

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY, DECEMBER 8, 2009

+ + + + +

The Regular Public Hearing
convened in Room 220 South, 441 4th Street,
N.W., Washington, D.C., 20001, pursuant to
notice at 9:50 a.m., Shane L. Dettman, Vice
Chairman, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHANE L. DETTMAN, Vice Chairman (NCPC)
MERIDITH H. MOLDENHAUER, Board Member

ZONING COMMISSION MEMBER PRESENT:

MICHAEL G. TURNBULL, FAIA, Commissioner
(AOC)

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:

SHERRY GLAZER, ESQ.

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OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
KAREN THOMAS
MAXINE BROWN-ROBERTS
MATT JESICK

The transcript constitutes the minutes from the Public Hearing held on December 8, 2009.

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

9:54 a.m.

VICE-CHAIRMAN DETTMAN: The hearing will please come to order.

Good morning, ladies and gentlemen. This is the December 8th public hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Shane Dettman, vice-chairman, representing the National Capital Planning Commission. And at this time, I'll ask my colleagues to introduce themselves starting with my right.

MEMBER TURNBULL: Michael Turnbull representing the Zoning Commission.

MEMBER MOLDENHAUER: Meridith Moldenhauer, mayoral appointee.

MR. MOY: Good morning. I'm Cliff Moy, secretary to the Board of Zoning Adjustment.

MS. GLAZER: Sherry Glazer, Office of the Attorney General.

MS. BAILEY: Beverley Bailey,

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1 staff with the Office of Zoning.

2 VICE-CHAIRMAN DETTMAN: Thank you.

3 Good morning, colleagues.

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

7 Please be advised that this
8 proceeding is being recorded by a court
9 reporter and is also Web cast live.

10 Accordingly, we must ask you to refrain from
11 any disruptive noises or actions in the
12 hearing room.

13 When presenting information to the
14 Board, please turn on and speak into the
15 microphone, first stating your name and home
16 address. When you are finished speaking,
17 please turn your microphone off so that your
18 microphone is no longer picking up sound or
19 background noise.

20 All persons planning to testify
21 either in favor or in opposition are to fill
22 out two witness cards. These cards are

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1 located to my left on the table near the door
2 and on the witness tables. Upon coming
3 forward to speak to the Board, please give
4 both cards to the reporter sitting to my
5 right.

6 The order of procedure for special
7 exceptions and variances is: First, statement
8 and witnesses of the applicant; Government
9 reports, including the Office of Planning,
10 Department of Public Works and others; report
11 of the Advisory Neighborhood Commission;
12 parties or persons in support; parties and
13 persons in opposition; and finally, closing
14 remarks for the applicant.

15 The Board doesn't have any appeals
16 this morning, so I will not read that section
17 of the remarks.

18 Pursuant to Sections 3117.4 and
19 3117.5, the following time constraints will be
20 maintained: The applicant, appellant, persons
21 and parties, except the ANC, in support,
22 including witnesses, 60 minutes collectively;

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1 appellees, persons and parties, except the
2 ANC, in opposition, including witnesses, 60
3 minutes collectively; and individuals wishing
4 to testify are provided three minutes. These
5 time restraints do not include cross
6 examination and/or questions from the Board.

7 Cross examination of witnesses is
8 permitted by the applicant or parties. The
9 ANC within which the property is located is
10 automatically a party in a special exception
11 or a variance case. Nothing prohibits the
12 Board from placing reasonable restrictions on
13 cross examination, including time limits and
14 limitations on the scope of cross examination.

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

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1 by the Board.

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

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

16 At this time, please turn off all
17 beepers and cell phones so as not to disrupt
18 these proceedings.

19 The Board will now consider any
20 preliminary matters. These matters are those
21 which relate to whether a case will or should
22 be heard today, such as requests for

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1 postponement, continuance or withdrawal, or
2 whether proper and adequate notice of the
3 hearing has been given. If you are not
4 prepared to go forward with a case today, or
5 if you believe that the Board should not
6 proceed, now is the time to raise such a
7 matter.

8 Does the staff have any
9 preliminary matters?

10 MS. BAILEY: Mr. Chairman, Members
11 of the Board, and to everyone, good morning.

12 I'm not aware of any for the
13 morning cases, Mr. Chairman.

14 VICE-CHAIRMAN DETTMAN: Thank you,
15 Ms. Bailey. Then let us proceed with today's
16 agenda. And let's start, will all individuals
17 wishing today, please rise to take the oath,
18 and Ms. Bailey will be administering that
19 oath.

20 MS. BAILEY: Would you please
21 stand and raise your right hand?

22 (Whereupon, the witnesses were

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1 sworn.)

2 MS. BAILEY: Thank you.

3 VICE-CHAIRMAN DETTMAN: Just a
4 very quick announcement in terms of this
5 morning's schedule before we go ahead and call
6 the first case in the morning.

7 The Board has three hearings this
8 morning. We're going to start with
9 application No. 18004. We'll hear the first
10 two cases and then I think what the Board
11 wants to do is we've received some late
12 filings for the Attias O Street, LLC case. So
13 I think what we're going to do, following the
14 two hearings, we're going to break for five
15 minutes just so that we can review those
16 filings and then we'll come out and continue
17 with the last case in the morning.

18 So, why don't we go ahead and call
19 the first case, Ms. Bailey?

20 MS. BAILEY: Thank you, Mr.
21 Chairman. It's application 18004 of Joan E.
22 Aghevli, and it's pursuant to 11 DCMR Section

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1 3104.1 and 1515.1, for a special exception
2 from Section 223, not meeting the lot
3 occupancy requirements of Section 403. The
4 special exception from the lot occupancy
5 requirements under Subsection 1513.1, Tree and
6 Slope Protection Overlay to allow a one-story
7 addition an existing one-family detached
8 dwelling. The property is located in the Tree
9 and Slope Overlay District. It is also zoned
10 R-1-B. It's at 3416 Garfield Street, N.W.,
11 Square 1941, Lot 37.

12 Would you please have a seat at
13 the table?

14 VICE-CHAIRMAN DETTMAN: Good
15 morning. Why don't we start off with
16 introductions? Your name and address for the
17 record?

18 MS. AGHEVLI: Joan Aghevli, 3416
19 Garfield Street, N.W., Washington, D.C.,
20 20007.

21 MR. BADGLEY: Mark Badgley, 21188
22 Beallsville Road, Dickerson, Maryland, 20842.

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1 VICE-CHAIRMAN DETTMAN: Thank you.
2 Good morning to you.

3 Let's start off this way: The
4 Board has reviewed the record. It's a very
5 full record. And I can leave it to you
6 whether or not you want to rest on the record
7 and go right to Board questions. I think in
8 terms of the information that's in the record
9 right now, the Board has a very clear picture
10 of the relief that's being requested. But
11 again, if you wanted to lift up some of the
12 highlights of the project to briefly describe
13 it, you can, or you can do a full blown
14 presentation. I'll leave it to you. But I
15 just wanted to let you know that the Board
16 does have a very good picture of the case.

17 MR. BADGLEY: Unless you feel it
18 would be benefitted by something to add, we're
19 fine with it.

20 VICE-CHAIRMAN DETTMAN: Okay. Let
21 me turn to my colleagues here to see if there
22 are any specific questions that they wanted to

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1 ask.

2 MEMBER TURNBULL: I just think,
3 summarizing, basically you're simply adding a
4 corner onto your house, a little over 50
5 square feet. There's basically a stair in
6 that area now. So when you get finished with
7 this, you're really not exiting out of from
8 the back into your backyard, from the back of
9 the house up there on the first floor. I
10 didn't see anything. Is that correct?

11 MR. BADGLEY: There will be an
12 exit set of stairs as well. They will be an
13 open set of stairs like a deck set of stairs.

14 MEMBER TURNBULL: Okay. I didn't
15 see anything on the latest drawings that would
16 indicate that. It looked like you were simply
17 enclosing the corner.

18 MR. BADGLEY: There was an
19 addendum that was part of the plans that just
20 included a simple four-riser set of deck
21 stairs.

22 MEMBER TURNBULL: Oh. Okay. I

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1 see on the blow-up plan that there is a door
2 going out, but I didn't see a stair. But
3 there is a stairs that will be going directly
4 out.

5 MR. BADGLEY: A very simple set of
6 exterior deck-type stairs.

7 MEMBER TURNBULL: And obviously
8 there's no trees, no bushes you have to worry
9 about --

10 MR. BADGLEY: Absolutely nothing,
11 no.

12 MEMBER TURNBULL: -- taking out?
13 Okay. Thank you. I just wanted to be clear,
14 because you are under the Tree Slope Overlay,
15 and so that's an issue. I just wanted to put
16 on the record that there is nothing there that
17 is nothing there from that standpoint.

18 MR. BADGLEY: Correct.

19 MEMBER TURNBULL: Okay. Thank
20 you.

21 VICE-CHAIRMAN DETTMAN: I just had
22 one quick question. Did you meet with your

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1 adjacent neighbors and go through the plans?

2 MS. AGHEVLI: Yes, I did. I
3 talked to all my neighbors and they all
4 provided an affidavit for the ANC.

5 VICE-CHAIRMAN DETTMAN: Okay. I
6 did see in the ANC resolution that they do
7 mention that the immediate neighbors had no
8 objections to the plans. And we did receive
9 the ANC resolution as well.

10 Were there any issues that came
11 with the ANC from the community at all?

12 MS. AGHEVLI: No, the ANC looked
13 at the plans and approved, in spirit approved
14 the, what is it, nine-by-six-foot addition,
15 squaring off, yes.

16 VICE-CHAIRMAN DETTMAN: Great.
17 Okay. Why don't we go ahead and turn to the
18 Office of Planning for their report.

19 Good morning, Mr. Jesick.

20 MR. JESICK: Good morning, Mr.
21 Chairman and Members of the Board. My name is
22 Matt Jesick.

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1 The Office of Planning has no
2 outstanding issues with the application and
3 we're happy to rest on the record. We felt
4 that the applicant met the special exception
5 criteria, but I'd be happy to take any
6 questions from the Board, if you have any.

7 VICE-CHAIRMAN DETTMAN: Okay.
8 Thank you, Mr. Jesick. It was a great report.
9 I don't think the Board has any questions at
10 this point. If anything comes up, we can come
11 back.

12 Is anyone from ANC-3C here to
13 provide the report for this case? No?

14 I'll note for the record that we
15 did receive a resolution from ANC-3C. That's
16 our Exhibit No. 23. They state that they have
17 no objection to the plans. They met on
18 October 19th, 2009, at which a quorum, four of
19 seven commissioners were present. So, it
20 appears that the resolution that we did
21 receive does meet our great weight
22 requirements. Okay?

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1 At this time, can I ask whether
2 there are any persons in support or in
3 opposition to this application in the
4 audience?

5 (No audible response.)

6 VICE-CHAIRMAN DETTMAN: Seeing
7 none, it's back to the applicant for a closing
8 remark.

9 MR. BADGLEY: Thank you very much
10 for your consideration. I think this project
11 just is logical in all regards. It's simply
12 a filling out of the rear corner of a house to
13 allow my client to do a complete kitchen
14 project and worthy of that neighborhood. And
15 it doesn't impact any tree and slope issues in
16 that neighborhood. The next door neighbor has
17 done the exact same project, and I think it
18 seems like the right thing to do.

19 VICE-CHAIRMAN DETTMAN: Thank you.
20 Well, it's back to the Board for deliberation
21 or for setting this down for a decision. I
22 think the record is very full. We have the

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1 information that we need. Colleagues, are you
2 prepared to go forward with our deliberation?

3 MEMBER TURNBULL: Mr. Chair, I'd
4 like to move that we approve application No.
5 18004 pursuant to 11 DCMR 3104.1 and 1515.1
6 for a special exception from Section 223, not
7 meeting the lot occupancy requirement, Section
8 403, and a special exception from the lot
9 occupancy requirements under Subsection
10 1513.1, the Tree and Slope Protection Overlay,
11 to allow a one-story addition to an existing
12 one-family detached dwelling at premises 3416
13 Garfield Street, N.W., and look for a second.

14 MEMBER MOLDENHAUER: I second.

15 VICE-CHAIRMAN DETTMAN: Motion has
16 been made and seconded. I'll just note for
17 the record that once again we did receive a
18 resolution from the ANC and it will be
19 afforded the great weight that it's entitled
20 to. That's our Exhibit 23.

21 And secondly, incorporate by
22 reference the analysis provided by the Office

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1 of Planning in Exhibit 25, stipulating that
2 the application does in fact meet the
3 provisions of the Tree and Slope Overlay, the
4 special exception provisions under 1515, as
5 well as the special exception criteria of 223.

6 So as I stated, the motion has
7 been made and seconded. All those in favor
8 say aye. Aye.

9 MEMBER TURNBULL: Aye.

10 MEMBER MOLDENHAUER: Aye.

11 VICE-CHAIRMAN DETTMAN: Opposed?

12 (No audible response.)

13 VICE-CHAIRMAN DETTMAN: And no
14 abstentions. So, can we record the vote?

15 MS. BAILEY: Mr. Chairman, the
16 vote is recorded as 3-0-2 to grant the
17 application. Board Member Turnbull made the
18 motion, Ms. Moldenhauer seconded, Mr. Dettman
19 supported the motion and Board Member Loud is
20 not present today.

21 VICE-CHAIRMAN DETTMAN: Thank you,
22 Ms. Bailey. And as there's no opposition to

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1 this case, I think a summary order is
2 appropriate.

3 MS. BAILEY: Thank you.

4 VICE-CHAIRMAN DETTMAN: So you
5 should be receiving your order within the next
6 few days, a week or so. Thank you.

7 Next case, please, Ms. Bailey?

8 MS. BAILEY: The next case, Mr.
9 Chairman, is application 18006 of Donna
10 Michelle Williams. And it's pursuant to 11
11 DCMR Section 3104.1, for a special exception
12 to allow an accessory basement apartment
13 within an existing one-family detached
14 dwelling under Subsection 202.10. The
15 property is zoned R-1-B. It's located at 3100
16 26th Street, N.E., Square 4829, Lot 15.

17 VICE-CHAIRMAN DETTMAN: Good
18 morning. How are you?

19 MS. WILLIAMS: (No audible
20 response.)

21 VICE-CHAIRMAN DETTMAN: Good.
22 Just when you speak into the mike, there's a

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1 button, and just to make sure the court
2 reporter, we get everything that you have to
3 say.

4 Why don't we start off by you
5 introducing yourself for the record?

6 MS. WILLIAMS: I'm Donna Williams,
7 Donna Michelle Williams. I live at 3100 26th
8 Street, N.E., Washington, D.C., 20018.

9 VICE-CHAIRMAN DETTMAN: Good
10 morning, once again. Similar to the case that
11 we just heard, I think the record is pretty
12 full and the Board again has a very good idea
13 of the relief that's necessary and what you're
14 proposing, but perhaps the Board does have
15 some questions. But, I will turn to you to
16 see if you want to very briefly summarize the
17 project, the previous use of the house, you
18 acquired the property and what you're looking
19 to do in the basement. And then maybe we can
20 take some Board questions.

21 MS. WILLIAMS: Okay. I acquired
22 the house in 2005, put a contract on the house

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1 in 2004. At that time, it was being used as
2 an elderly home, an elderly-assisted home.
3 And when I put the contract on the house,
4 about three days later there was a house fire
5 that rendered it unusable. Had to be fixed.
6 It took about 18 months for me to get in the
7 house. So during that time, there was no one
8 living at the house, but there was previously
9 a Certificate of Occupancy on the home for the
10 elderly-assisted home of 12 people with five
11 people as staff members.

12 When I walked through the house,
13 the basement was partially complete. There
14 were two bedrooms, a full bathroom, a laundry
15 room, a family living area. And I assumed
16 that it was for the staff. The members of the
17 home, the elderly people in the home lived
18 upstairs and there were approximately 12 beds
19 in the house. So, the Certificate of
20 Occupancy that I'm looking for today would not
21 be any different from what it was before; that
22 is, a Certificate of Occupancy of 12. And I

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1 would also like to use the basement as an
2 apartment and would use or would allow the
3 occupancy in the basement to six members with
4 six members in my primary part of the home.

5 VICE-CHAIRMAN DETTMAN: Thank you.

6 Board Members, do you have any
7 questions?

8 MEMBER TURNBULL: Ms. Williams,
9 did you then do any remodeling to the house,
10 or have you finished out the basement anymore?

11 MS. WILLIAMS: We have, yes. The
12 family area that was already down there, it
13 was completed into two bedrooms, two more
14 bedrooms. So, it was sectioned off. A wall
15 was put up.

16 MEMBER TURNBULL: Is there still
17 like a family area down there then, or is it
18 primarily bedrooms?

19 MS. WILLIAMS: Primarily bedrooms.
20 There are four bedrooms. The bathroom is
21 redone. I mean, it was pretty yucky, so we,
22 you know, put down a new floor, tiled the

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1 floor. And the laundry room was converted
2 into a kitchen. And then there's an area when
3 you first come in the door to the left. I
4 would call it a foyer area, but it's large
5 enough -- right now there are two big, really
6 big chairs in that area. So, it could be a
7 sitting area.

8 MEMBER TURNBULL: Now, you're
9 looking to use this as an accessory
10 apartment --

11 MS. WILLIAMS: Right.

12 MEMBER TURNBULL: -- under the
13 Zoning Regulations. And I believe you have a
14 tenant who's ready to --

15 MS. WILLIAMS: Right.

16 MEMBER TURNBULL: Is this one
17 family, or is this several different
18 individuals?

19 MS. WILLIAMS: It's one family,
20 and I only intend to have one family in the
21 basement at a time.

22 MEMBER TURNBULL: And the entrance

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1 then is at the rear of the building?

2 MS. WILLIAMS: Right.

3 MEMBER TURNBULL: So, it's on your
4 property and it's in the back of the house?

5 MS. WILLIAMS: It was preexisting.

6 MEMBER TURNBULL: Okay. Thank
7 you.

8 MEMBER MOLDENHAUER: Just to
9 follow, how large is the family? How many
10 members?

11 MS. WILLIAMS: Mine or the one
12 that's coming?

13 MEMBER MOLDENHAUER: The one that
14 would be renting this basement unit.

15 MS. WILLIAMS: Right now she has
16 four kids.

17 MEMBER MOLDENHAUER: Okay.

18 MS. WILLIAMS: Herself and four
19 kids.

20 MEMBER MOLDENHAUER: Thank you.

21 VICE-CHAIRMAN DETTMAN: Well,
22 thank you. I think at this point we can turn

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1 to the Office of Planning, if you have nothing
2 further to add.

3 MS. WILLIAMS: Nothing.

4 VICE-CHAIRMAN DETTMAN: Okay.

5 Good morning, Mr. Mordfin.

6 MR. MORDFIN: Good morning. The
7 subject application is in conformance with the
8 provisions to permit an accessory apartment
9 within a one-family dwelling because it
10 consists of more than 5,000 square feet.

11 Well, the property consists of more than 5,000
12 square feet. The dwelling consists of more
13 than 2,000 square feet of gross floor area.

14 The accessory apartment would be created
15 through the internal conversion of the
16 existing basement with no additional floor
17 area. Access to the accessory apartment would
18 be through an existing entrance at the rear of
19 the dwelling.

20 The principal dwelling would be
21 owner occupied. There is no home occupation
22 located on the premises and the applicant

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1 requests modification to no more than two of
2 the criteria required to permit an accessory
3 apartment. Those criteria are to increase the
4 percentage of the dwelling devoted to the
5 accessory apartment from 25 to 32 percent; and
6 to increase the number of occupants permitted
7 from six to 12.

8 The requested modification to
9 increase the percentage of the dwelling
10 devoted to the accessory apartment is
11 justified as it would allow the applicant to
12 convert the entire basement level to the
13 apartment. This would not only increase the
14 privacy of each of the units by separating
15 them by entire floor, increasing the privacy,
16 but also not result in a small area of the
17 basement level that could not be devoted to
18 the accessory unit.

19 The request to increase the number
20 of occupants from six to 12 is justified
21 because the subject property is approved as a
22 10-bedroom house with six family members

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1 residing in the six bedroom principal
2 dwelling. To permit 12 occupants in a 10-
3 bedroom house would not result in
4 overcrowding, given the large size of the
5 house. And the access to each of the units
6 would be separate minimizing the number of
7 people going in or out of any one door.

8 Therefore, the Office of Planning
9 recommends approval of the application to
10 permit an accessory apartment including the
11 requested modifications to increase the
12 percentage of the dwelling devoted to the
13 accessory apartment from 25 to 32 percent and
14 to increase the total number of occupants from
15 six to 12. Thank you.

16 VICE-CHAIRMAN DETTMAN: Thank you,
17 Mr. Mordfin.

18 I have a couple questions. One,
19 you noted on the last page of your report that
20 the ANC did not respond. Since you drafted
21 this report have you heard anything from the
22 ANC at all?

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1 MR. MORDFIN: I have heard from
2 the ANC. They contacted me yesterday
3 indicating that they would support the
4 application.

5 VICE-CHAIRMAN DETTMAN: Okay.
6 From OP's perspective in terms of impact on
7 the neighborhood such as specifically parking
8 and traffic, did you look at this application
9 from that point of view, and kind of what was
10 your conclusion on that?

11 MR. MORDFIN: OP concluded that
12 this would not adversely affect the
13 neighborhood. There are two parking spaces
14 that would be required for the subject
15 property, and the property is improved with a
16 two-car garage that is detached from the
17 dwelling. So, sufficient parking is provided
18 on site for the use.

19 VICE-CHAIRMAN DETTMAN: And in
20 terms of the number of people that are
21 contemplated for the basement, did you feel
22 that the amount of traffic going in and out,

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1 both pedestrian and perhaps additional cars
2 wouldn't have an adverse effect on the
3 neighborhood?

4 MR. MORDFIN: Well, given that
5 there's one parking space required for each of
6 the dwelling units, we felt that what was on
7 the property was sufficient. Also given the
8 large size of the dwelling, a minimum of 2,000
9 square feet is required to provide for the
10 second unit. This property has in excess of
11 5,000 square feet of gross floor area. So, we
12 felt that the size of the unit was sufficient
13 to adequately address the number of people
14 that would be living there.

15 VICE-CHAIRMAN DETTMAN: All right.
16 Thank you.

17 Board Members?

18 MEMBER MOLDENHAUER: Did your
19 analysis take into consideration the fact that
20 the accessory apartment use would be a single
21 family?

22 MR. MORDFIN: The accessory

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1 apartment would be an entire family living in
2 the basement?

3 MEMBER MOLDENHAUER: I'm just
4 saying was one of the factors when you looked
5 at this the fact that it would be one family
6 versus multiple individuals?

7 MR. MORDFIN: Well, I mean, it
8 could also change over time, but as an
9 accessory unit we felt that it would
10 adequately address one family in the basement.

11 MEMBER MOLDENHAUER: All right.

12 MR. MORDFIN: That one family
13 could live there.

14 MEMBER MOLDENHAUER: The reason
15 why I was asking this is because obviously if
16 you have multiple families, you have multiple
17 cars, you have more impact than just one
18 family who shares different types of uses,
19 such as you'll share a car, there will be less
20 impact on the neighborhood. I was just
21 curious if that was something that you had
22 looked at in your analysis.

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1 MR. MORDFIN: Well, we looked at
2 it as one family living in the basement and
3 one family living upstairs, because that's
4 what the special exception criteria looks at.

5 MEMBER MOLDENHAUER: Thank you.

6 MEMBER TURNBULL: Good morning,
7 Mr. Mordfin.

8 MR. MORDFIN: Good morning.

9 MEMBER TURNBULL: Just curious.
10 Looking at this regulation, the way it's set
11 up, it's basically allowing typically only a
12 family of four in the principal dwelling with
13 an accessory use that would only allow two
14 more people, if the maximum is six. Is that
15 correct?

16 MR. MORDFIN: Well, the maximum is
17 six however --

18 MEMBER TURNBULL: However it gets
19 divided?

20 MR. MORDFIN: However it gets
21 divided, yes.

22 MEMBER TURNBULL: Right. And here

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1 we're looking to go over 25 percent to 32
2 percent. You've got a family of five living
3 in a lot smaller quarters than the family of
4 six upstairs does. What's your feeling as far
5 as the adequacy of the dwelling to take care
6 of that?

7 MR. MORDFIN: Well, I think if in
8 the basement they do have four bedrooms, that
9 that should be more than sufficient to address
10 the needs of a family of five or six. I don't
11 think it's necessary to require one bedroom
12 per person.

13 MEMBER TURNBULL: right.

14 MR. MORDFIN: Shared bedrooms
15 should be acceptable.

16 MEMBER TURNBULL: Is there on-
17 street parking allowed around the house?

18 MR. MORDFIN: Yes.

19 MEMBER TURNBULL: There is? Okay.

20 Thank you.

21 VICE-CHAIRMAN DETTMAN: Mr.
22 Mordfin, just trying to get a sense of the six

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1 people requested for this apartment. Looking
2 at the definition of family in the regs, you
3 could have up to six people who are not blood
4 related. So, if that turns out to be the
5 fact, and it's actually six people, six adults
6 that have six cars, is it your understanding
7 that the additional five cars could be easily
8 accommodated on the street, given what's the
9 condition of on-street parking right now?

10 MR. MORDFIN: You know, the
11 subject property takes up a corner property,
12 so there are two frontages. Across the street
13 from the property is not residentially
14 developed. Well, it's developed as a park
15 with no residences. So, I think that given
16 the nature of the neighborhood which is not
17 high-density; it's a low-density neighborhood,
18 that if that were to be the case, that the
19 neighborhood could accommodate the additional
20 vehicles, if that were to happen.

21 VICE-CHAIRMAN DETTMAN: Thank you.

22 Board Members, anything further?

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1 (No audible response.)

2 VICE-CHAIRMAN DETTMAN: Okay. At
3 this point I'll ask if there are any persons
4 in the audience in support or opposition to
5 this application wishing to testify?

6 (No audible response.)

7 VICE-CHAIRMAN DETTMAN: Seeing
8 none, it's back to the applicant for closing
9 remarks. And if you could just let the Board
10 whether or not you met with the ANC and what
11 discussions and interactions you've had with
12 them in your closing statement.

13 MS. WILLIAMS: I spoke to the ANC,
14 Patricia Brown-Daniels, last week. And she
15 said that she was in approval of the
16 application. And I gave her a copy of the
17 packet that you have. She didn't get that.
18 I don't know what she got, but she said she
19 didn't get that packet. So, she got that.
20 And she also got a copy of the memorandum from
21 the Office of Planning. And she did tell me
22 that she would contact you, so I'm glad she

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1 did. So, I spoke with her.

2 And I also went to my neighbors
3 and spoke to some of them and got some
4 signatures, but because I didn't get everybody
5 -- you know, going door-to-door, I just
6 couldn't. Not everyone answered. But
7 everyone was okay with it. So, I'm confident
8 that my tenants nor I will be a nuisance to
9 anyone.

10 VICE-CHAIRMAN DETTMAN: Thank you.
11 Would you happen to have the signatures that
12 you did acquire with you?

13 MS. WILLIAMS: No, I don't.

14 VICE-CHAIRMAN DETTMAN: No? Okay.

15 MEMBER MOLDENHAUER: Looking at
16 your application, I just want to confirm, you
17 have a two-car garage and then also plus the
18 driveway space?

19 MS. WILLIAMS: Correct.

20 MEMBER MOLDENHAUER: Okay. Thank
21 you.

22 VICE-CHAIRMAN DETTMAN: Do you

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1 have anything further?

