

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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FROM PUBLIC HEARING

+ + + + +

TUESDAY

DECEMBER 2, 2008

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

GREGORY JEFFRIES, Vice Chairman

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
BEVERLEY BAILEY, Sr. Zoning Specialist
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEVEN COCHRAN
ARTHUR JACKSON
PAUL GOLDSTEIN

DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

CHRISTOPHER ZIEMANN

The transcript constitutes the minutes from the Public Hearing held on December 2, 2008.

T-A-B-L-E O-F C-O-N-T-E-N-T-S

PRELIMINARY MATTERS	10
APPLICATION 17849 ST. JOHN'S COLLEGE HIGH SCHOOL	13
Norman Glasgow, Holland & Knight	13
Brother Thomas Gerrow, President St. John's College High School	20
Randal Gaskins, Gaudreau Architects	
Steven Sher, Director of Zoning and Land Use Services of Holland & Knight	
Paul Goldstein, Office of Planning	19
Vote: Five-zero-zero in support	25
APPLICATION 17850 JBG 14TH 7 S LLC	27
David Avitabile	
Allison Prince	70
Pillsbury Winthrop Shaw Pittman	
Party status	30
Preliminary matters	28
Closing remarks	355
<u>Witnesses:</u>	
Andrew McIntyre, JBG Companies	78
Brooks Blake, JBG Companies	143
Shalom Baranes, architect, Shalom Baranes Associates	93
Marty Wells, Wells + Associates	139
Steven Cochran, Office of Planning	199
Christopher Ziemann, DDOT	199
Commissioner Ramon Estrada, ANC 2B09245	
<u>Opposition Parties:</u>	
Tom Coumaris	273
Joseph Freeman	269
Jim Bogden	329
<u>Witnesses in Support:</u>	
Phil Spalding, Cardoza/Shaw Neighborhood Association	248
David Alpert, website Greater Greater Washington	253
Cheryl Cort	374
<u>Witnesses in Opposition:</u>	
Andrea Doughty, MidCity Association	349

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APPLICATION 17848 OF ANNE M. HOLBROOK . 261
Ann M. Holbrook
Jennifer Fowler

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

1:31 p.m.

CHAIRPERSON MILLER: This hearing will, please, come to order. Good morning, ladies and gentlemen. This is the December 2, 2008 afternoon Public Hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Ruthanne Miller. I'm the Chair of the BZA.

Joining me today is our Vice Chair to my right Mr. Marc Loud. And to my left Mary Oates Walker and Shane Dettman, Board members. Next to Mr. Dettman Mr. Cliff Moy from the Office of Zoning, Mary Nagelhout from the Office of Attorney General and Ms. Beverley Bailey from the Office of Zoning.

We also expect to be joined by Zoning Commissioner Mr. Greg Jeffries.

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

1 proceeding is being recorded by a Court
2 Reporter and is also webcast live.
3 Accordingly, we must ask you to refrain from
4 any disruptive noises or actions in the
5 hearing room.

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

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

21 The order of procedure for special
22 exceptions and variances is as follows:

1 First, statement and witnesses of
2 the applicant.

3 Second, Government reports,
4 including Office of Planning, Department of
5 Public Works, DDOT, et cetera.

6 Third, report of the Advisory
7 Neighborhood Commission.

8 Fourth, parties or persons in
9 support.

10 Fifth, parties or persons in
11 opposition.

12 Sixth, closing remarks by the
13 applicant.

14 Pursuant to Sections 3117.4 and
15 3117.5 of the Zoning Regulations the following
16 time constraints will be maintained:

17 The applicant, persons and
18 parties, except an ANC, in support including
19 witnesses, 60 minutes collectively.

20 Persons and parties, except an ANC
21 in opposition, including witnesses, 60 minutes
22 collectively.

1 Individuals 3 minutes.

2 These time restraints do not
3 include cross examination and/or questions
4 from the Board.

5 Cross examination of witnesses is
6 permitted by the applicant or parties. The
7 ANC within which the property is located is
8 automatically a party in a special exception
9 or variance case.

10 Nothing prohibits the Board from
11 placing reasonable restrictions on cross
12 examination, including time limits and
13 limitations on the scope of cross examination.

14 The record will be closed at the
15 conclusion of each case, except for any
16 material specifically requested by the Board.
17 The Board and the staff will specify at the
18 end of the hearing exactly what is expected
19 and the date when the persons must submit the
20 evidence to the Office of Zoning. After the
21 record is closed, no other information will be
22 accepted by the Board.

1 The Sunshine Act requires that the
2 Public Hearing on each case be held in the
3 open before the public. The Board may,
4 consistent with its Rules of Procedure and the
5 Sunshine Act, enter Executive Session during
6 or after the Public Hearing on a case for
7 purposes of reviewing the record or
8 deliberating on the case.

9 The decision of the Board in these
10 contested cases must be based exclusively on
11 the public record. To avoid any appearance to
12 the contrary, the Board requests that persons
13 present not engage the Members of the Board in
14 conversation.

15 Please, turn off all beepers and
16 cell phones at this time so as not to disrupt
17 these proceedings.

18 The Board will make every effort
19 to conclude the public hearing as near as
20 possible to 6:00 p.m. If the afternoon cases
21 are not completed at 6:00, the Board was
22 assess whether it can complete the pending

1 case or cases remaining on the agenda.

2 At this time the Board will
3 consider any preliminary matters. Preliminary
4 matters are those which relate to whether a
5 case will or should be heard today, such as
6 requests for postponement, continuance or
7 withdrawal or whether proper and adequate
8 notice of the hearing has been given. If you
9 are not prepared to go forward with a case
10 today or if you believe that the Board should
11 not proceed, now is the time to raise such a
12 matter.

13 Does the staff have any
14 preliminary matters?

15 MS. BAILEY: Madam Chair, members
16 of the Board and to everyone, good morning.

17 Yes, we do. There's a possibility
18 with the Board's approval for the
19 rearrangement of the schedule there has been
20 a request. And that's on the floor for the
21 Board's consideration at this time.

22 CHAIRPERSON MILLER: Okay. It's

1 my understanding that we are going to
2 rearrange the schedule to hear 17849, St.
3 John's College High School first. And then
4 17850, JBG second and 17848 Ann Holbrook
5 third. I understand that that case that was
6 scheduled for first on the agenda, that the
7 applicant has a time constraint and is running
8 late. Is that correct? That's the reason for
9 our rearranging.

10 MS. BAILEY: Close enough, Madam
11 Chair.

12 CHAIRPERSON MILLER: Okay. Okay.
13 All right. Is there any objection to
14 rearranging schedule?

15 I think that when we advertise for
16 our hearings, my understanding is that it
17 means that all the cases are to be here at
18 1:00 prepared to go in the event that we do
19 change around the schedule. And I understand
20 that the applicant is here 17849.

21 Okay. All right. Let's do that
22 then.

1 And anything else?

2 MS. BAILEY: Not for me, Madam
3 Chair.

4 CHAIRPERSON MILLER: Okay. And I
5 believe that there is a preliminary matter in
6 another one of our cases, 17850 that I saw.
7 But we can deal with that within the case.

8 MS. BAILEY: Okay.

9 CHAIRPERSON MILLER: Okay. So all
10 those who are planning to testify today either
11 in support or opposition would you now stand
12 to take the oath, and Ms. Bailey will
13 administer it.

14 (Witnesses sworn.)

15 MS. BAILEY: The first application
16 of the afternoon is 17849, and it's the
17 application of St. John's College High School,
18 pursuant to 11 DCMR § 3104.1, for a special
19 exception to allow additions to the cafeteria
20 and entrance vestibule and the construction of
21 a new field house and bleachers with no
22 increase in students, faculty or staff to an

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1 existing private school under section 206.
2 The property is zoned R-1-A. It's located at
3 2607 Military Road, Northwest, Square 2308,
4 Lots 804 through 807.

5 MR. GLASGOW: Madam Chair, are you
6 ready for me to proceed?

7 CHAIRPERSON MILLER: Yes. Would
8 you start with introductions?

9 MR. GLASGOW: All right. Thank
10 you.

11 Good afternoon, members of the
12 Board. For the record my name is Norman M.
13 Glasgow of the law firm of Holland & Knight
14 here on behalf of St. John's College High
15 School, applicant for special exception
16 relief.

17 Seated to my immediate right is
18 Brother Thomas Gerrow, the President of St.
19 John's College High School. Mr. Randy Gaskins
20 of Gaudreau Architects and Mr. Steven Sher,
21 Director of Zoning and Land Use Services of
22 Holland & Knight. And Mr. Sher is offered as

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1 an expert witness in land planning.

2 Before proceeding with the
3 testimony of the witnesses, I'd like to give
4 a brief opening statement.

5 The special exception relief
6 requested is to permit the construction of a
7 new field house to be located in the athletic
8 field area, which is approximately 4,000
9 square feet in size.

10 Steven, could you point that out
11 on the site plan that we have. All right.
12 They're getting their laser instrument there.
13 All right. Perfect.

14 Also in the athletic field area
15 there would be some baseball bleachers and
16 dugouts constructed. We do not believe that we
17 specifically need the approval of the Board
18 for those since they don't generate FAR, but
19 we have those shown also.

20 In addition to the cafeteria,
21 which would be approximately 5,000 square feet
22 in size and about 17 feet in height, exclusive

1 of mechanical equipment, and a redesigned
2 entryway off of 27th Street, which is about
3 500 square feet in area and about 42 feet in
4 height.

5 The applicant does not propose any
6 addition in the number of students, faculty,
7 staff as a result of these plan or additions
8 to St. John's facilities.

9 St. John's had continued in its
10 tradition as being an exemplary neighbor in
11 the community and we are not aware of any
12 opposition to this application.

13 We've reviewed the Office of
14 Planning report and have submitted a statement
15 of applicant to the record. We are pleased
16 that the Office of Planning is in support of
17 the application and that the ANC is in
18 support.

19 We believe that the statement of
20 applicant is self-explanatory as to how we
21 have met the burden of proof for the addition
22 requested, which are minor in nature

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1 compromised of approximately 10,000 square
2 feet of gross floor area. And other than the
3 addition, that the entryway off of 27th Street
4 are far removed from all of the lot lines and
5 in the interior of the site.

6 Unless there are any preliminary
7 questions, we are prepared to proceed with the
8 testimony of the witnesses.

9 CHAIRPERSON MILLER: Mr. Glasgow,
10 let me just say this. I think the record is
11 pretty strong on the papers that there's no
12 adverse impact on surrounding properties. It
13 seems like unlike many of the private schools
14 that come before us there's a big buffer here
15 between the school and the nearest neighbors,
16 residents? Am I correct?

17 MR. GLASGOW: That is correct.

18 CHAIRPERSON MILLER: At least is
19 100 feet the closest, or something like that?

20 MR. GLASGOW: Yes. It would be
21 across 27th Street or where any of the nearest
22 neighbors are on the other sides there's

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1 essentially park land.

2 CHAIRPERSON MILLER: And, as you
3 said, there's no opposition in this case.
4 Usually when there are adverse impacts upon
5 neighboring properties with respect to a
6 school that's been in existence for a long
7 time, the neighbors come forward. And there's
8 no indication from Office of Planning that
9 there are any adverse impacts. There's no
10 increase in students, no increase in faculty,
11 no increase in traffic therefore. So I can't
12 see any evidence of any adverse impacts that
13 would be arising from a cafeteria and a field
14 house --

15 MR. GLASGOW: Right.

16 CHAIRPERSON MILLER: -- that's
17 well within the lot. So I don't know how
18 others feel, but I just want to say I know
19 you've brought your witnesses. And if they
20 want to make a few points --

21 MR. GLASGOW: We're prepared to
22 rest on the record.

1 CHAIRPERSON MILLER: Okay. Let me
2 see if Board members have any questions or any
3 other comments. Any land use expertise we
4 need to hear? Okay.

5 But if your witnesses do wish to
6 say anything, that's fine. I'm just saying I
7 read this case and I thought of all these
8 private schools that I've ever had come before
9 this Board, this is one where I can't see any
10 objectional impact whatsoever. So that is
11 basically the standard in 206. And we don't
12 have any parking problems. And there's no
13 increase in employees or students.

14 Okay. Do you want to --

15 MR. GLASGOW: We're just prepared
16 to answer any questions if you have any
17 questions.

18 CHAIRPERSON MILLER: Okay.

19 MR. GLASGOW: We think this is
20 very straight forward.

21 CHAIRPERSON MILLER: Okay. No. I
22 would just also commend the school for

1 operating in such a manner all these years
2 that there are no complaints. So that's
3 great.

4 All right. Why don't we turn to
5 the Office of Planning and see if Mr.
6 Goldstein wants to weigh in.

7 MR. GOLDSTEIN: Sure. Good
8 afternoon, Madam Chair, members of the Board.

9 For the record my name is Paul
10 Goldstein and I'm a Development Review
11 Specialist with the Office of Planning.

12 The Office of Planning supports
13 the applicant's request for relief and willing
14 to rest on the record as well.

15 Thank you.

16 CHAIRPERSON MILLER: Thank you.
17 And Office of Planning's report is quite
18 thorough as well with good visuals for the
19 Board.

20 Do Board members have any
21 questions?

22 Does the applicant have any

1 questions for the Office of Planning?

2 MR. GLASGOW: No questions.

3 CHAIRPERSON MILLER: Is anybody
4 here from the Advisory Neighborhood Commission
5 in this case? Okay.

6 Not seeing anyone come forward,
7 I'd like to note that our Exhibit 23 is a
8 letter from ANC 3/4G that says that they voted
9 five to one in a quorum of being four to
10 support the request of St. John's College High
11 School for the special exception in this case.

12 Mr. Glasgow, did the applicant
13 attend a meeting?

14 MR. GLASGOW: Brother Tom was at
15 the ANC meeting.

16 CHAIRPERSON MILLER: Okay. And
17 did you make a presentation at the meeting?

18 BROTHER GERROW: Yes. The one
19 vote against, okay, actually her vote -- she
20 said -- she's actually in Africa right now on
21 a trip, but she actually -- the reason she did
22 not vote yes was because she felt she need

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1 some further notification. And actually a
2 week later held a meeting again at school with
3 her and six or seven other people. And she
4 said she was going to write, you know,
5 withdrawing her no vote. But, you know, I
6 guess she has not.

7 Again, all the issues involved
8 there are really updating of the building.
9 We've been operating in the District of
10 Columbia for 157 years, but this 50 years for
11 this building and all this is is modernization
12 of the building. And they were actually
13 pleased with some of the way it was going to
14 happen.

15 CHAIRPERSON MILLER: I'm just
16 curious. Do you have any communication in
17 general with the ANC, or did you just --

18 BROTHER GERROW: Well, I tend to
19 go fairly often to the ANC meetings. And
20 actually a lot of the individuals I just
21 happen to know. Several of them have children
22 in school. I mean, we have a 1,060 students

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1 and our largest group is actually in the
2 neighborhood. So most of the people are aware
3 of what goes on school and I actually see a
4 lot of them on a regular basis.

5 CHAIRPERSON MILLER: Actually, I
6 do have one question. I thought that I read in
7 the record that one of the improvements is to
8 improve the drop-off queue or something.

9 BROTHER GERROW: Correct. Correct.

10 CHAIRPERSON MILLER: So you have
11 that situation. Because it sounds like a
12 1,000 students, sounds like that could be a
13 problem. But it hasn't been a problem that
14 the community's complained about?

15 BROTHER GERROW: No. In fact, I've
16 been the President there -- this is my 15
17 year. And it was about 10 years ago where I
18 started bussing. We did not provide any kind
19 of bussing and either students were dropped or
20 drove. And that was always an issue. And one
21 of the things I did start was bussing. And we
22 now have five buses and including a free

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1 shuttle so they don't even use the local bus.
2 They free shuttle to the Metro, which makes
3 several trips. We have better than one out of
4 five of our students are now bussed on a daily
5 basis.

6 Now what we did is we've had them
7 dropped off on the street, on 27th Street. And
8 that new design simply gives a turn in for the
9 buses and a covered area for the students to
10 get on and off the bus. And, again, actually
11 the neighbors liked that because again it took
12 buses off of the street.

13 CHAIRPERSON MILLER: Okay. That
14 sounds good.

15 Any other questions?

16 Mr. Jeffries has joined us from
17 the Zoning Commission.

18 And, Mr. Jeffries, we have
19 rearranged the cases and so we are now dealing
20 with 17849, St. John's College High School.
21 And so far not seeing any problems with this
22 application.

1 Okay. And no one's here from the
2 ANC.

3 Is there anybody here who wishes
4 to testify in support of this application?
5 Not hearing from anyone, anybody who wishes to
6 testify in opposition. Okay. Not hearing
7 from anyone.

8 Mr. Glasgow, any closing remarks?

9 MR. GLASGOW: We would greatly
10 appreciate a bench decision and summary order
11 so that we can move forward, particularly with
12 the renovations of the cafeteria.

13 CHAIRPERSON MILLER: Okay. At
14 this point then I would move approval of
15 Application of 17849 of St. John's College
16 High School, pursuant to 11 DCMR § 3104.1, for
17 a special exception to allow additions to the
18 cafeteria and entrance vestibule and the
19 construction of a new field house and
20 bleachers with no increase in students,
21 faculty or staff to an existing private school
22 under section 206 at premises at 2607 Military

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1 Road, Northwest.

2 VICE CHAIRPERSON LOUD: Second.

3 CHAIRPERSON MILLER: Okay. I
4 think that this is very straight forward.
5 This is a school that has been in existence
6 since 1959 in its location. And since then we
7 have no evidence of any objectionable
8 conditions that have arisen out of the
9 operation of the school.

10 The ANC has supported the
11 application. Office of Planning has supported
12 the application. There's no evidence that the
13 school with these additions is likely to
14 become objectionable to adjoining and nearby
15 property because the nearest residence is
16 quite distanced away, at least by a 100 feet.

17 There's not going to be an
18 increase in noise as a result of the
19 additions. And even if there were, the
20 residents are so far away.

21 There's no increase in the number
22 of students or employees.

1 No parking issue as employees and
2 students are not increasing.

3 No evidence that visitors would be
4 increased by these additions. They are, as
5 the applicant has said, modernization and
6 improvements.

7 So I think that basically covers
8 it for me.

9 If there's no objections, does
10 anyone else have any other comments? Okay.

11 All those in favor say aye.

12 ALL: Aye.

13 CHAIRPERSON MILLER: All those
14 opposed?

15 All those abstaining?

16 And would you call the vote,
17 please?

18 MS. BAILEY: Madam Chair, the
19 Board has voted five-zero-zero to grant the
20 application. Ms. Miller made the motion, Mr.
21 Loud seconded, Mr. Dettman, Ms. Walker and Mr.
22 Jeffries support the motion.

1 CHAIRPERSON MILLER: And this can
2 be a summary order as there's no party in
3 opposition.

4 MS. BAILEY: Thank you.

5 CHAIRPERSON MILLER: Okay. Thank
6 you.

7 BROTHER GERROW: Thank you very
8 much. Thank you.

9 CHAIRPERSON MILLER: We're ready
10 for the next case when you are, Ms. Bailey.
11 And I believe we stated that that would be
12 17850.

13 MS. BAILEY: Madam Chair
14 that's the Application of JBG/14th and S LLC,
15 pursuant to 11 DCMR § 3104.1 and 3103.2 for a
16 variance from the lot occupancy requirements
17 under section 772, and special exceptions for
18 a roof structure with unequal heights under
19 subsection 411.11, from the restriction on
20 eating and drinking establishments under
21 subsection 1901.6, from the ARTS Overlay
22 height guidelines under subsection 1902.1,

1 from the parking requirements for an addition
2 to a historic structure under subsection
3 2120.6, for the renovation of and addition to
4 an existing historic structure that will
5 create a mixed-use residential and retail
6 development in the ARTS.C-3-A District, at
7 premises 1407 S. Street, Northwest and 1802,
8 1804, 1810, 1816 and 1818 14th Street,
9 Northwest. The property is also known as
10 Square 206, Lots 1, 210, 230, 819, 820 and
11 821.

12 There are several preliminary
13 matters attendant to this application, members
14 of the Board, the first of which is there are
15 four requests for party status, all of whom
16 are in opposition to the application.

17 And then secondly, the applicant
18 has requested that the Board waive the
19 requirement that the Department of
20 Transportation report be provided to DOT 20
21 days to the hearing. The applicant provided
22 the DDOT report 14 days prior to today's

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1 hearing.

2 CHAIRPERSON MILLER: All right.
3 Why don't we start with introductions and then
4 we'll deal with those preliminary matters.

5 MR. AVITABILE: Good afternoon.

6 Dave Avitabile with the law firm
7 of Pillsbury Winthrop Shaw Pittman here with
8 JBG Companies.

9 MR. McINTYRE: Good afternoon.
10 Andrew McIntyre with the JBG Companies.

11 MR. BARANES: And I'm Shalom
12 Baranes, architect with Shalom Baranes
13 Associates.

14 CHAIRPERSON MILLER: Okay. One of
15 our first preliminary matters is the question
16 of party status. Because then once we
17 determine whether someone is a party then they
18 can participate in the other preliminary
19 matters.

20 So I have in my record four
21 applications for party status. And if I call
22 your name, and you're here, would you come up?

1 The first is James Bogden and
2 Charles Taylor. Okay. Why don't you come to
3 the table? Okay. So Mr. Bogden is here.

4 We have an application by Joseph
5 Freeman. Is he here? You can come up.

6 Next an application for party
7 status by Peter Knapp. Is he here? Okay.
8 Why don't you come to the table, please?

9 And last but not least, Mr.
10 Coumaris? Is he here? He just stepped out.
11 Okay. He'll be back. Oh, Mr. Coumaris? And
12 that's Tom Coumaris, is that correct? Okay.

13 We are dealing with the first
14 preliminary issue, that being party status.

15 Let me just say a couple of words
16 about party status. It's not always that
17 clear.

18 Party status is for those who can
19 show that they are more impacted by the relief
20 that would be granted than a member of the
21 general public. And if a person or an entity
22 is granted party status, then they can

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1 participate more fully in the hearing and in
2 the proceeding in general. They can cross
3 examine witnesses and put on their own
4 witnesses and address motions and things like
5 that that a Party addresses. Otherwise, any
6 person or entity can participate as a person
7 and give testimony in a case without being
8 granted party status. That's automatic. You
9 can automatically do that.

10 So I just want to first ask if
11 anybody has any questions about party status.
12 Sometimes people apply for party status when
13 all they really want to do is testify. And if
14 that's all someone wants to do, then they
15 don't have to go through this exercise. You
16 can testify, you know, as a right in these
17 proceedings.

18 So, do any of the four party
19 status applicants have any questions about the
20 question of party status in general and
21 whether they really want party status? Okay.
22 So by the silence, I'm concluding that you all

1 want party status and you understood what it
2 meant.

3 Okay. So I think we should take a
4 look at the applications and see if we have
5 any questions. And then we'll ask the
6 applicant if they have any objections to any
7 of the applications.

8 ZC VICE CHAIRMAN JEFFRIES: Madam
9 Chair, I have a question. I'm wondering if the
10 applicant has a site plan within their
11 PowerPoint that they can show so that we can
12 be clear about where the various people
13 seeking party status live in relation to the
14 actual development. Mr. Baranes, do you have
15 anything you can show? Okay.

16 CHAIRPERSON MILLER: That's great.
17 That's a good point.

18 And also one of the questions that
19 arises when we have several individuals
20 seeking party status as whether or not their
21 own impact are the same between them, you
22 know, separate from the general public in

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1 which case, they could join as one party. So
2 you all might be thinking about that.

3 ZC VICE CHAIRMAN JEFFRIES: Does
4 anyone have a pointer down there? No, no one.
5 Okay.

6 CHAIRPERSON MILLER: Let me start
7 then with the applicant and see if the
8 applicant has any objections to any of the
9 applications for party status.

10 MR. AVITABILE: The only
11 consideration we'd like to raise, I don't
12 think we're going to object, but note that
13 many of the alleged issues relate to
14 construction impacts which aren't directly at
15 issue in the BZA case. They're certainly
16 understandable, but they're not actually part
17 of the standards or part of the burden of
18 proof.

19 CHAIRPERSON MILLER: Okay. Well, I
20 guess I have a question or a comment. I mean,
21 when I look at some of the applications they
22 look similar between, say, Mr. Bogden and Mr.

1 Freeman. Let's, is that the one -- oh,
2 exacerbating neighborhood parking problem,
3 nuisance of noise, things like that. Do you
4 think you share the same concerns?

5 MR. BOGDEN: Part of the problem
6 is this has been thrust at the neighborhood at
7 the last minute and neighbors have not had a
8 chance to coordinate our responses.

9 CHAIRPERSON MILLER: Okay. All
10 right. I don't know. Okay. I mean, I guess
11 what will happen is if you hadn't a chance
12 really to compare and see, then if we find
13 that you're all individually impacted more
14 than the general public, we're just going to
15 have to say that basically if you do your
16 presentation or questions in this case, you
17 can't be redundant of the person that went
18 before you. Okay.

19 Do Board members have questions
20 based on the applications?

21 VICE CHAIRPERSON LOUD: Madam
22 Chair, I don't have any questions. I just

1 wanted to respond briefly to what counsel for
2 applicants raised about the construction
3 issues. When I look at the applications,
4 Exhibits 21 through 24, I see a lot of
5 reference to loss of sunlight, parking issues,
6 the kinds of things we would take into
7 consideration. But I would like -- and you
8 just give me some direction on this --
9 encourage the party status applicants if
10 they're granted party status to avoid any of
11 the kinds of questions that might relate to
12 construction issues. If we can guide them
13 away from some of the pure construction
14 concerns that they have. Because those are
15 also referenced in the party status
16 applications. And so sort of help them stay
17 focused on the land use and zoning questions.

18 CHAIRPERSON MILLER: Okay. Yes.
19 I think the point being made is that
20 construction issues are basically the
21 jurisdiction of DCRA and that this Board's
22 focus is primarily on the zoning issues and

1 the Zoning Regulations. So if that's unclear
2 later on, we'll let you know, but that's
3 basically the premise.

4 VICE CHAIRPERSON LOUD: Well,
5 Madam Chair, I mean I think perhaps unless you
6 see another way to proceed here, you know we
7 should just probably go to number six in the
8 applications for each of them to determine.

9 CHAIRPERSON MILLER: That's fine.
10 You're talking about for them to explain how
11 they're impacted?

12 VICE CHAIRPERSON LOUD: Yes.
13 Because I'm really more interested in how many
14 of them feel they're uniquely effected more
15 than the general public or others in the area.

16 CHAIRPERSON MILLER: And that
17 would be on other than the construction
18 issues.

19 VICE CHAIRPERSON LOUD: Yes.

20 CHAIRPERSON MILLER: If there's a
21 concern that construction is going to effect
22 their house, that's an individual concern but

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1 it's not a zoning issue really.

2 VICE CHAIRPERSON LOUD: Yes.

3 CHAIRPERSON MILLER: It's a DCRA
4 issue, right?

5 VICE CHAIRPERSON LOUD: Right.

6 CHAIRPERSON MILLER: So it's the
7 other issues; traffic, light, noise that kind
8 of thing.

9 VICE CHAIRPERSON LOUD: Right.

10 CHAIRPERSON MILLER: And not noise
11 from construction because that's a temporary
12 thing. We're looking at the impact basically
13 after the property is built, if it's built.
14 Okay.

15 All right. Let's see, why don't we
16 start with Mr. Bogden.

17 MR. BOGDEN: Yes. My name is Jim
18 Bogden. I live at 1419 S Street, which is
19 about 80 feet away from the property line.

20 CHAIRPERSON MILLER: Can you see
21 it up on the diagram?

22 MR. BOGDEN: I do. Would you like

1 me to point it out?

2 CHAIRPERSON MILLER: That would be
3 great. Yes.

4 ZC VICE CHAIRMAN JEFFRIES: If Mr.
5 Baranes could help us out there.

6 MR. BOGDEN: Okay. It's in that
7 row.

8 CHAIRPERSON MILLER: You need to
9 be on microphone, actually. Do we have one
10 for him?

11 ZC VICE CHAIRMAN JEFFRIES: You
12 have one.

13 MR. BOGDEN: On the map it appears
14 to be the third one in, although it is
15 actually the fourth because the map is not
16 exactly accurate.

17 CHAIRPERSON MILLER: So you're
18 four rowhouses away from the project?

19 MR. BOGDEN: Yes. Yes.

20 CHAIRPERSON MILLER: Okay.

21 MR. BOGDEN: Which is about 80
22 feet.

1 I've been living there since 1991
2 and have put quite a lot of equity into my
3 house. And have been active in the
4 neighborhood at trying to maintain quality of
5 life.

6 I sent a four page letter to the
7 Board. I hope that has been distributed to
8 you.

9 CHAIRPERSON MILLER: We got it.

10 MR. BOGDEN: I acknowledge in the
11 letter that not all of the things in the
12 letter are zoning issues. So I will
13 concentrate on the ones that are, as has been
14 requested.

15 CHAIRPERSON MILLER: And you can
16 just highlight because you did submit an
17 extensive explanation.

18 MR. BOGDEN: Okay.

19 CHAIRPERSON MILLER: So if you
20 just want to highlight here, that would be
21 great.

22 MR. BOGDEN: Well, I'd like to

1 focus on three of the most salient points.

2 First, I should mention that since
3 that letter was sent in the developer has met
4 with Mr. Taylor and myself just yesterday. And
5 we had a thorough airing of our issues. I
6 wouldn't say we had a meeting of the minds.

7 On balance, I still consider it
8 premature to bring this application to the
9 Board because concerns of the residents have
10 not been taken into account in the design.

11 ZC VICE CHAIRMAN JEFFRIES: Well,
12 excuse me, Mr. Bogden. I guess we were really
13 more interested in your party status
14 application.

15 MR. BOGDEN: Oh.

16 ZC VICE CHAIRMAN JEFFRIES: And in
17 particular if you can look at question six.

18 MR. BOGDEN: Okay.

19 ZC VICE CHAIRMAN JEFFRIES: Read
20 that and then sort of respond to that. Because
21 at that point, I mean I think that's --

22 CHAIRPERSON MILLER: That's

1 correct. It's not the time to make your
2 argument. Just why you are more impacted than
3 someone in the general public.

4 MR. BOGDEN: Okay. Well, we're
5 impacted because we are so close. There will
6 be a lot more traffic through the public alley
7 that will -- there's not enough room to
8 maneuver trucks, especially if there's
9 retailists. I mean, yes, for retail and
10 restaurant establishments. So that will
11 create ongoing issue of noise, pollution from
12 the trucks. The trucks will be obstructing
13 the alley from -- you know, it's a busy alley
14 and we --

15 ZC VICE CHAIRMAN JEFFRIES: Well,
16 do you feel you're more impacted than your
17 adjacent neighbors and others on your block?

18 MR. BOGDEN: Well, we'll hear the
19 noise. We will smell the pollution. We will
20 smell the garbage coming out of the loading
21 dock. And then, of course, the parking
22 issues. Parking in the area is already quite

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1 saturated.

2 Thank you, Mr. Chairman.

3 CHAIRPERSON MILLER: Any other
4 questions?

5 I mean what I hear, I'm saying
6 that he's more impacted than his adjacent
7 neighbors but he's close enough to the project
8 that he'll be more impacted than the general
9 public. Okay.

10 Mr. Freeman?

11 MR. FREEMAN: Thank you, Madam
12 Chairman.

13 I'm Joe Freeman. I'm President of
14 the Condo Association at 1402 Swann Street. We
15 have eight condominium units and four of the
16 units which are currently rented, and I
17 represent the other four new residential
18 owners.

19 On the map, this map is probably a
20 couple of years at least out of date. I
21 actually on that parcel there and combined
22 with the next property. It used to be Lot 97

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1 and 98 and now it's 234. So we are
2 immediately adjacent to the -- or we're the
3 immediate adjacent neighbor, I should say, to
4 the proposed project. And we share the alley,
5 so we're 20 feet away from the --our building
6 wall will be 20 feet away from their proposed
7 wall.

8 Obviously, we have concerns about
9 our diminished market value of our property.
10 The rental values of the units. Loss of
11 sunlight. Access to parking. Increased noise.
12 Trash. We have concerns about an increase in
13 pedestrian/vehicular conflicts in that area,
14 which we can expand on. We think we're
15 directly impacted by the project.

16 ZC VICE CHAIRMAN JEFFRIES:
17 Actually, I'm familiar with your property.
18 I'm familiar with that project. It's what, two
19 or three years old?

20 MR. FREEMAN: It's two years old.

21 ZC VICE CHAIRMAN JEFFRIES: Yes.

22 MR. FREEMAN: Well, the original

1 house 1890, but we --

2 ZC VICE CHAIRMAN JEFFRIES: Yes.
3 Right. Well, yes. How many units?

4 MR. FREEMAN: It's eight two
5 bedroom units.

6 ZC VICE CHAIRMAN JEFFRIES: But
7 you have off-street parking, correct?

8 MR. FREEMAN: We do have five
9 spaces off-street in the back.

10 ZC VICE CHAIRMAN JEFFRIES: Off-
11 street. Okay. Great. Thank you.

12 CHAIRPERSON MILLER: Okay. So
13 it's with respect to zoning issues. You're
14 concerned about the alley access, parking,
15 trash, hoise, et cetera.

16 MR. FREEMAN: Sunlight, the
17 building massing. I mean, it's very close.

18 CHAIRPERSON MILLER: Okay. Okay.
19 Because there are other things in here that go
20 to construction, as the applicant's attorney--

21 MR. FREEMAN: We have construction
22 concerns, too, Madam Chair.

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1 CHAIRPERSON MILLER: Right.

2 MR. FREEMAN: But we're going to
3 focus on the long term impact.

4 CHAIRPERSON MILLER: Right. Okay.

5 Any other questions for this one?

6 Okay.

7 Mr. Coumaris? Okay.

8 MR. COUMARIS: I live right next
9 door. I'm like a Siamese twin to this project.
10 I live in the alley 20 feet away from the
11 parking garage and the loading dock. And you
12 don't get any closer to me.

13 I also have rental units in my
14 main house that will be effected by the
15 project.

16 And I guess like everybody else, I
17 also share the -- but will more so than
18 anybody else, I share the problem with the
19 loss of sunlight and the loss of air because
20 of the height of the building and the
21 construction of the building.

22 Possibly I have more vehicular and

1 pedestrian problems, too, since the only
2 access to my residence is through that alley.
3 And my bathroom and all are 20 feet away from
4 what is going to be their loading dock. So if
5 the truck doesn't make it one time, you know,
6 I'm gone. I have a little more at stake.

7 CHAIRPERSON MILLER: You front on
8 the alley?

9 MR. COUMARIS: Yes.

10 CHAIRPERSON MILLER: Okay. Any
11 questions?

12 ZC VICE CHAIRMAN JEFFRIES: You
13 say you have a tenant that it's a basement?
14 What's the configuration?

15 MR. COUMARIS: I have a tenants in
16 the main house. I live in the carriage house.

17 ZC VICE CHAIRMAN JEFFRIES: Oh,
18 you live in the -- okay, okay. So the main
19 house is facing S Street?

20 MR. COUMARIS: Yes.

21 ZC VICE CHAIRMAN JEFFRIES: Okay.
22 Well, it's on the intersection of the alley

1 and S Street, so it faces both the alley and
2 S Street.

3 ZC VICE CHAIRMAN JEFFRIES: Okay.
4 Okay. So you're in the R-4 zone. You're just
5 right at the border where that dash line is?

6 MR. COUMARIS: I can probably show
7 you.

8 CHAIRPERSON MILLER: Okay. You
9 need to speak on the mic, sir. Yes, you got to
10 speak in the mic.

11 MR. COUMARIS: Sorry.

12 This is my house right here. This
13 is the proposed project. This is my house.
14 This is my carriage house where I reside right
15 now. I'm 20 feet away from in front of the
16 loading dock and the parking garage entrance
17 to the proposed project.

18 This is my main house that I rent.
19 And it also faces the proposed parking garage
20 and everything.

21 CHAIRPERSON MILLER: Thank you.

22 Any questions? Okay.

1 And Mr. Knapp?

2 MR. KNAPP: Thank you.

3 My name is Peter Knapp. I live at
4 1425 S Street. I'm in the same block of
5 rowhouses. I'm seven doors down from the
6 alley, approximately 146 feet from the
7 proposed -- well, from the Whitman-Walker
8 Clinic.

9 And my primary concern is parking.
10 Because my lot -- I didn't put that in the
11 application. But because my lot is less than
12 18 feet wide I don't have two parking spaces
13 behind my house and I live in a flat. I rent
14 out my basement. And therefore, at least one
15 person needs to park on the street. Currently
16 as my neighbors and other people have
17 indicated, it's extremely difficult to find
18 street parking, especially the later it gets.
19 So I'm concerned about the request to get an
20 exception to the parking requirement for this
21 project.

22 And I am also concerned about the

1 traffic in the alley. I walk to work. I walk
2 down S Street, hang a right on 14th. And that
3 alley, the 20 foot alley that runs parallel to
4 14th Street, in a lot of ways is kind of a
5 blind alley. And I always have to stop and
6 look and make sure that somebody's not
7 barreling down that alley to run me down. I
8 have had a few close calls. So by putting a
9 project in there with the loading dock and the
10 parking garage in the alley, that's just going
11 to increase the traffic.

12 ZC VICE CHAIRMAN JEFFRIES: I have
13 to say I'm sort of guilty. I've barreled
14 through that alley once or twice. I hope I
15 didn't, like, bring you down.

16 MR. KNAPP: That's what everybody
17 has done. It's a shortcut.

18 ZC VICE CHAIRMAN JEFFRIES: Right.
19 I have a very good friend that lived at 1409
20 Swann, so I know that area very well.

21 MR. KNAPP: Yes.

22 CHAIRPERSON MILLER: Okay. Any

1 comments? It looks like the applicant doesn't
2 have any other comments.

3 Any other comments by Board
4 members?

5 I guess it appears to me that
6 these applicants are closely situated to the
7 project so that they may be more impacted than
8 the general public.

9 Based on what I've heard so far,
10 though, I just would say that you haven't
11 coordinated yet, but when I read the rules
12 governing these hearings a certain amount of
13 time is going to be allocated for those in
14 support and those in opposition. It's like 60
15 minutes. And that we won't take redundant
16 testimony. So that if one person has already
17 talked about a specific impact on parking, we
18 don't want the same -- it wouldn't help your
19 case anyway to hear the same thing.

20 Okay. So I would say -- I don't
21 know. Unless I hear comments from Board
22 members, are there any comments with respect

1 to not accepting any of the applications for
2 party status?

3 ZC VICE CHAIRMAN JEFFRIES: No. I
4 have a question. Has the Board ever split the
5 time, the 60 minutes. I'm sorry, is that what
6 you're proposing or you're not?

7 CHAIRPERSON MILLER: Yes. Well,
8 that's the way the reg reads. Often we don't
9 have to turn on the clock because we don't
10 anticipate time problems. But sometimes we
11 do. And we may in this case if we have
12 multiple parties that may be testifying to the
13 same thing.

14 The rules say 60 minutes in
15 support, 60 minutes in opposition
16 collectively. We don't have to -- you know,
17 we have the discretion not to put on the clock
18 if we don't want to. But we do as a matter of
19 course, though, want to limit redundant
20 testimony or redundant cross examination
21 because that doesn't help a party anyway. I
22 mean, we don't need to see it a million times.

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1 Once it will be considered by the Board.

2 So, just a comment. Because they
3 do seem to overlap. And, you know, it would
4 be better if they could coordinate, but they
5 may not have time to.

6 Okay. Not hearing any objection,
7 then we'll grant you all party status.

8 But let me say this, and you can
9 think about this while you're at the table.
10 Because the next things we're going to be
11 considering are motions. For instance, you
12 know the motion to waive the time period for
13 filing of report. And I'm not sure that all
14 four of you individually have to like weigh
15 in. If your interests are the same, if you
16 can kind of coordinate, that would be a good
17 thing for the process. So you can just keep
18 that in mind.

19 Okay. So then I guess we will be
20 granting them party status.

21 So then we have other preliminary
22 issues. One is Mr. Coumaris, I believe,

1 submitted a letter questioning the posting.
2 It's Exhibit 31. And I want to ask the
3 applicant if they have a copy of this letter,
4 dated November 29, 2008?

5 MS. PRINCE: Allison Prince from
6 Pillsbury.

7 On behalf of JBG, we do not have a
8 copy of the letter.

9 CHAIRPERSON MILLER: Okay. So
10 this is news to you?

11 MS. PRINCE: This is news to us.

12 CHAIRPERSON MILLER: Okay. All
13 right. Now one of the rules for being a party
14 is that whenever you file something, you need
15 to serve all the other parties in the case.

16 The ANC is automatically a party
17 in a special exception or variance case.

18 Is anybody here from the ANC. Oh,
19 hello, sir. You want to just come forward
20 then? Because you can weigh in on this as
21 well.

22 Introduce yourself for the record.

1 COMMISSIONER ESTRADA: Good
2 afternoon, Board members.

3 Ramon Estrada, the Single-Member
4 District Commissioner for 2B09 in which this
5 property is located and also serving as the
6 Chair of the Dupont Circle ANC.

7 CHAIRPERSON MILLER: Okay. Now
8 did you get a copy of Mr. Coumaris' letter?

9 COMMISSIONER ESTRADA: No, I have
10 not seen the letter.

11 CHAIRPERSON MILLER: Okay. Do we
12 have extra copies of your letter.

13 MS. BAILEY: I'll make a copy
14 later.

15 CHAIRPERSON MILLER: Okay. Ms.
16 Bailey's going to make copies.

17 While Ms. Bailey is making copies,
18 why don't we go to the applicant's request.
19 You filed a transportation study within less
20 than 14 days of the hearing, is that it?

21 MS. PRINCE: No. It was within 14
22 days of the hearing. It was not within 20

1 days.

