. Thank you. And as  
6 submitted by the ANC, the four conditions that you have in your  
7 report are fairly in line with the old order, and that is the  
8 timing, the occupancy levels, hours of operation and I believe  
9 there's, yes, one meeting a year with the ANC. Is that correct?

10 MR. MORDFIN: That is correct.

11 CHAIRPERSON GRIFFIS: Okay. Good. Any questions  
12 of Office of Planning by the Board? applicant have any questions  
13 of Office of Planning?

14 VICE CHAIRPERSON RENSHAW: I have a question.

15 CHAIRPERSON GRIFFIS: Oh, I'm sorry. Ms. Renshaw.

16 VICE CHAIRPERSON RENSHAW: Yes. On page 5 of your  
17 report you said in number 4 on your -- under your  
18 recommendations, a representative of the applicant shall meet  
19 with the ANC no less than once per year. Who did you have in  
20 mind?

21 MR. MORDFIN: Who from the ANC should meet?

22 VICE CHAIRPERSON RENSHAW: No. Who from the  
23 applicant? Who's the representative of the applicant?

24 MR. MORDFIN: We just -- Washington Hebrew  
25 Congregation or whoever they designate to be their

1 representative.

2 VICE CHAIRPERSON RENSHAW: Such as the Executive  
3 Director? I would like it to be --

4 MR. MORDFIN: It could be.

5 VICE CHAIRPERSON RENSHAW: -- I would recommend  
6 that it be very specific so that we know that the Executive  
7 Director be responsible to meet with the ANC.

8 CHAIRPERSON GRIFFIS: Who has done this in the  
9 past?

10 MS. HANENBAUM: To my recollection, being that we  
11 don't have records along those lines, no one has done that in the  
12 past.

13 CHAIRPERSON GRIFFIS: Okay. So for clarity's sake,  
14 there's one condition in the previous order that may not have  
15 been 100 percent compliant. Is there objection, comment on  
16 designating an actual person that would meet with the ANC from  
17 the Congregation?

18 MS. HANENBAUM: There's no objection. In fact, I  
19 would welcome that.

20 CHAIRPERSON GRIFFIS: Okay. Other questions from  
21 the Board for the Office of Planning? applicant have any  
22 questions? I'll take that as a no, Mr. Sullivan. Oh, Mr.  
23 Hannaham.

24 COMMISSIONER HANNAHAM: I was just looking back  
25 over, in comparison with the order of 1992, March of 1992, and

1 the present application, and I notice that the number of students  
2 has gone from -- 95 at that time.

3 So actually, the number of students is the same,  
4 95. The number of staff has changed. No, that's the same, too.

5 CHAIRPERSON GRIFFIS: And where your concern might  
6 be --

7 COMMISSIONER HANNAHAM: Right. I thought I saw a  
8 difference.

9 CHAIRPERSON GRIFFIS: There is a difference, and I  
10 think the applicant --

11 COMMISSIONER HANNAHAM: And I lost track of what I  
12 thought I saw.

13 CHAIRPERSON GRIFFIS: -- the applicant may be able  
14 to clarify. The point is, is in the order we have set a maximum.  
15 They have not reached the maximum, if my understanding is  
16 correct. Is that true?

17 MR. SULLIVAN: That would be correct.

18 CHAIRPERSON GRIFFIS: Right. Yes, the maximum's  
19 not been met and the staff numbers of 22.

20 COMMISSIONER HANNAHAM: Got you.

21 CHAIRPERSON GRIFFIS: Okay.

22 COMMISSIONER HANNAHAM: That's fine. Okay.

23 CHAIRPERSON GRIFFIS: So for clarity's sake, the  
24 condition in the order is being proposed to be the same.

25 COMMISSIONER HANNAHAM: Right.

1 CHAIRPERSON GRIFFIS: Okay.

2 COMMISSIONER HANNAHAM: Thank you.

3 CHAIRPERSON GRIFFIS: Sure. Any other questions,  
4 clarifications? Any questions of Office of Planning?

5 MR. SULLIVAN: No.

6 CHAIRPERSON GRIFFIS: Let's go to the DDOT report.

7 I don't believe we have a representative today. They have filed  
8 a report late. It will require a waiving of our rules to accept  
9 it, followed by a nasty letter telling them not to do it again.

10 Any objections to -- good. Let's accept the  
11 report. Has the applicant reviewed the Transportation report?

12 MR. SULLIVAN: Yes, we have.

13 CHAIRPERSON GRIFFIS: Okay. It is stating in  
14 Exhibit No. 28 that there is no objection. I don't think we need  
15 to go into the specifics of it. It's fairly clear and laid out,  
16 unless there are any questions, highlights that we want to put to  
17 it.

18 Very well. Let's go to the ANC report. Well, we  
19 do have Department of Health, which also is recommending an  
20 approval, and that is -- and they actually in their letter  
21 indicated that there was current licenses for the childcare  
22 center, and they do expire on January 30, 2003. Okay. The ANC  
23 report.

24 VICE CHAIRPERSON RENSHAW: Mr. Chairman, we have a  
25 resolution from ANC-3C that is dated June 24<sup>th</sup>, 2002, and it's

1 signed by Nancy McWood, the Chair. And it states that ANC-3C  
2 supports the application of this -- of the applicant for renewal  
3 of the extension for ten years.

4 Staff and children as noted above, meaning 95  
5 children and staff, 24. Hours of operation, 7:30 a.m. to 6:30  
6 p.m., Monday through Friday, and a yearly consultation by the  
7 Washington Hebrew Congregation with ANC-3C to assess any problems  
8 that might arise.

9 And we are recommending that it be with the  
10 Executive Director of the Center, Childhood Development Center.

11 CHAIRPERSON GRIFFIS: Good. Thank you. That's all  
12 I have noted for government reports and submissions, unless  
13 others have records otherwise. Are there any persons in support  
14 or opposition of this application to give testimony this  
15 afternoon? Now would be the time.

16 Not seeing anyone rush the table, I will assume  
17 that there is no one here to give testimony attendant to this  
18 application, and I would like to just restate the fact that this  
19 is a special exception for the continued use of the Child  
20 Development Center.

21 Although we do have a bit of a complication in  
22 terms of the expired previous order, I think it is clearly set  
23 out that the Board would take -- pays good attention to that and  
24 has great concern about it.

25 However, would be even more concern if there was

1 actually numerous complaints that evidenced that something was  
2 awry in terms of the operation. I think in the submissions we  
3 have it laid out that in fact that there are a lacking of  
4 complaints, meaning that the order that was previous is  
5 sufficiently covering any of adverse impact that may have been  
6 possible, and obviously, we don't have any today.

7 So Mr. Sullivan, I would turn to you for any  
8 summary remarks at this time.

9 MR. SULLIVAN: No summary remarks, other than the  
10 applicant requests a bench decision and a summary order in this  
11 case.

12 CHAIRPERSON GRIFFIS: Very well.

13 Board members, questions, comments? Are you  
14 prepared to move forward today?

15 MEMBER ETHERLY: Yes, we are.

16 CHAIRPERSON GRIFFIS: Any other final  
17 clarifications? In which case I would move for approval of  
18 Application 16898 of the Washington Hebrew Congregation for a  
19 special exception to allow the continued use of the Child  
20 Development Center for 95 children and 24 -- is it 24 or 22?

21 Been a lot of numbers today -- 24 staff, which is  
22 under section 205 at premises 2925 Macomb Street, Northwest, with  
23 the adoption of conditions from the previous order, with  
24 amendments to the approval for time period to be ten years, the  
25 number -- second condition, as stated, number of students and

1 staff, hours of operation are to remain the same, from 7:30 a.m.  
2 to 6:30 p.m., and fourth condition, amending the representative  
3 from the Congregation to be the Executive Director to meet with  
4 ANC once per year.

5 And I'd ask for a second of the motion.

6 VICE CHAIRPERSON RENSHAW: Second.

7 CHAIRPERSON GRIFFIS: Thank you very much, Ms.  
8 Renshaw. Again, I think the other concern that's come up for the  
9 Board that this is actually evidence for us, is the fact of how  
10 do we give notification when orders are out and may be lapsing.

11 And I think it's started an excellent discussion.  
12 I think the fact that you have now instituted a reporting  
13 schedule may well help us in defining what we ask other  
14 applicants to do in the future.

15 I think the Board is also well aware, as is the  
16 Office of Planning, that there is some responsibility from the  
17 government's side in terms of notification, too. So hopefully in  
18 the future we will have a balanced system of notification so that  
19 no one will be surprised when they are actually illegally in  
20 operation.

21 I think enough's been said in terms of the special  
22 exception case. The record is full on this and I would allow any  
23 other Board members to speak to the motion if they would like.

24 VICE CHAIRPERSON RENSHAW: Just to say that  
25 obviously, the applicant enjoys great support from the community,

1 and is providing a wonderful service for the residents of the  
2 area and others.

3 And we look forward to -- we won't see you in ten  
4 years, but whoever is on this Board will see you in ten years and  
5 will enjoy a wonderful report of how you have continued your good  
6 activity for the community.

7 CHAIRPERSON GRIFFIS: Good. Thank you, Ms.  
8 Renshaw. Others? Any other need -- very well. Then I'd ask for  
9 all those in favor of the motion to signify by saying Aye.

10 (Chorus of Ayes.)

11 CHAIRPERSON GRIFFIS: Opposed.

12 MS. BAILEY: Record the vote, Mr. Chairman?

13 CHAIRPERSON GRIFFIS: Please. Thank you, Ms.  
14 Bailey.

15 MS. BAILEY: The vote is recorded as four zero one  
16 to approve the application for ten years, in addition to the  
17 other conditions indicated, and that's a summary order, Mr.  
18 Chairman. The motion was made by you, Mr. Griffis, seconded by  
19 Mrs. Renshaw, Mr. Hannaham, Mr. Etherly in agreement, and Mr.  
20 Zaidain is not present today.

21 CHAIRPERSON GRIFFIS: Good. Thank you very much.  
22 Have a pleasant afternoon.

23 MR. SULLIVAN: Thank you.

24 CHAIRPERSON GRIFFIS: And when you are ready, Ms.  
25 Bailey, we can call the next case.

1 MS. HANENBAUM: Would it be out of order to thank  
2 you for your understanding and approval. Appreciate it.

3 CHAIRPERSON GRIFFIS: Sure.

4 MS. HANENBAUM: Thank you.

5 MS. BAILEY: The last case of the day is  
6 Application No. 16896, of Randle Highlands Manor LP, pursuant to  
7 11 DCMR 3103.2, for a variance from the maximum number of stories  
8 under section 400, and a variance from the floor area ratio  
9 requirements under section 402, and pursuant to 11 DCMR 3104.1, a  
10 special exception to allow the construction of a community  
11 residence facility, that's an assisted living facility for  
12 seniors and other qualified persons, 52 residents and 40 rotating  
13 staff, under section 358.

14 The property's located in an R-5-A District,  
15 premises 2700 R Street, Southeast, Square 5585, Lot 812. All  
16 those persons wishing to testify today, would you please stand to  
17 take the oath, all those persons that would be testifying.

18 WHEREUPON,

19 JERRY MOORE, GERALDINE MARSHALL,  
20 were called as witnesses for the applicant, and having first been  
21 duly sworn, testified as follows:

22 MS. BAILEY: Thank you.

23 CHAIRPERSON GRIFFIS: Thank you all very much. Ms.  
24 Marshall, I think it's appropriate for you to come up at this  
25 time and we're going to take up your matter, and I would have

1 you, sir, to introduce yourself to the Board.

2 MR. MOORE: Hi. I'm Jerry Moore, counsel for the  
3 applicant.

4 CHAIRPERSON GRIFFIS: Okay. Yes, why don't you go  
5 down there.

6 MEMBER ETHERLY: Mr. Chair, just as a preliminary  
7 matter I'd like to disclose on the record that I am  
8 professionally acquainted with Mr. Moore, as we are both Board  
9 members of the Greater Washington Urban League, a nonprofit  
10 organization.

11 That organization has no relationship or bearing in  
12 this case. Mr. Moore and I have not had occasion to discuss this  
13 matter, nor will we have occasion to discuss this matter. But I  
14 felt that it would be appropriate to disclose that to my  
15 colleagues for the record.

16 I feel that, of course, I can impartially sit and  
17 listen and hear this case, and decide on its merits without any  
18 danger of conflict of interest. Thank you, Mr. Chair.

19 CHAIRPERSON GRIFFIS: Thank you, Mr. Etherly.  
20 Board members have any questions or comments, opposition to Mr.  
21 Etherly continuing on this case?

22 VICE CHAIRPERSON RENSHAW: No problem.

23 CHAIRPERSON GRIFFIS: Does the applicant have any  
24 comments, questions?

25 MR. MOORE: No objection.

1 CHAIRPERSON GRIFFIS: No objection. Is there an  
2 ANC member here today? ANC member from 7B? Okay. As we have no  
3 parties in this case, we can continue. Ms. Marshall.

4 MS. MARSHALL: Yes.

5 CHAIRPERSON GRIFFIS: Thank you very much for  
6 coming back up. Let's get into your issue again. If you would  
7 not mind giving me the addresses, once again, that you have  
8 indicated that there was no notification given.

9 MS. MARSHALL: Okay. I don't mind. The tenants  
10 and the homeowners from the 1500 block to the 1700 block of 27<sup>th</sup>  
11 Street, Southeast Washington; on R Street, from the 2600 block to  
12 the 3000 block; on Q Street and Park Place, which are two short  
13 streets that cross there, were never notified.

14 I have petitions here that I can submit with 71  
15 names on it from that area.

16 CHAIRPERSON GRIFFIS: Are the petitions in regards  
17 to the notification not being met, or are they in opposition to  
18 the application?

19 MS. MARSHALL: It is in opposition to the  
20 application and doing the walk. They told me they were never  
21 notified, so they didn't know.

22 CHAIRPERSON GRIFFIS: Can you help me locate the  
23 addresses of the 15 to 1700 blocks/

24 MS. MARSHALL: There's one, apartment building  
25 1501. Well, at the corner is Cope's Funeral Home. So that's

1 empty. There's an apartment building at 1501 that is going condo  
2 at this time that's closed down.

3 CHAIRPERSON GRIFFIS: How far away is it from the  
4 site? The site's address is 2700 R Street. Is that correct?

5 MS. MARSHALL: Right.

6 CHAIRPERSON GRIFFIS: And so you're talking about  
7 15, 17 and 1600 blocks. Is that correct?

8 MS. MARSHALL: So that's two -- 15 would be two  
9 blocks away.

10 CHAIRPERSON GRIFFIS: Indeed. Okay. Is that  
11 within our previous scope of written notification, Ms. Pruitt?

12 MS. PRUITT: I'm looking through the file right now  
13 and I don't see actually -- you know -- normally, we get a plat  
14 with the radius scope on it.

15 CHAIRPERSON GRIFFIS: Correct.

16 MS. PRUITT: Right now we just have only the  
17 addresses.

18 MEMBER ETHERLY: Perhaps, also to use as an  
19 orientation, in the Office of Planning report the final page will  
20 have a somewhat larger blow-up of the vicinity.

21 Ms. Marshall, with respect to the 22<sup>nd</sup> Street  
22 addresses, 1500 to 1700, do you know what are those -- I'm sorry.  
23 Did I mis-speak? It's the --

24 MS. MARSHALL: Not 22<sup>nd</sup>; 27<sup>th</sup>.

25 MEMBER ETHERLY: Twenty-seventh. Okay. What are

1 the cross-streets for 27<sup>th</sup>? That would be 27<sup>th</sup> Street between what  
2 and what?

3 MS. MARSHALL: Okay. Leaving from the 1500 block  
4 you have a one-way little short one, which would be Park Place.  
5 It doesn't come actually across 27<sup>th</sup>. The next large one that  
6 goes across would be Q. The next one would be R and the other  
7 one would be a dead-end going up by Texas Avenue as you go to the  
8 left.

9 CHAIRPERSON GRIFFIS: And if I'm not mistaken, we  
10 have just had submitted a radius map. So we'll make copies of  
11 that and take a quick look at it. And how far away is your  
12 residence from the property? What was your --

13 MS. MARSHALL: Not quite a half a block, my  
14 residence.

15 CHAIRPERSON GRIFFIS: And what's the address again?

16 MS. MARSHALL: 1720 27<sup>th</sup> Street. Officially, we are  
17 the first building on 27<sup>th</sup> Street, because believe it or not, the  
18 buildings are kind of shaped a little funny. But we would be the  
19 first building on 27<sup>th</sup> Street.

20 VICE CHAIRPERSON RENSHAW: Between what and what,  
21 Mrs. Marshall?

22 MS. MARSHALL: It would be between R and Texas  
23 Avenue.

24 COMMISSIONER HANNAHAM: How many residences are  
25 there in the apartment buildings, your apartment building?

1 MS. MARSHALL: In our apartment building we have 15  
2 units, and mostly everyone in the unit is double. Some are  
3 single. Out of the 15 units I would say there's -- because you  
4 asked me residents and I didn't answer your question. I  
5 apologize.

6 Let me get some doubles here because it's 15  
7 because they're single, 17, 18, 19, if my count is correct. That  
8 might not be accurate.

9 COMMISSIONER HANNAHAM: Okay.

10 MS. MARSHALL: But I think it's 19.

11 COMMISSIONER HANNAHAM: I know we try to give  
12 notice to everybody within 200 feet of a particular --

13 MS. MARSHALL: I didn't hear you.

14 COMMISSIONER HANNAHAM: We try to give notice to  
15 everybody who lives within 200 feet of a particular proposed  
16 site. And I was just trying to get an idea as -- when you have  
17 apartment residences we should be including all of the people who  
18 live in those apartment buildings, as well. I'm looking at the  
19 listing --

20 CHAIRPERSON GRIFFIS: Actually, Mr. Hannaham, if I  
21 might just interrupt you. Our regulations state that we deliver  
22 notice to property owners.

23 COMMISSIONER HANNAHAM: Property owners.

24 CHAIRPERSON GRIFFIS: Correct. So it would in fact  
25 be -- and I think we've had incidences previously where there's

1 an apartment building and the occupants of the units are not  
2 notified specifically by the Office of Zoning. But we do leave  
3 it up to the landlords.

4 MS. MARSHALL: Well, our landlord, Pfifer Realty  
5 Company, knew absolutely nothing about it. The property  
6 manager's name is Sandy Ford. She knew nothing about it.

7 MR. MOORE: Mr. Chairman, may we hear from the  
8 applicant?

9 CHAIRPERSON GRIFFIS: Certainly. Mr. Moore.

10 MR. MOORE: Good afternoon. First of all, this  
11 application was filed on the 11<sup>th</sup> of May of this year, and since  
12 that time all the statutory bases have been touched. There was a  
13 200-foot property owners' list submitted with the application,  
14 and the Board -- the Office of Zoning sent out notice to each of  
15 those property owners, as the Regulations require.

16 In addition, the site was properly posted 15 days  
17 in advance of the hearing, and I believe that Mrs. Marshall had  
18 indicated that she had received notice from the signs that were  
19 properly posted on the site. She is in fact here.

20 In addition, notice was duly published in the  
21 District of Columbia Register, in public libraries and on the  
22 bulletin board of the Office of Zoning. In addition to that, the  
23 applicant has met with the Advisory Neighborhood Commission in a  
24 public meeting duly called and noticed for the purpose of  
25 considering this application.

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1           There have been multiple meetings with individuals  
2 and community residents in this community. on the 28<sup>th</sup> of March of  
3 this year. In fact, there is a letter, Exhibit 19 in the file,  
4 from the Randle Highlands Civic Association, which opines on this  
5 application even before it was filed.

6           There have -- there is a petition that you will see  
7 today from the -- from an applicant's witness of 146 residents of  
8 the Randle Highlands Community, indicating their support for this  
9 application.

10           Not only have the statutory and regulatory bases  
11 been touched, but all of the policy and political bases have been  
12 touched. There is no reason for this case not to go forward this  
13 afternoon.

14           CHAIRPERSON GRIFFIS: Appreciate that, Mr. Moore.

15           MR. MOORE: Just be one second. I'm sorry.

16           CHAIRPERSON GRIFFIS: No. I appreciate that, and I  
17 don't think we're questioning whether -- I think we're just  
18 trying to get to the bottom of how and who might have been  
19 missed. Clearly, the -- all that you've stated, the Board has  
20 read and is aware of.

21           But let me just make sure that Ms. Marshall also  
22 understands, you've just been handed a radius --

23           MS. MARSHALL: Yes.

24           CHAIRPERSON GRIFFIS: -- a map with a radius on it.

25           Is your property within that?

1 MS. MARSHALL: I can't read these numbers in the  
2 circle where R Street is.

3 CHAIRPERSON GRIFFIS: Okay. Which numbers are you  
4 trying to read?

5 MS. MARSHALL: The bottom ones where you have R  
6 Street, Southeast, the big circle.

7 CHAIRPERSON GRIFFIS: Yes.

8 MS. MARSHALL: We should be in there. We should be  
9 in that circle.

10 CHAIRPERSON GRIFFIS: Are you close to the corner  
11 of R and 27<sup>th</sup>?

12 MS. MARSHALL: Yes.

13 CHAIRPERSON GRIFFIS: Okay. Let's just check the  
14 address of the property --

15 MS. MARSHALL: Then I have another question. We  
16 had some homeowners in the 1600 block of 27<sup>th</sup> Street, which should  
17 be right here in this radius, because they are directly across  
18 from the vacant lot near the building that was established where  
19 they're trying to build a new building.

20 I have a Rita Qualls, a Tracy Bowman and a Clarence  
21 Washington in 1616 that never received notices. But I do have  
22 some on 28<sup>th</sup> Street that received some, but in that immediate  
23 vicinity where the petition is addressing, no one received any  
24 letters from anyone.

25 And to piggyback on what the gentleman to my left

1 here said, yes, there were meetings with the Randle Civil  
2 Organization. They were opposed to that, but due to I guess the  
3 conflict of presidents from the beginning of this, we did not get  
4 the proper information, because the first information we got from  
5 a former president around said that this had been canceled.

6 So therefore, we did not know until the notices  
7 went up and we actually saw them on the property in that two  
8 blocks, which would be the 1700 block and the 1600 block, which  
9 is homeowners, and you said your Board was supposed to notify  
10 them.