2 MS. WILLIAMS: That's it. Thank
3 you.

4 VICE-CHAIRMAN DETTMAN: That's it?
5 Okay. It's back to the Board and just for the
6 record, we did not receive a resolution from
7 the ANC. They were notified by the Office of
8 Zoning of this application. The ANC was
9 notified, and that's shown in our Exhibits 22
10 and 17. The SMD for the property was also
11 notified. That's our Exhibit No. 18. And the
12 applicant has testified too that she actually
13 did have a conversation with the ANC about the
14 project. The Office of Planning noted that
15 they did receive comments from the ANC and
16 that they would be in support. But
17 nonetheless, we don't have a resolution that
18 we can give great weight to.

19 Board Members, I think the record
20 is pretty full here. I mean, if there's
21 nothing further that the Board would require
22 by way of a filing, I think that we can go

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1 forward with our deliberation today. And I
2 can lead our deliberations this morning.

3 This is a special exception
4 pursuant to Section 202 of the Zoning
5 Regulations to permit an accessory apartment
6 within an existing one-family detached
7 dwelling. In order to grant the relief, the
8 Board would analyze this request under the
9 provisions of Section 202. And instead of
10 actually going through every single provision,
11 I'll just note for the record I think that the
12 applicant has met her burden and successfully
13 met the provisions of Section 202.

14 I will note however though that
15 Section 202 allows the Board to modify or
16 waive no more than two of the requirements of
17 the subsection and the applicant is indeed
18 requesting a modification to two of those
19 provisions, 202.10(c), which states that the
20 accessory apartment unit may not occupy more
21 than 25 percent of the gross floor area of the
22 house. What's being contemplated in this

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1 application is actually 32 percent of the
2 gross floor area of the house. However, the
3 Office of Planning in their analysis in
4 support of the application has indicated that
5 the 32 percent will not cause any kind of
6 adverse impacts to the neighborhood and that
7 it will not change the character of this house
8 from the outside as a single-family dwelling.

9 202.10(g) states that the
10 aggregate number of persons that may occupy
11 the house including the principal dwelling and
12 the accessory apartment combined shall not
13 exceed six persons. And what's being
14 requested here is for a total of 12. I
15 believe it was testified to by the applicant
16 that she will reside in the single-family
17 house with her family of six. She currently
18 has a tenant that's interested in the
19 accessory unit with five family members and
20 she's requesting a total of 12 persons, so six
21 for the accessory apartment.

22 So again, I think that the

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1 burden's been met and I'm supportive of the
2 project. And I'll turn to my colleagues for
3 further comment.

4 MEMBER TURNBULL: I would concur
5 with you Mr. Vice-Chair, and I think the
6 Office of Planning report is very well done.
7 I think Mr. Mordfin has again almost very
8 similarly summarized some of the points that
9 you have picked up, and I would be in favor of
10 this.

11 MEMBER MOLDENHAUER: I concur
12 also. I think the OP report summarizes
13 everything. I think that the issues that we
14 have shown today in regards to the number of
15 occupants and the accessory use would
16 obviously be limited to family, which would
17 include individuals by blood, but also any six
18 individuals that are not related. And I think
19 we addressed the issue of would there be
20 adequate parking. And Mr. Mordfin pointed out
21 that the parcel of land across the street from
22 the applicant's property is a vacant park area

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1 and that there's sufficient parking on the
2 street because it's a corner parcel. In
3 addition to that, the applicant say that not
4 only do they have the two required parking
5 spaces in the garage, but there are also
6 additional parking spaces that could be used
7 such as the driveway. So, I think that that
8 would be sufficient and I concur with the rest
9 of the Board Members.

10 VICE-CHAIRMAN DETTMAN: Great.
11 Thank you. Before moving on to a motion, I
12 would just like to kind of put this out there:
13 Within mind the definition of a family, do my
14 colleagues think that it's necessary to
15 condition the special exception to require no
16 more than six persons in the accessory
17 apartment?

18 MEMBER TURNBULL: That's a tough
19 one. I mean, that's an interesting -- my
20 first gut reaction is to say no, just leave it
21 at 12, because her family could change. The
22 other family downstairs might change.

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1 VICE-CHAIRMAN DETTMAN: Oh, I
2 actually met six people in the accessory
3 apartment.

4 MEMBER TURNBULL: Oh, more than
5 six? Oh, okay.

6 VICE-CHAIRMAN DETTMAN: No more
7 than six people in the accessory apartment,
8 residing in the accessory apartment.

9 MEMBER TURNBULL: Well, yes, I
10 would go along with that.

11 MEMBER MOLDENHAUER: Yes, I mean,
12 I would agree with that, especially
13 considering the impact. Right now we're
14 evaluating it based on the impact on the
15 neighborhood, and I think that to provide that
16 condition just simply limits that and ensures
17 that there's no problems in the future.

18 MEMBER TURNBULL: I would agree.

19 VICE-CHAIRMAN DETTMAN: Great.
20 Thank you. I think that since we're modifying
21 that one provision that caps at six and we're
22 providing 12 total in the principal dwelling

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1 and accessory apartment, I think that capping
2 the accessory apartment at six occupants would
3 be appropriate. Okay?

4 If there's nothing further, I
5 would move for approval of application No.
6 18006, pursuant to 11 DCMR 3104.1 for a
7 special exception to allow an accessory
8 basement apartment within an existing one-
9 family detached dwelling under Subsection
10 202.10 in the R-5-B District at premises 3100
11 26th Street, N.E., as conditioned.

12 And is there a second?

13 MEMBER TURNBULL: Second.

14 VICE-CHAIRMAN DETTMAN: Thank you,
15 Mr. Turnbull.

16 Motion's been made and seconded.

17 All those in favor say aye. Aye.

18 MEMBER TURNBULL: Aye.

19 MEMBER MOLDENHAUER: Aye.

20 VICE-CHAIRMAN DETTMAN: Opposed?

21 (No audible response.)

22 VICE-CHAIRMAN DETTMAN: And there

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1 are no abstentions. Can we call the vote?

2 MS. BAILEY: Mr. Chairman, the vote
3 is recorded as 3-0-2 to grant the application
4 as conditioned, that being more than six
5 persons shall occupy the accessory apartment.
6 Mr. Dettman made the motion, Commissioner
7 Turnbull seconded. Mrs. Moldenhauer approved
8 the application as well. And, Mr. Chairman,
9 Mr. Loud is not here today.

10 VICE-CHAIRMAN DETTMAN: Thank you,
11 Ms. Bailey. And I believe this can be a
12 summary order.

13 MS. BAILEY: Thank you.

14 VICE-CHAIRMAN DETTMAN: Thank you.
15 Thank you. There's no opposition
16 in the case, so we'll prepare a summary order
17 and I think you should have that within the
18 week. Within the next couple of days.

19 MR. MOY: Within a couple of days.

20 VICE-CHAIRMAN DETTMAN: Within a
21 couple of days.

22 MR. MOY: If not tomorrow.

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1 VICE-CHAIRMAN DETTMAN: Thank you.

2 MS. BAILEY: Mr. Chairman, for the
3 next case, I know you indicated that you were
4 going to take a break, but there is an exhibit
5 that came in this morning. So, would it be an
6 appropriate time to hand it out now? It's a
7 petition from residents.

8 VICE-CHAIRMAN DETTMAN: That would
9 be great, Ms. Bailey. That would be great.

10 Yes, as I stated earlier, I think
11 the Board is going to break for five to 10
12 minutes in order to review the late filings
13 that came in this morning, and then we can
14 pick up with the agenda for the last hearing
15 in the morning, which is 18005, Attias O
16 Street, LLC. So, I think we can reconvene say
17 at quarter to 11:00.

18 (Whereupon, at 10:35 a.m. off the
19 record until 11:01 a.m.)

20 VICE-CHAIRMAN DETTMAN: Good
21 morning. We're back on the record.

22 And can we call the last case for

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1 the morning, Ms. Bailey?

2 MS. BAILEY: Mr. Chairman, it's
3 application 18005. It's the application of
4 Attias O Street, LLC, and it's pursuant to 11
5 DCMR Section 3103.2, for a variance from the
6 nonconforming structure provisions under
7 Subsection 2001.3, to allow the renovation of
8 a third-story addition to an existing
9 apartment house. The property is located in
10 the Dupont Circle Overlay District/R-5-B. And
11 it's also located at 2142 O Street, N.W.,
12 Square 69, Lot 218.

13 VICE-CHAIRMAN DETTMAN: Thank you,
14 Ms. Bailey, and good morning.

15 I take it we have the applicants
16 at the table? All three?

17 MR. SULLIVAN: Yes.

18 VICE-CHAIRMAN DETTMAN: Okay. Why
19 don't we start off by introducing yourself for
20 the record. And I think we do have one
21 preliminary matter to take up before we get
22 started this morning.

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1 MR. SULLIVAN: Hi, my name is
2 Marty Sullivan. I'm an attorney here on
3 behalf of the applicant.

4 MS. ATTIAS: My name is Chantal
5 Attias. I'm one of the applicants.

6 MR. MARKUS: And my name is Rich
7 Markus. I'm the architect.

8 VICE-CHAIRMAN DETTMAN: Markus you
9 said?

10 MR. MARKUS: Markus, yes.

11 VICE-CHAIRMAN DETTMAN: And it's
12 Attias? Is that how you say it?

13 MS. ATTIAS: Yes.

14 VICE-CHAIRMAN DETTMAN: Okay.
15 Well, good morning again. I think we have as
16 a preliminary matter, perhaps maybe a couple
17 of them, we have one application for party
18 status, a Mr. Winfred Wiencke.

19 Why don't you join us at the table
20 here?

21 And in addition to taking up the
22 application for party status, there's been an

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1 allegation that the property wasn't properly
2 posted, so I think that might be the second
3 preliminary matter.

4 I'm sorry, Wiencke? Why don't you
5 introduce yourself for the record and then we
6 can take up your application?

7 MR. WIENCKE: Okay. My name is
8 Win Wiencke. I live at 2133 Newport Place,
9 N.W.

10 VICE-CHAIRMAN DETTMAN: Thank you.
11 The Board did receive your application for
12 party status; that's our Exhibit No. 23. And
13 your supplemental information that we received
14 on December 4th; that's our Exhibit Nos. 32
15 and 33, kind of further articulating the
16 issues that you have.

17 Board Members, do you need any
18 additional information from Mr. Wiencke before
19 we rule upon his application for party status?

20 MEMBER TURNBULL: Yes, Mr. Vice-
21 Chair. Mr. Wiencke, your property, your house
22 is not directly behind or next to the

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1 applicant's property. You're really down the
2 block six houses or something. How does this
3 make you more affected than someone else?

4 MR. WIENCKE: Well, we all share
5 an alley. It's a 10-foot alley that dumps
6 into a 15-foot alley. And our means of
7 ingress and egress is through that alley,
8 which is controlled by the corner of this
9 property and we pass that property. My dog's
10 favorite place, of course has to be in front
11 of that house, or the building in question
12 here.

13 MEMBER TURNBULL: His favorite
14 place to do what? Oh, okay.

15 MR. WIENCKE: If you have a dog,
16 you know what I mean.

17 MEMBER TURNBULL: All right.

18 MR. WIENCKE: We're 72 feet away
19 from it. I sit on my deck, I look at that
20 house.

21 VICE-CHAIRMAN DETTMAN: I think we
22 need a moment in order to rectify our

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1 technical difficulties here.

2 Oh, okay. Well, I was just about
3 to turn it to the applicant for a response to
4 Mr. Wiencke's party status application.

5 Do you have a position either way?

6 MR. SULLIVAN: Yes, we do. Again,
7 Marty Sullivan on behalf of the applicant.
8 Our issue is obviously with the location. It
9 is across the back alley five or six doors
10 down. And the Board has in a couple hundred
11 cases been very stingy in granting party
12 status to any individual other than abutting
13 or adjacent property. And specifically to
14 what he talks about, alley ingress and egress,
15 he says in his party status application that
16 this applies to roughly 25 other properties.
17 It doesn't exactly make him unique.

18 Other items in his party status
19 application talk about making the neighborhood
20 a less desirable area, an impact that I gather
21 would impact the entire neighborhood, not just
22 him uniquely.

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1 He talks about lowering his
2 property value. Assuming that were true, if
3 his property value went down, everybody else
4 in the neighborhood would go down. I don't
5 find anything unique about it.

6 Another thing about the alley
7 ingress and egress, he said that our property
8 controls this. It's just not true. It's a
9 public alley. In fact, after the applicant
10 purchased this property, she, in deference to
11 the neighbors, removed a bollard that was on
12 the corner. So there's more room there now
13 than there was before. And we're proposing to
14 dedicate space on that corner as well as part
15 of this application, something that doesn't
16 have anything to do with the relief we're
17 requesting, by the way. So, that's not even
18 going to have an impact, so I don't see how it
19 could impact him more than anybody else if it
20 doesn't have an impact.

21 So, we think it's very clear that
22 he doesn't meet the standard. He's not more

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1 significantly, distinctively, or uniquely
2 affected than the general public. Thanks.

3 VICE-CHAIRMAN DETTMAN: Questions?

4 MEMBER MOLDENHAUER: Mr. Wiencke,
5 you live at 2133 Newton Place?

6 MR. WIENCKE: Newport Place, yes.

7 MEMBER MOLDENHAUER: Newport
8 Place. There's an affidavit by a Michele
9 Bruce who also gives that address.

10 MR. WIENCKE: Yes, that is my
11 wife.

12 MEMBER MOLDENHAUER: Okay. I was
13 trying to make sure that there's not two
14 people --

15 MR. WIENCKE: Just for the
16 record --

17 MEMBER MOLDENHAUER: -- or that
18 you actually live there full time.

19 MR. WIENCKE: Just for the record,
20 it's Brace. Handwriting's not good. Sorry.

21 MEMBER MOLDENHAUER: Brace? Okay.
22 Thank you.

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1 VICE-CHAIRMAN DETTMAN: Mr.
2 Wiencke, I just wanted to do a couple things:
3 One, is just to make sure that you're clear on
4 the distinction between participating in the
5 case as a person, either in support or
6 opposition, and participating in the case as
7 a party. And are you clear of the distinction
8 between the two?

9 MR. WIENCKE: Not really, but the
10 reason why I asked for it is that somebody
11 that's appearing to provide their comments
12 would get three minutes. And in trying to
13 wrap my mind around what the issues are that
14 are swirling around here, it would take me
15 about eight-and-a-half minutes. So, in order
16 to get the time to at least make that
17 presentation, why, it seemed like party status
18 would be the right way to go.

19 VICE-CHAIRMAN DETTMAN: In
20 addition to that distinction; and you're
21 correct, parties to a case are afforded a
22 portion of the collective 60 minutes, you're

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1 also able to participate by way of cross
2 examining witnesses, asking questions, as
3 opposed to simply just providing testimony.
4 I say that because I wanted you to know that
5 that's also a privilege of a party and ask
6 whether or not you planned on taking advantage
7 of that additional opportunity?

8 MR. WIENCKE: I would be totally
9 unqualified to do something like that. I
10 mean, I can speak my piece, put in some logic
11 from time to time, but I have no skills
12 whatsoever at that.

13 VICE-CHAIRMAN DETTMAN: Okay. And
14 finally, I'm looking at the standard that the
15 Board uses to determine whether or not someone
16 should be afforded party status, and that's in
17 our Section 3106. And specifically, in terms
18 of what you need to submit; which you did, you
19 need to articulate the environmental,
20 economic, social or other impacts likely to
21 affect the person and/or person's property if
22 the zoning relief requested of the Board is

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1 approved or denied. And then furthermore, it
2 stipulates that an explanation of how the
3 person's interest as identified in the
4 previous section would likely be more
5 significantly, distinctly and uniquely
6 affected in character or in kind by the
7 proposed zoning relief than those or other
8 persons in the general public.

9 And I wanted to give you an
10 opportunity to put into the record how you
11 think your interests are uniquely or
12 distinctively different than those in the
13 general public.

14 MR. WIENCKE: They aren't.

15 VICE-CHAIRMAN DETTMAN: Okay.

16 MR. WIENCKE: I am a member of
17 that particular community. I'm sort of aware
18 of the concerns that at there. But, am I
19 unique? No, I am part of the neighborhood,
20 I'm part of the community there, and I'm part
21 of the group that would be affected by this.

22 VICE-CHAIRMAN DETTMAN: Okay.

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1 Well, the Board did receive all of your
2 information. By the sounds of it, you're main
3 concern is making sure that you have enough
4 time to express your concerns.

5 MR. WIENCKE: Yes.

6 VICE-CHAIRMAN DETTMAN: Okay. And
7 I think that, yes, the rules provide for three
8 minutes, but I think the Board can provide a
9 little bit of flexibility there. And I would
10 be willing to provide the flexibility,
11 depending upon what we do with the application
12 for party status.

13 And just to kind of support in
14 terms of the Board's flexibility, let me just
15 read into the record or Section 3117.5. "The
16 Board may grant additional or lesser time to
17 that under 3117.4 to an appellant or applicant
18 and persons and parties in support or persons
19 and parties in opposition to a present case in
20 opposition. The Board shall ensure reasonable
21 balance in the time allocation between
22 proponents and opponents."

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1 So, we do have the flexibility to
2 provide you with additional time beyond the
3 three minutes that I stated in my remarks.

4 So, Mr. Wiencke, anything further
5 that you wanted to tell the Board?

6 MR. WIENCKE: No, that will be
7 very satisfactory.

8 VICE-CHAIRMAN DETTMAN: Okay. To
9 the applicant, anything further before the
10 Board rules?

11 MR. SULLIVAN: Yes. We're fine
12 with granting additional time and we want to
13 give him an opportunity to say what he needs
14 to say. The only issue there is I don't get
15 to cross him now. So, he's somewhere in
16 between a person in opposition and a party and
17 we kind of take a hit there. But as long as
18 it's not too long. I mean, is there a defined
19 time? Is it eight minutes, or is it just as
20 long as he wants to go? Because if it gets to
21 a certain point, I'm going to want to cross
22 examine him, or I'm going to miss the

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1 opportunity to cross examine him, which I
2 would have had otherwise. He may talk just as
3 long as he would have as a party. So it
4 sounds like the only thing that happened here
5 is that I lost the opportunity to cross. And
6 he got the opportunity to -- he wasn't going
7 to cross examine anyway, so he's just as well
8 off as he was when he came in here. We're set
9 back.

10 But, I don't want to argue with
11 giving him more time. I understand.

12 MEMBER TURNBULL: Mr. Vice-Chair,
13 I think Ms. Glazer could comment on that.

14 MS. GLAZER: Oh, I'm sure the
15 Board is aware of this, that witnesses can be
16 cross examined as well as parties. Any person
17 in opposition or person in support, for that
18 matter.

19 MR. SULLIVAN: Okay.

20 MEMBER TURNBULL: So you really
21 don't lose.

22 MR. SULLIVAN: Okay. The other

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1 thing is, we can request this at the time, but
2 we have a party wall neighbor that's here in
3 support, and he knows more about this project
4 than anybody. He's been involved in since the
5 last case. I'd like to ask that also be
6 granted additional time, if he so desires.
7 I'm not sure if he needs it.

8 VICE-CHAIRMAN DETTMAN: Well, in
9 terms of the Board's flexibility, I think the
10 Board is receiving the information that you're
11 providing us in terms of you want to make sure
12 that you're afforded some of the privileges
13 and flexibility that we would be granting to
14 Mr. Wiencke. You know, as I read into the
15 record, that provision says that the Board
16 will do everything that it possibly can to
17 ensure equity in terms of the amount of time
18 allocated. And as Ms. Glazer stated, you'll
19 have the opportunity to cross Mr. Wiencke,
20 whether he's a person or a party in
21 opposition.

22 In terms of the amount of time

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1 that he takes, in the documents that Mr.
2 Wiencke has provided, I think one of the
3 things that we want to do prior to moving
4 forward with the case is to kind of set up the
5 boundaries of the case. Which ones are
6 actually zoning issues that are before the
7 Board, which ones are not. Which may help to
8 put some boundaries around the amount of time
9 that it takes to provide his testimony.

10 MR. SULLIVAN: Okay. Thank you.
11 And again, I mean, we've seen all of his
12 submittals. We know what his issues are, so
13 I don't want to short change anybody, or the
14 Board.

15 VICE-CHAIRMAN DETTMAN: Great.
16 And just with respect to the point that you
17 raised about the adjacent neighbor, we'll take
18 your comment under advisement and do
19 everything we can to make sure that everything
20 is as equitable as possible.

21 MR. SULLIVAN: Thank you.

22 VICE-CHAIRMAN DETTMAN: Great.

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1 So, it's back to the Board with respect to the
2 application for party status. And, Board
3 Members, I would not be in favor of granting
4 party status to Mr. Wiencke, however, I would
5 be very much in favor of providing him with
6 the time that he needs to articulate his
7 concerns with respect to this project.

8 MEMBER TURNBULL: I would concur
9 with that, Mr. Chair.

10 MEMBER MOLDENHAUER: I would
11 concur also.

12 VICE-CHAIRMAN DETTMAN: Mr. Moy,
13 Ms. Glazer, is this something that we have to
14 put forth a motion and vote on?

15 MS. GLAZER: Mr. Chair, it would
16 be appropriate to vote on the application for
17 party status. And in terms of handling the
18 request for more time, you could address that
19 now or later at the time of his testimony.

20 VICE-CHAIRMAN DETTMAN: Okay.
21 Well, I'll make a motion to deny the
22 application for party status of Mr. Winfred

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1 Wiencke, and attached to that motion my
2 support for providing him with additional time
3 to provide his testimony. Second?

4 MEMBER MOLDENHAUER: I second.

5 VICE-CHAIRMAN DETTMAN: All those
6 in favor say aye. Aye.

7 MEMBER TURNBULL: Aye.

8 MEMBER MOLDENHAUER: Aye.

9 VICE-CHAIRMAN DETTMAN: And it
10 appears we have consensus of the Board on the
11 motion for party status. Great.

12 I think a second preliminary
13 matter that we have to this case is whether or
14 not the property was properly posted. We
15 received Exhibit Nos. 32 and 32 from Mr.
16 Wiencke.

17 And, Mr. Wiencke, would you like
18 to address this issue further than what's in
19 your papers?

20 MR. WIENCKE: No, not beyond
21 what's there. I just didn't see a sign up
22 there.

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1 VICE-CHAIRMAN DETTMAN: Yes.

2 MR. WIENCKE: I checked to see
3 when the sign was supposed to be posted and
4 the staff very graciously sent me a picture,
5 or a group of pictures. I took my handy-dandy
6 software that was on my computer and I looked
7 at the date stamp on it. And said, gee,
8 that's not the day that they said it was.

9 VICE-CHAIRMAN DETTMAN: Okay. And
10 correct me if I'm wrong, the property was
11 supposed to be posted on November 23rd, and
12 you contend that the property was not posted
13 until the late afternoon of the 24th?

14 MR. WIENCKE: I did not see a
15 posting.

16 VICE-CHAIRMAN DETTMAN: At all on
17 the property?

18 MR. WIENCKE: Not until the 24th.

19 VICE-CHAIRMAN DETTMAN: The 24th?
20 Okay. The applicant, do have any response?

21 MR. SULLIVAN: You have the
22 affidavit and we're prepared to have the

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1 person that posted the property personally
2 testify, if you want to go that far. If
3 that's not enough, we have a response to his
4 declaration accusing us of not posting and
5 talking about the pictures from an actual
6 expert and analyzing such things. So, I
7 submitted that. I believe you have that in
8 front of you.

9 Beyond that, I would ask him if he
10 knew about the case. He filed party status
11 about two months before the posting date. I
12 called him a couple of weeks before, maybe a
13 month before that and we had a meeting. We
14 came to the ANC meeting. All that took place
15 before the posting date. But I don't know
16 that we need to reach that, because I think we
17 have enough testimony to support the fact that
18 it was posted on the 23rd.

19 VICE-CHAIRMAN DETTMAN: The
20 document that you're referring to is your
21 submission from E-STAT, is that correct?

22 MR. SULLIVAN: That's correct.

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1 VICE-CHAIRMAN DETTMAN: I know
2 that he's not afforded the privileges of a
3 party, but did you provide Mr. Wiencke with a
4 copy of this document?

5 MR. SULLIVAN: We did at the same
6 time we provided the Board, which was
7 recently. We just got it.

8 VICE-CHAIRMAN DETTMAN: Mr.
9 Wiencke, do you have any response to this
10 document?

11 MR. WIENCKE: Well, it's very hard
12 for me to say. I don't know where the images
13 came from. I know I got my from the staff
14 here. And I certainly would defer to somebody
15 who was indeed an expert, however, the
16 software seems pretty self-evident. You click
17 on it and it gives you this information.

18 As for it being the date that I
19 downloaded it onto my computer, well, I can't
20 see that it would alter the image because I
21 downloaded it on my computer, one. And two,
22 I received the image actually at a far

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1 different time.

2 So, I don't know. I'm not in a
3 position to say that I have some personal
4 expertise that would exceed that of a person
5 whose profession it is to do this for the
6 courts.

7 VICE-CHAIRMAN DETTMAN: Okay.
8 Well, with respect to notice, in addition to
9 posting the property, the Office of Zoning
10 does provide notice by way of informing
11 property owners within 200 feet of the
12 property. We do have a record that the
13 property was posted at some point. Whether it
14 was on the 23rd or whether it was the 24th, we
15 do have evidence that it was posted and that
16 those postings were properly maintained. We
17 also have in the record that the ANC did
18 review this application, as well as the Dupont
19 Circle Conservancy. As well, we accepted
20 several letters in support and opposition.

21 So, colleagues, I think by way of
22 the Board's authority to waive some of its

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1 rules under 3100.5, I'm of a mind that there
2 was adequate notice to the community. I don't
3 think that we need to resolve whether or not
4 the property was posted on the 23rd or the
5 24th. I think the community was properly
6 noticed, was made aware of this property well
7 in advance of the hearing and would be willing
8 to waive the 15-day requirements pursuant to
9 3100.5.

10 Looks like we have a consensus of
11 the Board Members that are present. So, why
12 don't we just go ahead and do that. And we
13 can do that by consensus, is that correct?

14 (No audible response.)

15 VICE-CHAIRMAN DETTMAN: To the
16 applicant, are there any other preliminary
17 matters that we need to address before moving
18 forward?

19 MR. SULLIVAN: No, not from the
20 applicant.

21 VICE-CHAIRMAN DETTMAN: Okay.
22 Great. Well, if you're prepared to go

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1 forward, I think we can start by you putting
2 on your case.

3 MR. SULLIVAN: Thank you. Again,
4 my name is Marty Sullivan on behalf of the
5 applicant. Good morning, Mr. Chairman and
6 Members of the Board.

7 With me here today to testify is
8 Chantal Attias from the applicant and Rich
9 Markus, our architect. I won't have much to
10 say before we get into the presentation, just
11 to summarize that it's a third-story addition.
12 It's a restoration to produce eight loft-style
13 one-bedroom condominiums. The lot occupancy
14 will not be increased. The FAR is within the
15 maximum limit. The height will be well within
16 the maximum limit. We're asking for a
17 variance from 2001.3 because it currently
18 exceeds the permitted lot occupancy.

19 Briefly, I'll touch on how we meet
20 the three-prong variance test. The
21 exceptional or extraordinary conditions are:
22 This building's been vacant for five or six

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1 years. It's been practically destroyed by
2 neglect from the previous owner. It is a
3 contributing building in the historic
4 district.

