

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY,
FEBRUARY 5, 2008

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 3:42 p.m., Ruthanne G. Miller, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

RUTHANNE G. MILLER	Chairperson
MARC D. LOUD	Vice Chairperson
MARY OATES WALKER	Board Member
SHANE L. DETTMAN	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

Gregory Jeffries	Commissioner
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OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Secretary
BEVERLY BAILEY	Sr. Zoning Spec.
JOHN NYARKU	Zoning Specialist

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D.C. OFFICE OF THE ATTORNEY GENERAL:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN

This transcript constitutes the minutes from the Public Hearing held on February 5, 2008.

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

10:24 a.m.

CHAIRPERSON MILLER: This hearing will please come to order. Good afternoon, ladies and gentlemen. This is the February 5th public hearing of the Board of Zoning Adjustment. My name is Ruthanne Miller; I'm the Chair of the BZA. To my right is Mr. Marc Loud, who is our Vice Chair and next to him is Greg Jeffries from the Zoning Commission. To my left Mary Oates Walker and Shame Dettman, Board Member. And next to Mr. Dettman is Mr. Clifford Moy from the Office of Zoning, Sherry Glazer from the Office of Attorney General and Beverly Bailey from the Office of Zoning.

Copies of today's hearing agenda are available to you and are located to my left in the wall bin near the door.

Please be aware that this proceeding is being recorded by a court reporter and is also Webcast live. Accordingly, we must ask you to refrain from

1 any disruptive noises or actions in the
2 hearing room.

3 When presenting information to the
4 Board, please turn on and speak into the
5 microphone, first stating your name and home
6 address. When you're finished speaking,
7 please turn your microphone off so that your
8 microphone is no longer picking up sound or
9 background noise.

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

17 The order of procedure for special
18 exceptions and variances is as follows: (1),
19 statement and witnesses of the applicant; (2),
20 government reports including Office of
21 Planning, Department of Works, DDoT, etcetera;
22 (3), report of the Advisory Neighborhood

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1 Commission; (4), parties or persons in
2 support; (5), parties or persons in
3 opposition; (6) closing remarks by the
4 applicant.

5 Pursuant to section 3117.4 and
6 3117.5, the following time constraints will be
7 maintained: The applicant, persons and
8 parties, except an ANC in support, including
9 witnesses, 60 minutes, collectively;
10 appellees, persons and parties, except an ANC
11 in opposition, including witnesses, 60
12 minutes, collectively; individuals, three
13 minutes. These time restraints do not include
14 cross examination and/or questions from the
15 Board.

16 Cross examination of witnesses is
17 permitted by the applicant or parties.

18 The ANC within which the property
19 is located is automatically a party in a
20 special exception or variance case.

21 Nothing prohibits the Board from
22 placing reasonable restrictions on cross

1 examination, including time limits and
2 limitations on the scope of cross examination.

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

12 The Sunshine Act requires that the
13 public hearing on each case be held in the
14 open before the public. The Board may,
15 consistent with its rules of procedure and the
16 Sunshine Act, enter executive session during
17 or after the public hearing on a case for
18 purposes of reviewing the record or
19 deliberating on the case.

20 The decision of the Board in these
21 contested cases must be based exclusively on
22 the public record. To avoid any appearance to

1 the contrary, the Board requests that persons
2 present not engage the Members of the Board in
3 conversation.

4 Please turn off all beepers and
5 cell phones at this time so as not to disrupt
6 these proceedings.

7 The Board will make every effort
8 to conclude the public hearing as near as
9 possible to 6:00 p.m. If the afternoon cases
10 are not completed at 6:00, the Board will
11 assess whether it can complete the pending
12 case or cases remaining on the agenda.

13 At this time the Board will
14 consider any preliminary matters. Preliminary
15 matters are those that relate to whether a
16 case will or should be heard today, such as
17 requests for postponement, continuance or
18 withdrawal, or whether proper and adequate
19 notice of the hearing has been given.

20 If you're not prepared to go
21 forward with a case today, or if you believe
22 the Board should not proceed, now is the time

1 to raise such a matter.

2 Does the staff have any
3 preliminary matters?

4 MS. BAILEY: Madam Chair, Members
5 of the Board, to everyone, good afternoon.
6 Staff does not.

7 CHAIRPERSON MILLER: Okay. Then
8 let's proceed with the agenda.

9 Would all individuals wishing to
10 testify today please rise to take the oath?

11 MS. BAILEY: Would you please
12 raise your right hand?

13 (Whereupon, the witnesses were
14 sworn.)

15 MS. BAILEY: Thank you.

16 CHAIRPERSON MILLER: We're ready
17 for the first case when you are, Ms. Bailey.

18 MS. BAILEY: Madam Chair, the
19 first case is Application No. 17708 of
20 Negussie Giorgis and it's pursuant to 11 DCMR
21 3103.2, for a variance from the floor area
22 ration requirements under section 402,

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1 variance from the lot occupancy requirements
2 under section 403, a variance from the
3 nonconforming structure provisions under
4 subsection 2001.3, and a variance from the
5 parking requirements under section 2101.1, to
6 allow additions to an existing one-family row
7 dwelling at premises 2239 10th Street, N.W.
8 The property is zoned R-5-B and is also known
9 as Square 357, Lot 93.

10 This hearing was initially brought
11 to the Board on January 29th and it was
12 postponed today, Madam Chair, February 5th.

13 CHAIRPERSON MILLER: Good
14 afternoon.

15 MR. SPECK: Good afternoon,
16 Commissioners.

17 CHAIRPERSON MILLER: Why don't you
18 start with introducing yourself for the
19 record?

20 MR. SPECK: My name is Jeff Speck.
21 I live at 2101 16th Street, N.W.

22 CHAIRPERSON MILLER: Okay. The

1 Board has read all of the documents in the
2 file and this case is pretty straightforward.

3 Do you want to just give a very
4 brief synopsis about the situation and then
5 address the three-prong test for variances?

6 MR. SPECK: Yes.

7 CHAIRPERSON MILLER: Okay.

8 MR. SPECK: Many of you will
9 remember I came to you all about a year ago
10 for variances associated with the house next
11 door to this one to the left of it on the
12 central drawing, which is at the very corner
13 of 10th Street and Florida Avenue where I'll
14 be moving in three months to this house. And
15 in fact, you're all welcome to come visit and
16 see what you approve.

17 CHAIRPERSON MILLER: In the
18 diagrams we have up there, which one of them
19 is yours?

20 MR. SPECK: It's the one to the
21 left in the central drawing and the one to the
22 right in the other drawing, but it's much more

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1 visible in the model, here at the very corner.

2 Those of you who were here, will
3 remember the design. It looks just like this
4 but a lot bigger on the site.

5 There was one audience member when
6 we had that hearing and it turned out to be
7 the next door neighbor whose name is Negussie
8 Giorgis. And interestingly, during the
9 meeting the then-Chairman asked me actually
10 what I would propose for the house next door
11 and I described filling in the empty space
12 that was left between the house one further
13 down and this house, and everyone seemed to
14 think that was interesting. But he came up to
15 me after the hearing and asked me if I would
16 serve as his agent to propose a design and
17 bring to you a design for the house next door.
18 And I'm doing this free of charge as a good
19 neighbor, but also frankly, out of concern for
20 my property value, because I do want something
21 to be built next door to me that I feel will
22 contribute the most to the neighborhood.

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1 It's an extremely challenging
2 site. It's even smaller than my 540 square
3 foot lot. It's a 384 square foot. It
4 currently contains a house which is 586 square
5 feet. Unsurprisingly, that house is empty.
6 The owner has not found a tenant or sold it in
7 many years.

8 I'm proposing a house which
9 essentially, as my house does, and you can see
10 in the drawing in the center the house to the
11 right of it does, and also one other house on
12 the block, has grown to a three-story house
13 and fills out the space within the block.

14 I will show you the drawings
15 quickly, but the model is probably most
16 illustrative.

17 Two streets are lined with row
18 houses that come up to the edges of the
19 street, so both 10th Street and Florida
20 Avenue, there are no setbacks on either of
21 those streets. Two lots on the block, mine,
22 where you can see I've filled to 100 percent

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1 lot occupancy, and Mr. Giorgis' go through the
2 entire block. All the other houses have a
3 rear alley and face one way or the other. But
4 these two properties are unique in this block
5 and rather rare in the District in that they
6 have two fronts; they really don't have a
7 back. And what you have on 10th Street is a
8 continuation of building fronts with no holes.
9 And what we have right now on Florida Avenue
10 is a continuation of building fronts and then
11 this one hole, this eight-foot deep, actually
12 six-foot deep by 12-foot wide hole, this
13 eight-foot deep -- actually six-foot deep by
14 12-foot wide hold where this house kind of
15 presents its rear end to the street. And my
16 front is here, on my house that I'm building.
17 So you essentially have front, front, front,
18 front, front, rear end and this unusable yard
19 and then the front of my house. So the
20 objective was to fill in the block.

21 And I'll just quickly describe the
22 drawings. These were all drawn on one sheet

1 of paper.

2 CHAIRPERSON MILLER: Wait a
3 minute. I think we need to have you on a
4 microphone perhaps so that the court reporter
5 can get it in the transcript.

6 MR. SPECK: So these were all
7 drawn on one sheet and then zoomed in, so I
8 apologize. This area on the perimeter here
9 and this here and this here are just
10 extraneous. But what you see here is the plan
11 of the first floor including actually the
12 front and rear yards, the second floor, the
13 third floor and then the proposed roof
14 terrace. The front yard is only 14-feet
15 deep; the rear yard is only eight-feet deep.
16 And again, this neighborhood in D.C., the
17 property line extends only to the party walls,
18 so the yards are effectively part of the
19 streetscape, part of the right-of-way. I'm
20 sure you've seen that in other neighborhoods.
21 So, each floor is only about 380
22 square feet, because we're filling out the

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1 lot. The first floor you have an entry, a
2 bathroom, a mechanical room, stairs up to a
3 main level on the second floor and then this
4 would be the second bedroom, kind of the guest
5 bedroom. No room in this house is more than
6 10 feet by 12 feet in size, so we're pushing
7 it as it is.

8 You come upstairs and you have one
9 large space broken up by the stair in which
10 you have a living room here with a balcony and
11 an eat-in kitchen here. And then you come
12 upstairs to the third floor and you have a
13 master bedroom with actually a bay window that
14 isn't a window; it's a closet. So it's kind
15 of an inverted bay window. The wall is glass
16 and the bay is solid, which is visible here in
17 the elevations. And then on the front of the
18 house you have kind of a bathroom suite that
19 includes the laundry.

20 And then you come upstairs one
21 more time and there's this small object on the
22 roof which brings light down through the

1 center of the house and serves roof gardens,
2 each of which is again about 10 feet by 12
3 feet in size, one on the front of the house,
4 one on the back of the house. The one on the
5 back of the house is a little smaller to hold
6 the air-conditioning equipment.

7 Unlike other additions to houses
8 in this neighborhood, for example, the one
9 next door, which tried to make it look like
10 this was always a three-story house and then
11 blew it with a 12-foot parapet, the idea here
12 was to, you know, make it clear that this was
13 the traditional facade, which has been
14 preserved and will be preserved, and then a
15 more modern piece was put on the top. You can
16 see it's set back slightly from the existing
17 parapet to make that distinction even clearer
18 and you see in the distance the little pop-up
19 which holds the stair that comes up to the
20 top.

21 The rear view is a little more
22 interesting and admits that this is a modern

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1 addition. And so what you're seeing here is
2 the back of the guest room or second bedroom,
3 the living room with its balcony, the master
4 bedroom with its closet and again, the roof
5 deck on the back of the house. So that's the
6 very simple plan. It's very small.

7 And, you know, there's even some
8 question at this point whether it's a
9 particularly marketable house, however, we
10 think that it is. The variances that we've
11 requested are first for lot occupancy where we
12 have an existing lot occupancy of 76 percent.
13 And by the way, that's a nonconforming use, so
14 we're also asking for a variance regarding the
15 existing nonconforming use. We're asking to
16 change the 76 percent lot occupancy to 100
17 percent lot occupancy. We're asking to change
18 the floor area ratio, which is currently 1.5
19 and allowed is 1.8, to 3.2, which sounds high
20 until you see how small the house is. And
21 then we're asking for waiving the required
22 parking space of one parking space and thus

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1 having zero parking spaces.

2 I've already brought this to the
3 ANC, the Advisory Neighborhood Commission;
4 you're in possession of their letter, and they
5 supported it unanimously. Phil Spalding, who
6 was going to speak on behalf of this project,
7 got called away because of a family crisis, so
8 you can read his letter.

9 I also presented it before the
10 Cardoza-Shaw Neighborhood Association. They
11 also unanimously supported the proposal. Phil
12 Spalding was also going to represent them and
13 he was unable to, for the same reason.

14 Quickly taking you through the
15 requested variances. In my proposal I
16 essentially, you know, put the burden of proof
17 that I have to convince you that, one, that
18 for each of these proposed variances, that due
19 to the exceptional size and shape of the lot
20 strict application of the regulations results
21 in peculiar and exceptional practical
22 difficulties, which comes from your ordinance.

1 And then also from your ordinance,
2 that relief to the regulations does not cause
3 substantial detriment to the public good and
4 does not substantially impair the intent,
5 purpose and integrity of the Zoning
6 Regulations and Map.

7 If you'd like me to, I would take
8 you through each of the requested variances
9 and explain why I believe I've satisfied both
10 of those conditions, but if you feel such a
11 lengthy description isn't necessary, I can
12 stop now.

13 CHAIRPERSON MILLER: Well, don't
14 the same circumstances apply to all the
15 variances, or no?

16 MR. SPECK: Yes and no. Yes, I
17 mean, it's fair to say that there are the same
18 challenges presented by all three.

19 Parking is a little bit unique.
20 Parking, there's of course a challenge that it
21 would be very difficult to put a parking space
22 on the lot, but it's a separate issue. To put

1 a parking space on this lot would mean
2 actually eliminating an on-street parking
3 space to create a curb cut that doesn't exist
4 in a block that does not have one single house
5 with its own parking. You know, historically
6 there's been no on-site parking on this block.

7 But in terms of both the lot
8 occupancy and the floor area ratio,
9 essentially it's the same challenges that the
10 current house -- that the lot is extremely
11 small, that it's extremely oddly shaped, that
12 to build a house that would comply with the
13 existing zoning would probably create
14 something that was completely not marketable,
15 which is one room each on three floors. And
16 if you subtract the size of a stairway, which
17 is 150 square feet, and you subtract the
18 amount of square feet that are taken up by the
19 exterior walls, which is another 150 square
20 feet, you essentially end up with a 390 square
21 foot apartment on three floors. Which, there
22 are 390 square foot apartments in this city,

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1 but I don't think there are any on three
2 floors and it's a little odd to ask to
3 consider building that.

4 MR. JEFFRIES: Madam Chair, I
5 mean, unless you feel that he needs to go
6 through this level of detail, I mean, the
7 record seems somewhat full to me.

8 MR. SPECK: The one thing I wanted
9 to show you was the model now with the
10 addition in it. So, you know, this is the
11 existing conditions and then this model shows
12 now how it will look with the addition.

13 MR. JEFFRIES: Where are you with
14 your house?

15 MR. SPECK: My house will be done
16 in April, if my builder is telling me the
17 truth.

18 MR. JEFFRIES: Okay. Because I go
19 past there all the time and I'm trying to sort
20 of gauge it. And by the way, I sat on your
21 case. I remember that, yes.

22 MR. SPECK: It's turned out

1 exactly as I had hoped except a lot more
2 expensive.

3 CHAIRPERSON MILLER: Okay. I
4 mean, I do think it's a pretty straightforward
5 case and you did a great visual presentation
6 for us. So, I guess Mr. Jefferies is saying
7 we don't need you to go through each variance
8 and explain it.

9 MR. SPECK: Okay. Thank you.

10 CHAIRPERSON MILLER: But if there
11 anything you wanted to say right now, feel
12 free.

13 MR. SPECK: No, I mean, I think
14 it's important for me to say that I am not
15 Negussie Giorgis' architect. I'm actually not
16 an architect; I'm a city planner. And my
17 greatest concern, and I'll ask you to support
18 me on this, is to make sure that what is
19 designed gets built.

20 My experience working with him is
21 that he's a fantastic, supportive, honest,
22 good guy. But I will not be the architect of

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1 this project.

2 CHAIRPERSON MILLER: Well, when we
3 grant relief, we grant it according to the
4 plans that are before us.

5 MR. SPECK: Right.

6 CHAIRPERSON MILLER: So that's
7 what he'd be allowed to build.

8 Okay. Any questions?

9 BOARD MEMBER DETTMAN: Just one
10 simple question. You're proposing 100 percent
11 lot occupancy, and I was just wondering if you
12 could address the rear yard issue and why you
13 think that you don't need relief from the rear
14 yard.