2 CHAIRPERSON MILLER: Not within 20
3 days?

4 MS. PRINCE: Yes.

5 CHAIRPERSON MILLER: Is that what
6 the regs require, 20 days?

7 MS. PRINCE: To be submitted to
8 DDOT.

9 CHAIRPERSON MILLER: Oh, to DDOT
10 20 days. Okay. And then DDOT has submitted--

11 MS. PRINCE: A report.

12 CHAIRPERSON MILLER: -- a report
13 to response. So I don't think that it has
14 prejudiced DDOT in anyway.

15 Any problems with waiving our
16 rules to allow this document to come in.

17 MR. COUMARIS: Are we talking
18 about the traffic study Wells + Associates
19 that's in the file, dated November 18th?

20 CHAIRPERSON MILLER: Yes. That's
21 what we're talking about, right, Ms. Prince?
22 Okay.

1 MS. PRINCE: Yes.

2 MR. COUMARIS: The one dated
3 November 18th?

4 CHAIRPERSON MILLER: Yes. So you
5 filed it timely with respect to filing before
6 this Board for the hearing within 14 days. So
7 what you're saying is you just didn't serve
8 DDOT within 20 days?

9 MS. PRINCE: Exactly.

10 CHAIRPERSON MILLER: Okay. So I'm
11 not sure why any party in this case would have
12 been prejudiced by the timing of the filing
13 because it came in within the time required
14 for these hearings.

15 MR. COUMARIS: The time is what
16 now?

17 CHAIRPERSON MILLER: Well, the
18 Board requires the filing of --

19 MR. COUMARIS: Fourteen days.

20 CHAIRPERSON MILLER: -- fourteen
21 days before the hearing. And the applicant has
22 represented that that was done. What was not

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1 done was providing to DDOT 20 days before the
2 hearing.

3 MR. COUMARIS: So it was done on
4 November 18th.

5 CHAIRPERSON MILLER: So, is there
6 any objection to accepting this document?

7 MR. COUMARIS: I object that I
8 don't think that November 18th is 14 days.

9 CHAIRPERSON MILLER: And would you
10 -- is there prejudice to you?

11 MR. COUMARIS: Well, I just saw it
12 for the first time yesterday. I mean, I did
13 see it yesterday, you know, but that isn't
14 really time to study it.

15 CHAIRPERSON MILLER: Ms. Prince,
16 do you want to say anything else?

17 MS. PRINCE: We timely filed our
18 prehearing statement, included the traffic
19 engineering report. In addition, we've had
20 over nine or ten meetings with immediately
21 effected neighbors, three ANCs, the
22 Cardoza/Shaw Association; the list is sort of

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1 endless. So were there some concern about
2 that, I would have expect to be asked.

3 CHAIRPERSON MILLER: Okay. Any
4 comments on the Board?

5 Okay. I don't see any problem in
6 accepting it into the record or in their
7 having filed DDOT with the report a little bit
8 later, in that DDOT has had an opportunity to
9 respond to the report. And the parties and
10 the Board have gotten the document in a timely
11 manner with respect to the requirements for
12 the hearing.

13 So, is there any objection to
14 accepting it? Okay. Then that document has
15 been accepted into the record.

16 Do we have any other preliminary
17 matters?

18 Have the parties --

19 MR. COUMARIS: I think -- excuse
20 me. I had also asked that this be readvertised
21 as a variance from the height limit.

22 CHAIRPERSON MILLER: Right. We're

1 going to get to your request. We are waiting
2 for that letter to be circulated to the
3 parties so they could comment on that.

4 Have the parties had a chance to
5 look at Mr. Coumaris' letter?

6 MS. PRINCE: Briefly.

7 CHAIRPERSON MILLER: Okay.

8 MS. PRINCE: My only comment is
9 that relief from ARTS Overlay requirements are
10 processed as a special exception under section
11 1906.1 For that reason we filed as a special
12 exception and this Board in the past has
13 handled requests for relief from this section
14 as a special exception.

15 CHAIRPERSON MILLER: I would
16 concur with that. Actually, that was my
17 conclusion when I looked at the provision that
18 you're here under.

19 There's another allegation in the
20 letter that the placards fell down because of
21 heavy rain.

22 MS. PRINCE: We filed the required

1 maintenance affidavits. We didn't simply post
2 and run. We came back and maintained every
3 five days as we always do. And the maintenance
4 affidavit is in the record.

5 COMMISSIONER ESTRADA: Madam
6 Chair, if I may comment on the placards?

7 CHAIRPERSON MILLER: Yes.

8 COMMISSIONER ESTRADA: I did
9 personally walk down by the property and saw
10 the placards down on several different
11 occasions.

12 CHAIRPERSON MILLER: Did you see
13 them up on any occasions?

14 COMMISSIONER ESTRADA: Some of
15 them are up, some of them are down. But they
16 weren't all up when they should have been up.

17 CHAIRPERSON MILLER: How many are
18 there?

19 COMMISSIONER ESTRADA: There are
20 quite a few in the property surrounding the
21 building at the corner.

22 MR. COUMARIS: There's two of them

1 that are left. I have a photograph that I took
2 this morning of one of the last two to show
3 you the condition that they were posted and
4 you can see it.

5 CHAIRPERSON MILLER: Let me ask
6 the ANC, do you think there's a concern of an
7 adequate notice because of some of these
8 placards falling down?

9 COMMISSIONER ESTRADA: Well, you
10 don't me well, but I'm usually a very stickler
11 for placards, whether it's ABC or BZA. And I
12 need to see them all up all the time. And so
13 with ABC, in particular, a different agency I
14 always ask for replacarding as a matter of
15 form.

16 So I do think that it's a problem.
17 Since it's a problem, it's a block long
18 project that all the buildings needs to be
19 placard.

20 Now last month you heard me
21 testify in the Utopia case. All of those
22 placards were up all the time. Since that's

1 right around the corner from where I live, I
2 checked it all the time.

3 So I think the point is being well
4 made.

5 ZC VICE CHAIRMAN JEFFRIES: But
6 you really believe that based on the
7 unevenness of the placards being posted that
8 this community has not really received
9 adequate notice?

10 COMMISSIONER ESTRADA: Since you
11 opened that door, I'd like to comment that
12 this developer has not been meeting with the
13 neighbors. And you'll hear me comment further
14 later in my ANC comments about that. So this
15 to me is symptomatic of that issue. And if I
16 were the developer, I would make sure those
17 placards were up in all locations all the time
18 since as someone has said earlier today, there
19 hasn't been a chance for the residents to
20 really compare notes, meet with the developer,
21 get issues resolved. So I concur with the
22 point that was made earlier for those reasons.

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1 Thank you.

2 MR. COUMARIS: I'd like to agree
3 with that if I could. Because this project is
4 really a surprise to the neighborhood. I mean,
5 we've been dealing with the proposed project
6 for this property for two, almost three years
7 now. And this new project was sprung on us at
8 the last minute. Most of us just learned the
9 day before the ANC meeting that there was a
10 new project proposed.

11 So in an unusual case like this
12 where nobody knew about this project, the
13 placarding is especially important because
14 nobody knows. Not everybody comes down to the
15 BZA everyday to see if there's a BZA
16 application. There was no way that any of us
17 would have known that there was a new
18 development proposed for this, other than the
19 one that we have been dealt with.

20 MS. PRINCE: May I address that
21 comment?

22 CHAIRPERSON MILLER: Yes, please.

1 MS. PRINCE: This application was
2 filed over the summer. Notice of the
3 application was given to the Advisory
4 Neighborhood Commission. We were in
5 communication with the Advisory Neighborhood
6 Commission because the design was changing
7 since the time of the application. And there
8 was a decision to refrain from meeting until
9 we had the final design, which is the one
10 before you today.

11 We went to not one, not two but
12 three Advisory Neighborhood Commissions. We
13 are on the cusp of three different ANCs.

14 In addition, we went to the
15 Cardosa/Shaw Citizens Association.

16 We have with Mr. Coumaris. We have
17 met with Mr. Estrada. We have met with the
18 Dupont Circle Citizens Association
19 representative. And we have appeared before
20 the Dupont Circle Conservancy.

21 Notice has gone to property owners
22 within 200 feet. And we posted this property

1 consistent with the procedure that we use
2 every single time we appear before this Board.

3 So I urge you to allow this case
4 proceed. There has been ample notice. It has
5 been blogged. It has been on the front page of
6 the *Northwest Current*. I'm giving away my
7 age. I think it's called *The Current* now. But
8 this is a project that the community is well
9 aware of.

10 MR. KNAPP: Can I ask a question?

11 You said that notice was sent to
12 all the property owners within 200 feet.
13 Which notice was that?

14 MS. PRINCE: The Office of Zoning
15 prepares a notice and sends it to all the
16 property owners within 200 feet based on the
17 city's ownership records.

18 MR. KNAPP: Okay. Thank you.

19 MR. COUMARIS: Now could I clarify
20 that all of these meetings that we have had
21 have all been within the last month.

22 MS. PRINCE: Last six weeks.

1 CHAIRPERSON MILLER: Okay. The
2 question is in the letter that because these
3 placards fell down at some point in a heavy
4 rain storm that this proceeding be continued
5 for lack of notice. That's what I understand
6 this to say. And, you know, I'd like to hear
7 from others on the Board at this point.

8 My view on this is that -- the
9 Zoning Regulations first of all provide
10 redundant means of notice so that if something
11 happens with respect to one, I don't know
12 about what the ABC Board does. But that there
13 are other ways that notice is provided. And
14 from what I've heard, notice was provided to
15 the community. The letters went out from the
16 Office of Zoning to those within 200 feet,
17 community groups were met with, ANC was met
18 with. Applicant doesn't have much control
19 over if there's a heavy rain and they fall
20 down. And we understand from the applicant's
21 attorney, plus we have an affidavit of
22 maintenance, that the placards were attended

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1 to. So I don't think we should delay this
2 proceeding.

3 But are there other opinions on
4 that?

5 VICE CHAIRPERSON LOUD: Madam
6 Chair, I agree with you. I think we ought to
7 move forward on the merits as soon as we can.
8 I think we've got a large number of witnesses
9 which speaks to the amount of notice that got
10 out in the community. We have different
11 exhibits from community groups, including the
12 ANC and I think it's the Cardosa/Shaw
13 Neighborhood Association.

14 And we also have a case after this
15 case.

16 So I would be in full support of
17 moving forward on the merits. I think the
18 parties are prepared to move forward today.

19 CHAIRPERSON MILLER: Okay.
20 Anything else?

21 Then I would conclude that it's
22 the consensus of the Board to deny the request

1 submitted by Mr. Coumaris in the November 28,,
2 2008 letter that this should have been
3 advertised as a variance. I think that the
4 applicant's attorney referenced 1906.1, which
5 is correct, that this is correctly brought as
6 a special exception and therefore was
7 correctly advertised as a special exception.

8 And that deny their request for
9 postponement based on the placards falling
10 down finding that there was adequate notice
11 and that the applicant complied with our
12 notice provisions.

13 Okay. I think that disposes of
14 all the preliminary matters. And we will
15 proceed then with the applicants presenting
16 their case.

17 Mr. Coumaris, I just want to ask
18 you one other question related to the previous
19 issue. Mr. Coumaris, you showed us a
20 photograph and it didn't go into the record.
21 Did you want that in the record?

22 MR. COUMARIS: Well, I'd certainly

1 like it in the record, but it's part of a set
2 of photographs I have for each member of the
3 Board.

4 CHAIRPERSON MILLER: You'll have
5 to forward and be on mic to answer the
6 question. Or is that a photograph that you're
7 going to submit later in your case?

8 MR. COUMARIS: I'll be submitting
9 it later.

10 CHAIRPERSON MILLER: Okay.

11 MR. COUMARIS: However, if you
12 want a photograph now to say that I submitted
13 a copy of the photograph at this time?

14 CHAIRPERSON MILLER: No. We can
15 get it later. As long as it's in the file to
16 be referenced as part of the record since you
17 wanted it in the record.

18 MR. COUMARIS: No. We definitely
19 have to have a record in this record.

20 CHAIRPERSON MILLER: Okay. WE
21 usually require 20 copies, is that right? But
22 we'll deal with the logistics of those later.

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1 All right.

2 Ms. Prince?

3 MS. PRINCE: Good afternoon
4 Chairman Miller and members of the Board.

5 I'm Allison Prince with the law
6 firm of Pillsbury Winthrop Shaw Pittman. I'm
7 here today with representatives of the JBG
8 Companies for an application for both variance
9 and special exception relief.

10 JBG is proposing to redevelop a
11 24,000 square foot site along the 14th Street
12 Corridor between S and Swann Streets. The site
13 includes the former home of the Whitman-Walker
14 Clinic. It is located in the ARTS/C-3-A zone.
15 It is also located in the Greater U Street
16 Historic District.

17 JBG's proposal calls for the
18 construction of a mixed-use building with
19 ground floor retail and residential units
20 above that will incorporate the historic
21 apartment house on the south end of the site.

22 In order to construct the proposed

1 building, JBG requests minor relief from the
2 Zoning Regulations.

3 First, JBG requests variance
4 relief from the lot occupancy requirements.
5 This relief is only required for two floors
6 where the building will exceed the permitted
7 lot occupancy by four percentage points.

8 Second, JBG requests special
9 exception approval for relief from the ARTS
10 height limitations. While the addition will
11 be set back 18 feet from the property line
12 from the second floor up, its top story
13 briefly intrudes into the required 45 degree
14 setback. Also, one of the two roof structures
15 will exceed the ARTS Overlay's fairly
16 restrictive 8½ foot penthouse height limit in
17 order to permit the installation of the an
18 elevator that can provide accessibility to the
19 roof.

20 Third, JBG requests special
21 exception approval for two roof structures of
22 different heights under section 411.

1 Fourth, JBG requests special
2 exception approval of relief from the parking
3 requirement since this is an addition to a
4 historic building and the waiver that we had
5 for many years has now been changed, parking
6 relief is required as a special exception
7 under section 2120 of the newly amended
8 regulations.

9 Fifth and finally, JBG requests
10 special exception approval for relief from the
11 25 percent limitation on eating and drinking
12 establishments in the ARTS Overlay. As shown
13 in our prehearing submission these uses are
14 over concentrated on the U Street corridor and
15 under concentrated on the 14th Street
16 corridor. While the ARTS Overlay is not quite
17 at the 25 percent limitation it is close to it
18 and we request relief at this time in order to
19 allege JBG to market and build out the sight
20 for a restaurant or similar use at the grade
21 level.

22 These areas of relief are

1 supported by OP and DDOT. And at the
2 conclusion of our presentation we will propose
3 conditions that address the comments raised in
4 both OP and DDOT's reports.

5 Testifying this afternoon on JBG's
6 behalf will be Andrew McIntyre with the JBG
7 Companies, Shalom Baranes of Shalom Baranes
8 Associates, the project architect, and Marty
9 Wells of Wells + Associates, the traffic
10 consultant.

11 Mr. McIntyre will provide an
12 overview of JBG's proposed project as well as
13 the planning and development process.

14 Mr. McIntyre will also testify as
15 to the need for relief from the 25 percent
16 limitation on eating and drinking
17 establishment.

18 Mr. Baranes will then walk us
19 through the plans for the project and the
20 areas of relief.

21 Mr. Wells will then testify as to
22 the basis for the proposed parking relief.

1 Before we begin, we request that
2 the Board recognize both Mr. Wells and Mr.
3 Baranes as experts in their respect field. I
4 believe this Board has qualified them numerous
5 times.

6 If the Board has no questions, I'd
7 like to proceed with the testimony of Mr.
8 McIntyre.

9 CHAIRPERSON MILLER: Okay. Let me
10 just take care of the preliminary matter.
11 Does the Board have any concerns about
12 qualifying Mr. Baranes and Mr. Wells as
13 experts? Okay. They have testified before us
14 many times. So we consider them experts in
15 their fields.

16 MS. PRINCE: Thank you.

17 VICE CHAIRPERSON LOUD: Madam
18 Chair, one question. If the witness testimony
19 will answer this question, I'll just wait and
20 listen to it in the testimony. And it's kind
21 of unrelated to, I guess, the way you're going
22 to roll out your case. But it's related to

1 the overall case.

2 In terms of the 23 percent cap and
3 how the ZA figures that out, is there a
4 database or something that triggers when the
5 ZA knows that you're getting to that 25
6 percent or --

7 MS. PRINCE: That's a good
8 question. There does not appear to be. And
9 for that reason we prepared our own
10 examination of where we are in the relation to
11 the 25 percent limitation.

12 I know this Board has considered
13 the issues that this kind of limitation is
14 placed on the Cleveland Park community in
15 connection with the appeals you've had. The
16 Board does appear to keep track of the linear
17 frontage in Cleveland Park, the restriction
18 there, but we're not aware of the ZA keeping
19 track here.

20 VICE CHAIRPERSON LOUD: And again,
21 this is a helpful framework for me as I listen
22 to the rest of the testimony. So you do your

1 own inventory of the linear square footage
2 based on sort of like a curbside analysis of
3 what kind of business is on the 14th --

4 MS. PRINCE: Exactly. Curbside
5 analysis for the 14th Street frontage and the
6 U Street frontage. It was visual, it is not
7 exact.

8 VICE CHAIRPERSON LOUD: Yes.

9 MS. PRINCE: But we believe it's
10 very close.

11 ZC VICE CHAIRMAN JEFFRIES: But
12 you said that most of the frontage is on U
13 Street, most of the --

14 MS. PRINCE: The way the overlay
15 has simply evolved there is quite a
16 concentration. You can just tell from
17 observation of these establishments on U
18 Street and much lesser a concentration on 14th
19 Street.

20 CHAIRPERSON MILLER: I just have
21 one question, since we're into that area. We
22 can come back to it, but there was another

1 case in which we dealt with the same subject
2 in the same overlay. And I think that is the
3 one that you cited, 17749.

4 MS. PRINCE: Yes.

5 CHAIRPERSON MILLER: And I'm
6 wondering did you include in your calculations
7 any linear footage to an eating establishment
8 for that case?

9 MS. PRINCE: We did not. We're
10 aware of the case. We handled it. We did not
11 include that.

12 CHAIRPERSON MILLER: You didn't?

13 MS. PRINCE: We did not.

14 CHAIRPERSON MILLER: Okay. Would
15 it tip the balance if it were -- I think we
16 did in that case probably similar to what's
17 being sought here, up to 50 percent of the
18 linear frontage.

19 MS. PRINCE: We'd bring it right
20 up to 25 percent, but it would not necessarily
21 tip it over.

22 CHAIRPERSON MILLER: Okay. Thank

1 you.

2 MR. McINTYRE: Good afternoon,
3 Madam Chair and members of the Board.

4 My name is Andrew McIntyre with
5 the JBG Companies.

6 JBG purchased the majority of this
7 site, the proposed site, earlier this summer
8 from the Whitman-Walker Clinic. And we have
9 the remaining property under contract or under
10 purchase option with the owner of the laundry.

11 This site currently consists of
12 five buildings and a surface parking lot. Of
13 those five buildings only the Whitman-Walker
14 building at 1800 S Street is considered
15 historic in contributing to the historic
16 nature of the U Street historic corridor.

17 There is one adjacent brick
18 building at 1802 that was built before 1877,
19 but the facade has been sufficiently altered
20 that it no longer contributes to the historic
21 nature of the community and EHT Tracerics has
22 provided a report stating as much.

1 Our proposed project is a seven
2 story building, six floors of residential
3 multi-family, a little ground floor retail.
4 Approximately 18,000 square feet of ground
5 floor retail, 125 units or thereabout.

6 The residential units were going
7 to be designed or we're looking towards a very
8 small efficient floor plate with a lot of
9 light.

10 We're looking to drive down the
11 absolute cost of our unit so that we can
12 capture a larger portion of the buying public.
13 Going forward we all are very much aware of
14 the economic conditions and absolute value is
15 really what people are looking for in our
16 communities.

17 The approach to the retail on the
18 ground floor, and one of the reasons we're
19 asking for the relief from the 25 percent
20 requirement for food service, really we look
21 to compliment the existing retail amenities
22 between P Street and U Street along the 14th

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1 Street corridor.

2 This particular frontage offers a
3 great opportunity for connectivity. And the
4 eateries, the sit down dining establishments
5 provide a mechanism to activate the street
6 life that we really feel is vital to finish
7 that connection and development along 14th
8 Street.

9 In addition, I know that we've
10 talked about the percentages and where we are
11 it may shift a little bit. But the reality is
12 when we bring in retailers, especially a
13 restaurant operator, it's a long process and
14 it begins a year and a half, two years out
15 from the time that they might finally be
16 considered part of that count. Such an
17 undertaking probably would not go forward if
18 we felt that we could spend a significant
19 amount of resources pursuing that type of
20 retailer just to find out they couldn't open.

21 As far as the planning, the
22 development process that we've undertaken. As

1 counsel has pointed out we did submit our
2 application to BZA earlier this summer. And
3 it's because of the schedule in looking
4 through our design issues both with historic
5 and with our marketing side and trying to get
6 everything aligned to present to the
7 community, our vision for the project that we
8 were delayed it presenting any other way than
9 we did.

10 We still have a design process to
11 move forward with HPRB. And we are doing that.
12 We have a meeting on the 18th of December. We
13 have provided the details of our design to the
14 community. We have heard their reaction to it,
15 we are engaged with HPRB. And we will fully
16 engage that entire process moving forward.

17 So there really isn't a
18 shortcutting here as much as there's just a
19 change in the sequencing. And I believe that
20 we were between a three and a six month delay
21 in getting before you today if we decided to
22 push out our BZA hearing because of our

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1 design.

2 Besides the meetings that we have
3 right now with the community to understand
4 their concerns, and we did talk with our
5 neighbors there are construction issues. We
6 understand the responsibilities. JBG is a
7 long time and we're in the development
8 community here in Washington, D.C. We
9 understand what it means to be in close
10 proximity to historic sites and neighbors that
11 will be negatively impacted. And we will work
12 with our neighbors in going forward doing what
13 we can to mitigate the construction issues. I
14 understand that's not your purview. I'll just
15 leave it at that.

16 Otherwise, I'd like to go ahead
17 and turn it over to Shalom Baranes to take us
18 through the next step of the testimony.

19 CHAIRPERSON MILLER: Okay. Let me
20 interrupt here so we can determine how we're
21 going to proceed.

22 Sometimes it's easier just to ask

1 questions of the witness before we move on to
2 another witness. I think I'd prefer to do that
3 right now with the Board, unless that's too
4 disruptive to you presenting your case. Okay.

5 I just have a couple of questions.
6 One goes to the type of residential units that
7 you're going to have. Is it going to be a
8 mix, one bedroom, two bedrooms? Who is going
9 to be geared towards? What part of the
10 population, what economic range?

11 MR. McINTYRE: We definitely plan
12 to have a mix of units. Everything from lofts
13 all the way to two bedrooms.

14 We definitely are driving towards
15 small units, land values basically are the
16 driver there. We believe we can make units
17 more efficient and feel larger.

18 As far as the demographics,
19 they're very consistent with the demographic
20 along the P and U Street corridor. A lot of
21 professionals, a lot of young middle income
22 folks, people that would like to move into the

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1 city and reduce their transportation burden.

2 So we actually have if you look at
3 the community in this area, it's pretty
4 diverse. And we really are looking to capture
5 the largest section of the market that we can.

6 And our marketing really does show
7 that we can accomplish that with the unit
8 layouts that we're working towards.

9 CHAIRPERSON MILLER: Okay.
10 Actually, one of the reasons that I ask that,
11 and Mr. Wells maybe can address that later,
12 too, is that there were certain assumptions
13 made I think in the transportation study
14 about, you know, based on how many people in
15 the neighborhood actually have a car or
16 something. And so I was just wanting to know
17 if this is a similar type of population so
18 that we can extrapolate from those statistics.

19 MR. McINTYRE: I'm not sure I
20 understand exactly what the question is.

21 CHAIRPERSON MILLER: Okay.
22 Probably Mr. Wells probably can address it

1 more later. I was just asking who the
2 population was going to be because Mr. Wells
3 in the transportation study made some
4 conclusions about how many drivers or cars per
5 unit based on the neighborhood. And so that's
6 why I was wondering if these units were going
7 to be consistent with what's in the
8 neighborhood or different.

9 MR. McINTYRE: Yes. I do believe
10 that Marty would be better to answer that.

11 CHAIRPERSON MILLER: And I guess
12 my only other question is about the HPRB case
13 and I don't know whether that's for you or Ms.
14 Prince to answer. But in general, we would
15 want to be aware of how that case might effect
16 this case, you know. So I think probably Mr.
17 Prince is probably aware of that anyway. But
18 do you want to address that now or just as we
19 go along or at the end?

20 MS. PRINCE: I can address it
21 briefly now.

22 CHAIRPERSON MILLER: Okay.

1 MS. PRINCE: We're aware that
2 we're a a little bit out of the traditional
3 sequence, therefore we'll need flexibility
4 from this Board to address any design changes
5 that may be required from HPRB as long as
6 those changes do not require any new areas of
7 relief. We wouldn't anticipate that that
8 would be required, in any event, but if for
9 some reason the HPRB requested design changes
10 that necessitated new areas of relief, we'd be
11 right back before you.

12 CHAIRPERSON MILLER: Okay. Thank
13 you.

14 Any other questions by Board
15 members?

16 VICE CHAIRPERSON LOUD: I have
17 just a question on whether these are going to
18 be ownership units or rental units?

19 MR. McINTYRE: Currently we've
20 underwritten the project as an apartment for
21 rental.

22 CHAIRPERSON MILLER: Okay. Now

1 does the ANC have any cross examination. And
2 let me just give this guidance. That cross
3 examination should be questions on what a
4 witness has testified to at this hearing.
5 Okay.

6 COMMISSIONER ESTRADA: Thank you.
7 I do have a question. I have a follow-up
8 question on the HPRB process. As you can
9 imagine, the ANC is very concerned that this
10 is now in reverse. We're hearing the BZA first
11 and then the HPRB second. So at our meeting in
12 November we weren't able to discuss the HPRB
13 parts of this project.

14 So my question to the team is what
15 has caused the delay? As I understand it,
16 this was scheduled previously and now it has
17 been delayed, I believe, twice to now December
18 18th. So could you answer the question just so
19 I'll know? And are you planning to come
20 before the ANC again in December?

21 MR. McINTYRE: I believe there's
22 only one delay, but it did push us back two

1 meetings. And we are farther back than we
2 anticipated.

3 The delay is a function of trying
4 to marry up with several different
5 requirements. They really effect the exterior
6 facade. We would like to drive towards a
7 facade that has a larger of expanse of glass
8 with smaller units because it allows more
9 daylight into smaller units and it creates a
10 better living environment. We have been trying
11 to marry up that idea with comments that we
12 received from HPRB and we sent back with a
13 couple of different designs. And we felt that
14 we needed to pull back and make sure that we
15 address this. One of our concerns in marking
16 units, regardless of rental or sale, is
17 creating a space that really lives like a shoe
18 box. And that's not what we're trying to do,
19 and yet we're trying to comply with the ARTS
20 Overlay requirement, the requirements for HPRB
21 for the historic district as well as what we
22 fell the units should live like on the

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1 interior. So that really caused us to go back
2 and spend a little bit more time and effort to
3 try to get that right.

4 COMMISSIONER ESTRADA: Okay. You--

5 MR. McINTYRE: And I apologize you
6 did ask about ANC.

7 COMMISSIONER ESTRADA: Yes.

8 MR. McINTYRE: We fully anticipate
9 engaging the community every step of the way
10 as is expected. We will absolutely come back
11 before you before the next HPRB.

12 COMMISSIONER ESTRADA: Okay. So I
13 will add you to the agenda for December's
14 meeting.

15 My next question is really a
16 follow-up to that, and that is I understand
17 the Dupont Conservancy has reviewed the
18 project and did not approve the exterior
19 facade. And I'm assuming that you're
20 continuing to work with the Dupont Circle
21 Conservancy and HPRB, and now the ANC, to make
22 that those exterior issues are addressed?

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1 CHAIRPERSON MILLER: May I say
2 something? This doesn't sound like our issue.

3 COMMISSIONER ESTRADA: Yes. I'm
4 just now making the Board aware that this is
5 a serious problem for the neighborhood and is
6 reflective, as I'll say later, as this
7 developer has not come before the neighbors to
8 really vet the historic aspects of the
9 project.

10 CHAIRPERSON MILLER: Okay. But
11 historic is HPRB.

12 COMMISSIONER ESTRADA: Yes, it is.

13 CHAIRPERSON MILLER: Okay. So
14 what we want is information here that's going
15 to help us make our zoning decisions.

16 ZC VICE CHAIRMAN JEFFRIES: It's
17 just Q&A. Q&A.

18 COMMISSIONER ESTRADA: Well,
19 hopefully hearing the HPRB problem, if I can
20 portray it that way, is an issue for the BZA.
21 In other words, you would be prepared to rule
22 even though HPRB has not ruled is what I'm

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1 getting at today.

2 CHAIRPERSON MILLER: That could
3 happen. That could happen. If we had all the
4 information that we needed. But what I'm just
5 saying is we don't -- it's one thing to find
6 out what the status is of HPRB and then we'll
7 have to access whether that effects us in
8 making our decision or how we make our
9 decision. But the problems that you have with
10 respect to the historic issues is not our
11 purview. So let's get through this.

12 COMMISSIONER ESTRADA: Okay.
13 Well, I appreciate your clarification.

14 CHAIRPERSON MILLER: Okay. Okay.
15 Is that it for your questions?

16 Okay. Do any of the opposing
17 parties have cross? Yes, Mr. Coumaris. You
18 have to come to the table.

19 MR. COUMARIS: Sorry.

20 CHAIRPERSON MILLER: That's okay.

21 MR. COUMARIS: The proponent
22 stated that Traceries had determined that I

1 think it's 1804 14th Street, the 19th century
2 building was not significant. But has the HPRB
3 determined that?

4 CHAIRPERSON MILLER: Is that a
5 question for Mr. McIntyre? I guess it is.

6 MS. PRINCE: Shalom can address
7 that in his --

8 CHAIRPERSON MILLER: Okay. Let's
9 wait until then. That's more for that
10 expertise.

11 Okay. Anything else for Mr. -- it
12 is Mr. McIntyre, right? Yes.

13 MR. COUMARIS: No. Other than to
14 reiterate, you know, the first time that we
15 met.

16 CHAIRPERSON MILLER: Okay. That's
17 not germane to our decision.

18 I want you all to really to be
19 aware that the purpose of this hearing is for
20 us to gather information to assess the
21 application in light of the Zoning
22 Regulations. So that's the relevance part of

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1 the questions. So you should try to keep your
2 questions on point that way. Okay.

3 MR. COUMARIS: I also ask in the
4 application it repeatedly states that the
5 building will be no closer than 38 feet to the
6 closest residences.

7 CHAIRPERSON MILLER: Okay. He
8 didn't testify to that, I don't believe.

9 MR. COUMARIS: Okay.

10 CHAIRPERSON MILLER: So hold that.
11 Maybe Mr. Baranes will testify to that. I
12 don't know. Okay.

13 Any other questions? Okay. Then,
14 Ms. Prince, I guess we're ready for your next
15 witness.

16 MR. BARANES: Would it be possible
17 to turn the lights down in front of the
18 screen?

19 CHAIRPERSON MILLER: Yes. I think
20 our staff is going to try to do that.

21 MR. BARANES: Thank you very much.

22 Good afternoon. My name is Shalom

1 Baranes.

2 I'd like to initially run just
3 through a few slides. It sounds to me like
4 you're all quite familiar with the site here,
5 but I'd like to run through a few slides just
6 to clarify the location here.

7 At the top of the slide right over
8 here you can see the intersection of 14th of
9 U that's been referred to earlier. And you can
10 see we're just a couple of blocks south from
11 that.

12 And we essentially have a
13 freestanding site with 14th Street on the
14 east, the 20 foot alley on the west and then
15 both S Street on the south and Swann Street on
16 the north. So it is a freestanding building
17 that we will be developing here.

18 So I'm going to stay in this
19 working screen just so that I can use the
20 pointer.

21 This is the underlying map. It's
22 the most recent addition we could find for the

1 zoning. It does have a couple of things which
2 are missing on it, as has been pointed out
3 already. For example, it's not been updated
4 to show the construction of the new rowhouse
5 right here. But, again, you can see that we
6 are in the R-C-3 overlay, again, just a couple
7 of blocks south of the main intersection there
8 and surrounded by primarily residential
9 zoning.

10 The drawing on the right indicates
11 the extent of our property with the property
12 line on the west side being indicated here as
13 being directly adjacent to the alley.

14 There are five buildings currently
15 occupying the site as well as one parking lot,
16 a surface parking lot on Lot 819.

17 The only contributing building to
18 the historic district that exhibits on this
19 site is the building on the south end that's
20 colored in there. And it is the old former
21 Whitman-Walker Clinic. The rest of the
22 buildings have been deemed to be

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1 noncontributing by the Historic Preservation
2 Review Board study of the site.

3 The site, as has been mentioned
4 already, it does occupy quite a long stretch
5 along 14th Street. And we are quite interested
6 in extending the activity from the
7 intersection at 14th and U, the retail
8 activity that currently exists there, all the
9 way down to our site. And you'll see that
10 we've made a fairly serious effort to line
11 every linear foot that we could of our three
12 frontages on the three primary streets with
13 retail. We think this is important. It's very
14 consistent with the terms of the overlay
15 district, the ARTS Overlay District. And we
16 will have a combination of different kinds of
17 retailers there.

18 So our proposal basically is to
19 demolish everything you see along here with
20 the exception of the historic building on the
21 left. And also to be in compliance with the
22 requirements of the ARTS District.

1 We are going to eliminate a curb
2 cut which currently exists. It's a 24 foot
3 curb cut into the surface lot. The cars pull
4 into here currently, and I'll show you this in
5 more detail shortly, and then they have the
6 ability to pull out into the alley and either
7 go south or north.

8 So our intent is to have
9 continuous retail along 14th Street here,
10 eliminate the curb cut and then move the
11 service and delivery functions to occur all of
12 them off of the 20 foot alley to the west.

13 This is a survey that shows the
14 curb cut. There it is right there, and then
15 it's a little hard to see but it is shown
16 clearly on the survey. And as I said, it
17 services this surface lot which has direct
18 access to this 0 foot alley.

19 Here is a view of that 20 foot
20 alley. We're looking south. This is the most
21 recently constructed rowhouse that was missing
22 off the zoning plan. And here we are looking

1 at the back, right here, of the historic
2 building that we will retain. And then these
3 are the buildings, of course, that will all be
4 demolished.

5 Our property line basically runs
6 along the edge of the tarmac of the asphalt.
7 I think it's fairly visible in this particular
8 view.

9 Here is a view of the west side of
10 14th Street. Again, here is the historic
11 building that we'll be retaining. And then all
12 of these buildings here will be demolished.

13 Here's a view looking to the
14 northwest along 14th. And, again, this
15 building here was constructed in 1908.
16 Originally had retail with projecting bays at
17 the base. We will be restoring it,
18 reconstructing it to a condition that's fairly
19 close to its original condition. We'll be
20 incorporating retail at the base and
21 residential at the top. And then we do not
22 plan to build anything over the top of the

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1 building. All of the new construction will
2 happen directly to the north of this existing
3 building.

4 Here's a view of our block looking
5 south. This is the corner of Swann and 14th
6 right here. And, again, these are all the
7 buildings that will be demolished.

8 The historic building has a
9 primary facade and original entrance that
10 looks to the south, faces S Street. It exits
11 right here under the fire escape.

12 And by the way, it's interesting,
13 just a side note. The fire escapes and
14 balconies are considered part of the historic
15 structure and we will be restoring those also.
16 It's a little unusual.

17 But anyway, we have developed a
18 plan which we'll utilize the original maintain
19 entrance of this building as the main entrance
20 to the residential portion of the project.
21 And I think from an historic preservation
22 standpoint that's a very positive thing. And

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1 then we will be incorporating retail both on
2 the corner here as well this area along here.
3 And here you can see some of the reconstructed
4 bays. Some of them are original, some are not.
5 But as I said, we will be restoring those.

6 And then this little corner here
7 is the only corner of the property that we
8 will not be covering at the ground floor. The
9 rest of the ground floor will be covered by
10 new construction, as is allowed as a matter-
11 of-right under the Zoning Regulations. So we
12 will be just a little under a 100 percent lot
13 occupancy at the ground floor.

14 And here's a view of our proposed
15 project. And I'd like to just point out a
16 couple of things about the design here. I
17 think particularly relevant to the issues at
18 hand before you are, for example a particular
19 point would be the incorporation of retail, as
20 I mentioned earlier, continuously along 14th.
21 Street.

22 We've raised the height of this

1 floor so that this floor and the other floors
2 it's going to be very important for that and
3 for the retailers. I mean, we're finding that
4 that's a constant struggle with all the
5 buildings we do in the District, getting
6 sufficient height for the retailers to
7 function properly. Here I think we've been
8 able to do that.

9 Also, we've designed the base of
10 the building, although we don't know exactly
11 how the base will be leased, how many tenants
12 we'll have there, we have designed it so we
13 can have multiple retail tenants with their
14 own identities, their own signage inside each
15 one of these bracketed areas. These are a
16 series of, essentially, metal cornices that
17 will be created at the second floor level.

18 At the corner here, now you'll see
19 this more clearly shortly, in order to
20 accentuate the corner, to emphasize the
21 importance of that intersection we've
22 introduced a little more glass there. We've

1 raised the height of that corner slightly and
2 we expect that there will be a larger retailer
3 located in that part of the floor plate than
4 in other parts of the floor plate.

5 Also at the upper floors we've
6 stepped the building down visually with the
7 use of these glass bays here. And, of course
8 here at the corner also we've tried to express
9 verticality, as I think is appropriate for a
10 major urban intersections. And you'll see that
11 we've used similar devices on the opposite
12 side of the building.

13 Looking in the other direction,
14 again, we've emphasized the verticalities I
15 just mentioned on the corner but we have
16 stepped the building down visually as it
17 marches down towards the more residential area
18 of the neighborhood.

19 This is a 20 foot alley here. We
20 have stepped our building back an additional
21 17 feet above the first floor. It's almost 18
22 feet, actually. So that's where we say that

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1 we're 38 feet from the adjoining residential
2 development directly to our west. And then as
3 we get to the upper floors here we introduce
4 some additional setbacks which I'll show you
5 more clearly in a moment.

6 This is the alley view basically
7 of our building. And unlike other buildings
8 we've built on alleys in the District here, we
9 have treated this with as much architectural
10 detail as we have treated the 14th Street side
11 of the building. We're very cognizant of the
12 fact that this building will be visible from
13 a distance from the west. And we think that
14 it's very important that it not look like the
15 back of the building, such as the current
16 historic building does for example with that
17 large blank facade.

18 So here we've made an effort to
19 reduce the overall scale of the building by
20 introducing this layered approach to the
21 masonry and the glass. We've introduced more
22 balconies here to make it feel more

1 residential. And as I said earlier, we have
2 stepped the building back further than is
3 required by the zoning from our western
4 neighbors.

5 The entrance to the garage is
6 indicated right here. And then directly north
7 of there we will have the entrance to the
8 loading. So, again, this is a 20 foot alley.

9 This is a ground floor plan of our
10 project. And, again, I want to point out the
11 effort that we made here to line the three
12 primary street frontages with retail. We
13 think that's very important for both the
14 neighborhood and for our project. We've
15 designed the retail so it can be divided into
16 multiple tenants, and I think that's also
17 going to be very important.

18 And then as I said earlier, we did
19 locate the residential entrance directly to
20 the south within the historic building.

21 We're showing the garage ramp
22 located directly off the alley here. And then

1 directly north of that is our loading berth.

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Now what I would ask you to note in this particular slide is the fact that the ground floor is built, as I said earlier, right out to the property line on the 20 foot alley. One of the positive aspects of this, and again this is a matter-of-right issue, we are allowed to do that because this floor is primarily commercial. But I do want to point out that one of the primary benefits to the neighborhood of our having done that will be that all of the trash containers, all of the trash functions, all of the service functions will happen indoors. They all happen inside enclosed spaces behind rolling doors. From an acoustic standpoint, I think this will be a positive characteristic of the project for our neighbors. And I think visually also. And from a health standpoint, it'll keep the alley very clear and serviceable all of the time.

And as I said earlier also, this

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1 is the only portion of the property at the
2 ground floor that will remain open.

3 This is a section taken parallel
4 to 14th Street. And what it shows is the
5 historic building on your left here with
6 retail across the ground floor and then
7 residential up on top. The reason I'm showing
8 you this particular section is to address the
9 specific issue of the variance that we're
10 asking for for the lot occupancy.

11 We do not have a lot occupancy
12 issue on the ground floor, nor do we have a
13 lot occupancy issue on the upper floors. The
14 only place we have a lot occupancy issue is on
15 the second floor and the third floor right
16 here where the historic building, you know
17 because it has a second and third floor,
18 essentially take our occupancy up to 79
19 percent. You know, about four percent above
20 the allowable 75 percent. Because we can't
21 alter that portion of the property, our
22 footprint that comes down winds up exceeding

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1 the 75 percent. Once we get above the third
2 floor of the historic building, our lot
3 occupancy drops down to anywhere between, I
4 think it's 64/65 percent and 70 percent. So
5 our average lot occupancy on the upper floors
6 is under 70 percent.

7 The image on your left is the
8 second floor of our building. And the area
9 that you see shaded here in red it's the four
10 percent that we are over in our lot occupancy.
11 In other words, if we were to demolish that
12 portion of the historic building or remove
13 that much from our new building, we would be
14 in compliance with the 75 percent. It's quite
15 a small variance, in my view.

16 As we get up to the fourth floor,
17 and which you see here on the right, because
18 of the floor of the historic building steps
19 back here and steps back also on the east
20 side, as I said earlier our lot occupancy
21 drops down considerably.