11 They were never notified. And I think they're  
12 townhouses and it should be about ten to 12 of them in that  
13 block.

14 CHAIRPERSON GRIFFIS: Okay. And this is not a  
15 unique situation where we often address in terms of the mailing,  
16 and as Mr. Moore has stated, a list of property owners is  
17 delivered to the Office of Zoning and mailings go out giving  
18 notification.

19 Now, two questions of clarification for you. You  
20 just said that the 1600 block of 27<sup>th</sup> is across the street from  
21 the property?

22 MS. MARSHALL: Yes.

23 CHAIRPERSON GRIFFIS: So that block of 17<sup>th</sup> Street  
24 shares --

25 MS. MARSHALL: Twenty-seventh.

1 CHAIRPERSON GRIFFIS: -- 2700 and 1600 addresses?

2 MS. MARSHALL: No. You said 27. It's 27<sup>th</sup> Street.

3 CHAIRPERSON GRIFFIS: Correct.

4 MS. MARSHALL: So the 1600 block are homeowners on  
5 one side, that whole block. They are townhouses.

6 CHAIRPERSON GRIFFIS: And the 1600 block is south  
7 of R Street. Is that correct?

8 MS. MARSHALL: Yes, that would be. Now --

9 MR. COCHRAN: Excuse me, Mr. Chair. It's north of  
10 R Street.

11 MS. MARSHALL: It would be north?

12 MR. COCHRAN: Between Q and R.

13 MS. MARSHALL: Where the homeowners are?

14 MR. COCHRAN: Yes.

15 MS. MARSHALL: Yes, north, because --

16 MR. COCHRAN: R is --

17 MS. MARSHALL: Yes.

18 MR. COCHRAN: R is --

19 MS. MARSHALL: It's north.

20 MR. COCHRAN: -- is the 1700 block.

21 CHAIRPERSON GRIFFIS: Are you familiar with the  
22 addresses on these blocks?

23 MR. COCHRAN: Well, I'm within reading --

24 CHAIRPERSON GRIFFIS: Would you look at this map  
25 and put down the hundred blocks?

1 MR. COCHRAN: Sure.

2 CHAIRPERSON GRIFFIS: All right. Secondly, can you  
3 give me --

4 MS. MARSHALL: Put it as --

5 CHAIRPERSON GRIFFIS: -- the owner of your  
6 apartment building?

7 MS. MARSHALL: Pfifer.

8 CHAIRPERSON GRIFFIS: Pfifer.

9 MS. MARSHALL: Realty, Inc.

10 CHAIRPERSON GRIFFIS: Okay.

11 MS. MARSHALL: Excuse me, Chairman.

12 CHAIRPERSON GRIFFIS: Yes.

13 MS. MARSHALL: May I invite Mr. Holmes up that  
14 could probably read this map a little better than I can? I'm not  
15 a map reader.

16 CHAIRPERSON GRIFFIS: Mr. Holmes?

17 MS. MARSHALL: Yes.

18 CHAIRPERSON GRIFFIS: Oh, yes. Any clarification  
19 we can get I consider as helpful.

20 MS. MARSHALL: I'm not a map-reader. I don't even  
21 travel by myself.

22 CHAIRPERSON GRIFFIS: In fact, all he needs to do  
23 is mark down the hundred blocks on that map and you can hand it  
24 to me.

25 (Pause)

1 CHAIRPERSON GRIFFIS: Okay. I am very clear on the  
2 addresses now and the blocks, and we have looked at the mailing  
3 list that was submitted for the written notification, and Pfifer  
4 Realty at 1101 14<sup>th</sup> Street, Northwest, was notified in writing.  
5 Okay.

6 We also have numerous 1600 block of 27<sup>th</sup> Street's  
7 listed. Some of them are Jean Moore, Charlie Talbert, C. Reid,  
8 G. Collington. And so at our quick analysis of the issue, it  
9 seems to be that most is in compliance.

10 I mean, we're not necessarily questioning  
11 compliances now. I think we're moving more towards delivery,  
12 whether it was actually completed, and from our -- in the control  
13 that we have it appears to be in order.

14 MR. MOORE: Mr. Chairman, I think I heard Mrs.  
15 Marshall say that her complaint is not that she did not receive  
16 notice, but that she did not receive notice in time for her to do  
17 her purposes. She admitted receiving notice by way of the signs  
18 that were posted at the sight.

19 CHAIRPERSON GRIFFIS: Right.

20 MR. MOORE: And she is in fact here.

21 CHAIRPERSON GRIFFIS: Indeed. Mr. Moore has  
22 brought up the point that there are actually -- there are two  
23 objections or there are two issues brought up for a postponement  
24 on this case. The first notification, I think we're put that to  
25 rest.

1           It is my understanding and I believe the Board's  
2           that the Regulations were followed and complied with in terms of  
3           proper notification. Clearly, we find that posting signs are the  
4           most effective, as most people may not even open their mail or  
5           want to see what the letters are.

6           So they may be discarded. However, they were  
7           mailed out appropriately. The second issue, Ms. Marshall, is a  
8           postponement, and it's based on the fact that you did not have  
9           the time to prepare for today's hearing.

10           That is a different level of request and it's  
11           actually a motion to continue. And corporation counsel will  
12           correct me if I am incorrect, however, I do not believe that the  
13           Board can entertain a motion from a person. It needs to come  
14           from a party in the case for a continuance.

15           MS. MARSHALL: Well, would this petition be a  
16           party? And looking through this, I only --

17           CHAIRPERSON GRIFFIS: Let me -- I can -- I'll stop  
18           you there, because we have fairly strict regulations in terms of  
19           requesting party status, and there's a time for filing of party  
20           status. It does not preclude you, it doesn't stop you from  
21           testifying today and being a part of this public hearing, which  
22           will be an important part.

23           But it does at this point, without an application  
24           or a request for party status, it keeps you from two things.  
25           One, the ability to cross-examine witnesses, and two, the

1 requirements for submitting any documentation that the Board  
2 might request, including findings of facts and conclusions of  
3 law.

4 So there are two levels of participation, party and  
5 person. Anyone can present testimony and be here as a person in  
6 a case. Did you want to add to that?

7 MS. SANSONE: Well, Mr. Chairman, I just I guess  
8 want to point out, there is -- it's probably not as clear-cut as  
9 it might seem, because the posted notice only has to be up for  
10 two weeks. However, the request for party status must also be  
11 filed two weeks before the hearing.

12 So if you are relying on the posted notice to give  
13 notice, that would not probably -- well, if that is the only  
14 notice a person received they would not have adequate time to put  
15 in their request for party status.

16 It's just really not quite as straightforward as we  
17 might like. But I don't know if Ms. Marshall has addressed  
18 whether or not she really wanted party status and those  
19 responsibilities and rights, and whether she didn't have adequate  
20 time to pull that together.

21 MS. MARSHALL: Yes, we want it and we did not have  
22 adequate time, because for some reason or not -- and I don't know  
23 if they came past or not -- the signs were down. One of the  
24 signs were down for a long time, and we actually had to walk into  
25 the yard and read it.

1 CHAIRPERSON GRIFFIS: Board members, comments?

2 MEMBER ETHERLY: Well, Mr. -- I think you were  
3 heading in the right direction. As it relates to notice, I think  
4 we clearly have an affidavit of posting that's been properly  
5 filed. The posting period was adhered to.

6 We clearly have evidence that the notice as it's  
7 done according to our procedures was handling appropriately. I  
8 don't -- I just don't see any infirmities in that regard. And  
9 that in no way is a statement with respect to Ms. Marshall's  
10 veracity.

11 I think Ms. Marshall has identified what's a little  
12 bit of a gray area for us, in that notice did go to the apartment  
13 owner, the building owner, but that does not necessarily then  
14 filter down to residents in the individual property.

15 Whether or not it is within our purview to perhaps  
16 entertain a motion for party status, we would have to be very  
17 generous in that interpretation. That might be our only course  
18 of action at this particular juncture.

19 I believe Ms. Marshall indicated that she did have  
20 a petition of signatures comprised not only of residents from  
21 your apartment building. Is that correct, Ms. Marshall?

22 MS. MARSHALL: Right.

23 MEMBER ETHERLY: Okay. But also other residents  
24 from the vicinity. As the Chairman alluded to, the Board has  
25 very strict guidelines regarding to whom party status can be

1 awarded, and it would still remain to be seen whether or not that  
2 petition, along with your comments today, would enable you to get  
3 the benefit of party status.

4 I believe we'd probably have to be very generous in  
5 our interpretations to do that. And of course, the applicant  
6 would be in a position to make some comments yea or nay as to  
7 whether or not party status should be granted.

8 But you know, I'd just break this down into two  
9 basic inquiries. I think we've resolved the notice issues.  
10 There are no infirmities there and I don't think there's any  
11 reason to postpone or continue our proceedings today on that  
12 ground.

13 If we want to deal with the party status issue we,  
14 I think, would have to be very expansive in our view, but that  
15 would be the next appropriate step. Otherwise, Ms. Marshall  
16 would be able to testify as a person and still make her case on  
17 the record, but not party status. Thank you, Mr. Chairman.

18 CHAIRPERSON GRIFFIS: Thank you. Ms. Marshall, if  
19 we give you the opportunity to make a case for party status  
20 briefly today, first of all, who would you be representing?

21 MS. MARSHALL: First of all, I would be  
22 representing the Randle Highland Citizens Civic Organization.

23 CHAIRPERSON GRIFFIS: And would you have a letter  
24 stating that you would actually represent them in this case?

25 MS. MARSHALL: No, not at this time. We have --

1 CHAIRPERSON GRIFFIS: Okay. But it's your  
2 intention that that would be the case?

3 MS. MARSHALL: Right, because we have letters of  
4 their opposition here, but we don't have letters of --

5 CHAIRPERSON GRIFFIS: I understand that.

6 MS. MARSHALL: -- advising us to --

7 CHAIRPERSON GRIFFIS: If it were to be pursued and  
8 the Board approved party status for you representing the Randle  
9 Highlands Citizens Civic Association, would you be prepared to  
10 move forward today?

11 MS. MARSHALL: No, we wouldn't be. That's why we  
12 would want to have a continuance of at least 60 to 90 days.

13 CHAIRPERSON GRIFFIS: Okay. I'm going to do this.  
14 First, we're going to make a copy of the regulations regarding  
15 party status and what needs to be achieved in order to be granted  
16 party status. I'm going to take a ten-minute recess.

17 I'm going to have that delivered to you. You're  
18 going to review that and then I'm going to come back and ask you  
19 a couple of quick questions.

20 MS. MARSHALL: Okay.

21 CHAIRPERSON GRIFFIS: Thank you.

22 (Whereupon, the foregoing Hearing went off the  
23 record 2:36 p.m., and went back on the record at  
24 3:16 p.m.)

25 CHAIRPERSON GRIFFIS: Ms. Marshall.

1 MS. MARSHALL: Yes.

2 CHAIRPERSON GRIFFIS: Have you had a chance to  
3 review the regulations regarding making application for party  
4 status?

5 MS. MARSHALL: Yes, I have.

6 CHAIRPERSON GRIFFIS: Are you prepared to address  
7 those at this time?

8 MS. MARSHALL: Yes, I am.

9 CHAIRPERSON GRIFFIS: Okay. I'm going to ask you  
10 to begin. The Board will have questions regarding each of your  
11 answers perhaps, and then ask you anything further that we might.  
12 So I'll turn it over to you.

13 MS. MARSHALL: Okay. Do you want me to start with  
14 my name and address again, or you want me to proceed down to  
15 number 1?

16 CHAIRPERSON GRIFFIS: I think we have that.

17 MS. MARSHALL: Okay. So I will go -- oh, no. I  
18 think I need to go to (b) then. Am I correct in making that  
19 assumption?

20 CHAIRPERSON GRIFFIS: No. I would start off, first  
21 of all, make quick statements on a few of these. First of all,  
22 it's our assumption that you're coming in as an opponent. Is  
23 that correct?

24 MS. MARSHALL: Yes.

25 CHAIRPERSON GRIFFIS: Okay. And whether you'll

1 appear through legal counsel; is that your anticipation?

2 MS. MARSHALL: Yes, we want to get legal counsel;  
3 yes, we would like to do that.

4 CHAIRPERSON GRIFFIS: Okay. Why don't we get  
5 clarification, also, of who would be involved in this request for  
6 party status. Who would be combined as a party, if approved?

7 MS. MARSHALL: If approved, we would like to have  
8 the Randle Highland Citizens Civic Association and the tenants  
9 and homeowners in that vicinity of 27<sup>th</sup> Street, R Street, Q  
10 Street, Park Place.

11 CHAIRPERSON GRIFFIS: Okay. You would have  
12 selective -- selected residents and homeowners, or are you  
13 convinced that you'll have 100 percent of everyone that surrounds  
14 that site that would join the party status?

15 MS. MARSHALL: Yes, I am, from what they did on  
16 these petitions.

17 CHAIRPERSON GRIFFIS: Okay.

18 MS. MARSHALL: I would state yes.

19 CHAIRPERSON GRIFFIS: Well, let me be more direct.  
20 You have -- you -- the petition actually has signed from every  
21 occupant resident in the surrounding area?

22 MS. MARSHALL: No.

23 CHAIRPERSON GRIFFIS: Okay. That's fine.

24 MS. MARSHALL: Because as --

25 CHAIRPERSON GRIFFIS: That's all I need. Now, are

1 you a member of the Randle Highland Civic Citizens?

2 MS. MARSHALL: I'm not a paid member, no.

3 CHAIRPERSON GRIFFIS: Are they -- the members are  
4 paid?

5 MS. MARSHALL: No. Not pay dues.

6 CHAIRPERSON GRIFFIS: I'm sorry. I see.

7 MS. MARSHALL: Pay dues.

8 CHAIRPERSON GRIFFIS: I see.

9 MS. MARSHALL: Pay dues.

10 CHAIRPERSON GRIFFIS: I got you.

11 MS. MARSHALL: Dues-paying, I should say.

12 CHAIRPERSON GRIFFIS: It's late --

13 MS. MARSHALL: Dues-paying.

14 CHAIRPERSON GRIFFIS: -- it's late in the afternoon  
15 for me --

16 MS. MARSHALL: So I am really not a member, because  
17 I didn't pay dues.

18 CHAIRPERSON GRIFFIS: Okay. All right. that gives  
19 some clarification about who would be within the party. Let us  
20 continue, then. Of course, our Regulations require a written  
21 statement from you. We've covered that fact and we are doing  
22 this orally now.

23 I think the most important piece for us to hear at  
24 this point would have some testimony in how you feel your party  
25 would be significantly, distinctively, uniquely affected if this

1 relief was granted to the applicant.

2 MS. MARSHALL: I -- we feel, and I think I can  
3 speak for everyone at this time, because the petition reads that  
4 -- we feel that the traffic would be impacted. We feel that  
5 parking definitely would be impacted because parking there, we  
6 would lose approximately two space on our street, because on that  
7 property there is a driveway and that property was closed down.

8 So that driveway is supposed to be opened back up.  
9 I'm assuming, if my count is right, for seven or eight parking  
10 spaces to be on their property. So that means on our street in  
11 the 2700 block, I think it's north, we would lose at least two  
12 parking spaces. And parking around there at this time --

13 CHAIRPERSON GRIFFIS: Okay. What I'm going to ask  
14 -- I'm not going to hear a lot of testimony. What I just need  
15 you to talk about is --

16 MS. MARSHALL: Okay, the environment --

17 CHAIRPERSON GRIFFIS: No. How you, your party, the  
18 people that you might represent, are uniquely affected if this is  
19 -- so okay. Increased traffic, that's going to affect you  
20 because you drive those streets and the proximity parking, okay,  
21 because you park in that area.

22 MS. MARSHALL: Right.

23 CHAIRPERSON GRIFFIS: Help us understand without  
24 getting into the details of it all the general issues of how you  
25 would be affected.

1 MS. MARSHALL: Okay. Other than the parking, the  
2 environment, economically, the mortgage property would go down  
3 for those parties.

4 CHAIRPERSON GRIFFIS: Okay. The environment; what  
5 do you mean?

6 MS. MARSHALL: The environment would be their trash  
7 pick-up.

8 CHAIRPERSON GRIFFIS: I see.

9 MS. MARSHALL: Because that unit was not 52 units,  
10 and now we're talking 52. So that would be a great impact on  
11 trash. Economically, it would -- and socially -- it would bring  
12 numerous of whatever into our neighborhood. And --

13 CHAIRPERSON GRIFFIS: I'm not sure I follow.

14 MS. MARSHALL: -- and, and --

15 CHAIRPERSON GRIFFIS: What -- what do --

16 MS. MARSHALL: -- what I'm basically trying to say,  
17 it would change the character of our neighborhood.

18 CHAIRPERSON GRIFFIS: I see. So you have concern  
19 about these issues specifically, and generally, about the quality  
20 of life that would --

21 MS. MARSHALL: Yes.

22 CHAIRPERSON GRIFFIS: -- if this was --

23 MS. MARSHALL: Yes.

24 CHAIRPERSON GRIFFIS: I see. Okay.

25 MS. MARSHALL: And for the homeowners, like I said,

1 their mortgage and their property would be -- property value  
2 would go down.

3 CHAIRPERSON GRIFFIS: You believe that the property  
4 value would go down --

5 MS. MARSHALL: Yes.

6 CHAIRPERSON GRIFFIS: -- if this project was built?

7 MS. MARSHALL: Yes.

8 CHAIRPERSON GRIFFIS: Okay. And you feel that you  
9 -- that the -- these issues, as you've stated, first of all,  
10 uniquely affect your party are strong enough that move you to  
11 request party status so that you can cross-examine witnesses, so  
12 that you have the responsibilities of a party in participation of  
13 this case?

14 MS. MARSHALL: Yes.

15 CHAIRPERSON GRIFFIS: You do not believe that you  
16 could in fact present your case in testimony?

17 MS. MARSHALL: No. I don't believe that we could  
18 cover the whole ground in testimony.

19 CHAIRPERSON GRIFFIS: Okay.

20 MS. MARSHALL: And also, I feel that we need to  
21 have time to get the true values of things that we didn't have  
22 time to get the true value of. And when I -- I know, don't do  
23 that. I said yes. The true value would be exactly what the  
24 property is worth around there, you know.

25 CHAIRPERSON GRIFFIS: What --

1 MS. MARSHALL: I'm talking of homeowners in the --

2 CHAIRPERSON GRIFFIS: And that goes specifically to

3 your trying to make your --

4 MS. MARSHALL: -- homeowners.

5 CHAIRPERSON GRIFFIS: -- point of whether your

6 property values would diminish?

7 MS. MARSHALL: Yes, homeowners.

8 CHAIRPERSON GRIFFIS: Okay. What else.

9 MS. MARSHALL: I'm speaking of the homeowners.

10 CHAIRPERSON GRIFFIS: Well, that would be your

11 responsibility if you have to put together a case.

12 MS. MARSHALL: Yes.

13 CHAIRPERSON GRIFFIS: I must -- I would caution you

14 that's a very difficult thing to ever prove. I mean, it -- well,

15 there it is. Board members, questions of the applicant for party

16 status at this time?

17 COMMISSIONER HANNAHAM: Mr. Chairman.

18 CHAIRPERSON GRIFFIS: Yes, Mr. Hannaham.

19 COMMISSIONER HANNAHAM: Would you expect to also

20 get the authorization from the organizations that you mentioned,

21 especially the existing one, the Randle Highlands Civic Citizens

22 Association, you'd be acting on their behalf?

23 MS. MARSHALL: Yes, I do.

24 COMMISSIONER HANNAHAM: -- of the organization?

25 MS. MARSHALL: Yes, I do, because I have letters

1 here from the former president, yes.

2 CHAIRPERSON GRIFFIS: Well, I think even more  
3 directly stated, if we were to pursue your request for party  
4 status we would require that anyone you're representing has a  
5 letter stating that, and any organization clearly has that stated  
6 and signed by an official officer of it.

7 MS. MARSHALL: Yes.

8 CHAIRPERSON GRIFFIS: But Mr. Hannaham brings up an  
9 excellent point. Other questions?

10 COMMISSIONER HANNAHAM: The other one is, the same  
11 thing would apply to the Randle Highlands Tenants Association. I  
12 assume that that's --

13 MS. MARSHALL: Yes. Yes.

14 COMMISSIONER HANNAHAM: -- a live or chartered  
15 organization?

16 MS. MARSHALL: Yes.

17 COMMISSIONER HANNAHAM: Okay. So the same thing  
18 would hold there, too.

19 MS. MARSHALL: Yes.

20 COMMISSIONER HANNAHAM: Okay.

21 MS. MARSHALL: I can firmly say yes on those.

22 COMMISSIONER HANNAHAM: Okay. That's all I had.

23 CHAIRPERSON GRIFFIS: Thank you. Other questions?

24 VICE CHAIRPERSON RENSHAW: Mr. Chairman, I think  
25 for me what Ms. Marshall has said in the very beginning of her

1 statements regarding party status on wanting to get legal  
2 counsel, which is clearly the right of Ms. Marshall and those  
3 whom she represents, it's very, very important for us to consider  
4 because I think that this community, as it has stated to us that  
5 it has not had this opportunity because of not having what they  
6 feel is proper notice.

7 And Ms. Sansone had explained to us that the  
8 property has to be posted 14 days in advance. However, you had  
9 to get your party request in 14 days in advance. So you kind  
10 conflict at that point, and organizations do not meet in a  
11 regular fashion.

12 Many times it's only once a month, or on an  
13 irregular basis they meet. So it is more difficult for the  
14 community to shall we say group itself, package itself to respond  
15 to BZA applications. So I think her need for the community to  
16 get legal counsel is very important, and I would support her  
17 request for party status.

18 MR. MOORE: Mr. Chairman, may the applicant be  
19 heard?

20 CHAIRPERSON GRIFFIS: Mr. Moore, believe me, I'll  
21 give you time. What I want to do is flush out the questions from  
22 the Board so that we are full of understanding, and that you will  
23 have your opportunity to object to the party status request. I'm  
24 assuming that's what you'll do. Other questions.

25 MEMBER ETHERLY: Mr. Chairman, not a question so

1 much as a concern. The difficulties, as we've highlighted,  
2 there's a very, you know, rather strict threshold which you must  
3 meet in order to achieve party status.