15 MR. SPECK: What do you mean I
16 don't need relief?

17 BOARD MEMBER DETTMAN: Well, I
18 guess I'll rephrase. I don't see a request
19 for relief from the rear yard requirement.

20 MR. SPECK: Okay. When I
21 submitted this, I was certain; and I'll have
22 to look at my research, but because of the

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1 thickness of the block and the fact that the
2 lot is so small, that that rule does not
3 apply. I essentially don't have a rear yard
4 because the rear yard faces the street.

5 VICE CHAIRMAN LOUD: It's in the
6 round of sorts.

7 MR. SPECK: Yes.

8 VICE CHAIRMAN LOUD: This thing
9 is --

10 MR. SPECK: Yes, I imagine the
11 planning department will be able to support me
12 on this, but we were quite convinced that
13 requirement did not apply because the house
14 effectively has two fronts.

15 CHAIRPERSON MILLER: Okay. Any
16 other questions? Okay. Why don't we go to
17 Office of Planning now then? Thank you.

18 MR. MORDFIN: Good afternoon. I'm
19 Stephen Mordfin with the Office of Planning,
20 and first I wanted to point out I changed some
21 of the numbers. It was a misunderstanding I'd
22 had with Mr. Speck on his application. So in

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1 my recommendation I indicate increase the FAR
2 from 1.8 to 3.4, instead of 3.2 as Mr. Speck
3 had applied for. It should be 3.2 and I am in
4 error on that. So I wanted to point that out
5 first. And I also added the fourth variance
6 which is to section 2000.13, which is to
7 expand a nonconforming structure, which is
8 what is existing on the lot today.

9 Mr. Speck had talked about the two
10 fronts and the rears. This property doesn't
11 have a rear; it has to two fronts and it has
12 two sides, but there is no rear. It's a
13 through lot. And through lots do not -- it
14 does not have a rear yard, it just has two
15 sides and two fronts. So therefore he does
16 not need relief from the rear yard requirement
17 and there are no front setback requirements.

18 BOARD MEMBER DETTMAN: Just a
19 quick question for you. 404.2 says in the
20 case of a through lot or a corner lot abutting
21 three or more streets the depth of the rear
22 yard may be measured from the center line of

1 the street. And so I don't really understand
2 your statement that in the case of a through
3 lot the rear yard is not required.

4 MR. SPECK: I may be in error.
5 I'm sorry, may I speak now?

6 CHAIRPERSON MILLER: Sure.

7 MR. SPECK: I'm just remembering
8 from my own application, and I may have the
9 two confused, but I believe that when you did
10 measure from the center of the street you did
11 not reach the edge of the lot. So that may
12 have been what satisfied the requirement.

13 MR. MORDFIN: Yes, I thought a
14 through lot had two or more streets and this
15 one has the two streets, and they're both
16 fronts. And I thought the other two then were
17 sides because the rear is opposite the front.
18 But in this case there is no rear because
19 there's another front, so that was my
20 interpretation of how this lot is defined.
21 It's same as we had done previously; we had
22 two fronts and that one had two fronts and a

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1 side. So that was my interpretation when I
2 reviewed this.

3 CHAIRPERSON MILLER: Anything else
4 you want to add?

5 MR. MORDFIN: I don't have
6 anything else. I mean, I'm willing to stand
7 on the record on our analysis of this
8 application.

9 CHAIRPERSON MILLER: That's fine.
10 That was an excellent report.

11 Any questions for the Office of
12 Planning?

13 Does the applicant have any
14 questions for the Office of Planning?

15 MR. SPECK: No, thank you,
16 Commissioner.

17 CHAIRPERSON MILLER: Do you have
18 the Office of Planning report?

19 MR. SPECK: I do, yes.

20 CHAIRPERSON MILLER: Okay. And
21 you said that Mr. Spalding from ANC 1B was
22 planning to attend the hearing and speak in

1 support, but he couldn't because of a family
2 emergency?

3 MR. SPECK: You shouldn't take it
4 from me, but I believe he notified Mr. Moy
5 that he was at a funeral.

6 MR. MOY: Yes, that was by a
7 telephone conversation to the staff.

8 CHAIRPERSON MILLER: Okay. I
9 would like to note for the record that we do
10 have an ANC report from ANC 1B that voted
11 unanimously, 6-0, to support the application
12 and this was voted on at the regularly
13 scheduled meeting on October 4th, 2007.

14 Because he's not here, let me just
15 lift a little bit from his report. They find
16 that it's a peculiar, exceptional, narrow,
17 shallow and oddly-shaped lot. Strict
18 application of the R-5-B lot occupancy
19 regulations would result in a building too
20 small to accommodate reasonable residential
21 habitation and architecturally out of context
22 with neighboring properties.

1 And then they bring attention to
2 the fact that we addressed non-conforming
3 nature of existing properties in this
4 irregular block, approving certain
5 applications in the past for variance relief.

6 And they say that allowing the
7 variance and FAR will result in a building
8 consistent with current and expected
9 redevelopment in this block, will benefit the
10 public good by matching the massing of the
11 neighboring building and will not be
12 inconsistent with the general intent and
13 purpose of the Zoning Regulations.

14 Okay. I think they've must made
15 the variance test for you here too.

16 Okay. And then the Cardoza-Shaw
17 Neighborhood Association also submitted a
18 letter in support of the application dated
19 October 13th, 2007.

20 Is there anybody else here who
21 wishes to speak in support of this
22 application?

1 Anybody wishes to speak in
2 opposition to this application?

3 Okay. Then, are there any other
4 questions for the applicant?

5 Do you have any final remarks?

6 MR. SPECK: No, thank you,
7 Commissioner. No, thank you.

8 CHAIRPERSON MILLER: Okay. Then
9 do we have a motion?

10 VICE CHAIRMAN LOUD: Madam Chair
11 and colleagues, I'd like to move approval of
12 Application No. 17708 of Negussie Giorgis; I
13 hope I'm pronouncing that correctly, for
14 relief pursuant to a section 3103 variance
15 relief with respect to lot occupancy, FAR
16 floor area ratio, and exemption from the on-
17 site parking requirements, and the
18 nonconformity under section 2001.3.

19 Is there a second?

20 BOARD MEMBER DETTMAN: Second.

21 VICE CHAIRMAN LOUD: This case, as
22 you all have heard, involves a request for

1 variance relief under our rules where the lot
2 is extremely small; I believe it's 380 square
3 feet. It's also oddly-shaped. It's a
4 triangular corner lot. It's been described as
5 a through lot as well, having two fronts and
6 no real rear. The shape of the lot makes it
7 fairly unmarketable at 76 percent lot
8 occupancy, and so the applicant wants to take
9 it to 100 percent lot occupancy, which would
10 allow him to build a 586 square foot. Which
11 is still going to be small, but nonetheless
12 he's made the magic work. In addition to
13 which, the FAR for this site is 1.8 and in
14 order to make it all work again the applicant
15 needs to go to 3.2. And so he's seeking
16 variance relief of that, as well as the on-
17 site parking requirement, having explained
18 very artfully how that would require curb cut
19 and essentially eliminate the living space
20 within the house.

21 In terms of practical difficulty,
22 he's testified, as well as the Office of

1 Planning, that again, this property would be
2 useless without these variances. He would not
3 be able to build on it at all. There's no
4 implication that it doesn't comply with zoning
5 harmony.

6 The ANC is supportive of it; the
7 Shaw-Cardoza neighborhood is supportive of it
8 as well.

9 I believe that planning did a very
10 thorough record and I incorporate by reference
11 into the motion. And so I think that this is
12 something that the Board ought to support.

13 CHAIRPERSON MILLER: Thank you.
14 Comments?

15 I just would add that, you
16 probably did say this, but just in case, it
17 sounded like because of the shape the dwelling
18 wasn't really habitable and I think it's
19 really actually also the size; it's just too
20 small for a family. And also, 2001.3, that it
21 is already a nonconforming structure, we heard
22 the applicant say it's not nonconforming

1 already with respect to lot occupancy.

2 And looks like a great project and
3 there's no adverse impact from granting the
4 relief. It in fact improves the streetscape
5 and adds housing to our city.

6 Other comments? Okay. Good.

7 All right. then all those in favor
8 say aye.

9 ALL: Aye.

10 CHAIRPERSON MILLER: All those
11 opposed? All those abstaining? And would you
12 call the vote, please?

13 MS. BAILEY: Madam Chair, the vote
14 is recorded as 5-0-0 to grant the application.
15 Mr. Loud made the motion; Mr. Dettman
16 seconded. Mrs. Miller, Mrs. Walker and Mr.
17 Jefferies support the motion.

18 CHAIRPERSON MILLER: Thank you.
19 And there's no opposition in this case, so
20 this will be a summary order.

21 MR. SPECK: Thank you.

22 CHAIRPERSON MILLER: Thank you

1 very much. Good to see you again.

2 MR. SPECK: Likewise.

3 CHAIRPERSON MILLER: We're ready
4 for the next case when you are.

5 MS. BAILEY: Application No. 17714
6 of Manna, Inc., pursuant to 11 DCMR 3103.2,
7 for a variance from the off-street parking
8 requirements under section 2101.1, to allow
9 the construction of three new flats in the R-4
10 District at premises 1900 block of Capitol
11 Avenue, N.W.; that's the north side, Square
12 4044, Lots 17 and 18.

13 CHAIRPERSON MILLER: Good
14 afternoon.

15 MR. ROTHMAN: Good afternoon. I'm
16 George Rothman, President of Manna, Inc. I
17 just want to provide a little background about
18 these properties.

19 We were awarded these properties
20 pursuant to an RFP issued by the Home Again
21 Initiative, which at the time was in the
22 deputy mayor's office. The purpose of the RFP

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1 was to find developers who would help
2 revitalize the Ivy City neighborhood. So
3 we're asking for relief for certain properties
4 that we were awarded and Alexis Smith, who's
5 a staff architect at Manna will present our
6 case.

7 ZC VICE CHAIR JEFFERIES: This is
8 for a parking variance, right?

9 MS. SMITH: Yes, that's correct.

10 ZC VICE CHAIR JEFFERIES: Okay.

11 MS. SMITH: Good afternoon to the
12 Board.

13 ZC VICE CHAIR JEFFERIES: I'm
14 sorry. I don't mean -- just that, you know,
15 we're -- the time -- so just --

16 CHAIRPERSON MILLER: What he means
17 is when you do your presentation, what you
18 should be focusing on is why you need the
19 parking, how it shows why you need the parking
20 variance. Right?

21 ZC VICE CHAIR JEFFERIES: Right.

22 CHAIRPERSON MILLER: Okay.

1 MS. SMITH: Good afternoon to the
2 Board. As George said, my name is Alexis
3 Smith; I work for Manna, Inc. And as
4 indicated in our application, Manna was
5 selected by the District to develop these
6 properties as part of the city's Home Again
7 Initiative, the objective of which is to
8 eradicate blight and instability caused by
9 vacant and abandoned properties, and also to
10 create affordable home ownership opportunities
11 for District residents.

12 We were awarded several vacant
13 lots of 40-foot and 60-foot widths, one of
14 which is the Capital Ave. property which you
15 see here. Several others of which are in our
16 Kendall Street application, which is the next
17 one on the docket. They're both very similar
18 situations.

19 Our plan calls for subdividing the
20 larger lots into smaller 20-foot wide lots and
21 building two-family attached flats on each
22 lot, lot line to lot line. Our total plan

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1 calls for 20 units, all of which will be
2 affordable to low-income families.

3 Both the lot subdivisions and the
4 flats are completely within the R-4
5 regulations with one exception, that being the
6 off-street parking requirement. In an R-4
7 Zone we're required to provide one off-street
8 parking space for every flat and this poses a
9 practical difficulty for us for several
10 reasons.

11 The first is that there are simply
12 no rear alleys in this neighborhood. Normally
13 it would be very easy to provide a parking pad
14 at the rear of the lot and provide access
15 through the alley, but this isn't possible
16 here because we butt up against other lots.

17 CHAIRPERSON MILLER: Can I ask
18 about that?

19 MS. SMITH: Oh, yes, absolutely.

20 CHAIRPERSON MILLER: Okay. The no
21 rear alleys, that's not unique to your
22 properties, right? But it's one of the

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1 situations that your property has to deal with
2 that contributes to your needing a variance.

3 MS. SMITH: Yes. Yes, exactly.
4 That's a situation throughout the whole
5 neighborhood.

6 CHAIRPERSON MILLER: Okay.

7 MS. SMITH: There are just no rear
8 alleys in Ivy City.

9 So that's the first instance.

10 So consequently we would need to
11 provide parking access through the front of
12 the site. This poses a problem for several
13 reasons, mostly arising from the narrow 20-
14 foot lot width, which again does conform to
15 the R-4 standards.

16 We've considered a couple
17 different scenarios, the first of which would
18 be to provide a side driveway to allow parking
19 access to the rear. But once we do that, as
20 soon as we pull the building back from the lot
21 line, that turns into a semi-detached
22 structure, which requires a 30-foot lot width

1 in an R-4 Zone. And consequently, if we need
2 to be providing 30 feet for the lot width, on
3 a 60-foot lot we would only be able to fit two
4 flats instead of three. This happens in three
5 different places; again, the one on Capital
6 Street and the two on Kendall Street. And it
7 would ultimately result in the loss of six
8 units, which is almost one-third the total of
9 the twenty units that we're planning to
10 develop and this would drastically effect the
11 project feasibility and our ability to provide
12 affordable housing in this neighborhood,
13 losing one-third of the units here.

14 CHAIRPERSON MILLER: Can I ask you
15 about that also?

16 MS. SMITH: Oh, yes, absolutely.

17 CHAIRPERSON MILLER: Okay. When
18 you talk about the feasibility, I mean, could
19 you have been awarded the RFP if you complied
20 somehow with the parking requirements, or are
21 you talking, you know, the economics of --
22 your main concern is to provide as much

1 affordable housing as possible, and that's in
2 the interest of the city, and that's how you
3 responded to the RFP. Okay. I'm just trying
4 to isolate these things just for our variance
5 analysis. Because it seems to me that I don't
6 know what's happening with other structures on
7 the block, but it may be that other structures
8 on the block could have a side driveway like
9 that because they're not trying to maximize
10 affordable housing. I don't know.

11 MS. SMITH: That's certainly the
12 case. We partnered with another organization,
13 Mi Casa, and they got several on 30-foot wide
14 lots and on those lots they're providing a
15 semi-detached structure and a side driveway to
16 prevent parking access in the rear.

17 ZC VICE CHAIR JEFFERIES: In this
18 neighborhood?

19 MS. SMITH: Yes.

20 MR. ROTHMAN: But they're
21 providing -- it's a market rate housing.

22 ZC VICE CHAIR JEFFERIES: Right.

1 MR. ROTHMAN: With a cross
2 subsidy.

3 ZC VICE CHAIR JEFFERIES: But not
4 in this neighborhood?

5 MR. ROTHMAN: Yes.

6 ZC VICE CHAIR JEFFERIES: Okay.

7 CHAIRPERSON MILLER: I just want
8 to, just for our understanding --

9 MS. SMITH: Sure.

10 CHAIRPERSON MILLER: -- I
11 understand that, you know, if you had to
12 comply with the parking requirements you
13 wouldn't be able to provide the amount of
14 affordable housing that you're providing.
15 Would you have been able to be awarded the RFP
16 if you weren't allowed to provide the amount
17 of affordable housing you're providing with
18 your project as proposed?

19 MR. ROTHMAN: Yes, the RFP
20 contemplated some mixed income housing. But
21 since our mission is affordable housing, not
22 that we won't do any market rate, we are

1 developing all the lots awarded into
2 affordable housing. As she said, Mi Casa will
3 be doing some market rate and some affordable
4 housing. Mission First will be doing mostly
5 market rate housing. Habitat for Humanity
6 will be doing affordable housing. So we
7 couldn't have done it. Somebody else might
8 have done it, but we wouldn't have done it.

9 CHAIRPERSON MILLER: But they
10 awarded it to you on the premise that you
11 would be providing affordable housing, is that
12 right?

13 MR. ROTHMAN: Affordable home
14 ownership, pursuant also to certain other
15 things; use of certain materials, you know,
16 height limitations and so forth.

17 ZC VICE CHAIR JEFFERIES: Madam
18 Chair, is your question, you know, that this
19 particular applicant has sought to put
20 affordable housing. If they wanted to do
21 market rate, then they could do a 30-foot and
22 have a driveway. But they've chosen to add

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1 more affordability and therefore they're here
2 for the variance.

3 CHAIRPERSON MILLER: I got that.
4 I just wanted to make sure I understood
5 though. That I understand. That's what
6 they're choosing to do. But, are you also
7 obligated to do that under the RFP?