22 Now I'd like to move on to the

1 special exception portion that we're seeking
2 relief for. The second on the left shows the
3 alley, right here, that's the 20 foot alley
4 and then 14th Street would be right here on
5 your right. The dotted line that you see here
6 is the line within which we are allowed to
7 build. Because we have a through lot here, in
8 other words our property goes all the way from
9 Swann Street down to S Street, there is no
10 requirement that we provide a rear yard within
11 our property line. Technically the rear yard
12 is really within the right-of-way, within the
13 street, within the right-of-way of Swann
14 Street. Therefore, we actually do have the
15 ability to build everything up this dotted
16 line which I think from a neighbor's
17 standpoint would not be as appealing, not as
18 attractive as the project we have designed
19 which pulls everything back a minimum of 17
20 feet and then an additional 38 feet along here
21 in the center of the project.

22 So the only area of relief that we

1 need with regard to this 45 degree setback is
2 this little piece right up here at the top
3 floor. It's about four feet, four and a half
4 feet. And it only exceeds the setback line in
5 the dashed areas that you see in red here and
6 here. In other words if we stepped our top
7 floor back another four feet, we would be
8 within that line. We didn't do it because of
9 structural reasons. If we were to do that, we
10 would have to introduce transfer slats through
11 the building. And actually because of the
12 height limit it would lead to our losing a
13 whole floor in the building. We didn't want to
14 do that. So we think actually having massing
15 that is better than a matter-of-right massing
16 and requires a very, very minimal relief.

17 Here is a close up of that setback
18 line. And, again, it's just this little
19 triangular area here that creates the need for
20 the special exception.

21 We did study this in terms of the
22 shadows that it casts on the adjoining

1 properties. And what you see across the top
2 here is our proposed project. You see the
3 June shadows in the morning on the left and
4 the June shadows in the afternoon on the
5 right.

6 The four images below this would
7 be alternative massings that we would be
8 allowed to do as a matter-of-right without
9 seeking relief. And as we studied the shadows
10 we found that our proposed massing actually
11 creates fewer shadows primarily because of our
12 setback here in a U, so our proposed massing
13 creates less shadow on the alley and the
14 adjoining buildings than would a matter-of-
15 right project. And we looked at this both for
16 June and then we also looked at two other
17 times of the year, March and September,
18 morning and afternoon. And, of course, we
19 found that the exact same thing occurs in
20 March. And then in September here on the right
21 there really is no impact because the sun is--
22 oh, I'm sorry. In the afternoon, not in

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1 September. But in the afternoon that the sun
2 is coming from the west and therefore our
3 shadows are being cast onto 14th Street and
4 Swann Street.

5 So actually I've never had a
6 project like this where getting a special
7 exception would improve the condition for the
8 neighbors as opposed to making it worse.

9 I'd like to move on to the issue
10 of height and roof structures. The zone that
11 we're in allows a roof structure to be built
12 to a height of 8 feet 6 inches above the main
13 roof, in other words 83.5 feet. And the
14 primary roof structure that you see right here
15 stretched out across the top in gray is built
16 to that height, 8 feet 6 inches. Now because
17 we want to get access to the roof and we have
18 to have handicap accessibility to the roof, we
19 need to get our elevators up there and that
20 requires that we seek a special exception for
21 this piece of the project, this piece of the
22 penthouse right here. That goes up to a full

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1 18 feet 6 inches, an additional ten feet. And
2 as I'll show you shortly, it's also a very,
3 very small footprint. It's under 500 square
4 feet and does not effect the shadows on the
5 adjoining buildings at all.

6 The other aspect of the penthouse
7 that we're seeking a relief on has to do with
8 the fact that we have two penthouses. One
9 here and one here and not a single penthouse,
10 as is required by the regulations. Now the
11 only reason we have this condition is because
12 we took what was a single penthouse and we
13 removed a portion of the wall both on the east
14 side and the west side in order to create
15 views for the residents up there. By removing
16 that wall we've technically created two
17 penthouses. And although they're covered by
18 a trellis, they still technically are two
19 penthouses.

20 So if we were to continue this
21 gray wall all the way across the roof here on
22 both sides, we would then not be seeking a

1 special exception. We would not be seeking
2 relief.

3 So, again, we are in this
4 situation because we're trying to create views
5 for the residents on the roof.

6 The area that you see in red,
7 right here, is the footprint of the elevator
8 penthouse. And it's the only portion of our
9 penthouse that exceeds the allowable 8 feet 6
10 inches.

11 The drawing you see on the right
12 shows the area where we removed that wall,
13 here and here, in order to allow the residents
14 once they get up here to have views both to
15 the east and to the west, thereby creating the
16 need for the special exception.

17 The last issue I will address with
18 regard to the relief that we're asking for has
19 to do with the parking. Again, because we
20 have an historic building on the site that you
21 see right here we chose not to extend our
22 garage underneath that building. Certainly

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1 it's possible to do, but it extraordinarily
2 expensive and we've almost never ever done
3 that here in the District. It's very rare.
4 And we needed to limit our excavation to two
5 floors. We found that we could not quite
6 reach the required, I believe, 105 spaces or
7 so by doing this. We're short a bit. And
8 therefore, we are asking for relief so that we
9 don't have to dig down an additional level.

10 And that basically concludes my
11 portion of the presentation. And I'd be glad
12 to take any questions at this point.

13 Thank you.

14 ZC VICE CHAIRMAN JEFFRIES: Mr.
15 Baranes, do you have a side elevation of Swann
16 Street? Did you show us that?

17 MR. BARANES: Okay. This is it
18 right here.

19 ZC VICE CHAIRMAN JEFFRIES: Okay.
20 Okay.

21 MR. BARANES: This would be the
22 side elevation of Swann Street.

1 ZC VICE CHAIRMAN JEFFRIES: And
2 just again going over the setbacks and
3 stepping away from the 1402 Swann Street
4 development.

5 MR. BARANES: Okay. Let me go to
6 a different drawing. Here we are on the
7 property line. The residents on Swann Street
8 would be located right off to the left, off
9 the alley. This is the alley. This is our
10 ground floor at the property line. We go up
11 one level, setback back a little over 17 feet.

12 ZC VICE CHAIRMAN JEFFRIES: Okay.

13 MR. BARANES: We go up to the
14 sixth floor and setback approximately four
15 feet there.

16 ZC VICE CHAIRMAN JEFFRIES: From
17 right from that point what's the distance
18 between right there to the 1402?

19 MR. BARANES: Okay. From this
20 point here?

21 ZC VICE CHAIRMAN JEFFRIES: Yes.

22 MR. BARANES: Let's see, that

1 would be just a hair under 38 feet to their
2 property line.

3 ZC VICE CHAIRMAN JEFFRIES: Okay.
4 Okay.

5 MR. BARANES: And then, of course,
6 our penthouses are all set much closer to 14th
7 Street.

8 ZC VICE CHAIRMAN JEFFRIES: Okay.
9 And then what was the ground floor floor to
10 ceiling distance for ground floor retail?

11 MR. BARANES: We're at 14 feet
12 there. Let me just confirm that. I'm sorry.
13 It's 15 feet.

14 ZC VICE CHAIRMAN JEFFRIES:
15 Fifteen?

16 MR. BARANES: Yes.

17 ZC VICE CHAIRMAN JEFFRIES: Wow.
18 Okay. Okay. That's it.

19 MR. BARANES: Thank you.

20 MEMBER DETTMAN: Mr. Baranes, just
21 a couple of questions. You identified at the
22 second and third floor that area in the

1 historic structure where lot occupancy relief
2 is triggered. But I'm wondering why couldn't
3 you meet it at the second and third floor by
4 altering the design of the addition? What
5 does that do to the project?

6 MR. BARANES: Sure. I could tell
7 you that. If we were to at the second and
8 third floors remove 500 square feet off of the
9 floor plan of the new construction, in order
10 to meet the lot occupancy requirements we
11 would actually have to remove that 500 square
12 feet all the way up the building. Because
13 anything that's under cover technically counts
14 in a lot occupancy. So we would be losing 500
15 square feet times six floors, which is about
16 3,000 square feet. That's the equivalent of
17 about four units.

18 MEMBER DETTMAN: And so I'm to
19 assume that by losing four units it's going to
20 jeopardies the economics of the entire
21 project. Like, what does that do to the
22 project? Does that make it completely

1 unbuildable? How does it effect the project?

2 MR. BARANES: I think I should
3 defer to maybe Mr. McIntyre on that.

4 MR. McINTYRE: The losses at 3,000
5 feet greatly diminishes the ability for us to
6 move forward.

7 MEMBER DETTMAN: Just the last
8 question is your two penthouses, are they
9 going to be programmed at all or is it all
10 strictly mechanicals inside there?

11 MR. BARANES: We have stairs that
12 lead up to there from the 7th floor. And we
13 probably, we haven't designed it up, but we
14 probably will put some servicing in there to
15 service the roof decks. You know when the
16 Zoning Regulations were amended recently, they
17 did allow for a couple of extra uses to occur
18 inside those penthouses. And we will do that.

19 I think we're going to have a very
20 small amount of area left to do that once we
21 lay out all our mechanical equipment.

22 MEMBER DETTMAN: Have you

1 considered at all whether or not that changes
2 the way the building is measured? Whether
3 it's to the top of the 7th floor or is this
4 actually an eight floor building that happens
5 to have the stop floor setback because it's
6 going to be programmed for something?

7 MR. BARANES: No, no, no. We're
8 going to program the penthouse so it strictly
9 conforms to the penthouse regulations.

10 MEMBER DETTMAN: Yes.

11 MR. BARANES: Otherwise we'd be
12 exceeding the 75 feet.

13 MEMBER DETTMAN: Right. Okay.
14 Thank you.

15 MR. BARANES: Yes.

16 VICE CHAIRPERSON LOUD: Good
17 afternoon, Mr. Baranes. And thanks for what I
18 thought was a very informative presentation.
19 Just a couple of questions to help be, again,
20 understand some of the bigger picture here.

21 First to follow-up Mr. Jeffries'
22 question regarding the retail heights at 15

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1 feet. You talked a little about the demand of
2 retailers for these increased heights, but
3 could you just elaborate on what the driver is
4 behind that? I'm just curious.

5 MR. BARANES: Maybe I could
6 explain the problem first, which is that
7 what's happened here in the District over the
8 25/30 years I've been practicing is that
9 there's been more and more pressure on
10 buildings to increase the floor-to-floor on
11 the upper floors for both residential and for
12 office. When we build residential, that's
13 been primarily a market driven thing where the
14 market no longer accepts eight foot ceilings.
15 And we try to build these units so they have
16 a minimum of 8 foot 6, which is really the
17 right thing to do, by the way, regardless of
18 what the market says.

19 On the office side we've had that
20 problem not so much because of the finished
21 ceiling heights, although I have to say our
22 ceiling heights in the District are generally

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1 substandard when you look at the metropolitan
2 area. It's very, very difficult for us to get
3 anything much above 8 feet 4 inches. But the
4 pressure over the last 20/30 years on these
5 floor-to-floor heights has come from the fact
6 that we've had to add more and more mechanical
7 equipment and larger ducts for fresh air for
8 sustainability reasons, for health reasons
9 into the ceiling sandwich. So it's gotten
10 harder and harder to maintain the 8 foot 4
11 inches. And quite frankly, our clients do not
12 allow us to build office buildings that have
13 less than 8 foot 4 inches. So the only give in
14 these buildings has been at the retail level.

15 I probably shouldn't do this, but
16 I will. Two recently very, very high end
17 office buildings are just being completed
18 downtown which I think so clearly demonstrate
19 the problem we have in the District. One is
20 at the corner of 17th and H, it's a glass
21 building by Kevin Roche. It's just being
22 completed. A building was demolished there.

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1 Right near the Metropolitan Club. Can you
2 picture that?

3 When you look at that building and
4 you look at the retail at the ground floor
5 there it appears that the retail only has
6 about an 8 foot ceiling, if that. And the
7 building just looks generally out of
8 proportion for that. And, again, the pressure
9 comes from that's such a great office location
10 and it's the office that drives the marketing,
11 drives the economics and therefore the retail
12 suffers.

13 We have that problem everywhere.
14 And retailers we're finding more and more will
15 just not go into a space that has an
16 insufficient ceiling height. They'll just look
17 to other neighborhoods, other areas.

18 VICE CHAIRPERSON LOUD: I think
19 what I heard you say is that part of it is the
20 sustainability, I guess the energy efficiency
21 and some of the --

22 MR. BARANES: Yes.

1 VICE CHAIRPERSON LOUD: --
2 requirements for the ducts and things like
3 that. And then the other part of it is that
4 the upper floors office or residential,
5 depending on the project, have higher ceiling
6 heights it makes the ground floor retail look
7 out of balance to have the eight foot ceiling
8 heights, is that correct?

9 MR. BARANES: That's correct.

10 VICE CHAIRPERSON LOUD: Okay. In
11 terms of the lot occupancy on floors two and
12 three that you talked about, conceptually how
13 come that also would not apply to the ground
14 floor?

15 MR. BARANES: Because we have no
16 residential units on the ground floor.

17 VICE CHAIRPERSON LOUD: Okay.
18 It's because it's all retail and the FARs are
19 different?

20 MR. BARANES: That's correct.
21 Yes.

22 VICE CHAIRPERSON LOUD: Okay. And

1 this is probably a question more for the
2 developer -- sorry about that. Assuming there
3 is site control now for the entire block, as
4 in you own or I guess have sufficient options
5 on all of the properties on the block?

6 MR. BARANES: Correct.

7 VICE CHAIRPERSON LOUD: Okay. And
8 how long did it take to assemble the entire
9 block from the very first to the last piece?

10 MR. McINTYRE: Technically that's
11 not complete.

12 VICE CHAIRPERSON LOUD: Okay.

13 MR. McINTYRE: We have purchased
14 the majority of the property from Whitman-
15 Walker. There is a remaining laundromat site
16 that we have under option until late next
17 year.

18 VICE CHAIRPERSON LOUD: Okay.
19 That kind of tore up my next question. But the
20 way these projects sort of evolved and you
21 assemble a block, is there an opportunity
22 where the assembly is sufficiently

1 substantially complete, you have a rough idea
2 of what you want to do and then you sort of go
3 out and ask the community to give you some
4 feedback on it or do you finalize the concept
5 first, nail it down, make sure you can get the
6 site and then go out and share it with the
7 community?

8 MR. McINTYRE: From the standpoint
9 in general when we assemble properties, we
10 would look at what the zoning requirements
11 allow us to do on any given piece of property
12 in a location. And then we look at the market
13 demand and what really drives the revenue. And
14 based on that we will pursue a particular
15 product type or mix of product types; retail,
16 residential, office. Once we understand that
17 programming we would then engage the community
18 as part of the process when it comes to the
19 design of the use and starting to get into the
20 details. But we generally start with some sort
21 of programming idea per forma based on what we
22 believe is achievable through the entitlement

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1 process and assemblage.

2 VICE CHAIRPERSON LOUD: And in
3 terms of the assembly here, although you're
4 not complete, how long has the process been?

5 MR. McINTYRE: We began talking
6 with Whitman-Walker spring of last year. And
7 we would not complete the assembly process
8 until we would close on the laundry site,
9 which we would probably look to do later this
10 year or early next year depending on
11 construction and the rest of our permitting
12 process.

13 VICE CHAIRPERSON LOUD: Okay.

14 CHAIRPERSON MILLER: I just have a
15 couple of basic questions. One with respect
16 to the trash, you said its all going to be
17 kept interior. Does the trash collectors come
18 in and get the trash or are they going to put
19 out the trash outside on trash day?

20 MR. BARANES: No, it will not be
21 put out because actually we have no place to
22 put it. Usually they have access to a loading

1 berth electronically. They'll open up the
2 door, pick up the bins and then take them out.

3 CHAIRPERSON MILLER: Okay. Great.

4 And then my other question is I
5 didn't totally follow what you mean about
6 covering part of the building on the ground
7 floor and then leaving that one percent open
8 with respect to historic properties or
9 whatever. Could you just explain that better
10 what you mean?

11 MR. BARANES: Let's see, let me
12 make sure I understand.

13 CHAIRPERSON MILLER: I think it's
14 kind of an architectural question. There's
15 like a 99 percent lot occupancy on one part
16 because you said that part's not being
17 covered.

18 MR. BARANES: Oh, I see. Okay.

19 So this is the historic building
20 right here. Everything below this line here
21 is the historic building. That building was
22 not built out to the alley. They set it back,

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1 it looks like about 12 feet or so. So that 12
2 foot portion will not be covered and that's
3 why we're at only 98/99 percent lot coverage,
4 not a 100 percent. Does this answer your
5 question?

6 CHAIRPERSON MILLER: Okay. So
7 you're not talking about the property not
8 being covered. I thought maybe there was some
9 kind of facade that was going around covering
10 the historic structure. Okay.

11 MR. BARANES: I see. No, that's
12 right. That's not the case.

13 CHAIRPERSON MILLER: Okay. Thank
14 you. Okay.

15 Does the ANC have any questions?

16 COMMISSIONER ESTRADA: Yes. I have
17 a question about the penthouse structures.
18 You mentioned in your testimony that it is
19 intended to be residential. Can you clarify
20 that a little bit further for me?

21 MR. BARANES: Sure. I'm sorry. I
22 don't believe, or I didn't mean to say anyway,

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1 that they were residential. What the
2 penthouse structure will do is it'll service
3 the residential recreational space that's on
4 the roof. And within the Zoning Regulations
5 there are a couple of things, you could
6 probably put a wet bar up there or something
7 like that that would allow us to service the
8 residential space. And that's all we'll do.

9 Again, we won't do anything that's
10 not allowed within the uses as a matter of
11 right for that level.

12 COMMISSIONER ESTRADA: Okay.
13 Thank you for that clarification. Because
14 it's my understanding that it was never
15 intended to be residential and that it was
16 largely amenity space to serve as the
17 residences.

18 MR. BARANES: That's correct, yes.

19 COMMISSIONER ESTRADA: Okay.

20 CHAIRPERSON MILLER: Okay. Any
21 questions from the -- yes, come on forward.
22 Speak on the mic.

1 MR. COUMARIS: The drawings that
2 you showed at the front of the building from
3 14th Street. I forget what it --

4 MR. BARANES: Let's see, I can
5 find it for you.

6 MR. COUMARIS: Now that's not the
7 one that was shown at the ANC meeting. And my
8 understanding when we met was that this
9 drawing that you showed was the prior proposal
10 and it had been changed to the drawing that
11 was shown at the ANC meeting.

12 MR. BARANES: Okay. Mr. Burkhardt,
13 who just whispered in my ear told me that he
14 was the ANC meeting. And he said that these
15 are the drawings that were presented at the
16 ANC meeting.

17 MR. COUMARIS: The one at the ANC
18 meeting you could barely see anything of the
19 roof structure at all. And it appeared to be
20 solid black on the 14th Street side.

21 MR. BARANES: Was it the drawing
22 looking south, this one here, or was it --

1 MR. COUMARIS: No. It was the one
2 from the gutter from across 14th Street
3 looking at S Street.

4 MR. BARANES: Number 11 here.

5 MR. COUMARIS: Number --

6 MR. BARANES: Thirteen?

7 MR. COUMARIS: Number 11, yes.

8 MR. BARANES: Number 11?

9 MR. COUMARIS: Eleven.

10 MR. BARANES: Okay.

11 MR. COUMARIS: That's not the
12 drawing from the ANC meeting.

13 MR. BARANES: Okay. We have the
14 boards here that were presented at the ANC
15 meeting. And they do reflect this drawing.
16 And we could pull them out and show them to
17 you, but it's exactly this drawing.

18 MR. COUMARIS: If you have those,
19 I'd like to see them because --

20 MR. BARANES: Sure. We can do
21 that. Yes. We only have one set of boards,
22 so--

1 MR. COUMARIS: Yes. I don't mean
2 to be a pain in the ass about this, but it
3 looks totally different from the drawing that-

4 - MR. BARANES: If we present a
5 different building, I'd like to know.

6 MR. COUMARIS: All right. That's
7 not the drawing that I remember seeing at the
8 ANC meeting.

9 ZC VICE CHAIRMAN JEFFRIES: Okay.
10 We got it.

11 CHAIRPERSON MILLER: Okay. Okay.
12 That's true. He says it is, you say it isn't.
13 Okay.

14 MR. COUMARIS: My understanding is
15 this one had been done away with in the favor
16 of the one we saw.

17 Okay. I'm sorry.

18 The first floor you say you can do
19 100 percent lot occupancy because it's all
20 retail, actually 99 percent lot occupancy.
21 But now you have the lobby for the residences
22 together with a lot of the other things for

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1 the condominiums on the first floor. Does it
2 count still as being totally retain?

3 MR. BARANES: No, it does not
4 count as being retail, but we have no
5 residential units on that floor. So therefore,
6 we are allowed to go to a 100 percent lot
7 occupancy.

8 MR. COUMARIS: Even though the
9 lobby and all the entrance ways and everything
10 for all the residences are on that floor and
11 occupy a significant portion --

12 MR. BARANES: Actually, I believe
13 the zoning anticipates that; that if you have
14 residential above retail, that you need access
15 to that residential off the ground floor and
16 so it allows you to do a 100 percent lot
17 occupancy, as long as you keep units off of
18 that floor.

19 MR. COUMARIS: Okay. And one last
20 thing. You stated repeated that the closest
21 residences are 38 feet?

22 MR. BARANES: Yes, and that's 38

1 feet to the property line. And I believe the
2 building on Swann Street is built to the
3 property lot.

4 MR. FREEMAN: It is, but it's 20
5 feet.

6 MR. COUMARIS: And so is mine.

7 MR. FREEMAN: You're coming all
8 the way to the edge of your property line.

9 MR. BARANES: Yes, I'm sorry. Yes.
10 The 38 feet is I think answered Mr. Jeffries'
11 question about this, is at the second floor.
12 At the first floor we are right at the
13 property line so it's only 20 feet.

14 MR. COUMARIS: Okay. Yes, I was
15 confused because 38 feet is our present
16 distance from the back of those buildings.

17 MR. BARANES: That's correct, yes.

18 MR. COUMARIS: And 20 feet is the
19 actual proposed?

20 MR. BARANES: Yes, that's correct.

21 MR. COUMARIS: That's all.

22 CHAIRPERSON MILLER: Yes?

1 MR. BOGDEN: Can you show slide 14
2 again? One of our major concerns is the
3 placement of the loading dock and parking
4 garage ramp. Could you discuss the design
5 parameters that went into choosing that
6 particular location?

7 MR. BARANES: It really has to do
8 with the layout of the parking below. We
9 essentially have a split ramp system where we
10 fold the floors. And the way to maximize the
11 number of cars there is to locate the ramp at
12 one end. And we chose to do at the south end
13 where actually there's more open area because
14 our building is setback there at the south end
15 than there is at the north end. And once we
16 located the garage ramp there, we thought it
17 made sense to put the loading directly next to
18 it, thereby also putting the loading very
19 close the elevators that service the upper
20 floors.

21 CHAIRPERSON MILLER: Okay. Any
22 other questions?

1 ZC VICE CHAIRMAN JEFFRIES: Madam
2 Chair, I do have a question. Can we go back
3 to slide 13, I believe. I just wanted to
4 comment to Mr. Baranes that I think that I
5 just want to applaud you for that view which
6 some would consider to be the back of house
7 view of this development. And I think it's
8 wonderfully articulated. And you know often
9 times the Zoning Commission when we see these
10 properties that are in the round or sort of
11 figural, you know there's always like a back.
12 But I'm very appreciated getting out of all
13 the issues that you're adjacent neighbors
14 have, just I think that's a very nice
15 perspective.

16 MR. BARANES: Thank you.

17 ZC VICE CHAIRMAN JEFFRIES: Yes.

18 CHAIRPERSON MILLER: Yes?

19 MR. KNAPP: I have a question and
20 a comment.

21 I understand that at some point
22 there needs to be a loading dock and a ramp,

1 and I understand on 14th Street that may not
2 be the best because of the ARTS Overlay
3 District. But I'm wondering whether you
4 considered putting that on the Swann Street
5 side to avoid going into the alley?

6 MR. BARANES: We actually looked
7 at every possible spot. And we would like to
8 maintain retail frontage on that corner. It's
9 very important to do that, I think. It's such
10 an important corner, 14th and Swann. And we
11 want to make that retail as deep as we can so
12 that we can attract the right kind of retailer
13 there. Plus it's a residential street. It's
14 a beautifully scaled historic residential
15 street, Swann Street. And we didn't feel it
16 was appropriate to put large loading dock
17 doors and parking garage entrances there. I
18 mean, that's what alleys are typically for in
19 Washington. And you know we have a very nice
20 size generous alley here at 20 feet, therefore
21 we felt it made the most sense to locate it
22 there.

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1 MR. KNAPP: Swann Street is a very
2 nice residential street, but right across the
3 street on 14th and Swann is a auto repair
4 garage and there's a huge parking lot. And
5 presumably at some point that's going to get
6 redeveloped, too. It's not that residential
7 housing goes right up to 14th Street.

8 MR. BARANES: Yes, that's right.

9 ZC VICE CHAIRMAN JEFFRIES: I
10 think -- okay.

11 MR. KNAPP: I have to apologize. I
12 have to go take my mom to the airport in a few
13 minutes. So when I leave it's -- I wish I
14 could stay here for the rest of the meeting.

15 CHAIRPERSON MILLER: Is there any
16 testimony you want to give then? I don't think
17 the other parties would object if you have to
18 go if you went out of order.

19 MR. KNAPP: My guess is my
20 neighbors are going to say anything that I
21 would say.

22 CHAIRPERSON MILLER: Okay.

1 MR. KNAPP: And thank you very
2 much for your time, all of you.

3 CHAIRPERSON MILLER: Thank you.

4 Okay. I think then we're finished
5 with this panel of witnesses. Ms. Prince,
6 what's your plan? You going to be presenting
7 Mr. Wells next or --

8 MS. PRINCE: Mr. Wells is next.

9 CHAIRPERSON MILLER: Okay. I
10 would like to suggest that we take a five
11 minute break before we get into those issues.

12 MS. PRINCE: Great. Thanks.

13 CHAIRPERSON MILLER: Okay.

14 (Whereupon, at 3:40 p.m. a recess
15 until 3:56 p.m.)

16 CHAIRPERSON MILLER: Okay. We're
17 back on the record. And I think that we will
18 be picking up now with the applicant's witness
19 on transportation issues, Mr. Wells.

20 MR. WELLS: Good afternoon.

21 My name is Marty Wells. I'm
22 President of Wells and Associates. And I and

1 my firm were retained by JBG to evaluate the
2 parking and loading aspects of this case.

3 I'd like to speak to the special
4 exception for parking. I'd like to speak to
5 JBG's proposed transportation management
6 initiatives. I'd like to talk a little about
7 DDOT policies and the conformance of this
8 project to those policies. And then a few
9 words about loading.

10 Firstly, with regard to parking,
11 the municipal regulations require 108 parking
12 spaces, 65 for the residential uses. That's
13 one for every two units. Forty-three spaces
14 for retail. JBG proposed to provide a minimum
15 of 98 spaces so that the difference there is
16 18 spaces. And they propose to provide or
17 allocate a minimum of 15 of those 90 spaces to
18 retail or the commercial square footage in the
19 project. So the math there is 90 minus 15
20 would be 75 spaces for residential.

21 It's my opinion that the 90 spaces
22 will be adequate for several reasons I agree

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1 with DDOT that this site could reasonably be
2 considered transit oriented. It's located
3 about a quarter mile from the U Street
4 African-American Civil War Memorial/Cardoza --
5 that's a mouthful -- U Street Metro Station
6 which serves the green line. And it's also
7 served by multiple Metrobus routes: The 52,
8 the 53 and the 54 on 14th Street and the 90,
9 92, 93, 96, 98 on U Street.

10 Surveys conducted by Metro, WMATA,
11 indicate that about 70 to 80 percent of the
12 trips in this area are made either by
13 Metrorail, Metrobus, by bike or on foot.

14 Consulting the U.S. Census for
15 this neighborhood we found that the average
16 number of cars available per renter occupied
17 household is a low .43 spaces per unit. It
18 turns out that roughly two-thirds of the
19 renter occupied units have no automobile.
20 It's a different story for owner occupied
21 units, 25 percent own no automobile and the
22 average number of cars available per household

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1 is just under one. It's .98. The blended
2 average is .57. If you take the average
3 between renters and owners it's .57.

4 By my math 75 spaces allocated for
5 residential units for 130 residential units,
6 that's a ratio of .58. So compare .58 with
7 .57.

8 One of the burdens of proof also
9 regards in the regulations involves traffic
10 congestion and by our observations as well as
11 a traffic study recently completed by DDOT,
12 the 14th Street Multimodal Transportation and
13 Streetscape Design Study that Michael Baker
14 did for DDOT, all the evidence points to the
15 fact that traffic congestion is relatively low
16 in this area.

17 I might note, I know DDOT is here
18 and they can speak for themselves, but I
19 believe they support this reduction.

20 DDOT also has requested that the
21 JBG Companies implement certain transportation
22 management plan or TMP initiatives. They've

1 agreed to do with regard to bicycles. They've
2 agreed to providing bike parking in the
3 parking garage for both residents and retail
4 components of the project. And I believe that
5 will be shown on the plans.

6 They also agree to pay for the
7 installation of bicycle racks in public space
8 abutting the property on both 14th Street S
9 Street.

10 Secondly, JBG has agreed to set
11 aside one space in the parking garage for use
12 by a car sharing service. In shorthand, that's
13 Zipcar.

14 And thirdly, provide on request a
15 one year membership in a car sharing or bike
16 sharing service per unit for the initial
17 residents of the project who have not leased
18 or purchased an automobile parking space.

19 With regard to DDOT policies,
20 again DDOT is here they can speak for
21 themselves, but it's my opinion that this
22 project is consistent with DDOT standards and

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1 policies in that the existing driveway on 14th
2 Street will be closed. That driveway from a
3 point of view is a point of conflict between
4 vehicles and pedestrians. And that point of
5 conflict will be eliminated.

6 All vehicular access to the
7 underground parking garage and 30 foot loading
8 berth will be provided from the existing 20
9 foot wide public alley. Now you're going to
10 hear some say that's a plus and some say it's
11 a minus. It clearly is the direction that
12 DDOT wants to go in the city to provide access
13 to parking facilities, loading facilities off
14 of alleys rather than public streets, again
15 with the notion that if you avoid a separate
16 driveway on a public street, you're
17 eliminating a potential point of conflict
18 between pedestrians and vehicles, not to
19 mention what it does in a positive way for
20 your urban design and for continuous retail
21 frontages.

22 JBG's proffered TMP plan will

1 encourage walking and biking and discourage
2 auto use consistent with DDOT policy. And,
3 again, consistent with DDOT policy the parking
4 that's being provided will be adequate but not
5 overly generous so it doesn't encourage
6 driving.

7 With regard to loading, there is
8 no requirement for off-street loading in this
9 case, but JBG does propose to provide one 30
10 foot loading berth which would accommodate
11 virtually all of the project's loading needs.
12 Again, access to this berth would be provided
13 from the existing 20 foot public alley
14 consistent with DDOT policy.

15 It's a fair luxury in cases of
16 this sort to have available a 20 foot public
17 alley. Usually the 20 foot alleys we're used
18 to dealing with are the ones that our clients
19 create because most alleys are 10 feet, 15
20 feet, but no narrower than 20 feet.

21 The 20 foot alley is wide by
22 District standards. And a single unit 30 foot

1 truck can maneuver in and out of the berth
2 without colliding into structures on either
3 side of the alley as demonstrated in our
4 report. Our report contains a couple of swept
5 area diagrams that show the path a 30 foot
6 truck would take to get in and out of the
7 berth.

8 And you may have noticed on the
9 plans that one of the corners was chamfered to
10 allow a truck to make the maneuver back into
11 the loading berth.

12 That concludes my prepared
13 remarks. And I'm happy to answer your
14 questions.

15 CHAIRPERSON MILLER: Thank you.

16 Is the 108 figure the maximum
17 number of units or is that a fixed number? I
18 mean, I ask that because we know this hasn't
19 gone to HPRB so I was wondering whether that
20 is something that could be impacted by HPRB or
21 is that the fixed number?

22 MR. WELLS: Well, 108 is the

1 number of parking spaces required. One-third.

2 CHAIRPERSON MILLER: I'm sorry.

3 108 is the number of parking spaces. Okay.

4 I'm sorry. Then it's tied to how many units.

5 MR. WELLS: I heard somebody --

6 CHAIRPERSON MILLER: Sixty-five? I

7 can't remember. Sixty-five units?

8 My question is, is this something

9 -- do we have the right number? We have fixed

10 numbers. Are we dealing with maximums or are

11 we dealing with set numbers?

12 MS. PRINCE: There could be a

13 minor deviation in the total number of units,

14 a deviation of about five percent in either

15 direction. It wouldn't fundamentally change

16 the parking requirement one way or the other,

17 I mean just in a very minor way.

18 CHAIRPERSON MILLER: Okay. You

19 used a blended number between rent and owned

20 apartments, right? And I'm wondering why did

21 you use the blended number? Is it because it

22 might change from being rental to owner

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1 occupied or what?

2 MR. WELLS: No. It's just to
3 illustrate what the average is in the entire
4 neighborhood without segregating renters from
5 owners.

6 BOARD MEMBER WHEAT: Doesn't that
7 assume that you have an equal number of
8 renters and owners, and do you know that to be
9 the case?

10 MR. WELLS: I think the purest
11 interpretation of these numbers if these
12 renters are like other renters in this
13 immediate neighborhood, two-thirds of them
14 wouldn't own automobiles. And the average
15 ownership, I believe, was .43. So for roughly
16 every ten units there would be four
17 automobiles owned among them.

18 Frankly, I think this is something
19 of a chicken and egg proposition. If a space
20 is not available, one without an automobile
21 would be more likely to rent that unit than
22 somebody who was absolutely wed to an

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1 automobile.

2 CHAIRPERSON MILLER: That makes
3 sense, and I think that's where DDOT is going.
4 And we'll get to DDOT. But I think that is
5 the concern that I've heard in neighborhoods
6 where less parking is being provided than the
7 regulations require.

8 MR. WELLS: Yes. I think you may
9 have heard me before say the solution I
10 usually look for is the Goldilocks Solution:
11 Not too few, not too many, just right. And,
12 frankly, it's a matter of judgment weighing
13 the evidence here. You don't want to provide
14 too few because of the folks who live in the
15 neighborhood. I'm a former Dupont Circle
16 resident. I relied on street parking and I
17 know what a -- what was the term used? Pain
18 in the -- I know how hard it was to find
19 parking. So we don't want our residents or
20 the residents of this building competing with
21 the existing residents for limited curb
22 parking. On the other hand, we don't want so

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1 many parking spaces that we encourage people
2 to own an automobile and drive an automobile
3 instead of using a Zipcar or renting a bike or
4 taking a Metro bus or walking to the rail
5 station.

6 CHAIRPERSON MILLER: So why do we
7 think that this is just right?

8 MR. WELLS: Well, it fits the
9 neighborhood. It fits the transit resources
10 here. There are viable, meaningful
11 alternatives to driving an automobile. Some
12 people are going to drive and they're going to
13 wait a parking space. Many people can live
14 here and not own an automobile and they can
15 still get around.

16 CHAIRPERSON MILLER: Why isn't
17 there any loading requirement even though
18 there certainly is some retain to be serviced
19 by trucks?

20 MR. WELLS: As a practical matter
21 there will be demands for truck trips. But by
22 the regulations, as I understand them and

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1 counsel will correct me if I say this
2 incorrectly, for a historic building or an
3 addition to a historic building, which is the
4 case here, there is no requirement. Did I get
5 that right? Thank you.

6 CHAIRPERSON MILLER: Okay. Yes,
7 that sounds right.

8 I don't know if there's another
9 document, or maybe it's just a document that
10 you have with DDOT that sets forth what you've
11 agreed to. Because I don't think I've seen
12 that in our records. You know, we have your
13 transportation study and then we have DDOT's
14 report in which they put forward all these
15 suggestions including bike racks and Zipcars,
16 et cetera. I don't believe we've seen anything
17 that shows what you've agreed to.

18 MS. PRINCE: We have proposed
19 conditions that we're prepared to submit today
20 that address the DDOT conditions.

21 CHAIRPERSON MILLER: Oh, okay.

22 Well--

1 MR. WELLS: And those are pretty
2 much as I outlined.

3 CHAIRPERSON MILLER: Does that
4 state, for instance, how many bike racks
5 you're talking about inside and out?

6 MS. PRINCE: There's no specified
7 number of bike racks, but there's an
8 indication that bicycle parking needs to be
9 provided in the garage for both the
10 residential and retail components as shown on
11 the drawings. And we have to pay for the
12 installation of bicycle racks and public space
13 along 14th and S Streets.

14 CHAIRPERSON MILLER: Okay. And
15 maybe we'll get into the conditions later. I
16 do notice, I think that DDOT references four
17 bicycle racks, for instance, on 14th Street
18 and S Street. And perhaps we'll get to the
19 differences between the two.

20 So is it correct to assume that
21 you disagree with the rest of DDOT's
22 recommendations in their memorandum dated

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1 November 21, 2008?

2 MS. PRINCE: I believe DDOT made
3 several suggestions and we in fact agreed to
4 many of them. We've offered in our proposed
5 conditions exactly what we're willing to do.
6 There was a little bit of give and take.

7 CHAIRPERSON MILLER: And have you
8 shared those conditions with DDOT?

9 MS. PRINCE: Yes, DDOT has them.

10 CHAIRPERSON MILLER: Okay. Have
11 you shared them with the ANC?

12 MS. PRINCE: No.

13 CHAIRPERSON MILLER: Okay. I
14 guess at the appropriate time you'll share it
15 with the rest of us? Okay.

16 MS. PRINCE: We will.

17 VICE CHAIRPERSON LOUD: A follow-
18 on question with regard to the 75/15 split,
19 the retail parking 15 spaces, I think, was
20 what your testimony was?

21 MR. WELLS: Yes.

22 VICE CHAIRPERSON LOUD: How does

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1 that work over time. Is that a fixed number?
2 In other words if the retailers come in and
3 begin to complain that 15 is not enough, does
4 it shift back and forth or if you could just
5 explain how that works?

6 MR. WELLS: That's perhaps best
7 answered by someone from JBG. But usually the
8 owners I deal with want a little bit of
9 flexibility as they see what the individual
10 tenant demands are.

11 VICE CHAIRPERSON LOUD: I think
12 JBG was stepping forward to answer.

13 MR. McINTYRE: I think it's really
14 a function of flexibility right now. Because
15 we're talking about retail tenants that we
16 have not engaged. Our retailers are always
17 going to look for a certain amount of parking
18 this location. And talking to our retail
19 marketing folks, we're going to see a lot less
20 demand because of the transportation issue at
21 this location. They really recognize that
22 you're going to get a lot more foot traffic,

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1 bus traffic. And so we're not going to have
2 the greater demand, but we're really just
3 looking for the flexibility there with the 15
4 spaces being the minimum number of retail
5 spaces.

6 MR. WELLS: And let me note for
7 the record, my report actually assumed that 25
8 of those spaces would be used for retail uses
9 because that's a conservative assumption and
10 that's how we engineers are wired, to be
11 conservative. But what JBG is representing is
12 it is probably more like 15. So we probably
13 overstated the number of trips that would be
14 generated by this project.

15 CHAIRPERSON MILLER: Are you
16 setting aside a certain number, a specific
17 number of retail and a specific number for
18 residential?

19 MR. WELLS: That will be done.
20 And the parameters, at the risk of belaboring
21 the point, we're talking about today is
22 setting aside a minimum of 15 of the 90 or so

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1 spaces for retail. As a practical matter the
2 way that works is the general public can get
3 to a certain point in the garage until they
4 need a key card or a push button device to
5 open a gate. And residents would be issued
6 with those devices so they could get through
7 the gate and park in their nested area, which
8 would be the lower spaces.

9 CHAIRPERSON MILLER: I have one
10 question from your report about site trip
11 generation. I just didn't understand what you
12 mean here. You said that the proposed
13 development will actually generate fewer net
14 additional trips because it presently
15 generates traffic as evidence by the vehicles
16 parked in the off-street parking lot and along
17 the north/south alley that joins S and Swann
18 Streets.

19 MR. WELLS: What document is that?

20 CHAIRPERSON MILLER: I think it's
21 your transportation study. It's Exhibit --
22 yes. Exhibit A to the final statement of the

1 applicant.

2 MR. WELLS: I --

3 CHAIRPERSON MILLER: I don't see a
4 page number on it, otherwise I would reference
5 the page.

6 MR. WELLS: I think the point that
7 was being made there is that the site
8 currently does generate traffic. There's a
9 surface parking lot there now. And as you
10 look at the alley itself, you can see this if
11 you drive through the alley or if you want an
12 easy way to look at it, just go to Google
13 Earth and you'll see many vehicles parked in
14 the alley on this property. So it's
15 generating traffic today.

16 CHAIRPERSON MILLER: But it sounds
17 like you're saying that the development is
18 going to result in less traffic. Is that not
19 right?

20 MR. WELLS: We subsequently
21 actually did some traffic counts. And if I
22 could share those numbers with you? This is

1 not in our report and we did not have these
2 data available to us when we wrote the report.
3 But today if you look at both ends of the
4 alley at S Street and Swann and the driveway
5 off of 14th Street, 25 vehicles in the morning
6 peak hour, which is 8:15 to 9:15 and 33
7 vehicles in the afternoon peak hour which is
8 5:00 to 6:00, those are the existing counts.

9 And I believe our conservative
10 estimates for the 130 units and the additional
11 retail are higher than those numbers. So
12 there would be a slight addition.

13 CHAIRPERSON MILLER: Any other
14 Board questions?

15 ZC VICE CHAIRMAN JEFFRIES: Just
16 quickly. Again, how many Zipcar spaces are you
17 looking one?

18 MR. WELLS: One.

19 ZC VICE CHAIRMAN JEFFRIES: Just
20 one?

21 MR. WELLS: Yes, sir. There are a
22 lot of Zipcars in this neighborhood and we

1 would add one to that capacity.