4 What I'm struggling with is whether or not the  
5 issues and the concerns that Ms. Marshall and the individuals or  
6 organizations that she may represent, whether or not those issues  
7 or concerns could be satisfactorily aired and vented through  
8 testimony.

9 My colleagues will note that Exhibit 19 of her file  
10 involves -- or is comprised of three letters that have been  
11 submitted to the record on behalf of the Randle Highlands  
12 Citizens Civic Association, one of the organizations which Ms.  
13 Marshall is endeavoring to represent.

14 Those letters are not in large part directed to the  
15 Board, but they are copies of correspondence that had been  
16 exchanged on behalf of the Citizens Civic Association, a March  
17 28<sup>th</sup> letter that was directed to the Mayor's Office noting the  
18 association's concerns with the applicant's plans, a May 14<sup>th</sup>  
19 letter, which was directed to Mr. Michael Wallace and Mr. Albert  
20 Hopkins, once again outlining a number of the association's  
21 concerns, and then unfortunately, a letter that is not dated,  
22 also again directed to Albert Hopkins, denoting the association's  
23 concerns.

24 The reason why I direct my colleagues' attentions  
25 to those letters is, is clearly, there is a very strong

1 indication that the Randle Highlands Citizens Civic Association  
2 was indeed very aware of the plans and the dialogue around what  
3 is proposed for this particular site, and had taken very  
4 significant steps to be on the record regarding those concerns,  
5 and in fact, stating their opposition.

6 What is not included in any of that documentation  
7 is a party request. That is a request that could have been made,  
8 obviously to this body, at any point in time in concert with any  
9 of the communications that I've mentioned here.

10 So I'm struggling with the fact that I believe  
11 there was an opportunity for the Citizens Association, the Civic  
12 Association, to make a party request and it chose not to do so.  
13 But we do have on the record very detailed information regarding  
14 the nature of the objections.

15 And so I'm concerned about duplication of our  
16 efforts as we move through what is -- what promises to be a very  
17 complex discussion around this case, Mr. Chairman. So perhaps as  
18 my colleagues work through this request, just please be aware  
19 that at least for this particular member, I am continuing to  
20 struggle and am somewhat inclined to oppose the request for party  
21 status, because I think we already have satisfactory  
22 documentation in the record which speaks to the issues that are  
23 going to be raised by Ms. Marshall.

24 Thank you very much, Mr. Chairman.

25 CHAIRPERSON GRIFFIS: Thank you, Mr. Etherly; well

1 said.

2 Ms. Renshaw.

3 VICE CHAIRPERSON RENSHAW: Yes. I note that these  
4 letters are not addressed -- and I'm referring to Exhibit 19 and  
5 -- let's see -- the Randle Heights Citizens Civic Association and  
6 I don't -- I guess they're all in a package under Exhibit 19.

7 In any case, these are not addressed to the Office  
8 of Zoning, which if they had been forwarded to the Office of  
9 Zoning, the Office of Zoning could have gotten in touch with  
10 Randle Highlands Citizens Civic Association and at least set out  
11 the requirements for party status.

12 And the request could have then been, shall we say,  
13 timely made. So I am of a mind to think that the Randle  
14 Highlands Citizens Civic Association was not aware of the  
15 requirements of this Board, vis-à-vis party status.

16 And I feel that anyone who comes before the BZA has  
17 a right to counsel. If they feel that they need counsel, then  
18 this is the time, before we get into the case, for them to say,  
19 whoa, we should have counsel here because it is perhaps more  
20 technical, more difficult for us; there's going to be a review of  
21 extensive material that is best done by a lawyer.

22 So I feel that it is better to err on the side of,  
23 shall we say, a continuance so that the community can have that  
24 counsel, than to proceed and, shall we say, leave them a little  
25 bit vulnerable.

1 CHAIRPERSON GRIFFIS: So Ms. Renshaw, your rebuttal  
2 to Mr. Etherly's point of their involvement is the fact that they  
3 may have been involved, or were involved as is evidenced by  
4 letters, but may not have been aware of the timing --

5 VICE CHAIRPERSON RENSHAW: That's what I have said,  
6 yes.

7 CHAIRPERSON GRIFFIS: -- for the specific party  
8 status in this case.

9 VICE CHAIRPERSON RENSHAW: Yes.

10 CHAIRPERSON GRIFFIS: Other comments, questions  
11 actually would be more appropriate, of the applicant for party  
12 status at this time? Let us, then, hear from the applicant in  
13 regards to us entertaining and/or approving party status at this  
14 time.

15 MR. MOORE: Thank you, Mr. Chair, and may I say  
16 that -- this is Jerry Moore, for the applicant -- may I say that  
17 this request is at a substantial variance with the actual --  
18 Board's actual regulations. Mrs. Marshall does not meet any of  
19 the criteria set forth in 3106.

20 She did not meet the 14(d) criteria without stating  
21 a good cause. She said she didn't know about it, but we're going  
22 to talk about that in just a minute. The property owned or  
23 occupied in which such person has an interest will be affected by  
24 the action.

25 She admits she's not a property owner. She said

1 she's a tenant of the area. She admits she is not a member of  
2 the Randle Highlands Citizens Civic Association, the very  
3 organization which she seeks to represent.

4 How can she represent an organization that not only  
5 has not asked for party status, not only has not appointed her as  
6 to speak for it, but also, has not sought party status here?  
7 She's not a member of that organization.

8 As to right to counsel, well, we can't argue about  
9 that. Everyone has a right to counsel, but everyone has a right  
10 to be here, has an obligation to be here when they received  
11 notice that the hearing goes on today.

12 If I were to argue that I have a right to counsel,  
13 then, every single time I come up here, then the Board would --  
14 could never hear a case. The fact is that not only Mrs.  
15 Marshall, but the Randle Highlands Civic Association and all the  
16 property owners within 200 feet of the site, have received notice  
17 of this proceeding.

18 The applicant has gone to extraordinary lengths to  
19 talk with the ANC, Randle Highlands Civic Association, and has  
20 had numerous meetings with citizens in the area about this very  
21 case. Now, earlier we spoke to the ANC.

22 Well, the Chairman of the Advisory Neighborhood  
23 Commission is at my right, Mr. Grant, and I'd asked him to speak  
24 to this request, as well.

25 MR. GRANT: Good afternoon, Mr. Chairman and

1 members of the Board of Zoning Adjustment. On June the 26<sup>th</sup> the  
2 ANC sent a letter to you, Chairman Griffis, and let me just read  
3 it at this time.

4 CHAIRPERSON GRIFFIS: Okay. If you wouldn't mind  
5 just stating your name and address for the record.

6 MR. GRANT: Oh, I'm sorry.

7 CHAIRPERSON GRIFFIS: That's okay.

8 MR. GRANT: My name is Roscoe, R-O-S-C-O-E, Grant,  
9 G-R-A-N-T, Jr. I'm the Chairperson of Advisory Neighborhood  
10 Commission 7B, and also, the Commission of the Single-Member  
11 District 7B-03. On June the 26<sup>th</sup>, I sent a letter to you,  
12 Chairman Griffis, and it reads:

13 "BZA Application No. 16896. This letter is to  
14 inform you that the ANC-7B voted at its regularly  
15 scheduled meeting, Saturday, June the 15<sup>th</sup>, to  
16 support the proposed Randle Highlands Manor Senior  
17 Assisted Living Facility to be located at 2700 R  
18 Street, Southeast."

19 CHAIRPERSON GRIFFIS: Okay. And we've read that,  
20 and actually, now is not an appropriate time to go through the  
21 actual ANC meeting. But my understanding was you were being  
22 asked to talk to the motion for party status at this time. Do  
23 you have an opinion, an official opinion from the ANC --

24 MR. GRANT: Yes.

25 CHAIRPERSON GRIFFIS: -- in opposition?

1 MR. GRANT: Yes. The official opinion is that the  
2 applicant appeared at three different ANC meetings to talk about  
3 this project.

4 CHAIRPERSON GRIFFIS: Yes.

5 MR. GRANT: The Commissioner, Debra Davis, who is a  
6 Single-Member Commissioner who represents Randle Highlands, has  
7 met with the residents on numerous occasions to discuss this  
8 particular project.

9 Based on some of the concerns that were raised at  
10 those meetings, the applicant made adjustments to their design.  
11 Those design --

12 CHAIRPERSON GRIFFIS: Okay. And we're going a  
13 little far into the --

14 MR. GRANT: Okay.

15 CHAIRPERSON GRIFFIS: -- the actual case. And so  
16 let me try and redirect you. What I need you to do is speak to  
17 why Ms. Marshall should or should not be granted party status.

18 MR. GRANT: Why she -- they shouldn't be granted  
19 party status is because the ANC is a representative of the  
20 residents in the area, and the ANC has had three meetings, as I  
21 indicated, to discuss this particular project.

22 The meetings were advertised through our e-mail --  
23 I mean -- through our website. Flyers were posted. We had  
24 various discussions at all of the Civic Association meetings in  
25 the area to talk about this particular issue.

1                   So there was proper notice that was done to all the  
2 residents about --

3                   CHAIRPERSON GRIFFIS: Okay. So --

4                   MR. GRANT: -- the particular project.

5                   CHAIRPERSON GRIFFIS: -- so your position is that  
6 the ANC has adequately represented --

7                   MR. GRANT: Absolutely.

8                   CHAIRPERSON GRIFFIS: -- the issues involved, and  
9 therefore, the party status would be redundant of those issues.

10                  MR. GRANT: Absolutely.

11                  CHAIRPERSON GRIFFIS: Okay. Anything else,  
12 questions of the ANC member?

13                  MR. MOORE: I have one further thing to say, Mr.  
14 Griffis --

15                  CHAIRPERSON GRIFFIS: Your mike. Turn your mike  
16 on.

17                  MR. MOORE: I'm sorry. I have one further thing to  
18 say.

19                  CHAIRPERSON GRIFFIS: If we can turn yours off,  
20 because we will get feedback on these.

21                  MR. GRANT: Okay.

22                  CHAIRPERSON GRIFFIS: That's fine. Thank you.

23                  MR. MOORE: Under the Board's Regulations, 3106.3,  
24 this isn't -- considering any request for party status, the party  
25 has to clearly demonstrate that his or her interest will be more

1 significantly or distinctly or uniquely affected by this  
2 application.

3 CHAIRPERSON GRIFFIS: Yes.

4 MR. MOORE: Well, Mrs. Marshall points to she's  
5 concerned about traffic, which is a general property owner's  
6 interest. She's concerned about parking, which is a general  
7 property owner interest. She's concerned about the environment,  
8 which is a general property owner interest.

9 Or in short, Mr. Chairman and members of the Board,  
10 there is a substantial variance between what is in this record  
11 and what the regulations require. It's just, she has just simply  
12 not met the requirements of 3106.3 for property status.

13 She isn't even a property owner, nor is she a  
14 member of the Randle Highlands Civic Association, the very  
15 association that she seeks to represent. This makes no sense.

16 CHAIRPERSON GRIFFIS: Okay. Let's go to your  
17 issues before we went to Mr. Grant. I had some comments on that.

18 First of all, it is not -- I may be mistaken, corporation  
19 counsel can correct me -- it is not a regulation that property  
20 owners are the only ones we can grant party status to.

21 MR. MOORE: No, I'm not -- that's not the point I'm  
22 making. The point I'm making is she's seeking to represent the  
23 interest of property owners, a class that she is not a member of,  
24 nor does she have any authority from any property owner --

25 CHAIRPERSON GRIFFIS: Right.

1 MR. MOORE: -- in this record to represent any of  
2 them.

3 CHAIRPERSON GRIFFIS: And speaking to that, I think  
4 we would have before we finally acted, if we were to move in that  
5 direction, we would have to as stated have that documentation  
6 that she was in fact to represent the specific people and the  
7 associations.

8 Secondly, there was a point -- well, I guess it  
9 went to the point of your comment on the owners, renters and the  
10 association. She's not a member of the Highlands, which was  
11 substantiated.

12 But there is nothing that precludes her from  
13 joining with that association under one-party status request.  
14 And I think that in fact is what the Board often looks to, is a  
15 joining, which then goes to substantiate how they, the party,  
16 would be uniquely affected.

17 I'm not 100 percent convinced yet, but I need to  
18 address each of these issues as they come up. Others.

19 VICE CHAIRPERSON RENSHAW: Mr. Chairman, I'm just  
20 wanting to know if Ms. Marshall wants to respond to any of this.  
21 Is it the place for Ms. Marshall to do so?

22 CHAIRPERSON GRIFFIS: Would you like to address the  
23 opposition to your request? You can just turn on your mike and  
24 do so.

25 MS. MARSHALL: First of all, I'd like to say I am a

1 member of the civic organization. What I stated, I was not a  
2 dues-paying member.

3 CHAIRPERSON GRIFFIS: I see.

4 MS. MARSHALL: Okay.

5 CHAIRPERSON GRIFFIS: You're not current in your  
6 dues payment?

7 MS. MARSHALL: I -- I --

8 CHAIRPERSON GRIFFIS: That's on the record now, you  
9 know.

10 MS. MARSHALL: I know. I have paid, but I'm not  
11 current.

12 CHAIRPERSON GRIFFIS: I see.

13 MS. MARSHALL: Okay. I'm not current.

14 MS. MARSHALL: All right. That --

15 CHAIRPERSON GRIFFIS: But you're still an active  
16 member in the organization?

17 MS. MARSHALL: Yes, I am. Yes, yes. And what I  
18 would also like to address is the fact that I have spoke with  
19 mostly everyone on this petition that signed. And I know that I  
20 am here representing them, and I know what they stated. We did  
21 have a meeting last night --

22 CHAIRPERSON GRIFFIS: Okay.

23 MS. MARSHALL: Okay.

24 CHAIRPERSON GRIFFIS: There's a question that was  
25 specific --

1 MS. MARSHALL: Well, what I'm trying to say is, the  
2 opposition heard that we wanted to get an attorney. They knew  
3 that before we came down here.

4 CHAIRPERSON GRIFFIS: Yes, but the important thing  
5 was for us to know that.

6 MS. MARSHALL: I know.

7 CHAIRPERSON GRIFFIS: Not them.

8 MS. MARSHALL: Okay.

9 CHAIRPERSON GRIFFIS: Okay. Other things you want  
10 to address in terms of the opposition to your request?

11 MS. MARSHALL: No, not at this time.

12 CHAIRPERSON GRIFFIS: Okay. This is what I would  
13 propose at this point: that we set aside this request for party  
14 status and move to other -- which may be preliminary issues  
15 regarding this case, and then if it is appropriate we can bring  
16 this request back before the Board.

17 I specifically want to go to, and I think the Board  
18 always takes time to make sure, first of all, that notification  
19 issues are substantially dealt with, and we have done that today.

20 We also take great concern and consideration into  
21 representation, that being of the applicant of parties and the  
22 neighborhood and communities.

23 We may have spent more time than usual on this and  
24 I think it comes to one reason. I believe that there are some  
25 additional issues and concerns in terms of the case file and the

1 submissions from the applicant that I think it might be important  
2 to go through at this time to see whether we are actually in a  
3 situation that we would substantially hear this case or even  
4 begin the presentation of the case.

5 If that's not clear, Board members, I can perhaps  
6 be more clear, but I would ask for your indication of whether you  
7 would agree with that proposal.

8 COMMISSIONER HANNAHAM: I'd concur with that, Mr.  
9 Chair.

10 VICE CHAIRPERSON RENSHAW: As I do.

11 MEMBER ETHERLY: So Mr. Chairman, it's your desire  
12 to postpone action on what is essentially party request and  
13 return to it at another date?

14 CHAIRPERSON GRIFFIS: That's correct.

15 MEMBER ETHERLY: I'm just trying -- where would --  
16 what would be the subsequent appropriate time to deal with it?

17 VICE CHAIRPERSON RENSHAW: Later today, are we  
18 talking about, to make a decision on this?

19 CHAIRPERSON GRIFFIS: Well, it all matters on what  
20 happens next. However, one conceivable way to do this is, I have  
21 made a list and I think other Board members have made a list of  
22 things that we'd need to substantiate the application that would  
23 make it more successful at our hearing.

24 If that actually moves to accumulate itself that we  
25 do not actually hear the case today, it would mean we would set a

1 new date to continue this case. If we set a new date we may want  
2 to revisit the fact of whether we keep the record open in order  
3 to accept a party request at that time, within the proper timing  
4 before the next hearing date.

5 MEMBER ETHERLY: Question; a question of  
6 clarification, Mr. Chair, that I'd like to direct through you to  
7 corporation counsel for my edification. At what point -- well,  
8 actually, perhaps, even counsel for applicant already answered  
9 this question.

10 But let me just be clear. Request for party status  
11 typically done in writing 14 days prior to the hearing.

12 CHAIRPERSON GRIFFIS: The hearing, correct.

13 MEMBER ETHERLY: Correct. So as a matter of  
14 practice, after that point in time such requests aren't  
15 entertained.

16 CHAIRPERSON GRIFFIS: That's true.

17 MEMBER ETHERLY: Reason why I'm inquiring is -- I  
18 mean -- you can hear me struggling with the desire just to go  
19 ahead and resolve this issue, because it's not going to get any  
20 better. The complexity of this discussion is simply just going  
21 to increase exponentially.

22 But if we were to move to a subsequent date for  
23 whatever reason, I'm trying to think of whether or not there  
24 would be an opportunity for subsequent party requests. And it's  
25 my understanding from your response to that question that the

1 answer to that would be no.

2 CHAIRPERSON GRIFFIS: Right. In fact, from our  
3 procedure as established by this current Board and in part of our  
4 Regulations, the party status would have to come in 14 days prior  
5 to the hearing date, which is today.

6 If this continues to a new hearing day we could  
7 keep the record open, but we would have to define specifically  
8 what we kept the record open for. And that's what we would  
9 limit. It would not -- unless we decided to open the entire  
10 record, which I don't think we would do, we would limit the  
11 submissions to very specific issues, and that might be a request  
12 for party status.

13 MEMBER ETHERLY: What -- I understand where my  
14 colleagues are. What I'm inclined to do is dispose of this  
15 request, if it is the case that we move to -- and once again, I  
16 would be in favor of disposing of it negatively.

17 Let me be clear that this is not about an  
18 opportunity to be heard, Mrs. Marshall. Any other residents who  
19 are in opposition and/or in support will have an opportunity to  
20 be heard in this matter. And as the Chairman said, we've talked  
21 about this matter for quite some time now because it is  
22 important.

23 So I don't want there to be any mistake about that.

24 But I think there are some infirmities with the request for  
25 party status on Ms. Marshall's part, but I don't believe that

1 that would prohibit a very specific and very pointed opening in  
2 the record for the Randle Highlands Citizens Civic Association to  
3 submit a subsequent request.

4 The only reason why I'm not responding to Ms.  
5 Marshall as a representative in that regard is because we just --  
6 I think the record is a little lacking in terms of your  
7 authorization and ability to do that.

8 That's not a statement on you, but I just think the  
9 Civic Association had an opportunity to identify someone. That  
10 hasn't been done. I'm not willing to close -- I'm -- I mean, I'm  
11 not opposed to closing the door entirely on the Civic Association  
12 to do that.

13 But you know, once again, Mr. Chairman, I'm  
14 inclined to try to, you know, move this forward, because we're  
15 going to have enough conflicts, issues to work out in this case,  
16 and I'd just as soon bite the bullet and take the bull by the  
17 horns and deal with it and move forward.

18 MS. MARSHALL: Mr. Chairman --

19 CHAIRPERSON GRIFFIS: Yes.

20 MS. MARSHALL: I can speak?

21 CHAIRPERSON GRIFFIS: Of course you can.

22 MS. MARSHALL: Okay. Mr. Chairman, our ANC  
23 representative, Ms. Davis, did not vote with the Board. She  
24 voted against it. That's the information that we got from her.  
25 She said the vote was three to two.

1 CHAIRPERSON GRIFFIS: Okay. And before we go into  
2 that --

3 MS. MARSHALL: So --

4 CHAIRPERSON GRIFFIS: -- frankly, that's not  
5 something we're going to deal with at this point. And clearly,  
6 the ANC can vote in favor of something and single members can  
7 vote against, but we're not going to count votes on that issue.

8 MS. MARSHALL: Oh, okay.

9 CHAIRPERSON GRIFFIS: That gets into the substance  
10 of the case --

11 MS. MARSHALL: But --

12 CHAIRPERSON GRIFFIS: -- and we're not into the  
13 substance of the case at this point, and that's certainly  
14 something that can be brought up.

15 MEMBER ETHERLY: Mr. Chair, in the interest of time  
16 I'm more than comfortable to support your suggestion that we move  
17 forward, clarify some issues that may need some clarification and  
18 come back to the motion at a subsequent point in time.

19 CHAIRPERSON GRIFFIS: Indeed. I think that's --

20 MR. GRANT: Mr. Chairman.

21 CHAIRPERSON GRIFFIS: Yes, sir.

22 MR. GRANT: I just need to clear something up for  
23 the record. Commissioner Davis did support in -- did vote in  
24 support of this project. I just needed to clear that up for the  
25 record.

1 CHAIRPERSON GRIFFIS: Okay.

2 MR. GRANT: Thank you.

3 CHAIRPERSON GRIFFIS: And the record will now show  
4 one statement one way, and one statement the other. However, we  
5 can get the factual basis of that at the appropriate time.

6 Ms. Marshall, thank you. I would ask you to take a  
7 seat. Mr. Moore, I would ask you to remain and I do want to  
8 start on a few issues that came to the Board's attention. And  
9 what I'd like you to do is give us an indication whether these  
10 are going to be able to be presented to the Board today.

11 Let me start with a very big issue. It struck this  
12 Board in looking at the submissions that this may have been an  
13 appropriate rezoning application to the Zoning Commission,  
14 basically a map amendment. Was there any discussion between you  
15 and your client or any sort of strategy that addressed that at  
16 any time?

17 MR. MOORE: Oh, absolutely. This we felt is not an  
18 appropriate case for rezoning, because it's but one lot and one  
19 square. The whole area is zoned R-5-A, which is consistent with  
20 the moderate density residential description of the property  
21 within the comprehensive plan land-use map.

22 For me to go to the Zoning Commission and ask them  
23 to rezone one lot and one square when the entire surrounding  
24 properties are not only zoned R-5-A, but they are occupied and  
25 used as R-5-A properties, would be a losing effort on my part.