5 The practical difficulties that
6 result in our economic are logistical. Nobody
7 else has taken this on and it's obviously a
8 tough case, a tough building to renovate.
9 Also, the lot occupancy itself is a practical
10 difficulty, because if we were to add an
11 addition, we would have to go back to the 60
12 percent and reduce the building to a 60
13 percent footprint, which we can't do because
14 it's a contributing building.

15 As far as no substantial detriment
16 to the public good or the integrity of the
17 Zone Plan, this proposal fits within the
18 neighborhood and Rich will explain that it's
19 almost surrounded, it's on three sides by
20 buildings that are considerably taller than
21 this building. And the party wall neighbor,
22 as I mentioned before, supports our proposal.

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1 We have approval from HPRB. We have an
2 approval recommendation from the Dupont Circle
3 Conservancy. We have unanimous support from
4 the ANC. We're not increasing the density.
5 We're within the height limit and we're going
6 to eliminate an eyesore for the community.
7 So, there's no substantial detriment to the
8 public good.

9 And that's all I have to add. And
10 I would turn it over to Chantal Attias, unless
11 there's any questions.

12 VICE-CHAIRMAN DETTMAN: One very
13 quick question, Mr. Sullivan. You made a
14 point about the heights of the buildings in
15 the surrounding area, and I missed it.

16 MR. SULLIVAN: Oh, sorry.

17 VICE-CHAIRMAN DETTMAN: Your first
18 point under the --

19 MR. SULLIVAN: Well, I'll have
20 Rich explain it, but to the west is the five-
21 story Cornell Building, the immediate building
22 to the west across the alley where's there 57

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1 residents. Directly across the street is the
2 Rock Creek Retirement Center, six stories, and
3 then the five-story August Apartment Building
4 is to the northwest.

5 VICE-CHAIRMAN DETTMAN: Board
6 Members, any other questions?

7 MEMBER TURNBULL: Yes, thank you,
8 Mr. Dettman.

9 Mr. Sullivan, isn't the approval
10 from HPRB at this point a conditional? They
11 had a few comments.

12 MR. SULLIVAN: Yes, I'll have Rich
13 talk about that.

14 MEMBER TURNBULL: Okay. Thank
15 you.

16 MR. SULLIVAN: But I think that's
17 the typical situation. Their comment was that
18 we continue to work with Steve Callcott on the
19 facade of the building.

20 MEMBER TURNBULL: Okay. Thank
21 you.

22 MS. ATTIAS: Hi, my name is

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1 Chantal Attias. I'm one of the members of the
2 Attias O Street, LLC, along with my mother,
3 right there. We've been in the real estate
4 and management business for over 30 years, and
5 we actually done a lot of renovation in, you
6 know, Dupont, Georgetown, Mount Pleasant, as
7 well as is in, you know, Maryland in
8 Montgomery County and PG County.

9 This building, we bought this out
10 of foreclosure. It had been, I think, in 10
11 foreclosures over the past, you know, four or
12 five years. And when we got it in May 2007,
13 there was a significant amount of damage. I
14 mean, the previous owners, you know, let the
15 skylight fall through, so there was a lot of
16 water damage. The bricks were almost like
17 sand when you were touching it. And we went
18 through a lot of different -- you know, we
19 talked to two different engineers. We went
20 through a lot of work to try to just maintain
21 and preserve the building from falling down.
22 And when I was reading the previous documents,

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1 I guess the previous owner was trying to raze
2 the building before, but we were trying to
3 preserve it. We want to keep the building as
4 much as we can as it is.

5 I think that's all I have to say.
6 Thank you.

7 MR. MARKUS: Hi, my name is Rich
8 Markus. I'm the architect. I'll just walk
9 through briefly the project itself.

10 It's 2142 O Street. In this
11 larger picture here, it's right here. Dupont
12 Circle is actually right here. This is New
13 Hampshire Avenue, 21st Street, 22nd Street.
14 Newport Place is behind it. And this is O
15 Street. The building faces O right here and
16 there's a little side alley and a back alley.

17 The Cornell Building right next to
18 it is a five-story building. There's five and
19 six-story buildings kind of directly across
20 the street. Going up the street, there are
21 some three-story row houses and it gets bigger
22 as it goes toward Dupont Circle. There are

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1 nine-story buildings on this corner and it
2 comes down to five and six-story, and then it
3 drops down to four.

4 Actually, it's a contributing
5 building in the Dupont Circle area. It's a
6 two-story building. The building right next
7 to it and all these row houses are actually
8 three-story. The proposal is to restore the
9 front. There was a two-story porch on it
10 originally, and we've been working with Steve
11 Callcott of the Historic Preservation Office.
12 And there was a drawing that we actually got
13 from him to restore the front with this two-
14 story porch. It's not here now. So, and kind
15 of restore the front as it is.

16 The addition that we're talking
17 about is putting a third-story addition on.

18 MEMBER TURNBULL: I wonder if you
19 clarify for everybody that on your block plan
20 that north is actually down on your drawing?

21 MR. MARKUS: Yes. Sorry about
22 that. Because the typical north is up. We

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1 actually put it down because it's referring to
2 this plan, but it might be a little confusing.
3 Thanks.

4 So, the front, the addition that
5 we're putting on, it's a third-story addition
6 and we're setting it back. It actually went
7 through HPRB before I got involved in one of
8 the previous versions. And it was actually in
9 for a BZA case, and I think it just got
10 dropped. But the previous HPRB case, we're
11 actually conforming to that. And they set a
12 boundary of stepping the third-story addition
13 20 feet back from the front and six feet back
14 from the side, and we're following that. And
15 the intent of that is to keep the integrity of
16 the two-story front, so you actually won't see
17 the three-story part, the addition from right
18 across the street. And then on the side, the
19 intent is to keep that back so you maintain
20 the mass of the side of the building also.

21 A couple of issues that we've been
22 working with. We've met with the ANC, the

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1 Dupont Conservancy. We've been meeting with
2 Steve Callcott and some of the neighbors. And
3 a couple different issues. One, the building,
4 we're actually adding a third story, but we're
5 staying within the FAR. The reason that is,
6 it's an existing 10-story; or it was an
7 existing 10-story apartment building. The
8 intent is to make eight units. We're actually
9 reducing the number of units, but they're
10 actually going to be loft-style units. So
11 what you see on the typical floor plan, this
12 is the first floor. The gray area is the two-
13 story piece, so that's actually not included
14 in the square footage calculation that goes to
15 the FAR.

16 So, it's very simple that it's
17 kind of split into quarters and each quarter
18 is a unit. And each quarter is a two-story
19 unit. So, you walk in, there's one, two,
20 three, four units. And they also go down into
21 the basement. So this area that's gray is
22 actually open to the basement. And then when

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1 you go up to the second floor, you don't see
2 any gray because the gray is the same idea.
3 You come in the center, one, two, three, four
4 units, and they're two-story and they go up.
5 And you'll see the grayed-out area on the
6 third floor plan is actually open to below. So
7 even though we're adding a partial third
8 story, we stay within the FAR.

9 So the main issue that we're
10 asking for BZA relief is the lot occupancy.
11 Actually it's almost 80 percent lot occupancy.
12 In this zone it needs to be a 60 percent. So
13 one of the practical difficulties is that we
14 would have to -- the lot is very simple to
15 understand. It's 100 feet long. So to hit 60
16 percent, we'd have to come at 60 feet. The
17 existing rear yard is fifteen-feet-nine, so
18 we'd have to cut off about 24 feet of the
19 existing building, which is a substantial
20 piece, in order to meet the 60 percent lot
21 occupancy. And it being a contributing
22 building, we can't really do that.

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1 A couple of issues that came up in
2 meeting with the neighbors and talking with
3 Steve on several times. There's mainly two
4 issues. One is the trash in the back. We've
5 been working through how to figure out the
6 trash cans and the storage. And it seems
7 like, you know, the way we have it is, this is
8 the yard area in the back. This is one alley
9 and this is the other alley. We decided to
10 cut this back, put four trash cans here. This
11 is a fence, and it actually cuts the corner
12 here, cuts the corner back here. We're
13 cutting the corner to give this a little bit
14 better turning radius, as some of the concerns
15 from the neighbors have been about this
16 turning radius and how you get from this alley
17 to this smaller alley.

18 And the other issue is the trash
19 cans. The way we came up with four in the
20 configuration actually comes directly from the
21 way Cornell does the trash, which is right
22 here. Cornell, they can house 57 people in

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1 here. They actually have 27 apartments. And
2 we looked real specifically at the trash
3 configuration that they have in the back. And
4 in talking with the neighbors, everyone seems
5 to think that this configuration works well.
6 And it's basically a concrete pad with gated
7 chain link fence around it with some bollards.
8 They have 13 trash cans, standard-size trash
9 cans. So we basically just took this model
10 and copied it. And the way we came up with
11 four, we just took the percentage. There's 27
12 apartments. We have eight. That's about 29
13 percent. So you divided the 13 by 29 percent
14 and you get less than four cans. And we have
15 the four cans.

16 And the other main issue is the
17 existing -- this is the existing front. And
18 you can see there's no porch on it now, so
19 that's a porch we're going to add back and
20 restore the front. And this is a view of the
21 back and the side. This stucco finish was
22 applied before I started on the project, so I

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1 don't have all that knowledge about how that
2 went on. But the one issue, the main issue is
3 that some of the neighbors don't appreciate
4 the way it looks. And we've been talking with
5 Steve. They actually met with Steve Callcott
6 of the Historic Preservation Office and talked
7 to him before this went on, so they were
8 working with him in the process. And at this
9 moment, we've acknowledged that there are some
10 issues with it and we would continue to work
11 with Steve Callcott to kind of clean this up
12 and do what we can to meet the criteria that
13 we come up with Steve. That's one of the
14 conditions of the HPRB ruling, and that's what
15 we would continue to do.

16 That's the main -- if you have any
17 questions.

18 MEMBER TURNBULL: I'm the roving
19 Board Member today. The building is brick.
20 The front has got a stucco finish on it. Is
21 that being removed, or is that just painted?

22 MR. MARKUS: It's just painted.

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1 There's some of the existing brick. Actually,
2 it's all existing brick. It's just painted.

3 MEMBER TURNBULL: Yes, down at the
4 bottom it looks like some of that's been
5 removed. Is your intent to leave the brick,
6 I mean, the original brick finish? Are you
7 taking off whatever paint there is?

8 MR. MARKUS: The hope, in talking
9 with Steve Callcott, was that we could restore
10 some of the existing brick on this face and
11 actually try and remove the paint. And maybe
12 Chantal could talk a little bit more about
13 this, because I wasn't involved, or actually
14 the contractor that was involved is here. But
15 I believe they've had some problems with the
16 condition of the brick itself. And when they
17 were trying to remove the paint, it was
18 actually doing more damage than good. So
19 that's kind of where it's at.

20 MEMBER TURNBULL: And you're
21 saying that the faux surrounds on the windows
22 on the second picture may go away, or you

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1 don't know yet?

2 MR. MARKUS: Well, part of the
3 condition is to continue to work with Steve
4 Callcott and figure out the best solution for
5 this, and figure out what we can do to help
6 kind of make it a little bit more homogenous.

7 MEMBER TURNBULL: And you showed
8 an elevation of the front with a new porch.
9 Is that based upon old photographs?

10 MR. MARKUS: It's actually based
11 upon a drawing that Steve Callcott has. It's
12 an old drawing and we've worked with him kind
13 of extensively trying to work this detail out.
14 We simplified it a little bit. But, yes, the
15 detailing and the proportions and the size of
16 this come directly from that.

17 MEMBER TURNBULL: So, it's in the
18 same character of what we think may have been
19 there?

20 MR. MARKUS: Yes.

21 MEMBER TURNBULL: Okay. Do you
22 have to get a public space permit for the

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1 porch?

2 MR. MARKUS: It is on public
3 space. The line of the building is actually
4 the line of the --

5 MEMBER TURNBULL: Property? Okay.
6 Well, that's all I have for now.

7 VICE-CHAIRMAN DETTMAN: Mr.
8 Markus, a couple questions. One, I was
9 looking at the attachment to OP's report,
10 which has some comments from Historic
11 Preservation. It talks about, as you stated,
12 continuing to work with them in order to
13 establish a more regularized pattern and type
14 of fenestration which appears somewhat
15 haphazard. And I was wondering where
16 specifically on the property they were
17 referring to when they said that?

18 MR. MARKUS: This side elevation
19 mostly. It's set back six feet. And as we've
20 gone through different iterations of the
21 fenestration, but the idea was to try and
22 organize this a little bit better and maybe

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1 relay to the openings down below, even though
2 it's set back. Just looking for a more
3 sophisticated solution there. So we'd
4 continue to work with them on that.

5 VICE-CHAIRMAN DETTMAN: Okay. The
6 other one has to do with the setback. Is it
7 20 feet that you ended up setting it back?

8 MR. MARKUS: It is 20 feet from
9 the front. That's this line here. And it's
10 six feet from the side.

11 VICE-CHAIRMAN DETTMAN: Okay. So,
12 behind the mansard roof --

13 MR. MARKUS: Yes. Here.

14 VICE-CHAIRMAN DETTMAN: Yes. So,
15 running along that edge of the building is an
16 outdoor terrace.

17 MR. MARKUS: Correct.

18 VICE-CHAIRMAN DETTMAN: If I was
19 to come out; and I'm not quite sure how to
20 describe this question, so I'm just going to
21 visually walk up there. If I'm up on that
22 roof terrace and I walk towards the mansard

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1 roof, if I turned east and I looked east, what
2 am I looking at? Am I looking at a wall?

3 MR. MARKUS: If you're --

4 VICE-CHAIRMAN DETTMAN: I guess,
5 is the addition actually connected to the
6 mansard roof?

7 MR. MARKUS: Yes. Actually, let
8 me show you this one. So, we're keeping the
9 mansard roof intact. That's this portion
10 here. And it's grayed-out because we're
11 describing it as open to below. And there's
12 another little roof piece here. So, are you
13 asking about if you come out on this terrace?

14 VICE-CHAIRMAN DETTMAN: (No
15 audible response.)

16 MR. MARKUS: Yes. If you turn
17 that way, there's actually a little wall,
18 which is part of this roof configuration. So
19 that creates a little private zone for this
20 person. And then the same configuration as
21 back here, so this person has a little roof
22 terrace back here. We actually pulled it away

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1 from the direct neighbor, so this is a little
2 bit of roof. We call this a planter. So,
3 this portion, this roof, it's a low roof and
4 it's connected to the mansard. You could see
5 it probably best, I think it's probably the
6 last sheet, A-4-01. There's a little angled
7 portion here. So the roof deck is there and
8 you turn around and look at it and you're
9 seeing part of a wall.

10 Does that explain it?

11 VICE-CHAIRMAN DETTMAN: It does.
12 Thank you. I needed some clarity on whether
13 or not I was going to be looking at a full-
14 height wall. But it looks like it's an angled
15 wall from the back side of the mansard kind of
16 sloping up?

17 MR. MARKUS: Yes.

18 VICE-CHAIRMAN DETTMAN: Okay.

19 MEMBER TURNBULL: Mr. Markus,
20 there would still be mechanical equipment on
21 the roof, right?

22 MR. MARKUS: Yes, up here. The

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1 way we describe that, it's on the roof plan.
2 We don't show all the exact pieces of
3 equipment, because we haven't worked that out
4 yet, but there's a dotted area. They're
5 fairly small units, so these would be --

6 MEMBER TURNBULL: What sheet is
7 that?

8 MR. MARKUS: A-2-04. It's the
9 roof plan.

10 MEMBER TURNBULL: Okay.

11 MR. MARKUS: There's a dotted area
12 intended for the mechanical equipment. It
13 actually would be on top of the third floor,
14 but it's pulled back from the sides of the
15 building. So the intent is not to see it.

16 MEMBER TURNBULL: How high will
17 that be?

18 MR. MARKUS: Well, it's just the
19 individual units, so they're just small
20 condenser units.

21 MEMBER TURNBULL: So, two, three
22 feet?

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1 MR. MARKUS: Yes, maybe three
2 feet.

3 MEMBER TURNBULL: And how do you
4 service these? I was just curious.

5 MR. MARKUS: Well, you'd have to
6 go through a unit to get up on the roof.

7 MEMBER TURNBULL: Okay. Okay.
8 Thank you.

9 VICE-CHAIRMAN DETTMAN: Has HPRB
10 seen this set of plans?

11 MR. MARKUS: This is the exact set
12 that they have.

13 VICE-CHAIRMAN DETTMAN: Okay. So
14 the connecting wall that I was just referring
15 to, they've seen that and they're comfortable
16 with that in relation to the setback that
17 they've requested?

18 MR. MARKUS: Yes.

19 VICE-CHAIRMAN DETTMAN: Good
20 afternoon.

21 MEMBER MOLDENHAUER: It appears
22 that you're not setting any portion of the

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1 third-floor addition back from the rear of the
2 property. Is that correct?

3 MR. MARKUS: Yes. Well, there's
4 actually a piece of it. There's one piece
5 right here, which would be not quite flush.
6 We'd set back a couple of inches back. But
7 then this is set back further. So if you look
8 at the plan on 2-03, this is the rear line of
9 the building, existing. This is set back here
10 to create this little roof terrace. And we're
11 also setting that roof terrace back from the
12 neighboring property about five-and-a-half
13 feet. Again, we call this out as a planter.
14 And then this portion of the building right
15 here touches. And then this is set back.
16 This is the 6-foot setback on the side.

17 MEMBER MOLDENHAUER: Those
18 planters, that's on the --

19 MR. MARKUS: It's on the roof.

20 MEMBER MOLDENHAUER: --
21 northeasterly side?

22 MR. MARKUS: Yes.

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1 MEMBER MOLDENHAUER: Was that --

2 MR. MARKUS: Oh, sorry. Yes,
3 southeast.

4 MEMBER MOLDENHAUER: The
5 southeasterly side?

6 MR. MARKUS: Yes.

7 MEMBER MOLDENHAUER: Was that in,
8 I guess, discussion with the neighbor?

9 MR. MARKUS: Yes.

10 MEMBER MOLDENHAUER: Was that why
11 you put those planters in there?

12 MR. MARKUS: Yes, the neighbor's
13 property is right here and he has a deck in
14 the back. So we set this back in order that
15 this person here -- it's a privacy question.

16 MEMBER MOLDENHAUER: Okay. Thank
17 you.

18 VICE-CHAIRMAN DETTMAN:
19 Considering the views that will be created
20 into the neighbors on the other side of the
21 alley, have you done anything to address any
22 concerns that may arise from them with respect

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1 to placement of windows, treatment of windows
2 on the addition?

3 MR. MARKUS: The people directly
4 across is the Cornell Building here. Is that
5 what you're referring to?

6 VICE-CHAIRMAN DETTMAN: No, the
7 south alley.

8 MR. MARKUS: Oh, the back?

9 VICE-CHAIRMAN DETTMAN: Yes.

10 MR. MARKUS: On the back
11 elevation, this is actually a frosted glass
12 panel. So the only real opening is a door,
13 and that's set back off the terrace. That was
14 the main consideration. This is the facade
15 that's pulled back.

16 VICE-CHAIRMAN DETTMAN: Okay. And
17 you had just really referred to the Cornell.
18 Was there any points you wanted to make there
19 with respect to views into those properties as
20 well?

21 MR. MARKUS: No, just that I don't
22 think it's any different than the other

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1 floors. There are windows. It's a city, so
2 people are -- you know, it's about 15 feet
3 away, or actually probably about 20 feet, and
4 there are windows. It just is what it is.

5 VICE-CHAIRMAN DETTMAN: Yes. Are
6 you aware of any concerns that the residents
7 in that building have with respect to the
8 project?

9 MR. MARKUS: We haven't heard any
10 from them.

11 VICE-CHAIRMAN DETTMAN: I wanted
12 to briefly ask about your practical difficulty
13 in the variance test. I understand that in
14 order to do any addition to this property and
15 be in compliance with the 60 percent lot
16 occupancy would require partial demolition of
17 the building. Did you consider at all your
18 options for not putting on the third-story
19 addition and actually doing this conversion,
20 this renovation without adding the additional
21 floor? It can be anyone here.

22 MR. SULLIVAN: I don't know if

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1 this is a legitimate extraordinary condition,
2 but I think the property has been cursed over
3 the past seven or eight years. And it's been
4 in and out of foreclosures, many foreclosures
5 on the record.

6 The amount of expense and I know
7 there is some information in the record that
8 we got it at a discount. I don't know where
9 that information came from, or I know that
10 it's not true. So, there's an economic
11 practical difficulty, first of all. And the
12 idea was that if you want to make this a
13 quality renovation enough to pay for the
14 restoration, then you to rather than just fill
15 it in and make eight or ten units as a matter
16 of right, you needed to do something
17 significant, something extraordinary. And we
18 thought the addition was a modest option for
19 that. You can't see it from the front street.
20 And so it makes the whole project more
21 valuable and it allows the owner to recover
22 the cost of restoration, if that answers your

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1 question.

2 VICE-CHAIRMAN DETTMAN: Well, so
3 it is a question of economic feasibility, or
4 is it a question of net gain in the project?
5 Like we can get this without the addition, but
6 we can get this with the addition?

7 MR. SULLIVAN: No, I think it's a
8 question of feasibility, otherwise the
9 previous owner wouldn't have been before the
10 Board and it wouldn't have sat vacant for five
11 or six years. And also it's a logistical
12 issue, I think, too. It's not just financial,
13 but it's what do you do with this building?
14 And this seemed to be the only option. It was
15 the only option for the previous owner. And
16 other than that, nobody's touched this
17 building.

18 MEMBER TURNBULL: Yes, well, it's
19 not really a zoning issue, but I think the
20 floor plans are very interested. I think it
21 would be an exciting difference for the
22 neighborhood.

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1 I just have one, and it's really a
2 building code issue. Do you only need the one
3 stair as an exit for the eight units?

4 MR. MARKUS: Yes. At this amount
5 of stories; it is only eight units, it has to
6 do with the total occupant load.

7 MEMBER TURNBULL: So, you only
8 need -- okay.

9 MR. MARKUS: You only need the one
10 stair.

11 MEMBER TURNBULL: Just curious,
12 and I just saw it on A-201. There's a utility
13 room which is accessed off of one unit?

14 MR. MARKUS: In the basement?

15 MEMBER TURNBULL: Yes.

16 MR. MARKUS: Yes, the electrical
17 panels and some of the meters have to be
18 somewhere, and that seemed to work the best.
19 It's at the front of the building and it's in
20 the basement, but it's through a unit.

21 MEMBER TURNBULL: So that guy gets
22 a break on his -- okay.

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1 MR. MARKUS: Yes.

2 MEMBER TURNBULL: All right.

3 Thank you.

4 VICE-CHAIRMAN DETTMAN: Mr.

5 Sullivan, does that conclude your case?

6 MR. SULLIVAN: Yes, that does
7 conclude our case, if there are no more
8 questions.

9 VICE-CHAIRMAN DETTMAN: I don't
10 think the Board has any questions. The next
11 step here would be to go to the Office of
12 Planning. You had mentioned that there was
13 the neighbor that was here to testify. Did
14 you intend on calling him as a witness, or
15 when we get to the point where we have persons
16 in support and against?

17 MR. SULLIVAN: Actually, I could
18 call him as a witness now, and I think I'd
19 prefer to do that, if I could. I didn't list
20 him as a witness.

21 VICE-CHAIRMAN DETTMAN: Board
22 Members, do you have a preference either way?

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1 (No audible response.)

2 VICE-CHAIRMAN DETTMAN: No? I
3 think we could do that.

4 How do you do? Before you provide
5 testimony, can you just introduce yourself for
6 the record?

7 MR. VINCENT: Sure. My name is
8 Anthony Vincent. I own the property at 2138
9 O Street, the only party wall neighbor to this
10 property.

11 VICE-CHAIRMAN DETTMAN: And do you
12 have prepared statements? Is that what you're
13 going to provide?

14 MR. VINCENT: I have a prepared
15 statement.

16 VICE-CHAIRMAN DETTMAN: Okay. I
17 think you can proceed.

18 MR. VINCENT: Cool. So, as Marty
19 had said, there's been a long trajectory with
20 this building. In its early days, when I
21 first bought my property, it was an apartment
22 building fully occupied, in pretty bad shape.

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1 And it has gotten in worse and worse shape as
2 tenants moved out and the owner did no repair.
3 Eventually, there were two remaining tenants
4 who were scared out, for lack of a better
5 term, and that property owner then tried to
6 kind of get organized and it never happened.
7 Went into foreclosure. Went through a whole
8 other sequence of attempts at two-story
9 renovation, pulled back to a single-story
10 renovation, much more massive in its feel than
11 the proposed renovation here.

12 Again, there are a lot of tricky
13 parts with this building because it covers so
14 much of the lot and it is contributing to the
15 landscape. You know, the only other way you
16 get anything like the same square footage that
17 makes it a feasible option is to pull it back
18 to 60 percent and drive it 50 feet up in the
19 air. Well, that doesn't work in the historic
20 landscape, and I sure don't think it fits in
21 what any of us in the neighborhood really
22 want. So, given the trade-offs, it seems to

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1 me like this is a pretty reasonable solution.

2 The architect, the owners have
3 been very reasonable in their work. Any time
4 there have been issues, they've been willing
5 to work with me and the rest of the
6 neighborhood on timing, on nature of things,
7 blocking the alley. Those kinds of issues
8 haven't been a problem like they have with
9 many other projects in the neighborhood.

10 I think that as a whole, again, as
11 the guy who is the only one who's going to get
12 shade and shadow from this, who's the only one
13 who's going to get direct vibration from
14 construction and from occupancy and so forth,
15 I really believe that they've done all of the
16 right things that they can. Again, the
17 southeast corner that you mentioned earlier is
18 a good example of that. There was going to be
19 a real privacy issue for me and, frankly, for
20 many other people kind of around the corner of
21 that building, the next several units down, if
22 people were able to stand there and kind of

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1 stare into our rear windows. And by pulling
2 that back, they've created a lack of a line of
3 sight into any of the rear windows, which
4 would be much closer than the windows that are
5 across the alley.

6 So, I think they've really taken
7 into account in the plans that have gone so
8 far in making it both a really serviceable
9 thing for them, and advantageous for them and
10 for the community, but also for myself and the
11 other people directly adjacent to the
12 property.

13 VICE-CHAIRMAN DETTMAN: Thank you,
14 Mr. Vincent.

15 Board Members, any questions for
16 Mr. Vincent?

17 MEMBER TURNBULL: Well, Mr.
18 Vincent, you're in the catbird seat. I think
19 of any property you would probably be one that
20 we would have easily granted party status to
21 because of the construction, you're right next
22 door.

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1 MR. VINCENT: And by the way, when
2 this went last time and then at the last two
3 hours before the BZA hearing didn't go to BZA,
4 I had applied for party status. The problem
5 was when I needed to apply for party status
6 here, I was overseas for holiday. So I kind
7 of missed the window to do that. So, sorry I
8 cut you off. Go ahead.

9 MEMBER TURNBULL: No, that's fine.
10 You obviously are going to feel the impact
11 more than anyone of the construction and
12 everything else going on. They've made a
13 little courtyard by your building. I mean,
14 how that impacts your windows on that side?

15 MR. VINCENT: Right, so presuming
16 there are no piercings through the party wall,
17 because the party wall extends beyond my
18 property.

19 MEMBER TURNBULL: Yes.

20 MR. VINCENT: And so we already
21 have agreement on that, and I'm not sure they
22 can pierce it anyway; probably couldn't. And,

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1 you know, they could play shenanigans of
2 pulling back and piercing it, pulling off, but
3 we've already had agreement that that's not
4 going to happen. Right? So, I don't think
5 there's any opportunity for east-facing
6 windows anyway. So, you know, the only issue
7 for me became one of shadow or shade. And by
8 the way in which they've put the terraces on
9 the top has pulled back away from my skylight.