8 MR. ROTHMAN: Yes, because that
9 was part of our commitment.

10 CHAIRPERSON MILLER: Okay.

11 MR. ROTHMAN: But also, another
12 thing is that the city had a long process with
13 the citizens involved and commitments were
14 made to try to keep as many residents in Ivy
15 City as possible and to provide as much
16 affordable housing to the existing residents,
17 if they could afford them.

18 ZC VICE CHAIR JEFFERIES: You have
19 a land disposition agreement or an exclusive
20 rights agreement that stipulates what the
21 development program is supposed to be? Or do
22 they do that? I don't know what --

1 MR. ROTHMAN: No, the answer is
2 yes, they do a land disposition agreement.
3 It's in preparation now, even though we were
4 awarded this, I don't know, was it a year ago
5 or so?

6 MS. SMITH: 2006.

7 MR. ROTHMAN: We still haven't
8 received it.

9 ZC VICE CHAIR JEFFERIES: Yes, but
10 it's going to state --

11 MR. ROTHMAN: There will be one.

12 ZC VICE CHAIR JEFFERIES: -- what
13 the development program is, how much
14 affordability --

15 MR. ROTHMAN: I would assume so,
16 yes.

17 ZC VICE CHAIR JEFFERIES:
18 Absolutely. And if you don't do that, then
19 they can actually pull this from you.

20 MR. ROTHMAN: That's my
21 understanding.

22 ZC VICE CHAIR JEFFERIES: Yes.

1 CHAIRPERSON MILLER: Okay.

2 BOARD MEMBER WALKER: Did the RFP
3 address parking at all?

4 MR. ROTHMAN: I don't recall, did
5 it. I don't think so. I'm not certain.

6 MS. SMITH: Shall I continue?
7 Okay. Another scenario that we looked at was
8 providing enclosed garages on the first floor
9 of each unit. But this was unfortunately
10 equally infeasible because by providing a
11 garage on the first floor unit, that takes up
12 a very, very significant portion of that first
13 floor unit, which in many cases is an
14 accessible unit. And we cannot make up for
15 that lost area by adding an extra story
16 because we're already building to three
17 stories here, which is the maximum height
18 allowed in an R-4 District.

19 Furthermore, another aside is that
20 Regulation 2117.8(d) requires that a driveway
21 to a flat be 28 feet from all adjacent
22 driveways. And with a lot width of only 20

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1 feet, which again is within the R-4
2 Regulations, that's just simply not possible
3 physically to provide a driveway every 20 feet
4 that is greater than 28 feet from the adjacent
5 driveway. So, that's everything we looked at.

6 I don't know if the Board has any
7 further questions?

8 CHAIRPERSON MILLER: Any other
9 questions? No, I don't think so. Okay.

10 MR. ROTHMAN: And the subsequent
11 application, as she mentioned, should be
12 considered along with this one. In other
13 words, we don't want to come up a second time
14 and testify identically.

15 CHAIRPERSON MILLER: Okay. I
16 think probably for the record we'd probably,
17 unless we switch gears, but we could call the
18 second case but still say incorporate all your
19 testimony here into that record. Okay.

20 MR. MORDFIN: Good afternoon.
21 Stephen Mordfin with the Office of Planning.

22 And the subject properties are

1 unique as a result of the lack of alley access
2 and the lot widths that do not allow for both
3 access to parking and also for the provision
4 of parking. And this uniqueness in
5 combination with the Zoning Regulations
6 results in peculiar and exceptional difficulty
7 to the applicant because the individual lots
8 do not lend themselves to the provision of
9 off-street parking without the provision of an
10 alley. And the variances can be granted
11 without substantially impairing the intent and
12 purpose of the Zone Plan and therefore the
13 Office of Planning recommends that the Board
14 approve the variances as requested by the
15 applicant. Thank you.

16 CHAIRPERSON MILLER: I just have a
17 question with respect to the uniqueness in
18 this case. Why is it that you consider lack
19 of alley access unique when it sounds like
20 none of the properties in this area have alley
21 access?

22 MR. MORDFIN: Well, in this case

1 you're correct that all of the lots do not
2 have alley access, which makes it similar to
3 the surrounding properties. But to provide
4 the off-street parking without the alley they
5 could provide it from the front, but then
6 there are issues with the distances between
7 the driveways and with the widths of lots in
8 the R-4 District you could provide for an 18-
9 foot wide row house, but that leaves only two
10 feet left for access to the rear of the
11 property. In this case, they have three lots,
12 but two times three is six; six feet is still
13 not wide enough in order to provide access to
14 the rear of the lots. Even for one-way
15 circulation, that's not wide enough for one
16 car. A parking space is a minimum of nine
17 feet in width.

18 So, that creates some difficulties
19 to providing the parking in the rear.
20 Providing parking in the front will require
21 other variances in excess of the parking
22 requirement that they've requested. And also

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1 the provision of the driveways to the rear
2 would also pretty much eat up almost an equal
3 number of parking spaces that you would have
4 on the street without really a net gain in
5 this case because it's only three row house
6 lots that they have here. It's not the entire
7 block. It's not a corner property where you
8 could maybe come in from the side off of the
9 side street. These are mid-block, which
10 doesn't allow for that option.

11 CHAIRPERSON MILLER: Do you think
12 it's a unique situation that these properties
13 were designated for affordable housing?

14 MR. MORDFIN: I think that also
15 adds into it also, because of the RP that went
16 out on these properties to do that. This is
17 not just somebody coming in to build this, but
18 there are further constraints on these lots as
19 a result of the RFP.

20 CHAIRPERSON MILLER: Okay. Any
21 other questions?

22 BOARD MEMBER DETTMAN: I just have

1 a couple questions with respect to the
2 adjacent buildings. I saw in your report, as
3 well as the filings, that I think it was the
4 former ZA said that these buildings could be
5 built to the lot line as long as there were
6 not windows on the adjacent buildings. And
7 it's probably a question I should have asked
8 the applicant, but just to confirm, there
9 aren't any windows?

10 MR. MORDFIN: On the adjoining
11 houses?

12 BOARD MEMBER DETTMAN: On the
13 adjoining houses.

14 MR. MORDFIN: The adjoining houses
15 are not built to the lot line; they're set
16 back. One of them on one side is set back 18
17 inches, so it is not really a row house or
18 it's semi-detached house. It really does have
19 a side yard. It's not conforming, but these
20 houses also predate the Zoning Regulations.

21 So, while the subject properties
22 are being built to the lot line, they can't

1 have the windows on the side. The ones on
2 either side; and one of them does have windows
3 on the side, can have windows because they're
4 not built to the lot line.

5 BOARD MEMBER DETTMAN: Okay. And
6 just curious, what building line are you
7 building to? Are you sort of trying to carry
8 the building line from further up the street?
9 You're setting the houses back 10 feet and the
10 adjacent building is set back a little bit
11 farther and I was just wondering if you were
12 trying to carry a building line from some
13 place else down the street.

14 MS. SMITH: With regards to the
15 front yard setback, we are responding to the
16 Ivy City design guidelines. Several years ago
17 the city got together with the Ivy City task
18 force and had a big huge charette to meet with
19 the residents since there's going to be so
20 much development happening in this area and
21 really try to vet out what the residents were
22 looking to see happen in their neighborhood.

1 And they came up with a set of design
2 guidelines and the five to 10-foot setback is
3 what was recommended as a result of that
4 cooperation with the neighborhood.

5 BOARD MEMBER DETTMAN: Do the
6 design guidelines set a maximum?

7 MS. SMITH: They recommended five
8 to 10-feet.

9 BOARD MEMBER DETTMAN: Okay. Are
10 the adjacent buildings vacant, or are they
11 occupied?

12 MS. SMITH: On this lot, both the
13 two buildings are occupied.

14 BOARD MEMBER DETTMAN: Okay.
15 Thank you.

16 CHAIRPERSON MILLER: Any other
17 questions for the Office of Planning?

18 Does the applicant have a copy of
19 the Office of Planning's report?

20 MS. SMITH: Yes.

21 CHAIRPERSON MILLER: Okay. Do you
22 have any questions for Office of Planning?

1 MS. SMITH: No. Thank you.

2 CHAIRPERSON MILLER: Okay. Do we
3 have an ANC report in this case? Did anybody
4 hear from the ANC in this case? No. Okay.

5 MS. SMITH: We've been in
6 conversation with the chair of the ANC and
7 have a general letter of support from him that
8 I submitted a week ago. It was referenced in
9 the Office of Planning report.

10 MR. MORDFIN: Madam Chair, the
11 last page of the staff report is the ANC
12 report.

13 CHAIRPERSON MILLER: I have in my
14 records attached to Exhibit 22 from Manna an
15 ANC report dated July 23, 2007. Is that the
16 report we all are looking at?

17 MR. MORDFIN: Yes.

18 CHAIRPERSON MILLER: It's in
19 support but it doesn't seem to indicate any
20 vote on a resolution.

21 MS. SMITH: I believe it was a
22 general letter of support. I don't know that

1 it went to a full ANC vote.

2 CHAIRPERSON MILLER: Okay. I
3 think basically what that means is we're
4 legally not required to give it great weight.
5 And all that means is addressing the concerns
6 that they raise. However, since there's no
7 ANC present here, I would be happy to again
8 indicate the support that's in this letter.

9 MS. SMITH: Thank you.

10 CHAIRPERSON MILLER: "It is
11 important that these vacant lots be developed
12 into affordable homes so that the city's and
13 community's goals of maintaining an affordable
14 neighborhood can be achieved. Okay. Manna
15 has committed to maintaining this valuable
16 property as affordable housing and as a
17 community asset while the surrounding area
18 rapidly gentrifies. This is vitally important
19 to the community as a whole so that the Ivy
20 City neighborhood will be able to remain a
21 stable, vibrant and diverse area for all its
22 residents to enjoy."

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1 Okay. That's basically the
2 sentiment here.

3 Okay. Anybody here who wishes to
4 testify in support of this application?
5 Anybody here who wishes to testify in
6 opposition? Not seeing anyone, we can have
7 some final questions here.

8 And I have a question. It goes to
9 also the necessity for this relief with
10 respect to; I think Office of Planning
11 actually raised this, being able to not only
12 fulfill your mission to provide the maximum of
13 affordable housing here, but also to provide
14 handicap accessible units. Can you just
15 address that for the record briefly?

16 MS. SMITH: We're committed to
17 providing the number of accessible units that
18 are set out in Federal Regulations. In
19 meeting with the residents, they've also
20 expressed concern that even though there are
21 a lot of residents in this city that don't
22 necessarily need a fully-ADA accessible unit,

1 there are a lot of elderly residents that may
2 have a hard time living on a multiple-storied
3 unit. And so we are providing many first-
4 floor units with -- no level changes in
5 response to that.

6 CHAIRPERSON MILLER: So but
7 basically tied to the parking variance, if you
8 had to have a garage or something instead of
9 a unit, it would be the first-floor unit that
10 you would be losing?

11 MS. SMITH: Yes.

12 CHAIRPERSON MILLER: Okay. Any
13 other questions? Do you have any final
14 remarks then at this point?

15 MS. SMITH: No. Thank you.

16 CHAIRPERSON MILLER: We just had a
17 Board Member step out for a minute, so we're
18 just going to wait and see for one second if
19 he'll be back in a minute.

20 BOARD MEMBER WALKER: Well while
21 we're waiting, can you give me a sense of how
22 much space there will be between the property

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1 and the existing property that is to the left?

2 MS. SMITH: Yes. There is, as was
3 mentioned previously, on the Capital Ave.
4 properties there's about 18 inches of space to
5 either side. However, on both these
6 properties, we were discussing windows before,
7 this property right here does have a window
8 facing our property, however, that window is
9 back in this portion of the building. It was
10 added in what looks to be an addition later
11 on. And our buildings will not interfere with
12 that one window.

13 BOARD MEMBER WALKER: Thank you.

14 BOARD MEMBER DETTMAN: Have you
15 met with the neighbors at all?

16 MS. SMITH: Yes, over the course
17 of our development we've attended several
18 meetings with the Ivy City residents, just not
19 an official ANC meeting.

20 MR. ROTHMAN: Yes, early on before
21 the RFP was issued, the city had a series of
22 meetings over probably 12 to 18 months with

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1 the residents, to get their input in the
2 guidelines that Alexis talked about that were
3 then developed. And then subsequent to the
4 issue of the RFP, there were several meetings
5 which were sponsored by the Home Again
6 Initiative.

7 CHAIRPERSON MILLER: Okay. Well,
8 we have a quorum, so we're going to continue.

9 Okay. If there aren't any further
10 questions or remarks? Any further remarks?

11 UNIDENTIFIED PERSON: No.

12 CHAIRPERSON MILLER: Okay. Then
13 you probably should shut your microphone off.
14 Great. Okay. I think then the Board would be
15 ready to deliberate on this at this time. And
16 I think we could do that under a motion. And
17 I would move approval of Application No. 17714
18 of Manna, Inc., pursuant to 11 DCMR section
19 3103.2 for a variance from the off-street
20 parking requirements under section 2101.1, to
21 allow the construction of three new flats at
22 premises 1900 block of Capitol Avenue, N.W.

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1 Do I have a second?

2 VICE CHAIRMAN LOUD: Second, Madam
3 Chair.

4 CHAIRPERSON MILLER: Okay. This
5 is a variance test and we need to address the
6 three prongs of the variance test, the first
7 being an exceptional unique situation; second,
8 being practical difficulty in complying with
9 the regulations that arises from that unique
10 or exceptional situation; and that no adverse
11 impact to the public would result if we grant
12 the relief.

13 I think this case is pretty
14 straightforward. We have a non-profit Manna
15 here who has, in response to an RFP, a plan to
16 provide maximum affordable housing on the
17 property that was the subject of the RFP. And
18 we have heard that they can't provide the
19 parking that's required, number one, because
20 there's no alley access; and number two, if
21 they did provide it, it would undermine their
22 mission in that they would not be able to

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1 provide the amount of affordable housing that
2 they represented they would in the RFP and
3 that fulfills their mission in providing
4 maximum affordable housing.

5 So I think at least there are two
6 types of exceptional circumstances in this
7 case. One, we talked about the alley; no
8 alley access, though that is shared by many
9 properties, but what makes this property
10 different, I think, is that it's non-profit
11 and its mission is to provide the affordable
12 housing. So once you add in any space for
13 parking, for garage, for driveway, etcetera,
14 then they lose the units for the affordable
15 housing and also units in particular that are
16 handicapped accessible.

17 So I think that covers both the
18 exceptional situation and the practical
19 difficulties of complying with the regulation.
20 And then there's no adverse impact on the
21 public by providing this relief. In fact,
22 it's serving the public good by providing a

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1 great, great need in this city for affordable
2 housing.

3 We have in the record ANC support.
4 Though it's not a voted-on resolution, it is
5 a letter from the ANC strongly supporting the
6 application. And we also have another letter
7 from, who was that other group? I may be
8 mistaken, but let me just take a moment and
9 see if we have any other letter in support.

10 MR. ROTHMAN: Excuse me, Madam
11 Chair, we have another letter that we just got
12 from the head of the program, the Home Again
13 Initiative program.

14 CHAIRPERSON MILLER: So I was
15 actually clairvoyant on this. Okay. I'm
16 going to note this then. We'll add this to
17 the record. It's dated February 5, 2008 from
18 the Department of Housing and Community
19 Development. Okay. And saying that it is
20 crucially important to the Ivy City
21 neighborhood that this project go forward.
22 Basically I'm paraphrasing a little bit, but

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1 that's what I see. Okay. And this will be
2 entered into the record.

3 And there is no opposition in this
4 case. So those, I guess, are my comments.

5 Does anybody else have any further
6 comments?

7 VICE CHAIRMAN LOUD: Madam Chair,
8 I just want to highlight with respect to one
9 thing you mentioned about the affordability of
10 the housing and to note that it's represented
11 on the record that part of the affordable
12 housing units will be for handicapped
13 residents; between 30 percent and 50 percent
14 of area median income, which is very
15 noteworthy because the idea of what is
16 affordable housing in the District varies all
17 the way up to about 75, maybe 80 percent, of
18 AMI sometimes. So, to the extent that -- 100
19 percent, my colleagues said -- to the extent
20 that we're recognizing that as uniqueness in
21 this project, I think we should send a message
22 to others that would try to come after Manna

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1 that they were able to focus in on the 30 to
2 50 percent of AMI.

3 CHAIRPERSON MILLER: I just note
4 that we're referencing that. I'm looking at
5 this letter from Housing Community
6 Development, and I don't know if this is
7 consistent with what you were saying, that
8 four units will be sold to buyers earning 30
9 percent AMI or less and eight units will be
10 sold to buyers earning 50 percent AMI or less,
11 and eight units will be sold to buyers earning
12 80 percent AMI or less.