1 CHAIRPERSON GRIFFIS: But a rezoning in a --  
2 maintaining in a residential zone and maintaining R-5, be it a B  
3 or a C, I don't know, would eliminate your need for any sort of  
4 variances or relief.

5 MR. MOORE: Yes, it would; yes, it would. But on  
6 the other hand, the whole purpose of the rezoning process is to  
7 bring zoning into compliance with the comprehensive plan. That's  
8 point number one.

9 Point number two is that we would be faced with  
10 arguments and perhaps successful arguments that this would be a  
11 spot-zoning case, because this is merely one lot in one square  
12 which is approximately 25 percent of one square.

13 It is far more palatable and far more advantageous  
14 and far more meritorious with respect to this application and  
15 moving it forward and bringing this low- and moderate-income  
16 assisted living facility to the residents of Randle Highlands,  
17 for us to seek the zoning relief that we have.

18 And that's just area variances to make this project  
19 work, but rezoning it is something that would -- we discussed,  
20 but it's just not something that meets the criteria for the --  
21 for map amendments as set by the Zoning Commission or by the  
22 Office of Planning.

23 CHAIRPERSON GRIFFIS: Well, I think there are some  
24 issues that do point to it, but I don't want to set up a debate  
25 on that at this point. I think some of the things that I've

1 noted and would ask you if you are prepared, there appears in the  
2 written submission that we have the -- clearly, you know the  
3 variant tests that need to be made.

4 We have not seen a great presentation of that in  
5 the written submission and I want to insure the fact that that  
6 presentation would be made today. And I can list several things,  
7 but clearly, we -- there is an economic argument that's being  
8 brought up in this and I'm wondering whether you're prepared to  
9 present an economic market analysis to substantiate some of the  
10 statements that were submitted.

11 I think we also need to look at addressing the  
12 factor of whether there is actually other matter of right  
13 practical use for the properties as we go to test for the  
14 variances.

15 MR. MOORE: Well, actually, on that issue, that's a  
16 use variance issue.

17 CHAIRPERSON GRIFFIS: Well, it is and it isn't. It  
18 does go to the area variance test, and I can get into that a  
19 little bit further, if you're not prepared to address that.

20 MR. MOORE: Oh, we are prepared to address the  
21 economic issues, the uniqueness issues, the practical difficulty  
22 issues, but again, the last issue that you mentioned is clearly,  
23 clearly a use variance test.

24 But we are prepared to address the practical  
25 difficulty, uniqueness, the exceptional condition on the

1 property, all of those, through the testimony that we present  
2 today in supplement to those documents we've already placed into  
3 the record. We have witnesses to do that.

4 CHAIRPERSON GRIFFIS: Do you have a witness that's  
5 going to speak directly to the economic and market analysis?

6 MR. MOORE: Yes.

7 CHAIRPERSON GRIFFIS: Okay. All right. Other  
8 issues, Board members, that you are aware of?

9 VICE CHAIRPERSON RENSHAW: Mr. Moore, do you have  
10 someone who is going to speak to the whole aspect of care of  
11 those who would be living in this facility? I'm thinking  
12 specifically of medical needs, because this -- in your  
13 application you state that this is not going to be a part of what  
14 is offered --

15 MR. MOORE: That's correct, yes.

16 VICE CHAIRPERSON RENSHAW: -- at this facility.  
17 But these are people who are 75 years and up. There will be  
18 medical needs, and I am looking for quite a description from you  
19 as to how the medical needs are going to be addressed. This is  
20 something of concern to me.

21 It's -- whether or not you, the applicant, foresees  
22 that this medical need is going to be taken up by the local  
23 firehouse and where is that facility. We can't look at this  
24 without that portion of care being examined.

25 MR. MOORE: Absolutely, Mrs. Renshaw. We have a

1 witness here who can speak to all the operational characteristics  
2 and procedures that are common to assisted living facilities,  
3 recognizing at the same time that this is not a nursing home, nor  
4 is it a facility that by its nature or definition provides  
5 medical services.

6 But there are established procedures that all  
7 community residents' facilities, such as this, regardless of  
8 where they're located, regardless of whether they need zoning  
9 relief or not, that are common to these facilities.

10 VICE CHAIRPERSON RENSHAW: Right.

11 MR. MOORE: And we have a person to speak to that.

12 VICE CHAIRPERSON RENSHAW: All right.

13 MR. MOORE: I hope that that person satisfies your  
14 concern.

15 VICE CHAIRPERSON RENSHAW: I don't want to get into  
16 arguing the case with you or into any testimony, but this is  
17 something that we'll be looking at very closely. Also, we had --  
18 or at least I had no feeling as to who the management of this  
19 facility is, and so that would be addressed?

20 MR. MOORE: Yes, we have the management here.

21 VICE CHAIRPERSON RENSHAW: You have all of the --

22 MR. MOORE: Yes.

23 VICE CHAIRPERSON RENSHAW: -- the folks involved in  
24 the management here?

25 MR. MOORE: We've got quite a detailed presentation

1 prepared for you. How much you want to hear is up to the Board,  
2 but we have a number of different witnesses.

3 VICE CHAIRPERSON RENSHAW: All right.

4 (Pause)

5 CHAIRPERSON GRIFFIS: I think we are together now,  
6 and we appreciate your patience with this Board. So what I would  
7 like to do is if you need a moment to pull it together, take it.  
8 If not, let's move ahead and start the presentation of your  
9 case.

10 MR. MOORE: I'm ready to go, sir.

11 CHAIRPERSON GRIFFIS: Good. And let me just -- I'm  
12 sorry -- interrupt you one more time. For a clarification, our  
13 Zoning Commissioner, Mr. Hannaham, has another obligation he has  
14 to go to at 4:30. So he will be leaving.

15 He will be, if we do not finish this case, reading  
16 the entire record and voting on it. But we will continue after  
17 he goes.

18 MR. MOORE: Absolutely. I hope to be efficient.

19 CHAIRPERSON GRIFFIS: Good.

20 MR. MOORE: Thank you. Good afternoon, Chairman  
21 Griffis, members of the Board. I'm Jerry Moore, counsel to  
22 Randle Highlands Manor, Limited Partnership, the applicant in  
23 this case.

24 The District of Columbia in general and the Randle  
25 Highlands area of the city in particular are woefully short of

1 assisted living residence facilities for senior and other  
2 qualified residents. This is particularly true for those in the  
3 market for low and moderate income facilities.

4 There's also a shortage of suitable, available  
5 sites to in-fill community residence facilities due to the size  
6 of these structures and the cost of the land.

7 Randle Highlands Manor, Limited Partnership,  
8 proposes to effectively address this public need for low and  
9 moderate income community residence housing by constructing a 52-  
10 unit structure on a corner lot on Square 5585 at 27<sup>th</sup> and R  
11 Streets, Southeast.

12 This ideal location was acquired from the District  
13 of Columbia government as an abandoned apartment building in 2000  
14 specifically for this purpose.

15 The Homestead Program of the Department of Housing  
16 and Community Development, the District of Columbia Department of  
17 Housing and Community Development has provided a loan  
18 specifically for the development of the low and moderate income  
19 community residence facility at this location.

20 The site has a preexisting structure that has since  
21 been razed and made ready for the new structure. As a practical  
22 matter, the structure that can be built to accommodate the  
23 purposes for which the property was purchased requires some  
24 zoning relief.

25 Although the proposed use is permitted in the

1 Zoning Regulations, a use with a minimum number of units  
2 necessary to serve the public at this location requires a special  
3 exception under Section 358.8.

4 The granting of this relief will not tend to affect  
5 adversely the use and enjoyment of neighboring property, and is  
6 necessary at this location because the program goals and  
7 objectives of the District of Columbia cannot be achieved by a  
8 facility of smaller size at this location, and there is no other  
9 reasonable alternative to meet the program needs in this  
10 community.

11 Two area variances are also required to bring this  
12 much needed facility to this community: a variance from the  
13 maximum FAR of .9 that is permissible in the R-5-A zone, and a  
14 variance from the maximum number of stories in an R-5-A zone.

15 In its memorandum recommending the approval of this  
16 application the D.C. Office of Planning points to some confusion  
17 regarding the zoning relief that the project requires. That  
18 confusion is rooted in the April 29<sup>th</sup>, 2002, memorandum of the  
19 Zoning Administrator, in which he states that only a variance  
20 from the FAR requirement is necessary.

21 However, the zoning computation sheet which was  
22 attached to that memorandum stated, correctly we think, that a  
23 variance on the number of stories is also appropriate. This is  
24 true even though at 38 feet, the height of the proposed building  
25 with four stories is within the 40-foot limitation of the R-5-A

1 zone.

2 For the record, the original application requested  
3 special exception and two area variances, one regarding FAR, the  
4 other regarding stories. That is the relief that is before the  
5 Board today.

6 From a legal perspective, the proposed assisted  
7 living facility is consistent with the District of Columbia  
8 Comprehensive Plans Generalized Land-Use Maps, which designate  
9 and promote the site for moderate density, multi-family uses.

10 The proposed building and use are also consistent  
11 with the underlying R-5-A zone district, which is mapped over the  
12 entire square and throughout much of the neighborhood. As you  
13 know, a community residence facility is permitted in the R-5-A  
14 District.

15 The special exception approval of this Board is  
16 required to receive -- to exceed the matter of right limitation  
17 of 15 units. From a procedural perspective, the applicant has  
18 gone through extraordinary lengths to seek and earn the support  
19 of the surrounding community, and it has been successful to a  
20 great extent.

21 We are pleased that there are letters of support in  
22 the record from the Advisory Neighborhood Commission, council --  
23 D.C. council members, city officials and numerous citizens of the  
24 area. Additional letters and expressions of support from the  
25 surrounding community will be presented into the record today.

1           You will hear additional expressions of support in  
2 testimony today. You will also hear that not every single  
3 citizen has been convinced of the merits of this wonderful  
4 project, but that is not because the applicant has not made every  
5 reasonable effort to address their concerns.

6           We have found that there are occasions where  
7 otherwise reasonable people become unreasonable for no reasonable  
8 reason. We are pleased that the Office of Planning has written a  
9 memorandum, however, in support of this application.

10           Our case consists of five things, which in sum we  
11 offer as sufficient bases to merit the approval of the zoning  
12 relief that is request. First, the proposed use is in direct  
13 response to the dire need for low and moderate assisted living  
14 facilities in the Randle Highlands community.

15           Second, the size of the facility that is proposed  
16 is the absolute minimum as to the number of units and size of  
17 building that a low and moderate income facility requires.

18           Third, there is a paucity of suitable sites in the  
19 Randle Heights neighborhood to practically develop a low and  
20 moderate income assisted living residence. Fourth, a facility of  
21 a lesser size is un-develop able, resulting in the frustration of  
22 the program goals and objectives of the District of Columbia.

23           Fifth, the property is unique by reason of an  
24 exceptional situation or condition, and by reason of that  
25 exceptional condition, strict application of the Zoning

1 Regulations will result in a peculiar and exceptional, practical  
2 difficulties, and the granting of the requested area variances  
3 will not cause substantial detriment to the public good and will  
4 not impair the intent, purpose and integrity of the zone plan as  
5 embodied in the Zoning Regulations and map.

6 We're hopeful that your decision today will also be  
7 made easier by the detailed land-use and planning discussions  
8 that have already been submitted. The written analysis will be  
9 submitted and highlighted by the testimony and exhibits that you  
10 will see this afternoon.

11 Some of the technical evidence will be offered by  
12 persons who the Board will be asked to recognize as experts in  
13 their fields. We've endeavored to organize our presenters in a  
14 logical and efficient manner.

15 First, Ms. Lisa Bulden, a partner in the applicant,  
16 will speak to the feasibility and primary service market of this  
17 project. Next, Mr. Jeff Stoner, a Vice President of assisted and  
18 living division -- of the Assisted and Living Division of  
19 Complete Healthcare Services, will speak to the operational  
20 characteristics of the project.

21 Third, Architect Magda Westerhout will present the  
22 project elevations, floor plans, parking plans, a description of  
23 the building's architecture and design and a commentary of the  
24 contextual relationship of the proposed building with existing  
25 buildings on neighboring and nearby properties.



1 this application?

2 MS. BULDEN: I do. I'm the general partner for  
3 Randle Highlands, Limited Partnership.

4 MR. MOORE: And would you proceed to give your  
5 testimony on the operational characteristics of the site?

6 MS. BULDEN: Yes, I will, and I would like to thank  
7 you very much for hearing us today and allowing us to move  
8 forward. This whole process has been extremely long and  
9 intensive for us as developers. We started this process three  
10 years ago.

11 I met with Mr. Butch Hopkins over at the Anacostia  
12 Economic Development Corporation practically, exactly three years  
13 ago, and talked to him about the limited availability of assisted  
14 living in Washington, D.C., in general, and definitely for  
15 African Americans who live east of the river, for those who have  
16 low to moderate incomes throughout the city, but primarily those  
17 who are east of the river.

18 That particular situation was extremely important  
19 to me as I faced that same situation personally with a mother who  
20 was 75 years old, moderate income, living in Birmingham, Alabama,  
21 who had gotten ill.

22 And we were desperately looking for measures to  
23 take care of her, within her means as well as within the family  
24 means. So there was certainly a personal reason for me to look  
25 at how can we develop and provide affordable assisted living for

1 the citizens in Washington, D.C., and in particular, for those  
2 who live east of the river.

3 Well, we've -- just a little bit of background  
4 about myself. I've been doing healthcare financing development  
5 for the past 12 years, developing and financing hospitals,  
6 nursing homes and assisted living facilities.

7 I have never been privileged to develop or finance  
8 an affordable assisted living facility. That is almost an  
9 anathema within the entire field of assisted living in the  
10 country. So what we are attempting to develop will, once we're  
11 successful, be a model not only for Washington, D.C., but  
12 throughout the country.

13 And what we're finding and what we've seen is that  
14 it's easy to have a small assisted living facility when you have  
15 charges that are 4,000, 5,000 a month. It is very, very  
16 difficult to have an assisted living facility that is smaller  
17 than 50 units, and that's a stretch, when you're looking to  
18 charge \$2,000 a month.

19 And I spoke to a group a couple weeks ago about,  
20 how can we make this affordable, because it's almost impossible.

21 We are -- we've applied for grants. We just recently were  
22 informed that we will get a \$1/2 million grant from the Federal  
23 Home Loan Bank of Atlanta.

24 We will be applying for another grant with Fannie  
25 Mae. The city was very responsive in giving us \$390,000 in order

1 to begin this process, again, recognizing afford ability just  
2 does not exist in this city.

3 So we wanted to fulfill a need that we felt  
4 strongly had to be met by someone. And the Anacostia Economic  
5 Development Corporation I thought was a perfect partner, having  
6 its presence in Anacostia, having community support and a mission  
7 to fulfill various housing, as well as economic development needs  
8 for that particular community.

9 One of the things that we also wanted to  
10 accomplish, we didn't want to just put up a jack-in-the-box  
11 facility. That's cheap and easy to do. We wanted to provide a  
12 facility that was going to enhance the neighborhood.

13 Before we even went to the community we asked our  
14 architects to several times revise the plan that had been  
15 submitted to us, because we were not happy with the aesthetic  
16 appeal of the building. We wanted the building to look its best.

17 To build up that particular neighborhood we wanted  
18 something that the neighborhood could be proud of. So again,  
19 that's another threshold because we're looking to provide  
20 something that's going to be a little more expensive to develop  
21 by its very nature, because we want it to be aesthetically  
22 appealing.

23 We also wanted it to accommodate all the needs of  
24 the residents within that facility; so not just a room. We  
25 wanted public spaces that the residents could feel that, these

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1 are spaces that we need; we don't want to be locked in a room; we  
2 want to have a dining facility that's spacious, that's filled  
3 with sunlight, that has delicious food.

4 We also want a smaller dining room so that when our  
5 family comes to visit they can have family dinner with us,  
6 birthday dinners with us or whatever the occasion. We also  
7 wanted to have a living area with a library.

8 We also wanted to have a common area where there  
9 could be exercise; there could be group discussions; there could  
10 be entertainment. We wanted to have a medical office so that a  
11 doctor could come and provide medical care to those residents who  
12 did not wish to go outside of the facility to visit their  
13 physician.

14 We wanted those residents -- and this is speaking  
15 to Ms. Renshaw's concern -- we wanted those residents to have  
16 that option of having a physician come on the premises so that  
17 medical care could be provided on the premises by appointment.

18 Also, the physical rehabilitation specialist would  
19 be available by appointment to also come and provide services to  
20 the residents. Parking. We had so many issues trying to develop  
21 adequate parking.

22 We also didn't want to present to the community  
23 anything that would be less than what we would want in our own  
24 back -- in our -- right next door to us. The first plan came  
25 back with I believe it was eight parking spaces.

1                   Now, we're up to ten parking spaces, and as Mr.  
2 Jeff Stoner, who is our -- who as the Vice President of the  
3 management company will attest, that is adequate parking for a  
4 facility of this size, and will address -- and not intrude on the  
5 neighbors within the Randle Highlands community.

6                   We also wanted to have a beautiful back yard,  
7 patio, garden, so that the residents could go outside and enjoy,  
8 again, more than their own room and more than the public space in  
9 the interior. So we tried to accomplish a whole lot in a little  
10 bit of space, and again, affordably.

11                   So we could have come back and done something that  
12 were -- we could have asked the architect, don't provide all of  
13 these public spaces, don't provide the patio or the garden; make  
14 the rooms smaller, make them 200 square feet, as some assisted  
15 living facilities who do charge 4- and 5,000 a month have 200  
16 square foot living areas.

17                   We did not accept that. So as a result, we have  
18 the need for the variance that we're seeking now on the FAR,  
19 because we wanted to provide as much as possible in a little bit  
20 of space so that the residents would truly be happy.

21                   MR. MOORE: Ms. Bulden, can I -- may I get you to  
22 speak to your efforts to identify a suitable piece of property to  
23 construct this low and moderate income facility, and what  
24 ultimately happened when you identified that property and the  
25 terms in which you bought the property.

1 MS. BULDEN: Yes. We had searched throughout the  
2 Anacostia area for properties that would be suitable for an  
3 assisted living facility, and we looked and looked and found  
4 nothing.

5 And fortunately, the Homestead Program did have one  
6 lot that we thought we might be able to develop something that  
7 was of suitable size, and again, keeping that afford ability in  
8 mind.

9 And that particular property was an abandoned  
10 multi-family housing facility that had left -- had been abandoned  
11 for awhile, was an eyesore for the community, and we demolished  
12 that facility when we were awarded that property for the price of  
13 \$6,750.

14 And again, this is another method that the city has  
15 utilized to help make this project affordable so that we can meet  
16 that need that currently is not being met. And if I can just  
17 talk to that need when I say that it's not being met, there are  
18 now nine assisted living facilities in Washington, D.C.

19 There are only 21 beds in all of Washington, D.C.,  
20 that are across -- or that are east of Rock Creek Park, and none,  
21 again, that are east of the river.

22 VICE CHAIRPERSON RENSHAW: Would you go over your  
23 statistics that you had before. You mentioned 21 beds in D.C.

24 MS. BULDEN: Nine assisted living facilities in  
25 Washington, D.C.

1 VICE CHAIRPERSON RENSHAW: Do you have a list of  
2 those for us?

3 MS. BULDEN: I can provide that for you.

4 VICE CHAIRPERSON RENSHAW: That would be good.  
5 Thank you.

6 MS. BULDEN: Certainly.

7 MR. MOORE: Ms. Bulden, may you --

8 CHAIRPERSON GRIFFIS: Can you turn your mike on,  
9 Mr. Moore?

10 MR. MOORE: I'm sorry. When you identified this  
11 property you had discussions with the District of Columbia  
12 government about this property, did you not?

13 MS. BULDEN: Yes, we did.

14 MR. MOORE: And when you had those discussions it  
15 became quickly clear that it was the intention of the city to  
16 develop this site for assisted living. Is that correct?

17 MS. BULDEN: That is correct.

18 MR. MOORE: And in your transaction with the  
19 government of the District of Columbia to obtain development  
20 rights for this site, it was the intention of both parties, both  
21 the government of the District of Columbia and of Randle  
22 Highlands, that this transaction be based on your ability to  
23 develop this site into an assisted living facility. Is that  
24 correct -- low and moderate income assisted living facility. Is  
25 that correct?

1 MS. BULDEN: That is correct. In fact, we were  
2 given the purchase price of \$6,750, as well as a grant from the  
3 city to specifically develop an assisted living facility at that  
4 site.

5 MR. MOORE: I show you a letter dated August 17<sup>th</sup>,  
6 1998, to Ms. Lynn French, the Homestead Program administrator.  
7 And this letter is -- are you familiar with this letter?

8 MS. BULDEN: Yes, I'm very familiar with this  
9 letter.

10 MR. MOORE: Would you summarize the content of that  
11 letter for us, please, for the Board, please?

12 MS. BULDEN: This letter requested that we have the  
13 ability to purchase the land, the subject property, from the  
14 Homestead Program to be used as an assisted living facility. And  
15 it also requested a grant/loan for pre-development costs,  
16 specifically for an assisted living facility.

17 MR. MOORE: Following that letter of August 17<sup>th</sup>,  
18 1998 --

19 CHAIRPERSON GRIFFIS: Mr. Moore, can I just caution  
20 you, you seem to be presenting the case and actually asking for  
21 substantiation of it. You're leading quite a bit on these  
22 questions.

23 MR. MOORE: All right. All right. Let me show you  
24 a letter dated September the 10<sup>th</sup>, 1998. Would you identify that  
25 letter for me, please?

1 MS. BULDEN: Yes.

2 MS. BAILEY: Mr. Moore, the documents that you're  
3 speaking about, are they in the record?

4 MR. MOORE: No. I'm going to present you with a  
5 copy of each of them.

6 MS. BULDEN: Ms. Lynn French, the Homestead Program  
7 Director, provided this letter to Mr. Hopkins, Albert Hopkins, of  
8 the Anacostia Economic Development Corporation, indicating that  
9 we were awarded the property for -- and well, the subject  
10 property.

