

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

MAY 11, 2010

+ + + + +

The Public Hearing convened in
Room 220 South, 441 4th Street, N.W.,
Washington, D.C., 20001, pursuant to notice at
9:30 a.m., Meridith H. Moldenhauer,
Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

MERIDITH H. MOLDENHAUER, Chairperson
NICOLE SORG, Board Member

ZONING COMMISSION MEMBER[S] PRESENT:

MICHAEL G. TURNBULL, FAIA, Commissioner
(AOC)

OFFICE OF ZONING STAFF PRESENT:

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

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

ARLOVA JACKSON

ARTHUR JACKSON

KAREN THOMAS

The transcript constitutes the minutes from the Public Hearing held on May 11, 2010.

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

9:30 a.m.

CHAIRPERSON MOLDENHAUER: This hearing will come to order.

Good morning, ladies and gentlemen. This is the May 11 Public Hearing of the Board of Zoning Adjustments of the District of Columbia.

My name is Meridith Moldenhauer, Chairperson.

Joining me to my right is Michael Turnbull, representative of the Zoning Commission. To my left is Nicole Sorg, mayoral appointee.

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

Please be advised this proceeding is being recorded by a court reporter and is also being Webcast live. Accordingly, we must ask you to refrain from any disturbing noises or actions in the hearing room.

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1 When presenting information to the
2 Board, please come forward and speak into the
3 microphone, first stating your name and home
4 address. When you finish speaking please turn
5 off the microphone so that the microphone is
6 no longer picking up sounds or background
7 noise.

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

16 The order of procedures for
17 special exceptions and variances is as
18 follows: statements and witnesses of the
19 applicant, government reports including Office
20 of Planning and Department of Public Works,
21 reports from the ANC, parties and persons in
22 support, parties and persons in opposition,

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1 and closing remarks by the applicant.

2 Pursuant to section 3117.4 and
3 3117.5, the following time constraints will be
4 maintained. The applicant, appellant, persons
5 and parties in support except the ANC,
6 including witnesses, will have 60 minutes
7 collectively. The appellees, persons and
8 parties in opposition except the ANC,
9 including witnesses, will have 60 minutes
10 collectively. Individuals will have 3
11 minutes.

12 These time restraints do not
13 include cross-examinations or questions from
14 the Board. Cross-examination of witnesses is
15 permitted by the applicant and the parties.

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

19 Nothing prohibits the Board from
20 placing reasonable restrictions on cross-
21 examinations, including time limitations and
22 the limitations on the scope of the cross-

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1 examination.

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

11 The Sunshine Act requires that the
12 Public Hearing on each case be held in the
13 open before the public. The Board may,
14 consistent with the rules and procedures in
15 the Sunshine Act, enter into Executive Session
16 during or after the Public Hearing on a case
17 for purposes of reviewing the public record
18 and deliberating on the case.

19 The decision of the Board in these
20 contested cases must be based exclusively on
21 the public record. To avoid any appearance of
22 the contrary, the Board requests that persons

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1 present do not engage the members of the Board
2 in conversations.

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

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

16 Does the staff have any
17 preliminary matters?

18 MS. BAILEY: Madam Chair and
19 members of the Board, good morning.

20 CHAIRPERSON MOLDENHAUER: Good
21 morning.

22 MS. BAILEY: No, Madam Chair. We

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1 do not.

2 CHAIRPERSON MOLDENHAUER: Okay.

3 At this time all individuals wishing to
4 testify, please stand and Ms. Bailey will
5 administer the oath.

6 (WITNESSES SWORN.)

7 MS. BAILEY: Ready for the first
8 case, Madam Chair?

9 CHAIRPERSON MOLDENHAUER: Yes,
10 please. Thank you.

11 MS. BAILEY: Is the applicant for
12 Diana Embrey present?

13 Application 17978, the application
14 of Diana Embrey, is pursuant to 11 DCMR
15 Section 3104.1 for a special exception to
16 construct a new accessory garage under section
17 223, not meeting the lot occupancy
18 requirements of section 43. The property is
19 in the R-4 District located at 612 A Street
20 NE, Square 867 and Lot 98.

21 CHAIRPERSON MOLDENHAUER: Hi. Why
22 don't you come on forward? Take a seat at the

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1 table. You can turn on your microphone and
2 introduce yourself.

3 MR. EARDENSOHN: Hi. I'm actually
4 the husband of Diana Embrey. She has been
5 going through this process but couldn't make
6 it here today. Our architect was actually
7 supposed to be here to present all the
8 information.

9 CHAIRPERSON MOLDENHAUER: Okay.
10 If you can actually state your name and home
11 address to start off with? Thank you.