10 The designs that were proposed by
11 the last effort reconfigured the entire
12 building against the east wall so that the
13 entire mass went up against the east wall.
14 They were going to pull the current window
15 well in into two window wells deep in the
16 building, which put the mass against my
17 skylight, which basically was going to make my
18 interior dark and dingy from noon or 12:30 on
19 all of the year. Right? So that didn't
20 happen here. The court in fact makes that
21 even better. I don't think that from the
22 shadow studies that I saw that there's

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1 probably any opportunity for shade, presuming
2 that the mechanical mass doesn't become an
3 issue.

4 I personally am still concerned
5 that the restored front porch will feel too
6 invasive against the sidewalk, but it is
7 historic. It was what was there before.
8 Steve Callcott thinks that it's the right
9 answer, and you know, I'm willing to defer on
10 that one.

11 But, I'm not concerned about any
12 windows or, again, any other line of sight
13 issues at the moment, given particularly the
14 pullbacks on the roof that have gone on.

15 MEMBER TURNBULL: So you think the
16 applicant has been more than willing to meet
17 with you and discuss your needs?

18 MR. VINCENT: Absolutely. And
19 again, to take into account not just needs
20 that I personally have, but the needs that I'm
21 representing as part of the community. Again,
22 I think the good example of that is the turn

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1 radius in the southwest corner that --

2 MEMBER TURNBULL: The alley?

3 MR. VINCENT: Correct, from the
4 15-foot to the 10-foot alley. In
5 conversations with them, as soon as Chantal
6 bought the property, I brought it up as an
7 issue and they fixed it.

8 Another, again representing the
9 community, I said, you know, the problem is
10 coming out of that alley, because I don't know
11 who allowed the property opposite them to the
12 south to build that blue garagey structure,
13 over here in the photo. Yes. So that's the
14 real issue in the turn radius. And it goes
15 directly to the property line, which makes it
16 so that coming in from the south to turn into
17 the 10-foot cross alley is near impossible
18 there. It was impossible with the bollard
19 there. I almost always had to come in from
20 the north and turn left. I couldn't come in
21 from the south and turn right. With that
22 pullback that they did when I brought it up,

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1 it became much more serviceable. I brought up
2 the fact that I actually got hit coming out of
3 that alley, because it's so blind coming.

4 MEMBER TURNBULL: Yes.

5 MR. VINCENT: That the people
6 coming north can't see me coming out; I can't
7 see them. And they went at their own expense
8 with no drive, no effort and bought a 7-
9 Eleveny mirror, you know, one of those big
10 round everybody-looks-like-a-thief mirrors,
11 and put it up on the pole across the way so
12 that now we can see around the corner. Which
13 has, by the way, already saved me getting hit
14 once. And that's in less than two months.

15 So, you know, every time I bring
16 up an issue with Chantal or with the
17 contractor, Dave, they've gone out of their
18 way to kind of facilitate the right thing,
19 whether it's, hey, there's an abandoned car in
20 the back, and they got it towed. Hey, there's
21 a bunch of trash in the back and they got it
22 taken away. The previous owners did nothing

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1 about that. And that back area -- well, this
2 building was vacant. That back area became
3 just the local neighborhood dumping ground.
4 And that's all been taken care of. So, they
5 have been much more willing to work with, I
6 think, the community, and me as the direct
7 party neighbor, than any of the previous
8 owners.

9 MEMBER TURNBULL: Okay. Thank you
10 very much.

11 MEMBER MOLDENHAUER: So, I
12 understand that you actually park in the rear
13 of your property?

14 MR. VINCENT: Correct.

15 MEMBER MOLDENHAUER: And right now
16 other than obviously the safety hazards of
17 people coming down -- I actually used to live
18 years ago on 21st and N, so I know that cut-
19 through quite well.

20 MR. VINCENT: You were one of the
21 ones who would have tried to hit me.

22 MEMBER MOLDENHAUER: Hopefully

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1 not. But, do you see currently any problems
2 with the way that it is designed now having
3 any impact on driving or parking?

4 MR. VINCENT: With the proposal
5 that they're putting in place?

6 MEMBER MOLDENHAUER: Exactly.

7 MR. VINCENT: Not at all. Not at
8 all. Dealing with the architect, right, I
9 mean, the original idea was they were going to
10 put fence all the way to the 15-foot alley.
11 And I brought up the issue that: (a) hey, by
12 the way, you don't have any trash cans; but
13 (b) once you put the trash cans in, if you can
14 pull that back, then that gives even a broader
15 turn radius, because they're willing to take
16 into account the, whatever its' going to be,
17 four feet worth of depth for the super cans,
18 plus an angle cut on the fence. Right? And
19 all of that makes that turn radius right here
20 like incredibly more user-friendly.

21 Now, the gotcha is the there's a
22 utility pole there, actually a new light pole,

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1 a cobra light, that they may need to work with
2 the city to migrate down in order to
3 accomplish that. I haven't done any
4 measurements to see. If so, it would only
5 have to move by a foot or two. And they'll
6 already be excavating the back, so pulling the
7 electricity down the way wouldn't be that big
8 a deal, I would think.

9 MEMBER MOLDENHAUER: Thank you.

10 VICE-CHAIRMAN DETTMAN: Mr.
11 Vincent, you just mentioned a moment ago
12 shadow studies that you saw. Were shadow
13 studies created for this project?

14 MR. VINCENT: You did some
15 originally when we looked at --

16 PARTICIPANT: Yes, we've kind of
17 worked with -- Tony kind of looked at it. We
18 actually went up on the roof with Tony to look
19 at the impact of this building on his. We
20 don't have anything with us.

21 VICE-CHAIRMAN DETTMAN: Okay.
22 Nothing to submit? Okay. I have nothing

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1 further.

2 Okay. Mr. Wiencke, I know that
3 you've been sitting there patiently, and I
4 just wanted to check with you. The next point
5 in the process, we're going to go to the
6 Office of Planning. They'll present their
7 report. The applicant will have an
8 opportunity to ask questions, if they have
9 any, of the Office of Planning, and then we
10 will get to you. So, I just wanted to make
11 sure that you were aware that you're going to
12 get your opportunity to speak.

13 So, at this point I think we can
14 go to the Office of Planning. And, Ms.
15 Roberts, how are you?

16 MS. BROWN-ROBERTS: Thank you.
17 Good morning, Mr. Chairman and Members of the
18 Board. I am Maxine Brown-Roberts representing
19 the Office of Planning.

20 I am going to sort of stand on the
21 record this morning, because nothing in our
22 submission has changed. And so, I will just

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1 summarize our recommendation of approval for
2 the application.

3 The application is for variance
4 relief from Section 2001.3 in regards to a
5 nonconforming structure that is not conforming
6 to the lot occupancy requirement. We think
7 that the property is unique because this is a
8 building that was built approximately in 1930
9 and which was before the current lot occupancy
10 requirements, and so it currently exceeds
11 that.

12 In order to meet the required lot
13 occupancy, they would have had to take off a
14 part of the existing building, and this would
15 be their practical difficulty. It is not
16 possible to do that because the property is
17 within the historic district and also a
18 contributing building, so this would not be
19 allowed.

20 The variance will not cause a
21 substantial detriment to the public as the
22 applicant has -- with the addition they have

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1 set back the roof and also they have
2 accommodated the access into the alley by
3 reducing their property for public use.

4 The applicant will also provide
5 enclosure for the parking and for the trash
6 collection, and therefore that will be
7 something that will be an asset to the
8 community.

9 The application is also within the
10 Dupont Circle Overlay District and they have
11 outlined in the Overlay District some of the
12 purposes. And as outlined in my report, the
13 application also meets the purposes that are
14 outlined between (a) and (g). And therefore,
15 the Office of Planning recommends approval.

16 We also noted in our submission an
17 issue concerning the FAR, and the applicant
18 has demonstrated to us since that the FAR is
19 below the 1.8. And so, that's an issue that
20 has been taken care of. And therefore, we
21 recommend approval of the variance request.
22 Thank you, Mr. Chairman.

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1 VICE-CHAIRMAN DETTMAN: Thank you.
2 Board Members?

3 MEMBER TURNBULL: Ms. Brown-
4 Roberts, good morning.

5 MS. BROWN-ROBERTS: Good morning.

6 MEMBER TURNBULL: I mean, I guess
7 summarizing your one comment is that the
8 existing conditions set up a Catch-22.

9 MS. BROWN-ROBERTS: That's exactly
10 right.

11 MEMBER TURNBULL: You can't do
12 anything with it. If you do change it, you're
13 damned if you do and damned if you don't.
14 They really can't move forward without some
15 relief.

16 MS. BROWN-ROBERTS: That's
17 correct.

18 MEMBER TURNBULL: Okay. The FAR
19 includes the new third floor, the second floor
20 and the first floor.

21 MS. BROWN-ROBERTS: Yes.

22 MEMBER TURNBULL: Okay. Thank

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1 you.

2 MS. BROWN-ROBERTS: Okay.

3 VICE-CHAIRMAN DETTMAN: Thank you,
4 Mr. Turnbull.

5 Ms. Roberts, the report that you
6 provided the Board was a very good report. I
7 just has one question, and it goes to parking.
8 And I understand that parking relief is not
9 being required, or is not required. However,
10 I just wanted to ask a quick question about
11 the footnote that you included on page 3,
12 underneath the table. And I guess for the
13 record, could you just describe why this
14 particular addition doesn't require any
15 additional parking?

16 MS. BROWN-ROBERTS: Okay. As
17 cited in the footnote, the building currently
18 does not have any parking. And the additional
19 square foot is less than 25 percent of the
20 current floor area, and therefore as outlined
21 in Section 2100.7, they do not have to provide
22 any parking to serve the addition.

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1 VICE-CHAIRMAN DETTMAN: Is it less
2 than 25 percent of the gross floor area
3 exclusive of the basement?

4 MS. BROWN-ROBERTS: No, it doesn't
5 include the basement area.

6 VICE-CHAIRMAN DETTMAN: Doesn't
7 include the basement? Okay. That's all the
8 questions I had.

9 Does the applicant have any
10 questions for OP?

11 MR. SULLIVAN: No questions, thank
12 you.

13 VICE-CHAIRMAN DETTMAN: No
14 questions? And did you receive a copy of
15 their report?

16 MR. SULLIVAN: Yes, we did.

17 VICE-CHAIRMAN DETTMAN: Mr.
18 Wiencke, you're not a party to the case, but
19 I was just wondering if you had an opportunity
20 to look at the Office of Planning's report.
21 And if not, would you like to receive a copy?

22 MR. WIENCKE: No, I've not had a

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1 chance to see it.

2 VICE-CHAIRMAN DETTMAN: Okay.

3 Well, perhaps while you're providing your
4 comments, we can get Mr. Wiencke a copy of the
5 OP report, just for you to review. It's our
6 Exhibit No. 31 and it's in support of the
7 application.

8 At this point in the proceedings,
9 we'll turn it to the audience. And I'll first
10 ask whether or not we have any persons in
11 support of the application that wish to
12 testify?

13 (No audible response.)

14 VICE-CHAIRMAN DETTMAN: Seeing
15 none, we go to persons in opposition. And by
16 show of hands, can I get a sense of whether or
17 not in addition to Mr. Wiencke if there are
18 others in the audience that wish to testify in
19 opposition?

20 MS. BRACE: Can I say possibly? I
21 may feel that it's appropriate to address
22 something that Mr. Wiencke does not.

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1 VICE-CHAIRMAN DETTMAN: For the
2 record, why don't we have you introduce
3 yourself.

4 MS. BRACE: My name is Michele
5 Brace. I am Mr. Wiencke's wife. I live at
6 2133 Newport Place.

7 VICE-CHAIRMAN DETTMAN: Okay.
8 What I'm thinking is that the Board has
9 already agreed to provide Mr. Wiencke with
10 some additional time to provide comments in
11 addition to the three minutes that would
12 normally be afforded to a person. What I'm
13 thinking is that Mr. Wiencke indicated that
14 he'd need about eight minutes to provide
15 comments. Board Members, I'm thinking that we
16 can utilize the clock and we can maybe put 10
17 minutes on the clock. And my question to you
18 is, within that 10 minutes, if you did have a
19 comment to make, can we wrap it into that 10
20 minutes? After 10 minutes, the Board will
21 reassess and see where you're at. But in
22 terms of the way we move forward, how does

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1 that sound the applicant?

2 MR. SULLIVAN: Yes, that's fine
3 with us. Thank you.

4 VICE-CHAIRMAN DETTMAN: Okay. I
5 don't see Mr. Moy, so why don't we just open
6 it up to Mr. Wiencke and note that it's 12:13
7 right now and we can check back in 10 minutes
8 to see where we're at.

9 MR. WIENCKE: Fine. My name is
10 Win Wiencke.

11 MEMBER TURNBULL: We're referring
12 to that clock, not that clock.

13 MR. WIENCKE: And there's a
14 difference. Okay.

15 My name is Win Wiencke. My wife
16 and I live at 2133 Newport Place, N.W. Our
17 home is roughly 78 feet away from the rear of
18 2142 O Street, across a 10-foot wide alley.

19 And I'm here to point out that the
20 applicant has not met its burden to prove
21 practical difficulty. I'm here to touch on
22 numerous detriments to the public good likely

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1 to arise if the variance is granted and to
2 present the Board 14 letters of concern from
3 16 immediate neighbors. And I am here to
4 request that the Board reject this
5 application, or at a minimum defer a decision
6 until the kinks can be worked out of this
7 application.

8 In the very first paragraph of the
9 application, the applicant notes that it
10 purchased the dilapidated building in 2007
11 with the intention of restoring the structure
12 to its original design. So clearly,
13 restoration and fidelity to the original
14 design was on the applicant's agenda from the
15 start. The applicant goes onto to argue that
16 given this agenda the cost to repair and
17 restore the building presents a practical
18 difficulty. Not only are the walls in
19 terrible shape structurally, but the interior
20 must be completely gutted. To be able to
21 afford to overcome this difficulty, the
22 applicant feels that it must be able to make

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1 and sell eight high-quality units. To fit the
2 eight units in, the applicant argues, a
3 variance permitting the third floor is
4 necessary.

5 What the applicant's argument
6 ignores is that with due diligence the
7 applicant knew or should have known what the
8 project would cost before purchasing the
9 building at auction. At least two warnings
10 that the repair and renovation cost would not
11 be trivial were at hand. As the applicant's
12 own letters of support describe, the building
13 was obviously in a serious state of disrepair.
14 It was apparent to even a casual observer.
15 Mortar was turning to powder. Wall were
16 cracking. Bricks would crumble at a touch.

17 Also, one of the previous owners
18 had applied for a variance to make nine units
19 and third floor. HPRB even castigated the
20 previous owner for demolition for neglect when
21 the previous owner presented engineering
22 reports that said the side and rear walls must

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1 be demolished and rebuilt on sound footings.
2 Those hearings and applications were a matter
3 of public record at the time of the
4 foreclosure auction.

5 A little sidebar to that. This is
6 a role reversal. At that time the party wall
7 neighbor was opposing it and I was among the
8 neighbors who were for it.

9 Investors regularly consider
10 warnings like these when bidding on a property
11 at foreclosure. Bids are lowered to reflect
12 what each bidder feels it will cost for their
13 ledger to ultimately show a profit. In this
14 case, it appears the cost of restoration and
15 repair is appearing on the ledger twice.
16 First, the applicant enjoyed a discounted sale
17 price because the property is in awful shape.
18 In effect, the market already factored out the
19 cost to restore and repair the building. Then
20 the applicant comes to this Board and asks
21 that the cost of restoration and repair also
22 be considered a practical difficulty because

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1 the building is in awful shape. Should a
2 variance be granted, land, restoration and
3 renovation costs would be entirely covered by
4 the sale of eight units effectively converting
5 the purchase discount into a windfall for the
6 applicant.

7 While a historical building in
8 poor condition is indeed an exceptional
9 condition or situation, it doesn't represent
10 a practical difficulty when purchased at an
11 auction. That's because the auction process
12 effectively subtracts the repair and
13 restoration expense from the purchase price
14 leaving the prudent bearer with no practical
15 difficulty covering the cost of restoration
16 and repair. It's not the role of this Board
17 to guarantee imprudent investors a profit or
18 save them when a speculation fails. Turning
19 of the matter of detriment to the public good,
20 the work already performed by the applicant
21 has substituted one eyesore for another. The
22 applicant should be required to abate the

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1 existing work to meet its own goal of
2 restoring the structure to its original
3 design.

4 And if I can just take a moment to
5 address that picture over there, one of the
6 things that we see here is a permit was
7 issued. It was a permit to do \$1,500 worth of
8 repointing. They have the description down
9 here, but it was essentially to repoint and
10 put some steel lintels across the tops of the
11 windows. And under that permit, they went and
12 covered the wall; it's a cementitious
13 covering. They put styrofoam around the
14 windows and then they put some covering on
15 that styrofoam. So, I came to the conclusion,
16 and perhaps erroneously; people who are into
17 this can explain it to me perhaps, that this
18 was dryvit, because normally what that is is
19 styrofoam with a thin coating on it.

20 So, exterior dryvit treatments on
21 the west and south wall of the building appear
22 to be outside of the scope of the building

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1 permit, they're not consistent with the
2 original design.

3 MR. SULLIVAN: I have an
4 objection, please, if I may. Are we talking
5 about past building permits and what does this
6 have to do with the case? I'd just like to
7 note that for the record and if the Board
8 feels like we're getting too far afield.

9 MR. WIENCKE: Well, there's one
10 more point on that and I'm out of it.

11 VICE-CHAIRMAN DETTMAN: Okay.
12 I'll note your objection. And if there's one
13 more point, then perhaps you can --

14 MR. WIENCKE: Well, the objection
15 is just simply that this wobbly whatever and
16 the strange window treatment is substituting
17 one eyesore for another. You know, they're
18 asking to go and do some more building. And
19 I think therein lies my objection on that
20 particular matter.

21 Another detriment is that the
22 proposed addition is likely to increase the

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1 density of local parking. When last occupied,
2 this building had at least two parking spaces
3 in the rear. And in some of the pictures you
4 can even see cars that are parked there today,
5 now. When last occupied, it had two parking
6 spaces in the rear and the ten low-rent units
7 were occupied by tenants that generally could
8 not afford cars. Purchasers of upscale
9 condominium units are more likely to have
10 cars. Even if they only use them just a few
11 times a week, they're still going to be
12 somewhere looking for a parking space.

13 The applicant's proposed plan
14 creates traffic hazards. Well now, this was
15 a conclusion that we reached based on their
16 plan where they said wooden fence. You know,
17 a wooden fence could be a stockade fence. And
18 one of the problems with that is when you have
19 a narrow alley and it's well-shaded and you
20 don't have air, you don't have light. You
21 have an ice skating rink because so many
22 houses drain their water into the alley. It

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1 goes down and it just doesn't thaw. What
2 happens? There are 29 cars parked back there.
3 So now it's an urban defense thing. But when
4 the weather's going to be bad, as it will be
5 this evening, you park your car on the street.
6 So all of a sudden you've got 29 more cars on
7 the street because of the threat of getting
8 caught in a skating rink. Now, this may have
9 been resolved by the applicant. I'm not aware
10 of it. I haven't had any communication to
11 that effect at all.

12 Another thing is that the argument
13 that the building will once again stand vacant
14 and derelict if the Board does not grant a
15 variance ignores two very, very important
16 points. The Dupont Circle area is a highly
17 desirable area. Even in today's market, a
18 500-square foot condominium, it goes for
19 around \$350,000. Scarce family-sized units,
20 well, they command even higher prices. This
21 particular neighborhood is also desirable.
22 It's like a village, you know, judging by all

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1 of these letters that people have been writing
2 in. During summer weekends neighbors
3 regularly clear their alley parking spaces for
4 a community barbecue, what's come to be called
5 "Red Square." More than one child's science
6 project has been the subject of community
7 involvement. At least one adolescent earns
8 his allowance by mowing the tree land or
9 clearing trash from the alley. So, this is a
10 desirable area.

11 There are a few additional points
12 on this thing. I would want to say one thing:
13 Apart from the building's next door neighbor
14 who benefits from a cut to enter his private
15 parking space, none of the other neighbors who
16 have written about this stand to make any
17 personal gain from the outcome of the case,
18 yet many have willingly taken their time and
19 energy to study the application, discuss
20 possible solutions and express their concerns
21 to the Board.

22 Can I continue for probably no

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1 longer than a minute?

2 VICE-CHAIRMAN DETTMAN: I think a
3 minute is appropriate, sure.

4 MR. WIENCKE: Okay. Also, I've
5 alluded to it, but HPRB got no less than 11
6 letters from 13 neighbors and BZA has received
7 at least a dozen new letters of concern from
8 immediate neighbors. One of the notable
9 things is that it includes every single owner-
10 occupied house to the south and to the west of
11 that building.

12 At a minimum, the Board should
13 defer a decision on this application. For one
14 thing, we don't know what is going to come out
15 of this meeting with Callcott. We don't know
16 what the redesign is going to be. We don't
17 know what we are buying into. Thank you.

18 VICE-CHAIRMAN DETTMAN: Thank you,
19 Mr. Wiencke. And in addition to your
20 testimony, the Board is in receipt of the
21 information that you provided to us, and we
22 will certainly take that into consideration

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1 when the Board eventually decides this case.

2 Yes?

3 MS. BRACE: I would like, if I
4 may, to make one -- it's partly comment, but
5 mostly question restricted only to the turning
6 radius and whether it is an easement, as some
7 of the neighbors requested, or is merely a
8 provision in the design. May I address that?

9 VICE-CHAIRMAN DETTMAN: It's a
10 question that you have?

11 MS. BRACE: Well, it's a question
12 that is based on my -- I can certainly phrase
13 it as a question, because my understanding is
14 that -- my question is I don't understand how
15 condominium documents operate. But if they
16 operate only to create an enforcement of the
17 turning radius by the condominium association
18 against a unit owner who decides to not
19 respect the turning radius, is that something
20 that in fact is enforceable only by the
21 members of the condominium, or is it also
22 enforceable by the beneficiaries of the

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1 easement?

2 VICE-CHAIRMAN DETTMAN: Does your
3 concern go to whether or not the angled fence
4 that's shown on the plans, whether or not that
5 will actually be constructed and maintained?

6 MS. BRACE: I'm assuming, you
7 know, that if this is part of the plan, is
8 that the fence would include that corner cut,
9 that that is how it would originally be
10 constructed. My understanding from what's
11 been said in the past is that the rear yards
12 will be deeded to individual unit owners so
13 that at some point the land where that turning
14 radius exists will belong not to the
15 condominium, but to one unit owner. And if
16 that unit owner decides to change the fence
17 for his own reasons --

18 VICE-CHAIRMAN DETTMAN: I
19 understand.

20 MS. BRACE: Who can enforce the
21 turning radius? Is it only the condominium?

22 VICE-CHAIRMAN DETTMAN: In terms

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1 of how the condo docs are structured and
2 whatnot, that's not really an issue that's
3 before the Board and it doesn't fall under the
4 jurisdiction of this Board.

5 I will say that when the Board
6 does take an action on a set of plans, those
7 are the plans that have to be constructed. In
8 terms of what happens in the future, I'm not
9 certain, but I do know that in terms of
10 whether or not that area is going to be
11 considered a common area, or whether it's
12 going to be deeded to a particular unit owner,
13 again, that's not the purview of the Board.

14 MS. BRACE: I understand it's not
15 the Board's. I wanted to address the fact
16 that the difference is one of how the -- it's
17 not whether the turning radius will be
18 enforced, but whether it is something that
19 will be maintained in perpetuity as it would
20 be with an easement, or if is something that
21 we can count on only through the goodwill of
22 the current owner.

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1 VICE-CHAIRMAN DETTMAN: Well, I
2 think that if it's something that's important
3 enough to the neighborhood and the surrounding
4 neighbors, I would encourage yourself and the
5 other neighbors to work with the applicant to
6 perhaps find a way to make sure that it
7 continues in perpetuity and encourage the
8 applicant to do the same.

9 MS. BRACE: My understanding is
10 that they have rejected the possibility of the
11 easement. I would certainly hope that that is
12 subject to reconsideration. But the moment my
13 understanding is that that is no longer
14 negotiable.

15 VICE-CHAIRMAN DETTMAN: Okay.
16 Well again, it's an issue that the
17 neighborhood and the community is going to
18 have to work out with the applicant, but not
19 in this venue.

20 MS. BRACE: Thank you.

21 MEMBER MOLDENHAUER: Let me just
22 add on a point. If we approve this

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1 application based on these plans, that will be
2 the condition of the approval. So if there
3 was ever an issue were plans no longer
4 conformed with the plans presented to us, and
5 that are attached and are part of the BZA
6 approval, that would be an enforcement issue
7 that anybody could address at a later date.
8 So, that might address your concerns.

9 MS. BRACE: Thank you.

10 VICE-CHAIRMAN DETTMAN: Thank you,
11 Ms. Moldenhauer.

12 In addition to the documents and
13 testimony in opposition presented by Mr.
14 Wiencke, the Board is also in receipt of a
15 letter in opposition, and which is our Exhibit
16 No. 24, from a Mr. Coronado. So, I just
17 wanted to note that for the record. It's in
18 our record and we will incorporate that into
19 our deliberations and decision.

20 Board Members, any questions for
21 applicant, OP, Mr. Wiencke?

22 (No audible response.)

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1 VICE-CHAIRMAN DETTMAN: Let me
2 just check back very quickly, is anyone in the
3 audience wishing to provide testimony in
4 support or against the project?

5 (No audible response.)

6 VICE-CHAIRMAN DETTMAN: Nothing
7 further? I guess it's back to the applicant
8 for a closing statement then.

9 I'm sorry, I neglected to ask, do
10 we have someone from the ANC?

11 MR. SULLIVAN: Mike Silverstein is
12 out of town, so he couldn't make it.

13 VICE-CHAIRMAN DETTMAN: Okay.
14 Again for the record, we have our Exhibit No.
15 25 from ANC-2B signed by the chairman of ANC-
16 2B, Mike Silverstein, stating that the ANC-2B
17 supports the application for variances for the
18 project. They note that they express concern
19 that there be adequate space for trash storage
20 and removal. And by the sounds of it, that's
21 been addressed and incorporated into the plans
22 which are before the Board. So, they met on

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1 November 11th. They had a quorum and they
2 took a vote, which was eight to zero.

3 So with that, it's back to the
4 applicant for closing.

5 MR. SULLIVAN: Thank you. Again,
6 I would just summarize that I believe we
7 showed clearly that we meet the variance test.
8 And in regards to Mr. Wiencke's issues, which
9 we're very familiar with, I'm a little puzzled
10 because of the main issues, we've come up with
11 a good resolution. The turning radius, that
12 was a big issue. We came up with a resolution
13 and we're fine with it being a specific
14 condition in the order, and that would be a
15 zoning violation if we were ever to change the
16 fence.

17 Regarding trash, we have the trash
18 now in an enclosure and we think the capacity
19 compares very favorably to the Cornell
20 Building.

21 Regarding the brick repair, there
22 are differences of opinion on whether it looks

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1 good or not is not applicable to this
2 application. I think, if I may; I don't want
3 to speak for him, but what he's getting at is
4 it has caused him some concern about the
5 quality of the eventual development. And when
6 we've heard complaints like this in the past,
7 we've withheld from trumpeting our own horn
8 about the owner's track record with
9 restorations over the last 30 years. We'd be
10 happy to get into that, if that was relevant.