11 And subsequent to that particular document on  
12 September 10<sup>th</sup>, we sent to Ms. French a letter on September 17<sup>th</sup>,  
13 again indicating that we would be developing the property as an  
14 assisted living facility, and requesting a deferred loan/grant  
15 for \$390,000 specifically for the development of that property.

16 CHAIRPERSON GRIFFIS: So when you talk about  
17 creating the purpose -- or outline the purchase of this  
18 specifically for the purposes of putting moderate and low income  
19 assisted living --

20 MS. BULDEN: Correct.

21 CHAIRPERSON GRIFFIS: And that was now being  
22 substantiated by the D.C. government in that direction. Who was  
23 the representative of the D.C. government that was defining that  
24 purpose?

25 MS. BULDEN: We requested that purpose on August

1 17<sup>th</sup> when we requested the property, and we requested that of the  
2 Homestead Director, Ms. Lynn French.

3 CHAIRPERSON GRIFFIS: So you in fact defined the  
4 purpose of use for the property, and it was agreed upon by the  
5 District of -- District government.

6 MS. BULDEN: It was agreed and indicated that that  
7 certainly fell -- it was consistent with the needs that had been  
8 identified by various planning entities within the city.

9 CHAIRPERSON GRIFFIS: Indeed. That's different  
10 than what you answered in the affirmative to Mr. Moore's  
11 question.

12 MS. BULDEN: Okay.

13 CHAIRPERSON GRIFFIS: He asked you if whether the  
14 District government representative you talked to defined that  
15 purpose for that property and you said yes. In fact, you defined  
16 the purpose for that property and then brought it to the District  
17 government, who was the owner at the time. Is that correct?

18 MS. BULDEN: That's correct.

19 CHAIRPERSON GRIFFIS: Okay.

20 MS. BULDEN: It was mutually agreed.

21 CHAIRPERSON GRIFFIS: And so where does the local  
22 CDC fit into that?

23 MS. BULDEN: Anacostia Economic Development  
24 Corporation is the local CDC.

25 CHAIRPERSON GRIFFIS: Yes.

1 MS. BULDEN: Right.

2 CHAIRPERSON GRIFFIS: How did they fit into that?

3 MS. BULDEN: They were the actual acquirer of the  
4 property.

5 CHAIRPERSON GRIFFIS: The acquired from the  
6 District government.

7 MS. BULDEN: That's correct.

8 CHAIRPERSON GRIFFIS: And you acquired it from  
9 them?

10 MS. BULDEN: We jointly -- we developed the limited  
11 partnership and when we purchased the property, which was in  
12 January of 1999, the limited partnership purchased the property.

13 CHAIRPERSON GRIFFIS: Okay. Ms. Bulden, what is  
14 the primary service market for this proposed assisted living  
15 facility?

16 MS. BULDEN: The primary service market is the  
17 Randle Highlands community, as well as the Hillcrest -- let me  
18 just point out zip codes. We do have a market study.

19 CHAIRPERSON GRIFFIS: Well, actually, further with  
20 that, that's the important information, but it's also in the  
21 submissions that on the -- let me get the exact site on this.  
22 It's stated that: "The majority of prospective residents already  
23 now live in the neighborhood." Are you providing a list of the  
24 prospective residents?

25 MS. BULDEN: Not a list of residents, no. We do

1 have a demographic analysis.

2 CHAIRPERSON GRIFFIS: So you don't have any  
3 prospective residents?

4 MS. BULDEN: Not a list of residents. When we do  
5 move further along then we will have a extensive marketing  
6 program to develop that.

7 CHAIRPERSON GRIFFIS: So is this not a true  
8 statement in the submission?

9 MS. BULDEN: I must not be understanding your  
10 question.

11 CHAIRPERSON GRIFFIS: Indeed. Page 2 of your  
12 submission to this Board states: "The majority of prospective  
13 residents already now live in the neighborhood of this site and  
14 have low to moderate annual income."

15 MS. BULDEN: Yes, that is correct.

16 CHAIRPERSON GRIFFIS: You can provide that list of  
17 prospective residents?

18 MS. BULDEN: I can provide the demographic analysis  
19 that says, these people -- how many people live in the primary  
20 service area, what their ages are.

21 CHAIRPERSON GRIFFIS: You don't see a difference  
22 from a demographic and income study of a surrounding area, and a  
23 prospective residents list?

24 MS. BULDEN: No, I don't.

25 CHAIRPERSON GRIFFIS: Okay.

1 MS. BULDEN: But what I was indicating is that we  
2 do have an extensive market study that says in this particular  
3 neighborhood there are so many individuals that are above the age  
4 of 75, and that their incomes are in the range of 18,000 to  
5 \$35,000 annually. And if I'm given a moment, I can tell you  
6 specifically what those numbers are.

7 CHAIRPERSON GRIFFIS: No. Listen, I -- are you  
8 going to submit that report to the record?

9 MS. BULDEN: Yes.

10 CHAIRPERSON GRIFFIS: I mean, actually, it's  
11 assumed you would, as you're talking about it.

12 MS. BULDEN: Okay.

13 CHAIRPERSON GRIFFIS: So we will need it in the  
14 record. So you don't need to find the specifics. You know, a  
15 general idea of what you're talking about numerically is fine.

16 VICE CHAIRPERSON RENSHAW: Ms. Bulden, in  
17 connection with that did you -- since you have a list of -- or  
18 some data about persons above 75 with incomes of 30,000 to  
19 35,000, do you also have any indication as to whether these  
20 people are interested in moving into this facility, if built?

21 MS. BULDEN: In the list we looked at 18,000 to  
22 30,000, and all of the discussions that we've had, we've had many  
23 meetings with various members within the community, and we have a  
24 list of persons who did sign a petition of support who indicated,  
25 yes, we're interested in the facility ourselves, yes, we're

1 interested in the facility for family members; we're glad you're  
2 doing this.

3 CHAIRPERSON GRIFFIS: All right. Is there --  
4 there's a lot of talk and there's a lot of strong statements in  
5 terms of this is actually going to facilitate people in the  
6 neighborhood, low and moderate income.

7 MS. BULDEN: Yes.

8 CHAIRPERSON GRIFFIS: What is the program by which  
9 you're going to insure that? Now, you've also talked about, you  
10 know, in a certain section of the city. You've also talked about  
11 the African American community being served.

12 Are all those going to be actual requirements to go  
13 in, race, neighborhood and income? Is that how you will pick  
14 your residents?

15 MS. BULDEN: No. We cannot pick our --

16 CHAIRPERSON GRIFFIS: So talk to a little bit about  
17 --

18 MS. BULDEN: We can --

19 CHAIRPERSON GRIFFIS: -- how the program is that  
20 would substantiate the statements that are actually being asked  
21 to given you by the Board.

22 MS. BULDEN: Yes. We will be selecting residents  
23 based on the need for at least three activities -- assistance  
24 with three daily living activities. So that would be the primary  
25 consideration.

1 CHAIRPERSON GRIFFIS: But they can come from  
2 anywhere.

3 MS. BULDEN: They can certainly come from anywhere.

4 CHAIRPERSON GRIFFIS: Okay.

5 MS. BULDEN: And we will be asking our management  
6 company to develop policies so that we can assure that the  
7 residents within the community first are served by our facility,  
8 and not people from, let's say, Prince George's County.

9 CHAIRPERSON GRIFFIS: Okay. And how do you define  
10 "affordable" for your units?

11 MS. BULDEN: Up to \$2,000 a month.

12 CHAIRPERSON GRIFFIS: And how is that established?  
13 Is that your definition of what makes a unit affordable? Is  
14 that some standard in the industry for afford ability?

15 MS. BULDEN: The standard in the industry is \$3500  
16 to 5,000 a month.

17 CHAIRPERSON GRIFFIS: That's the standard for the  
18 cost. Is that --

19 MS. BULDEN: Or the cost, correct.

20 CHAIRPERSON GRIFFIS: -- an affordable level  
21 standard?

22 MS. BULDEN: And affordable, we were looking at how  
23 can we make it much less than the --

24 CHAIRPERSON GRIFFIS: My question is --

25 MS. BULDEN: -- 3500 to 5,000.

1 CHAIRPERSON GRIFFIS: -- is there an official --

2 MS. BULDEN: Is there official standard --

3 CHAIRPERSON GRIFFIS: -- standard?

4 MS. BULDEN: -- on what's affordable?

5 CHAIRPERSON GRIFFIS: Yes.

6 MS. BULDEN: I'm not aware of that, that anybody  
7 has determined, this is what affordable is for assisted living.

8 CHAIRPERSON GRIFFIS: So when we see the use of  
9 affordable units of low and moderate and annual incomes --

10 MS. BULDEN: Yes.

11 CHAIRPERSON GRIFFIS: -- those are HUD guidelines.

12 CHAIRPERSON GRIFFIS: So the low and moderate  
13 incomes are HUD guidelines?

14 MS. BULDEN: That's correct.

15 CHAIRPERSON GRIFFIS: But your affordable unit  
16 level is not a HUD guideline.

17 MS. BULDEN: That is not a HUD -- the 2,000 a month  
18 is not a HUD guideline.

19 CHAIRPERSON GRIFFIS: And in fact --

20 MS. BULDEN: But we looked at the HUD guidelines of  
21 low to moderate income, could people who are within those income  
22 brackets afford 2,000 a month and the answer is --

23 CHAIRPERSON GRIFFIS: So you're saying --

24 MS. BULDEN: -- yes.

25 CHAIRPERSON GRIFFIS: -- with incomes between 18-

1 and \$35,000 you would assume that someone could afford a \$2,000  
2 unit?

3 MS. BULDEN: That's correct. And we've also talked  
4 to the Housing Authority because we recognize that that's a  
5 stretch, as well. So we looked at the Housing Authority to find  
6 out, can the Housing Authority assist for those who are -- who do  
7 not have the \$18,000.

8 Can we get vouchers for those persons? The Housing  
9 Authority has told us, yes, we can get vouchers to assist those  
10 persons who cannot afford the \$2,000 a month.

11 CHAIRPERSON GRIFFIS: Are you prepared to submit  
12 the comparisons of other complexes you -- oh, you don't have a  
13 lot of other costs, prices and size?

14 MS. BULDEN: Yes.

15 CHAIRPERSON GRIFFIS: That would be appropriate.  
16 So just for my clarification, when we see you defining affordable  
17 units in this project as proposed, it is your definition of what  
18 is affordable in comparison to other one might say market --  
19 units in the city.

20 MS. BULDEN: That's correct. And if I could just  
21 pause for one moment, because we did rely heavily on our market  
22 analysis to also help us to determine what's affordable. And  
23 again, it started with the \$18,000 to \$30,000, based on the HUD  
24 guidelines.

25 And then based on that as the income, how much

1 could within that income bracket afford to pay.

2 CHAIRPERSON GRIFFIS: But perhaps I'm not  
3 understanding and I'm not an expert like yourself, but at  
4 \$18,000 in annual income --

5 MS. BULDEN: Yes.

6 CHAIRPERSON GRIFFIS: -- and a \$2,000 a unit a  
7 month cost, those numbers don't add up, do they?

8 MS. BULDEN: That's why it's -- the Section 8  
9 vouchers would assist. Social Security also would assist. We've  
10 also talked to the city about where is the city with this  
11 Medicaid Waiver Program, and we are looking at grants so that we  
12 can help in every way that we can to make sure that whoever wants  
13 to be in a facility regardless as to ability to pay for the  
14 facility can actually get into the facility.

15 CHAIRPERSON GRIFFIS: But with the huge demand as  
16 you've just stated in the city, how can you insure that?

17 MS. BULDEN: There is a demand in this city that is  
18 huge, and it has not been met for the people who are the 18,000  
19 to \$25,000 bracket. If you make more than that there's -- there  
20 are facilities.

21 CHAIRPERSON GRIFFIS: I see.

22 MS. BULDEN: And you would go to those facilities,  
23 especially if you live in the other neighborhoods. Right now, if  
24 you live east of the river you don't have anyplace to go. So our  
25 demand primarily is to fulfill the needs of those who live east

1 of the river, and to allow those individuals the ability to stay  
2 in their neighborhoods.

3 Growing older is hard enough. Having to leave your  
4 neighborhood because you can't afford to stay in it, but you've  
5 got to go to another facility, that's the need we want to  
6 address.

7 CHAIRPERSON GRIFFIS: Okay.

8 MR. MOORE: Ms. Bulden, will you address the  
9 practical difficulty involved in minimum size to make this  
10 facility financially viable?

11 MS. BULDEN: Yes. We started out with 65 units.  
12 Well, first of all, we started out with, well, can we do this  
13 with about 39 units because we thought that that was what was in  
14 the former site. So we did the numbers and -- but it doesn't  
15 work with 39 units.

16 It did work with 60 units and Mr. Moore advised us  
17 that at 60 units the facility is just too huge and we had about  
18 five, six, seven variances, and that was ridiculous, that we  
19 wouldn't win coming before you with five, six, seven variances;  
20 can we go back to the drawing board and make the facility smaller  
21 and get rid of the variances.

22 So we came back after six more months of working  
23 with our architect, working with our management company, running  
24 the numbers, and finally said, we can't do it any -- 52 units is  
25 the smallest we can make it.

1                   And according to our architect we're now down to  
2 one variance, maybe two, but we can't make it any smaller than  
3 that. So this is our threshold. This is the best we can do.  
4 We've done our part. Now, Mr. Moore, as our attorney, we're  
5 asking you to do your part because we've done all we could do.

6                   MR. MOORE: And you -- is it your testimony that  
7 you looked diligently for other sites that could accommodate this  
8 facility for the people of Randle Highlands and that was not  
9 available -- the sites were not available?

10                  MS. BULDEN: D.C. does not have a lot of sites.

11                  MR. MOORE: And this was a prime location?

12                  MS. BULDEN: And this was a prime location. And  
13 one of the things that also makes this location very nice is that  
14 it is accessible to a major thoroughfare, Pennsylvania Avenue and  
15 27<sup>th</sup> Streets being those two -- well, Pennsylvania Avenue being  
16 only two blocks away and public transportation being right there.

17                  CHAIRPERSON GRIFFIS: Can you talk a little bit  
18 more about what the threshold of 52 units, what are the details,  
19 the elements that go into make this feasible, as opposed to 50  
20 units or 39?

21                  MS. BULDEN: Sir, I'm going to talk to -- I can  
22 talk to that, but I would prefer to let Jeff Stoner.

23                  CHAIRPERSON GRIFFIS: That's fine.

24                  MS. BULDEN: He's our manager.

25                  CHAIRPERSON GRIFFIS: If someone would address it,

1 that would be good.

2 MS. BULDEN: I would prefer to do that. Thank you.  
3 But if I could just say, this -- about that question. Because  
4 it's an assisted living facility, there is going to be a minimum  
5 requirement for staffing so that the residents have 24-hour care,  
6 and that no one is left abandoned, per se.

7 So there is an economy of scale, if you will, that  
8 has to be met in order to make sure that that minimum level of  
9 staffing is there for the residents. Staffing, that's the care-  
10 givers as well as the nursing director as --

11 VICE CHAIRPERSON RENSHAW: Would you outline how  
12 many people you're talking about?

13 MS. BULDEN: Twenty-five full-time equivalents, but  
14 Jeff Stoner, again, could address that question better than me.

15 MR. MOORE: I have no further questions of this  
16 witness, Mr. Chairman.

17 MEMBER ETHERLY: Mr. Chair, I think before we lose  
18 Ms. Bulden, let me come back to some of the numbers that were  
19 bandied about. I want to be sure I'm clear. In terms of the  
20 3500 to \$5,000 figure, that number once again represents what,  
21 the industry average in terms of its market rate, in terms of the  
22 monthly cost? Or -- I just want to be sure I'm thinking about  
23 that --

24 MS. BULDEN: That represents what is available here  
25 in Washington, D.C.

1                   MEMBER ETHERLY:    Okay.    So 3500 to \$5,000 is  
2 essentially kind of the market rate for an assisted living  
3 facility in Washington, D.C.

4                   MS. BULDEN:    Correct.

5                   MEMBER ETHERLY:    Okay.

6                   And you -- and the applicant, of course, is looking  
7 at \$2,000 as kind of your threshold?

8                   MS. BULDEN:    Correct.

9                   MEMBER ETHERLY:    With respect to the HUD income  
10 guideline that you reference, 18,000 to \$30,000 annual income,  
11 can you provide some guidance as to how frequently -- I don't  
12 even want to try to guess -- how frequently that number changes?

13                   Does that income guideline change on an annual  
14 basis at HUD, or is that something that is pegged to perhaps  
15 census data or what have you?

16                   MS. BULDEN:    It's my understanding it's pegged to  
17 census data.

18                   MEMBER ETHERLY:    Okay.    Okay.    Is there -- perhaps  
19 this'll be a question better directed to Mr. Stoner, but I'll  
20 insert it now just so we could be thinking about it.

21                   Is it possible or feasible to get some sense of the  
22 percentage of assisted living facility residents in Washington,  
23 D.C., whose monthly living cost is covered in some way by funds  
24 from either the District government or another -- or a federal  
25 entity in terms of cost assistance?

1 MS. BULDEN: Certainly. In fact, at this point  
2 there aren't any federal funds provided --

3 MEMBER ETHERLY: Okay.

4 MS. BULDEN: -- for assisted living. Nor are there  
5 any city funds, as far as I am aware. That is why we are  
6 watching anxiously what -- the Medicaid waiver, as that will  
7 certainly have a direct impact on afford ability and the ability  
8 for everyone to access our facility that couldn't access the  
9 Sibley Facility then.

10 MEMBER ETHERLY: Okay.

11 MS. BULDEN: Because what I'm hearing is the  
12 Medicaid will only go up to \$2400 at best per month. So if you  
13 want to go to Sibley's assisted living, the Grand Oaks Manor, you  
14 have to be ready to pay \$3500 a month at a minimum.

15 MEMBER ETHERLY: Okay. So if I am a senior  
16 resident, I'm at the low end of the income spectrum, I'm at  
17 \$18,000 annual, Medicaid at this juncture is going to be -- or  
18 whatever private insurance I might have is going to be my sole  
19 options in terms of helping to reduce that monthly bite.

20 MS. BULDEN: Well, frankly, most people go to  
21 nursing homes.

22 MEMBER ETHERLY: Okay.

23 MS. BULDEN: So that has been the answer, and  
24 Brenda Turner can better address this because she's an expert in  
25 the field of providing healthcare services to the elderly within

1 Washington, D.C.

2 MEMBER ETHERLY: Okay.

3 MS. BULDEN: But the option has been, when you can  
4 no longer stay in your home because you need assistance, and you  
5 cannot afford to go to Sibley's Grand Oaks Manor, or the  
6 Methodist Home, et cetera, then you go --

7 MEMBER ETHERLY: Then you go to a nursing home.

8 MS. BULDEN: -- to a nursing home.

9 MEMBER ETHERLY: Okay. And once again, that speaks  
10 --

11 MS. BULDEN: And that's Medicaid paid.

12 MEMBER ETHERLY: Okay. So once again, that speaks  
13 to where the need is coming from for a facility of this type.

14 MS. BULDEN: That's correct.

15 MEMBER ETHERLY: You're essentially priced into a  
16 certain decision, i.e., a nursing care option because of lack of  
17 funds to assist meeting residential, trying to meet the cost, and  
18 the prohibitive cost of other privately operated facilities in  
19 the District.

20 MS. BULDEN: That's correct.

21 MEMBER ETHERLY: Okay. Thank you.

22 MS. BULDEN: Thank you for asking that question.  
23 That helped me to clarify a point I've been trying to make.

24 MEMBER ETHERLY: Thank you.

25 VICE CHAIRPERSON RENSHAW: Ms. Bulden, did you

1 check with these other facilities, assisted living facilities  
2 that you say you're going to give us as to whether or not these  
3 other assisted living facilities have programs to accommodate  
4 persons of low to moderate income, whether they have set aside a  
5 percentage of their rooms for that purpose?

6 MS. BULDEN: As a matter of fact, we have asked  
7 that question and the answer is, the room rates are between  
8 \$3,500 a month to whatever, and there is nothing set aside  
9 specifically for people with lower incomes who cannot afford it,  
10 but nursing homes are available.

11 VICE CHAIRPERSON RENSHAW: Really?

12 MS. BULDEN: Yes.

13 VICE CHAIRPERSON RENSHAW: That's interesting,  
14 because I am aware of a facility that has a program that -- with  
15 some lower income persons over in it as -- well, it's in a senior  
16 living facility, and whereby these people could not afford.

17 So I'm just wondering how extensive your research  
18 has been; hence, the question.

19 MS. BULDEN: If we did miss -- we did not ask every  
20 single facility, and I do want to point out, also, that the  
21 assisted living facilities in Washington are somewhat of the new  
22 kind of facility.

23 So you've got -- I hope we're not confusing  
24 assisted living with independent living or nursing care or --

25 VICE CHAIRPERSON RENSHAW: No.

1 MS. BULDEN: Okay.

2 VICE CHAIRPERSON RENSHAW: It's assisted living as  
3 you describe it.

4 MS. BULDEN: Okay.

5 VICE CHAIRPERSON RENSHAW: But in order to get some  
6 clarity on assisted living, you said that one of your guidelines  
7 was going to be they could not do three tasks, or they had --  
8 they needed help.

9 MS. BULDEN: They needed help with three.

10 VICE CHAIRPERSON RENSHAW: Three tasks.

11 MS. BULDEN: Correct.

12 MEMBER ETHERLY: And what are those tasks that  
13 they're going to be needing help in?

14 MS. BULDEN: It will differ from person to person,  
15 but at least three areas of daily living, be it assistance with  
16 bathing, assistance with dressing, assistance with eating,  
17 medication reminders.

18 VICE CHAIRPERSON RENSHAW: Okay. And --

19 MS. BULDEN: But on your question, Ms. Renshaw, I'm  
20 going to, if I may, defer to Ms. Turner who, again, I think could  
21 assist me in giving more market information in the areas, if I  
22 did miss a facility.

23 VICE CHAIRPERSON RENSHAW: I'm just a little bit  
24 confused here, maybe not confused, but concerned. In selecting  
25 people from the Randle Highlands community, because that is your

1 first market, you are going to be looking at specifically the  
2 income, and their three daily needs where they need help.