13 VICE CHAIRMAN LOUD: That's
14 correct.

15 CHAIRPERSON MILLER: Yes. Okay.
16 Good. Okay.

17 ZC VICE CHAIR JEFFERIES: Wow,
18 zero to 30? Is that the lowest one?

19 CHAIRPERSON MILLER: Yes. Did you
20 want to make any comments?

21 ZC VICE CHAIR JEFFERIES: Oh, no.

22 CHAIRPERSON MILLER: No.

1 ZC VICE CHAIR JEFFERIES: It would
2 make sense with a stick construction, yes.
3 This would be where you would be able to do
4 it.

5 CHAIRPERSON MILLER: Mr.
6 Jefferies, there was a motion that's been
7 seconded, and I'm not sure when you reentered
8 the room, but it's to approve the application,
9 that it meets the three-prong test. Did you
10 want to add anything?

11 ZC VICE CHAIR JEFFERIES: No.

12 CHAIRPERSON MILLER: Okay. Then I
13 guess we're ready to vote. All those in favor
14 say aye.

15 ALL: Aye.

16 CHAIRPERSON MILLER: All those
17 opposed? All those abstaining?

18 And would you call the vote,
19 please?

20 MS. BAILEY: Madam Chair, the vote
21 is recorded as 5-0-0 to grant the application.
22 Mrs. Miller made the motion, Mr. Loud

1 seconded. Mr. Dettman, Mrs. Walker and Mr.
2 Jefferies support the motion.

3 CHAIRPERSON MILLER: Okay. I
4 think that completes Case No. 17714.

5 ZC VICE CHAIR JEFFERIES: Are we
6 going to try to make a record of this next
7 case?

8 CHAIRPERSON MILLER: Yes, let's
9 try to make a record of it.

10 MS. BAILEY: Application No.
11 17715 --

12 CHAIRPERSON MILLER: Let's back
13 track. I would like to say that Case No.
14 17714, the order can be a summary order, as
15 there's no opposition in this case. Okay.

16 MS. BAILEY:
17 Application No. 17715 of Manna,
18 Inc., pursuant to 11 DCMR 3103.2, for a
19 variance from the off-street parking
20 requirements under section 2101.1, to allow
21 the construction of five new flats on vacant
22 lots at premises 1800 block of Kendall Street.

1 The property is zoned R-4; it's located in
2 Square 4047, Lots 53, and Square 4048, Lots 13
3 and 802.

4 CHAIRPERSON MILLER: Thank you. I
5 think you should identify yourselves again for
6 this record.

7 MR. ROTHMAN: I'm George Rothman,
8 president of Manna, Inc., a non-profit housing
9 developer in D.C.

10 MS. SMITH: Alexis Smith, a design
11 associate with Manna, Inc.

12 CHAIRPERSON MILLER: Okay. We
13 talked about incorporating the testimony that
14 you just presented in Case No. 17714 into the
15 record for 17715, to the extent that would
16 like to do that. And then you would need to
17 tell us what's different about this case.

18 MR. ROTHMAN: Fine. That's what
19 we'd like to say. Alexis.

20 MS. SMITH: Yes. As far as what's
21 different the case, it's essentially the exact
22 same situation except for that there are an

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1 additional two lots across the street. It's
2 still 20 feet wide, still lot line to lot
3 line. Essentially everything is the same
4 situation.

5 CHAIRPERSON MILLER: Still no
6 alley access?

7 MS. SMITH: Still no alley access.
8 Would you like me to go into greater detail?

9 CHAIRPERSON MILLER: Okay.
10 Anything else you need to add on that one?

11 MR. ROTHMAN: No, I don't think
12 so.

13 CHAIRPERSON MILLER: Okay. Any
14 questions from the Board?

15 Office of Planning, anything you
16 would need to add on that, Mr. Mordfin?

17 MR. MORDFIN: Office of Planning
18 has nothing further to add.

19 CHAIRPERSON MILLER: You've seen
20 Office of Planning's report on this case?

21 MS. SMITH: Yes.

22 CHAIRPERSON MILLER: Any questions

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1 for Office of Planning?

2 MR. ROTHMAN: No, thank you.

3 CHAIRPERSON MILLER: Any questions
4 from the Board?

5 Anybody here in support of this
6 application?

7 Is the ANC here?

8 Anybody here in opposition to this
9 application?

10 We also have a letter from the ANC
11 in this case. I believe it's the same letter,
12 but I'm not sure. It's dated July 23, 2007.
13 It makes the same points. It says the same
14 thing as what was submitted in Application No.
15 17714.

16 Okay. We're ready to move on this
17 then, if there are no closing remarks.

18 MS. SMITH: No, thank you.

19 CHAIRPERSON MILLER: Okay. Then I
20 would move approval of Application No. 17715
21 of Manna, Inc., pursuant to 11 DCMR 3103.2,
22 for a variance from the off-street parking

1 requirements under section 2101.1, to allow
2 the construction of five new flats, two-family
3 dwellings, on vacant lots at premises 1800
4 block of Kendall Street, both sides.

5 Do I have a second?

6 ZC VICE CHAIR JEFFERIES: Second.

7 CHAIRPERSON MILLER: I'm going to
8 briefly say that, I believe, for the same
9 reasons that we articulated with respect to
10 our decision in 17714, variance relief should
11 be granted. We have here a non-profit who's
12 building homes with no alley access so they
13 can't provide parking there. And in order to
14 provide parking, they would have to cut into
15 the units that otherwise would go to
16 affordable housing, and in particular to those
17 units that would be provided for handicap
18 accessible units. And that is really the
19 exceptional condition with the practical
20 difficulty. There is no opposition and
21 there's no adverse impacts from the
22 development. And in fact, this is

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1 contributing greatly to the public good by
2 providing greatly needed affordable housing.

3 Any other comments?

4 Okay. Then all those in favor,
5 say aye.

6 ALL: Aye.

7 CHAIRPERSON MILLER: All those
8 opposed? All those abstaining?

9 Would you call the vote, please?

10 MS. BAILEY: Madam Chair, the vote
11 is 5-0-0 to grant the application. Mrs.
12 Miller made the motion; Mr. Jefferies
13 seconded. Mr. Loud, Mr. Dettman and Mrs.
14 Walker support the motion.

15 CHAIRPERSON MILLER: Okay. And
16 that will be a summary order as well as
17 there's no opposition in this case.

18 Okay. Thank you.

19 And we're ready for the next case
20 when you are, Ms. Bailey.

21 MS. BAILEY: Application No. 17752
22 of KIPP DC, pursuant to 11 DCMR 3103.2, for a

1 variance from the off-street parking
2 requirements under subsection 2101.1, and a
3 variance from the parking space location
4 requirements under subsection 2117.4, for a
5 public charter school at premises 4801 Benning
6 Road, S.E. The property is also known as
7 Square 5357, Lot 802 and it is zoned C-2-A.

8 MS. PRINCE: Good afternoon, Madam
9 Chair and Members of the Board, and welcome to
10 our newest Board Member. My name is Allison
11 Prince from the law firm of Pillsbury Winthrop
12 Shaw Pittman and I represent KIPP DC in
13 connection with this request for variance
14 relief.

15 KIPP DC is a highly-successful
16 network of charter schools designed to educate
17 children from the District's most
18 economically-challenged neighborhoods. I
19 could cite all kinds of statistics and cite
20 you to articles about KIPP and its really
21 incredible success, but the hour is late and
22 Alex Shawe from KIPP is here. If you have

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1 questions for him about what KIPP is and what
2 they've done, he can answer them.

3 Briefly, KIPP began in cramped
4 leased facilities elsewhere in the District
5 and KIPP is now making a very significant; a
6 \$20 million investment in Ward 7. I think it
7 may be the largest institutional investment in
8 Ward 7 within the past several decades. It's
9 quite incredible. If you drive out Benning
10 Road, you can see Phase I under construction.
11 It just shines like a beacon to see this brand
12 new facility in Ward 7.

13 KIPP is constructing this new
14 campus for two of its schools which will
15 eventually serve over 900 students. KIPP DC
16 selected the site because it is so close to
17 where most of its students live and KIPP has
18 a strong commitment to this community. With
19 the new campus, KIPP will add a state-of-the
20 art school to the Marshall Heights
21 neighborhood.

22 The new KIPP DC campus, as I said,

1 is being constructed in two phases; the first
2 phase is already under construction. The
3 glazing is up; the building will be occupied
4 shortly. The second phase is expected to
5 begin in the next few months. Unfortunately,
6 because of various limitations on this site,
7 the new campus will not be able to accommodate
8 all required off-street parking once the
9 second phase is complete.

10 KIPP DC now seeks variance relief
11 from the parking requirements of the Zoning
12 Regulations. In order to accommodate maximum
13 off-street parking on the site, the campus
14 will accommodate 34 parking spaces in a
15 stacked configuration that will be supervised
16 by an attendant. KIPP DC has secured a short-
17 term lease with DC Public Schools for 40
18 spaces at the Fletcher Johns School across the
19 street. That school, as you may know, is just
20 behemoth; it has a lot of parking. It is no
21 longer used for public school purposes. There
22 are terms, long-term plans for the future of

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1 the building, but we're comfortable that that
2 can accommodate 40 of our spaces, at least for
3 the near term.

4 In addition, KIPP continues to
5 search for a long-term solution for off-street
6 parking facilities and will engage in all
7 means possible to minimize any parking impacts
8 on the neighborhood.

9 KIPP DC requests that the Board
10 grant the requested variances from the parking
11 regulations. Without the requested zoning
12 relief, KIPP may jeopardize a planned bond
13 issuance in April and the second phase of the
14 campus may be impossible. The requested
15 variance relief is critical to KIPP's
16 continued mission to serve some of the
17 District's neediest students.

18 And before we proceed with the
19 testimony of my first witness, Mr. Alex Shawe
20 of KIPP, I did want to mention that Mr.
21 Bernard Guzman from the deputy mayor's office
22 was here to offer his support, but we fell a

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1 little off schedule today and he had to leave
2 at 2:30.

3 If the Board has no questions, I'd
4 like to proceed with the testimony of Mr.
5 Shawe of KIPP.

6 CHAIRPERSON MILLER: I just want
7 to ask if the ANC is here. Okay.

8 MR. SHAWE: Thank you, Board
9 Members. My name is Alex Shawe. I'm the
10 Director of Real Estate at KIPP DC. As Ms.
11 Prince just indicated, KIPP DC is the most
12 successful network of public charter schools
13 in the District and it's currently serving
14 over 820 students from our most under-
15 resourced communities.

16 Included in my responsibilities at
17 KIPP DC is the management of what is actually
18 a \$28 million campus development project east-
19 of-the-river in Ward 7, at 4801 Benning Road,
20 S.E. As Ms. Prince indicated, that site, when
21 complete, will serve as the home for KIPP DC's
22 Leap and Key Academies. And upon reaching

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1 full capacities in the year 2012 and '13, will
2 serve over 900 students. The campus, Members
3 of the Board, will address an urgent need for
4 high-quality public education in east of the
5 river communities.

6 Please stop me if these details
7 are not necessary, but I think it's important
8 to add that KIPP DC's stated mission is to
9 serve the most neglected communities in the
10 District. Ninety-nine percent of KIPP
11 students are African-American and 80 percent
12 are from low-income families that qualify for
13 free and reduced lunch for their children.
14 Only six percent of those 823 KIPP DC students
15 have parents with post-secondary degrees.

16 Those daunting statistics have not
17 stopped KIPP DC from making staggering
18 academic progress that has changed the way the
19 world looks at urban education. In fact, this
20 past year 62 percent of all Key Academy
21 students were proficient in reading and 84
22 percent were proficient in math. Now even

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1 more impressive is that 100 percent of Key's
2 graduating eighth grade class was proficient
3 in math and 78 percent of that graduating
4 eighth grade class was proficient in reading.
5 Those very same students entered Key at fifth
6 grade on average two years below grade level
7 in both math and in reading.

8 Additionally, Members of the
9 Board, of KIPP DC's 200 or so middle school
10 graduates, 98.5 percent are still enrolled in
11 high school, continuing their journey toward
12 college.

13 And finally, for its nationally-
14 recognized academic success, Key Academy was
15 recently recognized as one of only four Blue
16 Ribbon Schools in the District for the year
17 2007.

18 It's Key Academy, Members of the
19 Board, that is the subject of Phase II of
20 construction, the reason why we're here today.
21 Phase I of construction at the Marshall
22 Heights site began last March, 2007 and is

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1 already scheduled to be completed in the next
2 six to eight weeks. This first phase consists
3 of an almost-60,000 square foot pre-k through
4 4th grade building, that starting this summer
5 will be the home for Leap Academy.

6 Leap, now in its only first year
7 of operation, currently operates in the
8 basement of a church on Minnesota Avenue.

9 It's worth noting that even before the end of
10 January, last month, over 50 families have
11 already submitted applications for their three
12 and four-year-old children to enroll at Leap
13 next fall in the Marshall Heights community.
14 When at capacity in the year 2012 and '13,
15 over 600 children from mostly low-income east-
16 of-the-river families will attend Leap
17 Academy.

18 Phase II of construction will
19 consist of a 29,000 square foot fifth through
20 eighth grade building that will serve as the
21 home of Key Academy's 320 middle school
22 students. Key Academy, that Blue Ribbon

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1 School, currently leases expensive commercial
2 space in Ward 6 that is both financially
3 burdensome for the organization, as well as
4 geographically inconvenient for the vast
5 majority of its students, most of whom again
6 live east of the river.

7 Key, will share Phase I space with
8 Leap Academy next school year, but will be
9 forced out in 2009 because Leap's enrollment
10 will require use of most of the Phase I
11 building during that year. Accordingly, it is
12 imperative that Phase II construction for Key
13 Academy's future home begins early this spring
14 and is completed by the spring 2009.
15 Depending on the permitting process,
16 construction activity for Phase II, for Key's
17 future home, is scheduled to begin at the end
18 of next month.

19 As Ms. Prince stated, KIPP DC
20 financed Phase I development with a short-term
21 construction loan, but will be refinancing
22 that loan, as well as financing Phase II

1 activities with tax-exempt bonds. The
2 issuance for those bonds is currently
3 scheduled for April 2008. The \$28 million
4 project has easily been KIPP DC's single
5 greatest financial undertaking. However, due
6 to the long-term impact KIPP DC will have on
7 the Marshall Heights community, this
8 undertaking is not just worthwhile, but
9 imperative.

10 The Board can rest assured that
11 KIPP DC has, and will continue to make every
12 effort to reduce even the potential for strain
13 caused by any off-street parking. We will
14 station a parking attendant at the school's
15 entrance to manage every aspect of faculty on-
16 site parking. Additionally, Key
17 administrators and principals will provide
18 Smart Cards for all faculty along with
19 incentives for teachers to carpool to the
20 campus. We are encouraged that 20 percent of
21 current Key teachers already do not drive
22 their own cars to work. We will of course

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1 have teachers supervise all student drop off
2 and all pick up activity at the site. This
3 management will be made fairly easy because
4 KIPP students all start their days at or
5 before 7:30 a.m. and because end-of-the-day
6 pick up is staggered from between 4:00 and
7 5:30 p.m.

8 Finally, we've already reached a
9 tentative short-term arrangement with DCPS to
10 lease 40 parking spaces across the street at
11 the mostly-vacant Fletcher Johnson site and
12 we've been in active discussions concerning
13 the purchase of a nearby lot that would
14 provide even more parking spaces.

15 Please note that while we are
16 optimistic about finding a long-term solution
17 for our parking needs, we have yet to find it.
18 We have engaged with and worked with the
19 Marshall Heights community throughout our
20 development process and will continue to do so
21 as we hopefully move forward with Phase II of
22 the project. Thank you for your time and

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1 attention.

2 MS. PRINCE: If there are no
3 questions for Mr. Shawe, I can proceed with
4 the testimony of John Burke. He's an
5 architect with Studio 27; it's his own firm.
6 I don't know how he's avoided you so far, but
7 he has never appeared before the Board of
8 Zoning Adjustment in his 20 years of practice.
9 He owns a firm in the District; he's owned it
10 for nine years. He went to Virginia Tech. He
11 has a bachelor's in architecture and I would
12 like you to consider him an expert in
13 architecture.

14 CHAIRPERSON MILLER: Okay. There
15 is no party objecting. Are there any concerns
16 among Board Members? Okay. No concerns.
17 We'd be happy to recognize you as an expert in
18 architecture.

19 MR. BURKE: Good evening. Thank
20 you very much. And Allison didn't mention
21 that my business partner has appeared before
22 you many times.

1 What I was going to talk about
2 today was just quickly a little bit of the
3 limitations of the site and the difficulty
4 that we had in getting the school program onto
5 the site; and therefore, did not allow us to
6 have as much space as I would have hoped to
7 get all the require parking in.