11 Regarding ice in the alley, I'm
12 not sure what this has to do with that and/or
13 how to resolve that.

14 And of the 13 to 16 people that
15 have signed the form petition, there were
16 about two or three people at the ANC meeting,
17 including Mr. Wiencke. So, we haven't really
18 heard from anybody else directly.

19 We have ANC support. We have OP
20 support. We have the support of Tony Vincent.
21 And we can rest on that. And if there's no
22 more questions, that's all we have.

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1 VICE-CHAIRMAN DETTMAN: A quick
2 question. I thought I saw on the record, and
3 I can't find it now, do you have the support
4 of the Dupont Circle Conservancy?

5 MR. SULLIVAN: We do. I don't
6 know if it's in the BZA record.

7 VICE-CHAIRMAN DETTMAN: Okay.

8 MR. SULLIVAN: But they supported
9 it unanimously the day before the HPRB
10 hearing.

11 VICE-CHAIRMAN DETTMAN: Okay. Was
12 that mentioned in one of your filings perhaps?
13 Is that where I saw it?

14 MR. SULLIVAN: Yes, it would have
15 been mentioned in my prehearing statement.

16 VICE-CHAIRMAN DETTMAN: Thank you.
17 I think the matter is back to the Board, and
18 I think myself and my colleagues think that
19 the record is full enough to allow us to go
20 forward with our deliberations today. And, I
21 can start us off here.

22 We have before us an application

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1 for an addition to an existing apartment house
2 which was constructed some time ago, at a date
3 that predates the 1958 Zoning Regulations, and
4 as constructed is nonconforming to lot
5 occupancy. What's allowed under the current
6 Zoning Regulations is 60 percent. The
7 building was constructed to a lot occupancy of
8 79.5 percent.

9 The reason for the need for a
10 variance is that pursuant to 2001.3, additions
11 to nonconforming structures are required to
12 meet the lot occupancy requirements of the
13 underlying zoning. And as I've already
14 stated, this property does not. Therefore, a
15 variance is required under 2001.3, as well as
16 the lot occupancy requirements of 403.

17 With respect to the provisions or
18 the prongs of the variance test, and
19 specifically the first prong as to whether or
20 not the property has some kind of exceptional
21 condition or a circumstance, I think that the
22 first prong has been met. The property, as

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1 I've already stated, is currently at a lot
2 occupancy of 79.5 percent and that this is a
3 condition that predates the Zoning
4 Regulations. And while that preexisting
5 condition is not in and of itself an
6 exceptional or unique circumstance, it
7 certainly has been entertained by the Board,
8 in many cases, as something contributing to a
9 unique circumstance as part of a kind of
10 confluence of factors. And that not only with
11 the property owner, but any property owner, in
12 order to do any kind of an addition to this
13 particular building, the strict application of
14 the Zoning Regulations would require some kind
15 of partial demolition of the existing
16 building, which it was testified to that it
17 would take removal of about 24 feet off the
18 rear of this building in order to comply.

19 That, in addition to the need to
20 make the project economically feasible, in
21 that if you were to comply with the 60 percent
22 lot occupancy by way of a partial demolition,

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1 you would have to actually build higher, which
2 perhaps could have greater impacts on the
3 surrounding neighborhood. And in addition to
4 that, a partial demolition is probably not
5 preferred and perhaps would not even be
6 allowed given the historic status of this
7 building, which has been designated as a
8 contributing building to the Dupont Circle
9 Historic District.

10 So, I think, given that collection
11 of factors, I think, put together equates to
12 or results in a practical difficulty upon the
13 property owner if the Zoning Regulations were
14 strictly applied.

15 With respect to the third prong, I
16 think that the third prong is also met in
17 terms of substantial detriment to the public
18 good and substantial impairment to the intent,
19 purpose and integrity of the Zone Plan.

20 In addition to support and
21 supportive testimony provided by the adjacent
22 neighbor that shares a party wall with the

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1 building, Mr. Vincent, the ANC is in support.
2 That's reflected in our Exhibit No. 25. It
3 was testified to that the Dupont Circle
4 Conservancy supports the project.

5 We're not looking at an increase
6 in lot occupancy. It's still well below the
7 allowable height that's allowed in the
8 underlying zoning. There are a number of
9 buildings that exist in the surrounding area
10 that are higher than this one, one in
11 particular, the Cornell Apartment Building,
12 which is located to the west of this
13 particular property.

14 HPRB has been very much involved
15 in this project, and the project has evolved.
16 And in terms of impact to the surrounding
17 Historic District, I think that that concern
18 has been resolved through modifications to the
19 design.

20 We're also seeing a reduction in
21 the number of units. Historically, this was
22 a 10-unit apartment building. We're looking

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1 at an eight-unit apartment building now.

2 And in terms of the lack of
3 parking, there's no parking being provided on
4 the property. One is that the Zoning
5 Regulations don't require this particular
6 property to provide any parking, given its
7 historic status, and the size of the addition
8 that's being contemplated. But the property
9 is also in an area that's well serviced by
10 public transportation, and in particular it
11 might be slightly outside what's considered to
12 be a normal walking distance to Metro. But I
13 don't think that it's so far that you can't
14 count on Metro to be a viable option for the
15 people who will live in this building.

16 So again, I think the three prongs
17 of the variance test have been met. And I can
18 turn it over to other Board Members for
19 additional comments.

20 MEMBER MOLDENHAUER: Chair
21 Dettman, I believe that you've provided a very
22 thorough statement. I agree with your

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1 analysis on the first prong, that this is a
2 totality of the circumstances of multiple
3 factors. I think that Ms. Brown-Roberts
4 stated it very clearly based on a question
5 from Mr. Turnbull about the fact that it's
6 really a Catch-22 on this property, the fact
7 that you can't really do anything without
8 obtaining some sort of relief, whether you
9 take the building back to a smaller envelope
10 or whether you actually expand it and obtain
11 variance relief.

12 One of the opposition members, Mr.
13 Wiencke, stated that -- I believe his
14 testimony was getting to the point of
15 potentially that there was a self-created
16 practical difficulty here. And I think that
17 he made a point, but I don't believe that we
18 have sufficient evidence to find that. I
19 think that there are factors, considering this
20 property has been in foreclosure numerous
21 times, showing that this was not simply the
22 applicant's creation of the practical

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1 difficulty, rather that this has been a
2 problem in the past for many other applicants.

3 And I think it's positive to see
4 something being done about this property, to
5 see some development. There are other records
6 of support in the application stating that
7 other neighbors are very happy to see this
8 property that will no longer be a vacant
9 property, but rather to see it revitalized.

10 I believe that you touched on all
11 the other points and I won't belabor the issue
12 or repeat anything that doesn't need to be
13 repeated. Just one kind of point totally off
14 of really the issue, but I think that it seems
15 like the applicant has been working very well
16 with the neighborhood and I would just
17 encourage them to continue to do so,
18 especially given some of the different points
19 that have been brought up today in making sure
20 that there are disclosures in the condominium
21 documents about the condition of the fence and
22 the access way to the alley, things of that

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1 effect. You know, if there's any other way
2 that they can address those in the condominium
3 documents, adjust the budget for ice or things
4 like that; obviously we have no authority on
5 that, but just encourage that and encourage a
6 continued relationship with the neighborhood.

7 VICE-CHAIRMAN DETTMAN: Thank you,
8 Ms. Moldenhauer, and I certainly agree with
9 your concluding comments there.

10 Mr. Turnbull?

11 MEMBER TURNBULL: Thank you, Mr.
12 Dettman. I would agree with both of your
13 comments. I don't want to add too much more.
14 I think you've both covered them very
15 adequately. And I think we're seeing in areas
16 like this, and we've seen them at the Zoning
17 Commission, where people are not buying cars.
18 A lot of people who are living in this area
19 are not being cars. There's either the
20 SmartCar. We're seeing Department of
21 Transportation putting out the bikes. And the
22 people are either cabbing, walking, taking

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1 other transportation. They realize that they
2 have a problem in these areas. So, I think as
3 we go forward we're going to see more
4 developments like this where there are no
5 cars. And people, if they're going away,
6 they're going to rent a car or you may have
7 one or two that might have cars. But I think
8 you're going to see a lot of people, tenants
9 and owners in buildings like this, that don't
10 want to buy cars. So, I feel good about this
11 project.

12 VICE-CHAIRMAN DETTMAN: Thank you,
13 Mr. Turnbull.

14 I just wanted to kind of close the
15 loop on some of the comments that we did
16 receive from the community, including Mr.
17 Wiencke.

18 With respect to our Exhibit No.
19 24, the letter from a Mr. Coronado, he raises
20 some issues about impacts to sunlight and
21 shadows. And, you know, looking at the plans,
22 the relationship of Mr. Coronado's property to

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1 the south of the subject property, I think
2 given my experience on looking at these types
3 of issues, impact to sunlight and shade, I
4 don't see a potential for any impact to the
5 properties to the south of the subject
6 property, just given the way that the sun
7 rises and falls in the sky. I think that in
8 terms of maybe impact to views, certainly, but
9 not to sunlight and shadow. And even the
10 impacts to views, I think they'll be minimal.

11 Other issues that were raised by
12 Mr. Coronado as well as Mr. Wiencke in terms
13 of the quality of the improvements that have
14 occurred on the property right now and the use
15 of dryvit, while I think that those are valid
16 concerns, they're not concerns that actually
17 should be taken up by the Board. Perhaps it's
18 the HPRB in their view of this project in
19 order to maintain the historic integrity of
20 the property. Perhaps that might not be the
21 treatment that they had contemplated, and that
22 might be an issue you could raise with HPRB.

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1 And with respect to whether or not
2 the improvements that have been made fall
3 inside or outside the scope of the building
4 permit, again the Board has had to entertain
5 concerns of that nature quite a bit, and where
6 we end up is that it's not really a concern
7 that should be addressed by the Board, but
8 perhaps maybe DCRA. So, I don't think that
9 Mr. Wiencke is without recourse. I just think
10 that this isn't the venue to rectify those
11 situations.

12 And a final note is that in
13 addition to some of the letters that we
14 received in opposition, our Exhibit No. 36, we
15 also received five letters in support into the
16 record.

17 So, if there's nothing further
18 from my colleagues here, I can make a motion.

19 MEMBER TURNBULL: Mr. Chair, I
20 think I agree with you and your comments are
21 right on with the Exhibit 31. The OP report,
22 which has attached the HPRB report and their

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1 HPO comments, and as we talked earlier, the
2 applicant has to still meet with HPO and
3 resolves some of the issues that they had
4 regarding fenestrations and the overall
5 historic and aesthetic look of the building.

6 VICE-CHAIRMAN DETTMAN: I wanted
7 to just briefly ask the Office of the Attorney
8 General a question. With respect to the
9 recommendations of the Historic Preservation
10 Office and based on the testimony that we
11 heard, there's going to be continued
12 coordination between the applicant and the HPO
13 staff. And was wondering if it would be
14 necessary for the Board to include language in
15 the order that provides the applicant with a
16 very small amount of flexibility on the
17 proposed plans in order for them to make the
18 necessary modifications to the facade of the
19 addition. I think it's something that we've
20 done in the past.

21 MS. GLAZER: Yes, Mr. Moy just
22 mentioned that to me, and I am familiar with

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1 the Board having done it before. Perhaps the
2 Board could ask the applicant what
3 specifically he wants in that regard.

4 VICE-CHAIRMAN DETTMAN: Okay.
5 From a legal perspective, it's something we've
6 done and we can do again?

7 MS. GLAZER: I think we'd have to
8 discuss the language, the exact language.

9 VICE-CHAIRMAN DETTMAN: Okay. Let
10 me just ask a quick question. We'll have to
11 come out of deliberation, but I should have
12 raised this during the hearing. Is that
13 something that you see that you'll need?

14 MR. SULLIVAN: Are you talking
15 about the size? Not the materials? Not the
16 design materials, but the actual --

17 VICE-CHAIRMAN DETTMAN: Well, the
18 issue is, and it's often the case that an
19 applicant brings an application to the BZA
20 that's concurrently going through review of
21 the HPO staff or HPRB. So, I think where the
22 Board is leaning is that there would be

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1 language in the order that stipulates that
2 you'll continue to work with the HPO staff in
3 order to address their concerns with respect
4 to the fenestration and the relationship of
5 the windows on the addition to the existing,
6 and that you would not need to come -- I don't
7 know what the language is, but that it would
8 not require you to come back with those
9 changes so long as you don't increase the
10 amount of relief that you're requesting or
11 create any new areas of relief.

12 MR. SULLIVAN: Yes, I'm sure we're
13 fine with that. We don't intend that, and we
14 would expect we'd have to come back if we did
15 that anyway. Yes.

16 VICE-CHAIRMAN DETTMAN: Okay. All
17 right. So, I don't think that we need to work
18 out the language here, but we can just include
19 it in our motion, perhaps.

20 Anything further?

21 (No audible response.)

22 VICE-CHAIRMAN DETTMAN: Okay.

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1 With all that being said, I would move for
2 approval of application No. 18005, pursuant to
3 11 DCMR 3103.2 for a variance from the
4 nonconforming structure provisions under
5 Section 2001.3, to allow the renovation of and
6 of a third-story addition to an existing
7 apartment house located in the DC/R-5-B
8 District, located at 2142 O Street, N.W., with
9 a small note that we will include language in
10 the order that addresses the recommendations
11 of the HPO staff.

12 MEMBER MOLDENHAUER: I second.

13 VICE-CHAIRMAN DETTMAN: Motions
14 been made and seconded. All those in favor
15 say aye. Aye.

16 MEMBER TURNBULL: Aye.

17 MEMBER MOLDENHAUER: Aye.

18 VICE-CHAIRMAN DETTMAN: Opposed?

19 (No audible response.)

20 VICE-CHAIRMAN DETTMAN: And there
21 doesn't appear to be any abstentions. And can
22 we record the vote, please?

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1 MS. BAILEY: Mr. Chairman, the
2 vote is recorded as 3-0-2 to grant the
3 application. Mr. Dettman made the motion.
4 Ms. Moldenhauer seconded. Mr. Turnbull
5 supported the motion.

6 MR. MOY: Mr. Chairman, if I may
7 interrupt just for a second?

8 VICE-CHAIRMAN DETTMAN: Yes, sir.

9 MR. MOY: Because of the remarks
10 that Ms. Moldenhauer made about the drawings,
11 the plans, for the record, I just wanted to
12 note for the record that the latest submission
13 of drawings, plans from the applicant is
14 Exhibit No. 29.

15 VICE-CHAIRMAN DETTMAN: Thank you,
16 Mr. Moy. And those are the plans that were
17 attached to the prehearing?

18 MR. MOY: (No audible response.)

19 VICE-CHAIRMAN DETTMAN: Great.
20 And, yes, so the record will show that the
21 Board made a motion and voted to approved
22 based on those plans. Thank you.

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1 Ms. Bailey, is there anything left
2 for the morning hearing session?

3 MS. BAILEY: Mr. Chairman, there
4 isn't, but I would like to ask Mr. Sullivan to
5 provide a surveyor's plat that is signed by
6 the surveyor. The plat that he has provided
7 in the record is an unsigned copy by the
8 surveyor's office. And we would like to get
9 a signed copy for the official file.

10 VICE-CHAIRMAN DETTMAN: Thank you,
11 Ms. Bailey.

12 Mr. Sullivan, is that something
13 that you can provide today?

14 MR. MARKUS: I'm not sure if we
15 can provide it today, but we'll get that
16 signed and get it to you as soon as possible.

17 VICE-CHAIRMAN DETTMAN: Okay.
18 Then what I would suggest is as there's no
19 party in opposition to this case, we could
20 typically issue a summary order, but perhaps
21 we can hold the order until we get that in the
22 record.

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1 MR. SULLIVAN: Okay.

2 VICE-CHAIRMAN DETTMAN: Great.

3 Thank you.

4 MS. BAILEY: That's it for the
5 morning session, Mr. Chairman.

6 VICE-CHAIRMAN DETTMAN: That's it
7 for the morning session. Okay. That will
8 conclude the Board's morning session. We will
9 return at 1:30 to begin the afternoon session.
10 And the Board has scheduled two decisions and
11 two hearings for the afternoon session. So
12 this hearing is adjourned.

13 (Whereupon, at 12:55 p.m. off the
14 record until 2:45 p.m.)

15 VICE-CHAIRMAN DETTMAN: The
16 afternoon hearing will please come to order.

17 Good afternoon, ladies and
18 gentlemen. This is the December 8th afternoon
19 public hearing of the Board of Zoning
20 Adjustment of the District of Columbia.

21 My name is Shane Dettman, Vice-
22 Chairperson representing NCPC. To my right is

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1 Mr. Michael Turnbull representing the Zoning
2 Commission of the District of Columbia. To my
3 left, Ms. Meridith Moldenhauer, mayoral
4 appointee to the BZA; Mr. Clifford Moy with
5 the Office of Zoning; Ms. Sherry Glazer with
6 the Office of the Attorney General. And to my
7 far left, Ms. Beverley Bailey with the Office
8 of Zoning.

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

12 Please be aware that this
13 proceeding is being recorded by a court
14 reporter and is also Web cast live.

15 Accordingly, we must ask you to refrain from
16 any disruptive noises or actions in the
17 hearing room.

18 When presenting information to the
19 Board, please turn on and speak into the
20 microphone, first stating your name and home
21 address. When you are finished speaking,
22 please turn off your microphone so that you

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1 no longer are picking up sound or background
2 noise and sound.

3 All persons planning to testify
4 either in favor or in opposition are to fill
5 out two witness cards. These cards are
6 located to my left on the table near the door
7 and on the witness tables. Upon coming
8 forward to speak to the Board, please give
9 both cards to the reporter sitting to my
10 right.

11 The order of procedure for special
12 exceptions and variances is as follows:
13 Statement and witnesses of the applicant;
14 Government reports, including the Office of
15 Planning, Department of Public Works and
16 others; report of the ANC; parties or persons
17 in support; parties and persons in opposition;
18 and finally, closing remarks by the applicant.

19 Pursuant to Sections 3117.4 and
20 3117.5, the following time constraints will be
21 maintained: The applicant, appellant, persons
22 and parties, except an ANC, in support,

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1 including witnesses, 60 minutes collectively;
2 appellees, persons and parties, except the
3 ANC, in opposition, including witnesses, 60
4 minutes collectively; individuals wishing to
5 testify will be granted three minutes each.
6 These time restraints do not include cross
7 examination and/or questions from the Board.

8 Cross examination of witnesses is
9 permitted by the applicant or parties. The
10 ANC within which the property is located is
11 automatically a party in a special exception
12 or a variance case. Nothing prohibits the
13 Board from placing reasonable restrictions on
14 cross examination, including time limits and
15 limitations on the scope of cross examination.

16 The record will be closed at the
17 conclusion of each case except for any
18 material specifically requested by the Board.
19 The Board and the staff will specify at the
20 end of each hearing exactly what is expected
21 and the persons must submit the evidence to
22 the Office of Zoning. After the record is

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1 closed, no other information will be accepted
2 by the Board.

3 The Sunshine Act requires that the
4 public hearing on each case be held in the
5 open, before the public. The Board may,
6 consistent with its Rules of Procedure and the
7 Sunshine Act, enter into executive session
8 during or after the public hearing on a case
9 for purposes of reviewing the record and
10 deliberating on the case.

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

17 At this time, please turn off all
18 beepers and cell phones in order to avoid
19 disruption of these proceedings.

20 The Board will make every effort
21 to conclude the public hearing as near as
22 possible to 6:00. If the afternoon cases are

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1 not completed at 6:00 p.m., the Board will
2 assess whether it can complete the pending
3 case or cases remaining on the agenda.

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

15 (No audible response.)

16 VICE-CHAIRMAN DETTMAN: Does the
17 staff have any preliminary matters?

18 MS. BAILEY: Mr. Chairman, yes, we
19 do. Application 17968, I.S. Enterprises, Inc.
20 That application was withdrawn, Mr. Chairman.

21 VICE-CHAIRMAN DETTMAN: Thank you,
22 Ms. Bailey. And there's no further action

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1 required by the Board?

2 MS. BAILEY: None is required,
3 sir.

4 VICE-CHAIRMAN DETTMAN: Okay. Is
5 that all of the preliminary matters that staff
6 has at this moment?

7 MS. BAILEY: I believe there is
8 also a request for N Street Follies to be
9 rescheduled. It is my understanding that the
10 attorney for that case is not present today.

11 VICE-CHAIRMAN DETTMAN: Okay.

12 MS. BAILEY: The attorney
13 representing the applicant, I should say.

14 VICE-CHAIRMAN DETTMAN: Okay. Why
15 don't we at this time, before we take up that
16 particular preliminary matters, why don't we
17 swear in all the witnesses?

18 All those wishing to testify
19 today, please rise and Ms. Beverley Bailey
20 will administer the oath.

21 MS. BAILEY: Would you please
22 raise your right hand?

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1 (Whereupon, the witnesses were
2 sworn.)

3 VICE-CHAIRMAN DETTMAN: Thank you,
4 Ms. Bailey.

5 Okay. So we have an additional
6 preliminary matter that we need to address
7 with respect to application No. 17337, N
8 Street Follies. As I understand it, there's
9 been a request for a continuance or
10 postponement of today's continued hearing, and
11 I think the parties are at the table.

12 Why don't we start by having you
13 introduce yourself for the record?

14 MR. ANDRULIS: My name is Dan
15 Andrulis. I'm the architect for N Street
16 Follies.

17 MS. BRAY: And I'm Kinley Bray
18 with the law firm of Arent Fox on behalf of
19 party opponent Tabard Inn.

20 VICE-CHAIRMAN DETTMAN: Good
21 afternoon.

22 Mr. Andrulis, you're representing

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1 N Street Follies and you're here to represent
2 I guess Mr. George Keys?

3 MR. ANDRULIS: Yes, unfortunately
4 Mr. Keys is unable to make it due to a family
5 medical emergency that he found out about last
6 night. And we would like to request the Board
7 to reschedule the meeting at a mutual
8 agreeable time.

9 VICE-CHAIRMAN DETTMAN: Ms. Bray,
10 a response?

11 MS. BRAY: We do not oppose the
12 request for postponement, and I believe we've
13 spoken about potential dates. We would
14 request though that given the volume of the
15 record in this case and the amount of time
16 that the party opponent will need to complete
17 their case commensurate with what the
18 applicant had, that we reserve an entire half-
19 day session, if possible.

20 VICE-CHAIRMAN DETTMAN: Okay.
21 Great. Have you, the applicant and Ms. Bray,
22 have you discussed potential dates? Have you

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1 identified one that works for you?

2 MR. ANDRULIS: We have discussed
3 potential dates, and we think that the
4 afternoon of March 16th might work well for
5 both of us. We would both like to do it
6 earlier, if the Board has an earlier date.

7 VICE-CHAIRMAN DETTMAN: Mr. Moy,
8 looking at our calendar, is there a date
9 that's earlier than March 16th where we might
10 be able to allot an entire afternoon to the
11 remainder of this case?

12 MR. MOY: Well, first of all,
13 March 16 is consistent with the staff's
14 schedule. If the Board is interested in
15 moving it to an earlier date, the other
16 possibility could be March 2nd in the
17 afternoon.

18 MS. BRAY: Unfortunately, two of
19 our witnesses are not available on the 2nd.

20 MR. MOY: Well, we do have a March
21 9th date, but that would be sharing the
22 afternoon with another application.

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1 VICE-CHAIRMAN DETTMAN: The March
2 9th date that Mr. Moy must mentioned, the
3 application is a special exception for a child
4 development center. We have no idea whether
5 or not it's going to have opposition or not.
6 We can put it on. It would be second in the
7 afternoon. Or we can push it one more week,
8 which was the March 16th date that you had
9 proposed, and then make sure that that
10 afternoon is entirely dedicated to this case.

11 MR. ANDRULIS: I think we'd
12 prefer, it's only a week, to stay with March
13 16th when we are pretty assured that we'll
14 have enough time for the opposition to put on
15 their case.

16 VICE-CHAIRMAN DETTMAN: Okay. Ms.
17 Bray, that works?

18 MS. BRAY: We would agree. We're
19 here for the eighth time in this case.

20 VICE-CHAIRMAN DETTMAN: Okay.

21 MS. BRAY: So, it would be great
22 to finish it out.

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1 VICE-CHAIRMAN DETTMAN: Great. So
2 why don't we do that? Let's schedule it for
3 the afternoon of March 16th.

4 And, Mr. Moy, can we make sure
5 that that afternoon is blocked off for this
6 case?

7 MR. MOY: Absolutely.

8 VICE-CHAIRMAN DETTMAN: Okay.

9 MS. BRAY: Thank you very much.

10 VICE-CHAIRMAN DETTMAN: Thank you.

11 Ms. Bailey, can we call, I think
12 it's the last case on today's agenda?

13 MS. BAILEY: That's the
14 application of Sibley Memorial Hospital. The
15 case No. assigned is 18007. The application
16 was advertised pursuant to 11 DCMR Section
17 3104.1 and 3103.2, for a variance from the
18 floor area ratio requirements under Subsection
19 402.4, and a special exception and variance
20 from the roof structure provisions, height and
21 location of multiple roof structures, under
22 Subsections 400.7 and 411.11, to allow the

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1 expansion of an existing hospital, including
2 a new eight-story addition containing a new
3 patient pavilion, emergency department and
4 cancer center. Sibley Hospital is located at
5 5255 Loughboro Road, N.W., Square N-1448, Lot
6 26. And the property is zoned R-5-A.

7 VICE-CHAIRMAN DETTMAN: Thank you,
8 Ms. Bailey.

9 Good afternoon. Why don't we get
10 started by having the parties at the table
11 introduce themselves for the record?

12 MR. SLADE: Louis Slade with
13 Gorove/Slade Associates, transportation
14 engineers and planners.

15 MR. TUMMONDS: Paul Tummonds with
16 Pillsbury Winthrop.

17 MR. PRICE: Jerry Price, Senior
18 Vice-President, Sibley Hospital.

19 MR. FINCHER: Dwight Fincher,
20 Wilmot Sanz Architect.

21 MR. TOBEY: Phil Tobey, Smith
22 Group Architects.

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1 VICE-CHAIRMAN DETTMAN: Good
2 afternoon once again. I'm sorry, was it
3 Fincher?

4 MR. FINCHER: Yes.

5 VICE-CHAIRMAN DETTMAN: Can you
6 spell that, please?

7 MR. FINCHER: F-I-N-C-H-E-R.

8 VICE-CHAIRMAN DETTMAN: F-I-N-C-H-
9 E-R. Thank you.

10 One question. We received this
11 morning Exhibit No. 35 from the Palisades
12 Citizen Association. Did you receive that
13 letter, Mr. Tummonds?

14 MR. TUMMONDS: Yes, we're aware of
15 that.

16 VICE-CHAIRMAN DETTMAN: Okay. And
17 I wanted to raise one question. Our Exhibit
18 No. 28 is from ANC-3D requesting a waiver for
19 a late filing of their resolution, however, I
20 didn't see an ANC resolution in our record,
21 even as a late filing. So, are you aware that
22 a resolution was submitted?

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1 MR. TUMMONDS: Yes, and I believe
2 it was Exhibit 33. I have copies of it, if I
3 will approach?