2 ZC VICE CHAIRMAN JEFFRIES: So
3 you're clear about the demand of these Zipcars
4 that is sufficient that, you know, you're just
5 adding one will suffice?

6 MR. WELLS: I'm not clear about
7 the demand for Zipcars. But Zipcar makes a
8 case-by-case judgment. We might offer the
9 space. Zipcar may or may not choose to accept
10 the invitation to station one of their cars in
11 this garage.

12 ZC VICE CHAIRMAN JEFFRIES: So
13 you're not even certain they'll do one car?

14 MR. WELLS: I can't speak for
15 Zipcar. But I can represent that JBG is
16 willing to provide a space for them.

17 ZC VICE CHAIRMAN JEFFRIES: Mmm.

18 MR. WELLS: In other words, JBG is
19 not going to operate their own car sharing
20 service.

21 ZC VICE CHAIRMAN JEFFRIES: Oh,
22 no, no, no. I understand that. I understand

1 that.

2 I mean, you know obviously on the
3 Zoning Commission we've been dealing with the
4 issue of parking. And I'm actually happy to
5 hear that you're not overparking the site.
6 Because many instances we have developers that
7 do overpark the site. But, you know, coupled
8 with that we like to make certain that we have
9 all the other bells and whistles as it relates
10 to dealing with having less parking. And I
11 just want to --

12 MR. WELLS: Yes. I mean, the offer
13 is sincere. The offer is a real offer. JBG
14 does want Zipcar in there as a matter of
15 policy or principle. But I can't represent
16 that Zipcar will actually station a car there.

17 CHAIRPERSON MILLER: This is the
18 first I've heard that actually Zipcar would
19 refuse to come into a space, but that is the
20 situation?

21 MR. WELLS: They do.

22 CHAIRPERSON MILLER: And let me

1 ask you this. Also when we were looking at
2 the proposed parking regulations there was
3 someone I think from Zipcar that said
4 sometimes they provide it just for the
5 building and sometimes they provide it for the
6 general public. And what is this one?

7 MR. WELLS: And sometimes they
8 don't.

9 CHAIRPERSON MILLER: And they
10 shouldn't say that, but I guess that -- what's
11 the proposal here that JBG is putting forth.
12 Is it for just the building or is it for
13 anybody in the public?

14 MR. WELLS: Either. If Zipcar
15 wants to offer it to the general public, I
16 suppose as long as the security aspects of
17 that can be appropriately managed, that would
18 be fine with JBG.

19 ZC VICE CHAIRMAN JEFFRIES: Well,
20 you know where all the Zipcars are located?

21 MR. WELLS: Well, I can go on line
22 and find them.

1 ZC VICE CHAIRMAN JEFFRIES: Let me
2 finish.

3 MR. WELLS: I'm sorry.

4 ZC VICE CHAIRMAN JEFFRIES: I mean
5 it's one thing for -- I mean obviously, you
6 know, Zipcar can make a determination that we
7 only want to put one car in this building.
8 But I'm just really dealing with the rationale
9 of why not two, why not three cars just given
10 the location of this and again your parking
11 ratios are where they are. I mean, I know
12 this is not your call. I mean, this is the
13 developer's call. If he wants to come up,
14 that's fine. But I'm curious.

15 MR. WELLS: The theory is that if
16 I -- just to go back to my own earlier life in
17 Dupont Circle, I would have loved to have a
18 Zipcar. What I had to do was schlepp down to
19 Hertz --

20 ZC VICE CHAIRMAN JEFFRIES: Yes.

21 MR. WELLS: -- which was on
22 Desales Street and rent a doggone car. I don't

1 even know if they're there now, but this was
2 years ago. And that was a fairly painful
3 experience, but something I did regularly
4 because I didn't own a car. I was one of the
5 two-thirds that did not own a car. And I
6 needed a car from time-to-time.

7 Some people will not go through
8 that hassal. They'll buy a car and park it on
9 the street. So the rationale here is that
10 Zipcar will allow somebody either to not own
11 a car or only own one car as opposed to two or
12 more cards. So it's good public policy. And
13 I think as developers understand that their
14 tenants wants this service and if they can get
15 an edge into renting their buildings by having
16 Zipcars on the premises, I think that's a
17 win/win.

18 ZC VICE CHAIRMAN JEFFRIES: I'm
19 just looking at the aggregate area, not just
20 this development. But I think that we're
21 going to add, I mean how many units are we
22 talking? A hundred?

1 MR. WELLS: One thirty.

2 ZC VICE CHAIRMAN JEFFRIES: One
3 thirty. And we're having one space and one
4 Zipcar space and, you know, obviously you're
5 not doing one-to-one parking here. I mean if
6 all the new developments that are taking place
7 on 14th Street took that tact, I mean it just
8 seems like the whole purpose of transit
9 development and alternative ways of dealing
10 with transportation and parking, we're not
11 fulfilling our destiny. So it just seems
12 slightly counterintuitive to me. You know,
13 that's where I'm going.

14 MR. WELLS: I think the --

15 ZC VICE CHAIRMAN JEFFRIES: And
16 I'm not dealing with what Zipcar is doing.
17 I'm dealing with what's being offered.

18 MR. WELLS: The spirit here is to
19 offer a broad array of alternatives to owning
20 and driving everyday an automobile. And Zipcar
21 is just one of those components.

22 ZC VICE CHAIRMAN JEFFRIES: Yes. I

1 understand that. I understand that.

2 MR. McINTYRE: If I might add, we
3 understand your comments. At the most or the
4 minimum that we would provide right now would
5 be that single space that we would agree to
6 and look at the demand for a Zipcar in the
7 future. There just isn't any way that we
8 could just let's give a certain number of
9 spaces in a really reduced number of parking
10 for this location. We want to see something
11 that would drive that to say more than one
12 right now, it would be very difficult for us
13 to get there.

14 ZC VICE CHAIRMAN JEFFRIES: Well,
15 but I guess I'm asking that of you, I mean as
16 a developer. I mean, obviously you're doing
17 research to determine what the development
18 program should be for this area, who your
19 targeted renters will be and what they'll be
20 looking for and doing that level of research.
21 I mean, where does it come from? I guess I
22 would ask the applicant, you to let us know.

1 I mean you might come back to this
2 Board or right now and say we've done research
3 and we think this is sufficient for these
4 reasons. And I just haven't heard that. I
5 just heard this sort of an arbitrary one. I
6 mean if there was a rationale backup, I would
7 be fine. But I just don't hear that.

8 MR. BLAKE: Could I speak? I'm
9 Brooks Blake with the JBG Companies.

10 ZC VICE CHAIRMAN JEFFRIES: Could
11 you just get on the mic, please?

12 MR. BLAKE: Of course.

13 I think your point what we can do
14 is we'll get back to you with some research.
15 We're happy to do that, provide additional
16 information.

17 This is a relatively small
18 building. Most of our buildings are somewhere
19 between 200 and 350 units on average, and
20 Marty you can help me, but I think those
21 buildings take two to four Zipcars.

22 ZC VICE CHAIRMAN JEFFRIES: Yes.

1 MR. BLAKE: And given that there
2 are several deposited Zipcars in the general
3 vicinity we feel that given the size of the
4 building and the additional Zipcars available,
5 that one Zipcar at least to begin with is
6 appropriate.

7 ZC VICE CHAIRMAN JEFFRIES: Yes. I
8 hear you. There's just not firm -- I mean, do
9 you know where the Zipcars are, do you know
10 the demand? I mean, I'm just asking for a
11 backup. That's all I'm looking for. If you
12 can come back to us --

13 MR. McINTYRE: I think right now
14 we're just responding to DDOT's request.

15 ZC VICE CHAIRMAN JEFFRIES:
16 Absolutely.

17 MR. McINTYRE: And wanting to work
18 with everybody to provide the options that
19 Marty was mentioning.

20 ZC VICE CHAIRMAN JEFFRIES: Yes. I
21 mean, I live about five blocks north. And
22 there's just so many rental units that are

1 coming on line. And I'm just, you know, just
2 sort of concerned.

3 MR. WELLS: Are you a Zipcar
4 member?

5 ZC VICE CHAIRMAN JEFFRIES: No.
6 But I know several people that are. And I
7 walk a lot.

8 MR. WELLS: That was unfair of me.

9 ZC VICE CHAIRMAN JEFFRIES: Yes,
10 but that's all right. But I walk a lot. I
11 have an eight year old car with 50,000 miles.

12 CHAIRPERSON MILLER: Let me just
13 ask, I didn't get your name, sir, but were you
14 sworn in?

15 MR. BLAKE: No, I did not take the
16 oath. Sorry. Did not take the oath.

17 CHAIRPERSON MILLER: Why don't we
18 just do that. You may want to say more, I
19 don't know.

20 Ms. Bailey, do you want to
21 administer the oath for him?

22 (Witness sworn.)

1 CHAIRPERSON MILLER: Okay. And
2 you want to give your name for the record
3 again, name and address?

4 MR. BLAKE: I'm Brooks Blake with
5 JBG.

6 CHAIRPERSON MILLER: Thank you.
7 Let me ask you, Mr. Wells, do you
8 know where the other Zipcars are located, how
9 close to the building or how many there are?
10 Because you're talking about that there are
11 many, like in the vicinity?

12 MR. WELLS: That information is
13 online. I don't have it at hand. But that
14 could be provided.

15 CHAIRPERSON MILLER: And is this
16 somewhat of a new thing with the Zipcar that
17 there's not a lot of data out there, perhaps,
18 as to how successful it is with respect to
19 replacing parking spaces?

20 MR. WELLS: There's a lot of
21 information. It tends to be kind of
22 anecdotal. There are blogs, Zipcar blogs.

1 And I guess there are blogs for everything.
2 But it's very popular. And there are around
3 the nation are thousands of Zipcars. So
4 something must be working or somebody's
5 betting that it's going to work.

6 ZC VICE CHAIRMAN JEFFRIES: I
7 mean, listen, clearly the developer has every
8 incentive to make certain that it will have
9 the services for the people who will be
10 renting. You know, if there is a big push
11 from your tenants to have a Zipcar, you'll
12 have a Zipcar in. I'm not second-guessing
13 that.

14 MR. WELLS: Yes.

15 ZC VICE CHAIRMAN JEFFRIES: I
16 mean, so it's just that I'm really looking at
17 the totality of the overall area and all
18 that's coming on line, and I would probably
19 ask that of anyone that's coming through here
20 now and given the number of units that are
21 coming on line in that area.

22 MR. WELLS: You know, it's a good

1 question. And perhaps DDOT will articulate if
2 not here today, clearly articulate its Zipcar
3 policy. But this has come up in every case
4 that I've been involved with recently. And I
5 think that's a step in the right direction.

6 VICE CHAIRPERSON LOUD: I'm just
7 curious while we're on the subject, and let me
8 preface it by saying it has no bearing on
9 where I stand on this case but I'm curious
10 because of Mr. Jeffries' line of questioning,
11 is JBG doing the project on East-West Highway
12 in Silver Spring? It's about 800 units maybe.
13 I'm curious, are there Zipcars in that
14 project?

15 MR. McINTYRE: Yes. That's not one
16 of the projects that we work on. I couldn't
17 answer that.

18 VICE CHAIRPERSON LOUD: It was an
19 unfair question, but I was curious as to
20 whether or not you knew. Thanks.

21 ZC VICE CHAIRMAN JEFFRIES: But it
22 might not, given the location and so forth.

1 I mean, it's just that this such a close
2 inline -- I mean, I don't know.

3 MR. McINTYRE: I will mention that
4 I am working on a project in Arlington. It's
5 a hotel project. And we are doing Zipcars
6 there as well. And we're also doing bicycle
7 rentals and -- excuse me. Offering them for
8 our hotel guests that are staying at that
9 property. So it is something that's across the
10 board as far as the way that JBG is
11 approaching transportation management in the
12 markets that we develop property.

13 ZC VICE CHAIRMAN JEFFRIES: So for
14 that particular development in Arlington,
15 what's the ratio?

16 MR. McINTYRE: Well, I believe
17 that we have two Zipcars and 625 rooms,
18 440,000 square feet of space.

19 ZC VICE CHAIRMAN JEFFRIES: And
20 how close are you to the Metro?

21 MR. McINTYRE: We are probably six
22 blocks from the Metro station in Crystal City.

1 It's right next to the EPA. It's Land Bay B
2 next to EPA. Land Bay A.

3 They have a surface transit way
4 that's going in right there.

5 ZC VICE CHAIRMAN JEFFRIES: And
6 what you seem to be saying, I mean from your
7 own experience with this although it hasn't
8 been around so long, this ratio is sufficient?

9 MR. McINTYRE: You know, I guess
10 that's very subjective. If you are a Zipcar
11 user and there's a Zipcar available every time
12 you go to the space and it's sufficient, if
13 it's not it's not sufficient. So it's
14 difficult to say.

15 I will say that they are rapidly
16 becoming a part of the options that we include
17 in our development and we do attempt to
18 balance the needs of those. Because certain
19 locations you may not see the Zipcars move.
20 We're anxious to see what happens with this
21 hotel property. We don't have any specific
22 data that says our hotel users will come and

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1 use Zipcars. We will market it on our website.

2 But that is they may choose to use the
3 shuttle, taxis, mass transit, other forms --

4 ZC VICE CHAIRMAN JEFFRIES: And
5 this is a hotel?

6 MR. McINTYRE: It is a hotel, 625
7 room hotel.

8 ZC VICE CHAIRMAN JEFFRIES: Oh.

9 MR. McINTYRE: But I guess my
10 point in bring it up is that it's indicative
11 of the way, to Marty's comment, that we're
12 looking at a broad array of transportation
13 alternatives for folks in our developments.
14 And we do something else at that site, which
15 is we offer free bicycles to folks while
16 they're visiting the hotel. They can sign up
17 to take out a hotel bike and go down the
18 Potomac.

19 ZC VICE CHAIRMAN JEFFRIES: Yes.
20 The only information I was trying to get is,
21 you know, if you had finished projects and you
22 had one or two Zipcars and your experience

1 whether anecdotally or whatever has been that
2 that has been somewhat fine. You know, you
3 didn't get a lot of people clamoring for more
4 Zipcars. I know some people are probably
5 using these things.

6 MR. McINTYRE: We could probably
7 provide -- as I first said, we could provide
8 that information. We go back and look at the
9 properties where we have Zipcars and get that
10 information from Zipcar.

11 ZC VICE CHAIRMAN JEFFRIES: Right.

12 MR. McINTYRE: But we don't have
13 anything specific. Again, we were responding
14 to the DDOT recommendations.

15 ZC VICE CHAIRMAN JEFFRIES: Again,
16 this has probably gone way too long, or the
17 need to, because it's not going to have any
18 bearing on how I move on this case. But it's
19 really an issue of just wanting to make
20 certain that we're clear about demand and
21 whether there is enough of these Zipcar spaces
22 available for what I see coming down the road.

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1 So, anyway, sorry, Madam Chair.

2 CHAIRPERSON MILLER: Okay. Well,
3 I think it's something to keep in mind. I
4 think it is still somewhat new. I don't know
5 if it's an exact science yet. But I'd also be
6 careful that, you know, when we talk about the
7 allocation of spaces that maybe we leave some
8 flexibility in the event that they want to add
9 another Zipcar if there's space if there's a
10 great demand.

11 ZC VICE CHAIRMAN JEFFRIES: They
12 have every motivation. I mean, yes, you know
13 if they want to rent their spaces, they have
14 every motivation to make certain that they are
15 dealing with the demands of their clients.
16 And so I'm not really worried about that. But
17 I really do want to make certain that the
18 homework has been done.

19 CHAIRPERSON MILLER: Okay. Any
20 other Board questions?

21 MEMBER DETTMAN: Just one quick
22 one.

1 Mr. Wells, and it goes to kind of
2 the management of the parking garage. I'm
3 always curious about projects like this that
4 have a mixed use and a retail parking
5 requirement.

6 So in your analysis did you look
7 at how this garage is going to be managed? I
8 assume there's going to have to be some kind
9 of free public accessibility for the patrons
10 of the retail spaces and also there's going to
11 be public bike parking. So how are they going
12 to get down in there?

13 And I know we're only talking
14 about one Zipcar space, but as we start to
15 incorporate more Zipcar into underground
16 parking garages there's a tendency or there's
17 a possibility to increase the number of trips
18 going in and out. Because essentially it could
19 be an hourly rental of a car. So did your
20 analysis look at that as well?

21 MR. WELLS: Not directly. In
22 terms of the management of the garage, as I

1 tried to state earlier, there would be sort of
2 a public zone and then I didn't use the word
3 "private," but there would be a private
4 residential zone. And at question here and
5 what JBG is asking for is some flexibility on
6 where to draw that line. The line will go at
7 least as deep in the garage as 15 spaces.

8 You raise an interesting question.
9 You know, we're putting a Zipcar in the garage
10 in the garage so people will be less inclined
11 to own their own car and use it. on the one
12 hand. On the other hand if we're making that
13 car available to the general public, yes, it
14 could be used more frequently.

15 MR. McINTYRE: From a standpoint
16 of access for the public at P Street the
17 Hudson, they have a roll down gate which we
18 probably would not do because we would have
19 access for it with a swing arm and a ticket
20 taker -- excuse me. A ticket machine for
21 people to access the retail. But they do have
22 Zipcars beyond that roll up gate and their

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1 instructions when people make a reservation to
2 use a combination on a lock box on the
3 exterior of that garage.

4 We probably would not need to do
5 that. We would probably use a shuttle elevator
6 between the ground level and the P1 level for
7 retail and Zip folks to be able to access that
8 level. And then they have access to the Zipcar
9 on the public side of that fence.

10 And we're contemplating currently
11 a completely automated system as far as the
12 tickets for the retail paying at a kiosk and
13 then in and out. But the access is definitely
14 achievable. We just need to understand the
15 flexibility in drawing that line.

16 CHAIRPERSON MILLER: I just want
17 to ask for clarification. I thought Mr. Wells
18 said that the Zipcar could be either just for
19 the residents or for the public, that you were
20 open to either option. Is that right?

21 MR. McINTYRE: We are. But I
22 believe that the comments lead us to believe

1 that we would do better with a public access
2 to the Zipcar, which we are fine with.

3 CHAIRPERSON MILLER: So are you
4 saying it's either/or depending on what the
5 Board decides or is it either/or depending
6 upon what DDOT recommends, either/or depending
7 on what Zipcar recommends? What is it
8 dependent on?

9 MR. McINTYRE: We're going to put
10 it in the public area, the Zipcar space will
11 be part of the public parking.

12 CHAIRPERSON MILLER: So it's not
13 up in the air? It's going to be public is what
14 you're saying?

15 MR. McINTYRE: Right.

16 CHAIRPERSON MILLER: What your
17 proposed condition would be?

18 MR. McINTYRE: Correct.

19 CHAIRPERSON MILLER: Okay.

20 MR. McINTYRE: In fact, it was a
21 discussion before we came here. We'd prefer
22 to have it in the public area.

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1 MR. WELLS: If I could add, these
2 questions that the market, what is the market
3 for Zipcar and whatnot the place where that
4 assessment generally is made in the real world
5 is Zipcar. They're the ones who make the
6 judgments.

7 ZC VICE CHAIRMAN JEFFRIES: You
8 can't talk to them, is that --

9 MR. WELLS: Oh, sure.

10 ZC VICE CHAIRMAN JEFFRIES: Oh,
11 okay.

12 MR. WELLS: Talking is good.

13 ZC VICE CHAIRMAN JEFFRIES: They
14 had like some bubble around them, talk to
15 those Zip people.

16 CHAIRPERSON MILLER: All right.

17 Any other Board questions?

18 Any questions from the ANC?

19 COMMISSIONER ESTRADA: Yes. As
20 you know, we're concerned about the community
21 at large, as has been mentioned here by
22 several Board members. And there is a special

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1 exception being requested to allow more
2 restaurant space. So depending on the size of
3 the restaurant we want to make sure that
4 there's a parking plan in place for patrons to
5 essentially take the cars off the street, if
6 you will, and perhaps go into this building.
7 I haven't heard any comments to that effect.
8 I'm sure it's covered in the flexibility issue
9 that was mentioned. But just know that the
10 ANC is very careful, especially the Dupont
11 ANC, in the 14th and U Street corridor that
12 when you add another restaurant, as has
13 already been mentioned, residential parking is
14 very tight we want to see a new establishment
15 come up with a parking plan.

16 So I throw that into the mix just
17 to inform the discussion that that is another
18 source of tension, if you will, between these
19 developments; the available parking space, the
20 ratio between parking for retail versus
21 residential. So keep that in mind as you
22 deliberate.

1 CHAIRPERSON MILLER: Well, is the
2 question basically does the plan for parking
3 for retail include a demand that a restaurant
4 would generate or how is that factored into
5 the parking allocation or plan?

6 COMMISSIONER ESTRADA: Thank you
7 for rephrasing my question.

8 CHAIRPERSON MILLER: Okay.

9 MR. WELLS: We really don't know
10 what the tenants are and perhaps JBG could --
11 I don't know what the tenants are.

12 CHAIRPERSON MILLER: I think it's
13 a good question because even though this is
14 coming down the road you are asking us to rule
15 on a special exception for the restaurant and
16 we would have to consider adverse impacts, and
17 we are talking about parking. So you haven't
18 thought about that at all with respect to a
19 restaurant?

20 MR. McINTYRE: Well, there is such
21 a wide array of the type of eateries that
22 we're discussing here. And some are going to

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1 have greater requirements for parking than
2 others. And we have not sufficiently
3 proceeded in the process to evaluate a parking
4 plan for an unknown restaurant type. So we're
5 willing to look at it holistically with all of
6 our retailers because we do have parking
7 constraints and we're definitely open to those
8 discussions. But I don't have anything
9 definitive that I can speak to.

10 We have some retailers that have a
11 requirement that they won't even talk to you
12 if you don't have a certain number of parking
13 spaces, others are indifferent. So I'm just
14 not there with our retail mix.

15 ZC VICE CHAIRMAN JEFFRIES: Are
16 you familiar with the number of the
17 restaurants that are in the general vicinity?

18 MR. McINTYRE: Yes.

19 ZC VICE CHAIRMAN JEFFRIES: Do you
20 find that they're requiring this heavy
21 reliance requirement from those operators
22 around parking?

1 MR. MCINTYRE: I'm unaware of the
2 parking requirements for restaurant operators.

3 ZC VICE CHAIRMAN JEFFRIES: Okay.
4 No. I guess I'm just trying to really get at
5 the question about what's the reliance on
6 these operators for restaurants that are in
7 this area, I mean patrons needing vehicles.
8 It seems like most of the people are either on
9 foot or parking on the street. And I know
10 there's various eateries that you talk about.
11 But I'm just sort of wondering, just a general
12 area. I just don't know how much traffic is
13 being generated.

14 MR. WELLS: Well, the Metro data
15 that we have, which is not very segmented of
16 restaurants versus general retail --

17 ZC VICE CHAIRMAN JEFFRIES: Okay.

18 MR. WELLS: -- a sit down, white
19 table cloth restaurant versus a high turnover
20 restaurant, we don't have those kind of data.
21 But we do know at the risk of being imprecise
22 mathematically, sort of the blended average of

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1 the patrons. About 80 percent of them are not
2 in a car. So we have limited parking here.
3 Some restaurants won't, as Andrew said,
4 probably will not even talk about this
5 location because of parking constraints.

6 COMMISSIONER ESTRADA: I also have
7 one other comment, Madam Chair.

8 Last month you approved a large
9 project, Utopia at the corner of 14th and U.
10 Within two years we're going to have thousands
11 of square feet of commercial retail space
12 between S and U. So keep that in mind, again,
13 as you think about parking, as you think about
14 restaurants, retail service and that whole
15 neighborhood being residential.

16 So I throw that into the mix again
17 because I think since you approved it last
18 month, this one is coming on the heels of
19 that--

20 CHAIRPERSON MILLER: This isn't a
21 question, though, is it.

22 COMMISSIONER ESTRADA: No, it's

1 not a question.

2 CHAIRPERSON MILLER: Okay. So you
3 don't want Mr. Wells to address that? Okay.
4 Okay.

5 Any other questions from the
6 opponents? Yes.

7 MR. BOGDEN: Thank you, Madam
8 Chair.

9 I wanted to confirm some numbers
10 that you had provided.

11 MR. WELLS: Sure.

12 MR. BOGDEN: That the current
13 requirements would be a 108 spaces?

14 MR. WELLS: Yes, and that's my
15 understanding and that's what also appears in
16 the Office of Planning's report.

17 MR. BOGDEN: Of which 65 would be
18 for the residents and 43 for the retail and
19 restaurants?

20 MR. WELLS: Let me double check
21 that. That sounds right.

22 MR. BOGDEN: So JBG is proposing

1 90 spaces of which 75 would be for the
2 residents, an increase of ten over what's
3 required. But only 15 for retail and
4 restaurant, down from 43. So that's be 28
5 spaces fewer for restaurant and retail than
6 what is currently required. Where will those
7 28 cars park?

8 MR. WELLS: Well, again, JBG is
9 asking for flexibility. They will provide a
10 minimum of 90 spaces. They may provide more
11 depending on what the final construction
12 plans, how they shake out. They will provide
13 a minimum of 15 for the commercial component
14 of the project, which means I would just
15 speaking the English language if there's 90
16 spaces and then a minimum of 15 of those
17 spaces is for commercial, then a maximum of 75
18 would be available for residential.

19 That's a long-winded way of saying
20 there may be more than 15 spaces for the
21 commercial uses. And, in fact, in my analysis
22 I use 25.

1 CHAIRPERSON MILLER: I think
2 that's an excellent question because I think
3 we need to be clear on the Board what we're
4 approving, what kind of flexibility you're
5 talking about. Are you talking about 15 to 25
6 retail and then 65 to 75 residential? I mean
7 you're going to take from one to go to the
8 other, perhaps?

9 MS. PRINCE: We are seeking minor
10 parking relief to provide slightly less than
11 the total number of spaces that's required at
12 the project. Because we don't know the exact
13 retail uses, we need a little bit of
14 flexibility. We may get a retail user in there
15 that is one that is not car intensive at all,
16 in which case we certainly don't want to have
17 those retail spaces available when they could
18 in fact be made available to residents of the
19 project. So we felt we had to define some
20 kind of minimum, so we came up with 15. But
21 if we had a retail user come to the project,
22 restaurant or not, who was a more intensive

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1 parking demand retail user: (1) They wouldn't
2 lease from us unless we had a certain number
3 of spaces available to them. And that's where
4 the flexibility would kick in for us to
5 accommodate that retail user and then bring
6 down the residential. But the total would
7 always be a minimum of 90.

8 We just want the flexibility so it
9 works best for the community and for the
10 project. Are interests are aligned in that
11 regard. We don't want empty spaces in the
12 project.

13 ZC VICE CHAIRMAN JEFFRIES: I
14 mean, I think we understand that what you're
15 asking. I just think Madam Chair was just
16 trying to get the range of numbers between --

17 MS. PRINCE: Oh, the range? I
18 mean, it's 90 spaces would be the minimum and
19 15 minimum would have to be available for
20 retail, no matter what.

21 CHAIRPERSON MILLER: Okay. And we
22 do evaluate the impacts I think differently of

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1 retail and residential. So I'm just looking
2 for the exact range that you're talking about.
3 Because if we were to say, okay, 15 minimum
4 but what's the maximum? If the maximum were
5 50, then it would take away a lot of
6 residential parking space.

7 MS. PRINCE: Oh, that's fair.

8 CHAIRPERSON MILLER: That's what I
9 mean.

10 MS. PRINCE: You need a maximum.

11 ZC VICE CHAIRMAN JEFFRIES: Yes.

12 MS. PRINCE: We will give you a
13 maximum.

14 MR. WELLS: And I think in direct
15 response to the question of if I need 28 more
16 spaces than you can provide, I think this
17 developer doesn't win that tenant.

18 CHAIRPERSON MILLER: I don't know
19 about my other Board members.

20 ZC VICE CHAIRMAN JEFFRIES: I
21 mean, just so much of this is going to be
22 driven by --

1 CHAIRPERSON MILLER: The retail.

2 ZC VICE CHAIRMAN JEFFRIES: -- the
3 restaurant operator and the --

4 CHAIRPERSON MILLER: Is there a
5 minimum number of residential parking spaces
6 that you're going to provide no matter what,
7 for instance?

8 MS. PRINCE: I think a good way to
9 look at it would be to say to look at a retail
10 minimum and maximum. A retail minimum of 15
11 seems sensible and a retail maximum of perhaps
12 43, which would be the matter-of-right retail
13 requirement. And with that range then you can
14 do the math and figure out the minimum
15 residential and the maximum residential within
16 that overall.

17 CHAIRPERSON MILLER: Okay. Are
18 there other questions? Yes?

19 MR. BOGDEN: Madam Chair, I had a
20 second question, if I may?

21 Mr. Wells, you testified that the
22 loading bay will satisfy most needs.

1 MR. WELLS: Right.

2 MR. BOGDEN: Where will the other
3 trucks park?

4 MR. WELLS: The question of the 55
5 foot tractor trailer came up in DDOT's report.
6 Those will be the big moving van hat comes up
7 in every residential case. And the fact is
8 there will be very, very few of those and
9 they're not going to park in the 30 foot bay.
10 And we'd have to make special arrangements to
11 allow them to load or unload off the public
12 street. And I would recommend 14th Street
13 since it's four lanes wide. May have to bag
14 the meters for a specific time slot, maybe get
15 a permit for that. That's frankly what I was
16 thinking.

17 DDOT raised the issue and it comes
18 up in virtually every residential case. And
19 it's a fairly rare building that has the 55
20 foot tractor trailer.

21 MR. BOGDEN: And in the drawings
22 that I saw at the ANC meeting less than three

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1 weeks ago, I saw a sketch with two loading
2 bays. Do you know why they went from two to
3 one?

4 MR. WELLS: I didn't have the
5 pleasure of attending your ANC meeting. I did
6 not see those drawings and I don't know why
7 if there was a drawing of two bays and why it
8 was changed to one. But let me restate that
9 the requirement is for no loading bays because
10 this is a historic building, an addition to a
11 historic building. There's not a requirement
12 for one, much less two. But one is the current
13 design.

14 CHAIRPERSON MILLER: Anyone else?
15 Yes.

16 MR. COUMARIS: I think you said
17 that the transit survey during afternoon rush
18 hour was 30 something cars in an hour on S
19 Street in both directions. Do you have those
20 numbers?

21 MR. WELLS: I'm sorry, on S
22 Street?

1 MR. COUMARIS: I think you -- yes,
2 sir.

3 MR. WELLS: No, that's not
4 correct. By our counts S Street carries
5 roughly 450 to 500 cars an hour.

6 MR. COUMARIS: Okay. That's what
7 we had measured, too. But there was a 30
8 something number that we --

9 MR. WELLS: I believe I mentioned
10 that the alley system, the two ends of the
11 north/south alley at S and --

12 MR. COUMARIS: Has 30 something
13 turns?

14 MR. WELLS: Both ends of the
15 alleys plus the 14th Street driveway which
16 will be eliminated, they carry during the
17 street peak hours 25 vehicles total, that's
18 the combined total, in the morning and 33 in
19 the afternoon.

20 MR. COUMARIS: Okay. Yes, that
21 sounds right. I misheard what you said. It
22 wasn't your fault at all.

1 MR. WELLS: Those are modest
2 numbers, one every two minutes at the most.

3 MR. COUMARIS: And then Mr.
4 McIntyre, I think you said that the entrance
5 to the parking garage is going to have an up
6 and down thing instead of a garage door?

7 MR. McINTYRE: The entrance to the
8 retail parking area directly off the alley
9 will most likely contain both a rolling gate
10 as well as an arm configuration.

11 During the day what we've found in
12 retail operations that we would keep the
13 rolling gate up so that you don't burn out the
14 cycle times. And then the retail during
15 operating hours would allow for parking to the
16 retail areas. And during off hours we would
17 roll down that gate. But I will say this:
18 That's preliminarily our understanding of the
19 way it would work based on previous operations
20 or maybe other considerations that we would
21 need to evaluate to finalize the configuration
22 of access control to the parking.

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1 MR. COUMARIS: But other times
2 during the day when residents wanted to go in
3 and out, the gate would have to go up and
4 down?

5 MR. McINTYRE: The gate to the
6 residential area, yes. But that would be
7 internal in the garage pass the retail
8 parking.

9 MR. COUMARIS: It would be pass
10 the parking? Can we have -- oh, we already
11 took it down. Number 13 that shows the garage
12 door.

13 MR. McINTYRE: I think the system
14 is down.

15 MR. COUMARIS: Oh, damn.

16 CHAIRPERSON MILLER: Okay. Could
17 you tell me where you're going with the garage
18 door because those aren't related to zoning
19 relief.

20 MR. COUMARIS: The garage door,
21 how many times this garage door is going to
22 open during the daytime or during a 24 hour

1 period because I don't know if you've ever
2 heard a garage door, there's no silent ones.
3 And this one as the drawing shows is directly
4 adjacent to the front door of my house. Just
5 a few feet from the front. They've chose in
6 their infinite wisdom to put it adjacent to
7 the front door of my house. And I'm wondering
8 if there's been any study about how many times
9 during the day this garage door is going to
10 open and close.

11 MR. McINTYRE: I don't think that
12 we have anything with this project as far as
13 those studies you're referring to. But it is
14 our experience that during peak hours when
15 people would come and go, probably in this
16 city between 6:30/7:00 and midnight, the
17 rolling gate would be up and there would be
18 access to the public parking. The rolling
19 gate for the residential area would be well
20 underground, at least 15 spaces back, and
21 would not be a noise issue. But that's one of
22 the concerns with not having a garage door

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1 going up and down with every entrance and exit
2 by a vehicle.

3 MR. COUMARIS: Thank you.

4 CHAIRPERSON MILLER: Okay. Yes, I
5 can see that point. Thank you.

6 All right. Is that it? All right.
7 I guess we can move to the Office of Planning.

8 MR. COCHRAN: Thank you, Madam
9 Chair.

10 For the record, my name is Steven
11 Cochran from the D.C. Office of Planning.

12 We certainly have prepared
13 testimony. Given the time I would be happy to
14 truncate it significantly, just go over our
15 recommendations and then be available to
16 answer any questions you might have, unless
17 you would prefer me to go through the
18 testimony.

19 CHAIRPERSON MILLER: What are you
20 saying? You're going to skip to your
21 recommendations?

22 MR. COCHRAN: Yes.

1 CHAIRPERSON MILLER: Okay. I
2 would say that that's fine. Also, though, you
3 know if we've been discussing some issues and
4 that you've got something to say about those,
5 you should.

6 MR. COCHRAN: Yes.

7 CHAIRPERSON MILLER: Okay.

8 MR. COCHRAN: Okay. OP is
9 recommending the requested variance from
10 section 772.1's residential lot occupancy
11 requirements. We're basing this on what the
12 applicant began to discuss today, the kinds of
13 constraints that the site has where if you
14 take care of the lot occupancy requirements on
15 floors 2 and 3, you're left with a very
16 difficult situation. Because if you then have
17 any occupied space above them, you've
18 basically gotten rid of your attempt at
19 reducing the residential lot occupancy on
20 floors 2 and 3. Otherwise, you would have to
21 pull back from 14th Street, but the ARTS
22 Overlay strongly encourages and so does the

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1 historic district, encourages building to the
2 lot line on 14th Street, on Swann Street and
3 of course you already have the building built
4 to the lot line on S. It's unlikely that you
5 would be able to make up some of the change
6 from reducing the residential lot occupancy on
7 floors 2 and 3 by cantilevering over the
8 historic building at 1407 S.

9 So really the only place it seems
10 like you'd be able to make up for that is to
11 reduce the pullback from the alley by, I
12 believe it's between 2 and 3 feet, which is
13 then going to perhaps increase the impact of
14 shadow on the R-4 zone to the west of it. So
15 that that's sort of it in a nutshell.

16 We're recommending that the Board
17 grant the special exception relief from 411.3
18 to permit the construction of two roof
19 structures.

20 We're looking at a 20 by 20 foot
21 section that the applicant is asking for the
22 southern roof structure to be able to go up to

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1 18 feet 6 as opposed to 8 feet 6. We've
2 looked at how this is setback. That roof
3 structure would be setback at a minimum of two
4 to one from the external wall, in many
5 instances its three to one. We feel that it's
6 not likely to have any significant impact on
7 the adjacent properties or even from across
8 the street. And since it's a special exception
9 as long as we don't see any negative impact,
10 then you can approve that.

11 OP recommends that the Board grant
12 the special exception relief from 1902.1 to
13 permit portions of the top floor to
14 essentially intrude up to 4.5 feet into the
15 required 45 degree setback from the alley
16 property line. Now OP's reported earlier said
17 that it would be a 3 by 3 foot area. The
18 applicant today said it would be 5 to 4.5. So
19 we're suggesting that you permit up to 4.5
20 intrusion into it up at the top of the top
21 level.

22 Again if you don't do this, the

1 applicant would need to start a setback
2 earlier, do more setbacks or expand the size
3 of the lower floors. In the case of the last
4 one, there might be more impact on the
5 structures to the west. In the case of the
6 other two, you would be adding a fair amount
7 of structural difficulty to the applicant's
8 building ranging from either the additional
9 cost of some of the cantilevers or the heaving
10 up of structure or the need to take the
11 structural load all the way down to the
12 garage, which could then impact on the garage
13 and reduce the number of parking spaces that
14 could be required to less than what the
15 applicant is asking for.

16 We're recommending that you grant
17 special exception relief from 1906.1 to permit
18 the eating and drinking establishments to
19 exceed 25 percent of the total linear footage
20 of 14th and U Streets in the ARTS Overlay,
21 provided such relief is necessary given the
22 existing linear footage of such uses within

1 the Overlay.

2 It appears that both the applicant
3 and one of the community groups have presented
4 information that indicates that if all the
5 existing or currently permitted or Board
6 granted relief type restaurants are
7 constructed, you'd have just below or just
8 above 25 percent of the linear footage on 14th
9 and U Streets being devoted to eating
10 establish or drinking establishment uses. We
11 feel that it would be appropriate to grant
12 this relief especially since there is no
13 official figure on what the linear footage is,
14 provided the applicant is willing to limit
15 their linear footage that is devoted to eating
16 and drinking establishments to no more than 50
17 percent of its linear footage along 14th
18 Street. We feel that this still meets the
19 intentions of the Overlay to provide for some
20 diversity, actually to provide for
21 considerable diversity within the Overlay.

22 Clearly there is an overall

1 pattern that OP and evening the Zoning
2 Commission will need to look at on this
3 corridor. We do not have that information
4 right now. We certainly have begun to look at
5 this. But now we feel that it would be
6 appropriate to grant relief to the applicant.

7 And finally looking at the parking
8 relief request. Op recommends that non-
9 residential parking relief be granted, not
10 residential parking relief. And that that
11 non-residential parking relief should be
12 provided and conditioned on there being at
13 least 15 and no more than 43 non-residential
14 parking spaces provided. Because as it is,
15 the applicant is not going to be requiring
16 relief from the residential parking that is
17 required.

18 Typically, the applicant does
19 distinguish on whether they're asking for
20 relief from the residential or the
21 nonresidential parking requirements. The
22 applicant has left some flexibility in here,

1 which OP would prefer that they not have quite
2 that much flexibility and that you, if you're
3 going to grant relief, that you set some
4 minimum standard for the relief provided from
5 the commercial parking.

6 And that concludes our report.
7 Again, happy to answer any questions.

8 CHAIRPERSON MILLER: If the
9 applicant goes to 43 non-residential spaces,
10 then wouldn't the residential spaces then need
11 relief? Wouldn't they come below the required
12 number?

13 MR. COCHRAN: They would still be
14 at. If they have up to 130 residential units,
15 which is the maximum number that they're
16 providing, then they would be required to
17 provide only 65 residential parking spaces.

18 You're right. It couldn't be more
19 than 43. Okay. So then they wouldn't be able
20 to provide more than 25 commercial parking
21 spaces if they're not going to require relief
22 from the residential spaces.

1 ZC VICE CHAIRMAN JEFFRIES: So
2 that's the max?

3 MR. COCHRAN: If the Board wishes
4 to --

5 ZC VICE CHAIRMAN JEFFRIES: So
6 it's 15 to 25?

7 MR. COCHRAN: -- approach it that
8 way where the only relief granted would be to
9 commercial parking spaces, then it would be in
10 a range of a minimum of 15 and a maximum of
11 25. That way the residential parking
12 requirement would be met.

13 CHAIRPERSON MILLER: Okay. Wait.
14 Maybe there's something wrong with my math
15 now.

16 A 108 spaces altogether, is that
17 right? So if the maximum --

18 MR. COCHRAN: No. Ninety would be
19 provided, 108 required.

20 CHAIRPERSON MILLER: Oh, 90
21 altogether? It's 108 units, is that right?

22 MR. COCHRAN: No, 108 spaces are

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1 what would be required for the combination of
2 the residential parking requirement and the
3 commercial parking requirement. What OP is
4 suggesting is that they essentially be
5 required to meet their minimum residential
6 parking requirement and that you set a minimum
7 for the commercial parking that will be
8 provided of at least 15. And by implication
9 the maximum would then be 25 on the commercial
10 parking since we're not recommending any
11 relief from the residential parking.

12 ZC VICE CHAIRMAN JEFFRIES: So 65
13 is the minimum, and that would allow for
14 flexibility for the commercial side, between
15 15 and 25?

16 MR. COCHRAN: Correct.

17 CHAIRPERSON MILLER: So the
18 requirement would be 90 minimum altogether?
19 Fifteen minimum for retail, 65 minimum for
20 residential, is that what you're saying?

21 MR. COCHRAN: They'd still be
22 meeting the -- they then wouldn't be asking

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1 for any relief from the residential parking
2 which they haven't specifically asked for now.