12 MR. EARDENSOHN: Todd Eardensohn,
13 and the same address as my wife, 612 A Street
14 NE.

15 CHAIRPERSON MOLDENHAUER: Are you
16 on the deed with your wife?

17 MR. EARDENSOHN: I am not. I do
18 have a letter from her, if that helps.

19 CHAIRPERSON MOLDENHAUER: That
20 would help. If you can present that to Ms.
21 Bailey, she'll make copies. Thank you.

22 And Todd, I'm sorry. I didn't get

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1 your last name.

2 MR. EARDENSOHN: It's Eardensohn.

3 CHAIRPERSON MOLDENHAUER:

4 Eardensohn?

5 MR. EARDENSOHN: E-A-R-D-E-N-S-O-

6 H-N.

7 CHAIRPERSON MOLDENHAUER: Okay.

8 Mr. Eardensohn, if you want to present your

9 case?

10 I think we have a very full
11 record. You can walk through the different
12 requirements, or if you'd like you can rest on
13 the record and the Board can ask questions.

14 MR. EARDENSOHN: Well, just
15 briefly, what we're doing is expanding. I
16 moved into her house recently and we wanted
17 more storage. So we're just expanding the
18 garage, I believe, 5 feet in, and then doing
19 additional storage above the garage space.

20 We've gone through all the process
21 -- again, she's been through this whole
22 process. I haven't gone to hearings because

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1 I'm not on the deed. So again, our architect
2 was supposed to be here to go through all
3 this.

4 We've worked through all the
5 issues with our neighbors as the record will
6 show. So I think everything has been approved
7 to this point.

8 CHAIRPERSON MOLDENHAUER: Okay. I
9 know that you've included -- some of these
10 issues are in your submission, which is our
11 Exhibit 28. But just for the record, I'll ask
12 a couple of questions.

13 MR. EARDENSOHN: Sure.

14 CHAIRPERSON MOLDENHAUER: The ANC
15 lists three issues that you've worked through
16 with your neighbors, and I just want to make
17 sure that we understand.

18 One is that you've agreed that the
19 depth of the garage will now be 3 feet from
20 the front of the garage of 614-A.

21 Is that actually the interior; and
22 if you can just kind of explain that dialogue

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1 that happened?

2 MR. EARDENSOHN: It's the interior
3 of 614, actually. They already have a two-
4 story carriage house, and it actually is
5 probably about 8 feet longer right now. They
6 were concerned about the depth and the shading
7 because they have a magnolia tree and other
8 things. We agreed that we'd bring it in 3
9 feet and they were comfortable with that.

10 CHAIRPERSON MOLDENHAUER: And
11 that's 3 feet from the interior of your
12 property?

13 MR. EARDENSOHN: Correct.

14 CHAIRPERSON MOLDENHAUER: The
15 other element was the structural integrity of
16 the adjoining garage will be preserved, along
17 with making sure that during construction you
18 will avoid damaging the neighbor's magnolia
19 trees. It seems like that is also connected
20 with the first element.

21 MR. EARDENSOHN: It is. And we
22 told them we'd work with the architect and the

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1 structural engineer to work through all those
2 issues. One of the garages, 610, actually
3 does not have any support. It actually is
4 relying on our garage now. So it will
5 actually be better at the end of the
6 construction.

7 CHAIRPERSON MOLDENHAUER: The last
8 element is construction plans to ensure
9 appropriate drainage for the neighboring
10 structures. Have you worked with the
11 architect on that specific issue?

12 MR. EARDENSOHN: The architect.
13 But they were also concerned with the magnolia
14 trees, so we're going to have a landscaper --
15 I forget which one we included in there -- to
16 come out for both drainage and any issues with
17 their magnolia tree.

18 CHAIRPERSON MOLDENHAUER: Okay.
19 You say that's Greenworks or another reputable
20 tree care provider. Have you actually
21 identified somebody yet?

22 MR. EARDENSOHN: Not yet, no.

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1 CHAIRPERSON MOLDENHAUER: Okay.

2 MR. EARDENSOHN: But they were
3 comfortable with that, and we'd work with them
4 to choose one that they were comfortable with.

5 CHAIRPERSON MOLDENHAUER: At this
6 time, I'll open up to see if the Board Members
7 have any other questions for the applicant.

8 COMMISSIONER TURNBULL: I just had
9 one. So as far as you know right now, there's
10 no outstanding issues from your neighbors or
11 the ANC?

12 MR. EARDENSOHN: No.

13 COMMISSIONER TURNBULL: Everything
14 is basically addressed in this last letter?

15 MR. EARDENSOHN: Yes. Both 610
16 and 614 neighbors are now comfortable with it.

17 COMMISSIONER TURNBULL: I think
18 your -- I see the architect has joined us. I
19 don't know if --

20 MS. FOWLER: Good morning.

21 CHAIRPERSON MOLDENHAUER: You
22 actually have to turn on your microphone.

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1 MS. FOWLER: Okay. Good morning.
2 Jennifer Fowler.