8 The site is very narrow; it's 120
9 feet by 400 feet long. And what became one of
10 the biggest issues is not so much the
11 restrictions of the property lines as it was
12 the restrictions of the soil itself.

13 Benning Road, as it passes over
14 Anacostia River, begins to occupy a small
15 valley and the earth away from Benning Road
16 slopes up 10 to 15 degrees. And what's
17 beneath the layer of earth is clay layers and
18 these clay layers retain water. And so what's
19 happened as we've begun to dig into our site
20 adjacent to Benning Road is all the water from
21 the adjacent hills has filled in our site and
22 created a shallow lake basically about six

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1 inches below our site. So what it's meant is
2 that we cannot go down. So we have 50 feet to
3 work with per the building height regulation
4 and we cannot go down at all. Fifty feet on
5 a school means we can get about three floors
6 in, because we have programmatic spaces that
7 require higher head heights. The larger
8 classrooms, the multipurpose rooms, the
9 cafeteria and the gymnasium.

10 The layout of the school itself is
11 very efficient. This is Benning Road; this is
12 46th Street and what we've done is just taken
13 a single corridor and stacked it with
14 classrooms. It's about 15 or 20 percent more
15 efficient than the typical school. So we've
16 really tried to use everything that we could.
17 Then we've taken our large space, which is our
18 gymnasium and our cafeteria, and we've put
19 that adjacent to the classrooms and we've left
20 a courtyard that's really our only play space
21 in Phase I. And then when we add Phase II,
22 we'll continue that corridor, provide 23 more

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1 classrooms and create another small compliant
2 courtyard that we'll also use as play space.

3 So really, we filled the lot, the
4 entire 120 feet and our choices were really
5 only to push it this way or to push it this
6 way. We pushed it towards 46th Street because
7 we felt it was important to have the entrance
8 on the front, at the intersection and also, it
9 put us closer to Pepco and our power concerns.
10 So we thereby saved a little bit of money
11 there. And this left the remaining area for
12 parking. So that's a little bit of the
13 limitations and how we tried to get the
14 program on the space and how much space you
15 can see was left over for parking.

16 Are there any questions?

17 CHAIRPERSON MILLER: Well, why
18 don't you show us if you had to provide all
19 the parking, what would happen? Would you be
20 eliminating all sorts of classrooms?

21 MR. BURKE: Yes. We would lose
22 all of Phase II. Right now with Phase I here,

1 we have enough parking, but to provide the
2 parking -- we really can't even provide the
3 parking. If I took away all of Phase II, we
4 still don't have enough room to get all the
5 parking. Because our site here is just under
6 120 feet, you can't do two 60-foot rows of
7 double parking. So that's one of the
8 limitations.

9 I think, you know, it would have
10 been great if we could have buried a floor and
11 then gone up taller and then had a little more
12 site. I think we still would have had a
13 problem getting all the parking on. But the
14 fact that geologically it's already been
15 predetermined that we're not going down, we
16 filled in the lot as we could.

17 CHAIRPERSON MILLER: I can see why
18 you can't go down because of the geological
19 problems and I know you addressed it in your
20 pleadings, but I don't remember why you
21 couldn't go up at all to provide parking.

22 MR. BURKE: It's only a 50-foot

1 height regulation rather than 60-foot, which
2 it would have been in a residentially-zoned
3 area.

4 MS. PRINCE: I'll explain. A
5 funny situation emerged when the charter
6 school regulations were created by the Zoning
7 Commission a short while ago. The parking
8 limit for charter schools in the residential
9 zone; I'm sorry, the height limit is 60 feet
10 and they neglected to adjust the height limit
11 for charter schools in the commercial zone.
12 So ironically, in the commercial zone there's
13 a lesser height limit. I suspect that was
14 somewhat of an oversight that will be adjusted
15 when we do a larger look at the Zoning
16 Regulations, but we're stuck with it for now.

17 CHAIRPERSON MILLER: Okay. This
18 is really basic, but why, if it's 50 feet,
19 which is what the limit is, why can't there be
20 another layer of parking?

21 MR. BURKE: Oh, here?

22 CHAIRPERSON MILLER: Yes. Right,

1 on top of the parking lot that's there.

2 MR. BURKE: It's a matter of how
3 inefficient the structured parking would be,
4 because of the limitation of the width.

5 CHAIRPERSON MILLER: You have to
6 factor in the ramps and the aisles and the --

7 MR. BURKE: Right, plus I have a
8 15-foot setback here, so I'm basically
9 creating a structured parking that is really
10 nothing more than ramps.

11 CHAIRPERSON MILLER: Thank you.
12 Other questions from Board Members? No.

13 MS. PRINCE: If I could just
14 redirect, John, could you just explain the FAR
15 for the building relative to what's permitted?

16 MR. BURKE: Yes, I did want to
17 mention that we're not maxing out FAR in any
18 way. I mean, really the school would like to
19 have more program, if it was possible. Our
20 FAR is 2.5 and we're using about 68 percent of
21 that, so it's a smaller building. Our issue
22 is really related to the lot and the ground,

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1 and not to maxing out FAR.

2 CHAIRPERSON MILLER: Do you have
3 any other witnesses?

4 MS. PRINCE: I do. I have Mr.
5 Marty Wells from Wells & Associates. He did
6 not prepare a formal report with the pre-
7 hearing statement, but he did fully survey the
8 area and is prepared to present testimony.

9 MR. WELLS: Good afternoon.

10 CHAIRPERSON MILLER: Good
11 afternoon.

12 MR. WELLS: My name is Marty
13 Wells, President of Wells & Associates and we
14 have been consulting with KIPP DC.

15 The two areas of relief that KIPP
16 is seeking is the number of parking spaces and
17 access to those spaces. Let me address the
18 first, the number of spaces.

19 The number of spaces required in
20 the first phase; we looked at two phases in
21 2008 and 2009. In the first phase, some 30
22 spaces will be required; actually 39 spaces

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1 will be provided, so there will be a
2 sufficient number of spaces provided in the
3 first year. That is to say, that the faculty
4 and staff, at the rate of two spaces per three
5 faculty and staff, will be able to park on
6 site and not have to park on the street or
7 elsewhere.

8 Secondly, in the second phase
9 where there will be up to 100 faculty and
10 staff, the parking requirement is 67 spaces;
11 in fact only 34 spaces would be provided, so
12 there's a shortfall of 33 spaces. There are
13 several opportunities to gain or lease off-
14 street nearby parking spaces in nearby lots
15 and the obvious choice here in the Fletcher
16 Johnson School, which is right across Benning
17 Road, directly across Benning Road, where 40
18 spaces will be available. So, there would be
19 a surplus of seven spaces in the year 2009 and
20 possibly beyond. So again, at the rate of two
21 spaces for every three faculty and staff, the
22 full complement of your parking requirement

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1 can be provided off-street in those
2 facilities.

3 In terms of the parking demand
4 there, there are some mitigating circumstances
5 here. The Benning Road Metro station is just
6 a half mile away. For those of us who are fit
7 and able, a half a mile is a walkable
8 distance. But there also is Metro bus service
9 that connects the station with this site. The
10 school believes that about 25 percent, or one
11 out of four faculty and staff in fact will
12 take public transportation; that may be
13 conservatively low. And the reason I say that
14 is a lot of the faculty and staff will
15 actually live in Wards 7 and 8. If you look
16 at the U.S. Census data about auto ownership,
17 some 40 percent of the folks who live in those
18 two wards have no automobile available. So
19 that being the case, it would not be
20 unreasonable to say up to 40 percent of
21 faculty and staff could take public
22 transportation.

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1 With regard to the tandem parking,
2 the school proposes to park motorists three
3 deep in three ranks in one part of the lot and
4 two deep in another part of the lot; that's
5 shown on your plans. In my opinion, such
6 parking is workable and manageable in this
7 situation because all of the parkers work for
8 the same organization; namely KIPP DC, they
9 all come to the school in the morning, leave
10 in the afternoon. In other words, there's not
11 a lot of coming and going at the same time.
12 Coming comes at a different time than the
13 going, so that makes it more manageable.

14 And if you doubt that this is not
15 workable for an independent school, I suggest
16 to you as a precedent the Capitol Hill Day
17 School where such parking is provided in a lot
18 behind the school. That concludes my prepared
19 remarks.

20 CHAIRPERSON MILLER: Any
21 questions? Okay. Did you say that in Phase
22 I that 39 spaces could be provided, but in

1 Phase II only 34?

2 MR. WELLS: That's my
3 understanding.

4 CHAIRPERSON MILLER: And why is
5 that?

6 MR. WELLS: I would defer to the
7 architects.

8 MS. PRINCE: Phase II is being
9 located where some of the Phase I parking is
10 located.

11 CHAIRPERSON MILLER: Okay. Thank
12 you. And I think you were saying 40 percent
13 of residents in Ward 7, and I thought you said
14 another ward, together don't own automobiles?

15 MR. WELLS: We looked at an area
16 of census tracts and blocks in the immediate
17 area, most of whom or most of which are in
18 Ward 7, but a couple of them are in Ward 8.
19 So just looking at the vicinity where likely
20 students and faculty and staff might live
21 nearby, those are the statistics. And we
22 looked at statistics for owner-occupied units

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1 as well as renter-occupied units. There are
2 more renters than there are owners. A higher
3 percentage of renters have no automobile
4 compared to owners, and I could submit that to
5 the record if you'd like.

6 CHAIRPERSON MILLER: Well, I just
7 wanted to certainly, first of all, pin down
8 what you did say. So you were saying Ward 8?
9 I mean, I guess it's not relevant for two
10 issues. I mean, I would think the issue
11 you're talking about right now would go to
12 those who are coming to the school perhaps,
13 since the faculty and staff are greatly from
14 that area.

15 MR. WELLS: Well, I think it
16 affects two groups; one is faculty and staff.
17 Obviously they have to commute to work, like
18 we all do, and they have no choices. And if
19 you don't own a car, driving to work is
20 probably not your first choice. So they are
21 prime candidates, if they live close enough,
22 to walk; Jim Sebastien would love for them to

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1 bicycle. Or Metro bus would be a very good
2 alternative, because there is a lot of Metro
3 bus service in this area. In fact, there are
4 stops right in front of the school.

5 To put a fine point on it, of the
6 13,985 households in the area that we looked
7 at, in the tracks that we looked at, some
8 5,662 of them; or 40.5 percent, had no --

9 CHAIRPERSON MILLER: Wouldn't it
10 be simpler just to -- don't they know who
11 their faculty and staff are?

12 MR. WELLS: I don't know that they
13 do. Do you know?

14 CHAIRPERSON MILLER: Oh, you don't
15 know yet?

16 MR. SHAW: We do know, Madam
17 Chair, for the existing school, for Key. For
18 Leap, that will be growing over the next five
19 years, they'll obviously have new staff being
20 hired each year.

21 CHAIRPERSON MILLER: So right now
22 do you know what percentage come by car?

1 MR. SHAW: I know that for the
2 Ward 6 site right now, for Key, that about 20
3 percent, or between 20 and 25 percent do not
4 drive their own cars to work. Meaning that,
5 that 20 to 25 percent either bikes or
6 carpools, or takes the Metro to the Navy Yard
7 stop, so that's the statistic that I'm most
8 familiar with.

9 CHAIRPERSON MILLER: Oh, okay. So
10 that's not necessarily directly transferrable
11 to a new location because a lot of those that
12 don't come by car may live close to that site,
13 but we don't know. You don't know.

14 MR. SHAW: Right.

15 CHAIRPERSON MILLER: Okay. So but
16 I guess my question then also goes to -- I
17 think that fact is more relevant to what's the
18 parking situation on the street? Like are
19 there a lot of spaces on the street available
20 for on-street parking because a lot of the
21 residents don't own automobiles in the area,
22 or no?

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1 MR. WELLS: Well, you may hear
2 conflicting testimony on this point today, but
3 46th Street is one of the boundaries, the
4 northern boundary at the site, and it's a
5 curvilinear street, a fairly long street. It
6 has unrestricted parking and we've been out
7 there during the day, during the school day,
8 and our observations are that there are many,
9 many vacant spaces. What we found, and this
10 may be a temporary situation due to the
11 ongoing construction; we did find several
12 spaces occupied on both sides of the street
13 near Benning Road and I suspect those are
14 construction workers working on the new
15 building. But, working in many other
16 locations on independent schools in other
17 cases, this is unusual to find that quantity
18 of unrestricted spaces so close to the site.

19 MR. SHAWE: And just to be clear,
20 not to be nitpicky, we're not an independent
21 school; we're a public charter school, in case
22 that matters at all.

1 CHAIRPERSON MILLER: No, but I
2 understand where he's coming from. We've
3 heard a lot of school cases and usually some
4 of the impact on the neighborhood is parking
5 because they don't have all these spaces
6 available on the public streets.

7 MR. WELLS: That's correct.

8 CHAIRPERSON MILLER: But given
9 that situation, the applicant's plan is still
10 to lease spaces anyway, regardless of the
11 availability of spaces on the street.

12 MR. WELLS: Yes, let me be clear.
13 There is a requirement based on the Zoning
14 Regulations and KIPP can meet that requirement
15 for off-street spaces in the combination of
16 spaces it provides itself on its own property,
17 plus spaces it would lease. So there is no
18 requirement to park on the street to meet the
19 Zoning Regulation requirement. Am I being
20 clear about that?

21 CHAIRPERSON MILLER: I don't know.
22 I think, do you mean that you can't provide

1 them on-site, so you need to provide them
2 elsewhere?

3 MR. WELLS: Right. There's no
4 spillover parking to meet the requirement, so
5 we're meeting the requirement and a little
6 more and not relying on on-street parking.

7 CHAIRPERSON MILLER: All right.
8 But you still need a variance to meet the
9 requirement. Okay.

10 MR. WELLS: That's correct.

11 CHAIRPERSON MILLER: A half a mile
12 to the Metro. How long of a walk is that
13 about?

14 MR. WELLS: It's a long walk.
15 It's about a 10-minute walk. The usual
16 criterion or standard for transit being within
17 convenient walking distance is one-quarter of
18 a mile. But there's plenty of evidence in the
19 literature that people do walk half a mile or
20 longer, but it really drops off after a
21 quarter of a mile. That's why the Metro bus
22 connection between the station and the site is

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1 important, and possibly a shuttle bus would be
2 well-used as well, sort of like the lab
3 school, for example.

4 CHAIRPERSON MILLER: Okay. I'm
5 surprised that 10 minutes is considered that
6 long, that it drops off. But statistically
7 that's what happens between five minutes and
8 10 minutes?

9 MR. WELLS: That's correct.

10 CHAIRPERSON MILLER: Okay. That's
11 all my questions. Others?

12 VICE CHAIRMAN LOUD: I just want
13 to make sure I understand the parking numbers.

14 You're going to be leasing 40
15 parking spaces from Fletcher Johnson?

16 MR. WELLS: Correct.

17 VICE CHAIRMAN LOUD: Okay. And
18 then 24 additional parking spaces will be the
19 tandem parking spaces?

20 MR. WELLS: Thirty-four.

21 VICE CHAIRMAN LOUD: Thirty-four?

22 MR. WELLS: There are eight spaces

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1 that are parked three deep. Eight times three
2 is the 24, and then there are five spaces that
3 are parked two deep. Five times two is 10.

4 VICE CHAIRMAN LOUD: Okay.

5 MR. WELLS: Twenty-four plus 10
6 being 34. That's where the 34 comes in.

7 VICE CHAIRMAN LOUD: And that's
8 where you get the surplus of seven over what
9 you're required to --

10 MR. WELLS: The 34 plus the 40.

11 VICE CHAIRMAN LOUD: Plus the 40,
12 right.

13 MR. WELLS: Correct.

14 VICE CHAIRMAN LOUD: Seventy-four.
15 I got you on that. And you are familiar with
16 some of your neighbors at the Arena
17 Condominiums, one or more of you?

18 MR. WELLS: Yes. I have not met
19 them, but I understand there will be some
20 neighbors here this evening.

21 VICE CHAIRMAN LOUD: Well, they've
22 provided something to the Board; I don't know

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1 if you all have a copy of it as well, if your
2 counsel has a copy of it.

3 MR. WELLS: We saw it moments ago.

4 VICE CHAIRMAN LOUD: Dated
5 February 5, 2008. But it basically talks
6 about your talking over parking along 46th
7 Street. Apparently, they feel like they're 13
8 parking spaces short for their 28-unit condo.
9 Now, I just wanted you to sort of address that
10 concern.

11 MR. WELLS: Well, how can we not
12 negatively affect our neighbors? By a couple
13 of different ways. One is providing the code
14 parking requirement in the combination of
15 spaces on this site and leasing other off-
16 street spaces; namely the Fletcher Johnson
17 spaces across the way. So we don't covet or
18 have our eyes on the 46th Street spaces.
19 There's no need for the faculty and staff to
20 park on the street if they can conveniently
21 park on the site next to the building, or
22 right across the street and be able to cross

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1 Benning Road at a signalized intersection with
2 marked crosswalks. So, there's no need for
3 faculty and staff to take what a resident
4 might consider their space, even though it is
5 unrestricted space. There's no sign out there
6 that says, for example, it's residential
7 permit parking; it's unrestricted parking.