3 CHAIRPERSON MILLER: Okay.

4 MR. COCHRAN: They've simply asked
5 for an overall number, which is unusual.

6 CHAIRPERSON MILLER: Okay.

7 MR. COCHRAN: So we're suggesting
8 that the relief be granted only on the
9 commercial parking. DDOT may have a different
10 recommendation on that, but that's OP's.

11 CHAIRPERSON MILLER: Are you
12 saying that it would to state that it be 65
13 minimum residentially because that's the regs
14 and they're not asking relief from that?

15 MR. COCHRAN: That's right.

16 CHAIRPERSON MILLER: Okay. Is it
17 your position that we don't need to get into
18 the demand that would be generated by a
19 restaurant in considering the 25 percent
20 linear frontage requirement separate from
21 retail? That, you know if we're looking at
22 parking that's provided for retail and that's

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1 sufficient, we don't have to look at this
2 restaurant generated demand?

3 MR. COCHRAN: Well, given the
4 nature of the neighborhood which is highly
5 pedestrian oriented and which is three blocks
6 from a Metro stop, we feel that it's basically
7 the people that come there are going to come
8 there on foot, by bicycle, via Zipcar or by
9 bus or Metro. So, no, I don't think you would
10 need to look at that.

11 ZC VICE CHAIRMAN JEFFRIES: What
12 are the existing conditions on 14th Street,
13 you know differences in retail between eating
14 establishments and -- do we have any --

15 MR. COCHRAN: In terms of parking?

16 ZC VICE CHAIRMAN JEFFRIES: No,
17 no. The actual uses.

18 MR. COCHRAN: Well, apparently the
19 eating and drinking occupies around 25 percent
20 already on 14th and U Street.

21 ZC VICE CHAIRMAN JEFFRIES: No.
22 I'm trying to differentiate between 14th and

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1 then U Street.

2 MR. COCHRAN: Certainly the
3 numbers that were provided by both the
4 community group and by the applicant indicate
5 that the percentage on U Street is
6 significantly higher than on 14th Street. As
7 I recall, it's at least 30 percent on U Street
8 and it's in the low 20s on 14th Street.

9 ZC VICE CHAIRMAN JEFFRIES: Yes. I
10 mean just anecdotally, just my experience, I
11 mean it's just part of my neighborhood, I just
12 feel like there can certainly be more eating
13 establishments on 14th Street. Now, obviously,
14 you know no one's looking for Adams Morgan,
15 you know, here. But I'm happy to hear that
16 we're going to start to revisit the 1906.1 --

17 MR. COCHRAN: It's an awkward
18 regulation. The intentions are excellent.

19 ZC VICE CHAIRMAN JEFFRIES: Yes.

20 MR. COCHRAN: The way that you go
21 about implementing it is somewhat awkward.

22 ZC VICE CHAIRMAN JEFFRIES:

1 Because it just seems problematic to me. And
2 we went over retail for Zoning Commission, I
3 don't think we had this discussion around
4 retail--

5 MR. COCHRAN: I'm sorry. I wasn't
6 there.

7 ZC VICE CHAIRMAN JEFFRIES: I
8 think you weren't there for that. I'll look
9 into that.

10 CHAIRPERSON MILLER: I know we
11 have a representative from DDOT here as well.
12 I just want to ask you, Mr. Cochran, though
13 does Office of Planning take a position on
14 DDOT's recommendations?

15 MR. COCHRAN: Well, DDOT's
16 recommendations are recommendations. I think
17 OP would generally favor them were this a
18 Zoning Commission case, in particular PUD.
19 Many of the things that DDOT is recommending
20 are very good, but they are along the lines of
21 mitigation or amelioration, which is certainly
22 not something that is necessarily germane to

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1 a BZA case. They deal with larger issues, not
2 with the relief that the applicant is
3 requesting.

4 CHAIRPERSON MILLER: Okay. So
5 Office of Planning is not necessarily
6 supporting all the proposed recommendations?

7 MR. COCHRAN: That has an
8 implication. We certainly don't disagree with
9 them. It's not our position to support or not
10 support something like that. Because they're
11 not directly involved with the case at hand.

12 ZC VICE CHAIRMAN JEFFRIES: What
13 you're saying it's different than a PUD where
14 you're getting into broader issues and so
15 forth.

16 MR. COCHRAN: Absolutely.

17 ZC VICE CHAIRMAN JEFFRIES: This
18 is they're asking for very targeted and very
19 little relief, quite frankly. And those issues
20 don't really tie to -- the parking, the larger
21 parking issues don't really tie so much to
22 what relief is being requested here, is that

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1 what you're saying?

2 MR. COCHRAN: They don't tie to
3 the relief being requested.

4 ZC VICE CHAIRMAN JEFFRIES: Right.

5 CHAIRPERSON MILLER: I thought
6 they were intended to. But we'll ask DDOT.

7 I mean, my impression is I think
8 it's kind of mixed here because I'm under the
9 impression that these measures are proposed to
10 somewhat mitigate for fewer parking spaces,
11 the impacts. So that, you know, because there
12 are fewer parking spaces we're going to get
13 more cars off the road and, therefore to do
14 that, there are these recommendations. Or
15 more cars competing for parking spaces outside
16 the parking lot because there are fewer spaces
17 being provided. So I think it's tied to this.

18 On the other hand, I think that
19 DDOT, though, takes a position that it's a
20 good thing and not a negative thing to have
21 fewer parking spaces. So I'm not sure that
22 we're mitigating an adverse condition.

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1 MR. COCHRAN: I believe that
2 DDOT's recommendation is that it has no
3 problem with the relief requested. And what
4 comes after that is in the realm of strong
5 suggestion and exhortation.

6 CHAIRPERSON MILLER: All right.
7 Why don't we go to DDOT and then we can do
8 questions --

9 ZC VICE CHAIRMAN JEFFRIES: Yes,
10 they'll speak to that.

11 CHAIRPERSON MILLER: -- for both
12 Office of Planning and DDOT. Because I don't
13 want to keep talking about you when you're
14 right here. If you could introduce yourself
15 for the record.

16 MR. ZIEMANN: Yes.

17 CHAIRPERSON MILLER: Oh, wait a
18 second. Wait a second. Mr. Loud wants to just
19 finish up with just a Planning question.
20 Sorry.

21 VICE CHAIRPERSON LOUD: Thank you,
22 Madam Chair.

1 I noticed in your report that the
2 applicant is seeking a special exception so
3 that I guess all 17,000 or 18,000 square feet
4 of the retail could be an eating
5 establishment, as I understand the
6 application. Is that correct.

7 MR. COCHRAN: That was their
8 request. We've talked to the applicant and we
9 told them that we would be recommending that
10 they be limited to 50 percent of the linear
11 frontage on 14th Street for any eating or
12 drinking establishment. They have said that
13 that's certainly acceptable to them.

14 VICE CHAIRPERSON LOUD: Okay. All
15 right. And I'm glad that you have been able to
16 work that out. I'm curious though as to why
17 you would limit it to 50 percent if on that
18 14th Street side there's no real point of sort
19 of diversifying. It's already diversified, in
20 other words? It sounds like on U Street it's
21 not diversified, but on the 14th Street side
22 that --

1 MR. COCHRAN: If we're looking
2 ahead several years, I think that once
3 financing becomes available to build anything,
4 that there's a real chance that you will have
5 the neighborhood commercial overlay problem
6 where success generates more of the same
7 things and eventually success breeds its own
8 destruction. So we don't want that to happen
9 here.. That's why the overlay was put in to
10 try to keep this a healthy neighborhood with
11 a variety of residential uses, shopping
12 opportunities, recreational opportunities.

13 We came up with 50 percent simply
14 because we had thought that that was
15 appropriate for a recent BZA case across the
16 street and we saw no reason to deviate from
17 that recommendation and this one.

18 The Central Union Mission case we
19 also recommended that they be limited to 50
20 percent of their linear footage. Again
21 because we don't have the official numbers at
22 this point so we're trying to strike a balance

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1 between the Overlay's requirements and -- how
2 to put that? Trying to meet the intentions of
3 the Overlay's restrictions without actually
4 having the data to know whether we need to get
5 relief or not, if the applicant needs to get
6 relief or not.

7 VICE CHAIRPERSON LOUD: And this
8 sort of a forward looking question. But is it
9 OP's understanding that respect to the special
10 exceptions that may be granted from this
11 requirement for eating establishments that
12 once an applicant secures a special exception,
13 that regardless of what then follows in the
14 real world, there may be Certificate of
15 Occupancies in the pipeline that the applicant
16 didn't take into consideration in their
17 curbside analysis, that that's locked in.
18 That special exception relief is locked in and
19 it doesn't matter that by the time that they
20 get this retailer on board you may be at 60
21 percent?

22 MR. COCHRAN: That's correct.

1 VICE CHAIRPERSON LOUD: Okay.

2 MR. COCHRAN: But anybody that
3 comes in after this that wants to put an
4 eating and drinking establishment and doesn't
5 already have Certificate of Occupancy for
6 such, would have to go to the Zoning
7 Administrator and presumably the Zoning
8 Administrator would realize that this is in
9 excess of what is permitted in this zone. So
10 the Zoning Administrator would then have to
11 make a decision on whether it conforms with
12 the Zoning Regulations or not.

13 VICE CHAIRPERSON LOUD: They'll
14 have to do more than counsel in this case did,
15 which was sort of a visual look at the store
16 front linear square footage. They have to
17 know, for example, that this case was ruled on
18 and that we granted?

19 MR. COCHRAN: Well, I don't want
20 to speak for the Zoning Administrator. All I
21 can say is the Zoning Administrator would have
22 to make that decision on whether it conforms

1 to the Zoning Regulations or not.

2 CHAIRPERSON MILLER: But isn't it
3 true once it would hit 25 percent, then the
4 parties would have to come to the Board for a
5 special exception. That's what my
6 understanding is what would happen.

7 MR. COCHRAN: If the Zoning
8 Administrator determined that this would put
9 it over 25 percent, then yes, they would have
10 to come for a special exception.

11 CHAIRPERSON MILLER: So what we're
12 doing here is just anticipating that a year or
13 two, whatever this takes to come down the
14 line, that they might need a special
15 exception, so we would be doing it now?

16 MR. COCHRAN: We're not --

17 ZC VICE CHAIRMAN JEFFRIES: We're
18 giving flexibility.

19 MR. COCHRAN: We're not sure
20 whether this is anticipatory or not. It may be
21 required at this moment. It may not be
22 required for a year until they finish their

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1 construction drawings.

2 CHAIRPERSON MILLER: It may not be
3 required at all if some restaurants close up.

4 MR. COCHRAN: Then there's another
5 question for the ZA. If they close up but they
6 have their Certificate of Occupancy, thank
7 goodness I'm not the one that has to decide
8 that.

9 CHAIRPERSON MILLER: But I think
10 what you said in the previous case was
11 regardless of what the situation might be by
12 the time that a restaurant would be wanting to
13 go for a Certificate of Occupancy that this
14 would not cause an adverse impact, is that
15 correct?

16 MR. COCHRAN: That's correct.

17 CHAIRPERSON MILLER: Okay. And
18 that's somewhat why I think you recommended
19 that it be 50 percent of this property's
20 linear footage?

21 MR. COCHRAN: That's correct.

22 CHAIRPERSON MILLER: Because, yes,

1 there would be some diversity preserved in the
2 spirit of the Overlay?

3 MR. COCHRAN: Exactly.

4 CHAIRPERSON MILLER: Okay. All
5 right. I guess we're ready for DDOT now.

6 MR. ZIEMANN: For the record, my
7 name is Christopher Ziemann. I'm the Ward 2
8 Transportation Planner at the District
9 Department of Transportation.

10 You all have read this, so I'll be
11 brief.

12 DDOT agrees with the applicant's
13 request for special exception on the parking
14 ratio. The applicant's proposal is to build
15 the site as a mixed-use building with less
16 parking, which we invite at DDOT. The Transit
17 Oriented Development Project is one that makes
18 logical sense because of its central location
19 to transit to the central business district
20 and to the strong pedestrian and bicycle
21 network.

22 Now we have requested a number of

1 transportation demand management strategies in
2 order to further reduce the trips generated
3 and the need for any parking that may be
4 unmet, one of which includes providing
5 residents SmarTrip cards with \$60 Metro fare
6 per person as a one time kind of moving in
7 bonus.

8 In addition, and this was
9 addressed by Mr. Wells, we requested bicycle
10 parking both in the parking garage for
11 residents and retail employees and as well as
12 along the street, S Street and 14th Street.

13 We applaud the provision of a car
14 sharing space.

15 We also encourage the developer to
16 pay for the initial application fee for a car
17 sharing membership as well as the annual \$50
18 fee for all residents and business owners to
19 encourage car sharing use. And maybe that
20 will necessitate providing another space.

21 DDOT also, as the applicant and
22 the BZA knows, has a bike sharing program. The

1 Smart Bike Program and there's a Smart Bike
2 rack two blocks north, right at 14th and U. We
3 would like to see the developer provide
4 residents and proprietors a one year
5 membership to the Smart Bike Program to
6 encourage that use as well.

7 And we also believe that the
8 development in order to decrease the threat of
9 spillover parking by residents, that this be
10 excluded from the residential parking permit
11 system in the District of Columbia so that
12 residents park in the underground facilities
13 and do not additionally burden the
14 neighborhood curbside parking inventory.

15 DDOT would also like to see a more
16 flushed out plan of how larger delivery
17 vehicles would be accommodated. For example,
18 the 55 foot truck. And the expected frequency
19 of those. Now obviously the retail hasn't been
20 established yet, but those.

21 In addition, lastly, we believe
22 that the applicant should adhere to the

1 streetscape standards found in the *14th Street*
2 *Transportation and Streetscape Study* that was
3 published in 2008 with the work put into it
4 was put together with full participation from
5 the community and from the Business
6 Administration, from the ANCs as well. We
7 believe that this will create a vibrant
8 commercial and residential corridor.

9 That's it.

10 CHAIRPERSON MILLER: Thank you.

11 Has a development address ever
12 been excluded from residential parking system?

13 MR. ZIEMANN: Yes.

14 CHAIRPERSON MILLER: I haven't
15 seen it at the BZA. Does that happen at the
16 Zoning Commission with PUD's?

17 MR. ZIEMANN: Yes, it does.
18 There's been a few in Ward 3. So I don't know
19 the exact addresses.

20 CHAIRPERSON MILLER: Now could you
21 characterize these recommendations, or any of
22 them as conditions to mitigate any adverse

1 impacts that might result from the parking
2 relief that's being granted in that the
3 Board's considering a reduction of parking
4 spaces? Do you know what I'm saying? We're
5 trying to understand what are these? Are
6 these like recommendations of like these would
7 be good things to do or are they proposed
8 conditions to mitigate adverse impacts?

9 MR. ZIEMANN: These are proposed
10 conditions to mitigate adverse impacts.

11 CHAIRPERSON MILLER: All of them?

12 MR. COCHRAN: Yes. Now there's no
13 mathematical formula to say that doing one of
14 these will eliminate the need for so many
15 spaces. But the more of these programs that
16 the applicant agrees to participate in, the
17 smaller the impact of the reduction in
18 parking. The smaller the impact to the
19 neighborhood that the reduction in parking
20 will cause.

21 CHAIRPERSON MILLER: Okay. It
22 sounds like you're saying then you've thrown

1 out a lot of ways in which the parking demand
2 could be reduced. And that if they did some of
3 these, that would be good?

4 MR. COCHRAN: Yes.

5 CHAIRPERSON MILLER: Not
6 necessarily all of them?

7 MR. COCHRAN: No. But we'd like
8 to see all of them.

9 CHAIRPERSON MILLER: So do you
10 anticipate a spillover of residential parking?

11 MR. ZIEMANN: I think with any
12 development no matter how many parking spaces
13 you have, there's always the threat of
14 spillover.

15 On street parking, as we've seen
16 throughout the District, is much more popular
17 than off street parking. If we look at the DC
18 USA building, for example, it's very hard to
19 find a spot along the curb, although the
20 parking garage has rarely been more than half
21 full.

22 CHAIRPERSON MILLER: And is that

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1 true primarily for retail as opposed to
2 residential?

3 MR. ZIEMANN: I don't have those
4 exactly numbers, but my feeling is that it
5 doesn't matter.

6 CHAIRPERSON MILLER: And what do
7 you mean by you prefer a deed restriction?

8 MR. COCHRAN: The point of that is
9 that if a resident, for example, buys a
10 parking space with their unit or rents one,
11 that they don't rent it to a commuter.
12 Because selling these spaces or renting these
13 spaces to commuters would obviously increase
14 the number of trips that the site would
15 generate.

16 CHAIRPERSON MILLER: I'm not
17 familiar with the *14th Street and Streetscape*
18 *Study*. Are there any standards that you think
19 the applicants, that there's indication that
20 they're not going to be complying with or is
21 that just something that the Board needs to
22 look at or something that the applicant just

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1 needs to commit to?

2 MR. ZIEMANN: Well, here's the
3 *14th Street Streetscape and Transportation*
4 *Study*. I managed this project, and it was
5 finished earlier this summer, in June. We
6 just wanted to reiterate the requirement that
7 the streetscape be built up to the District of
8 Columbia standards. And currently this for
9 14th Street is the standard.

10 CHAIRPERSON MILLER: And what's
11 that mean by the standard? Is that like a
12 goal? There's not a regulation that requires
13 them to meet the standard or what?

14 MR. ZIEMANN: Yes, there is.

15 CHAIRPERSON MILLER: There is?
16 Where is it. Is it a Zoning Reg that requires
17 it? No.

18 MR. ZIEMANN: No. It's a public
19 space regulation, and I'm trying to quote what
20 I've seen. That if a site improves more than
21 50 percent or goes through more than 50
22 percent of it renovation, then it needs to

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1 improve the public space around it in keeping
2 with the District of Columbia standards.

3 CHAIRPERSON MILLER: I mean, that
4 sounds great. But I don't know if that's
5 anything that's within our jurisdiction, is
6 it? Or is it just within public spaces
7 jurisdiction?

8 MR. ZIEMANN: This will be done
9 anyway, but we wanted to reiterate it.

10 CHAIRPERSON MILLER: Any questions
11 from other Board members?

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

14 Does the ANC have any questions
15 for -- or DDOT. I meant to say that. Or DDOT,
16 applicant have any questions for DDOT. No.
17 Okay.

18 COMMISSIONER ESTRADA: Two quick
19 questions. First for Mr. Cochran.

20 Who does keep track of the linear
21 footage with regard to that 25 percent?

22 MR. COCHRAN: No one.

1 COMMISSIONER ESTRADA: That's what
2 I thought. If I may be allowed a comment. I
3 recently asked ABRA for a number of licenses
4 along 14th and U. And they told me there were
5 48 licenses along 14th and U. So somewhere
6 between OP, ABRA and BZA we need to get to the
7 bottom of that. Because we're at a tipping
8 point.

9 Okay. That's my first
10 question/comment. Now the next one is for Ms.
11 Ziemann.

12 I've worked with you on the 14th
13 Streetscape, and I'm very pleased with the
14 results.

15 Is there a loading zone in front
16 of this property? I know there was one in
17 front of Utopia, and that was one of the
18 reasons the ANC supported the Utopia project.
19 Is there a similar loading zone in front of
20 this building, this proposed project? Because
21 that would go a long way to helping with the
22 trucks, and that was an issue with the 250

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1 units at the corner of 14th and U?

2 MR. ZIEMANN: I think the map it
3 was shown where the loading zones would be
4 isn't printed in this edition.

5 COMMISSIONER ESTRADA: For my
6 recollection for the Board is that there are
7 several loading zones that were placed on 14th
8 Street to deal with these kinds of issues.
9 But my recall is also the same as yours, I
10 can't remember whether it occurs on this block
11 as well.

12 MR. ZIEMANN: Right. Now whether
13 or not it occurs on this block, DDOT supports
14 loading and parking garage access from the
15 alley as a general policy. If there were a
16 loading zone located on the curb, it would
17 eliminate on street parking which eliminates,
18 obviously, retail access to establishments and
19 also revenue for the District Department of
20 Transportation.

21 COMMISSIONER ESTRADA: Thank you.

22 CHAIRPERSON MILLER: Okay. Yes,

1 sir? Party opponents, yes.

2 MR. COUMARIS: Mr. Ziemann, on the
3 Utopia project at 14th and U, is it not true
4 that you did not support the -- or did not
5 oppose keeping the alley cut on 14th Street as
6 opposed to having the garage entrance in the
7 alley there.

8 MR. ZIEMANN: DDOT rescinded its
9 comments.

10 MR. COUMARIS: And why did you
11 rescind those comments?

12 CHAIRPERSON MILLER: That kind of
13 goes to another case, so I'm not sure that
14 DDOT would be required to answer that
15 question. If there's some discomfort over
16 there, which I don't know. But we're in a
17 different case, so do you want to ask about --
18 I was just saying I don't know how you feel
19 about answering a question that relates to
20 another case.

21 MR. COUMARIS: Well, could I ask
22 if you would agree with me about why --

1 CHAIRPERSON MILLER: Is there a
2 difference between that case and this case?

3 MR. COUMARIS: It's the same
4 alley.

5 CHAIRPERSON MILLER: Same alley?

6 MR. COUMARIS: Yes.

7 CHAIRPERSON MILLER: Is there a
8 change in DDOT's policy with respect to that
9 alley, is that --

10 MR. ZIEMANN: Well, my
11 understanding was that because of the alley
12 dwelling at 14th and U and because those City
13 Councilmen bring objections because of alley
14 dwellings, that that was considered unique.
15 And that DDOT withdrew their recommendation
16 about the alley cut so that the alley cut
17 could remain on 14th Street.

18 MS. PRINCE: Excuse me. Mr.
19 Coumaris can address this issue in his direct
20 testimony. There was no testimony from DDOT
21 on this totally unrelated project in a
22 different square, not the same square, not the

1 same alley. So I suggest that you stop this
2 line of questioning and let him address it in
3 his direct if he so chooses.

4 CHAIRPERSON MILLER: That's what I
5 was thinking earlier. I just didn't know if
6 there was a general question that you were
7 concerned about DDOT's policy in general if
8 it's consist with this case or what. But you
9 really need to kind of gear your question to
10 this case rather than probe too much I think
11 as to what went on in the other case.

12 MR. COUMARIS: Well, I'm not the
13 one who brought up DDOT's position on the one
14 at 14th and U.

15 CHAIRPERSON MILLER: But do you
16 have --

17 MR. COUMARIS: That was mentioned
18 previously, that's why I questioned him about
19 what position they had taken on that.

20 CHAIRPERSON MILLER: I think the
21 point is if you want to probe their position
22 on this case, that's appropriate. But we don't

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1 want to drift too much into another case where
2 there isn't even a position on record if they
3 rescinded something. If I recall, we never
4 even saw what their position was, just that
5 something was rescinded.

6 So do you have a focused question
7 about their position in this case?

8 MR. COUMARIS: As an alley
9 dwelling involved with the alley, is your
10 position different as far as your
11 recommendation that curb cuts be placed in
12 alleys or that garage entrances be placed in
13 alleys instead of curb cuts on 14th?

14 MR. ZIEMANN: You're asking is it
15 DDOT's policy that garage entrances and
16 loading be put in an alley despite the
17 existence of an alley dwelling?

18 MR. COUMARIS: Correct.

19 MR. ZIEMANN: It is DDOT's general
20 policy. Obviously every situation has to be
21 taken into account individually. But it's
22 DDOT's policy that garage entrances and

1 loading be done in the alley. That's
2 basically what they were built for. And in
3 this specific case DDOT's supports the garage
4 entrance and the loading off of the alley.

5 MR. COUMARIS: And then for Mr. --
6 well, no, another question for Mr. Ziemann.
7 Have you had any sort of communication as far
8 as the location of the power plant, the
9 excavation for what we sometimes see on the
10 sidewalk when we're walking by? I know ladies
11 must hate them with high heels. The metal
12 grates where the power thing is down
13 underneath. What is DDOT's position as far as
14 does that need to go in on 14th Street or in
15 the alley next to my house?

16 MS. PRINCE: Again, I object to
17 DDOT being questioned on a matter where there
18 was absolutely no testimony. We're talking
19 about the placement of a Pepco vault in public
20 space, which is not a DDOT matter and has not
21 been testified to today.

22 CHAIRPERSON MILLER: Okay. If

1 it's not DDOT's jurisdiction, then it's not a
2 DDOT matter. Is it DDOT's? It is DDOT's
3 jurisdiction. Okay. Is that something you
4 consider then?

5 MR. ZIEMANN: Normally we consider
6 it. We haven't been presented with the
7 information for this case. However, DDOT has
8 three, I guess, levels of preference. First,
9 we prefer that Pepco vaults be placed in
10 private space. If they can't be, then we
11 prefer that they're placed in public space and
12 landscaped around. And if that's not possible,
13 we prefer that they are covered. Or, I'm
14 sorry, either landscaped or in an alley,
15 that's our second preference. And then our
16 third preference is that if they have to go on
17 the sidewalk, that they're completely covered.

18 ZC VICE CHAIRMAN JEFFRIES:
19 There's no testimony about any of this,
20 though, right? Did you bring this up earlier?

21 MR. ZIEMANN: I've never brought
22 this up.

1 ZC VICE CHAIRMAN JEFFRIES: Oh,
2 okay.

3 It's getting late and --

4 MR. COUMARIS: One last thing.
5 The statement was made by Mr. Cochran that in
6 the Central Union Mission case there was a
7 condition put on. AndCentral Union Mission.
8 of course, is an unopposed case so let's not--
9 you know, it wasn't looked at very well. But
10 that there was a condition put on that only 50
11 percent of the front footage of the building
12 be allowed to be restaurant, liquor, whatever.
13 And you said that you recommend that that be
14 a condition here, too, if they're allowed to
15 ignore the 25 percent moratorium rule in the
16 ARTS Overlay for this that that be condition
17 upon them having no more than 50 percent of
18 that building be a restaurant liquor license,
19 right? That's what you said?

20 MR. ZIEMANN: That's correct.

21 MR. COUMARIS: Yes. And then I
22 think Mr. Jeffries also said that there was

1 shortage of restaurants on 14th Street.

2 I guess no one has read the
3 application and nobody's read the regulations
4 because --

5 CHAIRPERSON MILLER: Is there a
6 question?

7 MR. COUMARIS: Yes, there --

8 CHAIRPERSON MILLER: Because
9 you're going to get time to testify as to your
10 interpretation.

11 MR. COUMARIS: Is anyone aware of
12 the section in the ARTS Overlay that requires
13 that 50 percent of the front of the building,
14 no more than 50 percent be restaurant or
15 liquor license? Is anybody aware of that
16 section?

17 MR. COCHRAN: I'm not familiar
18 with what you're describing. Perhaps you're
19 describing the requirement that 50 percent of
20 the ground floor be devoted to nonresidential,
21 i.e., preferred uses of the Overlay such as
22 retail space, eating drinking establishment,

1 et cetera.

2 MR. COUMARIS: There's no
3 limitation of 50 percent of the front of the
4 building to being restaurant liquor license--

5 MR. COCHRAN: I'm not aware of
6 that at all.

7 MR. COUMARIS: All right.
8 Because--

9 ZC VICE CHAIRMAN JEFFRIES: Is
10 this a question?

11 CHAIRPERSON MILLER: Yes.

12 MR. COUMARIS: No. That was all my
13 questions.

14 ZC VICE CHAIRMAN JEFFRIES: Okay.
15 Because you're going to get a lot of time --
16 well, not a lot of time to testify. But just
17 Q&A here.

18 CHAIRPERSON MILLER: Okay. Other
19 -- yes, sir?

20 MR. BOGDEN: A brief question for
21 each of the gentlemen.

22 Mr. Ziemann, the suggestions that

1 you proposed for mitigation, you know the
2 Zipcar and the Smart card and so on, as I
3 recall they all applied to the residents of
4 the proposed development. Yet we heard earlier
5 that the Board should not reduce its
6 requirements for residential parking, but all
7 the reduction should come from commercial
8 parking, public parking available in that
9 building. Your suggested mitigation measures
10 won't do anything to help alleviate the
11 stresses of commercial parking, which is
12 really what the problem is in the
13 neighborhood. Can you address that?

14 MR. ZIEMANN: Well, first off,
15 DDOT supports the reduction of parking because
16 of the strong transportation options that
17 exist in the neighborhood: The bus system,
18 the bicycle network, the pedestrian network,
19 concrete and brick sidewalks, for examples and
20 the Smart Bike Program, obviously.

21 Now with regards to the reduction
22 of parking and what uses it comes from, the

1 proposed is 90, which is 18 spaces less than
2 the required. Now DDOT doesn't feel strongly
3 either way where this reduction should come
4 from. Because the number of spaces, 18
5 spaces really wouldn't make that much
6 difference if it was nine from each or if it
7 was ten from one and eight from the other.
8 So, no, DDOT doesn't have a strong opinion
9 either way.

10 MR. BOGDEN: But it sounds like if
11 the Board approves the parking reduction,
12 perhaps the reduction should come solely from
13 the residential requirement and not the
14 commercial requirement.

15 And, Mr. Cochran, you had
16 testified that virtually all of the traffic in
17 that area, the commercial traffic that would
18 be generated, people would be arriving by
19 foot, by bicycle, by Metro, by bus. If that
20 were true, we wouldn't have a parking problem
21 now. I've lived in that area since before
22 there was all this development.

1 ZC VICE CHAIRMAN JEFFRIES:

2 Question.

3 MR. BOGDEN: So on what do you
4 base your conclusion that virtually all of
5 that traffic would be by public transportation
6 or walking?

7 MR. ZIEMANN: Excuse me. I don't
8 recall saying "virtually all." I believe that
9 I said much of or a substantial portion of.
10 But I have not done any statistical studies on
11 this.

12 MR. BOGDEN: Thank you.

13 CHAIRPERSON MILLER: Okay. Thank
14 you.

15 All right. I think that's it here.
16 Do we have anyone -- well, let's see, we go to
17 the ANC at this point. We've done the Office
18 of Planning and DDOT testimony.

19 Is there further testimony? I
20 believe there is a letter in the record, am I
21 correct, from the ANC?

22 COMMISSIONER ESTRADA: Yes.

1 CHAIRPERSON MILLER: Is there
2 additional testimony to that?

3 COMMISSIONER ESTRADA: I'll just
4 keep my comments very brief. The letter
5 speaks for itself. We did not support this
6 application.

7 You've probably gathered from my
8 comments and questions that there's a number
9 of unresolved issues that the ANC doesn't
10 believe that this developer has satisfactorily
11 answered. We listened to these issues as
12 represented by the neighbors, some of whom are
13 here today and many more of whom were there
14 that night. And based on the lack of
15 collaboration with this developer, unlike the
16 case of Utopia where we had it was practically
17 a love feast, if you remember, those of you
18 who are here where we had a year's worth of
19 collaboration. We've had really zero with
20 this project or very close to zero.

21 We could not see that we would we
22 reward this developer by granting the

1 variances and the special exceptions. And we
2 are particularly sensitive to the one about
3 the ARTS Overlay because we are at a tipping
4 point and it is a concern of the ANC.

5 So those essentially are my
6 comments, my testimony. We do not approve of
7 this project.

8 CHAIRPERSON MILLER: Okay. I just
9 want to make a comment. I mean, I see that we
10 have a letter that it says that all
11 Commissioners were in attendance, it was a
12 quorum, it was a duly notices meeting, et
13 cetera. It meets the great weight
14 requirements. But you said that you opposed
15 it, but I'm surprised that there's no --
16 unless I'm missing it, rationale given for the
17 opposition.

18 COMMISSIONER ESTRADA: Well, I
19 think quite frankly if you were there at the
20 meeting, the Commissioners were just horrified
21 by the lack of collaboration with this
22 particular developer and the answers that they

1 provided to the questions from the community
2 and from the Commissioners. And so they voted
3 unanimately not to support the application.

4 CHAIRPERSON MILLER: Okay. Do
5 Board members have any questions for the ANC?
6 Not hearing any.

7 Does the applicant have any
8 questions for the ANC?

9 Do the opposing parties have
10 questions for the ANC?

11 Cross examine?

12 MR. BOGDEN: Madam Chair, I would
13 like to let Mr. Coumaris go first because he
14 is most directly impacted. And I will just
15 have brief remarks filling in any gaps he may
16 left.

17 CHAIRPERSON MILLER: It's not a
18 time really for remarks. It's a time for cross
19 examination based on the ANC report.

20 MR. BOGDEN: Oh, oh, I'm sorry.
21 No.

22 CHAIRPERSON MILLER: That's what I

1 mean. Okay. Not hearing anybody.

2 Is there anybody here who wishes
3 to testify in support of this application?
4 Okay. Please come to the table.

5 MR. SPALDING: Good afternoon,
6 Madam Chair. Phil Spalding and today I'm here
7 representing the Cardoza/Shaw Neighborhood
8 Association rather than the ANC.

9 The Cardoza/Shaw Neighborhood
10 Association considered this project. We were
11 informed of its existence in August. We've
12 been following this project, voted on it in
13 November. And voted general support in a 13-2-
14 2 vote with a great deal of discussion on
15 parking, which is normal.

16 I would point out that in our
17 consideration the specific exception dealing
18 with the ARTS Overlay and the 25 percent
19 eating and drinking establishments was not
20 firm at that point. So that is not a part of
21 our letter to you or our testimony today.

22 CHAIRPERSON MILLER: What was not

1 firm?

2 MR. SPALDING: The specific
3 exception on the 25 percent eating and
4 drinking establishment, ARTS Overlay. I think
5 that's 1906.1, I forget which exact number it
6 is. That at the time that this was considered
7 at our November meeting, I don't think the
8 applicant was sure whether they were going to
9 apply for that or not. I think that if it had
10 been brought up at the Cardoso/Shaw meeting,
11 on that evening we would still be meeting at
12 this point. There is a lot of confusion in
13 the community about just exactly who is taking
14 any stock of this.

15 We also have had discussions with
16 ABC and other agencies. And to our knowledge
17 no one has actually done any study of what the
18 percentages are. Also ramifications of
19 changes in the underlying zoning. Areas have
20 been added to the ARTS Overlay District since
21 this 1989 decision to form the ARTS Overlay
22 District. And those considerations could

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1 change the amount of territory that's being
2 measured. But it was not included in the
3 language specifically when that territory was
4 added by the Zoning Commission.

5 So there are a number of oddities
6 about this 25 percent rule that would just
7 spin our wheels for months worth of
8 discussion. So our recommendation does not
9 include any consideration of the 25 percent.

10 CHAIRPERSON MILLER: Okay. And
11 with respect to your own personal testimony on
12 that, you know given that it wasn't resolved
13 or even addressed by the Association, do you
14 perceive any adverse impacts from an
15 additional eating establishment that takes up
16 50 percent of the linear frontage of this
17 property given the number of existing eating
18 establishments that are there right now that
19 the applicant, I guess, has estimated to be
20 about 24 percent?

21 MR. SPALDING: You asked for my
22 personal reaction.

1 CHAIRPERSON MILLER: Yes. Because
2 we can't --

3 MR. SPALDING: I would much rather
4 do that than trying to speak for either anyone
5 else on this.

6 I think that the one thing that
7 has come up in the discussion today is that it
8 is inconsistent through the rather large ARTS
9 Overlay District. I do have some territories
10 that are very concentrated in eating and
11 drinking establishments. The one that has not
12 been mentioned is the 199 block of 9th Street
13 where I have 35 commercial buildings, 10
14 residential buildings and I have 24 eating and
15 drinking establishments. That is obviously
16 inconsistent, but when it's raised with other
17 agencies that it's a difficulty or, God bless,
18 with the Zoning Administrator we get a blank
19 stare back.

20 There is no measurement. There is
21 no use of this rule by any agency and any
22 sense that its being used by anyone would be

1 a real surprise to us.

2 In regard to this portion of 14th
3 Street, there is active build up on the
4 eastern side of 14th Street with some
5 restaurants and a very large nightclub, as
6 well. But on the western side there is less
7 developing.

8 I think in the block that its
9 being proposed in, I think the 50 percent rule
10 proposed by the Office of Planning is a
11 reasonable suggestion. And I think that adding
12 one restaurant space or two smaller restaurant
13 spaces to that block would not be a difficulty
14 for the community.

15 ZC VICE CHAIRMAN JEFFRIES:
16 Commissioner Spalding, are you on the zoning
17 rewrite, any committees, subcommittees?

18 MR. SPALDING: It is what I would
19 rather be doing than being a Commissioner.
20 But being a Commissioner has not allowed me
21 time.

22 I have come to the hearings. I did

1 come to the business-oriented meeting that was
2 talking about dividing spaces, retail spaces
3 and whatnot. The overlays came up, but never
4 to the specificity that I was here to address.
5 It was talking about much larger issues at
6 that point. When it gets to the nitty-gritty,
7 unfortunately I won't be a Commissioner at
8 that and will be able to spend time on the
9 rewrite of the Zoning Regs.

10 ZC VICE CHAIRMAN JEFFRIES: Oh,
11 okay.

12 MR. SPALDING: I will do so.

13 ZC VICE CHAIRMAN JEFFRIES: Okay.
14 Great. Thank you.

15 CHAIRPERSON MILLER: Okay. Any
16 other questions from the Board?

17 Any other questions from the
18 parties?

19 Okay. Thank you very much.

20 MR. ALPERT: Good evening, Madam
21 Chair and members of the Board. My name is
22 David Alpert. I run the website Greater

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1 Greater Washington.

2 I live nearby in this area in the
3 Dupont Circle neighborhood. I walk and bike
4 in the 14th Street corridor frequently.

5 And I'm speaking on behalf of
6 myself and residents of these neighborhoods
7 who use the area but do not necessarily live
8 right in this particular block.

9 I urge the BZA to approve these
10 variances with the comments from OP and DDOT.
11 I think that this project will create many
12 positive impacts for the many residents of the
13 area who use the area.

14 Clearly I think that it's
15 important that this project not create
16 negative impacts during construction, and I
17 hope that those issues are addressed at the
18 proper time which I know is not now. But I
19 think that we need to balance the impact on
20 these residents against the impact on everyone
21 else in the area.

22 I personally have a three story

1 townhouse, which is right across a narrower
2 alley from a nine story apartment building
3 which has no setback across my alley. This is,
4 unfortunately, the reality -- or fortunately
5 in some cases, the reality of living in the
6 city.

7 Briefly I think that having more
8 housing on this block positively impacts many
9 residents of the area. It increases our Metro
10 ridership so that we can have more service or
11 lower fares or lower taxes. It increased the
12 patrons for the businesses that I like to
13 patronize on the street. It lowers housing
14 costs for many people. It reduces the
15 environmental footprint. It cuts down on
16 traffic we get from people coming in from the
17 suburbs when we have more housing here in D.C.

18 I also think that lower parking
19 positively impacts people in the area. It will
20 minimize the amount of auto traffic, the
21 likelihood of conflicts between cars and
22 pedestrians or bicycle. I'm often the

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1 pedestrian or the bicycle.

2 Of course, it also increases the
3 Metro ridership, as I talked about before.

4 I think that having the rear
5 entrance off of the alley positively impacts
6 people in the neighborhood. We already know
7 that it's the policy of the District of
8 Columbia to put the access in the alley. And
9 it will come up later, I guess, that there was
10 a recent case a few weeks ago about putting a
11 garage in front instead of in the alley from
12 the Utopia case. That is important to restrict
13 to very extraordinary circumstances, and I
14 don't think that this is one of those. If we
15 have to put the entrance in the front, it will
16 increase the pedestrian/vehicular conflicts,
17 conflict with the biking on 14th Street,
18 reduce the area available for activating the
19 street, which many people would benefit from
20 if we had that for retail or restaurants.

21 And I know that it's often better
22 for individual residents to push some of these

1 impacts away from the alley onto the public
2 realm, but the alleys are the place for this
3 to do.

4 And finally, I think that a
5 restaurant in this area would also positively
6 impact the residents of the neighborhoods.

7 So I urge you to approve these,
8 including the TDM that DDOT has suggested and
9 the Office of Planning's recommendation about
10 the 50 percent retail.

11 And I also want to make very one
12 quick comment about the lengthy Zipcar
13 discussion. While you were talking about it,
14 I went and looked at my notes from the Zoning
15 Commission hearing about the parking. And if
16 I wrote everything down correctly, Alice Perez
17 who testified for Zipcar, what I wrote down
18 was that she said that they have 43 members
19 for every one car. So as just perspective, if
20 there are 75 spaces for I guess 130 units,
21 that would be 55 noncar owners. Of course,
22 not all of them would necessarily be Zipcar

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1 members.

2 She also said that each car takes
3 14.9 cars of the road. That's their research
4 about how many cars get reduced when they have
5 new members.

6 And by the way, as to your
7 questions, Chairperson Miller, about the
8 Zipcar possibly offering cars to the people of
9 the building or only to the public, I believe
10 she said that always or almost always they do
11 the cars to the public. And the discussion at
12 that hearing was mostly about how they can
13 accommodate with the key cards or whatever
14 that was talked about. So they would
15 definitely do that.

16 Thank you very much.

17 CHAIRPERSON MILLER: Thank you.

18 That was very helpful.

19 Any questions?

20 ZC VICE CHAIRMAN JEFFRIES: Yes. I
21 think I remember him because he was given five
22 minutes rather than three, and someone else

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1 was sort of bothered by that. But anyway --

2 MR. ALPERT: That's right.

3 ZC VICE CHAIRMAN JEFFRIES: I
4 think Cruz was a little bit bothered with
5 that. Yes.

6 MR. ALPERT: It was Mr. Cruz.

7 CHAIRPERSON MILLER: Okay.
8 Anybody else?

9 Okay. Thank you very much.

10 MR. ALPERT: Thank you.

11 CHAIRPERSON MILLER: Okay. Now we
12 get to parties or persons in opposition?

13 MR. COUMARIS: I guess I should go
14 first.

15 CHAIRPERSON MILLER: That's fine.

16 MR. COUMARIS: Let me get set up
17 here.

18 I think the lady is going to hand
19 out copies of my -- and my photographs.

20 CHAIRPERSON MILLER: It's 6:00.
21 That's like the magic hour.

22 MR. COUMARIS: Well, I'm hungrier

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1 than you are. I'm a bigger boy than you.