3 I'm sorry, I thought we started at
4 10:00 this morning. You got a head start.

5 COMMISSIONER TURNBULL: We were
6 quick.

7 CHAIRPERSON MOLDENHAUER: Ms.
8 Fowler, we've gone through with the
9 applicant's husband some of the initial
10 elements that the neighbors and the ANC were
11 concerned about.

12 If you want, you can provide any
13 additional background or provide any
14 additional summary of the relief that the
15 applicant is seeking.

16 MS. FOWLER: I'm sorry. Not
17 hearing what was said before, I don't want to
18 reiterate anything.

19 But as you know, we started out
20 trying to match the adjacent neighbor with the
21 almost exact sized garage. And in working
22 with the neighbors we've compromised by

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1 cutting back by 3 feet, reducing the lot
2 occupancy that we're asking for.

3 I don't know if there's anything
4 else that needs to be addressed.

5 CHAIRPERSON MOLDENHAUER: I think
6 that the record is very full.

7 Unless Board Members have any
8 additional questions at this time, we can turn
9 to the Office of Planning.

10 It doesn't appear that the Office
11 of Planning is actually present. What I can
12 do is we can reference by our Exhibit 29,
13 which is the Office of Planning report that we
14 received on May 4. In that report they
15 actually state that the Office of Planning
16 recommends approval.

17 I see that OP is here. So instead
18 of reading from the report, I will allow the
19 Office of Planning to present their report
20 themselves.

21 COMMISSIONER TURNBULL: Madam
22 Chair, before Mr. Jackson starts I just had

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1 one question.

2 On page 2 of the last letter from
3 the applicant, under drainage it talks about
4 including parging the lower wall between the
5 proposed garage and the existing garage at
6 614-A.

7 So, you're parging their wall?

8 MS. FOWLER: Yes. The neighbor at
9 614 had concerns about water infiltration and
10 how we're going to be supporting our garage.
11 And we've assured them that we're building --
12 it's a self-supporting structure; we're not
13 going to be relying on theirs. But we're also
14 going to make sure that there's no water
15 infiltration into their garage as a result.

16 COMMISSIONER TURNBULL: So before
17 you start building up your wall, you're going
18 to parge the lower part of their wall?

19 MS. FOWLER: Correct.

20 COMMISSIONER TURNBULL: Okay.

21 MS. FOWLER: As needed, just in
22 areas where we think there might be some

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1 issues.

2 COMMISSIONER TURNBULL: Okay.

3 Thank you.

4 CHAIRPERSON MOLDENHAUER: Any
5 follow-up questions? Okay.

6 Mr. Jackson, if you'd like to
7 present Office of Planning's report?

8 MR. JACKSON: Yes, Madam Chair.

9 The Office of Planning has
10 prepared the report before you. We
11 essentially want to stand on the record with
12 regard to the implications in the report, and
13 briefly say that the proposal is consistent
14 with the standards under 223, and we recommend
15 approval.

16 We're available to answer any
17 questions.

18 CHAIRPERSON MOLDENHAUER: And OP
19 feels comfortable not conditioning the report
20 on any of the additional elements that the ANC
21 has identified?

22 MR. JACKSON: We think that the

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1 discussions that the applicant has had with
2 the neighbors and the efforts that they've
3 gone to to try to appease the neighbors and
4 address their concerns seems to represent an
5 effort that would continue, regardless of any
6 standards we put in this application.

7 Beyond that, if there were any
8 other issues that would come up, it seems like
9 the applicant would also address those. Those
10 would be addressed in our standards. So we
11 think based on the record of this case that
12 we're satisfied the applicant will follow
13 through with any issues that are raised by
14 this application.

15 CHAIRPERSON MOLDENHAUER: Thank
16 you very much, Mr. Jackson.

17 Does the applicant have any
18 questions for the Office of Planning?

19 MS. FOWLER: No. I just wanted to
20 thank Mr. Jackson for his report and his time
21 on this project. Thank you.

22 CHAIRPERSON MOLDENHAUER: At this

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1 point in time, we'll move to the ANC.

2 Is ANC-6C present in the audience?

3 It does not appear that anybody is
4 present. But we do have a report, our Exhibit
5 26, which indicates that the ANC had a meeting
6 on April 14, 2010. It was actually a follow-
7 up meeting from their initial meeting on
8 February 18, 2010.

9 At the April meeting they had a
10 duly notice meeting, and they had a quorum
11 present and a 9-9 vote to support this
12 application. They identified specific
13 elements which we've already made a part of
14 the record. This support would receive great
15 weight.