3 But you're going to be excluding people with  
4 medical problems --

5 MS. BULDEN: Well --

6 VICE CHAIRPERSON RENSHAW: -- because you do not  
7 offer any medical attention?

8 MS. BULDEN: We are not --

9 VICE CHAIRPERSON RENSHAW: In other words, like a  
10 clinic on site?

11 MS. BULDEN: We are not offering clinical care,  
12 clinical services. We are offering assisted living and that's  
13 all we will be looking for licensing for, only an assisted living  
14 facility, not a nursing home, not a medical center.

15 Each of those facilities has different licensing  
16 requirements and we will not be seeking those additional  
17 licensing requirements.

18 VICE CHAIRPERSON RENSHAW: You had mentioned in  
19 your testimony that you were going to have an office for a  
20 doctor.

21 MS. BULDEN: Yes.

22 VICE CHAIRPERSON RENSHAW: Now, is that going to be  
23 an open medical office whereby the doctor of the resident can  
24 come and treat the resident, or are you contracting with a  
25 hospital to provide a doctor so that all of the residents must

1 use that doctor in that facility?

2 MS. BULDEN: I will defer to the management company  
3 to help us create a policy on that. At this point we don't have  
4 the answer to that question. I don't -- no, I don't have the  
5 answer.

6 VICE CHAIRPERSON RENSHAW: All right. But this is  
7 a very important point that I am sure is going to be addressed in  
8 -- by those who are looking at your facility as to how you are  
9 going to handle the medical needs of these people whom you  
10 describe in your application as in some part frail.

11 MS. BULDEN: Yes.

12 VICE CHAIRPERSON RENSHAW: And who will need help  
13 in medical reminders and eating. When you get around to that --

14 MS. BULDEN: Correct.

15 VICE CHAIRPERSON RENSHAW: -- you're getting around  
16 to a community of people who are going to need more advanced  
17 care. And so we're just looking in your explanation of how  
18 you're running your facility or propose to run your facility, how  
19 do you propose to handle that?

20 And I haven't gotten the answer yet. So I'll be  
21 asking these questions of the other parties who will be  
22 testifying.

23 MS. BULDEN: But if I -- and maybe I could better  
24 address it in saying that, again, we want to provide assistance  
25 to people who need help in medication reminding, bathing,

1 dressing, grooming, toileting, transferring, such as from a  
2 chair, eating, such as cutting food.

3 Those individuals who need an acute level of  
4 medical care, it wouldn't be -- Randle Highlands Manor assisted  
5 living facility would not be the best place for them. A nursing  
6 home would be a better place for those individuals.

7 So we are an assisted living, and we really are  
8 going to have to be careful that we don't go into that realm of  
9 providing care that we aren't licensed to provide and aren't  
10 qualified to provide.

11 MEMBER ETHERLY: Just to piggyback on where Ms.  
12 Renshaw was hearing, and I think Ms. Bulden, and perhaps Mr.  
13 Moore was about to chime in, I think you hit it right on the  
14 head. There's probably a need to be very careful with the line  
15 of demarcation between an assisted living facility and the level  
16 of care that is going to be required in other types of settings,  
17 whether it's a long-term care facility or a nursing home  
18 facility.

19 So perhaps as we move forward, if it's not  
20 yourself, subsequent witnesses will help my colleagues and I keep  
21 that distinction firmly in mind, that when you're talking  
22 assisted living, I would hazard a guess that there's going to be  
23 a certain level of independence that is still --

24 MS. BULDEN: That's correct.

25 MEMBER ETHERLY: -- available to a particular

1 resident. Whereas, if you're looking at other types of care  
2 options, there may indeed be a greater need for further  
3 assistance in a nursing care format.

4 And I think that's probably where Ms. Renshaw is  
5 heading and trying to make sure we understand that distinction as  
6 it relates to the applicant and the facility.

7 MS. BULDEN: All right. And we will have  
8 relationships with hospitals and nursing homes so that as people  
9 do progress in frailty that there can be a smooth transition to a  
10 facility that is capable of handling more acute care cases.

11 And Ms. Renshaw, you had also said that we would be  
12 determining who gets into the facility based on income, as well  
13 as on the need for three types of assistance. And in fact, we  
14 won't be selecting based on income, per se.

15 The nature of where we are located indicates that  
16 we had to make the facility also affordable, because the  
17 neighborhood itself has a lower -- has more low to moderate  
18 income people who cannot afford the 3500 a month to 5,000 a  
19 month.

20 So the primary service area already consists of a  
21 large number of low to moderate income people. So we don't have  
22 to say, what is your income. The fact that they are in the  
23 community and live in the community suggests that there's a high  
24 degree of low to moderate income persons in that community  
25 already.

1 MR. MOORE: Members of the Board, Ms. Bulden will  
2 be here for the duration to answer any subsequent questions you  
3 might --

4 CHAIRPERSON GRIFFIS: I don't think we're done with  
5 the questions yet, but that would be good to keep her here.  
6 First of all, Ms. Bulden, I'm a little concerned with the last  
7 statement, because you stated previously that in fact you're not  
8 limiting on geography for your specific requirements.

9 So if I'm understanding you correctly, you're  
10 basically saying, well, because this exists on low and moderate  
11 income, that somehow insures that you'll have low to moderate  
12 income residents. Is that correct?

13 MS. BULDEN: Areas that already have assisted  
14 living facilities, the people who live in those communities nine  
15 times out of ten will look to go to those facilities right in  
16 their neighborhoods.

17 And Randle Highlands and the surrounding community  
18 does not have that option. So our primary market area --

19 CHAIRPERSON GRIFFIS: What do you base that  
20 statement on?

21 MS. BULDEN: There is no other assisted living  
22 facility --

23 CHAIRPERSON GRIFFIS: No. No. No, that if there's  
24 assisted living in one neighborhood it draws directly from that  
25 neighborhood.

1 MS. BULDEN: That's correct. And I'm going to  
2 defer -- ask Jeff Stoner to really talk to that, since he knows  
3 about this across the country.

4 CHAIRPERSON GRIFFIS: Okay. When looking at this  
5 property -- and you've indicated that you've developed other  
6 types of projects. Is that correct?

7 MS. BULDEN: Yes.

8 CHAIRPERSON GRIFFIS: Did you look at this as a  
9 develop able site for another type of development?

10 MS. BULDEN: Yes, we did. We also thought about  
11 nursing homes, but concluded that a nursing home was not needed  
12 in this particular area.

13 CHAIRPERSON GRIFFIS: Did you look at any matter of  
14 right development on this site?

15 MS. BULDEN: I don't know what that is.

16 CHAIRPERSON GRIFFIS: Did you look at anything that  
17 wouldn't require relief from the zoning? Did you look at  
18 townhouses, apartments that would --

19 MS. BULDEN: We were --

20 CHAIRPERSON GRIFFIS: -- fit within the R-5-A?

21 MS. BULDEN: I'm not in the business of developing  
22 housing. So my task was to look at what I know, which is  
23 healthcare.

24 CHAIRPERSON GRIFFIS: Okay. Any other questions?

25 VICE CHAIRPERSON RENSHAW: Mr. Chairman, we will

1 have more questions as we review Ms. Bulden's marketing analysis  
2 that she is to provide.

3 CHAIRPERSON GRIFFIS: Correct.

4 VICE CHAIRPERSON RENSHAW: So we will be coming  
5 back to her.

6 CHAIRPERSON GRIFFIS: Indeed. Ms. Bulden, thank  
7 you very much.

8 MS. BULDEN: Thank you.

9 CHAIRPERSON GRIFFIS: Hope we're not too hard on  
10 you. We need to take a ten-minute technical recess to get some  
11 of our sound stuff done, and then we will be back and continue  
12 with your next witness.

13 MR. MOORE: Thank you.

14 CHAIRPERSON GRIFFIS: Sure.

15 (Whereupon, the foregoing Hearing went off the  
16 record 4:55 p.m., and went back on the record at  
17 5:10 p.m.)

18 CHAIRPERSON GRIFFIS: Mr. Moore, you can call your  
19 next witness. Let me also give an indication we are at about  
20 5:15. We will be closing this hearing at 6:00 o'clock. So I  
21 would anticipate we would probably get through one more witness  
22 from your side, and then we will clear up on when we continue  
23 this case in the next date.

24 MR. MOORE: Hopefully, we can get through more than  
25 one, because I'm going to vary my scheduled witnesses to bring up

1 several witnesses that won't be long.

2 CHAIRPERSON GRIFFIS: Okay.

3 MR. MOORE: But they have very specific purposes  
4 here. With the leave of the Board I'll call Lynn French, please.

5 Ma'am, would you state your name for the record,  
6 please.

7 MS. FRENCH: Good afternoon. I'm Lynn French. I'm  
8 the senior policy advisor in the Office of the Deputy Mayor for  
9 Children, Youth, Families and Elders.

10 MR. MOORE: Are you aware of the circumstances that  
11 led to the sale of this property and the ultimate use of this  
12 property?

13 MS. FRENCH: Yes, I am.

14 MR. MOORE: Would you advise the Board of your  
15 knowledge on that subject, please?

16 MS. FRENCH: Well, I actually -- I have a dual role  
17 here, because prior to the position I now hold I was the  
18 Homestead Program Administrator at the Department of Housing and  
19 Community Development for 15 years.

20 During the period we had title to the property in  
21 question. We tried from 1992 until 1998 to market it. Several  
22 nonprofit groups tried to make a go of it as residential  
23 property. There was no one who could find a market for it, find  
24 financing for it.

25 And in 1998, we were delighted when we put it up

1 for bid once more and Anacostia Economic Development Corporation  
2 came forward and submitted a proposal to demolish the by then  
3 very, very awful buildings, and build an assisted living  
4 facility.

5 And we were anxious to get rid of the property. We  
6 had been getting many complaints from the neighbors over the  
7 years because it was sitting there boarded up, and we knew that  
8 there was a need in the city for assisted living.

9 MR. MOORE: And let me make sure that I get your  
10 point, and the Board gets your point, that you had several  
11 residential property developers who became interested in this  
12 site. Is that correct?

13 MS. FRENCH: Over the years, four or five different  
14 groups actually tried to make a go of it and were unable to get  
15 financing or come up with numbers that would work for residential  
16 property in that location.

17 CHAIRPERSON GRIFFIS: Do you recall those groups?

18 MS. FRENCH: I do, and I'd be happy to submit the  
19 names in writing to you, since I don't have total recall, but  
20 several -- there were several well-known, nationally-recognized  
21 nonprofit groups.

22 And what they found was that if they were to spend  
23 what would be required to put the residential facility there,  
24 that no one who could afford to pay the cost of that would be  
25 willing to live at that address. So it went untaken, time and

1 again.

2 MEMBER ETHERLY: Mr. Chair, if I may, just a very  
3 short interruption just to make sure I understand where Mr. Moore  
4 is heading with Mr. French, t least in terms of a portion of her  
5 testimony, so we can understand that Ms. French will have had  
6 personal and direct knowledge about how the property was  
7 eventually disposed of and came into possession of the applicant.

8 Is that correct?

9 MR. MOORE: Do you have that personal knowledge?

10 MEMBER ETHERLY: In your former, official capacity  
11 at Homestead.

12 MS. FRENCH: Yes, absolutely. And I have submitted  
13 for the record a letter -- I did not -- I had no idea that this  
14 much detail would be required by this group. I really thought I  
15 was coming in here for a half hour, 1:00 o'clock, and getting  
16 back to some other appointments.

17 So I did bring a one-page letter and I attached a  
18 copy of a memo from the then director of the department to the  
19 city's CFO outlining that proposed use. I would be happy to  
20 provide another more detailed description of the various groups  
21 that we went through, and any other information you'd like to  
22 have on those transactions.

23 MEMBER ETHERLY: Thank you. Thank you, Mr. Chair.

24 MR. MOORE: Ms. French, how are you currently  
25 employed?

1 MS. FRENCH: I currently am the Senior Policy  
2 Advisor to the Deputy Mayor for Children, Youth, Families and  
3 Elders.

4 MR. MOORE: As the deputy -- Senior Policy Advisor  
5 to the Deputy Mayor, elderly people come under your jurisdiction.  
6 Is that correct?

7 MS. FRENCH: Yes, under her jurisdiction.

8 MR. MOORE: Under her jurisdiction, with you  
9 assisting and advising, absolutely. Ms. French, do you have  
10 knowledge about the need for low and moderate income assisted  
11 living facilities in Office of Planning?

12 MS. FRENCH: Absolutely. In fact, we are --  
13 there's a need in Randle Highlands. There's a need across the  
14 city. I was curious with the questions, the pointed questions  
15 about whether or not people from that neighborhood would move in  
16 there, when in fact what we find in our experience is that this  
17 is the first step in care for elderly people.

18 People are not really ready to give up control over  
19 their lives and go into a nursing home, and they want to be in  
20 the neighborhood that's near their friends where they can still  
21 have interactions with people.

22 So our goal is not just to see one built in Randle  
23 Highlands, but to see this notion replicated across the city.

24 MR. MOORE: Ms. French, is it the city's policy to  
25 have low and moderate income -- a supply of low and moderate

1 income housing available to citizens of Randle Highlands?

2 MS. FRENCH: Yes, it is.

3 MR. MOORE: And if -- right now, there are no low  
4 and moderate -- are there any low and moderate income assisted  
5 living facilities in Randle Highlands?

6 MS. FRENCH: No, there is not.

7 MR. MOORE: And if there is not one, will that  
8 frustrate an existing policy?

9 MS. FRENCH: Yes, it would.

10 MR. MOORE: No further questions of this witness.

11 CHAIRPERSON GRIFFIS: Good argument, Mr. Moore.  
12 Okay. Anything else, Ms. French, that you want to add?

13 MS. FRENCH: I did give some statistics there in  
14 the letter. I'm assuming you don't need for me to repeat it, if  
15 in fact you have the letter I just gave you with all --

16 CHAIRPERSON GRIFFIS: Yes. We can review that  
17 letter, and I think the Board would look for the further  
18 documentation that you can provide on that.

19 MS. FRENCH: Yes, indeed.

20 CHAIRPERSON GRIFFIS: Are there questions of Ms.  
21 French?

22 MEMBER ETHERLY: Not a question. Not a question,  
23 since you're -- and it just might be a small matter of semantic  
24 detail, but it might be an important one. Given Ms. French's  
25 experience with the site and given her current role, obviously,

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1 it is Mr. Moore's and the applicant's purview to bring her  
2 forward as a witness, but isn't it also conceivable that her  
3 testimony can be viewed as a government report?

4 CHAIRPERSON GRIFFIS: I don't think so.

5 MS. FRENCH: Actually, what I brought was a letter  
6 from the Deputy Mayor of the District of Columbia stating the  
7 policy of the Williams Administration.

8 MEMBER ETHERLY: Okay. And by that question I'm  
9 not suggesting that that necessarily changes the way that your  
10 testimony is given. But at the same time, you are an agent of  
11 the District of Columbia government --

12 MS. FRENCH: Yes.

13 MEMBER ETHERLY: -- and you have expertise, and in  
14 your role, your current role, you have knowledge that there is a  
15 very specific, known need that we're discussing here. So it  
16 might not necessarily need to be delved further into, but I just  
17 wanted to raise that.

18 CHAIRPERSON GRIFFIS: Well, I think one of -- I  
19 think what you're getting to, fairly indirectly, but maybe I can  
20 clarify. There's a lot of talk of demand, demand for this type  
21 of service, and what we're going to need, clearly, from the Board  
22 is how that goes to the test for an area variance for this.

23 And I think it's starting to be established, but I  
24 think Ms. French can add to that in her government capacity. I  
25 don't think -- frankly, I don't think the Board refutes the fact

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1 that there's a demand and a need, but clearly, what we are  
2 looking, and are looking to do is just to substantiate some of  
3 the statements that are made so that we have that. Okay.

4 MS. FRENCH: Well, I have -- excuse me. I have  
5 submitted from the 2000 census in the letter I've given you, the  
6 statistics not only for east of the river, Ward Seven and broken  
7 down to the census tract in which this project would be located.

8 CHAIRPERSON GRIFFIS: Correct. Okay. The  
9 important piece for the program, then, is how does this project  
10 capture -- it can be stated -- but then how does this project  
11 capture that demand. And I think that's the level of comfort the  
12 Board is looking at establishing. We might be there already.

13 Ms. French, you have actually before submitted to  
14 the Board, but today, is the letter awarding the AADC the  
15 property. It starts out -- it's September 10, 1998, and it  
16 starts out: "Congratulations."

17 The third paragraph down says: "As developer of  
18 the properties, you will be required to," and lists numerous  
19 things. Number three states: "Sell each unit to first-time home  
20 buyer who will live in it for five years."

21 Continuing on the other page, the affidavit --  
22 which actually, the one we have is not signed -- indicates that:

23 "AADC will sell the resultant units to first-time  
24 home buyers who will live in the units for five  
25 years. The AADC shall insure that homesteaders

1 shall enroll in and successfully complete some home  
2 ownership training."

3 It seems that this was actually awarded to the CDC  
4 for home ownership opportunities. Is there a clarification in  
5 the change, then, of the project to August 17, 1998, which is  
6 evidenced in the letter?

7 MS. FRENCH: No. This is exactly what we awarded  
8 before. And in fact, in my submission to you, I've given you a  
9 copy from the then director of the department to the CFO, stating  
10 precisely this use. The way we are viewing it is that this  
11 building would be a cooperative.

12 It would be cooperatively owned by whomever lives  
13 in it at that time, and this actually is something that would be  
14 owned by the residents in that building.

15 CHAIRPERSON GRIFFIS: This is a co-op project?

16 MS. FRENCH: It would be cooperatively owned.

17 CHAIRPERSON GRIFFIS: This is the first I've heard  
18 of that.

19 VICE CHAIRPERSON RENSHAW: Really? Yes.

20 MR. MOORE: One moment, please.

21 (Pause)

22 MS. FRENCH: Will be owned by Randle Highlands  
23 assisted living facility. I haven't worked there for 18 months,  
24 so.

25 CHAIRPERSON GRIFFIS: And the Randle Highlands --

1 MS. FRENCH: I don't know what --

2 CHAIRPERSON GRIFFIS: -- assisted living facility  
3 is a for-profit entity. Is that correct?

4 MR. MOORE: Yes, it is.

5 CHAIRPERSON GRIFFIS: Okay. So at this point we're  
6 looking at --

7 MR. MOORE: Randle Highlands Limited Partnership is  
8 a for profit organization.

9 CHAIRPERSON GRIFFIS: Okay.

10 VICE CHAIRPERSON RENSHAW: Mr. Moore, which one is  
11 owning this? Who is --

12 MR. MOORE: Randle Highlands Limited Partnership.  
13 I think Ms. Bulden testified to that.

14 MS. FRENCH: I obviously have confused the record.  
15 I haven't been there for 18 months. I apologize.

16 CHAIRPERSON GRIFFIS: But Ms. French, it's your  
17 letter that's dated in 1998 on the award that it would have some  
18 home ownership opportunities. Does that cause you concern that  
19 you're hearing that the actually project isn't?

20 MS. FRENCH: I don't run that program anymore.

21 CHAIRPERSON GRIFFIS: I see. But this doesn't  
22 align with the original award during your period.

23 MS. FRENCH: I don't run that program anymore.

24 CHAIRPERSON GRIFFIS: I see. I don't have any  
25 other questions.

1                   VICE CHAIRPERSON RENSHAW:     Mr. Chairman; Ms.  
2                   French, you said that -- backing up a couple paragraphs here --  
3                   you said it was the first step in -- this would be the first step  
4                   in the care for the elderly, they want to be in the neighborhood,  
5                   and you see this notion being replicated across the city?

6                   MS. FRENCH: No. Actually, what I said was that we  
7                   would like to see this replicated across the city. I think you  
8                   heard from earlier testimony that this is quite an important  
9                   project because it will be a first in terms of afford ability.

10                   It is our hope that they are going to create a  
11                   model that we will be able to replicate across the city so that  
12                   more citizens will be able to avail themselves of this  
13                   opportunity.

14                   VICE CHAIRPERSON RENSHAW:     Does the Williams  
15                   Administration have a plan, a written plan into which this  
16                   application fits, or you're just kind of throwing it out there  
17                   and seeing how this pilot is going to go and then you'll take the  
18                   best parts of it and replicate it?

19                   MS. FRENCH: We know that we have a tremendous need  
20                   for elderly facilities and that it's a need that will only grow  
21                   as the baby-boomers age. It's going to grow exponentially each  
22                   year, because of the character of our population.

23                   And so we are looking -- we are watching this with  
24                   tremendous interest, hoping that this is going to be something  
25                   good that we can copy.

1 VICE CHAIRPERSON RENSHAW: All right.

2 MS. FRENCH: But you know that financing comes  
3 from a variety of sources, so it's not something -- HUD is the  
4 primary financing source for projects of this nature. So that's  
5 why it's so important for us to watch.

6 VICE CHAIRPERSON RENSHAW: In your review of these  
7 applications in your looking to see whether or not this is going  
8 to work in the city and can be replicated across the city, are  
9 you going to be involving yourself.

10 Or is the department going to involve itself with  
11 the communities involved, because you heard today that there is a  
12 vocal group in this community that is saying that -- or is going  
13 to say that it has problems with this.

14 MS. FRENCH: Well, you know, this is a problem --  
15 this is something that we face in a variety of the types of  
16 facilities that we are obligated by law to develop and operate.  
17 And what happens curiously is that as the city as a whole we know  
18 that we need facilities for elderly people.

19 We know that we need places for homeless people.  
20 we know that we need places for people who are mentally retarded  
21 or developmentally disabled. And on that -- on a macro scale we  
22 all have very easy conversations about it.

23 On a micro scale it changes. We are prepared to go  
24 and discuss this in various communities, and we are having  
25 ongoing dialogues. We do know that never will we have 100

1 percent consensus on anything.

2 It appears to me that the majority of the people in  
3 this area have consented and approved of this, and I don't know  
4 that we can expect much more. And I also hope that as it evolves  
5 that the people who are dissenting will see that it's really not  
6 such a bad thing to have in their neighborhood.

7 VICE CHAIRPERSON RENSHAW: All right. Well, I'm  
8 sure that they -- the neighbors are going to address these points  
9 of yours. So I'm not going to tackle that right at this point.