4 VICE-CHAIRMAN DETTMAN: Okay.
5 Board Members, do you have that?

6 MEMBER MOLDENHAUER: No.

7 VICE-CHAIRMAN DETTMAN: No? That
8 would be great. Thank you.

9 MR. TUMMONDS: And we have no
10 objection to the admittance of that into the
11 record.

12 VICE-CHAIRMAN DETTMAN: Thank you.

13 Board Members, I think that as a
14 preliminary matter that we could take up is
15 whether or not to waive our rules and allow
16 the ANC's late filing resolution; again,
17 that's our Exhibit No. 33, into the record.
18 I think that pursuant to 3100.5, that I would
19 be agreeable to waiving our rules and allowing
20 that into the record. And we'll get copies.

21 I think at a point in the
22 proceedings the Board will want to pause to

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1 take a look at this, because none of us has
2 seen this yet. But we can do that perhaps
3 when we get to the ANC.

4 I don't think that there are any
5 other preliminary matters, so I think, Mr.
6 Tummonds, we can get started.

7 MR. TUMMONDS: I just have one. A
8 minor preliminary matter is that we have
9 earlier today submitted our résumés of expert
10 witnesses for Mr. Slade, traffic engineering;
11 and our two project architects Dwight Fincher
12 and Phil Tobey. All of these gentleman have
13 been admitted as expert witnesses by either
14 the BZA or the Zoning Commission.

15 VICE-CHAIRMAN DETTMAN: Great.
16 Board Members, any questions for the expert
17 witnesses that have been proffered?

18 (No audible response.)

19 VICE-CHAIRMAN DETTMAN: I think by
20 consensus of the Board we'll recognize them as
21 expert witnesses and afford their testimony
22 the weight that it deserves.

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1 MR. TUMMONDS: Great. Wonderful.

2 We are here this afternoon on
3 behalf of Sibley Hospital seeking relief in
4 order to construct an addition to the Sibley
5 Hospital campus located at 5255 Loughboro
6 Road, N.W. The addition that we are
7 presenting today includes a new cancer center,
8 a new patient pavilion and an new emergency
9 department. We believe that this is a simple
10 and straightforward application and have
11 tailored our presentation this afternoon to
12 succinctly address all pertinent issues.

13 The proposed addition requires
14 three areas of relief. First, variance relief
15 to allow an FAR of 1.38 for the hospital's
16 facilities on the Sibley campus; two, special
17 exception relief to allow roof structure of
18 varying heights and roof structure setback
19 relief; and three, variance relief to allow
20 cooling towers on the roof that exceed the
21 eighteen-foot-six-inch height limitation.

22 Our prehearing statement dated

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1 November 20th, 2009 exhaustively reviewed the
2 applicant's satisfaction of the special
3 exception and variance relief standards.
4 Granting the requested special exception
5 relief for the proposed roof structures is in
6 harmony with the general purpose and intent of
7 the Zoning Regulations and will not adversely
8 affect the use of neighboring property.

9 In regards to the requested FAR
10 variance relief, in variance relief for the
11 proposed height of the cooling towers, we have
12 set forth in detail the factors that address
13 the uniqueness of the property, the practical
14 difficulty the applicant faces in complying
15 with the Zoning Regulations and the fact that
16 the requested relief will not provide harm to
17 the public good or Zone Plan.

18 The Office of Planning has
19 reviewed our application and supporting
20 materials and full supports this application
21 with no conditions.

22 There are numerous letters and

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1 resolutions of support found in the record of
2 this case, including support from ANC-3D, the
3 Palisades Citizens Association and the Spring
4 Valley West Homes Association.

5 We have three witnesses this
6 afternoon. First, Jerry Price, senior vice-
7 president of Sibley Hospital will testify as
8 to Sibley Hospital's history of use on the
9 site and the need for the new hospital
10 facilities. Phil Tobey will walk through the
11 various components of the new hospital and
12 will address the practical difficulty in
13 complying with the strict requirements of the
14 Zoning Regulations. Finally, Lou Slade will
15 highlight the conclusions of the traffic
16 impact study that was prepared by Gorove/Slade
17 Associates and was included in the November
18 20th, 2009 prehearing statement.

19 With that, I'll have Mr. Price
20 present his testimony.

21 MR. PRICE: Good afternoon. As
22 stated, my name is Jerry Price. I'm the

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1 senior vice-president at Sibley Memorial
2 Hospital. I have been at Sibley for 24 years.
3 Robert Sloan, the president and CEO of Sibley
4 is approaching his 25th anniversary at Sibley.
5 We both have worked in the District of
6 Columbia since the late '70s and we think we
7 understand the challenges of health care in
8 our community. During that time, we have
9 watched four hospitals disappear from the
10 District of Columbia.

11 The mission of Sibley Hospital is
12 in part to provide quality health services and
13 facilities to the community. Sibley has
14 operated in the District of Columbia since
15 1890. Originally, the hospital was on North
16 Capitol Street. And since 1961, we have been
17 at our current location on Loughboro Road.

18 When the hospital moved in 1961,
19 it was a 362-bed hospital. Over the years we
20 have reduced the operating beds due to changes
21 in technique, technology and insurance. Today
22 we are licensed for 328 beds and we operate

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1 230 beds. Now is the time to plan to increase
2 the operating beds and replace the aging
3 infrastructure.

4 Our current semi-private rooms are
5 small. The nurses actually have to remove the
6 bed closest to the door to get the bed closest
7 to the window out of the room. Patients share
8 toilets and there are no showers in the semi-
9 private rooms. So with this project we want
10 to build a new pavilion of private rooms to
11 replace the soon-to-be 50-year-old semi-
12 private rooms.

13 Private rooms are highly sought
14 after and are nearly mandated by local
15 jurisdictions, regulators, planners and
16 professional advocacy groups. Private rooms
17 are desirable because they provide for
18 enhanced infection control techniques.
19 Numerous studies have concluded that single-
20 patient rooms reduce hospital infection rates.
21 They provide for improved ventilation and
22 provide for greater hand hygiene and private

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1 bathrooms. They enable more space for
2 families, including sleepover accommodations.
3 With this project we want to improve energy
4 efficiency and this pavilion will be a LEED-
5 certified project. And private rooms in the
6 literature have been shown to reduce
7 medication errors.

8 The pavilion project also includes
9 a new emergency department and cancer center.
10 We're nearly at capacity in our emergency
11 department that was last renovated in 1998.
12 This new emergency department will permit us
13 to accommodate the growth we're experiencing,
14 as well as provide capacity for the future.
15 The emergency department will include a new
16 facility for fast-track treatment. This will
17 substantially improve service levels for those
18 with minor emergencies, thus improving patient
19 satisfaction.

20 In addition to replacing aging
21 infrastructure, the population is aging and
22 the number of Medicare recipients is growing

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1 daily. In 2009, there are 46 million Medicare
2 beneficiaries. In 2020, there will be 61
3 Medicare beneficiaries, an increase of 34
4 percent. As the population ages, it consumes
5 more inpatient resources. The aging of the
6 Boomers and their increasing numbers is often
7 referred to as "the Perfect Storm" for health
8 care.

9 Health reform will also have an
10 impact. The Lewin Group has estimated that
11 hospital utilization will increase up to five
12 percent due to health reform when nearly all
13 Americans have health insurance.

14 We are anticipating undertaking
15 all of the construction in one continuous
16 stage process. Construction will start with
17 the cancer center. Once the cancer center is
18 completed, we will proceed with the demolition
19 of Hayes Hall. After Hayes Hall is
20 demolished, we will begin construction of the
21 new patient pavilion and emergency department.
22 Construction of all the new facilities is

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1 expected to be completed by 2015.

2 We are proposing 268 beds when the
3 new pavilion opens in 2015. That's 228 beds
4 in the pavilion and 40 in the existing
5 hospital. Then eventually we'd like to
6 operate 308 beds in the year 2020. That's 268
7 in the pavilion and 40 in the existing
8 hospital. This is still well below our
9 licensed capacity of 328 beds and considerably
10 below the 362 beds of the original hospital on
11 Loughboro Road.

12 Several years ago the community
13 asked us to develop a master plan for the
14 campus, so we did that. And we presented the
15 master plan to them to seek their approval for
16 this project. At that time they then
17 requested that we seek their approval for one
18 project at a time. So at that point, we
19 sought the approval of the community for the
20 medical building project, which is underway
21 right now.

22 So, this pavilion project has been

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1 known to the community for some time. And
2 recently, the details of this project were
3 presented, too. We started with the Loughboro
4 Road neighbors, the folks who live right
5 across the street, November 19th, 2008. We
6 then went to the Palisades Citizens
7 Association, December 2nd, 2008. And then
8 made a presentation to Ward 3D ANC on January
9 7th, 2009. Spring Valley West Homes
10 Corporation, which is the big homes
11 association in the Spring Valley neighborhood
12 on January 15th, 2009. So, those meetings
13 were to assess what the neighbors thought of
14 our original plans and to make adjustments.

15 Once those adjustments were made,
16 we started all over again. So we met with the
17 Loughboro Road neighbors on September 9th,
18 2009, Spring Valley West Homes Corporation on
19 September 17th, 2009, the Palisades Citizen
20 Association on November 3rd, 2009, and ANC-3D
21 in November 2009. We went back to the
22 Palisades Citizens Association for their vote

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1 and their eventual approval on December 1st,
2 2009 and back to the ANC-3D on December 2nd,
3 2009 for their eventual vote of seven to one
4 in favor of the project.

5 In addition to the documentation
6 that Mr. Tummonds spoke of, a letter of
7 support has also been submitted by Ward 3
8 Councilmember Mary Chay.

9 If you know anything about 3D ANC,
10 you know that they are tough and that they are
11 diligent in their review of the applications
12 that come before them. And so we are pleased
13 to say that at that meeting on December 2nd,
14 last week, ANC-3D adopted this resolution to
15 support our application by a vote of seven to
16 one.

17 The ANC's resolution included
18 seven conditions of approval. We
19 wholeheartedly agree with six of those
20 conditions and we would ask to modify one of
21 those. And that is the condition that we
22 replace approximately 1,200 square feet of the

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1 front parking lot with green space. They
2 wanted this to account for the slight increase
3 that we had in impervious surface. What we're
4 suggesting today as a substitute that we will
5 install a vegetative green room on the roof of
6 the cancer center. This roof will include
7 approximately 1,200 square feet of planted
8 area. And we believe that this condition, if
9 it were modified, would adequately address the
10 ANC's goal of minimizing the loss of green
11 space on the Sibley campus.

12 We are very excited about this
13 project. We are very committed to remaining
14 a responsible member of this community. We
15 are grateful for the opportunity to present
16 our testimony this afternoon and we will
17 welcome any questions that you have.

18 MR. TUMMONDS: Thank you. I'll
19 have Mr. Tobey present the plan.

20 VICE-CHAIRMAN DETTMAN: Before we
21 go ahead and do that, Board Members, do you
22 want to ask questions of each witness, or wait

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1 until the end?

2 (No audible response.)

3 VICE-CHAIRMAN DETTMAN: Wait until
4 the end? Okay.

5 MR. TUMMONDS: Mr. Tobey?

6 MR. TOBEY: Good afternoon. I'm
7 Phil Tobey. I've been a health care architect
8 for more than 40 years, all that time here in
9 the Washington area.

10 For the next couple brief moments,
11 or minutes, if you will, I'm going to give you
12 a walk-through, if you will, of the project.
13 And I'm going to refer you to the PowerPoint
14 presentation that we have on the wall to your
15 left.

16 I'd like to begin first of all by
17 orienting you to the campus of Sibley Hospital
18 with this aerial photograph. And for
19 orientation purposes, this is a view looking
20 toward the north. Loughboro is this along
21 this diagonal line on the slide, and Little
22 Falls is along the north side of the campus.

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1 Dalecarlia Parkway can barely seen here off to
2 the right. So for orientation purposes, this
3 is the existing Sibley Hospital. Behind it is
4 the existing cancer center, which I will come
5 back to a moment to tell you why that's
6 important. And then Hayes Hall and Ernst
7 Auditorium, two existing buildings that play
8 a role in the presentation that we're going to
9 make. So this is an orientation view, if you
10 will, of the existing campus, which at the
11 time it was photographed does not show the
12 under-construction MOB and parking garage
13 which you will see on the next illustration.

14 Here we have again the existing
15 plan, a site plan, if you will, with the
16 existing hospital here on the lower left.
17 Loughboro along the bottom of the presentation
18 slide. The existing cancer center is here.
19 Hayes Hall is here. The auditorium is here.
20 And here we are showing you the MOB under
21 construction and the parking garage under
22 construction, which for the purposes of this

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1 presentation we regard as two existing
2 components of the site.

3 A great deal of time and a number
4 of alternatives were developed for the concept
5 for the patient pavilion and the attendant
6 emergency department, and ultimately the
7 cancer center. As you might expect, one of
8 the more obvious locations for this pavilion
9 was originally going to perhaps be somewhere
10 in the existing parking lot along Loughboro.
11 That was one alternative. But after listening
12 to many of the neighborhood constituents and
13 working closely with the members of the
14 administration, it is clear to us that the
15 solution that made the most sense for many
16 reasons was to locate the patient pavilion
17 itself behind the existing hospital. This was
18 done for many reasons, but not the least of
19 which was to take the mass of the new
20 construction and basically shield it, if you
21 will, by the existing hospital.

22 And important factor I think in

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1 all of this is that there is a concourse, if
2 you will, a pedestrian concourse then that
3 runs across the face of the new construction
4 that ties the parking garage, the MOB under
5 construction with the proposed project shown
6 in gray, and ultimately with the existing
7 hospital shown in white.

8 In order to have made this concept
9 work an important factor occurred. The
10 existing cancer center, which was located
11 here, in this scheme is demolished and the
12 first phase of new construction, if you will,
13 is a new cancer center shown here next to the
14 existing MOB. Then as Mr. Price indicated,
15 phase II would be the demolition of two
16 buildings, Hayes Hall and the auditorium which
17 are located here and would remain existing
18 until the new construction was completed.
19 They will be demolished and then the rest of
20 the project will be completed. So important
21 factors are the replacement of the cancer
22 center and ultimately the demolition of Hayes

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1 Hall and the auditorium, which then allows
2 this project to nestle, if you will, back on
3 the northern most part of the site away from
4 Loughboro Road.

5 This is an axon, a model, if you
6 will, of the proposed scheme. Obviously the
7 new project is shown in the lighter color
8 again for orientation. And as you saw in the
9 aerial photo, here's the hospital, MOB,
10 garage. And I'll explain the circulation in
11 a moment, but the major circulation to the
12 hospital through the front door, which is
13 located here, if you will, this perpendicular
14 canopy element that ties into this concourse
15 that I mentioned before gives you a good
16 sense, I think, of how the massing of the
17 pavilion, a horseshoe-shaped or U-shaped
18 building which contains nursing units on both
19 of these wings, is tucked, if you will, to the
20 north side and back of the site. The cancer
21 center, which you'll see in some elevations,
22 is a very low one-story addition.

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1 So all of this is an eight-story
2 building, if you will, of which seven stories
3 and the concourse are above grade on this
4 side. And because the site slopes down to the
5 rear, the eighth floor, the emergency
6 addition, is on the back side and underneath
7 and approached from the north side of the
8 project.

9 Here is a schematic section, if
10 you will, through the building complex. The
11 existing buildings shown in blue; the proposed
12 building that we're referring to shown in
13 orange; and then to the right, the new medical
14 office building and new garage also indicated
15 in the section, not to scale obviously. But
16 the idea here is that this heavy line is the
17 concourse that I've been referring to all the
18 way through the presentation that runs along
19 through the project tying all the elements
20 together. The first two floors of the new
21 building are designed to connect horizontally
22 without slope to the existing floors of the

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1 hospital where much of the diagnostic and
2 treatment functions of the center will be
3 contained. They will remain in the existing
4 building, so that horizontal link is critical.

5 The upper levels of the pavilion,
6 if you will then, containing on almost every
7 floor 50 beds, contain the individual private
8 patient rooms which we can talk about in just
9 a moment.

10 Below the concourse level, and as
11 I mentioned before, accessed from the back
12 side of the site then is the emergency
13 department function that will have its own
14 access point from the north side of the
15 project.

16 These two diagrams I think are
17 helpful in understanding the issue before you
18 today. The diagram at the top is looking at
19 the pavilion from Loughboro. The medical
20 office building, the garage, with the existing
21 hospital dotted in, but of course removed for
22 purposes of illustration. So here is your

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1 existing hospital. Here is the existing Hayes
2 Hall that will be demolished. The pavilion as
3 proposed. The concourse, behind which is the
4 cancer center, and then the existing MOB and
5 garage.

6 The illustration below shows
7 basically what the actual condition will be
8 from Loughboro. This is the existing hospital
9 that will remain. And Hayes Hall will
10 basically be demolished. So in essence, we
11 are opening up, if you will, a good portion of
12 that zone back there that was blocked at one
13 point by Hayes Hall, so that again the new
14 pavilion is basically screened or tucked in
15 behind the existing hospital.

16 We're going to talk a little bit
17 about the height of the building as part of
18 our issue with you today. The parapet of the
19 building, the tan zone, is at 90 feet. The
20 mechanically-screened penthouses are at
21 eighteen-six. And the two cooling towers that
22 are part of this issue today are shown there

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1 in gray and there in gray, and they are seven-
2 six higher than the eighteen-six screened
3 penthouse shown here. And I'll show you a
4 roof plan in a moment to explain where those
5 occur.

6 These two renderings I think are
7 helpful in understanding again how the mass of
8 the project is organized. This is the
9 existing driveway, if you will, from
10 Loughboro. This is the existing front drive
11 to the current hospital on the left. With
12 Hayes Hall gone and the MOB to the right, this
13 is what you'll see of the pavilion that we are
14 proposing from the drive in this location.

15 Standing out on Loughboro,
16 hopefully on a day when there's no traffic,
17 we're looking across the parking lot, which
18 for purposes of this rendering we've removed
19 all of the planting, if you will, in front so
20 that you can see what's going on. Here's the
21 existing hospital. The pavilion that we've
22 been describing all through this presentation.

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1 The MOB to the right. This is almost 400
2 feet, if you will, from Loughboro itself so
3 that we've located basically the pavilion as
4 far to the rear of the site as we possibly
5 can.

6 I draw your attention again to the
7 penthouse shown here. We've illustrated it in
8 a dark gray, but I think we have agreed among
9 ourselves and with others that we will
10 probably treat this with a light material, not
11 unlike the material shown on the MOB. Again,
12 the two cooling towers, only one of which you
13 can barely see, is shown right here. Each of
14 the two cooling towers is pushed as far north
15 and as far to the rear of this site as we
16 could possibly do so.

17 Here is the roof plan, if you
18 will, of the new pavilion. This zone is the
19 new construction. The existing hospital is
20 shown here. As I will show you on the site
21 plan in a moment, the landscape plan with the
22 new entrance canopy here and the arrival

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1 point, we've created a new healing garden
2 courtyard that is an orientation point and a
3 way-finding point for the entire complex.

4 But looking again at the roof, if
5 you will, of the project, this is the lower
6 level cancer center roof which we've just
7 discussed will have a green roof on it. And
8 the lower level on the other side here is the
9 emergency roof, again set at the lowest level
10 of the project. And then the horseshoe-shaped
11 configuration that I'm showing you here is the
12 pavilion at 90 feet. The screened mechanical
13 room is shown here. And all of this equipment
14 is housed behind the eighteen-foot-six-inch
15 screen. The two cooling towers, this one to
16 the left and this one to the right, each one
17 located on a key arm, if you will, of the
18 pavilion are the two elements that are higher
19 than the eighteen-six. And as you can see,
20 we've pushed these cooling towers to the
21 absolute northern-most edge, the least
22 populated side, if you will, of the entire

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1 campus there.

2 The last illustrative site plan,
3 if you will, is an example of many drawings
4 that we have developed to talk about how we're
5 going to handle the landscape for the site.
6 If you've been to Sibley, I think your mind
7 probably thinks of it as a very lush, green,
8 verdant campus, and it is. We are certainly
9 going to enhance that. Obviously street trees
10 all the way around are going to be critical.
11 But the main entrance drive, the existing one
12 here and the new one coming in off of the east
13 end of the site past the existing garage, past
14 the MOB, is an alley, if you will, of trees
15 that take us past the lawn to an arrival
16 court. And that arrival court then connects
17 to the lobby, to the pavilion itself, and
18 behind which will be a heavily-planted healing
19 garden. So you can see that the core, if you
20 will, of the new construction will be heavily
21 planted and green. Not shown of course will
22 be additional planting around the rest of the

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1 site.

2 So, the final illustration then is
3 just a quick, if you will, snapshot rendering
4 of how the forecourt or arrival court would
5 look obviously like an iconic identifier. The
6 pavilion arrival point, which you drive along
7 underneath. Through the wall and beyond you
8 can see the healing garden and the courtyard.
9 And there's the new pavilion to your right.

10 So, that's a very quick overview,
11 if you will, of the project from an
12 architectural and planning point of view. And
13 I will turn it over to my colleague --

14 MR. TUMMONDS: If I could just add
15 one thing.

16 MR. TOBEY: Go ahead.

17 MR. TUMMONDS: Mr. Tobey, could
18 you explain to us, what is located to the
19 north of this site?

20 MR. TOBEY: To the north of the
21 site is the U.S. Corps of Engineers storm
22 water facility. I'm not sure that's exactly

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1 the right title, but it's the water treatment
2 plant, if you will, that's currently under
3 construction. So everything north of Little
4 Falls is a Corps of Engineers construction
5 project and ultimately a treatment facility.

6 MR. TUMMONDS: Great. Thank you.

7 Our final witness this afternoon
8 is Mr. Slade.

9 MR. SLADE: Thanks, Paul. Vice-
10 Chair Dettman, Members of the Board, my name
11 is Lou Slade. I live at 3550 Quesada. I work
12 at 1140 Connecticut, both in the District of
13 Columbia.

14 The traffic study that we
15 completed and that you've seen really has two
16 parts to it. One was to answer the technical
17 questions that DDoT has about peak hour
18 impacts of traffic in terms of capacity
19 analysis and delays. And the other was to
20 work with the ANC and the Palisades community
21 to give them some statistics on the order of
22 magnitude of the impacts. And those are

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1 estimates of daily traffic currently generated
2 at the campus and that would be generated by
3 this application once the new hospital is
4 built. So I'm going to break my presentation
5 up, which will be very short, into those two
6 categories. I just wanted you to have that
7 background.

8 Because we have a hospital here
9 and there are shift changes associated with
10 the medical staff, we looked at five different
11 peak periods, the five shift change periods at
12 7:00 a.m., 3:00 p.m. and 11:00 p.m., and found
13 that during those times of day when those
14 shifts change, and those are the majority of
15 employees that commute to and from this
16 hospital, they're well outside of the commuter
17 peak periods which start at 7:30 a.m. and at
18 5:30 p.m. So, a big part of the hospital
19 traffic takes place at a time when there's
20 very light traffic on the roads. And then of
21 course we have administrative staff and we
22 have the medical office building which is

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1 under construction and other people who travel
2 to and from the hospital campus during the
3 commuter peaks. And it turns out that those
4 are the more critical times. So, when we
5 looked at the peak hours for DDoT, it was the
6 standard 7:30 a.m. to 8:30 a.m., 5:30 p.m. to
7 6:30 p.m. peak hours.

8 And we did not include in the
9 report these lesser peaks that the hospital
10 generates. And what we found when we looked
11 at those peak hour conditions was that the
12 intersections around the hospital will handle
13 that traffic well within acceptable conditions
14 on an overall intersection basis.

15 You probably noticed in our report
16 there are two minor traffic movements that
17 have F conditions. And those are something
18 that we can't do anything about and we don't
19 really think are a significant problem.

20 Today, and in fact five years ago when we did
21 the medical office building traffic study, we
22 found that there's a commuter movement during

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1 the morning peak rush hour, 7:30 to 8:30 a.m.,
2 that passes by this site that really has
3 nothing to do with the hospital and probably
4 with the neighborhood. And that is,
5 southbound on Dalecarlia turning left to go
6 eastbound on Loughboro. It's a fairly heavy
7 traffic movement and it registers as a level
8 of service F. When you go out and look at it
9 in the field, you see there's a little bit of
10 backup and some delay, but it's not a big
11 problem. It's not solvable either, not that
12 it needs to be solved. But you wouldn't want
13 to put a traffic signal there just to
14 accommodate that occasional problem.

15 The other level of service F is a
16 minor one coming out of the campus on Little
17 Falls Road to turn left onto Dalecarlia, again
18 a stop sign movement onto a street that does
19 not have to stop, like the first one I
20 mentioned. These are employees leaving the
21 hospital campus at the end of an
22 administrative work day at 5:30, and they have

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1 other choices. So, we think that while we're
2 forecasting there will be some delay here, the
3 employees are intelligent and if they're
4 delayed a couple of times, they'll say I'm
5 going to try to go out a different exit from
6 the campus, and they'll find those other exits
7 work better. So, from the standpoint of
8 traffic impacts from the criteria that DDoT
9 uses, we find that the expansion of the
10 hospital rooms will have no significant
11 impact.

12 From the standpoint of the
13 concerns the community raised about how much
14 additional traffic are we going to have on a
15 daily basis, there has been some confusion
16 because we have a lot of numbers here that are
17 floating around, and I want to clarify that as
18 I did for the ANC the other night, and I think
19 they understood and were satisfied.

20 Today, when we go out and do a
21 traffic count, we count about 6,440 cars over
22 a 24-hour period generated at the hospital

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1 during the peak winter season on the peak day
2 of the week, which is the day that they induce
3 labor at Sibley Hospital. So, about 6,440
4 cars. Maximum number of trips to and from the
5 hospital. We think it's about the 95th
6 percentile day.

7 And by the way, I'm on page 9 of
8 our report. There's a middle paragraph called
9 "New Hospital Traffic," if you want to follow
10 me here.

11 The medical office building will
12 generate; this is an estimate, because it's in
13 the future, in the near future, because the
14 building's under construction -- will generate
15 an additional 3,890 vehicle trips per day.
16 These are people who today are going to their
17 doctor's office elsewhere, perhaps in the same
18 neighborhood. My doctor is nearby Sibley
19 Hospital. The doctors who choose to have
20 office space in this building, people who want
21 to visit their doctor, will now come to this
22 building instead of elsewhere in the Northwest

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1 D.C. So, that's an additional 3,890 trips a
2 day.

3 This application that's before you
4 for the exceptions and variances adds 78 beds,
5 and those are the real generators of trips for
6 this application. And those 78 beds, we
7 estimate, will generate an additional 1,620
8 trips a day. Now, on a percentage basis,
9 that's an increase -- that's 1,620 trips
10 associated with the beds will be a 17 percent
11 increase over what's already approved,
12 including the medical office building. So,
13 it's a 17 percent increase.

14 Now, I'm going to tell you
15 something else about the hospital traffic.
16 Sixty-two percent of the traffic to and from
17 the hospital comes from MacArthur Boulevard to
18 and from the north and Dalecarlia Parkway to
19 and from the northeast. Much of it of course
20 is coming from Maryland and going back home to
21 Maryland. And we know this from two sources
22 of data. One was zip code tabulations of

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1 place of residence of employees, doctors and
2 patients that we pulled together for the
3 medical office building traffic study. So, 62
4 percent of people are coming to and from the
5 north based on their place of residence
6 location.