8 VICE CHAIRMAN LOUD: Sounds like I
9 hearing you saying that your overall plan for
10 parking does not require you to encourage or
11 depend on the parking spaces on 46th Street.
12 Is that a fair statement?

13 MR. WELLS: That's correct.

14 VICE CHAIRMAN LOUD: Okay.

15 MR. WELLS: And if it became a
16 problem, it could be monitored and enforced
17 where the employees, the faculty and staff,
18 would be required to park on-site or at
19 Fletcher Johnson.

20 VICE CHAIRMAN LOUD: Okay. I just
21 have a quick non-zoning question. What do you
22 attribute the, particularly at the eighth

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1 grade, the scores that your students are
2 getting in math and reading? What do you
3 attribute that to?

4 MR. SHAW: Vice Chair, I think
5 that the easiest thing to attribute it to is
6 more time in the classroom. Those days do
7 start at 7:30 and they go oftentimes past
8 5:00. They have school six days a week;
9 there's a half a day of school on Saturday.
10 There's an emphasis on accountability, on
11 being forward thinking and striving towards
12 college. Every classroom in any KIPP school,
13 at least in D.C., has plenty of literature for
14 colleges. So even from a young age, starting
15 with the Leap students right now who are four
16 years old, they all know the words that they
17 associate with the colleges that their
18 teachers went to, and that hopefully sticks
19 throughout the entire program.

20 VICE CHAIRMAN LOUD: These guys
21 are going to kill me any more non-zoning
22 questions, but what's the teacher-to-student

1 ratio?

2 MR. SHAW: There's typically
3 between 20 and 25 students in a class, nothing
4 extraordinarily small or big.

5 VICE CHAIRMAN LOUD: Thanks a lot.

6 BOARD MEMBER WALKER: What is the
7 term of your lease for the parking spaces at
8 Fletcher Johnson?

9 MR. SHAW: Mr. Guzman, the
10 representative from the deputy mayor's office,
11 today could have attested to this as well.
12 The lease itself, the use agreement, will be
13 executed -- it may be executed on their end
14 today, but it will be by the end of the week.
15 Right now the letter of intent between KIPP DC
16 and DCPS speaks about a one-year term for
17 those 40 spaces with renewal at the sole
18 discretion of DCPS. And that is, we don't
19 think, I don't think, anyone thinks that the
20 housing authority is going to develop that
21 whole Fletcher Johnson site in quick time.
22 However, we understand that there's a chance

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1 that when construction activity starts at that
2 Fletcher Johnson site for it to be
3 redeveloped, that those spaces could be
4 jeopardized and we wouldn't be able to come
5 here before you and say that we have 40 spaces
6 pursuant to a lease. They want us to be
7 there, they want this to work, DCPS does,
8 Chancellor Rhee does, the deputy mayor's
9 office does, but nobody can promise us that
10 that's going to be indefinite.

11 BOARD MEMBER WALKER: So do you
12 have any sense of what the long-term plan is
13 for the Fletcher Johnson site?

14 MR. SHAW: They've discussed
15 making it into a community center for the
16 Marshall Heights community that would include,
17 at a minimum, some playing fields and a
18 community arts center. There's been talk
19 about housing. But the campus itself, it is
20 enormous. The building itself is 305,000
21 square feet and it sits on what has to be over
22 five to 10 acres; it's a mammoth, mammoth

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1 site. So much so that the deputy mayor's
2 office, when we were meeting with them, about
3 the potential lease of the spaces, said you
4 can park wherever you want. You can park in
5 the driveway right across the street from our
6 new school. We could park further north up
7 along the site. It's pretty limitless.

8 BOARD MEMBER WALKER: You
9 mentioned this tandem parking arrangement that
10 exists at Capitol Hill Day School.

11 MR. WELLS: Right.

12 BOARD MEMBER WALKER: Can you tell
13 me a little bit more about that, what you know
14 about that?

15 MR. WELLS: Yes, they have very
16 little property and they cannot park all of
17 their faculty and staff who wish to park; that
18 is to say, their Zoning Regulation
19 requirements, on their property. If they
20 provided the required drive aisles, that would
21 just eat up too much of their ground. So
22 there is a public alley behind the school; I

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1 wish I had an exhibit, but I don't. There's
2 a public alley behind the school from which
3 they gain access to the rear of their property
4 and they pack them and stack them in that lot
5 and they have four and five deep parking
6 arrangements. And this is an every day
7 occurrence and it works for them.

8 BOARD MEMBER WALKER: Was there
9 any consideration at all given to doing
10 parking on the ground floor and then doing
11 classroom space, or other space above that?

12 MR. BURKE: There was, and that
13 presented its own problems, particularly with
14 the program requirements and the extra head
15 height of the gym and the other spaces, so
16 we're still held to this 50. And if we then
17 took away 11 or eleven-and-a-half for the
18 parking, we then couldn't get even three
19 stories of school into the site.

20 BOARD MEMBER WALKER: You said
21 three stories? So your classroom buildings
22 are --

1 MR. BURKE: We have a three-story
2 building right now that we can get within the
3 50-foot height range. If I take 10 or 12 of
4 that and devote it to parking, I can't get
5 three stories in 38 feet. So then they would
6 have to give up a whole floor of classrooms.

7
8 CHAIRPERSON MILLER: Mr. Wells,
9 there's a surplus of seven spaces, is that
10 right, under the plan that's being presented
11 to the 34 in tandem and then the 40 leased?

12 MR. WELLS: Correct. We're
13 planning on up to a 100 faculty and staff,
14 which is the requirement for 67 spaces.

15 CHAIRPERSON MILLER: But are you
16 planning seven more spaces than you need?

17 MR. WELLS: Forty-four spaces;
18 that's correct.

19 CHAIRPERSON MILLER: And why are
20 you leasing seven more spaces than you need?

21 MR. WELLS: I was not part of the
22 lease negotiation, but they didn't -- go

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1 ahead.

2 MR. SHAW: I think that that 40
3 number was a safe number. We could have said
4 34, 32, but it was just to be safe, in light
5 of construction activity for Phase II.

6 MR. WELLS: Yes, our observations
7 the numerous times we've been out there,
8 there's at least 100 vacant spaces. So, to
9 give up 40 from Fletcher Johnson; these are
10 marked spaces, that's no big deal. Not from
11 my point of view.

12 CHAIRPERSON MILLER: But how
13 likely is it that you're going to be able to
14 lease spaces from Fletcher Johnson for more
15 than a year? Is it pretty likely? Is it
16 totally uncertain?

17 MR. SHAW: I don't know, Madam
18 Chair. I think that we've received no
19 indication that, well, you know this is for
20 one year only. I think that they cannot
21 represent that in good faith because they
22 don't know the pace of what construction may

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1 be. We have been told there's certainly no
2 activity next year, 2008-2009, and it's
3 possible that there wouldn't be the year after
4 that, but they haven't been able to say for
5 certain.

6 CHAIRPERSON MILLER: Okay. Then
7 what's the likelihood of your finding other
8 lots which you can lease spaces from?

9 MR. SHAW: From other lots? In
10 sort of a similarly uncertain fashion, we have
11 been in discussions with an adjacent lot to
12 potentially purchase that lot. That lot is a
13 site of a good deal of drug activity that you
14 can see from the construction trailer any
15 given day. There's a liquor store on that
16 lot, as well as a Dollar Store. We are
17 nowhere far enough along in any due diligence
18 to say with any confidence that it's going to
19 work out because we're going to buy that lot.
20 We don't know that.

21 Sort of similar to the fact that
22 we don't know if we're going to be able to

1 lease 40 spaces at Fletcher Johnson after this
2 year. We are optimistic, but certainly that
3 optimism doesn't mean very much to our
4 underwriter for our bonds, or to DCRA, or to
5 anybody else.

6 CHAIRPERSON MILLER: And do you
7 have any other back-up plan; for instance, if
8 you can't lease with respect to restricting
9 faculty and staff from driving to the school?

10 MR. SHAW: Without giving you a
11 convenient answer, the faculty will do
12 whatever they have to do to avoid putting a
13 strain on community parking in that
14 neighborhood, in part because we already have
15 a good relationship with the ANC members in
16 that community. We've been inclusive
17 throughout. I think between 7 or 8 ANC
18 members came to our topping out party. There
19 is a city build grant for \$1 million, much of
20 which is going to go towards Phase II
21 construction costs and is devoted for adult
22 education space that's going to be made

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1 available to the Marshall Heights community.
2 They gym itself will be made accessible to the
3 community. I only say all that, Madam Chair,
4 to indicate that we're very serious about our
5 relationship with the neighbor, and I think
6 that our actions thus far while this matter's
7 been pending before you, actively leasing
8 spaces with DCPS, through the mayor's office,
9 executing a purchase agreement for an adjacent
10 lot, pending due diligence, I think should
11 indicate to you how serious we take our
12 obligations.

13 CHAIRPERSON MILLER: Okay. Thank
14 you. Any other questions? Any other
15 witnesses?

16 MS. PRINCE: That completes our
17 direct testimony. We have no more witnesses.

18 CHAIRPERSON MILLER: How many
19 Smart Cards are you going to be providing?

20 MR. SHAWE: That's a great
21 question, one that I'll explore immediately.

22 MR. WELLS: Don't forget Smart

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1 Bikes.

2

3 CHAIRPERSON MILLER: All right.

4 Why don't we go to the Office of Planning?

5 MR. MORDFIN: Good afternoon. I'm

6 Stephen Mordfin with the Office of Planning.

7 And the subject property is unique as a result

8 of a high water table and a lack of alley

9 access and these unique conditions result in

10 peculiar and exceptional practical

11 difficulties to the applicant because parking

12 cannot be provided beneath the building within

13 a garage due to the high water table, forcing

14 the applicant to provide surface parking

15 instead. In addition, design options are also

16 limited because the adjoining alley is un-

17 built, limiting design options for the layout

18 of the parking lot. As a result, this

19 uniqueness results in peculiar and exceptional

20 practical difficulties to the owner.

21 The applicant proposes to provide

22 tandem parking on site to provide as much

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1 parking on site as possible. Further, the
2 applicant proposes to lease off-street parking
3 spaces from the Fletcher Johnson School site
4 located catty-corner from the subject
5 property. The combination of the tandem
6 spaces and the off-street parking will
7 minimize any effects the reduced parking will
8 have on the surrounding community. Therefore,
9 the variances can be granted without
10 substantially impairing the intent and purpose
11 of the Zone Plan. Therefore, the Office of
12 Planning recommends that the Board approve the
13 requested variances to; (1) reduce the number
14 of required parking spaces from 67 to 13; and
15 (2) to permit parking that is not accessible
16 at all times directly from an approved street
17 or alley. Thank you.

18 CHAIRPERSON MILLER: Thank you. I
19 don't see in our record that we have a report
20 from the ANC, and I was wondering if you had
21 communication with them. It says in your
22 report that they didn't respond to a request

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1 for comments from you. Is there anything new
2 since then?

3 MR. MORDFIN: No, there isn't;
4 I've not received anything.

5 MS. PRINCE: Chairperson Miller?

6 CHAIRPERSON MILLER: Yes?

7 MS. PRINCE: We did attempt to
8 communicate with the ANC. The ANC is
9 obviously familiar with Phase I; attended the
10 topping out party, wrote a letter to support
11 the tax-exempt bond financing. We reached out
12 again in writing to the ANC to talk
13 specifically about the parking variance and
14 were not able to get the ANC's attention.

15 CHAIRPERSON MILLER: Did you try
16 to get on their agenda?

17 MS. PRINCE: Yes.

18 CHAIRPERSON MILLER: And they
19 didn't respond?

20 MS. PRINCE: Didn't respond.

21 CHAIRPERSON MILLER: Okay. Mr.
22 Mordfin, would you concur with the applicant's

1 characterization of a great availability of
2 parking on the street in the area?

3 MR. MORDFIN: I did not survey the
4 area for the parking on the street because the
5 applicant communicated that there would be
6 surface parking on adjoining properties that
7 would make up for the lack of parking, and
8 also because the tandem parking which has been
9 done in other schools, would also take up some
10 of that lack of parking. So, when we looked
11 at the site, we did not look at how much
12 parking there is on street.

13 CHAIRPERSON MILLER: And you don't
14 think there are any conditions that you would
15 recommend, is that correct?

16 MR. MORDFIN: Not from the way the
17 application was put together. The application
18 does indicate that they would provide a
19 shuttle between the Metro station, which is
20 located north on Benning Road, and those are
21 part of the application and I think those
22 things would be acceptable as part of this

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1 application to ensure that people can come
2 from the Metro.

3 CHAIRPERSON MILLER: Do you think
4 it's a factor how many Smart Cards they have,
5 or do you think that that's just something
6 that we can leave up to them to decide
7 depending on the demand that they notice?

8 MR. MORDFIN: I'm not sure how to
9 factor that in, because if they do provide the
10 number of actual physical spaces, whether they
11 meet the definition of a parking space or not,
12 then they really have met the requirement by
13 providing these other things. I'm not sure
14 that is not going above and beyond what the
15 demand is anticipated by the Zoning
16 Regulations for a school of that size with
17 that number of faculty.

18 CHAIRPERSON MILLER: Yes, I think
19 that was Mr. Wells' point. And I guess I
20 totally agree, except for the fact that there
21 is a little uncertainty about always having
22 leased spots available in the future. So I

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1 guess these other aspects go to mitigation in
2 the event that there's a gap at all between
3 times when they have leased spots and don't.

4 MR. MORDFIN: Right, and the Smart
5 Cards or the shuttle from the Metro station
6 would help to alleviate some of that by
7 ensuring that some of the people would have an
8 easier way of getting to the school from
9 public transit.

10 CHAIRPERSON MILLER: Okay. It was
11 a great report; I don't think I have any other
12 questions. Anybody else have questions?

13 VICE CHAIRMAN LOUD: Just a couple
14 of really quick questions.

15 There seems to be a discrepancy
16 between some of their testimony and some of
17 the information in your report. I just wanted
18 to know if you wanted to have an opportunity
19 to update your report, or amend it; or if I'm
20 must misunderstanding. They testified that
21 they will have 40 leased spaces at Fletcher
22 Johnson and I think your report says 20. And

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1 there testimony was that they would have 34
2 tandem spaces and I think your report says
3 that they'll have 24. And again, obviously
4 they would know what the lease is, but if
5 their testimony is going to form the basis of
6 the record, it might be good if you could
7 either reconcile that or perhaps update or
8 amend report.

9 MR. MORDFIN: Well, the
10 information that I had at the time we were
11 writing the report was they had informed me
12 that they were looking to lease to at least 10
13 parking spaces from the commercial property to
14 the south and also 20 parking spaces from the
15 Fletcher Johnson School. Apparently, that's
16 changed and now they're looking at leasing 40
17 from the Fletcher Johnson School and perhaps
18 none from the commercial property to the
19 south. Either way, it indicates that they're
20 still going to lease close by parking spaces.

21 VICE CHAIRMAN LOUD: Yes.

22 MR. MORDFIN: I don't think that

1 that creates a conflict; I think it just
2 creates a change of perhaps what the Board
3 would want to do is set a minimum that they
4 should lease X-number of parking spaces off
5 site to help alleviate the demand for parking,
6 whether it be at that commercial site to the
7 south, or at the Fletcher Johnson School, or
8 some place else right around there that might
9 be available and appropriate.

10 VICE CHAIRMAN LOUD: I think they
11 were pretty clear on what their intentions
12 were. I don't want to change your report at
13 all; I just didn't know if it were a typo or
14 sort of as you indicated, you were surprised
15 a little bit by the testimony today as well.
16 But that was my only comment and observation.

17 CHAIRPERSON MILLER: Okay. Does
18 the applicant have any questions for the
19 Office of Planning?

20 MS. PRINCE: No questions.

21 CHAIRPERSON MILLER: You have a
22 copy of the Office of Planning's report?

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1 MS. PRINCE: We do.

2 CHAIRPERSON MILLER: I just would
3 like to explore something further with the
4 applicant then. The shuttle bus between the
5 Metro and the school, that's something that
6 you're committing to. Is that correct?

7 MR. SHAW: I mean, to say that,
8 I'm not sure how genuine that would be at this
9 point in time. We haven't arranged for a
10 shuttle bus to service the Metro to the
11 campus, but we certainly have discussed it and
12 certainly could commit to it in the spirit of
13 we will do anything that's required of us to
14 diminish any possible strain on that
15 community.