10 CHAIRPERSON GRIFFIS: Anything else?

11 MR. MOORE: NO further questions of this witness.  
12 Thank you.

13 At this time I'll call on Brenda Turner. And would  
14 you give your name for the record, please.

15 MS. TURNER: My name is Brenda Turner.

16 MR. MOORE: And are you employed, ma'am?

17 MS. TURNER: Yes, I am. I'm the Director of Aging  
18 Services for the Greater Washington Urban League. I also serve  
19 as the director of a lead agency funded through the District  
20 government, D.C. Office on Aging, to oversee and provide services  
21 for older residents of the District of Columbia.

22 MR. MOORE: And in that capacity you are familiar  
23 with the situation regarding the need for low and moderate income  
24 assisted living facilities in the District of Columbia?

25 MS. TURNER: Yes.

1                   MR. MOORE:    Would you provide testimony to the  
2 Board on that subject?

3                   MS. TURNER:   For the last 20 years I've been about  
4 the business of providing, overseeing and developing systems of  
5 care for older people in the District of Columbia.  We operate  
6 one of the largest case management services in the District  
7 funded by the D.C. Office on Aging, to provide long-term care  
8 case management for older people.

9                   In that capacity, we've seen thousands of older  
10 people who come through our doors every day, every month, every  
11 year, looking for alternative forms of housing.

12                   There are many older people who with their aging,  
13 advanced age, many of them suffering from two or more chronic,  
14 degenerative diseases, are finding themselves unable to maintain  
15 themselves in their own homes and communities.

16                   So we are about the business of finding the various  
17 types of housing that can accommodate their needs, whether it's  
18 202 supportive housing or whether it's assisting living or  
19 whether it's nursing home placement.

20                   MR. MOORE:    Are you familiar with the need for  
21 assisted -- low and moderate income assisted living facilities in  
22 the Randle Heights area of the city?

23                   MS. TURNER:   The southeast -- or east of the river  
24 area is one of the most needy area in the District of Columbia.  
25 We do not have adequate 202 supportive housing, nor do we have

1 any assisted living facilities in that area.

2 The reason I note this is because for a number of  
3 years I've sat on a private nonprofit board that's been about the  
4 business of developing supportive housing for seniors across this  
5 metropolitan area in Maryland and Washington, D.C.

6 And we've looked at the District of Columbia and we  
7 realize that there is no facilities to address the needs of this  
8 frail population. There are two things that we've tried to do  
9 over the years, and that is we've formed what we call a long-term  
10 care coalition that's been operating here in the District of  
11 Columbia, I guess maybe five to eight years now.

12 And what we've done through this long-term care  
13 coalition was to develop the Medicaid waiver legislation, and  
14 also, the most recent piece of legislation was the assisted  
15 living legislation 2000 that we developed.

16 And we did that because we realize that there are  
17 many needs of our older population that are not being addressed,  
18 and the elderly waiver, as well as the assisted living  
19 legislation, can help us better serve the residents that are  
20 getting older in this city.

21 And I know that many of the witnesses have already  
22 stated that the old, old population is growing, and we see this  
23 every day. Like I said, I've been here for 21 years looking at  
24 this population, and the kinds of conditions that I'm looking at  
25 today were not in existence when I first started out back in 1979

1 here in this city.

2 We need to do more. We need to build the city's  
3 infrastructure to become age sensitive. We're going to need to  
4 put up alternative housing around the District of Columbia to  
5 address the needs of this fast-growing, older population.

6 The nursing homes, there aren't enough beds to  
7 accommodate the people who are in need. The Medicaid waiver  
8 right now is supporting large numbers of older people -- oh, I  
9 won't say too large at this point because we're still kind of  
10 young.

11 But we're serving a fairly large number of older  
12 people who are nursing home eligible, but they've chosen to live  
13 in their own homes and communities. So we're addressing their  
14 needs in the community and that's what assisted living and the  
15 Medicaid waiver will do for people.

16 It gives them a choice. An older person, just  
17 because you turn a certain, magic age -- and the age that we look  
18 at here is 60 years of age -- once you turn 60 you still have a  
19 right to make a choice about where you live your later years.

20 And many of them are choosing to live in their  
21 homes and communities through the waiver and other assisted  
22 living opportunities.

23 MR. MOORE: Is that because they are not -- there  
24 is not a sufficient supply of low and moderate income assisted  
25 living facilities in the District of Columbia?

1 MS. TURNER: Right now, we do not have that. The  
2 figures that Ms. Bulden gave you a minute ago about the nine  
3 facilities that exist in the city, and the majority of them are  
4 in the upper northwest and northeast areas of the city. We do  
5 not have assisted living facilities east of the river.

6 MR. MOORE: And this is your personal knowledge?

7 MS. TURNER: Yes, sir.

8 MR. MOORE: No further questions of this witness.

9 CHAIRPERSON GRIFFIS: Can you help me understand  
10 how your discussion on the need for the Medicaid waiver actually  
11 goes directly to the variance test on this application?

12 MS. TURNER: The Medicaid waiver is a service  
13 driven service that looks at the level of care required by a  
14 particular person. Ms. Bulden mentioned the activities of daily  
15 living.

16 When a person loses their ability to manage their  
17 own activities for daily living, they then are at risk and nine  
18 out of ten would ordinarily be placed in a nursing facility.

19 But the Medicaid Waiver Program, as a matter of  
20 fact, I'm operating a waiver service now. I am a provider for  
21 the Waiver Program, and we are -- these people are -- could not  
22 live in the community if it were not for the waiver, because the  
23 waiver is reimbursing my workers, they're reimbursing personal  
24 care providers to go into the home and to provide the services  
25 that otherwise a nursing home facility would need to provide.

1 CHAIRPERSON GRIFFIS: So the Medicaid waiver will  
2 allow people to live in this facility at the rates that have set  
3 by the for profit developer?

4 MS. TURNER: And but they will be reimbursed at the  
5 rates that the waiver has already set in place.

6 CHAIRPERSON GRIFFIS: So this is the funding source  
7 that will fill this project?

8 MS. TURNER: That's one of the funding sources,  
9 yes.

10 CHAIRPERSON GRIFFIS: I see.

11 VICE CHAIRPERSON RENSHAW: But I --

12 MS. TURNER: And this would also -- may, I think,  
13 address your question, Ms. Renshaw, a minute ago: what happens  
14 to the person if they're not able to pay. Medicaid picks up the  
15 cost for that. Medicaid waiver picks up the cost for the person  
16 who can't come from the pocket.

17 MEMBER ETHERLY: So the Medicaid waiver will --  
18 good to see you again, Ms. Turner -- the Medicaid waiver actually  
19 can be relied upon by a specific individual to assist in covering  
20 the marketing living cost --

21 MS. TURNER: That's correct.

22 MEMBER ETHERLY: -- of the proposed assisted  
23 living.

24 MS. TURNER: There are families that are taking  
25 advantage of that right now, today, but they're not in assisted

1 living facilities. They're in their own homes, but it can be  
2 used at that site.

3 MEMBER ETHERLY: But it can be used for the  
4 assisted living facility.

5 MS. TURNER: Yes.

6 MEMBER ETHERLY: Okay. Thank you.

7 VICE CHAIRPERSON RENSHAW: But isn't it the trend  
8 that many of the elderly want to stay in their own homes, not go  
9 into a facility?

10 MS. TURNER: Many of them do. And for those who  
11 have homes and can be maintained in their homes, do choose --  
12 many of them do choose to stay, but there are others who don't  
13 choose to remain in their own home. That's the key to the  
14 waiver; it gives people a choice.

15 VICE CHAIRPERSON RENSHAW: But I thought through  
16 your remarks that the Medicaid waiver was really for those who  
17 would be providing services in the home, rather than in an  
18 assisted living facility.

19 MS. TURNER: It can stretch to accommodate those  
20 types of facilities.

21 VICE CHAIRPERSON RENSHAW: Okay.

22 CHAIRPERSON GRIFFIS: I'm going to have a little  
23 musical interruption at this point.

24 MS. TURNER: And I apologize. That's my phone.

25 CHAIRPERSON GRIFFIS: Indeed. You may not have

1       been here for my --

2                       VICE CHAIRPERSON RENSHAW:     It's now out in the  
3       hall.

4                       CHAIRPERSON GRIFFIS:     Okay.

5                       MS. TURNER:     I cut it off, and then I had to reach  
6       my daughter and forgot to cut it back off.

7                       CHAIRPERSON GRIFFIS:     That's okay.

8                       MS. TURNER:     I apologize.

9                       CHAIRPERSON GRIFFIS:     Ms. Renshaw, are you  
10      finished?

11                      VICE CHAIRPERSON RENSHAW:     For this moment, yes.

12                      CHAIRPERSON GRIFFIS:     Okay. I am still not getting  
13      how -- I understand your testimony, but I'm not sure how that  
14      goes to the test for an area variance or a special exception,  
15      except for need, which I think we're establishing that this goes  
16      to funding.

17                      You did make a statement at the opening that this  
18      area is the most needy, and that's based on your personal  
19      observation?

20                      MS. TURNER:     Years of experience and knowledge of  
21      aging services here in the District of Columbia. You see, we've  
22      got, through the D.C. Office on Aging we have agencies that have  
23      many years of developing services for aging people here in the  
24      District of Columbia.

25                      We have a plan of care that must be developed and

1 submitted to the federal level for the funding that comes from  
2 federal level, as well as local taxpayers' dollars, and this plan  
3 is called the State on Aging.

4 We develop and look at all of the various systems  
5 that must be put into place to address the needs of older  
6 residents here in the disclosure statement.

7 CHAIRPERSON GRIFFIS: Okay.

8 MS. TURNER: And we know what it looks like in  
9 southeast.

10 CHAIRPERSON GRIFFIS: I see. Other questions?  
11 Thank you very much, Ms. Turner.

12 MS. TURNER: Thank you.

13 MR. MOORE: Thank you very much, Ms. Turner.

14 Mr. Chairman, with leave of the Board, I have three  
15 witnesses that have a relatively short statement. I want to  
16 bring them all three up at the same time, if that is -- with  
17 leave with the Board. I can do it all in the 19 minutes that I  
18 have left.

19 CHAIRPERSON GRIFFIS: Who are the last witnesses?

20 MR. MOORE: O. V. Johnson, Maria Aldridge and Ned  
21 Sloan.

22 CHAIRPERSON GRIFFIS: I cannot imagine that we'll  
23 finish all three in 19 minutes. I would suggest let's do one  
24 more and see where that gets us.

25 MR. MOORE: All right. Then I'll call O. V.

1 Johnson.

2 Sir, would you state your name for the record, sir?

3 MR. JOHNSON: Good afternoon. My name is O. V.

4 Johnson.

5 MR. MOORE: Are you -- Mr. Johnson, are you  
6 familiar with assisted living facilities and the need for  
7 assisted living facilities in the east of the river area of the  
8 city?

9 MR. JOHNSON: Yes, I am.

10 MR. MOORE: All right. Would you provide the Board  
11 with your thoughts on that subject, please?

12 MR. JOHNSON: I'm formerly the chairperson of the  
13 D.C. State Designated Committee for the AARP. Our membership is  
14 about 80,000 50 years and older in the City of Washington, D. C.

15 It was during my tenure that we led the advocacy  
16 for the Civic Council to pass legislation to operate assisted  
17 living home -- facilities, rather, and it was one of our most  
18 prized pieces of legislation among the several pieces that we  
19 worked on during the tenure of my chairmanship of the State  
20 Designated Committee.

21 And we have also had the opportunity during that  
22 course of time of getting the piece in place for the assisted  
23 living and looking at nursing homes, independent living, and it  
24 led us that at that point in time, the one piece of very --  
25 needed very badly was the assisted living piece, because it was

1 something new to the District of Columbia.

2 Heretofore, most of the persons who needed assisted  
3 living to find a place that they wanted the assisted living in  
4 order to live with certain dignity had to go to Maryland. Matter  
5 of fact, the District did not have any regulation on the books  
6 until we approached them.

7 We -- I see some of the things that the Randle  
8 Highlands Manor is addressing and these are the very items that  
9 we fought for in that piece of legislation; people who could not  
10 attend to themselves.

11 But in some, for unique circumstances, the distance  
12 from their individual family members, that was another reason  
13 where some people -- the need -- assisted living in a group  
14 setting rather than independently in their home, because and then  
15 on the other occasions, those that had homes, sometimes their  
16 home was not user-friendly for them.

17 They may have stairways that they no longer could  
18 ascend to go up on the second and third floor, and there's other  
19 disabling things that kept them from fully using and staying in  
20 their homes. So the assisted living is for those persons who  
21 have some means, really, and do not care to go to a nursing home.

22 At one time that was the result of a person who  
23 could no longer tend to themselves, be regulated to a nursing  
24 home. Not to put nursing homes down, but a nursing home is the  
25 place where one person is regulated by the fact that you're on

1 their schedule for everything.

2 They tell you when, where and what. If you're in a  
3 assisted living, you make up your own agreement as to when you  
4 want your medication, when you want bathing or whatever -- when  
5 you want to be transferred to go to see your doctor.

6 I heard it addressed early on that there was not a  
7 doctor on site to address all of the needs, because of some -- so  
8 many things would be unique and peculiar to individuals. But the  
9 individuals -- arrange till you get to your doctor and other  
10 things of that nature.

11 MR. MOORE: Mr. Johnson, you are a resident and  
12 former ANC Commissioner in the east of the river area. Is that  
13 correct?

14 MR. JOHNSON: Yes, I am.

15 MR. MOORE: And do you have personal knowledge of  
16 the need for assisted living facilities in the east of the river  
17 and the Randle Highlands area?

18 MR. JOHNSON: I am, even though that is not my  
19 individual area, but I am familiar with east of the river through  
20 my work with AARP, and I've been working with AARP since '94, and  
21 of those several years, two of those years -- they allow you to  
22 serve two years -- I served as chairperson, and we prepared  
23 several pieces of legislation for the City Council, and this was  
24 one of the legislation.

25 And in passing this legislation our legal counsel,

1 we had them there to do a research nationwide in order to get --  
2 make the best possible legislation that we could have here in the  
3 District of Columbia --

4 MR. MOORE: Now, have you --

5 MR. JOHNSON: -- to accommodate the facilities.

6 MR. MOORE: Sorry. Have you prepared a letter to  
7 Mr. Griffis for the --

8 MR. JOHNSON: I did prepare a letter, and it's of -  
9 - as an individual letter based on the fact that I've been out of  
10 town and I did not have an opportunity to staff it with AARP. My  
11 capacity has changed.

12 Instead of being the Chairperson of the Legislative  
13 Committee, I am now the Citywide Advocacy leader.

14 MR. MOORE: I have no further questions of this  
15 witness.

16 CHAIRPERSON GRIFFIS: Board members, questions?

17 MR. MOORE: Thank you, Mr. Johnson. I'd like to  
18 use my remaining 13 minutes to call one more witness, please.

19 MR. JOHNSON: Thank you.

20 MR. MOORE: And I'll call Marie Aldridge, please.

21 (Pause)

22 MR. MOORE: Ma'am, if you will state your name for  
23 the record, please.

24 MS. ALDRIDGE: Marie -- excuse me -- Marie Harris  
25 Aldridge.

1 MR. MOORE: You're a doctor, Marie --

2 MS. ALDRIDGE: Yes, I am.

3 MR. MOORE: Have -- are you familiar with the  
4 proposal to build an assisted living facility at 2700 R Street,  
5 Southeast?

6 MS. ALDRIDGE: Yes, I am.

7 MR. MOORE: Have you formulated some thoughts on  
8 that subject?

9 MS. ALDRIDGE: Yes, I have.

10 MR. MOORE: Would you present them to the Board,  
11 please?

12 MS. ALDRIDGE: If I might, I have prepared some  
13 written statements. It might take less time. Or Chairman  
14 Griffis and the Committee, I'm not going to read the entire  
15 letter, but I will read the parts that just go to your question.

16 Today I act out of my personal conviction in  
17 support of the proposed Randle Highlands Manor Assisted Living  
18 Facility Development Project, to be located at 2700 R Street,  
19 Southeast.

20 Based on my understanding of the proposed project,  
21 it will provide quality, affordable housing for senior residents  
22 in the District of Columbia. I am moved to take this position  
23 due to a term of events in my life that provided me an  
24 opportunity to view life differently from younger, more energetic  
25 days.

1 I'm 60. I'm in that senior group now. First,  
2 there is the situation of calendar birthdays, and health and  
3 medical side effects of growing older. Secondly, my husband  
4 suffered a stroke on October 29<sup>th</sup>, 1999, and had to undergo  
5 extensive rehabilitation, speech, physical and vocational  
6 therapy.

7 Today, he is recovered, limited only by the lack of  
8 the use of his left hand. I was able to provide loving care for  
9 him at home. With the increasing demands of the house,  
10 maintenance inside and outside, reason has given me to begin to  
11 explore the availability of decent, high quality alternatives for  
12 seniors, myself included, who may choose assisted living -- I do  
13 make the distinction -- assisted living facilities.

14 I have personal friends and members of my church  
15 who have chosen that route, and one of them is a neighbor across  
16 the street on 30<sup>th</sup> Street, who lived on 30<sup>th</sup> Street.

17 While I don't know for sure, but the possibility  
18 exists that given a choice of a quality facility with the  
19 features outlined for Randle Highlands Manor, she might well have  
20 chosen to stay near the church, since she continues to come and  
21 her friends and associates reside in this community.

22 She's at the Thomas House presently. All right.  
23 Thank you for hearing my perspective relative to the Randle  
24 Highlands Manor.

25 MR. MOORE: Dr. Aldridge, would you state your home

1 address, for the record, please?

2 MS. ALDRIDGE: 1801 30<sup>th</sup> Street.

3 MR. MOORE: And you are in fact a -- reside nearby  
4 the site of the proposed facility?

5 MS. ALDRIDGE: Yes. Due to their building the new  
6 school, a detour comes right by me.

7 MR. MOORE: I see. So you are a neighborhood  
8 resident?

9 MS. ALDRIDGE: Yes, I am.

10 MR. MOORE: And you are in favor of this facility?

11 MS. ALDRIDGE: I think it's a wonderful concept.

12 MR. MOORE: Now, some of your neighbors have  
13 expressed concern about this facility. What is your view as a  
14 resident of the community, of the community's thoughts on this  
15 issue?

16 MS. ALDRIDGE: I think there are different views,  
17 based on mostly their understanding of differentiating nursing  
18 home, assisted living and anything else that has to do with  
19 ambulances, as well as tow for some of them, ambulances coming  
20 and going,  
21 and perhaps diseases, is what I'm told.

22 So I think out of innocence or -- I don't want to  
23 use the other word, but lack of understanding and knowledge,  
24 that's where the resistance comes from.

25 MR. MOORE: As a resident of the community, do you

1 see a need for this low and moderate income assisted living  
2 facility in Randle Highlands?

3 MS. ALDRIDGE: As her -- I don't know her -- Ms.  
4 French, I believe, not only Randle Highlands, but as I think my  
5 positions have carried me from one end of the city to the other,  
6 and I do see it throughout this aging thing.

7 We're living longer, looking better and we will  
8 need assisted living. I tell you quite sincerely, I would  
9 welcome an assisted living facility so that I could give up that  
10 maintenance, taking care of my home, and I have four flights of  
11 stairs, so.

12 MR. MOORE: Mr. Chair, I have no further questions  
13 of this witness.

14 CHAIRPERSON GRIFFIS: Thank you, Ms. Aldridge. We  
15 appreciate your words today. Let me say, I don't think the Board  
16 questions the fact that we have an aging population, nor the  
17 demand that is needed throughout the city, but we appreciate your  
18 words.

19 Let me first ask a question of -- a clarifying  
20 question. You're professional expertise is library sciences?

21 MS. ALDRIDGE: Yes, it is.

22 CHAIRPERSON GRIFFIS: And that's what your  
23 doctorate is in. Is that correct?

24 MS. ALDRIDGE: It's educational leadership.

25 CHAIRPERSON GRIFFIS: Indeed.

1 CHAIRPERSON GRIFFIS: And did you mention the  
2 Thomas House?

3 MS. ALDRIDGE: Yes, it is.

4 CHAIRPERSON GRIFFIS: What do you know --

5 MS. ALDRIDGE: It's a Baptist -- or I don't know if  
6 it's characterized as a nursing home or -- it's both, I believe.  
7 They carry out a number of functions on Massachusetts Avenue.  
8 Some of you may be familiar with it.

9 CHAIRPERSON GRIFFIS: Where on Massachusetts  
10 Avenue? Oh, so it's Massachusetts, Northwest?

11 MS. ALDRIDGE: Yes. Oh, yes.

12 CHAIRPERSON GRIFFIS: Okay.

13 MS. ALDRIDGE: Northwest.

14 CHAIRPERSON GRIFFIS: I see.

15 MS. ALDRIDGE: I don't think we have anything in  
16 our Ward 7 for sure.

17 CHAIRPERSON GRIFFIS: That's what we've been told  
18 numerous times today. Good. Any other questions? I think the  
19 Board is regretful of your husband's situation.

20 MS. ALDRIDGE: Thank you.

21 CHAIRPERSON GRIFFIS: We certainly wish you good  
22 luck with -- or good care with that and living with that  
23 situation.

24 MS. ALDRIDGE: He's coming along nicely.

25 CHAIRPERSON GRIFFIS: Good.

1 MS. ALDRIDGE: Thank you so very much.

2 CHAIRPERSON GRIFFIS: Good. Indeed, it is.

3 MS. ALDRIDGE: Thank you.

4 CHAIRPERSON GRIFFIS: Let us all live long and  
5 prosperous, and look good towards the end of our years. So that  
6 being said, we are at the house of finishing up today. So what I  
7 want to do is recap. First of all, we have quite a bit of  
8 submissions that we will be expecting from the applicant.

9 Secondly, we need to set a date by -- that we will  
10 continue and finish, conceivably, the public hearing on this  
11 case.

12 MR. MOORE: Mr. Chair.

13 CHAIRPERSON GRIFFIS: Yes.

14 MR. MOORE: If it is satisfactory to the Board, I  
15 would like to continue at your second date the presentations that  
16 we have. We have a number of other witnesses, but I will cut  
17 them down to just the professional witnesses, so just to make the  
18 Board comfortable that we have met our burden.

19 But insofar as subsequent submissions, it may be  
20 more efficient to set subsequent submissions after you've heard  
21 our subsequent witnesses, because the list may be longer.