7 That means 38 percent are coming
8 to and from the south on MacArthur Boulevard
9 or to and from the east on Loughboro Road. So
10 when we take that 1,620 new trips and
11 distribute them on those roads and compare
12 them with the amount of traffic on those two
13 roads, MacArthur Boulevard to and from the
14 south in the District, Loughboro to and from
15 the east in the District, they only add a very
16 small percentage; 2.67 percent on MacArthur
17 Boulevard, 1.47 percent on Loughboro Road.
18 That's because MacArthur Boulevard is already
19 carrying on a daily basis 17,000 cars a day.
20 And we take that 1,620 and its percentage on
21 that section of MacArthur, it's that small
22 percentage of 2.67. And likewise on

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1 Loughboro.

2 And with that, I'll only mention
3 one other thing. Many commitments were made
4 by Sibley when the medical office building
5 approval process took place, including a
6 significant investment in the improvements to
7 the intersection of Dalecarlia with Loughboro
8 and Little Falls with Dalecarlia. Those are
9 under construction or about to be under
10 construction. And those solved a lot of the
11 traffic problems that were occurring at that
12 time. And that's a good reason why the
13 additional 78 rooms don't have any significant
14 impact at that location.

15 In addition, four components of
16 the Traffic Demand Management Plan were put
17 into place, one of which is already operating,
18 and that is a shuttle bus from the hospital to
19 the Friendship Heights Metro station. And
20 then with this application, Mr. Price is
21 adding that administrative staff will be
22 permitted to telecommute up a number of FTEs,

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1 full-time equivalents. So the hospital will
2 continue to try to reduce its traffic demand,
3 as well as make an investment in major traffic
4 improvement. Thank you.

5 MR. TUMMONDS: I just have one
6 follow-up question for Mr. Slade.

7 Mr. Slade, in the ANC-3D
8 resolution; and I'm looking at the third
9 paragraph on the second page. The ANC
10 resolution refers to the fact that Sibley
11 should have developed a plan to mitigate the
12 impact of a 90 percent increase in traffic
13 flow. Does this project result in a 90
14 percent increase in traffic flow?

15 MR. SLADE: It does not, and that
16 was what I was trying to clarify when I went
17 through that average daily traffic discussion.

18 MR. TUMMONDS: Thank you.

19 That concludes our presentation.
20 We're available to answer any questions that
21 you may have.

22 VICE-CHAIRMAN DETTMAN: Thank you,

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1 Mr. Tummonds.

2 Board Members, do you have
3 questions?

4 MEMBER TURNBULL: Thank you, Mr
5 Chair.

6 On the MOB, are you modifying that
7 building in any way?

8 MR. TUMMONDS: No.

9 MEMBER TURNBULL: No?

10 MR. TUMMONDS: You know, as Mr.
11 Turnbull remembers as a member of the Zoning
12 Commission, the MOB was a PUD project because
13 in order to allow an office building use on
14 this R-5-A Zone site, we had to change the
15 zoning. So the MOB, you know, we put it --
16 because it's obviously a part of the campus,
17 it's a part of Sibley's goals for the future,
18 but it has nothing to do with this BZA
19 application that's before you.

20 MEMBER TURNBULL: I was just
21 curious whether we were going to see a visit
22 from you for a modification for the PUD.

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1 MR. TUMMONDS: No.

2 MEMBER TURNBULL: Could you show
3 on the new building where the green roof is?
4 I was trying to follow it and wasn't quite
5 sure. There's not a plan that really shows
6 where the whole area is.

7 MR. PRICE: The green roof will be
8 on the top of the new cancer center, which is
9 the low roof, if you will, directly behind the
10 concourse.

11 MEMBER TURNBULL: Okay. So
12 there's nothing then on getting back to the
13 other roofs then?

14 MR. PRICE: Right, this is the
15 MOB, of course, which we just discussed. The
16 upper level, the roof, if you will, on top of
17 the eight-story pavilion is mechanical
18 equipment and so forth. So this is where the
19 green roof is, on the cancer center.

20 MEMBER TURNBULL: So the cancer
21 center is about 12,000 square feet?

22 MR. PRICE: It's actually bigger

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1 than that. The area that we thought we could
2 put a vegetative roof, when we refer to green
3 roof, is about 12,000 square feet. There's a
4 little line there. That's actually a bump up
5 in the roof, and that's the top of those
6 linear accelerator vaults and we're not going
7 to plant up on that.

8 MEMBER TURNBULL: Okay. I was
9 just looking at the one. There was one
10 perspective which showed the penthouse. And
11 it looks massive. And I agree with your
12 comment that the way it is gray makes it stand
13 out a lot more than you really want it to.

14 MR. PRICE: Right, if you notice
15 the --

16 MEMBER TURNBULL: It looks like a
17 whole floor.

18 MR. PRICE: Well, you notice on
19 the MOB is a lighter material.

20 MEMBER TURNBULL: Yes.

21 MR. PRICE: We're going to
22 replicate that same material here. That

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1 penthouse is eighteen-six.

2 MEMBER TURNBULL: Yes. Well, talk
3 about the cooling tower. You mentioned it had
4 to be taller. What's the technology that is
5 driving?

6 MR. FINCHER: Well, right now
7 there are tremendous burdens put on the HVA
8 systems on hospitals and health care
9 facilities. And a lot of what drives that are
10 major concerns for infection control,
11 isolation of airborne pathogens and issues of
12 decontamination either from manmade or natural
13 mass casualty events. I think that is what's
14 driven the 2006 guidelines to make the
15 requirements for HVAC unique to health care.
16 And we're going to see even more of that with
17 emphasis in the 2010 guidelines with respect
18 to SARS and MERSA. And it's just going to get
19 more and more restrictive and in terms of,
20 again, isolation and infection control.

21 Other issues really specific to
22 health care are smoke and fire control. For

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1 the evacuation plan, fire protection plan for
2 hospitals is what's called defend-in-place.
3 So what's critical about that is you evacuate
4 the smoke and handle the emergency in that
5 sense, and that has a tremendous burden in
6 terms of the air control systems that drive
7 that.

8 Another aspect is redundancy in
9 terms of the systems in case of outage. You
10 can't have any of these mechanical systems,
11 air systems go down. So there's redundancy
12 involved as a part of all of these systems.

13 MR. TUMMONDS: So you have a
14 generator backup system?

15 MR. FINCHER: Yes, actually we
16 have two emergency generator backup systems
17 that are located on top of the mechanical
18 system roof. But it's not just emergency
19 generators in terms of that. It's in terms of
20 air volume and air circulation and air
21 handlers.

22 I would like to mention that in

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1 some of the initial presentations and some of
2 the early concepts that we brought to the
3 community we did have a full footprint
4 penthouse with all the mechanical equipment on
5 top of the roof. We've actually split the
6 system now and created a basement condition,
7 where we've brought the air handlers, and a
8 good significant portion of that mechanical
9 equipment down to a lower level. And right
10 now the cooling towers that we're talking
11 about are only about three percent of the area
12 of the total roof area of the hospital.

13 MEMBER TURNBULL: It looks like
14 it's part of that. It looks like you've got
15 two basic penthouse areas and you've sort of
16 tied them together with a wall all the way
17 along the front trying to --

18 MR. FINCHER: That's to create a
19 unifying visual effect because what that does
20 is screen the elevator penthouses also.

21 MEMBER TURNBULL: Okay.

22 MR. FINCHER: So you don't have a

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1 series of pop-ups here and there.

2 MEMBER TURNBULL: Yes. I've got a
3 couple of other questions. You have 268 beds
4 now? Was that it?

5 MR. PRICE: What we have now or
6 what we're proposing? Well, you're going to
7 a total of 308, 308 in 2020. When we open the
8 facility in 2015, we want to have a total of
9 268. That would be 228 new and 40 in the
10 existing building. We're going to leave the
11 psych beds and the ICU beds where they are.

12 MEMBER TURNBULL: But all of the
13 new rooms are going to be single rooms?

14 MR. PRICE: Yes.

15 MEMBER TURNBULL: So the only
16 doubles, or whatever, or combined are going to
17 be in the old hospital?

18 MR. PRICE: No, there won't be any
19 old.

20 MEMBER TURNBULL: There won't be
21 any?

22 MR. PRICE: No, because the ICU

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1 beds now are already private, as you can
2 imagine.

3 MEMBER TURNBULL: Okay.

4 MR. PRICE: And the psych beds are
5 private. So, the beds that are private, stay
6 private.

7 MEMBER TURNBULL: So, basically
8 you're going to an all private room?

9 MR. PRICE: It will be all private
10 rooms.

11 MEMBER TURNBULL: Is that a trend
12 in the hospital?

13 MR. PRICE: That is a trend. That
14 is not only a trend, but as I said in my --
15 it's a requirement. The building guidelines.
16 If you talk to the Department of Health, if
17 you talk to any of the sort of professional
18 advocacy groups like the Infection Control
19 Practitioners, this is the trend. People
20 don't want to be sharing toilets with other
21 folks. Lots of concern about blood and body
22 fluid precautions. There are some very famous

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1 mistakes that have happened in hospital due to
2 mistaken identity, mixed identity. Doing a
3 blood transfusion on patient A when it was
4 meant for the patient in bed B. So there's a
5 whole bunch of things. Lots of national
6 movements are moving towards all private
7 rooms.

8 PARTICIPANT: And I would just
9 note for the record, on page 6 of our
10 statement we refer to the industry standard
11 reference for all health care construction in
12 the United States, the Guidelines for Design
13 and Construction of Health Care Facilities
14 2006, which Mr. Fincher mentioned. It sets
15 forth requirements for all new medical
16 facilities. The guidelines mandate private
17 rooms in all new health care construction.

18 PARTICIPANT: And those guidelines
19 have been adopted by the District Department
20 of Health.

21 MEMBER TURNBULL: Okay. Great.
22 Thank you. The cancer facility is research?

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1 MR. PRICE: No, it's really
2 radiation oncology. Right now it has three
3 linear accelerators and the staff that goes
4 with that. And this facility will be built
5 for four vaults with linear accelerators.

6 MEMBER TURNBULL: Okay. Thank
7 you.

8 MEMBER MOLDENHAUER: The green
9 vegetative roof on top of the cancer center,
10 is that going to be accessible to patients as
11 an outdoor garden area also, or is it just
12 going to be sustainable purposes?

13 MR. PRICE: Sustainable purposes.

14 MR. TUMMONDS: Right now, if I can
15 interject, in terms of our LEED 2.2, we
16 submitted to the U.S. Green Building Council
17 for LEED registration and certification for
18 the project. As a part of that, we already
19 have a reflective roof, or what we call a
20 green roof. I mean, there's two terms for a
21 green roof. One is a reflective and one is
22 actually vegetative. Right now we have the

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1 reflective roof as a part of our application.

2 MR. PRICE: And if I could just
3 clarify, we're suggesting this vegetative
4 roof, which interestingly is about the size of
5 the increase in impervious area on the lot,
6 and so the ANC asked us to try to create more
7 green space out along Loughboro Road. But
8 we're suggesting, we like the idea, but let us
9 get our net add in green space back by doing
10 this vegetative roof on the cancer center.

11 MEMBER MOLDENHAUER: One other
12 question either to Mr. Slade regarding
13 traffic, or it might actually also be for Mr.
14 Price. I'm familiar with this area; I grew up
15 here, so I used to drive Dalecarlia probably
16 faster than I should have at times. But I
17 understand that obviously that's given an F
18 for other factors, both relating to the
19 hospital and also not relating to the
20 hospital. And I guess my question is, what
21 kind of methods or procedures is the hospital
22 looking at potentially putting in place? You

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1 mentioned that maybe its employees would learn
2 not to take that area during certain times.
3 Have you looked at actual methods or
4 procedures to put into place to try to reduce
5 potential impact on that area?

6 MR. SLADE: First of all, the
7 design of the intersection is going to make it
8 safer even for people like you and me who
9 speed a little bit occasionally, because it's
10 so hard to not do that. So that as you
11 approach the intersection along Dalecarlia,
12 there will be advance warning signs that will
13 remind you that you're coming into the
14 intersection area and so forth.

15 MEMBER MOLDENHAUER: And is that
16 the construction or the improvements that you
17 said are already in place, or already started?

18 MR. SLADE: That are started.

19 MEMBER MOLDENHAUER: Okay.

20 MR. SLADE: The construction is
21 starting. It was a public works project paid
22 for by the hospital. It's really a DDoT

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1 project that we designed, DDoT approved and --

2 PARTICIPANTS: Those are
3 requirements of the MOB approval.

4 MR. SLADE: This condition that I
5 refer to where you're coming out of Little
6 Falls Road, leaving the campus to come out
7 onto Dalecarlia, there will be some delay
8 there, we project, as employees are leaving,
9 and some patient visitors and patients
10 themselves, between 5:30 and 6:30 p.m. It's
11 our experience that people figure that out and
12 they say that's always a little congested. I
13 can go out on the other side out onto
14 MacArthur Boulevard if I'm heading north into
15 Maryland and find my way over to the Mass.
16 Avenue corridor, if that's where they're
17 headed. So, we think it will work itself out.

18 Jerry Price has said that he can
19 direct employees by using cones at the garage
20 entrances so they turn left out onto Little
21 Falls instead of right, if it becomes a
22 chronic problem that the employees don't

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1 adjust their own patterns for. So, we think
2 we've got it covered quite well, and it's a
3 relatively small situation. I mean, it's the
4 kind of thing we all experience coming out of
5 a parking facility or a campus.

6 MR. PRICE: One of the other
7 things we're going to do is we're going to put
8 a deceleration lane southbound on Dalecarlia
9 as you kind of come downhill and come back up.
10 There will be a deceleration turn lane to turn
11 right onto Little Falls Road. So, that's good
12 for that. But what that also does is it cuts
13 back that radius. So when you come out there
14 from Little Falls to make the left turn onto
15 Dalecarlia, you'll be able to see a lot
16 further down when you're making that left turn
17 to see the traffic coming up the hill. So, we
18 think that will help, too.

19 MEMBER MOLDENHAUER: Okay.
20 Wonderful. Thank you.

21 VICE-CHAIRMAN DETTMAN: Just to
22 follow up with Ms. Moldenhauer's question

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1 specific to that intersection along
2 Dalecarlia, I noticed in your filings that you
3 intend, to by way of signage, make this
4 particular intersection the main entrance into
5 the hospital. And reading that, along with
6 that particular paragraph in the ANC
7 resolution about doing what you can and by way
8 of a plan to reduce the F-level service to C
9 or better, I'm just wondering, do your plans
10 for that intersection actually have a
11 detrimental effect on performance of the
12 existing level of service of that intersection
13 and go against what the ANC wants you to do?

14 MR. SLADE: No, and it's really
15 just the opposite, and this is a very good
16 working relationship that the hospital with
17 the ANC and the community. One of the demand
18 management items that was discussed and
19 debated when we were doing the medical office
20 building was to put initiatives in place to
21 induce people to use Little Falls more and
22 Loughboro less.

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1 So today, when you're driving out
2 MacArthur Boulevard, for example, to the
3 hospital, the sign tells you to turn right
4 onto Loughboro and then left into the
5 hospital. In the future, very near future,
6 that sign will be changed and will direct
7 people to continue on MacArthur and turn right
8 onto Little Falls and enter either direct to
9 parking, if you're a visitor or an employee,
10 or if you want to get to the front door,
11 you'll be able to come around to the front
12 door that way. People who know the
13 neighborhood will make their choice. But
14 people who are occasional visitors will be
15 directed to use Little Falls more, just to
16 take the traffic away from the community.
17 That's what the ANC really wanted five, four
18 years ago when we were doing the medical
19 office building.

20 The result is, we do focus some
21 traffic, as you rightly pointed out, at Little
22 Falls and Dalecarlia, but we think that's the

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1 better place to bring the traffic to the
2 hospital. It's away from front yards of homes
3 on Loughboro, and it's quite manageable. And
4 the new intersection is designed to handle it
5 in a safe way and in an efficient way so that
6 we have, sa Jerry mentioned, the deceleration
7 lane, which is a right turn lane that gets
8 people off of that fast section of Dalecarlia
9 so they can slow down safely without being
10 rear-ended. And the left turn lane so that
11 when you're turning onto Little Falls, you're
12 out of traffic again and the Dalecarlia
13 traffic can move by.

14 We think we've got a really good
15 solution with this new intersection and that
16 making it new there will be much more clarity
17 for drivers. Today when you're coming from
18 Dalecarlia to Loughboro you come to this wide
19 angular angled entrance onto Loughboro, and
20 it's difficult and unsafe. It will be much
21 better.

22 VICE-CHAIRMAN DETTMAN: Your

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1 conclusion on page 37 of your report, it's the
2 total future levels of service, you know, it's
3 showing and end result of a 231-second delay
4 at that intersection southbound on Dalecarlia.
5 Does that take into account the deceleration
6 lane?

7 MR. SLADE: This is that outbound
8 movement from Little Falls out onto
9 Dalecarlia, that left turn. And we've all
10 driven in a situation like this. You're at a
11 stop sign, but the street you're trying to
12 enter at a T-intersection, the traffic does
13 not have to stop, and that's the existing
14 situation.

15 VICE-CHAIRMAN DETTMAN: Yes.

16 MR. SLADE: So, you will be
17 delayed. I think if you're an employee,
18 you'll discover that there are better
19 locations to leave the campus at that
20 particular time, or you'll stay at your desk
21 a little bit longer and write two more emails,
22 or whatever.

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1 VICE-CHAIRMAN DETTMAN: Okay. I
2 was actually reading the diagram wrong. I was
3 thought the stop sign was a three-way stop.
4 Thank for that clarity.

5 Board Members, any questions?

6 MEMBER TURNBULL: After having
7 been through the PUD and spending three
8 nights, or I forget how many nights we had, a
9 lot of the impact from that project has taken
10 the edge off what they're doing on this, I
11 think.

12 VICE-CHAIRMAN DETTMAN: Okay.
13 Well, if there are no questions right now from
14 Board Members, Mr. Tummonds, does that
15 conclude your presentation?

16 MR. TUMMONDS: Yes, it does.

17 VICE-CHAIRMAN DETTMAN: Great. I
18 think we can move onto the Office of Planning.

19 MS. THOMAS: Good afternoon, Mr.
20 Chairman, Members of the Board.

21 The Office of Planning reviewed
22 Sibley's application and recommends approval

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1 of the variance relief from the FAR and roof
2 structure requirements for the following
3 reasons:

4 The hospital is an established
5 public service entity with institutional needs
6 which constitute exceptional circumstances.
7 There is a need to modernize and improve
8 patient care in a building which maintains
9 efficiency and continuity of services. Thus,
10 its required space needs present exceptional
11 circumstances which are unique to this type of
12 institution.

13 The existing FAR and the FAR which
14 would result from the proposed demolition of
15 two of its buildings would be insufficient
16 square footage to provide for primary patient
17 care and hospital services, and in a building
18 within the confines of the R-5-A District's
19 prescribed 0.9 FAR.

20 The use of the outdated hospital
21 structure would result in an inefficiently out
22 and inadequate floor to ceiling height

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1 required for larger modern private patient
2 rooms, as well as medical equipment rooms and
3 storage. The requested density is intended to
4 support only 70 additional beds in private
5 rooms designed to modern code requirements and
6 a new emergency room.

7 OP sees no harm to the Zone Plan
8 as the zone is intended to accommodate
9 institutional uses and the hospital is a
10 longstanding use within the institutional
11 category of the general policy map and future
12 land use map. And it is also supported by the
13 Comprehensive Plan.

14 The increase in the number of beds
15 would be phased in over time through 2020 and
16 traffic impacts should be minimal due to the
17 increased number of beds as Sibley has
18 committed to a Traffic Management Plan as part
19 of the MOB's Zoning Commission approval.

20 With respect to the roof structure
21 setback, the larger cooling towers would not
22 meet the one-to-one setback requirement on the

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1 roof, but it would provide the air handling
2 capacity for the intended upgrade and it would
3 create a practical difficulty to remove core
4 building features such as these and locate
5 them elsewhere.

6 We also see that this would not be harmful to
7 the intent of the Zone Plan as the height of
8 the towers would be partially obscured from
9 view off of Loughboro Road. The light and air
10 to neighboring buildings would not be affected
11 due to the distance from the closest
12 residential structures to the south of the
13 campus.

14 Similarly, OP supports the special
15 exception for roof structure relief pertaining
16 to the penthouses and mechanical equipment in
17 a single enclosure, and the enclosure being of
18 unequal height. The proposed would reduce the
19 massing on the roof and visibility from
20 surrounding properties.

21 And with that, I'll be happy to
22 take any questions.

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1 VICE-CHAIRMAN DETTMAN: Thank you,
2 Ms. Thomas.

3 Mr. Turnbull, any questions?

4 MEMBER TURNBULL: I just had one
5 question. A report from our friends at DDoT.
6 Have you seen anything?

7 MS. THOMAS: No, I have not. But,
8 I know that OP and the applicant and DDoT have
9 met several times regarding this application
10 during the course of the year.

11 MEMBER TURNBULL: Okay.

12 MR. TUMMONDS: I may help that.
13 Submitted into the record, I think, is Exhibit
14 No. 31. Filed on November 24th was a DDoT
15 report requesting that the case record be open
16 until Tuesday, January 5th in order for DDoT
17 to comment. I will reserve my comments about
18 that until the appropriate time.

19 MEMBER TURNBULL: Well, I mean, I
20 see it on our exhibit log, but I didn't have
21 a copy of it. So, I was just curious whether
22 we really had seen one. Thank you.

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1 VICE-CHAIRMAN DETTMAN: Ms.
2 Thomas, in light of DDoT's report, or request
3 to keep the record open, did you have any
4 discussions with DDoT? And I know that our
5 Exhibit No. 31 says that they didn't have a
6 chance to review the transportation study, but
7 did you have any discussions with them and can
8 you provide information in any concerns that
9 they may have had with the project?

10 MS. THOMAS: We all met with the
11 applicant. Both DDoT and OP met in the
12 presence of the applicant. At no time did
13 DDoT and OP had any discussions concerning any
14 major traffic concerns with the MOB or with
15 the proposed addition to this wing. On our
16 final meeting between OP, DDoT and the
17 applicant, I didn't get a sense that the
18 concerns were specific enough to this
19 application. The concerns addressed traffic
20 along Dalecarlia, as Mr. Slade explained, and
21 I think that Mr. Slade brought out that that
22 impact, the percentage of traffic which would

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1 add to Loughboro or Dalecarlia was very
2 minimal. And they had nothing to say about
3 that either, but I would tend to think they
4 agree. But, there was nothing specific
5 related to the addition.

6 VICE-CHAIRMAN DETTMAN: Okay.
7 Thank you.

8 Board Members, any questions for
9 the Office of Planning with respect to the
10 report that they've provided to us?

11 MEMBER TURNBULL: No, I just think
12 that going back to the PUD, which, you know,
13 obviously I think that's set up and it looks
14 like that's being followed through, other than
15 the new entry for people coming to the
16 hospital. I'm looking at page 4 of the site
17 circulation. DDoT was very involved back in
18 the PUD. And we recall we have the lay-by for
19 the buses, we have the bus stop. I mean, it
20 seems like a lot of this was really worked
21 out. I'm not sure how they're going to come
22 back and comment since I think a lot of the

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1 things that are being implemented come back
2 from the PUD and the neighborhood. I think
3 the neighbors were heavily involved in how
4 they wanted to see traffic circulating through
5 here. So, I'm not sure what we're going to
6 get from them.

7 VICE-CHAIRMAN DETTMAN: Well, we
8 can take up their requests at the conclusion
9 of the hearing, but this would be the time
10 that we would actually have DDoT present their
11 report, and noting that they're not here.

12 Mr. Tummonds, I'm wondering, you
13 had said that you might have some comments
14 respect to DDoT's report, and is this the time
15 that you wanted to address that?

16 MR. TUMMONDS: You know, I will
17 just -- you know, this is not -- our concerns,
18 and I'm sure you share them, on other projects
19 we're seeing this more and more, that DDoT is
20 allowed to participate in this process. We
21 filed the application, the original
22 application on September 15th, 2009. Exhibit

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1 D to that original application was a
2 Gorove/Slade report. We then filed the
3 updated report, that they required time. I
4 agree with Commissioner Turnbull. The
5 traffic-related issues, you know, the
6 framework for traffic for this project were
7 really dictated by the MOB. We're satisfied
8 those.

9 We think that our report from
10 Gorove/Slade Associates adequately addresses
11 all the traffic impacts, and as a precursor to
12 our discussion later, I don't think it's
13 necessary to hold the record open on this case
14 to allow a DDoT report to come in on January
15 5th. I think the issues related to traffic
16 have been appropriately addressed to this
17 process. Mr. Price mentioned all the meetings
18 we had with the community. This was a case
19 where we had 20 single space pages of response
20 to over 50 questions from ANC-3D. This issue
21 of traffic was thoroughly, thoroughly vetted.
22 Mr. Spencer, on behalf of the Palisades

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1 Citizens Association can talk about that. Mr.
2 Tracy, Spring Valley West can talk about that.
3 So, that's what I would say, is that I don't
4 think we need to leave the record open. I
5 think that the traffic issues have been
6 appropriately vetted.

7 VICE-CHAIRMAN DETTMAN: During the
8 PUD, which I understand it, DDoT was heavily
9 involved in the PUD, was this particular
10 addition and the additional trips and traffic
11 and whatnot; I know it wasn't included in the
12 PUD, but was it at that point contemplated
13 that Sibley was going to do that? You know,
14 I heard there was preparation of a master plan
15 in response to a community concern. So, I
16 guess what I'm saying is, is there anything
17 about the transportation impacts caused by
18 this addition that DDoT was not aware of and
19 wasn't able to analyze during the PUD?

20 MR. TUMMONDS: No, but I mean, to
21 give them credit, the specifics of this
22 addition, while we said that there will be a

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1 new addition to the hospital; it's 50 years
2 old, you know, those specific numbers were not
3 included as part of the MOB. But, the general
4 issues we discussed, the entrance to the site
5 from Dalecarlia Parkway, the ideas of pushing
6 traffic to Little Falls Road off of Loughboro,
7 those were all concepts that were very much a
8 part of the MOB review and that PUD project.

9 VICE-CHAIRMAN DETTMAN: And the
10 transportation concerns that were expressed by
11 DDoT and the changes to the plan and the
12 changes to the design of the intersection,
13 those were made with the understanding that
14 they were going to be able to accommodate
15 traffic caused by the addition as well?

16 MR. TUMMONDS: Absolutely.

17 VICE-CHAIRMAN DETTMAN: Okay. All
18 right. Board Members, anything?

19 MEMBER TURNBULL: Just carrying
20 this conversation just a little bit further,
21 one of the big concerns was the neighbors'
22 concerns about parking in the neighborhood, I

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1 think, of traffic, and how you get people in,
2 and people are going to pull into the
3 neighborhood and park. And I think they
4 solved that by routing traffic down Little
5 Falls Road trying to get them away off of
6 Loughboro Road. But, I'm sure we'll hear some
7 comments from the neighborhood.

8 VICE-CHAIRMAN DETTMAN: Okay.
9 Well, why don't we move on then if we don't
10 have anymore questions for OP and no further
11 comments from anyone about DDoT's request. We
12 can address DDoT request to leave the record
13 open at the conclusion of the hearing.

14 But moving on, I think next up
15 would be the ANC. And is there a
16 representative from the ANC here?

17 (No audible response.)

18 VICE-CHAIRMAN DETTMAN: No? Okay.
19 Well, the Board is in receipt of the
20 resolution from ANC-3D. That's our Exhibit
21 No. 33. And actually, I haven't had a chance
22 to read their resolution in its entirety. And

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1 what I'd like to do is just take a second to
2 read that. The Board might have some
3 questions.