2 CHAIRPERSON MILLER: Okay. I just
3 waned to assess how long you anticipate and
4 have you all had a chance to talk among
5 yourself about coordinating or anything? Just
6 what can we all expect at this point?

7 MR. COUMARIS: You know, don't
8 expect too much. I mean I'm going to take you
9 through what you'll be able to look at also
10 and show you a couple of photographs. And
11 then I'll take questions. And then we'll have
12 a couple of more people who will say
13 something.

14 MR. FREEMAN: Right. I have very
15 short remarks.

16 ZC VICE CHAIRMAN JEFFRIES: And,
17 Madam Chair, before they get going, will we be
18 able to take up the final case, is that the
19 plan? Okay.

20 MR. COUMARIS: Did you want to
21 take a break before I --

22 CHAIRPERSON MILLER: I do know Ms.

1 Fowler's here with the next case and I want to
2 make sure that you're going to hang in -- you
3 want us to hang in to take your case after
4 their case, basically?

5 Why don't you come to the table
6 just so we can assess.

7 MS. HOLBROOK: It's a pretty
8 complicated case, so I'm not sure. You know,
9 I assumed it would be an hour or two case
10 because of the variances. So I'm not sure
11 that we want to take it on tonight. And I
12 have, actually, to be an ANC meeting tonight
13 for another project at 7:00.

14 CHAIRPERSON MILLER: Okay. Well
15 then it's good we're reassessing at this point
16 so you don't hang around and wait and then
17 tell us --

18 MS. HOLBROOK: Do you need to
19 reschedule right now or how does that work?

20 CHAIRPERSON MILLER: We can take a
21 look at our calendar. Do you have any
22 constraints with respect to rescheduling,

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1 offhand? Okay. Why don't we just take a
2 break and look at our calendar.

3 Let's take a ten minute break.

4 (Whereupon, at 6:02 p.m. until
5 6:25 p.m.)

6 CHAIRPERSON MILLER: Okay. We're
7 back on the record. And Ms. Bailey is going to
8 call Case 17848 so we can discuss rescheduling
9 that case.

10 MS. BAILEY: That's the
11 application, Madam Chair, of Anne M. Holbrook,
12 it's pursuant to 11 DCMR § 3103.2 for a
13 variance from the lot occupancy requirements
14 under section 403, a variance from the rear
15 yard requirements under section 404, and a
16 variance from the nonconforming structure
17 provisions under subsection 2001.3, to allow
18 an addition to an existing one-family row
19 dwelling. The property is zoned R-4. It's
20 located at 1510 Massachusetts Avenue,
21 Southeast, Square 1072-South, Lot 10.

22 Is the applicant -- yes, thank

1 you.

2 CHAIRPERSON MILLER: Okay. Good
3 evening. And would you introduce yourselves
4 for the record, please?

5 ZC VICE CHAIRMAN JEFFRIES: You
6 have to turn the mic on.

7 MS. HOLBROOK: I thought it was
8 on.

9 ZC VICE CHAIRMAN JEFFRIES: Is it
10 on?

11 MS. HOLBROOK: It's on now.

12 ZC VICE CHAIRMAN JEFFRIES: Okay.
13 Okay.

14 MS. HOLBROOK: Anne Holbrook.

15 MS. FOWLER: Jennifer Fowler.

16 CHAIRPERSON MILLER: Okay. We
17 looked at our calendar and we will squeeze you
18 in for next week if you can make it.

19 We would put you in first in the
20 afternoon, but I don't know if you have a
21 conflict with that because you were scheduled
22 for first in the afternoon today, but then

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1 there was a conflict as I understood it, so
2 that's why we put you third.

3 So whatever is your preference,
4 you know, if you go first you know you're more
5 likely to get taken and done with. But if you
6 can't get here until later, we'll put you in
7 later.

8 MS. HOLBROOK: Since I know a
9 little bit in advance, I can see what I can
10 do. The problem was is that I teach students
11 in a special program. And if I have enough
12 time to ask off, it just means that they don't
13 have me, which is a problem. But I appreciate
14 what you're doing. I really do. And it's
15 very thoughtful of you. And I accept whatever
16 you can come up with. Because I need to do
17 something with this project.

18 I first went to Office of Planning
19 in February and met with them in order to do
20 everything they wanted me to do. So I want to
21 get started here.

22 CHAIRPERSON MILLER: Okay. Not

1 that we ever anticipate this, but we don't
2 really anticipate next week that we would have
3 a case that would take as long as this one
4 did. So I'm not suggesting that you
5 necessarily have to be first in the afternoon.
6 I just want to try to accommodate you however,
7 given that you've already come down here once.

8 So if you an idea as to what time
9 you really would come down here, we'll
10 schedule you one, two or three and we can
11 always rearrange. But, you know, if you think
12 at this point that you have teaching
13 obligations, we can put you on later in the
14 afternoon.

15 MS. HOLBROOK: I think what I'd
16 like to do is just be first so that I don't
17 have to run the risk of -- you know, no
18 offense to everybody here. You're awfully nice
19 people I think. But I'd just as soon not have
20 to sit all afternoon.

21 ZC VICE CHAIRMAN JEFFRIES:
22 Welcome to our nightmare.

1 CHAIRPERSON MILLER: All right.
2 Then what we're going to do is schedule you
3 for first in the afternoon on December 9th.
4 That would be around 1:00. And if you run into
5 a conflict, just let Mr. Moy know in the
6 Office of Zoning and which case we'll start
7 with the number two case and then fit you in
8 later. Okay?

9 MS. HOLBROOK: Thank you very
10 much.

11 CHAIRPERSON MILLER: All right.

12 BOARD MEMBER WHEAT: You should be
13 aware, though, that sometimes our morning
14 cases run long. It doesn't necessarily mean
15 that we will take your case right at 1:00. So
16 just be aware of that.

17 MS. HOLBROOK: Okay. Thank you.

18 MS. FOWLER: Thank you so much.

19 CHAIRPERSON MILLER: Okay. Thank
20 you. See you next week.

21 Okay. Then I think that we can
22 resume with Case No. 17850.

1 And I wanted to ask the applicant,
2 a request to Ms. Prince, I think there's been
3 reference to proposed conditions that you
4 have. And I don't know when you play to share
5 them with the Board and other the parties. But
6 I'm wondering if it might not be a good idea
7 to do that sooner rather later because we're
8 going to want the opposing parties to have an
9 opportunity to respond to them.

10 MS. PRINCE: We did prepare some
11 proposed conditions. In the course of today's
12 hearing some of those conditions have changed.
13 One of our principal proposed conditions is
14 the flexibility that we need with respect to
15 HPRB.

16 I don't even want to go into the
17 whole parking discussion that we've had, but
18 that needs a condition crafted to reflect
19 today's discussion.

20 And then there's some DDOT
21 conditions that we we're more than happy to
22 agree to regarding bike sharing the Flexcar

1 and whatnot.

2 So and on the eating and drinking
3 establishments, Steve Cochran brought up the
4 50 percent limitation. And since then we've
5 had further discussions and agreed to a 40
6 percent limitation.

7 So rather than submit a hand drawn
8 marked up document, I'm simply thinking that
9 we'll put it in the draft order that we submit
10 in connection with the case. But it's your
11 call.

12 CHAIRPERSON MILLER: Okay. So
13 what you're suggesting, at least, is that this
14 will be something that you would prefer to
15 write up and then share and having the
16 opposing parties comment then?

17 MS. PRINCE: I think that may be
18 the cleanest way to do it.

19 CHAIRPERSON MILLER: Okay.

20 MS. PRINCE: To avoid protracted
21 discussions over really minor issues.

22 CHAIRPERSON MILLER: Okay. Okay.

1 MS. PRINCE: I'm just looking to
2 save time and energy and patience, people's.

3 CHAIRPERSON MILLER: All right.
4 Thank you very much. Okay.

5 So why don't we turn then to the
6 opposing party's case?

7 MR. COUMARIS: We've agreed that
8 Joe Freeman will go first.

9 MR. FREEMAN: I'm Joe Freeman. I'm
10 going to go first. I have a general
11 statement, which will be pretty quick here.

12 Madam Chair, members of the Board,
13 again my name is Joe Freeman and I'm President
14 of the 1402 Swann Street Condominium
15 Association, which has the eight units there.
16 We've seen it throughout the afternoon
17 depicted there.

18 We're about 20 feet from the side
19 of the site.

20 We're strongly opposed to the
21 project in its current form as we believe it
22 will have a direct negative, environmental,

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1 economic and social impact on the residences
2 adjacent to the project.

3 We strongly object to the
4 application for a variance from:

5 The lot occupancy building size
6 requirements;

7 The restriction on eating and
8 drinking establishments under subsection
9 1901.6 from the ARTS Overlay;

10 Height guidelines under subsection
11 1902.1, and;

12 From the parking requirements
13 under subsection 2120.6.

14 The applicant would overbuild this
15 development and put insufficient parking with
16 an entrance and a truck dock next to our
17 homes. The proposed parking garage entrance
18 will drive considerable traffic through the
19 shared alley.

20 The special exception for fewer
21 parking spaces than required will exacerbate
22 neighborhood parking problems.

1 Building massing and the proposed
2 lot occupancy is excessive and will allow the
3 structure to tower over the surrounding
4 residents depriving them of air, light and
5 space.

6 We had numerous dealings with the
7 previous developer of this project and were
8 working together to mitigate it's impact on us
9 and the other neighbors. The current
10 development did not afford us the opportunity
11 to work together for solutions that would
12 benefit the neighborhood.

13 For us, the impact of this project
14 and the approval of the requested variances
15 and special exceptions will be diminished
16 rental value and market value of our
17 residential units.

18 We will suffer from the loss of
19 sunlight, the loss of access to parking,
20 increased noise and trash. The proposed use of
21 the alley will increase pedestrian and
22 vehicular conflicts.

1 The project will severely impact
2 the quality of life of the neighboring
3 residences.

4 Madam Chair, the applicant has not
5 demonstrated unique or exceptional
6 circumstances for the requested variance under
7 11 DCMR § 3103.2.

8 Further, this project fails to
9 meet the required standards for special
10 exception relief.

11 Section 1906.1(a) requires that
12 the project substantially advance the ARTS
13 Overlay purposes and not effect neighboring
14 property, health, safety or convenience.

15 The zoning laws strike a balance
16 of interests in the context of a particular
17 neighborhood. Exceptions upset that balance
18 for the benefit of a few at the cost of many.

19 The only reason the applicant
20 wants exceptions to kill the neighborhood's
21 light, free space and access is to fatten its
22 wallet. They're committed to doing the

1 project, and the only question is how much
2 profit they can squeeze from it. There is no
3 compelling public interest in that.

4 I thank you for the opportunity to
5 express our views, and be happy to answer any
6 questions.

7 CHAIRPERSON MILLER: Thank you.
8 Other questions?

9 Okay. Thank you.

10 Any cross examination by the
11 applicant? Cross examine? No. Okay.

12 By the ANC.

13 All right. Thank you very much.

14 Next?

15 MR. COUMARIS: Want me to go next?
16 Okay.

17 My name is Tom Coumaris. I've
18 lived at 1413 S Street, Northwest for most of
19 my life, 30 something years. My family has
20 been there since 1902. I was the ANC for the
21 area for a while when we were in Ward 1.

22 I've had passed out photographs

1 that I took of my house, my carriage house
2 which is my residence, and of Joe Freeman's
3 condos behind us. So you have copies of that
4 together with copies of my memorandum. Does
5 everybody have the copies that were passed
6 out?

7 CHAIRPERSON MILLER: We're sharing
8 over here. I'm not sure I got my own copy.

9 MR. COUMARIS: Everybody should
10 have their own copies.

11 This is the photograph we spoke of
12 earlier of the posting. There's only two
13 postings that are left. They were posted with
14 masking tape on the exterior, not the interior
15 of the buildings. So the rain storm the next
16 day took down most of them. So we can get rid
17 of that one.

18 There's a photograph of my
19 residence, which is carriage house.

20 CHAIRPERSON MILLER: Okay. I
21 think we should mark these so that they're in
22 the record.

1 MR. COUMARIS: Okay.

2 CHAIRPERSON MILLER: And more
3 easily referred to. So do you want to mark
4 that?

5 MR. COUMARIS: Well, Exhibit 1 has
6 the posting photograph.

7 CHAIRPERSON MILLER: Right. Okay.

8 MR. COUMARIS: Exhibit 2 would be
9 the photograph of my carriage house. Okay.

10 Exhibit 3 would be the entrance to
11 my home office. The white door with the
12 shrubs on each side.

13 Exhibit 4 would be the front door
14 to my carriage house showing the iron beam
15 that is bent by getting hit.

16 ZC VICE CHAIRMAN JEFFRIES: Say
17 that again.

18 MR. COUMARIS: It's a photograph
19 of the front door of my carriage house with
20 one of these iron posts just stopped.

21 ZC VICE CHAIRMAN JEFFRIES: Okay.

22 CHAIRPERSON MILLER: Wait this is

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1 the front door but Exhibit 4 is the front
2 door--

3 MR. COUMARIS: To the carriage
4 house.

5 CHAIRPERSON MILLER: Oh, to the
6 house and this is to the carriage house.

7 MR. COUMARIS: That's the office.
8 That's my home office.

9 CHAIRPERSON MILLER: This is your
10 office?

11 MR. COUMARIS: Yes. The entrances
12 are pretty much side-by-side.

13 CHAIRPERSON MILLER: Oh, they're
14 both on the alley?

15 MR. COUMARIS: Yes. If you look at
16 the photograph of the carriage house you'll
17 see both entrances showing that. Okay. All
18 right.

19 Then, let's see, those are what?
20 Three exhibits, four exhibits. So I guess
21 we'll do Exhibit 5 is the photograph of my
22 house with the project over across the alley

1 showing the width of the alley and the
2 distance from my house.

3 CHAIRPERSON MILLER: Got it.

4 MR. COUMARIS: Exhibit 7 would be
5 the row of ten houses including mine with the
6 red car parked out in front of the white
7 house.

8 CHAIRPERSON MILLER: Aren't we up
9 to six?

10 MR. COUMARIS: Seven, this is
11 seven.

12 CHAIRPERSON MILLER: What's six?

13 MR. COUMARIS: Number 6 of the
14 photograph of my house, the alley and the
15 project building.

16 CHAIRPERSON MILLER: I thought
17 that was five.

18 ZC VICE CHAIRMAN JEFFRIES: Yes,
19 that's five.

20 CHAIRPERSON MILLER: Yes. We have
21 that as five.

22 MR. COUMARIS: Okay. You have

1 that as five.

2 CHAIRPERSON MILLER: Yes.

3 MR. COUMARIS: Okay. Well this
4 will be six then.

5 CHAIRPERSON MILLER: Six is the
6 red car?

7 MR. COUMARIS: Six is the
8 photograph of the ten houses, 12/10 houses
9 with the red car out front.

10 And then Exhibit 7, the last one,
11 is the rear of Mr. Freeman's condominium
12 building showing the back entrances that go
13 onto the alley.

14 CHAIRPERSON MILLER: Okay. Thank
15 you.

16 MR. COUMARIS: Okay. I may refer
17 to some of those through what I say. And just
18 if we have any questions, you know, I wanted
19 you to have the photographs. That's why I was
20 late getting here today is finding a Kinkos
21 where the machine was working.

22 The applicant cites in his brief -

1 my first point is that the applicant has not
2 demonstrated any unique or exceptional
3 circumstances for the requested variance under
4 11 --

5 CHAIRPERSON MILLER: Okay. Can I
6 just say something?

7 MR. COUMARIS: Yes.

8 CHAIRPERSON MILLER: Just I don't
9 think this is here under a variance. I think
10 this is here under special exception. Or is
11 there a variance? I'm sorry.

12 MR. COUMARIS: There's a variance.

13 CHAIRPERSON MILLER: On lot
14 occupancy? Sorry. I stand corrected.

15 MR. COUMARIS: Okay. The
16 applicant has not demonstrated unique or
17 exceptional circumstances for the requested
18 variance under 11 DCMR § 3103.2. Applicant
19 cites in his brief that compliance with the
20 lot occupancy rules meets the test of being
21 unduly burdensome as required by the cited
22 cases including the Palmer case. Applicant

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1 further mentions the BZA's recent decision in
2 Applications 16914, 17202, and 17425 are
3 recent examples of relief from an exceptional
4 and unduly burdensome situation.

5 The cited applications involve
6 projects where the entire lot was covered by
7 historic building or virtually covered, the
8 project in this application covers seven lots
9 which the developer seeks to combine and only
10 one, containing the smallest portion of the
11 project, is occupied by a historic building.

12 The developer always has the
13 option not to incorporate that seventh
14 building if they don't want to. In fact, the
15 reason why the applicant wishes to combine the
16 lots, including the one with the historic
17 structure is to gain additional floor area
18 ratio and to occupy the entire block with an
19 address on S Street so that the fiction of a
20 rear yard composed of Swann Street can be
21 used. Without incorporating the lot of 1407
22 S the project would be required to maintain

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1 the 15 foot rear yards along the alley between
2 S and Swann Streets that are there presently.

3 At present these rear yards are
4 used as 17 parking spaces, coincidentally
5 about the same number the applicant also
6 requests a special exception to have not have
7 in their parking.

8 Together with the additional FAR
9 that the applicant gains from unifying the
10 lots incorporating 1407 S becomes
11 exceptionally beneficial to the applicant, but
12 an undue burden to the neighbors. The variance
13 requested will in necessity curtail my home's
14 light and air even more than otherwise
15 allowed. And I'm a protected party of this
16 regulation.

17 Number two. Applicant's request
18 is not necessary to further the ARTS Overlay
19 purposes to protect neighborhood properties,
20 enhance the surrounding area or minimize
21 pedestrian/vehicular conflicts. Section 1906
22 of the ARTS Overlay requires the following

1 additional standards to be met for special
2 exception relief:

3 1906.1(a) requires the project
4 will substantially advance the ARTS Overlay
5 and not effect neighboring property, health,
6 safety or convenience;

7 1906.1(b) provides for special
8 exceptions only when exceptional circumstances
9 make it difficult or impossible to comply with
10 the ARTS Overlay;

11 1906.1(c) states the design will
12 enhance the surrounding area and be referred
13 to HPRB;

14 19061.(d) requires that vehicular
15 movements are located and designed to minimize
16 pedestrian/vehicular conflicts;

17 19061.(e) permits the Board to
18 impose physical design with requirements its
19 deems necessary to protect neighboring
20 properties and the objectives of the ARTS
21 Overlay.

22 Applicant repeatedly states that

1 the closest residences will be 35 feet from
2 the new building. In fact, most of the
3 residents in this alley will be 20 feet from
4 the rear of the proposed feet, 19 feet closer
5 than they are to the rear of the present
6 buildings and because the depiction of a rear
7 yard composed of Swann Street for the unified
8 lot.

9 This historic alley contains alley
10 dwellings including my own. The proposed
11 location of the loading dock and parking
12 garage will be exactly 20 feet in front of my
13 front door. The grate covered powered plant
14 will be my front door entrance.

15 Relatives of mine who have lived
16 in the alley since 1902 when it was known as
17 Greek Alley, the HEleposes, Pelakonis,
18 Alphasaeis and others all had alley dwellings
19 or had their second floor residential
20 entrances on the alley with their business
21 entrances on 14th Street.

22 The recent BZA Application 17831

1 14th and U Street, which the Board decided in
2 November, recognized that this alley which
3 continues to T Street, we're talking about the
4 alley between the businesses on 14th Street
5 and the residents which continues to T Street
6 is unusual because of its alley dwellings. In
7 that case the applicant by working with the
8 neighbors realized that a garage entrance
9 across from an alley dwelling was unsafe and
10 approved the variance for a curb cut on 14th
11 Street.

12 In its letter to the BZA, D.C.
13 Councilman Mendelson speaking of our alley
14 said: "There are very few communities in the
15 District like the one comprised in the
16 residents of the alleys behind Utopia. The
17 two others that come to mind are Blagden Alley
18 in Shaw and Browns Court on Capitol Hill. It
19 is important to consider that this space is
20 atypical. It is unlike the typical square
21 with all the dwellings fronting on the public
22 street only to backup to alleys. The

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1 residents of these alleys must walk down their
2 alleys to go anywhere, which creates
3 unavoidable pedestrian and vehicular
4 conflicts."

5 The intersection of this alley
6 with S Street is already especially dangerous
7 because it is the intersection of a busy two-
8 way street and a busy two-way alley. We
9 experience an automobile accident there almost
10 weekly and have had two deaths there in the
11 past ten years from cars from the alley
12 colliding with cars traveling on S Street.
13 And this is mostly because 1407 S creates a
14 blind spot when you're entering S Street from
15 the alley.

16 On Friday, November 21, 2008 I
17 counted traffic, several of us did, in this
18 alley and on S Street from 5:30 until 6:30
19 p.m. Surprisingly, the results were very
20 close to Mr. Wells. That's why unprofessional
21 we came out with about the same number.

22 The results were 550 cars passed

1 this intersection on S Street. 123 entered S
2 Street from the alley and 112 entered the
3 alley from S Street. During this entire hour
4 only one parking space was available on the
5 1400 block of S Street, and it was taken in
6 ten minutes.

7 Most important, during this time
8 12 pedestrians entered or left their
9 residences through this alley.

10 The applicant will now add an
11 entrance at 1407 S to all residential units
12 with no driveway. People coming up in cabs
13 who are being picked up, you know, by their
14 friends or whatever, are going to have to have
15 their cars come up on S Street, stop in front
16 of the building with no driveway to pick them
17 up or to catch cabs. Cabs will sit out there.

18 They'll add two retail facilities
19 on S Street. They'll add a garage entrance
20 for about 100 cars 25 feet from this
21 intersection. And will add a loading dock 35
22 feet from this intersection.

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1 The scarcity of street parking
2 will compounded resulting in a geometric
3 compounding of traffic problems as vehicles
4 continually circle the block looking for
5 parking spaces.

6 The drawing number 13 of the
7 applicant over here shows my house, the white
8 house. And it also shows the entrance to the
9 parking garage. It show a roll up door on it.
10 But for the visual, you know, for an extremely
11 historic row of houses to have that garage
12 door right next to the front door of he house
13 is a little bit unusual. You know, I mean
14 certainly this is something we'll bring up
15 with HPRB. But I don't think there should be
16 a preference to put garage door entrances next
17 to the entrances to historic houses.

18 The applicant's own report done by
19 the Wells + Associates and submitted to the
20 file on November 18th has two drawings showing
21 a truck backing into the proposed loading
22 dock. I attached copied of both of these to

1 my statement that you have up there.

2 In both drawings, I mean take a
3 look at this. In both drawings the truck hits
4 my home at exactly the spot where my bathroom
5 and my front entrance are located endangering
6 my safety. I mean this is their own drawing.

7 CHAIRPERSON MILLER: I think that
8 the paper is blocking your voice.

9 MR. COUMARIS: I'm sorry.

10 CHAIRPERSON MILLER: Okay.

11 MR. COUMARIS: Now they claim that
12 the drawing doesn't show this. They claim the
13 drawing shows that it's safe. But if you look
14 at the drawing, that truck is hitting my
15 house, my carriage exactly at the --

16 CHAIRPERSON MILLER: Which
17 drawing?

18 MR. COUMARIS: This one. The
19 drawings that were Xeroxed in the back.
20 They're in the Wells' report that the
21 applicant has submitted.

22 The Board should not --

1 CHAIRPERSON MILLER: I just want
2 to ask you to be more specific. Because when
3 some one's reading the transcript, we'll know
4 which drawings you're referring to. You're
5 talking about drawings that are in Mr. Wells'
6 traffic study?

7 MR. COUMARIS: Yes, ma'am. I am.

8 CHAIRPERSON MILLER: But they're
9 also exhibits to your package that you've
10 submitted, or no?

11 MR. COUMARIS: I attached them to
12 my memorandum, yes.

13 CHAIRPERSON MILLER: Okay. Thank
14 you.

15 ZC VICE CHAIRMAN JEFFRIES: He can
16 say figure 2 of the Wells' report that --

17 MR. COUMARIS: I think there's one
18 called inbound or an outbound at the bottom.

19 ZC VICE CHAIRMAN JEFFRIES: Yes.

20 MR. COUMARIS: One says inbound,
21 one says outbound. But they both show hitting
22 my house.

1 The Board should not rule
2 favorably on applications which include a
3 clear and present danger to life and safety.
4 Had the applicant had any contacted with
5 neighbors before it filed its application on
6 July 3rd, it would have become aware of the
7 special danger of overloading this residential
8 alley entrance, and neighbors would have
9 worked with a solution, as we have with prior
10 potential developers here.

11 Neighbors would have also made
12 applicant aware of unusual structure problems
13 with our houses. Our row of ten houses were
14 built in 1864 before any of the other houses
15 in the area. They were constructed using beam
16 salvage from the old 11th Street Bridge. And
17 the joists, therefore, are too heavy and do
18 not span from brick wall to brick wall.

19 As there was a wartime shortage of
20 both wood and mortar, the bonding substance
21 between the bricks is not very good. The
22 second floor of one of our houses has already

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1 collapsed because of this.

2 Our front walls do not have stars
3 tying them to the building. And the ground
4 shifts with the varying water table caused by
5 moving underground streams and installation of
6 sump pumps.

7 The applicant has provided no
8 study of the effects of the huge excavation on
9 the safety of our houses. The excavation for
10 the power plant, which from the DOT's
11 preferences I assume is going to be at the
12 front door of my residence in the alley, is
13 going to be especially deep and it'll be
14 exactly against my front door.

15 Applicant -- I know we're not
16 supposed to talk about construction, but this
17 is a permanent thing at my front door, you
18 know. Forget that for three years I'm going
19 to have to jump over a 20 foot hole to get in
20 and out of my door if there's not a fence
21 there.

22 Applicant asserts that in order to

1 further the ARTS Overlay it needs to be
2 exempted from it. The theory seems to be that
3 the ARTS Overlay promotes cafe and bar use,
4 and we really didn't know what we were doing
5 when we imposed the 25 percent rule. In fact,
6 as a proponents of the ARTS Overlay from years
7 ago, I can assure that the opposite is true.
8 The Overlay is intended to prevent an
9 oversaturation of cafes and bars and promote
10 retail services which make the neighborhood
11 more liveable.

12 As we have reached the 25 percent
13 limit for inclusion of other type -- the time
14 for inclusion of other types of retail
15 services has come now. It is not the time for
16 the Board to say that it doesn't matter.

17 Any exception the Board grants the
18 applicant in this case will certainly add to
19 the 25 percent already in the ARTS Overlay
20 area. There is no possible way that granting
21 such an exception would promote such --
22 diversity of retail use intention, and the

1 statement that it does is Orwellian logic.
2 The main argument the applicant makes for the
3 exception of the bar/café limit is that it
4 will gain them more financially.

5 The neighbors of this project have
6 been engaged in community activity for many
7 years and the prior potential developer of
8 this parcel met with neighbors many times and
9 had a very friendly understanding of this
10 project. We were totally surprised when this
11 project came up, in spite of what people say
12 about when the application was done or
13 whatever. I live right next door. I'm always
14 concerned. I've been working on this project
15 for three years. I just found out about it
16 just over a month ago. And everything that's
17 been presented to us is my way or the highway.
18 It's done, you like it -- you have some
19 comments, we're meeting with you so it looks
20 good for us, and that's it.

21 We first learned that a new
22 developer with a totally new plan was involved

1 when we saw the published agenda of the ANC
2 just weeks ago. Since then then the ANC and
3 several neighborhood organizations have come
4 out opposed to this redesigned project, all by
5 unanimous votes.

6 We ask that the Board not approve
7 this application.

8 And that's it.

9 CHAIRPERSON MILLER: Thank you.

10 I have just a couple of questions.

11 MR. COUMARIS: Yes.

12 CHAIRPERSON MILLER: The alley
13 issue, whether certain individuals are
14 treating this alley differently in this
15 application as opposed to the one dealing with
16 Utopia. You've referenced that before. And I
17 understand -- I don't know, DDOT rescinded
18 whatever position they had taken. But then is
19 that the Councilmembers, are they taking a
20 different position? They haven't taken a
21 position in this case. Are you saying that
22 the position that they took in the last case--

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1 MR. COUMARIS: They are taking --
2 I mean the letters --

3 CHAIRPERSON MILLER: Are they?

4 MR. COUMARIS: -- from Phil
5 Mendelson and Jack Evans should be in here.

6 CHAIRPERSON MILLER: Okay.

7 MR. COUMARIS: Jack and Phil both
8 promised me they would have letters in for
9 this file opposing this.

10 CHAIRPERSON MILLER: Oh, so they
11 are taking the same position then?

12 MR. COUMARIS: That I am, yes.

13 CHAIRPERSON MILLER: That you are?

14 MR. COUMARIS: Yes. And it's the
15 same position --

16 CHAIRPERSON MILLER: But that's
17 not inconsistent.

18 MR. COUMARIS: -- that was done in
19 the Utopia case.

20 CHAIRPERSON MILLER: Okay.

21 MR. COUMARIS: Which is because
22 there are alley dwellings, this is a very

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1 unusual situation that maybe we should rethink
2 this.

3 In this case we don't have an
4 application for a curb cut variance, though,
5 which is the difference here. Because we
6 haven't had any time to deal with the
7 developer, we haven't been able to ask them to
8 ask for a variance to maintain the 14th Street
9 curb cut.

10 CHAIRPERSON MILLER: So --

11 MR. COUMARIS: But still the thing
12 is the safety and well being of the alley
13 dwellings, you know their safety to me.
14 Because it's very dangerous if you have a
15 front door facing a loading dock and a parking
16 garage entrance.

17 CHAIRPERSON MILLER: Okay. So
18 you're basically saying this is the same type
19 of situation as in Utopia?

20 MR. COUMARIS: I don't see the
21 difference in the situations. In this
22 situation if anything, I would say that this

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1 is a little bit worse because up there you
2 mostly had 30 foot alleys. There's one 15
3 foot alley on two sides -- well, it's Phyllis
4 Kline's house. Two sides there's 30 foot
5 alleys, I think. And then one side is it a 15
6 foot alley? Yes. So you've got a bunch of
7 alleys there and some of them are 30 feet.

8 Here you've got my front door and
9 my bathroom 20 feet away from the loading dock
10 and the garage entrance. So, I'd say it's a
11 little bit more severe in this case. Plus,
12 you've also got the rear entrance to Joe's
13 condos. And most of the people that we did in
14 the traffic count who were coming in and out
15 of their residences through the alley during
16 that time, were occupants of Joe's places, you
17 know, were they have the back on the alley
18 from Swann Street. They have a sidewalk that
19 went out to the alley.

20 The alley is practically a street.
21 It's really -- it's more or less --

22 CHAIRPERSON MILLER: So is it your

1 position that loading should be in the front
2 as opposed to on the street and it's not in
3 the alley?

4 MR. COUMARIS: My position that it
5 should have been dealt with the neighbors in
6 some sort of way where we could have worked
7 out as we did with the prior developer some
8 sort of better location of the loading dock.

9 CHAIRPERSON MILLER: You worked
10 out a different location with a previous--

11 MR. COUMARIS: Well, obviously,
12 anybody who looks at this plan can see that
13 you've got a T shaped alley. If you put the
14 loading dock in the middle of the building
15 instead over next to my house, if you put the
16 loading dock in the middle then if a truck
17 does have trouble making the swing into there,
18 they can pull into the ten foot alley and then
19 back into the loading dock, which makes a lot
20 more, you know it creates a little bit more
21 headache for me in the carriage house living
22 room because I'll have more trucks. But it's

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1 actually safer that way.

2 CHAIRPERSON MILLER: So you're
3 saying the loading dock should be in the
4 middle, in the alley in the middle?

5 MR. COUMARIS: Well, I mean that's
6 what our assumption always was. This was a
7 total shock to us. That garage door, and
8 that's my front door. That was a shock, too.
9 I mean, yes, I mean this isn't something to
10 wake up to.

11 And believe, I don't want to be
12 involved in these zoning cases. I got out of
13 this a long time ago. And, you know, I've got
14 HBO, I've got stuff to do. I'm retired now,
15 you know. Although I will say that most of my
16 retirement income comes from the rentals of
17 the front of the house. And this is going to
18 destroy the rentals. I'm not going to be able
19 to survive economically because people --
20 well, I know we can't talk about construction.
21 But people don't want to live next door to
22 something like this. And I think Joe is going

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1 to have the same situation.

2 CHAIRPERSON MILLER: Well, there
3 is a difference between construction. And
4 construction is always disruptive. But after
5 it's done is what's going to remain is what
6 we're looking at.

7 MR. COUMARIS: Well, I mean,
8 obviously for three years I won't have any
9 income for rental there. After three years if
10 somebody doesn't mind living next to a door
11 garage that's opening and closing all night --

12 CHAIRPERSON MILLER: My
13 understanding was the garage wasn't going to
14 open and close all day. But you're saying it
15 is all night?

16 MR. COUMARIS: All night.

17 CHAIRPERSON MILLER: Okay. So
18 that's one of your concerns.

19 MR. COUMARIS: It's going to be
20 opening and closing all night.

21 CHAIRPERSON MILLER: Okay.

22 MR. COUMARIS: So, you know --

1 CHAIRPERSON MILLER: Yes, I hear
2 that, too.

3 MR. COUMARIS: It's 20 feet away.
4 And, I mean, Jim's one of the villains in our
5 block. He's got one of those garage doors. And
6 they made noise, you know. Every time they
7 open and every time they close, you know. A
8 couple of people have said they want to buy a
9 can of WD-40 and go down the alley put -- you
10 know, for every one of them. And these are
11 just residents that bring their car in once a
12 day. You're talking about a garage door for
13 100 and something units where people are going
14 to be coming in all night long. And I don't
15 think they have Teflon glides or anything that
16 don't make noise.

17 This is going to be -- it will be
18 -- it will financially ruin me for the three
19 years of the construction, but I know you
20 can't consider that. It will definitely
21 impact my income after the three years is up
22 because the places will not be nearly as

1 desirable to live in. And I'm sure the same
2 will be true of Joe's, too.

3 ZC VICE CHAIRMAN JEFFRIES: So I
4 just have a question. If we have to
5 prioritize the three things about this project
6 that are problemsome for you -- or bothersome,
7 I'm sorry. It's getting late. How would you
8 organize it?

9 I would assume the loading issue
10 would be first? I mean if you had to really
11 pinpoint?

12 MR. COUMARIS: You mean for me
13 personally as far as I see it as a project?

14 ZC VICE CHAIRMAN JEFFRIES: Yes.
15 Well, you personally. The project that's
16 being proposed here. I'm just looking for you
17 to pinpoint the three things that you find
18 most offensive.

19 MR. COUMARIS: Well, certainly for
20 me personally the garage door next to my front
21 door --

22 ZC VICE CHAIRMAN JEFFRIES: Okay.

1 MR. COUMARIS: -- is horrible. I
2 mean, I don't know who wants to have a front
3 door next to a garage door. I mean that's
4 just a given. I mean, that's not even 20 feet
5 over there.

6 ZC VICE CHAIRMAN JEFFRIES: Yes.

7 MR. COUMARIS: The second would be
8 the parking. But see, a lot of these issues
9 are related. But with the prior developer we
10 had a deal where they weren't going to be so
11 hoggish on this first floor retail in the back
12 towards the alley, putting it right up to the
13 alley line. They were going to set it back a
14 little bit. And because it was going to be
15 setback and not a 100 percent lot occupancy on
16 the first floor, that also gave us the benefit
17 that the entrance to the parking garage and
18 the entrance to the loading dock would also be
19 set back from the houses some, which made it
20 safer. You wouldn't have as many cars lined up
21 in the alley trying to get into that garage
22 door or on S Street trying to get in that

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1 garage door.

2 You would have more room for a
3 truck to back in, you know, an additional 15
4 or 20 feet. It would be more removed from the
5 bedrooms of my place.

6 ZC VICE CHAIRMAN JEFFRIES: Okay.
7 So just focus on so for parking the second
8 issue is parking. Is it just the placement of
9 the parking? I mean what --

10 MR. COUMARIS: The placement, I'm
11 one of those people -- I'm not one of these --
12 you know, I'm a new type person. I'm into new
13 stuff. I got my Zip card right here. So I
14 mean but I don't agree with these people who
15 want to do away with parking requirements in
16 the District.

17 ZC VICE CHAIRMAN JEFFRIES: Okay.

18 MR. COUMARIS: Because we know, I
19 mean it's very, very difficult to --

20 ZC VICE CHAIRMAN JEFFRIES: So you
21 don't like that this is -- you think it should
22 have more parking?

1 MR. COUMARIS: I would give a
2 variance. I think if you've got an
3 exceptional case, that it's an exceptional
4 valuable asset to the neighborhood and you
5 want to promote it, then you give a special
6 exception or a variance. If you've got
7 something that's pig in a poke that nobody,
8 none of the organizations want, I don't see
9 any reason to give a special exception for it.

10 ZC VICE CHAIRMAN JEFFRIES: Okay.
11 And then what's a third thing, if there's
12 anything? I'm just trying to --

13 MR. COUMARIS: The restaurant
14 thing, absolutely. Because you know we worked
15 a long time to get the ARTS Overlay. I mean,
16 I'm talking years. This was a lot of my youth
17 wasted, I guess, on getting this ARTS Overlay
18 in. And now for someone to come in and say
19 well we want an exception from the 25 percent
20 requirement, which is like a moratorium,
21 because we don't like it or we can make more
22 money otherwise. That's offensive to those of

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1 us who spent so much of our time back then
2 trying to get 14th Street into some sort of
3 order so there was some sort of balance
4 between restaurants and bars and services that
5 people need.

6 The only laundromat in our
7 neighborhood is going to be a part of this
8 project. It's going to be torn down from this
9 project. The only dry cleaners within three
10 blocks of my house is in this project. It's
11 being torn down.

12 We don't have a drug store close
13 to us. We don't have a lot of these things
14 that our neighbors need. We used to have a
15 little corner grocery store. It closed down
16 about the same time the dry cleaners has.

17 We have none of these facilities.
18 It doesn't make it a liveable neighborhood.

19 ZC VICE CHAIRMAN JEFFRIES: You
20 want to keep that 25 percent cap that's
21 associated with 1901.1?

22 MR. COUMARIS: Yes. And that is

1 basically a moratorium. And I understand your
2 point about 14th Street not having as many
3 restaurants, you know, although we do have the
4 Black Cat, which is 2000 person capacity and
5 4,000 people most Friday nights across the
6 street from the house.

7 We've got seven new restaurants
8 within two blocks of my house which are
9 opening up this month. There's, what, four
10 that are going in the building at 14th and T
11 and then --

12 ZC VICE CHAIRMAN JEFFRIES: Stay
13 on the mic. Stay on the mic.

14 MR. COUMARIS: Okay. There's four
15 that are going in at 14th and T. There's
16 another one that's opening between R and S,
17 Salsa. And I think there's one other one.
18 And then Cork which used to be a coffee shop
19 is now a wine bar and it just started up. So
20 we got, I'd say, on the order of half a dozen
21 opening up this month right here. We don't
22 have any shortage.

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1 Originally when we did the ARTS
2 Overlay we had actually envisioned that 14th
3 Street possibly was more of a residential
4 street than an entertainment street. And there
5 was a preference at that time to shift more
6 than 25 percent to U Street and to have 14th
7 Street be a little bit less than 24 percent.
8 But it was agreed that we would just combine
9 the entire survey area so it was 25 percent
10 overall. But 14th Street has always been a
11 more residential street. It's never been the
12 more bar scene street. U Street has always
13 been where the bars and the restaurants are.

14 CHAIRPERSON MILLER: Okay. Thank
15 you very much. Thank you.

16 VICE CHAIRPERSON LOUD: As a
17 follow-on to Mr. Jeffries' question, in terms
18 of the previous developer's project and the
19 overall, let's say, height and density of it.
20 Well, first of all, was his project the entire
21 block like this project?

22 MR. COUMARIS: Yes, it was.

1 VICE CHAIRPERSON LOUD: Okay.

2 MR. COUMARIS: And, you know of
3 course that was because the prior was the
4 Whitman-Walker Clinic was the prior developer.

5 VICE CHAIRPERSON LOUD: Oh, okay.
6 All right. But were they into mixed-use,
7 housing upper floors?

8 MR. COUMARIS: They were going to
9 build a new clinic on Swann Street. On the
10 Swann Street side and then condominiums in the
11 old building.

12 VICE CHAIRPERSON LOUD: Do you
13 know the level of density of the project? Do
14 you know the number of units, for example?

15 MR. COUMARIS: It was going to be
16 about the same density and the floor to area
17 ratio was about the same, but it was
18 configured in a way where it didn't really
19 come back on us as much as this one does.

20 VICE CHAIRPERSON LOUD: And so the
21 way it was configured you really -- it sounds
22 to me anyway, like you really didn't have a

1 lot of concerns about the density of it, the
2 number of units, perhaps the height. I don't
3 know what height it was. But your concerns
4 were more along the lines of Mr. Jeffries'
5 questioning about this project, anyway. And
6 that project sounds to me like it was a lot
7 more palatable to you.

8 MR. COUMARIS: It was a wonderful
9 project. And I say that with pride because we
10 worked with them for over two years, almost
11 three years on that project to get it to be a
12 perfect project for everybody. This project
13 was a total surprise to us.

14 VICE CHAIRPERSON LOUD: So would
15 it be safe to say that from your perspective,
16 and of course you know you were given party
17 status on the assumption that you're more
18 significantly impacted than others, then the
19 general public, that you wouldn't be concerned
20 so much about light and air and the number of
21 units and those kinds of issues. It's more
22 this loading dock being directly across from

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1 your front door, the garage door going up and
2 down and the noise it makes, et cetera.