22 CHAIRPERSON GRIFFIS: An interesting point. I  
23 think we can take them for the next case and we can gather the  
24 ones we need out of that next hearing, and then have submissions  
25 on those.

1 My point being, I think the information that we  
2 asked for today would be valuable in our reviewing the case and  
3 preparing for our next hearing, and I don't think it's that  
4 burdensome in terms of what we were looking at. So --

5 VICE CHAIRPERSON RENSHAW: Mr. Chairman.

6 CHAIRPERSON GRIFFIS: Yes.

7 VICE CHAIRPERSON RENSHAW: I'd also like to review  
8 the party status request that a member of the community has made  
9 today, and we need to discuss that before we leave tonight.

10 CHAIRPERSON GRIFFIS: Very good. The next date  
11 that we will hear this, if I am not mistaken, will be October  
12 22<sup>nd</sup>. Is that -- we have availability in the afternoon, and it  
13 will be the first case in the afternoon. Is that correct? Very  
14 good.

15 MR. MOORE: Is there a date prior to that? This is  
16 -- there is -- I think we've established on the record that there  
17 is an urgent need in the community for this service. And to the  
18 extent that October the 22<sup>nd</sup> is three months away, that delays the  
19 onset of this development that much longer for the people who are  
20 there.

21 CHAIRPERSON GRIFFIS: And we take great care in  
22 looking at it with any development project. We know the  
23 realities of the time and the schedules. At one of our breaks we  
24 did review the schedule in case we needed a second date.

25 We do not meet in August, but for the first week in

1 August. September has already filled. The closest date that we  
2 have is the 22<sup>nd</sup>, with ample time to hear the rest of this case.

3 And we're not anticipating that's an entire  
4 afternoon, but I think we're going to need at least two hours on  
5 it, and that is the only opening that we have at this time.

6 MS. BAILEY: Mr. Chairman, the submissions that I  
7 have, is that okay, is this a good time to --

8 CHAIRPERSON GRIFFIS: That's an excellent time.  
9 Thank you.

10 MS. BAILEY: Okay. The letter from the Randle  
11 Heights Civic Association to be represented by Ms. Geraldine  
12 Marshall, and also, documentation from the property owners who  
13 are within close proximity to also be represented by her.

14 The list of property owners; I think the streets  
15 were identified at the beginning of the discussion. Ms. Bulden  
16 is to provide a list of assisted living facilities in the  
17 District of Columbia, and the Board had requested the market  
18 study or economic analysis for this project, and those were the  
19 submissions that I have, Mr. Chairman.

20 VICE CHAIRPERSON RENSHAW: Also, Ms. French is  
21 going to provide the four to five groups that were not able to  
22 undertake the project. She was going to describe the groups,  
23 give some background on them.

24 CHAIRPERSON GRIFFIS: Right. And I think in Ms.  
25 Bulden's study we were looking also at -- just at the comparison

1 of costs for complexes as part of her testimony. Going to the  
2 first issue that you raised, that goes to whether the Board will  
3 in fact take up a request for party status at our second hearing  
4 on this, and I would take comments on that.

5 VICE CHAIRPERSON RENSHAW: Mr. Chairman, I believe  
6 that I've had some concern this afternoon over the -- this lack  
7 of party status for the community, and I suggest that the Board  
8 entertain the request from the Randle Heights Citizen Civic  
9 Association -- I hope I have that name correct -- at our next  
10 meeting to represent -- to be represented in a party status so  
11 that that organization can cross-examine the witnesses, can read  
12 the transcript and then be a part of this proceedings.

13 And whether it's Ms. Marshall who represents that  
14 association or whether there is another person, that would be up  
15 to the Civic Association.

16 MR. MOORE: Ms. Renshaw, with all due respect, the  
17 Randle Heights Civic Association has not made a request for party  
18 status on this record.

19 VICE CHAIRPERSON RENSHAW: I understand that, Mr.  
20 Moore. We've gone through that. But I am requesting that the  
21 Randle Heights organization be made known of the fact that there  
22 can be a party status request to this Board.

23 And as we spoke earlier, perhaps in the letters  
24 that they have sent, which were not to the Office of Planning,  
25 they did not -- that organization did not get the information

1 about party status.

2 MR. MOORE: The Board has no such information on  
3 the record, Mrs. Renshaw.

4 VICE CHAIRPERSON RENSHAW: We have party status  
5 information that could have been sent out.

6 MR. MOORE: You have no request. The Board has no  
7 request pursuant to its rules for a party status motion. It has  
8 not been made and it --

9 CHAIRPERSON GRIFFIS: Indeed. What we do have is  
10 Ms. Marshall's testimony today that she was to represent. And  
11 just -- and Ms. Marshall, I'm going to ask you to come up at this  
12 time. We have the ability, this Board, of course, can waive its  
13 rules in regards to the regulations.

14 What I would suggest we do is, Ms. Marshall, we're  
15 going to ask you to submit a request for party status. It will  
16 need to be in writing to the Board. I would ask that to be  
17 submitted and we'll set a date, but it's going to be in September  
18 and it's going to be in plenty of time before the hearing.

19 Several things are going to happen with that. We  
20 will look at that. It will be presented to the applicant. We  
21 will ask the applicant to respond in writing before the next  
22 hearing on their position with the party status.

23 Now, you will need to, for party status, fill out  
24 all of the outlined regulations -- indeed that, but do refer back  
25 to the regulations. You held up the application, which is

1 excellent, but refer to the application, too.

2           There is additional information you're going to  
3 need to provide the Board, and that additional information is  
4 going to be this. First of all, we're going to need  
5 substantiation of why the Board should waive its rules, meaning,  
6 why was a party request not timely filed.

7           And do believe me, Mr. Moore will be arguing the  
8 opposite side. The second, you're going to need to address how  
9 this will not prejudice the applicant or other parties in this  
10 case, if you were awarded party status.

11           And I would also just direct you just pay  
12 particular attention. First of all, as Ms. Bailey has outlined,  
13 you're going to need documentation showing who your party is with  
14 proper authorization of who's representing and who is a party in  
15 that case.

16           That should be very clear, concise so that we have  
17 no question that we can read it and understand who it is. But  
18 most importantly, with that group you again need to address the  
19 fact of how you are uniquely affected, and all that is outlined  
20 very well in the regulations. Do you have any questions of us?  
21 Could you --

22           MS. MARSHALL: You said September, but you didn't  
23 give me a date. Is that the 1st?

24           CHAIRPERSON GRIFFIS: No, indeed. I will -- good  
25 point. I don't have the calendar in front of me, but our able

1 Office of Zoning staff does. So they will give you a date.

2 MS. MARSHALL: Okay. Okay.

3 CHAIRPERSON GRIFFIS: Other questions?

4 MS. MARSHALL: We will comply. No.

5 MEMBER ETHERLY: Mr. Chair, if I may real quickly  
6 before Mr. Moore jumps in. Just I will note for the record, once  
7 again, out of -- of course, out of no personal issue with Ms.  
8 Marshall's comment, but I will vote against the request for party  
9 status. I believe --

10 CHAIRPERSON GRIFFIS: You're saying you're going to  
11 vote against something that you haven't seen yet.

12 MS. MARSHALL: Yes.

13 MEMBER ETHERLY: Mr. Chairman, I will note that I  
14 believe the Board is going above and beyond to the point of  
15 raising concern. I believe the applicant's counsel has made a  
16 very valid point, that we don't have a valid request for party  
17 status here by the Randle Highlands Citizens Civic Association.

18 Once again, Ms. Marshall's request I believe fails  
19 because it doesn't satisfy the Board's Regulations as it relates  
20 to party status. I don't see this as an issue, once again, an  
21 opportunity to be heard, because any person or -- any person will  
22 have an opportunity to provide testimony in support or against  
23 the issues that have been highlighted by Ms. Marshall in her  
24 remarks I believe don't meet the uniqueness standard that's set  
25 out in our Regulations.

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1                   And further, the Randle Highlands Citizens Civic  
2 Association has on the record in three submissions, detailed and  
3 outlined their concerns. I will note that I don't believe this  
4 is an issue of notice or even savvy-ness, because if you were to  
5 look at Exhibit 19 you'd note that one of the letters that is  
6 included goes in very significant details with respect to the  
7 individuals and offices that are courtesy copied with respect to  
8 that communication.

9                   There is, of course, I just believe substantial  
10 awareness on the part of the Office of Planning Citizens Civic  
11 Association that there are a number of steps in this continuum as  
12 it relates to this application winding its way through the  
13 District government apparatus where they could weigh in.

14                   So I will -- let me just be clear. I will retract  
15 my statement with regard to what I may decide with respect to a  
16 motion subsequently, but I will note that there is substantial  
17 concern with us being, shall we say, a little too pro-active in  
18 terms of fashioning a party request out of dead air. Thank you,  
19 Mr. Chairman.

20                   CHAIRPERSON GRIFFIS: You know what you're up  
21 against, Ms. Marshall.

22                   MS. MARSHALL: Yes, I do know what I'm up against.

23                   CHAIRPERSON GRIFFIS: Okay.

24                   MS. MARSHALL: And I accept the challenge.

25                   CHAIRPERSON GRIFFIS: Indeed.

1                   VICE CHAIRPERSON RENSHAW: And in speaking for the  
2 community for the neighborhood, that does not guarantee anyone --  
3 my support of that, but I do believe very strongly in a  
4 community's right to speak out, either for or against, a  
5 particular application.

6                   And I have a feeling here that this community has  
7 been caught a little bit off guard in this application. And I  
8 know Mr. Moore is reacting with amazement at that.

9                   But I have the feeling that that is the case and I  
10 am willing to listen closely and read closely the argument that  
11 the community will make to try to persuade me that the community  
12 needs this party status in order to cross-examine.

13                   And an important part of this is being able to get  
14 the materials that are, shall we say, passed out at the hearing  
15 and provided to the Board, and also have the chance to query  
16 those who testify. And that goes to both sides, because when you  
17 are a party you also are cross-examined.

18                   MS. MARSHALL: Yes.

19                   VICE CHAIRPERSON RENSHAW: So you have to  
20 understand that. But I believe that the community has the right  
21 to make a case, and when this material comes in we judge it and  
22 we vote on it, and that's how it should be.

23                   MS. MARSHALL: Thank you, Ms. Renshaw, for your  
24 knowledge and your understanding of my limited testimony.

25                   CHAIRPERSON GRIFFIS:

1 MR. MOORE: Just a minute, Mr. Chairman. I'm going  
2 to take exception to what Ms. Renshaw said. She's formed a  
3 conclusion without hearing all the evidence.

4 VICE CHAIRPERSON RENSHAW: Oh, no, I have not.

5 MR. MOORE: Just hear me out; hear me out.

6 VICE CHAIRPERSON RENSHAW: Mr. Moore, Mr. Moore,  
7 that is wrong, and I stated at the beginning that in making a  
8 case for the community, in other words, speaking out on their  
9 behalf, that does not say -- that does not say -- that I have  
10 pre-judged this.

11 And again, Mr. Etherly had stated in his statement  
12 that he was going to vote against party status, and then he  
13 turned around and said, no, he gave the feeling that he was going  
14 to read this with an open mind and make a judgment.

15 CHAIRPERSON GRIFFIS: Good. And I would say --

16 VICE CHAIRPERSON RENSHAW: And that's the same case  
17 with me.

18 CHAIRPERSON GRIFFIS: -- we're going to hold our  
19 arguments until --

20 MR. MOORE: Oh.

21 CHAIRPERSON GRIFFIS: -- the actual submission.

22 MR. MOORE: I need to respond with a --

23 CHAIRPERSON GRIFFIS: Last word, Mr. Moore.

24 MR. MOORE: -- last word. Mrs. Renshaw, with all  
25 due respect, you have taken the position that you have a feeling

1 that the community has something to say about this. We have in  
2 our witnesses a number of different people in the community, bona  
3 fide residents, including the Advisory Neighborhood Commission,  
4 who are prepared to say they support -- who have said and are  
5 prepared to say they support that.

6 VICE CHAIRPERSON RENSHAW: I heard that.

7 MR. MOORE: Mrs. Marshall does not represent anyone  
8 but herself on this record, and that is the record and we need to  
9 be clear about that.

10 VICE CHAIRPERSON RENSHAW: We are going to hear  
11 from Mrs. Marshall in writing, and we are going to judge it at  
12 that time. But she has appeared. She has made a request and  
13 brought some evidence, and so we're going to go from there.

14 CHAIRPERSON GRIFFIS: And I think it's pretty clear  
15 that this Board goes to filling out the entire record. We look  
16 at everything. We score everything, and we -- if there's any  
17 error made by this Board, it is getting too much information.

18

E-V-E-N-I-N-G S-E-S-S-I-O-N

(6:00 p.m.)

CHAIRPERSON GRIFFIS: And I don't think that's an improper error, so that if there is evidence in fact that a community representative -- and we hear from individuals and we encourage individuals to come and testify in front of us.

So I think what Ms. Renshaw is doing is just trying to insure that in fact all reasonable expectations by the community are given. Now, to your point the ANC and community organizations don't always align, there can be differences.

It may not and it does not appear that it's happening in this case, but let's see what becomes evident next.

We will hear from you, Ms. Marshall, either way.

MS. MARSHALL: Thank you.

CHAIRPERSON GRIFFIS: We are first going to hear from your motion for party status. If that is denied, you should be prepared to make your case in testimony, and we will define the appropriate time allowed you to present that as a person next, if party status is not granted.

That being said, we will see you on the 22<sup>nd</sup> of October. We have submission dates that need to be outlined. I would like to have ample time, if we might, for those submissions so that we can have responses.

MS. BAILEY: Mr. Chairman, just please bear with me for one second.

1 CHAIRPERSON GRIFFIS: Of course.

2 MS. BAILEY: I just need clarification. The  
3 request for party status will be coming from the organization or  
4 would it be coming from Ms. Marshall? Will it be coming from the  
5 Randle Heights Civic Association, or will it be coming from Mrs.  
6 Marshall? Who specifically will be providing the request for  
7 party status?

8 CHAIRPERSON GRIFFIS: That's an excellent point  
9 that we were a little evasive on. My anticipation would be, Ms.  
10 Marshall, that you are organizing this request for party status.  
11 If it is, in fact, we will keep the record open for one  
12 submission on party status.

13 And that will either be under the heading of the  
14 Civic Association or it will be under a newly-formed party that  
15 you head up, and its memberships are there. I would think the  
16 point -- pertinent point for us is that the Civic Association be  
17 attached to this party.

18 However -- yes. I think -- well, let me -- I think  
19 the most important thing is just a clarification of authorization  
20 and the members of proposing to be a party.

21 MS. MARSHALL: Yes, and we could have an attorney,  
22 if we chose.

23 CHAIRPERSON GRIFFIS: Well, indeed.

24 MS. BAILEY: Okay. Thank you. The submissions  
25 date -- the submission date for all materials, Mr. Chairman,

1 would be September 17<sup>th</sup>, for September 17<sup>th</sup>; submission by close of  
2 business; October 1<sup>st</sup>, the responses of all of the submissions.  
3 That's October 1<sup>st</sup>.

4 The hearing will continue on October 22<sup>nd</sup> in the  
5 afternoon. Mr. Moore will provide additional witnesses when the  
6 hearing resumes, and also, of course, the request for party  
7 status will be taken up at that time.

8 Mr. Zaidain is not here today, Mr. Chairman. Mr.  
9 Hannaham left early. Will those two Board members be reading the  
10 record on this case?

11 CHAIRPERSON GRIFFIS: They will, indeed.

12 MS. BAILEY: Okay. And that being said, that's  
13 about all I have, Mr. Chairman.

14 CHAIRPERSON GRIFFIS: Good.

15 MS. PRUITT: Mr. Chairman.

16 CHAIRPERSON GRIFFIS: Yes.

17 MS. PRUITT: I'm sorry. There is one slight  
18 correction. The only responses we will be taking will be Mr.  
19 Moore's response to the request for party status, because party  
20 statuses haven't been determined.

21 CHAIRPERSON GRIFFIS: Except for the ANC.

22 MS. PRUITT: Except for the ANC, correct. The ANC  
23 and Mr. Moore can make responses.

24 CHAIRPERSON GRIFFIS: That's correct.

25 MS. PRUITT: But unfortunately, since -- until

1 party's been determined, they don't have that right.

2 CHAIRPERSON GRIFFIS: That is correct. Ms.  
3 Marshall, just for clarification, then, you will not be served  
4 information attendant to this case. If the applicant obliges  
5 themselves to give you all the documentation that they submit,  
6 that is their opportunity to do so.

7 However, you can, of course, check the case file,  
8 which is the public record here at the office.

9 MS. MARSHALL: Right.

10 CHAIRPERSON GRIFFIS: Secondly, let me also  
11 underscore the fact that you've brought up the idea of possibly  
12 having legal counsel, which is probably a good idea. I don't --  
13 that's not a recommendation.

14 However, I think the Board will not have a lot of -  
15 - a large open mind in hearing an additional postponement based  
16 on the lack of time for a preparation from legal counsel.

17 MS. MARSHALL: We'll not get it.

18 CHAIRPERSON GRIFFIS: Just putting it in your mind  
19 when you talk to people that you may look to, I think we will go  
20 ahead on the 22<sup>nd</sup>, and it would not be prudent to do that. So if  
21 there is somebody on board then you need to get up to speed  
22 pretty quickly.

23 VICE CHAIRPERSON RENSHAW: Mr. Chairman, we are  
24 requesting from Ms. Bulden a market analysis, and Ms. Bulden also  
25 said that she can provide demographics. And so I hope that that

1 is part of the market analysis.

2 CHAIRPERSON GRIFFIS: Well, I think what we were  
3 looking for is the document that she was referencing, not for a  
4 new documentation or study to be done. Is that correct?

5 VICE CHAIRPERSON RENSHAW: Well, she said that she  
6 can provide demographic analysis.

7 CHAIRPERSON GRIFFIS: Indeed; indeed. My  
8 assumption was that statement meant that what she has as her  
9 study is -- and what she's referring to has that included.

10 VICE CHAIRPERSON RENSHAW: Well, I just wonder, was  
11 it included in the marketing analysis that we've asked for?

12 CHAIRPERSON GRIFFIS: Good point.

13 VICE CHAIRPERSON RENSHAW: All right.

14 CHAIRPERSON GRIFFIS: So any reference to an  
15 already established demographic study that was the basis of the  
16 market analysis would be useful to have.

17 VICE CHAIRPERSON RENSHAW: And just one last  
18 question. When will the transcript of this proceedings be  
19 available?

20 CHAIRPERSON GRIFFIS: That's not for me.

21 MS. BAILEY: Approximately two to three weeks, Mrs.  
22 Renshaw.

23 VICE CHAIRPERSON RENSHAW: Two to three weeks;  
24 thank you.

25 MR. COCHRAN: Excuse me, Mr. Chair.

1 CHAIRPERSON GRIFFIS: Yes.

2 MR. COCHRAN: Office of Planning just wanted to get  
3 on the record that it would be helpful if, since there is the  
4 additional three months available, if the applicant could also  
5 submit something addressing what other sites were considered, as  
6 far as the other suitable sites in the Randle Highlands or Ward 7  
7 area, that would be very useful, very helpful --

8 CHAIRPERSON GRIFFIS: Okay.

9 MR. COCHRAN: -- in demonstrating hardship. And  
10 the other thing that I think will come up at the hearing is  
11 whether there also needs to be a variance request for height, not  
12 just the numbers of stories, but the way in which the height is  
13 measured, and there's been some confusion within our office,  
14 based on some conversations with some other city officials  
15 because of a gap of about eight to nine feet between the building  
16 face and the retaining walls.

17 So if the applicant could take it on themselves to  
18 get this clarified it would be helpful, and I think save the  
19 Board time that day.

20 CHAIRPERSON GRIFFIS: Good. Thank you for that  
21 clarification. Also, the filing times then -- it might be  
22 anticipated, although it's not requested, that you revise any of  
23 your reports attendant to this case, and that would give you  
24 ample time to review the new submissions. Is that correct?

25 MR. COCHRAN: I -- you know -- I certainly

1 anticipate and hope you will remain in support of the  
2 application. Of course, we'd like to see the additional  
3 information.

4 CHAIRPERSON GRIFFIS: Okay.

5 MR. COCHRAN: We would like to have seen what was  
6 submitted today, before today.

7 CHAIRPERSON GRIFFIS: Good. Anything else?

8 MR. MOORE: Sir, would you require both sides to  
9 serve the other side when they are submitted documents as  
10 requested by the Board?

11 CHAIRPERSON GRIFFIS: What sides are you speaking  
12 of?

13 MR. MOORE: I'm saying is I'd like to get a copy of  
14 the document without having to come down every day and looking at  
15 the record.

16 CHAIRPERSON GRIFFIS: A copy of the --

17 MR. MOORE: Any document that Mrs. Marshall --

18 CHAIRPERSON GRIFFIS: Oh, indeed. Okay. Ms.  
19 Marshall, we are going to request that the submission that you  
20 make in terms of your request for party status be served on the  
21 applicant.

22 MR. MOORE: I'll tell you after the hearing.

23 CHAIRPERSON GRIFFIS: Good. Mr. Moore will provide  
24 his address. Well, it's only polite, then, that we ask Mr. Moore  
25 to send you his response to your motion. Mr. Moore, do you have

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1 any problems with that?

2 MR. MOORE: Absolutely not.

3 CHAIRPERSON GRIFFIS: Indeed. We're already  
4 working things out here. Good. I would -- clearly, Ms.  
5 Marshall, depending on what the address is for Mr. Moore's  
6 office, it may be well served in overnight mail or by messenger.

7 Time is not critical on this. So what I would do  
8 if you do mail it, just to follow up to make sure that Mr. Moore  
9 -- verify that he has received it so that we don't get into a  
10 difficulty of having it lost somewhere in the great city of the  
11 District of Columbia. Other issues? Everyone clear on dates,  
12 requirements for submissions? Good. Staff have any other  
13 issues? Very well.

14 MR. MOORE: Thank you.

15 CHAIRPERSON GRIFFIS: I thank you all and wish you  
16 a great evening, and this will adjourn the 16 July, 2002, public  
17 hearing.

18 (Whereupon, the Board of Zoning Adjustment Public  
19 Meeting was concluded at 6:15 p.m.)