4 MEMBER TURNBULL: Mr. Tummonds,
5 the only item you said that on the ANC-3D
6 resolution is basically item No. 1.

7 MR. TUMMONDS: That's correct.

8 MEMBER TURNBULL: So the others
9 you're okay with.

10 VICE-CHAIRMAN DETTMAN: Mr.
11 Tummonds, that second paragraph where the ANC,
12 in order to mitigate any adverse visual
13 impact, recommends that the roof enclosure be
14 constructed of light-colored materials.

15 MR. TUMMONDS: I think that was
16 what Mr. Tobey was talking about, to have not
17 the gray color, if you will, which we had
18 before of the roof enclosure, but go something
19 to a lighter color, more like what's on the
20 MOB. That's how we believe that we're
21 addressing that second condition.

22 VICE-CHAIRMAN DETTMAN: Okay. At

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1 the point where the Board does deliberate
2 this, and if they are inclined to grant the
3 application, do you have a position on whether
4 or not the Board conditioned the special
5 exception to use light-colored materials?

6 MR. TUMMONDS: We think that would
7 be fine for you to condition that.

8 VICE-CHAIRMAN DETTMAN: Okay.
9 Well, I think at a point in our deliberations
10 we can revisit the ANC resolution to see if
11 there are other things that may or may not
12 warrant a condition on the special exception
13 and whether or not certain provisions of this
14 resolution fall outside the jurisdiction of
15 the Board. Great.

16 Mr. Tummonds, I neglected to ask
17 you if you had any questions for OP.

18 MR. TUMMONDS: No questions.

19 VICE-CHAIRMAN DETTMAN: Okay. At
20 this point, I'd like to ask if there's anyone
21 in the audience in support or against the
22 project wishing to testify? Certainly, we

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1 have two members already at the table. And
2 will you be providing testimony in support or
3 in opposition? Two in support?

4 MR. SPENCER: Yes.

5 VICE-CHAIRMAN DETTMAN: Okay.

6 Great. So, why don't we go ahead and get you
7 started, and start off by introducing
8 yourself, please.

9 MR. SPENCER: Okay. My name is
10 William Spencer, and I'm president of the
11 Palisades Citizens Association.

12 For those of you that don't know,
13 the PCA, as we call it, is bounded by the
14 areas of Foxhall Road, Loughboro Road and the
15 Potomac River. It covers a substantial amount
16 of homes. And one thing I am here to tell you
17 guys is the board and deep support this
18 project has amongst the Palisades community.

19 And on December 1st, the general
20 membership of the PCA voted unanimously with
21 no dissenting votes to support Sibley
22 Hospital's proposed project subject to

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1 continuing what has been a very positive
2 dialogue on traffic and environmental issues.

3 The resolution states that the
4 Palisades Citizens Association supports the
5 Sibley Hospital project as presented at the
6 November general membership meeting subject to
7 Sibley continuing to work with the Sibley
8 community on ways to mitigate traffic impact
9 during and after construction, specifically
10 including Sibley's commitment to: (1) provide
11 a letter of support from Sibley to WMATA DDoT
12 to reroute Metro buses off the uphill stretch
13 of Loughboro; (2) send a letter from Sibley to
14 the police department and DDoT in support of
15 speed cameras on MacArthur Boulevard
16 northbound; and (3) post schedule and pick
17 up/drop off location information for its
18 shuttle to the Friendship Heights Metro on the
19 Palisades Citizens Association Web site and
20 monthly in the Northwest Current. Support was
21 also subject to continuing work to mitigate
22 environmental impacts, including storm water

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1 issues.

2 And just to echo what Commissioner
3 Turnbull mentioned, it seems like that when
4 we're looking at this proposal post-medical
5 office building, a lot of neighborhood
6 concerns have already been incorporated in
7 what Sibley has done. They've been incredibly
8 proactive and we've been very happy with the
9 dialogue and the consultative nature that
10 Sibley has taken with this project.

11 And, you know, one of the things
12 too is that, and I think this also gets
13 overlooked, is not just traffic and not just
14 the negative stuff, but the real needs and the
15 health care needs of our community and the
16 strong commitment Sibley has made to the
17 Palisades. And I think this is going to be a
18 great project, and I think it's going to be a
19 great benefit. And it's not just me talking,
20 but it is, again, a broad swath of the
21 Palisades neighbors who believe that this is
22 a contribution to our neighborhood, not just

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1 for us, but to the District.

2 And if anybody has any questions,
3 I can enlighten people on the history of some
4 of this stuff.

5 VICE-CHAIRMAN DETTMAN: Thank you.

6 Questions?

7 (No audible response.)

8 VICE-CHAIRMAN DETTMAN: No. Mr.
9 Spencer, right? Mr. Spencer? Just a quick
10 question. The three points that you make in
11 your report, are these commitments that Sibley
12 agreed to during the PUD?

13 MR. SPENCER: No, these were
14 additional concerns. For example, the
15 Loughboro bus going up, which basically blocks
16 traffic as it sort of lumbers up this hill,
17 was something that was originally committed
18 to, or at least people wanted to work on it
19 starting in 1998. So, this has been ongoing.

20 VICE-CHAIRMAN DETTMAN: However,
21 in your discussions with Sibley, they've
22 committed --

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1 MR. SPENCER: Yes, and as I note
2 in our letter, it's very likely this will be
3 a joint Palisades Citizens Association/Sibley
4 letter, because I think all of us want to see
5 traffic mitigation where we can.

6 VICE-CHAIRMAN DETTMAN: Okay.
7 Mr. Tummonds, questions for Mr. Spencer?

8 MR. TUMMONDS: No questions.

9 VICE-CHAIRMAN DETTMAN: No? I
10 think we can move on then.

11 MR. TREACY: Good afternoon. I'm
12 Vince Treacy. I'm here representing myself.
13 I'm the secretary of the Spring Valley West
14 Homes Corporation, a non-profit D.C.
15 corporation established by a builder 30 years
16 ago to maintain the privately-owned streets in
17 our development, but we are also interested in
18 the general welfare of our residents.

19 I've submitted a statement for the
20 record, but I will just comment briefly rather
21 than read it outright.

22 The Sibley representatives talked

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1 to general membership meeting back in January,
2 and they spoke to our board back in September.
3 We have not voted on this issue for the reason
4 that our annual meeting is not scheduled until
5 January 21st. That's why I'm speaking for
6 myself. My neighbors, however, that I know of
7 are very supportive of Sibley.

8 I have followed this issue for
9 quite a while and I did speak out at both of
10 the ANC meetings. And at the last meeting the
11 point that I made was that the focus and much
12 of this questioning should be on the future
13 medical and health needs of all the residents
14 served by Sibley in our neighborhoods and in
15 the area, both for infants, children, adults,
16 senior.

17 And the questions that seem
18 important to me are: Are the impacts of this
19 project, the traffic and other burdens
20 reasonable? Are the commensurate with the
21 needs, the increasing needs of health in our
22 neighborhood? And I'm convinced that whatever

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1 the moderate increase in traffic that might be
2 involved here are completely consistent with
3 those needs and are very important to support.

4 In my statement I mention a couple
5 of our personal experiences. An aged aunt who
6 is residing in the assisted living facility
7 Grand Oaks who is able to go by gurney or
8 wheelchair to the emergency room or to the
9 hospital when medical needs arose, eliminating
10 the needs for car trips and ambulance. Just
11 in the past week, a close friend had hip
12 replacement surgery at Sibley, and when the
13 time for physical therapy and rehabilitation
14 was needed, went right to the Renaissance
15 Building, again the same way without any car
16 trips. I like the very thoughtful linear
17 connection of all the facilities on this
18 campus in the plan. No one has mentioned the
19 fact that this spine or interior connection
20 links not only parking and medical office
21 building, but also the assisted living and the
22 rehabilitation.

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1 Of course we support need for
2 private rooms. We support the direction of
3 traffic away from the residential streets to
4 the Little Falls Parkway. And of course we
5 support the continuing financial viability of
6 Sibley as a stand-alone independent not-profit
7 hospital in our community with a community
8 board that is responsive to our needs. And as
9 a board based here in the District of
10 Columbia, it's responsible to the governmental
11 agencies here.

12 The hospital, it came out at the
13 meeting, is committed not to being ever sold
14 to a profit-making chain, but it may have to
15 eventually consider linking with a non-profit
16 chain. But, in the meantime, it's an
17 independent board. When the questions come
18 up, the representatives are local and speak
19 only to this hospital. We're not dealing with
20 members of a national board from a far-away
21 city. And as a result of that, I think
22 there's a need to continue this financial

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1 viability. In the experience I've had, the
2 viability is based upon having adequate non-
3 hospital revenues from the parking, from the
4 medical office building, assisted living and
5 rehabilitation, and now from the new modern
6 hospital where the standard room is private.

7 Thank you very much, and I'm ready
8 for any questions that you may have about the
9 testimony here.

10 VICE-CHAIRMAN DETTMAN: Thank you,
11 Mr. Treacy. We appreciate your testimony.

12 I don't have any questions. Other
13 Board Members?

14 (No audible response.)

15 VICE-CHAIRMAN DETTMAN: Okay.

16 MR. SPENCER: All right.

17 VICE-CHAIRMAN DETTMAN: Just
18 checking in one last time, is there anyone in
19 the audience wishing to provide additional
20 testimony either in support or against the
21 application?

22 (No audible response.)

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1 VICE-CHAIRMAN DETTMAN: Seeing
2 none, I think it's back to Mr. Tummonds for
3 closing.

4 MR. TUMMONDS: Sure, a very brief
5 closing statement.

6 As I mentioned before, we think
7 our prehearing statement in this case
8 exhaustively reviewed the variance standards,
9 special exception standards for the relief
10 that we're seeking. We believe we've
11 satisfied those. We believe that the
12 information we presented today to address the
13 conditions that we accept in the ANC-3D report
14 with regards to the vegetative green roof.
15 And the changes to the appearance of the roof
16 structure are also important to address those
17 standards. And with that, we would request
18 your approval of this project and we believe,
19 as I mentioned earlier, that it is not
20 necessary to hold the record open to allow for
21 the DDoT report to come in in January. Thank
22 you very much.

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1 VICE-CHAIRMAN DETTMAN: Thank you,
2 Mr. Tummonds. Just looking quickly at the end
3 of the ANC resolution, there was management of
4 storm water and sediment control. That's
5 really a construction management issue.
6 Working aggressively with WMATA and DDoT to
7 implement previous commitments, sending a
8 letter to DDoT for speed cameras and posting
9 the schedule information. I actually didn't
10 have an opportunity to compare those to what's
11 in the Palisades letter. Are they largely the
12 same?

13 MR. TUMMONDS: Yes.

14 VICE-CHAIRMAN DETTMAN: Okay. I
15 think maybe the Board will just take a moment
16 to decide whether or not we have what we need
17 in order to go forward today, or whether or
18 not we need to put this off.

19 Okay. I think the Board is going
20 to deliberate this today. With respect to
21 DDoT's request, of course we rely upon the
22 analysis and the input from DDoT and in the

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1 past have agreed with DDoT in terms of putting
2 off a decision in order for them to weigh in
3 on the case.

4 In this particular situation, I
5 think January was a little bit too far of a
6 time frame in order to put this off. We did
7 consider putting it off for a week. However,
8 after discussing this with my fellow Board
9 Members, given that we have the benefit of
10 having Mr. Turnbull on this case and who had
11 participated in the PUD, the widespread
12 community support; and not only their support
13 but also in their filings they even addressed
14 some of the transportation issues that they
15 were thinking about and how they were
16 resolved, and the extensive amount of
17 community input that was received by the
18 applicant, I think the Board's of the mind
19 that we have enough information for us to
20 accurately analyze this application with
21 respect to impact to traffic and parking,
22 congestion and whatnot. And at this point in

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1 time we can forego a DDoT report and then
2 continue on. And I think at this point we can
3 enter deliberations.

4 And, Ms. Moldenhauer, were you
5 going to get us started today?

6 MEMBER MOLDENHAUER: We're here
7 discussing application 18007 for Sibley
8 Memorial Hospital, pursuant to DCMR Section
9 3104.1 and 3103.2 for a variance of floor area
10 requirements under Section 402.4, and a
11 special exception variance for roof structures
12 provided for the height and location of the
13 structures under 400.7 and 411.11, and to
14 allow the expansion of the existing hospital
15 to include a new eight-story addition
16 containing a new patient pavilion, an
17 emergency department and cancer center.

18 As I said, there are three
19 different types of requests. There's a
20 variance for the floor area, there is a
21 special exception for the varied height of the
22 roof structures, and then there is another

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1 variance for the cooling towers. I'll just
2 take these kind of one at a time.

3 First, the variance for the floor
4 area. There have been submissions as to the
5 special aspects of the property and the
6 uniqueness of the property dating back to the
7 older age of the property. In addition to
8 that, some of the new requirements of hospital
9 obligations, especially the fact that nowadays
10 it is a requirement for different guidelines
11 and regulations to have a single private room
12 versus having the double rooms. There was
13 testimony that currently in the two-room
14 facilities they need to actually remove one
15 bed in order to get the other bed out. There
16 are new guidelines under the Guidelines for
17 Design and Construction of Hospital Health
18 Care Facilities, and that's been a mandatory
19 requirement for private rooms, and the
20 District of Columbia has adopted those.
21 These, I believe, create a unique circumstance
22 and also create a practical difficulty of

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1 being able to build additional facilities,
2 additional rooms on the hospital campus and
3 not to expand to such a degree that would go
4 beyond the proposed or the standard
5 requirements for a R-5-A standard of 0.9.

6 I think that they have done a
7 great job while this was a practical
8 difficulty, but still trying to mass the
9 majority of the structure in the rear of the
10 property and in the same time as they've
11 demolished one of the buildings, they are not
12 adding as much of a massing, considering the
13 fact that the majority of the massing is going
14 to be behind the existing hospital center.

15 I think that the applicant has
16 also shown that since November of 2008 they've
17 consistently and on either two or three
18 occasions met with the different area and
19 neighborhood associations to work with them to
20 make sure that this is not going to have a
21 significant impact on the community.

22 I think that they have shown that

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1 the relief that they are requesting has been
2 satisfied, all three elements of a variance.

3 And I'll throw out this first
4 issue for any additional discussion. And then
5 actually we can go back, I guess, to the
6 varied height.

7 And just to note on the record, we
8 have received ANC support via Exhibit 33,
9 which has a resolution of, I believe it's a
10 seven to one vote in favor with the different
11 conditions. But, I'm not going to go through
12 all these conditions right now, because a lot
13 of these conditions actually have to do with
14 a combination of all three requests. But,
15 there are conditions regarding the DDoT and in
16 regards to the parking and traffic flow
17 issues. This one condition regarding the
18 material to be used has more to do with the
19 roof structure, so I think we'll address that
20 when we get to the next element. And we can
21 address that also when we get to the
22 conclusion aspect of a motion.

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1 MEMBER TURNBULL: Mr. Chair,
2 again, having already gone through this with
3 Sibley once on the PUD, I think a lot of the
4 concerns that would necessarily have been
5 addressed by DDoT, or have come from them,
6 were discussed previously. The only thing I'm
7 not sure, I think one of the issues back when
8 we did the PUD was there was a concern about
9 the repair or the condition of Little Falls
10 Road. And I'm assuming that was being
11 repaired or done at this time. And the
12 applicant's nodding yes. And that was a
13 concern by the people coming back through that
14 area, the road needed to be upgraded, and
15 again, trying to diminish the amount of
16 traffic on Loughboro Road.

17 And I mentioned earlier the
18 Dalecarlia Parkway, the improvements to that
19 and the bus turnaround. So, I think a lot of
20 the issues of infrastructure, of
21 transportation, other than the most recent one
22 that Mr. Spencer brought up about the bus

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1 again, at least they were looked into at the
2 PUD as an issue or issues that the hospital
3 had to deal with. So, you can see that; and
4 I'm looking at page 4, the site circulation
5 plan, which shows how ambulances -- when this
6 new work gets done, they're all coming off of
7 Little Falls Road. You can see them.

8 Little Falls Road becomes the
9 major spine for traffic and for people coming,
10 going, deliveries, emergency vehicles. So,
11 and I'm pretty sure, I'm trying to remember;
12 I can't remember verbatim what DDoT said, but
13 I'm pretty sure that they were in total
14 agreement with the way this was being
15 developed. And I feel comfortable. And
16 you've heard the neighbors. They feel
17 comfortable. This is what they wanted. So,
18 I would concur with Ms. Moldenhauer's
19 assessment.

20 And again, I'm just adding the
21 feeling we had when we went through the PUD.
22 It was a very vigorous PUD. I mean, I think

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1 it was at least three nights. A lot of
2 testimony. A lot of neighbors. And the
3 hospital going back and forth, and there was
4 finally a meeting of the minds. And I think
5 that the hospital and the neighbors came to an
6 agreement that the way the MOB and the parking
7 garage were being developed and future was the
8 way I think that they wanted it, also. So, I
9 feel comfortable with this.

10 VICE-CHAIRMAN DETTMAN: Great.
11 Thank you. I'm in agreement with my
12 colleagues here with respect to the request
13 for FAR relief.

14 Ms. Moldenhauer, you'd mentioned
15 the institutional need of the applicant, and
16 certainly that has been accepted in previous
17 cases, as well as by the courts, I think, that
18 the institutional need of a public service can
19 be one of the factors that the Board considers
20 as part of the first prong of the test.

21 And in addition to that, there's
22 this need to connect the addition to the

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1 existing facility in a way where certain
2 activities are collocated with other
3 activities. And there's this need for new
4 space. I think it was mentioned in the
5 filings that the existing building hasn't been
6 designed and can't be renovated in a way that
7 achieves the applicant's goals. And even if
8 it could, they'd still have a need for
9 additional space. So, I think collectively
10 those particular factors create a practical
11 difficulty for the property owner.

12 And with respect to the third
13 prong, you know, there was testimony and there
14 were some very informative graphics showing
15 how this thing is tucked behind the existing
16 hospital. The additional massing from
17 Loughboro Street is very minimal and in fact
18 reduces the massing by the demolition of, I
19 think, Hayes Hall. So, I think that with
20 respect to visual impacts on the public good,
21 there's in fact an improvement there. And I
22 think the third prong has been met for FAR.

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1 MEMBER MOLDENHAUER: Based on that
2 discussion, we'll move on. I just also wanted
3 to note one other point. The applicant made
4 testimony that they've considered many
5 alternatives and that they went through a lot
6 of different options on how to best satisfy
7 the needed FAR increase. And I think that
8 also goes towards the test to show that there
9 was a practical difficulty and that they found
10 the best potential alternative to that.

11 Next would be the element for
12 relief under 411 for the varied height
13 structures for a special exception. We'll
14 also incorporate the discussion for the
15 cooling tower relief under 400.7(c).

16 And I think that there was
17 adequate testimony under both of these, and
18 based on the documentation supplied, that with
19 the new standards and the additional
20 requirements of the current medical community
21 for different high levels of cooling towers,
22 additional emergency generators and other

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1 requirements that that would require the
2 larger-than-necessary emergency structure on
3 the penthouse, along with the mechanical
4 systems, the higher standard and more
5 restrictions on smoke and fire control such as
6 the defend-in-place discussion that occurred
7 today. And I think that those requirements
8 satisfy and provide sufficient support for the
9 relief that's been sought.

10 I think at the same time that
11 locating the building at the farthest location
12 into the south of the project, that it also
13 provides some protection that it's not going
14 to be so close to the residential aspect of
15 the property so that any additional height on
16 this project will be seen from Loughboro or
17 from Little Falls Road.

18 And at the same time, that goes
19 towards the issue of light and air to nearby
20 structures.

21 I think that's all. If there are
22 any other comments, I'll take a look at my

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1 notes.

2 MEMBER TURNBULL: Yes, I guess I
3 would agree with Ms. Moldenhauer. I think
4 that the accreditation standards for hospitals
5 are continually changing and in order for them
6 to keep current for all the requirements for
7 ventilation and hygiene, they've got to step
8 up to the plate and use the new technology.

9 VICE-CHAIRMAN DETTMAN: I'm in
10 agreement with you, Ms. Moldenhauer, as well.
11 I think the standard for the variance, as well
12 as the special exception roof structure relief
13 has been met.

14 MEMBER MOLDENHAUER: If there is
15 no additional deliberation, then I'll submit
16 a motion.

17 Or before that, why don't we
18 discuss the different conditions for all of
19 the above submitted both the ANC and by
20 Palisades?

21 The first condition that was
22 submitted by the ANC in Exhibit 33 was that

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1 they were requesting a replacement of at least
2 12,000-plus square feet on the front parking
3 to be provided as green space. And the
4 applicant has stated that instead of that
5 they're going to provide a vegetative green
6 roof on the cancer center, that that roof
7 would not be accessible, but that it would
8 provide the view from the street of green
9 frontage would satisfy this condition.

10 The second element was that the
11 mechanical structure on the penthouse that we
12 were just referencing under 411.3 would have
13 lighter-color material. And the applicant
14 said that that's something that they have also
15 considered to provide a more harmonious view
16 from the local community and of the campus.

17 The third element was that Sibley
18 would work with DDoT to provide a traffic plan
19 to mitigate any of the impact, especially the
20 impact on Dalecarlia and that they would meet
21 with the ANC in a three-month interval as they
22 were completing the construction plans and

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1 after.

2 The fourth element is something
3 that has to do with construction and storm
4 water, so we are not going to address that.

5 The fifth element is that Sibley
6 shall work aggressively with WMATA and DDoT to
7 implement different types of rerouting
8 procedures for the bus off of Loughboro Road
9 and to reroute the bus layovers and buses
10 bound on Loughboro Road via the Little Falls
11 Road. The applicant has stated that they will
12 work with the D.C. agencies to try to reroute
13 those buses.

14 Sibley shall also send a letter to
15 DDoT and the Metropolitan Police Department to
16 support a speed camera around the hospital
17 campus. The applicant has agreed to that
18 condition.

19 And the last would be that Sibley
20 would post the schedule and location of
21 information for the pick up and drop off for
22 a shuttle from the local Friendship Heights

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1 Metro station on the Palisades Citizens
2 Association Web site and monthly in the
3 Northwest Current magazine.

4 I believe that Nos. 1, 2 and 3 on
5 Exhibit 35, which is the Palisades Citizens
6 Association letter, are also identical to the
7 ones I've also just read.

8 VICE-CHAIRMAN DETTMAN: Thank you,
9 Ms. Moldenhauer. I just have a couple
10 comments about the conditions that you just
11 listed.

12 The green roof and the finishing
13 of the roof structure with light-colored
14 materials, I think the applicant has actually
15 agreed to those two conditions, and I think
16 that those would be appropriate. And that
17 you're correct, the one that relates to
18 construction management really isn't under the
19 Board's purview.

20 The request that Sibley develop a
21 plan in conjunction with DDoT to mitigate the
22 impact of a 90 percent increase in traffic

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1 flow, I think it was testified to by the
2 traffic expert that that in fact is not going
3 to occur. And of course I'll check in with my
4 colleagues as well, but I wouldn't be in favor
5 of actually including that one in our order.
6 I didn't hear anything by way of testimony or
7 in the filings that would lead me to believe
8 that there's going to be an overwhelmingly
9 detrimental impact to traffic. The traffic
10 engineer did address that F level of service
11 and said that it's really kind of a very
12 succinct period of time where there's that
13 level of service, and there's a reason why
14 that happens. So, I would not be in favor of
15 that condition.

16 Mr. Turnbull?

17 MEMBER TURNBULL: Are we looking
18 at No. 5?

19 (No audible response.)

20 MEMBER TURNBULL: Oh, okay.

21 MEMBER MOLDENHAUER: Mr. Turnbull,
22 while you're reviewing that, my recommendation

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1 would be that since this is a troubled
2 location or a problematic traffic area for
3 both Sibley and the neighborhood, that while
4 maybe don't have to include the majority of
5 that section, I would just simply say that
6 after the completion of the Dalecarlia
7 entrance and the completion of this project
8 that they report back to the ANC on a three-
9 month interval. That way they can just kind
10 of make sure that these new changes are
11 communicated to the neighborhood. If there
12 any additional problems, that that
13 communication is going to be a very good
14 communication with the neighborhood, that that
15 can just be continued.

16 MEMBER TURNBULL: Okay. Yes, I
17 guess I can Sibley developing a traffic
18 management plan for its own employees, but I
19 don't know how they work with DDoT, unless
20 DDoT, in its friendly way, asks them to do
21 other things. So, I don't know. That would
22 be my only question. And since they're not

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1 here to ask --

2 VICE-CHAIRMAN DETTMAN: I think
3 that given that these transportation
4 improvements were included in part of the PUD,
5 the reworking of the intersection and whatnot,
6 I think the applicant fully intends on
7 maintaining some kind of TMP for their own
8 purposes. So, with respect to your
9 suggestion, Ms. Moldenhauer, could we extend
10 that period? I think a three-month interval
11 for the applicant is a little bit intensive.
12 I don't know if this is something that you'd
13 be comfortable doing on an annual basis?

14 MEMBER MOLDENHAUER: The only
15 reason why I stuck with the three months was
16 just because the applicant said that they were
17 fine with all of the elements in the
18 resolution except for No. 1. So thus, they
19 were already conceding to that and I would
20 just include it that way, unless anybody else
21 has any other comments.

22 VICE-CHAIRMAN DETTMAN: That would

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1 be fine. So just to recap, we have the green
2 roof, the light materials, the requirement to
3 report back to the ANC every three months, and
4 then the last three.

5 MEMBER MOLDENHAUER: Yes.

6 VICE-CHAIRMAN DETTMAN: Okay.

7 MEMBER MOLDENHAUER: Considering
8 those conditions, I would then move to approve
9 the Sibley Memorial Hospital application
10 18007, pursuant to 11 DCMR 3104.1 and 3103.2
11 for a variance from the floor area ratio
12 requirements under Subsection 402.4, and a
13 special exception and variance from the roof
14 structure provisions under Subsections 400.7
15 and 411.11, to allow an expansion of the
16 existing hospital including a new eight-story
17 addition containing a new patient pavilion,
18 emergency department and cancer center,
19 conditioned as previously discussed.

20 VICE-CHAIRMAN DETTMAN: Thank you,
21 Ms. Moldenhauer. Is there a second?

22 I can second the motion.

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1 Motion's been made and seconded.
2 If there's nothing further, all those in favor
3 say aye. Aye.

4 MEMBER TURNBULL: Aye.

5 MEMBER MOLDENHAUER: Aye.

6 VICE-CHAIRMAN DETTMAN: Opposed?

7 (No audible response.)

8 VICE-CHAIRMAN DETTMAN: And there
9 are no abstentions. And I think we can call
10 the vote.

11 MS. BAILEY: Mr. Chairman, the
12 vote is recorded as 3-0-2 to grant the
13 application with the conditions that were
14 identified by the Board. Ms. Moldenhauer made
15 the motion. Board Member Dettman seconded the
16 motion and Mr. Turnbull is also in support.

17 VICE-CHAIRMAN DETTMAN: Thank you,
18 Ms. Bailey. Is this a summary order with
19 conditions?

20 MS. BAILEY: Summary order with
21 conditions.

22 VICE-CHAIRMAN DETTMAN: Great. I

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1 think that's it.

2 MR. TUMMONDS: Thank you very
3 much.

4 VICE-CHAIRMAN DETTMAN: Thank you.

5 And is there anything further on
6 today's agenda?

7 MS. BAILEY: No, sir.

8 VICE-CHAIRMAN DETTMAN: Thank you,
9 Ms. Bailey.

10 So that being said, we'll stand
11 adjourned. Thank you.

12 (Whereupon, the hearing was
13 concluded at 4:38 p.m.)

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