16 CHAIRPERSON MILLER: So it's
17 really a concept at this point, or not? I'm
18 trying to figure out --

19 MR. SHAW: The Smart Card
20 strategy is not a concept.

21 CHAIRPERSON MILLER: That's a
22 definite?

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1 MR. SHAW: That is a definite.

2 CHAIRPERSON MILLER: You just
3 don't know how many?

4 MR. SHAW: We just don't know how
5 many.

6 CHAIRPERSON MILLER: Okay.

7 MR. SHAW: The shuttle bus, I
8 think is something that's very realistic and
9 something that we will look into; we just have
10 not lined up anything as of this time.

11 MR. WELLS: Madam Chair, if I
12 could volunteer some information. The U-8
13 Route connects, runs up and down Benning Road.
14 It connects this site directly with the
15 Benning Road Metro station, so that may be
16 enough.

17 MR. SHAW: There's a bus stop
18 immediately in front of the site.

19 CHAIRPERSON MILLER: You don't
20 know how often it runs, do you?

21 MR. WELLS: I wish I had that at
22 my fingertips.

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1 CHAIRPERSON MILLER: Okay. Oh, we
2 have one other question. you know, do you
3 plan to hire a lot of your faculty and staff
4 from the immediate area?

5 MR. SHAW: I think that would be
6 the ideal is to have teachers and staff from
7 that neighborhood. I don't know the
8 percentage of faculty that's going to be from
9 Ward 7 or 8, or the percentage that will be
10 from Marshall Heights. I do know that we've
11 already received expressions of interest from
12 DCPS teachers who have taught at DCPS schools
13 in this general area and I think that this
14 campus will certainly attract people, young
15 teachers who will be settling down in this
16 area, particularly as more housing is
17 developed. So that would be something that we
18 would desire, but wouldn't be the basis of our
19 hiring.

20 CHAIRPERSON MILLER: Thank you.
21 Any other questions? Okay. Then at this
22 stage, we would ask the ANC to come up if they

1 were here, and I don't see or hear any ANC
2 here. So, are there any individuals in the
3 audience who are here who would like to
4 testify in support of the application?

5 Not seeing any, are there any
6 individuals in the audience who wish to
7 testify in opposition to the application?

8 Okay. Why don't you come forward,
9 please? Whenever you're ready, if you would
10 like to introduce yourself for the record and
11 then normally our rules provide basically
12 three minutes, but give or take, you know.

13 MS. BRADLEY: Okay. Thank you.
14 My name is Emily Bradley. I'm a resident of
15 4724 Benning Road, which is part of Arena
16 Condominium that's directly across the street
17 from the construction site. And I brought the
18 written statement today from my husband, who's
19 a Member of the Board of Directors for the
20 Homeowner's Association of Arena Condominium.

21 I don't have a written statement
22 that I want to read; I assume you can all read

1 the written statement that we submitted. It's
2 only two pages.

3 I think, first of all, I want to
4 say that we're very excited to have KIPP in
5 the neighborhood and we don't have an
6 antagonistic relationship with them at all.
7 Honestly, I haven't even talked to them, but
8 it's just as a result of our lack of
9 sophistication as a homeowner's association.
10 We haven't even spoken to our ANC; we just
11 happened to have missed the meetings. I think
12 they're once a month. But, I think the only
13 thing I could add to the hearing today is that
14 street parking is limited in our area and we
15 personally, my family, does not have a place
16 to park. We are not in one of the 13 spots
17 for our condominium, so we do have to find
18 street parking on a daily basis. I do walk to
19 the Metro, but if I had a car, I would drive
20 because it's about a 15-minute walk and while
21 the neighborhood is in transition, it's not
22 the best neighborhood. I personally haven't

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1 had any experience of being mugged or
2 anything, but I have had, you know, several
3 comments made to me that made me feel, you
4 know, at risk for my personal safety. So, I
5 mean, that's all I would really want to offer
6 to the Board, is that street parking is very
7 limited.

8 Also, our neighborhood is not --
9 you can't see it from looking at a map, but
10 46th Street begins a steep climb into, that's
11 why it's called Marshall Heights, is because
12 it's very hilly. Benning Road is walkable,
13 but the neighborhood behind the school is --
14 I wouldn't call it a very easy walk because
15 there are steep climbs in a lot of the
16 directions that you go. So, I think that's
17 really all that we want to say. We don't want
18 the Board to take lightly what KIPP is asking.
19 I recognize that they're planning on leasing
20 the spaces. I agree with you that the real
21 issue is that there's no long-term guarantee
22 that they're going to have all of the spaces

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1 and, you know, what if Fletcher Johnson is
2 developed and what if they can't get the space
3 of the lot next door.

4 It's already crowded. The
5 neighborhood is crowded. They've had to get
6 the police signs that say no parking here, no
7 parking here. Benning Road, you can only park
8 on one side of it, but it's prohibited during
9 rush hours and there is also another large
10 development on the side of "F" Street where
11 they're going to build a bunch of town homes
12 with driveways facing out, which will reduce
13 the parking on that street. So, I mean, the
14 construction people, the construction workers
15 now have had to park on 46th Street leaving no
16 parking there. So, I think it is an issue and
17 that's really all I want to say.

18 CHAIRPERSON MILLER: Thank you.
19 Did you say you have a car, or you don't have
20 a car?

21 MS. BRADLEY: We do have a car,
22 but my husband works in Tysons Corner and so,

1 I stay home with my son during the day and we
2 have to Metro everywhere if we want to go out.

3 CHAIRPERSON MILLER: When do you
4 have difficulty finding a parking spot on the
5 street?

6 MS. BRADLEY: We didn't have a
7 difficulty until the construction started and
8 it's not really a difficulty at night because
9 all the construction workers are gone. But
10 there was a very small space, basically the
11 length of the KIPP construction site, between
12 the end of that and Benning Road on 46th
13 Street is fairly empty. There's probably, I
14 think, eight spaces there that are usually
15 empty and so that has sufficed. Some of our
16 residents park on "F" Street and some of them
17 park on that 46th Street side. But past that
18 on 46th Street there rows and rows of other
19 apartment buildings; I don't know the name of
20 them or who they're owned by, but they do not
21 have any off-street parking as well, and so
22 those rows are lined with cars at night.

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1 Another concern that we have is
2 that the school does operate in late hours and
3 on weekends. So, I mean, I recognize that,
4 you know, all they need is the parking spaces
5 to meet the requirement, but we just
6 anticipate having parents come for parent-
7 teacher conferences. It's almost like because
8 the school is so good, we are going to have
9 more problems than we would otherwise because
10 of the long hours and weekend hours and how
11 involved we anticipate the parents will be.

12 CHAIRPERSON MILLER: I don't know,
13 but I would think, that, you know, the concern
14 about parents coming, because they're not
15 included in this calculation --

16 MS. BRADLEY: Yes.

17 CHAIRPERSON MILLER: Okay?

18 MS. BRADLEY: Yes.

19 CHAIRPERSON MILLER: Faculty and
20 staff are taken care of, and I can see that's
21 then a concern; well, what about visitors?
22 But I would think for parent-teacher

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1 conferences that they would come during the
2 weekdays when you all would be off at work or
3 whatever.

4 MS. BRADLEY: Yes, hopefully.

5 CHAIRPERSON MILLER: And not
6 worried about a parking space on the street.

7 MS. BRADLEY: Hopefully.

8 CHAIRPERSON MILLER: Yes.

9 MS. BRADLEY: Yes.

10 CHAIRPERSON MILLER: So I guess
11 perhaps then the question is, you know, about
12 maybe Saturday morning, if they have classes
13 on Saturday.

14 MS. BRADLEY: Yes. And also, I
15 think our other concern, I think it's great
16 that they're looking to lease, but I went to
17 school at American Law School, which is
18 located, you know, in the north toward Chevy
19 Chase, and they have serious problems with
20 students parking in the neighborhood behind
21 the school. And, you know, of course students
22 are not allowed to park in the neighborhood

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1 behind the school, and so I know that even if
2 they have these spaces that are, you know, up
3 here, I just don't know how authoritative they
4 are going to be with their faculty in saying
5 you must use these spaces, you cannot park in
6 the street. As they said it's not
7 restrictive, which obviously after this will
8 have to apply to get it zoned for residential.

9 CHAIRPERSON MILLER: Well, let me
10 just say this, we've had a lot of experience
11 with private schools in particular.

12 MS. BRADLEY: Yes.

13 CHAIRPERSON MILLER: And, you
14 know, complaints about students parking and
15 stuff. And again, I think this case seems
16 different in that the students in this school
17 will only go up to eighth grade.

18 MS. BRADLEY: Right.

19 CHAIRPERSON MILLER: So they won't
20 be creating parking problems.

21 MS. BRADLEY: Right. I was just
22 referring to, you know, the issue of mandating

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1 the people who are coming to the school to
2 park in the designated spaces, even when the
3 street spaces are closer and they could say,
4 well, I'll just park right here, there's no
5 meter, it's closer, I only have to walk five
6 feet to get to the school versus 40 feet, you
7 know.

8 CHAIRPERSON MILLER: Would it be
9 closer in this case than the parking lot? I
10 guess some of the -- there's the tandem
11 parking.

12 MS. BRADLEY:
13 Some of the parking.

14 CHAIRPERSON MILLER: Yes.

15 MS. BRADLEY: If they're parking
16 in the 40th space at Fletcher Johnson, they're
17 going to be much further away than, you
18 know --

19 CHAIRPERSON MILLER: Any other
20 questions for this witness? Were you a
21 student at American University?

22 MS. BRADLEY: I was.

1 CHAIRPERSON MILLER: Where did you
2 park?

3 MS. BRADLEY: I Metro'ed.

4 CHAIRPERSON MILLER: Oh, you
5 Metro'ed? That's great. All right. I don't
6 have any other questions. Thank you very
7 much.

8 MS. BRADLEY: Thank you very much.

9 CHAIRPERSON MILLER: Is there
10 anybody else in the audience here to testify
11 either in support or opposition to this case?
12 Okay. Not hearing any.

13 It's time for closing remarks, or
14 any other further questions.

15 ZC VICE CHAIR JEFFERIES: Just a
16 quick question. What are the hours again?
17 There's extended hours.

18 MS. PRINCE: They're staggered
19 hours. Mr. Shawe can address them, but
20 there's very significant staggering in the
21 evenings.

22 ZC VICE CHAIR JEFFERIES: Okay.

1 MR. SHAW: Sir, the drop off time
2 is 7:30 and the pick up time is between 4:00
3 and 5:30, depending on what after school
4 activity a student is involved with.

5 ZC VICE CHAIR JEFFERIES: So there
6 would be no reason, I mean, unless there's a
7 special program or something, for anyone to be
8 at the school at 7:30 at night, or anything
9 like that?

10 MR. SHAW: No. There may well be
11 faculty members who work that late, but there
12 will be no program activities at that time.

13 ZC VICE CHAIR JEFFERIES: Okay.
14 When are going to have adults education that's
15 a possibility?

16 MR. SHAW: We've met with an ANC
17 member named Laurio Johnson about the adult
18 education program. When Mr. Burke finishes the
19 design of the Phase II building, we're going
20 to meet with him again and see where in fact
21 that program activity will take place. There
22 will be a computer lab that the community will

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1 have access to and I think that that's the
2 room, as far as résumé building workshops.
3 That would be attractive because it wouldn't
4 take up as much space as certain other
5 activities, but we've been discussing that
6 already.

7 CHAIRPERSON MILLER: Okay.
8 Because I was, you know, just engaging in a
9 conversation with a previous witness about,
10 you know, when people would be at the school
11 and whether that would conflict with parking
12 on the street by the residents.

13 MR. SHAW: Presumably the
14 residents that would avail themselves of any
15 of these programs would be within walking
16 distance of the site.

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E-V-E-N-I-N-G S-E-S-S-I-O-N

6:00 p.m.

ZC VICE CHAIR JEFFERIES: Just a quick question. Where is this site in relation to Marshall Heights CDC?

MR. SHAWE: There's a Section 8 housing development of mostly elderly residents right next door across from 46th Street. I've mistakenly thought that that is Marshall Heights Community Development Corporation; I don't think it is, so I can't tell you with any certainty where Marshall Heights CDC is.

ZC VICE CHAIR JEFFERIES: Okay.
Okay.

MR. SHAWE: We've met with the gentleman who runs it, who came to the topping out party.

ZC VICE CHAIR JEFFERIES: Yes.

MR. SHAWE: I don't know where his

1 offices actually are.

2 ZC VICE CHAIR JEFFERIES: Okay.
3 I'm just trying to visualize where this site
4 is.

5 BOARD MEMBER WALKER: You said
6 that drop off is at 7:30. What time does the
7 school day begin?

8 MR. SHAWE: The students need to
9 be inside, so the school day starts at 7:30.

10 BOARD MEMBER WALKER: Is there a
11 before care program?

12 MR. SHAWE: No, there's not.

13 BOARD MEMBER WALKER: And then the
14 after --

15 MR. SHAWE: I think it's because
16 they start so early that there's not. At
17 least for the middle schools across the
18 District, there's no after school program.
19 There are actual activities, but it's out of
20 the parents' responsibility or the children
21 are able to take public transportation so that
22 they can, you know, leave campus at

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1 predictable times.

2 BOARD MEMBER WALKER: And where is
3 your pick-up and drop-off area; and I don't
4 know if that's better for you or Mr. Wells to
5 address.

6 MR. SHAW: I think that Mr. Burke
7 may be best.

8 MR. BURKE: That will occur along
9 the front here and then in a year or so there
10 will be an extended pick up and drop off there
11 at the front of the school.

12 BOARD MEMBER WALKER: So on that
13 side of Benning Road?

14 MR. BURKE: Yes, this is all
15 designated loading at the moment.

16 BOARD MEMBER WALKER: It's
17 designated what?

18 MR. BURKE: This is all loading at
19 the moment.

20 BOARD MEMBER WALKER: So there's
21 no parking there?

22 MR. BURKE: No parking. There's

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1 no parking.

2 BOARD MEMBER WALKER: I see. And
3 one last question. Is there a requirement,
4 since you do have some very young students,
5 what is the requirement with respect to
6 walking your children who are pre-K,
7 kindergarten, first grade, inside?

8 MR. BURKE: The faculty over on
9 Minnesota Avenue right now, which is Leap's
10 current home, and it's its first year of
11 operation, faculty members greet every single
12 student in front of the church in which they
13 have space. And so, I think it's safe to say
14 that they are escorted in by faculty every
15 single morning.

16 BOARD MEMBER WALKER: So they
17 greet them at the car door --

18 MR. BURKE: Yes.

19 BOARD MEMBER WALKER: -- or at the
20 school door?

21 MR. BURKE: It happens that site,
22 there's a bit of a lawn and then a sidewalk

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1 and I think that as parents open up the door,
2 there are faculty members there to greet the
3 four-year-olds and to walk them inside.

4 BOARD MEMBER WALKER: Thank you.

5 ZC VICE CHAIR JEFFERIES: Are
6 there any special education components part of
7 KIPP?

8 MR. SHAWE: There are about, and
9 this statistic is either going to be nine
10 percent or 13 percent; it's not more than 13
11 percent and it's not less than nine, are
12 special ed. students. I have it written down.

13 ZC VICE CHAIR JEFFERIES: Would
14 these be behavioral issues or learning
15 disabilities?

16 MR. SHAWE: It's more learning
17 disabilities.

18 ZC VICE CHAIR JEFFERIES: Okay.
19 And you went over this at the beginning, but
20 where are the other schools?

21 MR. SHAWE: There are four
22 schools. Aim Academy is on Alabama Avenue in

1 Ward 8, at 421 Alabama. Leap Academy, which
2 is the pre-K programs, on Minnesota Avenue.
3 Key Academy is in Ward 6 near the Navy Yard.
4 And finally, Will Academy shares spaces with
5 DCPS over at 4th and "P" N.W.

6 ZC VICE CHAIR JEFFERIES: What's
7 that called?

8 MR. SHAW: Will.

9 ZC VICE CHAIR JEFFERIES: Will?

10 MR. SHAW: That's right.

11 CHAIRPERSON MILLER: Ms. Prince, I
12 have a question for you.

13 MS. PRINCE: Yes.

14 CHAIRPERSON MILLER: That is, you
15 know, this application for a variance, it
16 seems like it's pretty much based on -- well
17 certainly, the unusual situation with the
18 narrowness of the lot and the ground water and
19 all that, therefore, you know, this is
20 practical difficulty and it's certainly
21 providing the required number of parking
22 spaces on site. I guess my question goes to,

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1 you're planning on needing basically the code
2 requirement through leasing. Why shouldn't we
3 make the lease parking a condition? I think
4 you're asking that this be unconditioned. And
5 sometimes we don't make things conditioned, I
6 think when we're convinced that other things
7 are going to happen.