3 MR. COUMARIS: Don't under
4 estimate that.

5 VICE CHAIRPERSON LOUD: No, I'm
6 not. I'm not. I'm just trying to be real
7 clear on what your concerns include and don't
8 include.

9 ZC VICE CHAIRMAN JEFFRIES: Yes. I
10 mean I have your top three here and that
11 doesn't preclude you from having several other
12 things. I just wanted to really pinpoint the
13 things that --

14 MR. COUMARIS: Okay. I mean,
15 those are my top three annoyance, you know.
16 I have to be honest and tell you that, you
17 know, my biggest concern really is my health,
18 my life and my safety. It's really not safe to
19 have trucks loading and unloading at the front
20 door of your house. I don't have a front porch
21 or anything. As you see on the photograph,
22 the door of my carriage house is right there.

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1 I have my home office. If people don't know,
2 if they're not familiar with the area, they
3 could open that door and walk right into a
4 truck.

5 We've already got a lot of cars
6 coming through there. And you add the cars,
7 what 100 and something residents on top of
8 that, and I worry about the safety, I really
9 do.

10 Those are the three major
11 annoyances are exactly what I told you. But I
12 have to put my life and safety first above
13 that. And I think it's the responsibility of
14 the BZA to think of that, too, before any
15 project is approved that does put people's
16 life and safety at risk. And that's exactly
17 what Councilman Mendelson said about our
18 alleys.

19 You know, we are unusual. We live
20 in our alleys. We got alley dwellings. And
21 that's not typical. And you've got to start
22 thinking about some sort of arrangement for

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1 people to protect their lives and their
2 safety.

3 ZC VICE CHAIRMAN JEFFRIES: Madam
4 Chair, do we have anything in the file from
5 Councilmember Mendelson. I didn't -- if we got
6 it, I didn't see it.

7 CHAIRPERSON MILLER: I'm not sure.
8 I mean other Board members thought we did. But
9 I don't recall seeing it either.

10 MR. COUMARIS: Phil's letter is
11 not in there?

12 CHAIRPERSON MILLER: What?

13 MR. COUMARIS: Phil was supposed
14 to have sent a letter over. Jack's letter is
15 in there, right?

16 ZC VICE CHAIRMAN JEFFRIES: Yes,
17 Jack's letter is there. I see Councilmember
18 Evans, but I don't see Mendelson's.

19 MR. COUMARIS: Well, I got
20 Councilmember Mendelson's statement about our
21 alleys in my memorandum.

22 And I'm sorry we're an unusual

1 situation.

2 CHAIRPERSON MILLER: Okay. I
3 mean, I think safety is an important point to
4 bring up and an important point that I hope
5 the applicant will respond to and perhaps the
6 Office of Planning.

7 With respect to the eating
8 establishment issue --

9 MR. COUMARIS: Yes, ma'am.

10 CHAIRPERSON MILLER: -- I'm not
11 sure I understand why you're, I guess, upset
12 with that being raised in the context of this
13 application. It seems to me that the
14 regulations as drafted provide for an
15 applicant to come to this Board for a special
16 exception if they want to have an eating
17 establishment where the linear footage
18 percentage has been exceeded. So it seems to
19 me that's the process that's being done here.
20 It's just that it's it a little bit
21 anticipatory. But it's not like that there's
22 not a matter-of-right that these regulations

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1 envision taking a look at it and making sure
2 if we granted it, that we would do it on the
3 basis of the grounds set forth in 1906.1 and
4 then also no adverse impact on the --

5 VICE CHAIRPERSON LOUD: 1906.1 has
6 to be followed.

7 CHAIRPERSON MILLER: Yes. Yes. So
8 that's what's happening --

9 MR. COUMARIS: It is so sort of
10 Orwellian to say that in order to further the
11 ARTS Overlay we've got to give an exception to
12 the ARTS Overlay. That bothers me a little.

13 CHAIRPERSON MILLER: I think that
14 it's my understanding, and then the Board will
15 be looking at this, is that there is different
16 goals in that Overlay. And so you might be
17 promoting one by giving an exception in this
18 case. But the exception would only be granted
19 if there was an adverse impact. So what it
20 does is require the Board to make sure that
21 it's not adversely impacting the residents, in
22 addition to all the other reasons that we

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1 would look at under 1906.1. So I just comment
2 on that. You say you put a lot of work into
3 this, I think it's working. I mean, this is as
4 I understand it --

5 MR. COUMARIS: Well, it's supposed
6 to start working now because now we've reached
7 25 percent, so now's the time.

8 CHAIRPERSON MILLER: Right.

9 MR. COUMARIS: Are we going to let
10 it work or not?

11 CHAIRPERSON MILLER: That's why
12 they're here for a special exception. So,
13 okay.

14 Others?

15 BOARD MEMBER WHEAT: Just one
16 question, Madam Chair.

17 Mr. Coumaris, how many
18 individuals, how many homes are there that
19 front on this alley that runs parallel to
20 14th?

21 MR. COUMARIS: Well, it depends on
22 what you consider the alley. Back in my

1 grandfather's day it was called Greek Alley
2 and it was the portion that ran from R Street
3 up to Swann Street and maybe T Street. But
4 then you've also got Printo Way, which is
5 behind Roman at 14th and T to 14th and U. But
6 now that alley, the alley there shifts over a
7 little bit. It's still the alley between the
8 businesses and the residences on those blocks
9 and from T Street down to R Street is a
10 straight line. You can see straight down. But
11 at T Street it shifts over a little bit to go
12 up to U Street.

13 I would imagine that there's
14 probably -- and then do you count Joe's
15 people? Because they technically have a front
16 door on Swann Street, but their patio and
17 their backdoors and their back sidewalks are
18 to the alley. If you count his people, then
19 I'd say there's 30 or 40 people.

20 BOARD MEMBER WHEAT: Okay. But
21 I'm interested, particularly interested in
22 people in your situation just on this --

1 MR. COUMARIS: Where the only
2 entrance is in an alley?

3 BOARD MEMBER WHEAT: Where the
4 only entrances are in the alley and I'm asking
5 specifically about this one stretch of alley
6 where you are that runs parallel to 14th.

7 MR. COUMARIS: Between which
8 streets?

9 BOARD MEMBER WHEAT: Between Swann
10 and S.

11 MR. COUMARIS: Just my block and
12 my alley?

13 BOARD MEMBER WHEAT: Yes.

14 MR. COUMARIS: There's just me
15 unless you consider Joe's condos.

16 ZC VICE CHAIRMAN JEFFRIES: Yes,
17 but wait. Wait. But 1402, is that principal
18 entrance off of the alley or it's --

19 MR. COUMARIS: 1402 14th Street?

20 MR. FREEMAN: No. That entrance is
21 off of Swann Street.

22 ZC VICE CHAIRMAN JEFFRIES: It's

1 off of Swann Street.

2 MR. COUMARIS: That principal
3 entrance.

4 ZC VICE CHAIRMAN JEFFRIES: Okay.
5 But the secondary entrance is off -- it's not
6 on the alley that's parallel to 14th -- it's
7 not on that alley?

8 MR. FREEMAN: There's no door on
9 the alley, but you come out and then the
10 sidewalk goes to the alley.

11 ZC VICE CHAIRMAN JEFFRIES: You
12 have to make a turn?

13 MR. FREEMAN: Right.

14 MR. COUMARIS: I have a photograph
15 here.

16 ZC VICE CHAIRMAN JEFFRIES: Yes, I
17 think I saw it.

18 MR. FREEMAN: You have two
19 apartments on the alley. One your house and
20 one other --

21 ZC VICE CHAIRMAN JEFFRIES: But
22 that's not the same --

1 MR. FREEMAN: Those are the only
2 ones on the -- that actually have the --

3 ZC VICE CHAIRMAN JEFFRIES: But
4 that's not the same configuration effectively
5 as you.

6 MR. COUMARIS: No. His people
7 have a front door where they could use so
8 they're not worried about their safety.

9 ZC VICE CHAIRMAN JEFFRIES: Right.

10 MR. COUMARIS: I don't.

11 ZC VICE CHAIRMAN JEFFRIES: Right.

12 BOARD MEMBER WHEAT: Thank you.

13 CHAIRPERSON MILLER: Okay. Any
14 other questions by Board members?

15 Does the applicant have any cross
16 examine?

17 MS. PRINCE: Just a few questions
18 for Mr. Coumaris. I'm just trying to get a
19 better understanding of the property. I've
20 been there, but there's a main house that you
21 rent out? That's the main house. There is a
22 carriage house. How long have you resided in

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1 the carriage house?

2 MR. COUMARIS: I resided in the
3 carriage house and part of the house for about
4 15 years. And then I moved into the carriage
5 house solely I guess about seven years ago.

6 MS. PRINCE: Because I mean
7 normally that wouldn't even be a habitable
8 dwelling? It's an alley dwelling, but
9 you've--

10 MR. COUMARIS: No, no, no, no, no.

11 MS. PRINCE: But yours is a --

12 MR. COUMARIS: We have lived there
13 since 1875 continually. It has its own water
14 line, it has its own fuel line.

15 MS. PRINCE: The carriage house
16 does?

17 MR. COUMARIS: The carriage has
18 its own water line and also --

19 MS. PRINCE: All right. And you
20 have a doorway that goes --

21 MR. COUMARIS: It's always been a
22 residence.

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1 MS. PRINCE: You have a doorway
2 that goes onto the alley, the through alley.
3 And then is that the only -- there's only one
4 entrance into the carriage house, there's not
5 a second doorway that goes onto the main
6 alley?

7 MR. COUMARIS: That's also int he
8 alley.

9 MS. PRINCE: The other alley? You
10 have --

11 MR. COUMARIS: No, the same alley.
12 I gave the photographs to --

13 MS. PRINCE: Right. You didn't
14 provide us with copies. All right.

15 MR. COUMARIS: I didn't give you
16 copies of the photographs?

17 MS. PRINCE: No. No.

18 MR. COUMARIS: I'm sorry. I'm
19 certain I had photographs attached to your
20 copy.

21 MS. PRINCE: Right. I know the
22 main doorway, it's set back?

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1 MR. COUMARIS: Yes.

2 MS. PRINCE: You're talking about
3 that doorway?

4 MR. COUMARIS: That doorway, yes.
5 And then the home office.

6 MS. PRINCE: Which goes into the
7 other alley? You have a doorway that goes
8 into the alley that we're talking about.

9 MR. COUMARIS: That's only about a
10 2 and a half foot distance from the front of
11 the door to the alley there.

12 MS. PRINCE: Okay. But it doesn't
13 discharge onto the alley that we're talking
14 about?

15 MR. COUMARIS: Yes.

16 MS. PRINCE: There's a two and a
17 half foot distance? All right. I'm having a
18 hard time understanding the photos. But --

19 MR. COUMARIS: Do you see the
20 other door that's my home office?

21 MS. PRINCE: That door, right.

22 CHAIRPERSON MILLER: You need to

1 identify for the record what photo are you
2 looking at and what --

3 MR. COUMARIS: There aren't
4 exhibit numbers on mine.

5 CHAIRPERSON MILLER: Okay. I did.
6 Are you look at exhibit -- this one, Exhibit
7 2? Which one are you looking at? Exhibit 2
8 with the blue door set back a little bit
9 further from the red brick house.

10 ZC VICE CHAIRMAN JEFFRIES: Wait,
11 wait, wait.

12 MS. PRINCE: Okay. It appears
13 that one door discharges onto the alley that
14 we're discussing and is across from the
15 driveway entrance. And then the other door
16 discharges onto the other alley that meets
17 this alley at a 45 degree angle -- 90 degree
18 angle.

19 MR. COUMARIS: No. The photograph
20 shows that they're both on the same alley.

21 MS. PRINCE: Doorway, doorway.

22 MR. COUMARIS: Right.

1 MS. PRINCE: That's on the other
2 alley?

3 MR. COUMARIS: So you're
4 contending that that entrance, the front door
5 there could be accessed from the --

6 MS. PRINCE: You could go to the
7 other--

8 MR. COUMARIS: -- from your alley?

9 MS. PRINCE: Right.

10 ZC VICE CHAIRMAN JEFFRIES: Say
11 blue door and --

12 MS. PRINCE: The blue door. The
13 blue door.

14 ZC VICE CHAIRMAN JEFFRIES: The
15 blue door. Say blue door.

16 MR. COUMARIS: Blue door, okay.
17 So you're contending that the blue door
18 discharges onto the rear ten foot alley?

19 MS. PRINCE: Right. It goes onto
20 the rear ten foot alley. You have two ways to
21 get into your property.

22 MR. COUMARIS: But accessing from

1 that rear ten foot alley means that I have to
2 go down to 15th Street and walk a long way
3 down that back alley to get to that door.

4 MS. PRINCE: Sorry. I'm not making
5 my point. I'm sorry.

6 You've lived in this carriage
7 house for seven years, so you've lived across
8 from an alley, a functioning alley that has
9 existing traffic everyday, through traffic
10 everyday.

11 MR. COUMARIS: Yes.

12 MS. PRINCE: And across from that
13 alley has been multiple parking spaces all
14 over the existing Whitman-Walker site?

15 MR. COUMARIS: Right.

16 MS. PRINCE: And there's parking
17 along the alley in the private condition?

18 MR. COUMARIS: Right.

19 MS. PRINCE: And the Metropolis
20 development that you've discussed today that
21 didn't go forward because it wasn't
22 economically viable and that is why JBG now

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1 owns the project, that development you're
2 saying was set back from the alley? Because
3 the architect who worked on it is here tonight
4 and he has a different recollection of that
5 project.

6 MR. COUMARIS: We didn't have this
7 type of alley encroachment. Certainly when we
8 were talking --

9 MS. PRINCE: Was that the scenario
10 when --

11 MR. COUMARIS: Are you talking
12 about the Metropolis project or the project
13 when the Whitman-Walker Clinic -- are you
14 talking about --

15 MS. PRINCE: I'm talking about the
16 one that preceded this project.

17 MR. COUMARIS: I didn't know about
18 this one until a month ago, so I don't even
19 know how many preceded it.

20 MS. PRINCE: All right. I think --

21 MR. COUMARIS: I know that
22 originally as the Whitman-Walker Clinic --

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1 MS. PRINCE: Okay. You're talking
2 about --

3 MR. COUMARIS: -- and then
4 Metropolis came in as a partner with the
5 Whitman-Walker Clinic --

6 MS. PRINCE: Right.

7 MR. COUMARIS: -- on the project.

8 MS. PRINCE: Right. And for the
9 Whitman-Walker project the alley was to be
10 closed and then reopened for public alley
11 purposes.

12 MR. COUMARIS: That's right.

13 MS. PRINCE: With vaulting under
14 the alley?

15 MR. COUMARIS: Right.

16 MS. PRINCE: Okay. And so that
17 proposal that involved ripping up the entire
18 alley and vaulting under it was more
19 acceptable to you than a proposal that doesn't
20 even involve closing the alley at all?

21 MR. COUMARIS: The benefit from
22 getting the additional parking together with

1 the fact that the developers there and the
2 clinic were aware of the situation and the
3 losses that were going to be occurring to
4 those of us next door. They were more than
5 willing to do anything they could and make
6 whatever legal amends they needed to for the
7 damage that they would be doing to us.

8 MS. PRINCE: Right. So --

9 MR. COUMARIS: This developer has
10 no intention of doing any such thing.

11 MS. PRINCE: All right. I have no
12 more questions.

13 CHAIRPERSON MILLER: Does the ANC
14 have any questions? Okay.

15 Anybody else going to testify?
16 Yes, sir?

17 MR. BOGDEN: Again, my name is Jim
18 Bogden. I live at 1419 S Street, four doors
19 down from the proposed development.

20 I've lived there the last 17
21 years. And my late partner had bought that
22 house in 1976.

1 The house was built in the Civil
2 War era. And as far as we can tell, has not
3 had very many owners. Previous to my partner
4 buying it in 1976, the previous owner had been
5 there since 1932. So I feel like I'm
6 representing a small number of people who have
7 ever owned this house and people to come who
8 will own it in the future. I am a temporary
9 steward in the house and I feel a great
10 responsibility to maintain its integrity.

11 Oh, I meant to thank Madam Chair
12 and the Board members for the opportunity to
13 address you. This seems to be a democratic
14 and fair process, although I still feel like
15 David confronting Goliath here.

16 The project as proposed should not
17 be approved. We do not object to a proposal--
18 I mean to development in theory. In fact,
19 we've been looking forward to something going
20 up at the end of the block for a long time.
21 But we have been waiting a long time and we
22 don't mind waiting longer. There's really no

1 hurry on this project.

2 As I mentioned earlier, the
3 developers just met with Mr. Taylor and I
4 yesterday. And you know certainly long
5 overdue.

6 My concerns are mainly, again, the
7 location of the loading dock and garage and
8 the impact on the alley traffic. There's
9 really not enough room to maneuver trucks in
10 that area.

11 One of Mr. Coumaris' photos, is it
12 number 1 that shows the post, yes, that is
13 bent? I'm a little surprised that Mr. Freeman
14 didn't mention a similar post behind the
15 houses -- behind the condos he represents.
16 Because that post needs to be -- it's
17 constantly getting hit and it needs to be
18 fixed every few months. So, you know, trucks
19 do have a hard time already navigating in this
20 constrained area.

21 With a steady stream of delivery
22 trucks through that alley we will have a

1 steady diet of noise, of diesel exhaust, they
2 will be obstructing traffic from time-to-time
3 as they are maneuvering. The smells as the
4 trash is taken away and the constant
5 vibrations from the trucks.

6 Again, I can't overstress how
7 fragile our houses are. They were built at a
8 time before there was cement used in the
9 mortar. The mortar is just sand and lime.
10 And there's a steady stream of sand coming out
11 of the mortar. If you look at the bottom of
12 our basement walls, and there are little piles
13 of sand that are constantly coming down from
14 between the bricks.

15 So a constant stream of trucks
16 through that area will only make this worse.
17 The house is crumbling or the dangers that the
18 house will crumble entirely and perhaps even
19 collapse as what happened to our neighbor's
20 house.

21 We talked about the parking in the
22 area. I don't need to belabor that anymore.

1 In general, I just wanted to
2 stress that this application is premature.
3 There's no reason to grant these special
4 exemptions at this time. We urge you to deny
5 the application and until such time as we can
6 work with the developers to create a more
7 acceptable project that we will enjoy and
8 future generations will enjoy.

9 Thank you.

10 CHAIRPERSON MILLER: Thank you.

11 I'd like to ask Mr. Cochran a
12 question. Because we always say, you know that
13 we don't have jurisdiction over construction.
14 That we look at the impacts after the project
15 would be built. And when hear about testimony
16 about the fragility of their houses. And I
17 was just wondering if you know what the
18 process is for DCRA? When do they consider
19 this? We always say it's their jurisdiction
20 under construction. I think it would be good
21 for the community to hear, if you know,
22 specifically. I don't know specifically.

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1 MR. COCHRAN: Right. I don't know
2 specifically.

3 CHAIRPERSON MILLER: Okay.

4 MR. COCHRAN: Certainly the
5 applicant will be having to be reviewed by the
6 Historic Preservation Review Board which looks
7 not only at the building, but the impacts on
8 the historic district.

9 CHAIRPERSON MILLER: Okay. Thank
10 you.

11 MS. PRINCE: Madam Chair, I would
12 just like to note that the applicant is
13 prepared and has communicated to the neighbors
14 who have expressed construction concerns to go
15 above and beyond what DCRA's criteria would be
16 for construction in close proximity to
17 historically fragile houses. And we fully are
18 aware of the issues. We've seen the
19 photographs. We've agreed that it's important
20 to do some seismic monitoring in advance of
21 the project. So these issues have been on the
22 table. We are really taking them very

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1 seriously.

2 CHAIRPERSON MILLER: Thank you.

3 Yes, I think that does normally
4 happen in a lot of cases, and I'm glad that
5 you put that on the record so that we know
6 that's actually happening.

7 But if there's a project that
8 involves retail, such as this one that's going
9 to come to this area, it's going to involve
10 loading for the retail. And is there a place
11 where you would suggest that the loading take
12 place other than where it is in this
13 application?

14 MR. BOGDEN: Well, Madam Chair, I
15 don't think it's my role to suggest an
16 alternative. It would be nice to be able to
17 have the opportunity to sit down with the
18 architect and developers to go over the
19 various options. At the very least, as Tom
20 suggested, the first floor retail should not
21 go all the way up to the property line, all
22 the way up to the alley. There should be a

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1 setback. That would go a long way toward
2 relieving a lot of these concerns.

3 And I wanted to stress in what I
4 said earlier about the damage. Apart from the
5 construction process, I tried to express my
6 testimony in terms of the ongoing impact after
7 the project is finished with all the extra
8 truck traffic through that alley there will be
9 a continuing source of vibrations. And I
10 neglected to mention the house still has the
11 original plaster. Several of the window panes
12 are original and very fragile. And --

13 ZC VICE CHAIRMAN JEFFRIES: Well,
14 that would happen almost with any development
15 that would occur, right? I mean, some of your
16 issues I mean are really just are going to
17 impact you no matter what. You're in a
18 fragile historic home, you're in close
19 proximity to land that has not been developed,
20 that will be whether it's this proposal or
21 another one. So I'm just curious. And then,
22 of course, this is not our jurisdiction

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1 either, but just a little -- you know, about
2 trucks going through the alleys. I mean, some
3 of this is going to occur no matter what. So
4 I mean that's why I'm trying to really focus
5 on the things that are more bothersome about
6 this particular proposal. Because I get a
7 sneaky suspicion that there's some problems
8 with just development in general.

9 I know you said that you wanted to
10 see development there and so forth. But, you
11 know, it's one thing to say you want it and
12 then when it gets there and you look at what
13 the developer has to do in terms of making it
14 a viable project and so forth, there's going
15 to be tension and conflict. But I just -- you
16 know, that's why I was trying to get your
17 neighbor to really try to zero in on the
18 things that were offensive to him as relates
19 to this proposal.

20 MR. BOGDEN: Well, we look to the
21 city and its various agencies and offices, the
22 Office of Planning, and DDOT and you folks to

1 balance these interests. And I'm just trying
2 to convey, hoping that you will value these
3 properties as much as we do. And that you
4 will make decisions that are appropriate to
5 preserving them into the future as well as
6 balancing that with profit making.

7 CHAIRPERSON MILLER: I just want
8 to that we also especially look to the
9 neighbors who live there who know the area
10 well, and that's why I asked you for a
11 suggestion as to if this isn't a good place,
12 what is a good placed based on your knowledge.
13 And that's one of the pieces of information
14 that we would factor in balancing everything.

15 ZC VICE CHAIRMAN JEFFRIES:
16 Because I have to be honest with you. I mean,
17 perhaps they could move this garage a few feet
18 over or whatever, but you know I'm really torn
19 here as to where else would it go. I mean,
20 based on the configuration of this development
21 where it sits. And I have not heard a
22 compelling argument -- and I don't expect you.

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1 I mean, this is not your line of business or
2 whatever. But you're saying about this alley,
3 you know this is a situation that we've seen
4 throughout D.C. I mean, you know the city
5 wants to use these alleys for service. You
6 know, and I--

7 MR. FREEMAN: Right. We already
8 have a curb cut in this case on 14th Street.
9 Obviously, if you have big trucks pulling them
10 up on 14th Street makes a lot more sense, I
11 would think, then having it in the alley. I
12 mean from our perspective at the condos, our
13 biggest issues are really parking, the number
14 of parking spaces, the special exception for
15 parking, and the size of the building, the lot
16 occupancy particularly on the first level
17 which is going to really encroach on us quite
18 a bit.

19 ZC VICE CHAIRMAN JEFFRIES: So
20 you're suggesting that we should have loading
21 on 14th Street?

22 MR. FREEMAN: I think so.

1 ZC VICE CHAIRMAN JEFFRIES:

2 Because of the existing curb cut.

3 MR. FREEMAN: Right.

4 ZC VICE CHAIRMAN JEFFRIES: See, I
5 have a clear problem with that.

6 MR. FREEMAN: Right.

7 ZC VICE CHAIRMAN JEFFRIES: I mean
8 for serious urban design reasons, you know,
9 everyone's been talking about conflicts and so
10 forth. So I understand what you're saying.

11 MR. FREEMAN: What about the
12 number of parking spaces? Why can't the
13 developer meet the minimum requirement in a
14 neighborhood, as you were saying earlier, I
15 mean you obviously live there so you know the
16 difficulty in parking. And if every project--
17 I am a developer. So I'm not one of those not
18 in my back yard, I don't like development.

19 ZC VICE CHAIRMAN JEFFRIES: Right.

20 MR. FREEMAN: I like development.
21 I built the condos next door.

22 ZC VICE CHAIRMAN JEFFRIES: I'm

1 happy, I didn't hear you say anything about
2 profit. I've been waiting. I thought I was
3 going to hear you say something about profit,
4 and I was just sort of waiting.

5 MR. FREEMAN: Right. It's \$12,000
6 a month I'm going to lose when those
7 apartments aren't rented for 18 months
8 minimum. No one will live there. And I know
9 you don't want to hear about that.

10 CHAIRPERSON MILLER: Wait. Why
11 won't they live there? What is it that would
12 cause them not to live there?

13 MR. FREEMAN: Who wants to live
14 next to a hole in the ground like that being
15 built right up to the property? Anyway, I
16 know that's not part of what you're looking at
17 here.

18 And the owners who are already in
19 the building, and I have four of the units
20 still myself, we're concerned about even after
21 this done because of the size and the traffic
22 that's going to come into this alley. And

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1 we're concerned about the ARTS Overlay, too,
2 and the 25 percent and the bars and all that
3 stuff. So there are a number of things in
4 this that we're concerned about.

5 And I know it all requires
6 balance. And I'm not one, like I said, that
7 doesn't want to have any development at all.
8 But I really do feel like if we had had a
9 little more interaction with the developer
10 early on we wouldn't be here at this point
11 arguing about it. I wouldn't be here because
12 I was involved with Metropolis who had this
13 before and when it was Whitman-Walker. And we
14 had worked out everything where we were
15 comfortable with what the agreement was
16 overall. So it is what it is and here we are,
17 so --

18 ZC VICE CHAIRMAN JEFFRIES: It's
19 just that, you know, I look at this
20 application. You have a historic structure.
21 You have an alley. You have an overlay. You
22 have a certain amount of square footage. You

1 have a historic district. I mean, there's a
2 lot of constraints here that the developer is
3 working with. And so am I desperately trying
4 to figure out how things could move around and
5 so forth. And I'm just coming up empty.

6 So I'm listening. I'm listening
7 to you and yet trying to get some level of
8 suggestions. And I know Mr. Bogden is right,
9 I mean you're not a developer, or an architect
10 and so forth. But, you know, I just -- I mean
11 the site is what it is. It sits where it
12 sits. And, you know, the program that's been
13 put before us is what it is. And I'm just
14 trying to get a better handle from you all as
15 to the types of things that you find
16 problematic that if we don't make any
17 decisions tonight, I mean you guys go back and
18 look at things, you know. But that's why I
19 wanted to hear from you about what your -- the
20 things that you find most offensive.

21 MR. COUMARIS: Could I just say
22 one short -- I know I'm not noted for short

1 things, but one thing?

2 Remember, this is something the
3 developer is bringing on themselves. They are
4 not required to incorporate 1407 S Street into
5 this project. The rest of the project is a
6 totally new building on a vacant lot. Let's
7 not say they're under unusual circumstances
8 because they're dealing with a historic
9 building. They don't have to incorporate 1407.
10 They could leave that out. The result of
11 that, though, would be devastating for them
12 because they would have to keep the rear yards
13 against the alley that are presently there.
14 They would not be able to use Swann Street as
15 a fictitious rear yard for their building
16 line.

17 They're only incorporating 1407 S
18 to get a greater floor area ratio and to get
19 an address S Street so they can have a
20 fictitious rear yard on Swann Street instead
21 of having the real rear yards behind the
22 buildings as we have them now.

1 You know, so let's not cry
2 crocodile tears for the developer that they're
3 under these constraints. They're asking for
4 these constraints in order to get the
5 additional floor area ratio and in order to
6 get the address on S Street so they can have
7 a fictitious Swann Street rear yard.

8 ZC VICE CHAIRMAN JEFFRIES: But
9 the city -- and you know this. I mean, the
10 city is clearly looking for greater densities
11 in these types of neighborhoods in these
12 areas. I mean, this is what we've been
13 pushing for for years now. So personally
14 being a Zoning Commissioner I'm certainly not
15 looking for developers to come before our body
16 with projects that are underdeveloped. And
17 particularly projects that are three blocks
18 from a Metro.

19 MR. COUMARIS: We have a problem

20 ZC VICE CHAIRMAN JEFFRIES: Yes.
21 Well, I'm just -- my point is about sort of
22 assembling land. I mean, you're talking about

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1 land assembly here. So, I mean, this gets
2 sort of complicated and there clearly needs to
3 be balance. But, I just, again --

4 MR. COUMARIS: I just don't want
5 it to be seen as a reason for a special
6 exception or variance that this poor owner is
7 under such an undue burden and exceptional
8 circumstance because they're having to deal
9 with a historic building. They only have to
10 deal with it if they the benefits that they're
11 getting from it.

12 1407 S is just an appendage onto
13 to project. I mean --

14 CHAIRPERSON MILLER: Okay. I
15 think we heard your point. You know, they
16 don't have to anything really.

17 MR. COUMARIS: Yes.

18 CHAIRPERSON MILLER: But they've
19 presented a project and we have to --

20 MR. COUMARIS: Look at it.

21 CHAIRPERSON MILLER: -- evaluate
22 that project.

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1 I just have a general question
2 about the parking. All of you who opposed the
3 application oppose them having fewer parking
4 spaces than is required. It seems to me if I
5 were living where you are, I would have fewer
6 cars coming into that parking garage than more
7 cars. So, you know, I'd rather have 90 than
8 108 or whatever. So I'm just wondering why
9 that is an adverse or objectionable condition
10 for you all?

11 MR. COUMARIS: Twenty parking
12 spaces is a lot in our block. I've never seen
13 an empty 20 parking paces in our block ever.

14 MR. FREEMAN: No. Parking is a
15 premium of course in the neighborhood. So, you
16 know, if you're going to build the density,
17 you should have the parking to accompany it.

18 CHAIRPERSON MILLER: You don't buy
19 DDOT's assessment that all the other measures,
20 the fact that they live near a Metro, that
21 they don't need to provide the number of
22 parking spaces that the regulation requires?

1 MR. FREEMAN: No. I know that I'm
2 right there. I've been there for quite a
3 while. I mean, I could tell you that
4 neighborhood is packed and street parking is
5 tough.

6 And I thought it was kind of
7 interesting that they had recommended the
8 folks in that building would not be eligible
9 for street parking. And I can't believe that
10 that's allowed. But I thought that was pretty
11 interesting. And so your question, I was glad
12 you asked it. And I still don't know if I
13 believe it.

14 But, no, it's going to put a lot
15 of pressure on the neighborhood and on our
16 particular buildings.

17 CHAIRPERSON MILLER: Okay.

18 MR. FREEMAN: We met the
19 requirement when we did our building. A lot
20 smaller, but we didn't ask for any variances.

21 CHAIRPERSON MILLER: Other Board
22 questions?

1 Is there cross examine? Ho.

2 Okay. ANC? No.

3 Okay. I think that's it for the
4 party opponents, correct? And now are there
5 persons in opposition? Yes. And I
6 understand there's someone else who came into
7 the hearing room later, and I don't know if
8 you're in opposition or support. But why
9 don't we finish with the individuals at the
10 table and then we'll call others forward.

11 MS. DOUGHTY: Thank you, Madam
12 Chair. My name is Andrea Doughty. And I live
13 at 1417 Q Street. And I hope that the Board
14 has in front of them a letter from the MidCity
15 Association.

16 I apologize for the lateness of
17 our submission today. We would have liked to
18 get the letter to you earlier, but we've been
19 playing catchup on this project as well.

20 We welcome the development of this
21 section of 14th Street. And we welcome the
22 full commitment of the ground floor to

1 commercial space replacing the Whitman-Walker
2 Clinics that have currently no streetscape
3 presence. No contribution to the streetscape
4 on that part of 14th Street. But as we say in
5 our letter we do oppose the granting of a
6 special exception in relation to the 25
7 percent limit.

8 I've attached to our letter a
9 summary table containing our calculations.
10 The last time this issue came before this
11 Board you were all extremely interested to
12 know well what is the number, where are we at
13 in terms of the 25 percent limit. And at that
14 time the Office of Planning couldn't answer
15 you and the developer in that case, which was
16 the Central Union Mission site also could not
17 answer you. So our residents have gone out,
18 as Chairman Miller kind of suggested at that
19 last Board hearing on this, and with a
20 measuring wheel and have gone lot-by-lot. And
21 you know we have a very large spreadsheet that
22 goes line-by-line through every single use.

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1 For the full length, the 14th Street, both
2 sides and the full length of U Street both
3 sides that sits within the Overlay District.

4 And the summary table that you
5 have shows that we believe that we are
6 currently at 25.2 percent. We've been very
7 conservative in the way we've measured this.
8 We've excluded a number of cases of food
9 service establishments that do not have
10 tables. They may have counter service inside
11 where you can buy something and eat at the
12 counter. You know that kind of thing we've
13 excluded.

14 We have literally only included
15 restaurants with tables, cafes with tables,
16 things that are genuinely we think eating and
17 drinking establishments.

18 I understand, I haven't seen the
19 numbers. I have not been given them. But I
20 understand that the developer has also
21 suggested that they've measured this district
22 and that their number, I think, comes in a

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1 lower at 24 percent. I would just note that
2 from what I've been told, they have excluded
3 from their number the special exception that
4 was granted by this Board in the case of the
5 Central Union Mission site. And that that
6 special exception alone accounts ,06
7 percentage points.

8 They've also, and again this is my
9 understanding, excluded another case of a very
10 large restaurant that is currently being built
11 out. It is permitted as restaurant use and it
12 is placarded by ABRA as a restaurant use. This
13 is up in the Union Row development further
14 north above U Street on 14th Street. That
15 project also accounts for .05 percentage
16 points.

17 So we've included those two
18 projects. And by doing so, it has taken us up
19 to 25.2. But as I said, there are a bunch of
20 kind of gray area food service uses that we
21 have excluded from our measurement. If we
22 included those, we would be up at over 26

1 percent.

2 ZC VICE CHAIRMAN JEFFRIES: You
3 excluded Union Row? I mean that's not --

4 MS. DOUGHTY: We included Union
5 Row.

6 ZC VICE CHAIRMAN JEFFRIES: That's
7 still part of the Overlay?

8 MS. DOUGHTY: Yes.

9 ZC VICE CHAIRMAN JEFFRIES: Part
10 of the boundary?

11 MS. DOUGHTY: Yes, it is.

12 We excluded a few minor cases of
13 delis with counter service that did not have
14 tables. But as I said, some would argue you
15 could include those.

16 So I just want to make the general
17 point that our estimate is pretty
18 conservative. And we've gone over it and over
19 it pretty carefully.

20 I'm happy to answer any questions
21 that the Board may have about how we came up
22 with the measurement, or about specific cases.

1 CHAIRPERSON MILLER: I guess my
2 question is, well first of all if special
3 exception is only triggered basically when you
4 do exceed the 25 percent. So the fact that
5 your numbers come in over 25 percent don't
6 really concern me. Because that's what we
7 would be anticipating granting a special
8 exception for in the event that it was already
9 at 25 percent.

10 But my question is on what do you
11 base your assessment that this restaurant
12 would have such an objectionable impact on
13 the--

14 ZC VICE CHAIRMAN JEFFRIES:
15 Potential restaurant.

16 CHAIRPERSON MILLER: Well
17 proposed, we don't even know what it's going
18 to be. But that it would take up 50 percent.
19 All we know, I guess, is that it would take up
20 50 percent or 40 percent of the linear
21 frontage.

22 MS. DOUGHTY: Well, that 40

1 percent we're talking about a very large site
2 here. So that 40 percent is 80 feet. Fifty
3 percent is 100 feet.

4 CHAIRPERSON MILLER: Okay. So how
5 does that translate?

6 MS. DOUGHTY: That would add one
7 percent at 50 percent, it would add one
8 percentage point. So it would take us from
9 25.2 to 26.2.

10 CHAIRPERSON MILLER: But how does
11 that translate to an adverse impact on either
12 the residents, the Overlay, an adverse impact
13 in general?

14 MS. DOUGHTY: Right. Well, I
15 think we mentioned certain things in our
16 letter. We do believe that eating and drinking
17 establishments have higher impact on the
18 surrounding neighborhood than other uses. And
19 I think that basic fact or recognition of that
20 basic fact is one of the rationales for why
21 there is a limit in the ARTS Overlay in the
22 first place. That certain uses have greater

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1 impacts than others, and so let's limit them.

2 CHAIRPERSON MILLER: My
3 understanding is that maybe there a few
4 different considerations that went into this,
5 and others can comment, but that it wasn't
6 just impacts, that' it's also to provide other
7 retail opportunities for the space. That for
8 some reason restaurants are in a better
9 position economically and that if there wasn't
10 a limit, they might take up all that space.

11 MS. DOUGHTY: Indeed. And that's
12 been seen in other neighbors.

13 CHAIRPERSON MILLER: Now if we
14 were to grant a special exception in this case
15 so we might be looking at impact, like you're
16 talking about, greater impacts or that it
17 would deprive other retail from taking up that
18 space, right? But that's kind of speculative.
19 So my question is how do we know based on what
20 you're saying that actually there would be an
21 adverse impact by going from 25 percent to
22 25.2 or to 26 percent?

1 MS. DOUGHTY: Well one of the
2 reasons that the developer has put forward
3 for, at least to me anyway, for this special
4 exception is that it would help to generate
5 additional foot traffic in the area of this
6 site. And then that then also supports
7 additional foot traffic associated with a
8 restaurant or beverage use supports the other
9 retail uses at the site as well. That's an
10 indication of the additional impact that an
11 eating and drinking establishment involves for
12 nearby residents. An eating and drinking
13 establishment does involve additional, whether
14 it's foot traffic, vehicular traffic, it
15 involves an eating and drinking establishment
16 involves daily deliveries of foods stuffs.
17 It's not periodic truck deliveries, it's daily
18 deliveries of food stuffs.

19 An eating and drinking
20 establishment involves waste that is more
21 problematic in the sense that it has to be
22 handled very carefully and has to be gotten

1 rid of.

2 Now we've heard testimony that the
3 waste, that the trash area would be inside and
4 that a loading dock would also be inside. But
5 those trucks making the deliveries and
6 collecting the trash still have to come in and
7 out more frequently for an eating and drinking
8 establishment than they do for other uses.

9 Also, the shear -- the impact --
10 the shear impact, potential impact. I agree,
11 they're asking for this right to do this. We
12 don't know yet what will happen. They don't
13 have a plan, a program for the retail. But
14 the potential impact is also quite large in
15 this case simply because of the size of the
16 potential establishment.

17 If you're talking 80 to 100 linear
18 feet on 14th Street, I can tell you right now
19 that in the ARTS Overlay District there are
20 only two other cases of linear frontages for
21 eating and drinking uses that are that large.
22 And one of those is a special case, it's the

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1 Studio Theater that drinking -- there is a
2 license and there's a certain amount of snack
3 food on the premises. But it's not a full sit
4 down restaurant.

5 So this a potentially extremely
6 large establishment, a eating and drinking
7 establishment that could be put in place here.
8 And that size factor also will involve
9 significant potential impacts on the
10 neighboring property owners.

11 In addition, there are the
12 indirect effects that you mentioned, Chairman
13 Miller, restaurants as -- eating and drinking
14 establishments are businesses that generate
15 pretty high cash flow if they're successful,
16 do tend to drive up rents, rental levels in
17 the marketplace. And we've already had -- you
18 know, there are many cases already of small
19 businesses in the 14th Street area that have
20 been pushed out because the rents have been
21 driven up,

22 You know, it's hard to say at what

1 point does this become critical. At what
2 point do we really start to experience a loss
3 of diversity? I mean, it's very difficult for
4 any of us to say that. But what we did all
5 decide when the ARTS Overlay was put into
6 place, at least in the abstract, was that okay
7 we think we start to experience some of those
8 effects at a level above 25 percent. So, you
9 know, we believe that there are potential
10 significant adverse impacts on the neighboring
11 property owners from an eating and drinking
12 establishment of this size going in at this
13 location.

14 CHAIRPERSON MILLER: Thank you.

15 MS. DOUGHTY: If I could just make
16 one comment about the ANC related issues? The
17 14th Street corridor or the ARTS Overlay
18 District is broken up between at least three
19 ANCs -- different ANCs. You've heard from Mr.
20 Estrada from ANC 2B. And this particular site
21 falls within the boundaries of ANC 2B.

22 The developer did also make a

1 presentation to ANC 2F. That presentation
2 excluded any mention of this request for a
3 special exception to the eating and drinking
4 establishment maximum. Now, of course, ANC 2F
5 doesn't have jurisdiction so they did not vote
6 on this matter. But the discussion that took
7 place among that community anyway, this issue
8 was not surfaced.

9 I am authorized to speak on behalf
10 of the Chairman of ANC 2F and his personal
11 capacity as a Single Member District
12 representative of -- you know, as our Single
13 Member District representative. He opposes the
14 granting of these motion. That is an
15 individual, not as the full ANC 2F.

16 Just a couple of other comments.

17 CHAIRPERSON MILLER: I just want
18 to say, just in all fairness, I think that
19 you're not a party and that you're a person
20 testifying. And that our rules provide for 3
21 minutes.

22 MS. DOUGHTY: Okay.

1 CHAIRPERSON MILLER: So if you
2 want to wrap it up.

3 MS. DOUGHTY: Yes. Okay.

4 CHAIRPERSON MILLER: Okay. Thank
5 you. And we do have your letter.

6 MS. DOUGHTY: Yes, that's right.

7 I mean, I just wanted to sort of
8 rebut a couple of things that were said during
9 the course of this very long day. And that is
10 there was some mention of a moratorium. We do
11 not believe that hitting the 25 percent limit
12 constitutes a moratorium. As Mr. Cochran noted
13 at the last hearing on this when this issue
14 came up, restaurants close and open all the
15 time. That's the nature of that business.
16 There are plenty of opportunities for new
17 restaurants to open as old restaurants close.
18 And, in fact, in order to get some
19 revitalization among some of the existing
20 eating and drinking establishments, we really
21 need this rule to be enforced.

22 Once the 25 percent limit is hit,

1 as we believe it is now, and provided special
2 exceptions are not going to be handed willy-
3 nilly, then that provides a very strong
4 incentive for people that want to open eating
5 and drinking establishment in this corridor to
6 come and revitalize some of the, frankly,
7 outdated eating and drinking establishing
8 existing uses that are already there. So I'd
9 just say we don't see it as a moratorium.

10 IF the Board were to grant this
11 special exception, we would urge you to do it
12 -- to frame your decision in a very, very
13 narrow way. You know, we would be very
14 disappointed if -- first of all, we do not
15 consider that the Central Union Mission case
16 that came before you represents any kind of a
17 precedent because we were underneath the 25
18 percent then.

19 MR. McINTYRE: It was unopposed.

20 MS. DOUGHTY: And it was
21 unopposed.

22 ZC VICE CHAIRMAN JEFFRIES: Madam

1 Chair --

2 CHAIRPERSON MILLER: Yes. I think
3 that the hour is late and I think that we have
4 given you more time. Yes. Okay.

5 MS. DOUGHTY: Okay.

6 CHAIRPERSON MILLER: Thank you
7 very much.

8 Yes, questions?

9 MS. PRINCE: May I just add, I'm
10 just a little confused and I wanted to clarify
11 something.

12 I think I misunderstood earlier.
13 I had the impression that you were not opposed
14 to this special exception in the event that
15 the owner was willing to limit the frontage to
16 40 percent.

17 MS. DOUGHTY: The letter that the
18 Board has in front of you, we've gone on the
19 record as opposing this special exception. I
20 mean, this was a subsequent proposal that came
21 up during the course of the hearing today.
22 And, you know yes, of course, a smaller

1 special exception would be better than a large
2 one. But we do oppose the granting of a
3 special exception for the reasons that I
4 outlined, the adverse impacts on the
5 neighborhood.

6 MS. PRINCE: All right. I just
7 wanted to clarify that because I
8 misunderstood.

9 CHAIRPERSON MILLER: Okay. Mr.
10 Loud, did you have a question?

11 VICE CHAIRPERSON LOUD: Just a
12 couple of quick follow-up questions.

13 Just on counsel's line of concern.
14 So your Board's position was based on the
15 assumption that what would be presented today
16 would be either 100 percent relief from the
17 requirement or either 50 percent?

18 MS. DOUGHTY: Fifty percent
19 relief.

20 VICE CHAIRPERSON LOUD: Fifty
21 percent? Okay.

22 MS. DOUGHTY: Or 100 feet, which

1 is 100 feet.

2 VICE CHAIRPERSON LOUD: Okay. I
3 just wanted to make sure.

4 And now that it's changed to 40
5 percent, that's something that you'd take back
6 to your Board and at least inform them of
7 and--

8 MS. DOUGHTY: OF course I will.
9 But our community has reached a view that in
10 principle we do not support the ARTS Overlay
11 corridor developing in a way that takes
12 significantly beyond the 25 percent limit.

13 VICE CHAIRPERSON LOUD: I
14 understand.

15 And let me comment first your
16 submission, in particular the tabulation that
17 you did. I thought this was really, really
18 helpful. And I believe if this is the MidCity
19 group that I'm familiar with, your group does
20 a lot of really great work in that area. I
21 don't know if this is the MidCity that Scott
22 Pomeroy used to be associated with.

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1 MS. DOUGHTY: That's MidCity
2 Business association.

3 VICE CHAIRPERSON LOUD: Ah, okay.

4 MS. DOUGHTY: We are a residents
5 association.

6 VICE CHAIRPERSON LOUD: A lot of
7 MidCities --

8 MS. DOUGHTY: But we do work with
9 them as well. Yes.

10 VICE CHAIRPERSON LOUD: Okay. I
11 have one question regarding the special
12 exception ARTS Overlay. It sounds to me like
13 your testimony or your position and the
14 position of your organization is that once the
15 threshold -- well, once the cap of 25 percent
16 is reached, that there can be no eating
17 establishments. And that's not what the regs
18 provide. The regs say that if you reach that
19 25 percent under 1906.1 and you have a project
20 that does this, this, this, this and this that
21 that project qualified to take you over the 25
22 percent.

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1 So I guess my question is are you
2 opposed to this particular project and the way
3 it's packaged and the way it's presented or is
4 your group opposed to any project that takes
5 you over the 25 percent, regardless of the
6 context or anything like that?

7 MS. DOUGHTY: Well, we do support
8 the 25 percent limit. In principle we support
9 that.

10 Now that is not to say that we
11 would oppose every single application. We do
12 not believe that this means that there cannot
13 be new eating and drinking establishments
14 along the corridor. There are plenty of
15 existing Certificates of Occupancy for this
16 use that could be utilized in a much --
17 redeveloped and have much greater use.

18 In my testimony I tried to say
19 that we think that the particular size of this
20 project, the potential size of this use, the
21 100 linear feet or the 80 linear feet you're
22 talking about a very large eating and drinking

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1 establishment. And we think that in this case
2 it could have particularly significant adverse
3 impacts on surrounding property owners.

4 My reading of 1906.1 is that for a
5 special exception to be granted, specifically
6 to this provision of the ARTS Overlay, I'm not
7 talking about 3104. I'm talking about just
8 about 1906.1 That there has to be a very
9 significant element that is advancing the
10 interests of the ARTS Overlay and is not
11 adversely impacting the surrounding property
12 owners. So I mean, I think that's a
13 reasonably significant bar that needs to be
14 overcome by the applicant to establish that.

15 VICE CHAIRPERSON LOUD: So on
16 these facts on this proposal you just don't
17 think that it meets the standard. It's not
18 that you're opposed to any project that would
19 take you over the 25 percent?

20 MS. DOUGHTY: Correct.

21 VICE CHAIRPERSON LOUD: Okay.

22 CHAIRPERSON MILLER: Okay. Any

1 other Board questions?

2 No more cross, correct?

3 The ANC have any?

4 Not that we cross individuals too
5 intensely.

6 COMMISSIONER ESTRADA: In the
7 interest I will not ask any questions.

8 CHAIRPERSON MILLER: Yes.

9 COMMISSIONER ESTRADA: But I'm
10 very pleased to see the table. And I hope the
11 gentleman from the Office of Planning will
12 take a copy back to his office and share it
13 with the Zoning Administrator.

14 MR. COCHRAN: I believe I would
15 need a copy of it to take it back. Oh, that,
16 yes. I have several.

17 CHAIRPERSON MILLER: You have
18 that?

19 COMMISSIONER ESTRADA: Yes. And
20 the only question I have for the
21 representative from the MidCity, is can the
22 Dupont Circle ANC use this data in future

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1 cases, requests, applications and share it
2 also with not only the City Council, but the
3 Deputy Mayor for Economic Development.

4 MS. DOUGHTY: Well, it's now part
5 of the public record. We place it on --

6 COMMISSIONER ESTRADA: Thank you
7 very much. And you'll be seeing this chart
8 again.

9 CHAIRPERSON MILLER: Okay. That's
10 really not all that germane to this. Okay.

11 ZC VICE CHAIRMAN JEFFRIES: You do
12 have in the chart methodology and so forth
13 that's included here, right? Because people
14 will want to know that if you're going to be
15 disseminating it around.

16 MS. DOUGHTY: Right. Right.

17 ZC VICE CHAIRMAN JEFFRIES: Okay.

18 MS. DOUGHTY: And we can provide
19 more of that detail.

20 The Office of Planning has been
21 provided with the entire set of calculations,
22 the 20 pages that back up that summary table.

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1 MR. COCHRAN: That's exactly what
2 I was going to add.

3 CHAIRPERSON MILLER: So, I mean, I
4 think we can treat it as an informative, but
5 not official. Yes. Okay.

6 But this is the time we're doing
7 witnesses. Do you have a question for this
8 witness?

9 MR. COUMARIS: Sure.

10 CHAIRPERSON MILLER: Yes?

11 MR. COUMARIS: Well, yes, I do
12 want to ask her something.

13 CHAIRPERSON MILLER: Cross examine
14 question, quick. Because we don't do -- yes,
15 that's what this is, cross examine. This is
16 like --

17 MR. COUMARIS: Okay. Have you all
18 done any study to find out how many available
19 spots there are for, say, drug stores, small
20 grocery stores, you know Aidi townhouse type
21 stores? How many of those available spaces are
22 there?

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1 I mean, this would be potentially
2 one, probably our last shot at having one,
3 too. How many of those types of large --

4 CHAIRPERSON MILLER: Now let's
5 just get to the question. Because 7:30 or --
6 it's 8:00. It's 8:00

7 MS. DOUGHTY: There are a number
8 of sites still available on 14th Street for
9 small and large businesses of all kinds. We
10 just recently have seen the announcement that
11 Room and Board, which is a very large
12 furnishing company will be going on in on the
13 same side of the block, one block further up
14 at 14th and T. You know, that is going to
15 provide kind of an anchor really store for
16 that area of 14th Street in conjunction with
17 several other design and furnishing stores,
18 Moules and Vastu, which are very close by to
19 that. So there are.

20 CHAIRPERSON MILLER: Okay. So the
21 answer is yes, there's still a lot of space
22 for other retail. Okay. Thank you.

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1 Sorry to be abrupt, but I think we
2 need to move things along.

3 Are there others in the audience
4 who wish to testify either in support or
5 opposition of this application? Come on
6 forward.

7 ZC VICE CHAIRMAN JEFFRIES: So how
8 many minutes are you going to give this Ms.
9 Cort? Three.

10 CHAIRPERSON MILLER: Three. Okay.
11 You're own.

12 MS. CORT: Okay. I'm Cheryl Cort.
13 I live at 1438 Florida Avenue, Northwest. I'm
14 a few blocks north of this project.

15 And I'd just very briefly like to
16 express my support generally for this project,
17 particularly for the parking reduction
18 although frankly I think we could have a lot
19 less parking in this location. I agree that
20 this parking is just an invitation to drive.
21 And generally a lot more traffic.

22 This is a great transit corridor.

1 I walk, ride my bike and take the bus in this
2 corridor all the time, almost every day. And
3 really the opportunity here is to provide more
4 housing opportunities and more businesses in
5 such a transit accessible, walkable
6 environment.

7 And so I really appreciate the
8 proposals made by DDOT to look at what we call
9 transportation demand management measures to
10 reduce the amount of vehicle trips that are
11 generated by new development. And that's very
12 helpful. It's helpful for residential
13 development. Also it's helpful for retail.

14 There's other things that could be
15 done that could further reduce the potential
16 of vehicle trips generated while providing
17 customer access. You could provide free or
18 discounted delivery services for any customers
19 visiting there. You could provide taxi
20 vouchers for customers who purchase over a
21 certain amount of goods or something. That way
22 you would be, oh I'll rid the bus to the store

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1 and buy a big something or other and get a
2 taxi voucher to take it home. I'd certainly
3 do that myself. I don't have a car and I
4 pulled an air conditioner to the sidewalk and
5 DC USA and hailed a cab and come home, you
6 know, not that many blocks away.

7 On car Zipcar would be much more
8 helpful than Zipcar in the parking garage.
9 You could have an agreement set up with the
10 developer. It's public space, but you could
11 have a revenue agreement where the developer
12 would guarantee a certain revenue level for
13 that car so that it's not a risk to Zipcar.
14 And if the usage of that car is met, then the
15 developer would not pay anything. The
16 revenues would be generated by the users of
17 the Zipcar and it would be available to the
18 whole community. It would help to further
19 reduce the need for anybody maybe to own a
20 car. It certainly worked for me. I got rid of
21 my car when I had Zipcars available all over
22 my neighborhood.

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1 More bike parking especially bike
2 racks.

3 But also for employees, I'd
4 suggest the other thing that was missing was
5 showers for workers so that you can bicycle to
6 work, you can get changed and be ready to go
7 at work.

8 So those are some of the things.

9 The other thing I might suggest is
10 that since we don't inclusionary zoning
11 regulations in place yet, rather than
12 providing housing for cars, wouldn't it be
13 great if we could provide a few affordable
14 housing opportunities for people instead. So
15 maybe reducing some of that parking saving,
16 \$40,000 a pop provide a few affordable housing
17 units. Maybe a worker who works in the retail
18 establishment below would have the opportunity
19 to live there and really reduce the travel
20 demand for that site.

21 Thank you.

22 ZC VICE CHAIRMAN JEFFRIES: You

1 just couldn't pass it up, could you?

2 CHAIRPERSON MILLER: Do you have
3 any written testimony that you wanted to
4 submit or not?

5 MS. CORT: Is the record closed?
6 It's not clean.

7 CHAIRPERSON MILLER: No. We could
8 leave the record open for your cleaned up
9 testimony.

10 MS. CORT: Okay. I'll clean this
11 up and submit it. Thank you.

12 CHAIRPERSON MILLER: Okay. The on
13 street Zipcar, that's something that would
14 have to be worked out with DDOT, I would
15 assume. Because it would take up a space and
16 the street.

17 MS. CORT: Right. It would
18 exchange for commercial space, you know
19 metered space would then become sort of that
20 exchange between a garage space for an on
21 street space that would be available either
22 for customers who want to take something big

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1 home or for general use for people in the area
2 including building residents or adjacent
3 neighbors. But the idea is that you could
4 reduce the -- I have model contracts from
5 Portland where the developer guarantees a
6 certain revenue performance for that car to
7 eliminate the risk to the car sharing company
8 if that's at all a concern to Zipcar. It's a
9 way to have the developer participate in
10 making sure that it works for that site and
11 kind of contribute to that traffic reduction
12 measure, essentially.

13 CHAIRPERSON MILLER: And why is it
14 preferable to having it in the garage?

15 MS. CORT: It's not very
16 accessible. I certainly won't use it as a
17 Zipcar member if it's buried in the garage. It
18 would only be available to those residents.
19 It's much more helpful to have it at a highly
20 visible public place that's accessible to
21 everybody.

22 CHAIRPERSON MILLER: And how

1 important are the showers? That's something
2 DDOT recommended?

3 MS. CORT: Oh, they did?

4 CHAIRPERSON MILLER: Yes. I
5 believe.

6 MS. CORT: Well, the reason why
7 it's important is that for people to want to
8 walk or ride their bike to work -- this is for
9 workers, they might be discouraged if, say,
10 they sweat a lot on the way to work on a
11 summer day. And so it's just a way to ensure
12 that the full facilities are available. That
13 this is a worker really has a practical option
14 to ride his or her bike three miles or
15 something like that, arrive at work and be
16 able to have a proper appearance at work.

17 ZC VICE CHAIRMAN JEFFRIES: You're
18 seeing this with like retail?

19 MS. CORT: Workers. Yes, for -- I
20 mean, I think we should treat all the workers
21 the same in terms of their opportunity to
22 access work by means other driving and parking

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1 a car in the parking garage.

2 ZC VICE CHAIRMAN JEFFRIES: Well,
3 no, no, no. I guess what I was thinking, I
4 mean when we talked about shower facilities
5 for your office tenants and so forth because
6 there tend to be more workers in those
7 situations as opposed to ground floor 6,000
8 square foot restaurant. I guess I was just
9 trying to make a differentiation there.

10 MS. CORT: Well, I mean how many
11 workers would be working in this
12 establishment? I mean --

13 ZC VICE CHAIRMAN JEFFRIES: Have
14 you been working with the developer?

15 MS. CORT: No.

16 ZC VICE CHAIRMAN JEFFRIES: Oh,
17 okay.

18 MS. CORT: We might look at the
19 proposed parking regulations for bicycle
20 parking and look at some of the parameters
21 that have been set up. I think they actually
22 have some thresholds for what would be

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1 appropriate. I don't want to place onerous --
2 I mean, there's some scale that you don't want
3 to go below essentially. But I think that
4 wherever possible it would be really a good
5 effort on the part of the developer to provide
6 that as a real viable option for workers.

7 CHAIRPERSON MILLER: I do recall
8 that this did come up at the Zoning Commission
9 hearings on the proposed regulations.

10 Is there also any data that backs
11 up if you had a shower for bicyclists, what
12 the result is in cutting down parking, people
13 who drive to work or something like that?

14 MS. CORT: I can look for that. I
15 think that certainly people have told me that
16 they don't bicycle to work because they can't
17 shower when they get there.

18 CHAIRPERSON MILLER: Right. Okay.
19 Some of it's anecdotal, but it makes sense.
20 Yes. Okay.

21 Okay. Other questions?

22 Okay. Is there cross? I hate to

1 subject individual witnesses to cross
2 examination. But if there is some, you know,
3 issue here that anyone has a question about.
4 Okay. Good. Done.

5 All right. Anybody else here to
6 testify in support or opposition of this
7 application.

8 Then we are at closing remarks by
9 the applicant or rebuttal. Is there rebuttal?

10 MS. PRINCE: No.

11 CHAIRPERSON MILLER: Okay.

12 MS. PRINCE: I'll simply proceed
13 with closing. And I promise I won't be long.
14 It's been such a long day.

15 Let's just review some of the
16 basics here.

17 This site is in the ARTS Overlay,
18 which prohibits curb cuts on 14th Street. It's
19 got a historic building. The Overlay
20 specifically encourages the adaptive reuse of
21 existing building, but it's very hard to
22 construct under the existing building which

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1 complicates our parking situation.

2 It presents a major redevelopment
3 opportunity. Today is the first I've heard
4 that anybody will miss the laundromat. We've
5 gotten really positive feedback to doing a
6 full site renovation that is really an
7 exciting opportunity.

8 In terms of this project compared
9 to matter-of-right opportunities on the site,
10 I worked on this site earlier. So did the
11 architect. We're familiar with the development
12 history. We've very familiar with it. There
13 were development plans involving as much as a
14 six FAR. And less there be any concerns that
15 somehow our assemblage has allowed us to
16 completely circumvent a proper setback at the
17 rear, let me remind you that the upper stories
18 of this building are setback 18 feet. But a
19 matter-of-right project could be setback six
20 feet from the rear lot line. Because you're
21 able to measure to the center line of the
22 alley. So really the matter-of-right proposals

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1 that have been spoken of wistfully today were
2 very aggressive proposals that involved the
3 full closure of the alley deriving FAR from
4 the alley. And we thought that this proposal
5 to leave the alley just as it is, not drain
6 FAR from the alley, would be viewed favorably
7 in that respect.

8 I also think the manner in which
9 the rear elevation has been articulated with
10 the court, with the setback is far more
11 superior than one would typically see in a
12 matter-of-right project. It really has been
13 done I think in a sensitive way.

14 If you look at our statement in
15 detail and think about our hearing testimony
16 today, I don't think there's any question that
17 we meet the variance burden of proof on the
18 lot occupancy requirement. It derives almost
19 exclusively from the presence of the historic
20 building on the site. And it's a four percent
21 variance.

22 It seems we've gotten very caught

1 up on the special exception requirements. But
2 really we haven't heard much about design
3 related special exceptions. It's all been
4 about parking. And we're simply trying to get
5 to that middle point. And I think we're there.
6 Of providing not too much, and not too little.

7 In terms of parking access.
8 There's no question that we would face
9 vociferous opposition from the Historic
10 Preservation Review Board if we attempted to
11 put a curb cut on 14th Street. We regard it as
12 a major positive feature of the project that
13 we're eliminating the curb cut. The alley is
14 there. It meets city standards. It's 20 feet
15 wide. It has even a wider mouth on S Street
16 because of the setback of the other building,
17 the existing building. It is a fully
18 functioning alley and needs to be used for the
19 purposes that alleys are used for.

20 Having said that, we're sensitive
21 to Coumaris and other residents of the square,
22 but particularly Mr. Coumaris who lives in an

1 alley dwelling. It's an alley dwelling that
2 front on two alleys. The 20 foot alley that
3 is right behind our property and a ten foot
4 alley. We will work with him very, very
5 carefully through the construction phase to
6 ensure that he is not adversely impacted.
7 It's a fragile situation, we understand that.
8 But it is what it is and this is a major urban
9 redevelopment opportunity and there's only so
10 many places that you can put access to the
11 parking garage and the loading here.

12 With respect to the eating and
13 drinking establishments, my goodness we're
14 simply seeking flexibility to have a
15 restaurant, to be able to offer a leasing
16 opportunity to restaurants. We're not looking
17 to occupy the entire ground floor with a
18 restaurant. We're more than willing to look at
19 a restricted percentage. We simply want the
20 opportunity to market. I think that's
21 reasonable.

22 Unfortunately because of the good

1 work that I think we've done in really
2 understanding the number of restaurants in the
3 area, we've stirred up all this interest in
4 the 25 percent rule when we were simply trying
5 to be proactive so that we could have good
6 leasing opportunities and bring good
7 opportunities to this property.

8 I do have conditions that I'm more
9 than happy to go over with you tonight. I have
10 extra copies, they're marked up. We can put
11 them in a draft order. However you'd like to
12 handle it. As we really went through the
13 hearing the conditions became more narrow and
14 more simple.

15 We have the historic preservation
16 flexibility, which we've need from the get-go.

17 On the parking, you know using Mr.
18 Cochran's logic, we can agree to a minimum of
19 65 spaces set aside for residential and a
20 minimum of 15 for commercial. I think that
21 does it. And a minimum of 90 overall. I think
22 that that gets us where we need to be.

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1 We're more than willing to do
2 bicycle parking, many of the items that came
3 from DDOT. We're not accepting everything on
4 their laundry list. Some of the requests were
5 a little bit burdensome for us and I think
6 could really effect the project. But we've
7 certainly made an effort to agree to the
8 membership in car sharing for people who
9 haven't leased or purchased an automobile
10 space. And we'll set aside a space for car
11 sharing. And we've gotten all kinds of great
12 information on car sharing tonight. And
13 certainly the bicycle parking in the garage.
14 And we'll work with public space to put
15 bicycle parking along the street.

16 So I would really ask for your
17 careful consideration of this application.
18 The relief, although it's stirred up a lot of
19 interest, is really fairly minor in the zoning
20 scheme of things.

21 I think it's a wonderfully
22 designed project by a very talented architect.

1 We will work carefully with the neighbors to
2 address all construction related concerns.
3 That's in our interest as well. We want to fit
4 into the neighborhood well and not make
5 enemies in the construction process.

6 So I thank you for your time and
7 your patience. And I look forward to your
8 action on this application.

9 CHAIRPERSON MILLER: Thank you.

10 Are there any final questions?

11 Okay.

12 I think what I'd like to suggest
13 is that we set for decision making or
14 deliberation February 3rd. That's a date I
15 want to throw out at this point.

16 Oh, I wanted to ask you when HPRB
17 is going to be --

18 MS. PRINCE: HPRB is taking up the
19 case on December 18th.

20 Is there anyway that we could get
21 a decision sooner than February? There's no
22 January meeting?

1 CHAIRPERSON MILLER: Well, there
2 is and we can entertain that.

3 ZC VICE CHAIRMAN JEFFRIES: Madam
4 Chair --

5 CHAIRPERSON MILLER: You talked
6 about doing proposed orders. And if you were
7 to do that --

8 MS. PRINCE: We could prepare that
9 very quickly.

10 CHAIRPERSON MILLER: Okay.
11 Because normally that involves waiting for the
12 transcript and then doing the proposed order.
13 What were you going to say, Mr.
14 Jeffries?

15 ZC VICE CHAIRMAN JEFFRIES: I was
16 going to say, you know, I don't see much more
17 most anything could be in the record here on
18 this particular case.

19 CHAIRPERSON MILLER: Okay. What I
20 think could be put in the record certainly
21 would be proposed conditions from all the
22 parties. And I heard you already, you have

1 yours pretty much together so you could do
2 that sooner than --

3 ZC VICE CHAIRMAN JEFFRIES: But
4 beyond that, you know I'm just looking at
5 proposed conditions, I mean I --

6 CHAIRPERSON MILLER: You would
7 prefer it to be January because?

8 MS. PRINCE: We're quite anxious
9 about proceeding and getting a decision in
10 this case. I have conditions here that I
11 marked up.

12 CHAIRPERSON MILLER: Okay. Okay.

13 MS. PRINCE: I have copies for you
14 if you'd like to go over them right now. I
15 mean, when you started talking about a
16 February decision, then I --

17 CHAIRPERSON MILLER: I ad
18 understood when you said proposed order, that
19 that usually means time to look at the
20 transcript and then draft a proposed order.
21 And it takes a few weeks for that.

22 No, I don't feel strongly about

1 the February 3rd date if there's enough time.

2 The other thing that I have heard,
3 it seems like it might be nice to have a
4 little bit of time in case you all want to
5 communicate anymore about these things.

6 COMMISSIONER ESTRADA: If I may
7 comment?

8 CHAIRPERSON MILLER: Yes.

9 COMMISSIONER ESTRADA: I would
10 agree with more flexibility. That's been a
11 word we've all thrown around today. I like the
12 February date because it allows that talking
13 time that you mentioned that the ANC so sorely
14 missed in this process. And you've heard
15 residents testify today that they missed it
16 also with this project.

17 And also, there's still the HPRB
18 hearing on December 18th. And any number of
19 things could happen surrounding that hearing.

20 The ANC is now going to schedule
21 it based on the testimony for next Wednesday
22 to hear the case.

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1 So I think flexibility is in
2 order. I would go with the February 3rd date.

3 MS. PRINCE: And that is a severe
4 problem for us. We are going to the HPRB on
5 December 18th, but frankly their review is
6 independent of this process, as you know, and
7 this order will have flexibility so that we'll
8 need to be able to make any changes that come
9 from the HPRB.

10 We are going to the ANC next week.
11 We are holding a group of a neighbor meeting
12 within the next two weeks. We've probably had
13 ten or 11 neighbor meetings in the past six
14 weeks.

15 We really are very anxious for a
16 decision and I urge you to allow us to file
17 whatever documentation you feel is required,
18 but to have our decision in January.

19 BOARD MEMBER WHEAT: Can you
20 articulate specifically what the problem is?
21 You said it's a severe problem for you to wait
22 until February. What is the problem?

1 MS. PRINCE: The project -- JBG
2 owns the property. They are well into design
3 development, as you can see from the drawings
4 that are before you.

5 Do you want to address some of
6 your timing constraints in terms of where you
7 are in financing?

8 MR. BLAKE: I think we started
9 meeting with folks as far back as July. And
10 the financing environment is terrible. The
11 economy is terrible. We own this property.
12 We'd like to move forward quickly and
13 aggressively. More time passes, the harder it
14 is for us to move forward successfully.

15 So really, and I go back to I
16 think the minor things that we're asking for
17 here. And we have spent a lot of time
18 designing and redesigning with HPRB and Office
19 of Planning --

20 BOARD MEMBER WHEAT: Okay. I
21 understand that. Are you just saying carrying
22 costs? I mean what's your issue? What's your

1 bottom line? Why are you anxious?

2 MR. BLAKE: Money spent to date,
3 carrying costs and a terrible financing
4 environment and a terrible economy.

5 BOARD MEMBER WHEAT: Thank you.

6 COMMISSIONER ESTRADA: Could I
7 make a comment in response to that?

8 CHAIRPERSON MILLER: Yes.

9 COMMISSIONER ESTRADA: So he made
10 claims that he's been talking to the
11 neighbors. We only got final concept drawings
12 a month ago, literally days before the
13 November ANC meeting. This has not been
14 properly vetted before the community and it
15 deserves proper vetting. That means that the
16 ANC meeting coming this Wednesday, and I did
17 share this with Ms. Prince during the break,
18 the community will be invited once again to
19 come and actually review these drawings; the
20 facades, the fronts, the backs. That hasn't
21 been done yet with the community at all.

22 So I hate to use the word

1 misrepresentation, but as far as the ANC is
2 concerned we only got the drawings a month
3 ago, literally days before the ANC meeting.

4 VICE CHAIRPERSON LOUD: Madam
5 Chair, can we possibly move on? I understand
6 some of the frustration. But I think we're
7 beyond the point of some of the exchange.
8 They've agreed to come next week. That's a
9 done settled issue, so why are we talking
10 about that?

11 We know that there's going to be
12 this HPRB December 18 and it sounds like the
13 applicant is willing to wait until January, at
14 last. There's no pressure on us for December
15 date. So I'd like to see us try to move
16 beyond some of the back and forth and just try
17 to get a date calendared.

18 CHAIRPERSON MILLER: Okay. IT
19 sounds like to me that there's a greater
20 prejudice to the applicant to delay beyond the
21 January 6th date with respect to financing
22 costs and things of that nature. And that

1 there is not -- I don't think there's a good
2 enough reason to delay that I've heard. There
3 is time for the applicant to meet with the
4 ANC. They're already on schedule to do that
5 next week. And I had thrown out that date
6 under a misimpression that the applicant was
7 proposing time to do a full order based on
8 reading the transcript, et cetera. And that's
9 not the case.

10 So I don't have a problem with
11 scheduling this for the 6th. Except Mr.
12 Dettman won't be here. But he can participate
13 by sending his vote.

14 Okay. So let's talk about what
15 we're going to leave the record open for then.

16 ZC VICE CHAIRMAN JEFFRIES: Not
17 much I don't think.

18 CHAIRPERSON MILLER: Is the
19 applicant proposing to do a proposed order?

20 MS. PRINCE: We will certainly do
21 a proposed order, but we can expedite the
22 transcript and we can turn around an order in

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1 a matter of days. That's not an issue.

2 CHAIRPERSON MILLER: Okay. Okay.
3 And other parties are welcome to do that as
4 well, but not required.

5 We'll leave the record open
6 certainly for proposed conditions and
7 responses to the applicant's proposed
8 conditions. And the other parties can also
9 propose conditions.

10 We'll set a schedule in a minute,
11 but I just want to go over what we'd leave the
12 record open for.

13 And I know that the applicant has
14 already drafted some, but perhaps after they
15 meet with the community and the ANC, they may
16 change. And I'd be interested in applicant's
17 responses to some of DDOT's conditions that
18 haven't been really discussed here such as Ms.
19 Cort brought up with the showers, encouraging
20 bicycling, the Zipcar on the street versus in
21 the parking garage.

22 I would be interested in the

1 applicant addressing, and it may be in the
2 pleadings, I don't know, about the safety
3 issues that the opposing parties brought up.
4 Is there an issue of safety in the alley by
5 having trucks and cars back there?

6 And then the issue about the
7 garage door, perhaps. Are there any
8 mitigation for that?

9 The other point I would make is I
10 would say that the parties could address
11 further if they like, based on what I've heard
12 today with respect to that 25 percent issue
13 with the Overlay. I think I heard more
14 generalities than specifics, you know, about
15 objectionable conditions created by
16 restaurants. Even though it was kind of
17 couched that it's really this specific size.
18 My knowledge of this issue and the history of
19 it, that the 25 percent was kind of a guess
20 that that was the threshold, but that really
21 the threshold where it might be too much could
22 be 30 percent. So my question in looking at

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1 this is, you know, is this going to create an
2 adverse impact. And then I would look at
3 obviously the criteria in 1906.1 But I think
4 it goes to Mr. Loud's question. You know, is
5 it any restaurant going over 25 percent or is
6 there a situation where this area is saturated
7 and this linear frontage is going to be the
8 tipping point or whatever.

9 COMMISSIONER ESTRADA: Madam
10 Chair, if that sounds like an invitation for
11 the Dupont Circle ANC to submit testimony, I
12 would be happy to do that.

13
14 CHAIRPERSON MILLER: It's not
15 testimony, but we'll leave the record open for
16 you to address it in writing.

17 COMMISSIONER ESTRADA: Because as
18 you know, we monitor two moratoriums on P
19 Street and 17th Street. So we're very familiar
20 with the effects when you reach the tipping
21 point and go over. So I'm happy to share all
22 of the attendant problems that come.

1 CHAIRPERSON MILLER: Okay. I'm
2 just saying what I didn't hear and the
3 specifics that this is saturated or there are
4 these terrible impacts already and therefore,
5 you know -- or one more would add to it, or
6 whatever. Just the opportunity to add if
7 anybody wants to address that.

8 COMMISSIONER ESTRADA: Okay.
9 Thank you.

10 CHAIRPERSON MILLER: So those are
11 my issues. Anybody have other issues that they
12 want to leave the record open for.

13 ZC VICE CHAIRMAN JEFFRIES: Yes, I
14 do. I do. Listen, I'm going to be very frank.
15 You know, I've heard enough. I've heard as
16 much as I care to hear. I don't think I can
17 hear much more. So I think that Madam Chair,
18 you know I mean there's five people up here.
19 So, you know, you obviously need to respond to
20 the questions that Madam Chair is requesting.
21 I don't need to hear all that.

22 You know, obviously you focus on

1 brevity as far as because I'm not interested
2 in reading a voluminous file again. I mean,
3 this is quite excessive. And we have lots of
4 paper and we've heard a lot of testimony. So
5 I just want to be clear that I don't want this
6 to be an invitation for a whole slue of more
7 paperwork. Okay. Because I'm just not going
8 to respond well to that. So anyway.

9 CHAIRPERSON MILLER: And I hope
10 that wasn't what I was doing. And I do want
11 to want to, Mr. Estrada, I am not asking for
12 what are the consequences when you go beyond
13 a certain point in general. All I'm saying is
14 this particular strip, you know, what evidence
15 do we have that there would be adverse impact?

16 Others?

17 COMMISSIONER ESTRADA: I will
18 limit my comments to that.

19 BOARD MEMBER WHEAT: To the extent
20 that your plans change as a result of your
21 interaction with HPRB, then we'd want to see
22 the revised plans.

1 CHAIRPERSON MILLER: Okay. So I
2 think we need to set the schedule now with a
3 January 6 decision meeting. So I think there
4 would be two sets of filings. The first one
5 would be the applicant's proposed order and
6 conditions and responses to any of the issues
7 I just laid out. And at the same time if I
8 guess the opposing parties and ANC had any
9 proposed conditions for addressing any of
10 those issues, they would file at that time.
11 And then our proposed order, and then
12 responses thereto.

13 Why don't we start with that. And
14 then there's, of course, also if the HPRB
15 decision requires the applicant to change it's
16 plans, we'll see where that might fall in.

17 Would you have a decision on the
18 18th or not necessarily?

19 MS. PRINCE: Not necessarily. You
20 know, quite often it's a interactive process
21 and they may have comments on the design. And
22 so to the extent that they don't make a

1 decision and ask us to come back with design
2 refinements, we won't really have anything to
3 show you. If, however, they grant concept
4 approval to what we've submitted to you, then
5 we'll let you know that.

6 CHAIRPERSON MILLER: Okay. And it
7 sounds like you don't anticipate that it's
8 going to affect our decision in this case.

9 MS. PRINCE: No, I don't believe
10 it will affect any -- I don't think HPRB's
11 input will change any areas of relief.

12 CHAIRPERSON MILLER: Okay. Do you
13 have some dates in mind?

14 MS. BAILEY: Madam Chair, the
15 holidays are coming up and that certainly has
16 to be factored in. But just preliminarily to
17 get us started, December 22nd for the initial
18 filing. And then it would be awfully close,
19 January 5th for the response -- well --

20 MS. PRINCE: We can prepare our
21 draft order much more quickly than that. We
22 can have it done next week.

1 MS. BAILEY: You didn't want to
2 wait until after you've with HPRB?

3 MS. PRINCE: Not the draft order.

4 MS. BAILEY: Okay.

5 MR. McINTYRE: After you meet with
6 the ANC?

7 MS. PRINCE: No.

8 MS. BAILEY: Okay. A week
9 earlier, Madam Chair, would be December the
10 15th. And then the responses of the parties
11 the 29th.

12 CHAIRPERSON MILLER: Okay. Is
13 there an objection to that schedule?

14 You're not on the record if you're
15 not on the microphone. Do you want to get on
16 the record?

17 MR. COUMARIS: The 22nd is fine
18 for me.

19 CHAIRPERSON MILLER: The two
20 dates. Initial filing the 15th and then
21 response of filing the 22nd.

22 MS. PRINCE: And if it would help

1 the schedule in anyway, we can have a draft
2 order done by Monday. If that eases the
3 pressure on response time.

4 CHAIRPERSON MILLER: We would
5 really like you to -- like for you to have
6 that meeting with the ANC before you submit
7 the order. So what is the date of the meeting
8 with the ANC.

9 COMMISSIONER ESTRADA: Next
10 Wednesday.

11 CHAIRPERSON MILLER: What's the
12 date of that?

13 COMMISSIONER ESTRADA: I think
14 that's the 10th.

15 CHAIRPERSON MILLER: Okay. So if
16 you now we have you for the 15th. If it's
17 going to help anybody else to do it earlier,
18 you can. I don't see why it would help
19 anybody at this point. Okay.

20 MS. BAILEY: So, Madam Chair, the
21 dates that were mentioned were the 15th of
22 December and the 29th of December. And of

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1 course the Board has scheduled its decision
2 for the 6th of January.

3 CHAIRPERSON MILLER: Okay.

4 MS. PRINCE: Madam Chair, one more
5 thing. There's been so much talk of the
6 eating and drinking establishment
7 calculations. And I don't think ours are in
8 the record. So I just wanted to give them to
9 the parties and to Ms. Bailey.

10 CHAIRPERSON MILLER: Okay. That's
11 accepted into the record.

12 And I think if the Office of
13 Planning wants to weigh in at all, we'll leave
14 the record open for that as well. You're not
15 required to, but if you would like to. And
16 that would -- I think after all the pleadings
17 are in just before the -- let me look. What's
18 the date of the Friday before the 5th?

19 MS. BAILEY: The Friday before the
20 5th is the 2nd.

21 CHAIRPERSON MILLER: 2nd of
22 January?

1 MS. BAILEY: Yes, ma'am.

2 CHAIRPERSON MILLER: No. I mean,
3 it's right after New Year's. So I guess on the
4 5th if you have anything to add.

5 MR. COCHRAN: Madam Chair, I think
6 if our supplemental report were submitted on
7 the 2nd, I think you'd probably enjoy reading
8 it very much. It would be quite amusing.

9 CHAIRPERSON MILLER: How about the
10 5th if you have anything to add. I'm not
11 expecting that you are going to, but if you
12 want to we'll leave it open.

13 MS. COCHRAN: We'll be happy to
14 get a supplemental report in.

15 CHAIRPERSON MILLER: Okay. Good.
16 By the 5th?

17 ZC VICE CHAIRMAN JEFFRIES: You'll
18 just comment on conditions, right.

19 MR. COCHRAN: Certainly. Not on
20 my own condition now.

21 CHAIRPERSON MILLER: All right.
22 Are there any questions? Otherwise I think

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1 maybe we can end this hearing.

2 BOARD MEMBER WHEAT: Well, I have
3 a question about this document --

4 CHAIRPERSON MILLER: Yes, go
5 ahead.

6 BOARD MEMBER WHEAT: -- that we
7 were just presented. We're going to need some
8 explanation. This is -- it's not clear what
9 this is even.

10 MS. PRINCE: This is simply the
11 documentation that supports the percentage of
12 existing eating and drinking establishments
13 within the Overlay since the city has never
14 prepared such a document.

15 MR. AVITABILE: We had in our
16 prehearing submission filed just a single
17 sheet that gave percentages along the north
18 and south side or east and west side of the
19 streets. What this is is this is the backup
20 for our calculations. And what you can see is
21 the sites that are highlighted in yellow are
22 the eating and drinking establishments that we

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1 counted and notes their frontage. We did this
2 on a much larger document and we just reduced
3 it to reproduce to the Board. And then we just
4 basically used the base -- the most reliable
5 in terms of calculating linear frontage
6 footage.

7 And you can see on page 3 our site
8 is kind of highlighted in blue just to give
9 you some context as to where we are vis-à-vis
10 some for these eating and drinking
11 establishments.

12 CHAIRPERSON MILLER: Okay. And
13 your percentage as a little bit different from
14 the other percentages we were given.

15 MR. AVITABILE: It was slightly
16 different. And I think the differences,
17 without going into too much detail since it's
18 really late, but the differences is just it's
19 interpretation as to what counts versus
20 doesn't count. It sounds like they counted the
21 Studio Theater, we did not. We did not go
22 forward and count anything that wasn't

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1 actually on the street. I think we did include
2 some of the ones they counted as permitted,
3 since they were actually present on the
4 street. We might not have included another.
5 We didn't include Central Union Mission site
6 since it hasn't been actually built with a
7 restaurant yet. We just included what was
8 actually there right now, which would be
9 whatever would be in the Zoning
10 Administrator's database if he had one.

11 MR. COCHRAN: Madam Chair, since
12 we don't know what would be in the Zoning
13 Administrator's data base because we don't
14 know what the ZA would determine to be an
15 eating drinking establishment or not, couldn't
16 we just proceed with the assumption since one
17 says below, one says just above, that we're
18 basically at 25 percent. And that if they're
19 going to build a restaurant or eating
20 establishment, that a special exception would
21 be required?

22 CHAIRPERSON MILLER: I think so

1 since we're actually projecting out anyway and
2 we don't really know what the situation is
3 going to be when they're ready to come on
4 line. That's the point, right? We were just
5 assuming it was going to be --

6 MR. COCHRAN: Exactly. It doesn't
7 seem to make any difference whether it's 24.8
8 or 25.3.

9 CHAIRPERSON MILLER: Okay.
10 Anything else?

11 It's nice to have these pictures,
12 though, as to where they are.

13 Okay. All right. Then I think
14 this hearing is adjourned.

15 (Whereupon, at 8:44 p.m. the
16 hearing was adjourned.)

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