8 MS. PRINCE: Yes.

9 CHAIRPERSON MILLER: And
10 therefore, we really don't need to condition
11 it. So I guess I would appreciate if you
12 could address that question.

13 MS. PRINCE: Sure. Everything
14 about this school case is different from all
15 the other school cases that I work on. And
16 when I took this one on, I immediately thought
17 of all the issues that you're raising today.
18 But this is really quite different. This is
19 a school to serve the Marshall Heights
20 community and I had to be convinced, and was
21 convinced that there wasn't a better different
22 way to lay out this building to accommodate

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1 parking. I had to be convinced that this was
2 a highly efficient building that occupies only
3 -- it doesn't begin to meet the 100 percent
4 lot occupancy permit in the zone. And I did
5 become very, very convinced that this is an
6 unusual case.

7 And with respect to conditions,
8 there's another unusual factor here, and that
9 is the stars are aligned. We have municipal
10 bond financing available in April, but we need
11 a building permit to have that. And a
12 conditional building permit won't do it; at
13 least that's what our tax-exempt bond
14 financing counsel is telling us. So, while in
15 some ways we're asking you to make a leap of
16 faith; no pun intended, it really isn't such
17 a leap when you look at who's making the
18 representation. It's an entity that's making
19 an \$20 million commitment to this community to
20 serve these kids. And the reason why we've
21 gotten ahead of ourselves is because of the
22 success of KIPP at this location and the

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1 dramatic interest in the building that's under
2 construction, and the 50 kids that are already
3 teed up to start there the minute it's opened
4 without any aggressive marketing really
5 underway yet.

6 So, I asked all the questions
7 you're asking. Can't you get a commitment
8 from the city, a longer term commitment?
9 Well, of course not. That's Fletcher Johnson;
10 it's a huge site. They maybe have spaces
11 there for 40 years, for all we know. Can't
12 you get an ironclad commitment from the next
13 door neighbor? They're doing everything they
14 can. But to have their hands tied to make
15 them have that in perpetuity would stop the
16 whole project. So you have to weight the
17 equities here and can you make that leap of
18 faith with us, or do you really feel so
19 concerned about the parking situation that you
20 believe that KIPP would put the very community
21 it's trying to help at risk in terms of its
22 ability to meet its own parking demands.

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1 CHAIRPERSON MILLER: But you're
2 also saying were we to condition it, we would
3 kill it?

4 MS. PRINCE: You'd kill the bond
5 financing aspect of it, which is, yes, in
6 effect, killing it. And that's the nature of
7 that beast. But that's also what's allowing
8 the project. So it's all inextricably bound.
9 And in the short time that I have been working
10 with KIPP, and it has been a short time, they
11 got the 40 spaces at Fletcher Johnson, they
12 are in active discussions with the abutting
13 owner. Can I guarantee they'll own that
14 property? I absolutely cannot. But if they
15 do, the variance would become moot.

16 They are taking all steps
17 imaginable and I'm not a traffic expert; Marty
18 is, but it doesn't take a traffic expert to
19 know that Ward 3 is a highly-underdeveloped
20 ward. That's the problem. I mean, there are
21 vacant apartment buildings and there is a lot
22 of on-street parking.

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1 ZC VICE CHAIR JEFFERIES: Seven.

2 MS. PRINCE: Oh, Ward 7. Did I
3 say Ward 8? I'm sorry.

4 ZC VICE CHAIR JEFFERIES: You said
5 3.

6 CHAIRPERSON MILLER: You said Ward
7 3.

8 MS. PRINCE: Oh, my goodness.
9 Ward 3 on the brain. Ward 3 is not under
10 developed.

11 ZC VICE CHAIR JEFFERIES: You're
12 making a leap.

13 MS. PRINCE: Oh, my goodness. Oh,
14 my goodness. Too many private school cases in
15 Ward 3. So anyway, and in answer to Mr.
16 Jefferies' questions, 3939 Benning is the
17 location of the Marshall Heights CDC. So
18 that's about five blocks away.

19 ZC VICE CHAIR JEFFERIES: I have a
20 question though. So based on the existing
21 zoning at the site, let's say you didn't have
22 a school there, I mean, you know, is there any

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1 particular use that would not, you know,
2 present some sort of, you know, parking issue
3 for this neighborhood?

4 MS. PRINCE: Well, I thought about
5 that as well, because it's C-2-A and it's 100
6 percent lot occupancy for a commercial
7 building with a parking requirement, but a
8 parking requirement that could or couldn't,
9 depending on the use, meet the --

10 ZC VICE CHAIR JEFFERIES: But it's
11 a narrow site.

12 MS. PRINCE: It's a very narrow
13 site and, you know, I think that there could
14 be a matter-of-right big box kind of use, but
15 then how would you park it? There could be an
16 office building kind of use and could be
17 partial office/partial surface parking. But
18 I think that, you know, you might be
19 confronted with a variance application with
20 those uses as well.

21 ZC VICE CHAIR JEFFERIES: Okay.

22 MS. PRINCE: But if not this use,

1 then what kind of use? Well, you can --

2 ZC VICE CHAIR JEFFERIES: Well
3 yes, that's the point I'm trying to make.

4 MS. PRINCE: Yes.

5 ZC VICE CHAIR JEFFERIES: I mean,
6 you know, it just seems to me, given the
7 configuration of the site and, you know, I
8 mean, what it's being used for here versus
9 some other use, that could create some kind of
10 strain in the overall neighborhood. I just
11 feel like we'd be here at some degree for some
12 other use as well, so you know, if I have to,
13 you know, weigh them, so anyway.

14 MS. PRINCE: Yes.

15 ZC VICE CHAIR JEFFERIES: By the
16 way, one other question. In terms of you
17 said a \$20 million investment. How do you
18 raise your --

19 MR. SHAW: It's \$28 million,
20 which includes the land costs that were \$4.25
21 million.

22 ZC VICE CHAIR JEFFERIES: Yes.

1 MR. SHAW: The project, when it's
2 financed, and we are providing debt service,
3 the debt service, in large part will come from
4 the per pupil facility fee that we get, just
5 like any other D.C. public school. So for
6 each student at a public charter school,
7 currently, this year for example, you get
8 \$3,100 per student for facility purposes.

9 ZC VICE CHAIR JEFFERIES: From the
10 District?

11 MR. SHAW: From the District,
12 exactly.

13 ZC VICE CHAIR JEFFERIES: Okay.
14 Yes.

15 MR. SHAW: Because, you know, as
16 you may have heard before, the only difference
17 between a DCPS school and a public charter
18 school is that they're not given facilities.
19 And to compensate for that, it's that per
20 pupil facility fee.

21 ZC VICE CHAIR JEFFERIES: Yes.
22 Right.

1 MR. SHAW: But a more full answer
2 is that for the purchase of the lot initially,
3 we received a short-term loan from a non-
4 profit lender called Building Hope that
5 essentially closed on the property to give us
6 the time that we needed from August '06 to
7 March '06 to get our financing in place. And
8 then we closed on a loan, a construction loan
9 with that very generous loan through M&T still
10 active.

11 ZC VICE CHAIR JEFFERIES: Building
12 Hope?

13 MR. SHAW: Building Hope. It is
14 a not-for-profit lender.

15 ZC VICE CHAIR JEFFERIES: Is it a
16 micro-loan fund of some sort?

17 MR. SHAW: No.

18 ZC VICE CHAIR JEFFERIES: Well, I
19 guess it would be micro-loan here, huh?

20 MR. SHAW: It is. It is. It's
21 run by, I think, people who had a former
22 affiliation with Fannie Mae. Or, I'm sorry,

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1 with Sallie Mae.

2 ZC VICE CHAIR JEFFERIES: Okay.

3 MR. SHAWE: And they are focusing
4 on lending to charter schools for facility
5 purposes.

6 ZC VICE CHAIR JEFFERIES: Okay.

7 MR. SHAWE: Building Hope is.

8 ZC VICE CHAIR JEFFERIES: Okay.

9 Thank you.

10 CHAIRPERSON MILLER: I guess just
11 to make this record complete, you probably
12 have already commented on this to a certain
13 extent, but I was wondering if you'd just want
14 to address the witness' concern about visitor
15 parking and the residential streets, how it
16 interferes with residential parking.

17 MR. SHAWE: I don't think we
18 really -- I know that our executive director
19 takes tours, often on Fridays, to show the
20 impact that the school has. As far as
21 visitors, there's not a whole lot of traffic
22 going to any of these current sites. Again,

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1 a large percentage of these kids are not
2 picked up by their mother or their father, but
3 instead take the bus home. So in short, I
4 don't think there's a reason to think that,
5 you know, like any other school there's not a
6 heavy traffic of visitors during school hours.

7 CHAIRPERSON MILLER: Okay. Any
8 other questions? Any other closing remarks?

9 MS. PRINCE: Very brief, at the
10 risk of wearing out my welcome. I did want to
11 emphasize our timing considerations on this
12 case; you've been very patient and it's been
13 a long day.

14 We're a victim of our own success;
15 we are ready to go. The plans are done; we
16 are ready to file for permit. Our bond
17 financing is tied to the action from this
18 Board and I believe that this applicant has
19 shown great, great effort to address the
20 situation that we confront. And we would
21 appreciate your action as soon as you feel
22 comfortable taking it on this application.

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1 Thank you.

2 ZC VICE CHAIR JEFFERIES: Madam
3 Chair, I'm inclined to go forward with this.
4 I mean, I look at the site and it's on a
5 commercial corridor. Just that alone, you
6 know, gives some relief to the residential
7 district. And again, looking at the
8 narrowness of the site, and, you know,
9 obviously there has to be, you know, some use
10 on the site. I just think no matter what
11 we're talking about, you know, whoever the
12 applicant would be, they'd be coming in asking
13 for some level of relief and you'd have the
14 same people concerned about the parking issue.
15 And I mean, I certainly appreciate those
16 comments, but I know the area a little bit and
17 I just think, like os many other neighborhoods
18 in the District, you know, we're just going to
19 have to, you know, comprehensively figure out
20 this parking situation. But, we certainly
21 can't, you know, stop the movement of
22 development in all the various, you know, uses

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1 that we need in these neighborhoods. So, I'm
2 prepared to go forward tonight; I don't know
3 about others.

4 CHAIRPERSON MILLER: I'm prepared.
5 I think everyone is prepared. I think that
6 they have definitely made the case for the
7 variance that, you know, as you were saying,
8 it's a narrow lot and in combination with the
9 high ground water and unstable soil
10 conditions. And then they showed the
11 different options how they were limited from
12 building up because of the 50-foot height
13 limitation and they can't build down because
14 of the ground water, and they can't fit
15 basically anymore parking spaces on site than
16 they're proposing without destroying their
17 mission and taking away buildings, basically.

18 ZC VICE CHAIR JEFFERIES: I mean,
19 this lot is -- I thought I heard 120 feet?
20 That is very, very shallow. I mean, my lot,
21 my row house lot is 120 feet. I mean, and
22 then you're right, given the other aspects of

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1 the site and the grading and so forth, and I
2 think the section really sets this up pretty
3 nicely.

CHAIRPERSON MILLER: And
4 I think we should also, you know, recognize
5 that this is a non-profit who needs to serve
6 this particular vicinity, that the people in
7 this community really need this service. So,
8 it's not like they should just go somewhere
9 else where there's more space.

10 We've seen that in Court of
11 Appeals decisions, that they in fact should be
12 treated a little differently, even given a
13 little bit more leeway; not that they need it
14 in this case, but I think that that's an added
15 layer of the exceptional circumstances in this
16 case. Certainly, education is number one on
17 the city's agenda these days and here is a
18 group that's incredibly successful in reaching
19 those that need it the most. And they have
20 come up with a solution to the need for spaces
21 that they can't accommodate on site by leasing
22 and even though that's temporary, they have

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1 some real things in motion, even including,
2 what Ms. Prince was saying, even the next
3 door, if they got that, they wouldn't even
4 need a variance because it would become their
5 property, all one property.

6 So, I think we can rely on their
7 commitment to make all efforts to continue
8 leasing options. And there are really no
9 adverse impacts that were identified except
10 for concerns about parking, which everyone has
11 concerns about parking when something new
12 moves into their neighborhood, especially a
13 school. But what we heard in the testimony
14 was that I think there's very little conflict
15 because when these residents are away at work
16 or whatever, that's when any visitors might
17 come and they don't seem to have a lot of
18 visitors at the school.

19 So, anything else?

20 ZC VICE CHAIR JEFFERIES: Did we
21 at all address any of the issues; because I
22 stepped away and I'm sorry, with the Arena

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1 Condominiums and what their requests were as
2 it relates to granting this request? Was
3 there any discussion around like the shuttle
4 system to and from the Benning -- I mean, I
5 didn't know whether we --

6 CHAIRPERSON MILLER: No, we didn't
7 exactly like look at their specific requests,
8 which I see are on page 2.

9 ZC VICE CHAIR JEFFERIES: Yes.c

10 CHAIRPERSON MILLER: But we have
11 addressed some of them.

12 ZC VICE CHAIR JEFFERIES: Right.

13 CHAIRPERSON MILLER: For instance,
14 number one, the leasing.

15 ZC VICE CHAIR JEFFERIES: Right.

16 CHAIRPERSON MILLER: Yes, we could
17 state that the applicant has said that they're
18 going to have a Smart Card; that's what I hear.

19 ZC VICE CHAIR JEFFERIES: Right.

20 CHAIRPERSON MILLER: But that is
21 another solution in the event, you know, there
22 is any issue with parking. They said that

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1 they may have a shuttle bus too. They may,
2 but that, you know, they're going to see how
3 it goes.

4 ZC VICE CHAIR JEFFERIES: I don't
5 think I need to mandate that.

6 CHAIRPERSON MILLER: Right, and
7 then Mr. Wells said that there was a regular
8 bus route. I think we also though should
9 mention again that Ms. Prince told us that if
10 this is conditioned, it basically kills the
11 project; they wouldn't get their financing.
12 So, I don't think we want to kill a project by
13 adding any condition when we don't really see
14 a real need for it.

15 ZC VICE CHAIR JEFFERIES: Well,
16 you know, I just wanted to make certain that,
17 you know, they've submitted this and so that
18 we sort of address it on the record in terms
19 of what those potential conditions.

20 CHAIRPERSON MILLER: I mean, we
21 didn't touch upon this number four,
22 collaboration on a community benefit agreement

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1 with surrounding residents to alleviate
2 problems caused by KIPP's development. But,
3 what I did hear represented to us what that
4 the school is working with the community and
5 serving the community and therefore I wouldn't
6 even, you know -- again, it's a condition I
7 don't think we should be --

8 ZC VICE CHAIR JEFFERIES: I would
9 imagine that, yes, some of the parents are
10 community members.

11 CHAIRPERSON MILLER: We haven't
12 heard that it's really necessary. And again,
13 this is a unique situation where conditions
14 are a problem that, if I understand, it would
15 kill the project financially.

16 ZC VICE CHAIR JEFFERIES: And
17 also, with Arena Condominium, I mean, they're
18 saying here that they're thrilled to have KIPP
19 DC as a neighbor. I mean, they're very
20 excited, have some concerns and so forth, but
21 I do think that the applicant has met its
22 burden in terms of addressing these concerns

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1 and making a case for the variance.

2 CHAIRPERSON MILLER: Other
3 comments? All right. Then I would move
4 approval of Application No. 17752 of KIPP DC,
5 pursuant to 11 DCMR section 3103.2, for a
6 variance from the off-street parking
7 requirements under sub-section 2101.1, and a
8 variance on the parking space location
9 requirements under sub-section 2117.4, for a
10 new public charter school at premises 4801
11 Benning Road, S.E. Do I have a second?

12 ZC VICE CHAIR JEFFERIES: Second.

13 CHAIRPERSON MILLER: Further
14 deliberation? Okay. Then all those in favor,
15 say aye.

16 ALL: Aye.

17 CHAIRPERSON MILLER: All those
18 opposed? All those abstaining?

19 And would you call the vote,
20 please?

21 MS. BAILEY: The vote is recorded
22 as 5-0-0 to grant the application. Mrs.

1 Miller made the motion; Mr. Jefferies
2 seconded. Mr. Dettman, Mrs. Walker and Mr.
3 Loud support the motion.

4 CHAIRPERSON MILLER: And as we
5 have no party in opposition, then this will be
6 a summary order.

7 CHAIRPERSON MILLER: Okay. Thank
8 you very much.

9 MS. PRINCE: Thank you so much.

10 MR. SHAW: Thank you very much.

11 CHAIRPERSON MILLER: Ms. Bailey,
12 do we have anything else on the agenda for
13 this afternoon?

14 MS. BAILEY: That's it, Madam
15 Chair.

16 CHAIRPERSON MILLER: Okay. Then
17 this hearing is adjourned.

18 (Whereupon, the Public Hearing was
19 concluded at 6:23 p.m.)
20
21
22