16 At this point in time, we'll open
17 up to anybody in the audience in support or
18 opposition of this application.

19 Seeing none, what we will do is
20 move on for closing remarks of the applicant.

21 MS. FOWLER: I don't have anything
22 further. I just wanted to thank you for your

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1 time and your consideration of this project.

2 CHAIRPERSON MOLDENHAUER: Thank
3 you very much.

4 At this point, then, the record
5 will be closed for this case. I believe that
6 we can move forward for deliberation, if my
7 colleagues are in agreement?

8 It seems as though we are.

9 Right now we are going to
10 deliberate Case No. 17978, which is a 223
11 relief under lot occupancy section 403.2 for
12 a relief from 60 percent to 65.7 percent.
13 This applicant is property owner at 612 A
14 Street NE and they are looking to renovate
15 their garage and provide a mezzanine for
16 storage on the top of their garage.

17 We commend the applicant for all
18 of their efforts with the ANC and working with
19 them to reach an agreement. It's always great
20 when people can work together and we don't
21 have to be concerned with the ANC providing
22 support.

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1 I'll incorporate OP's walkthrough
2 and analysis, which is a very thorough
3 analysis from our OP Report 29, into the
4 record which goes through the different
5 requirements for a 223 relief. Additionally,
6 as I already indicated, the ANC is in support
7 which is our Exhibit 26.

8 I feel very confident that the
9 applicant is working with the neighbors and is
10 working with the different concerns that were
11 raised by the ANC, and have actually satisfied
12 the three elements that were identified in the
13 ANC report.

14 That being said, I will open up.
15 I would recommend approval of this application
16 and I will open up the floor for any
17 additional deliberation.

18 COMMISSIONER TURNBULL: Madam
19 Chair, I would just concur with your comments.
20 I think, as you stated earlier, that the
21 Office of Planning report goes through
22 analysis very well.

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1 I think that one of the key items
2 is it's obviously a special exception; it's
3 under the 70 percent rule. I think it's,
4 again, the applicant has, as you also stated,
5 met with the neighbors and the ANC, resolved
6 any outstanding issues. I would agree with
7 your motion.

8 MEMBER SORG: I would also agree
9 with your comments and those of Mr. Turnbull,
10 and also note that the applicant sought and
11 received the support of the Capitol Hill
12 Restoration Society. And that in the end, the
13 proposal would be reviewed by HPRB, so any
14 outstanding issues could also be seen then.

15 CHAIRPERSON MOLDENHAUER: Well
16 then, at this point I will submit a motion.
17 My motion to approve the special exception
18 under section 223 to increase the allowable
19 lot occupancy under 403.2 from 60 percent to
20 65.7 percent for the construction of a private
21 parking garage in the rear yard of the subject
22 property at 612 A Street NE.

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1 Do I have a second?

2 MEMBER SORG: Second.

3 CHAIRPERSON MOLDENHAUER: The
4 motion has been made and seconded.

5 All those in favor say aye?

6 Aye.

7 Ms. Bailey, could we read back the
8 record?

9 MS. BAILEY: With pleasure, Madam
10 Chair.

11 The vote is recorded as 3-0-2 to
12 grant the application. The motion was made by
13 Ms. Moldenhauer, seconded by Ms. Sorg, Mr.
14 Turnbull also supported the motion, and there
15 are two Board Members not sitting at this
16 time.

17 A summary order for this, Madam
18 Chair?

19 CHAIRPERSON MOLDENHAUER: Yes. We
20 would like to waive our rules and have a
21 summary order, please.

22 MS. BAILEY: Thank you.

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1 CHAIRPERSON MOLDENHAUER: Thank
2 you. Ms. Bailey, whenever you're ready we can
3 read the next case.

4 MS. BAILEY: Madam Chair, it's
5 Application 18058, the application of Neil
6 Schechter. It's pursuant to 11 DCMR Section
7 3104.1 for a special exception to allow a bay
8 window addition to an existing one family
9 dwelling under section 223, not meeting the
10 lot area requirements (section 401), the lot
11 occupancy requirements (section 403), the side
12 yard requirements (section 405), and
13 nonconforming structure provisions (subsection
14 2001.3). The property is zoned D/R-1-B. It's
15 located at 1621 31st Street NW, Square 1282,
16 Lot 902.

17 CHAIRPERSON MOLDENHAUER: Thank
18 you very much.

19 I believe we have a preliminary
20 matter in this case, Ms. Bailey?

21 MS. BAILEY: We do, Madam Chair.

22 CHAIRPERSON MOLDENHAUER: We'll

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1 wait until the applicant's representative is
2 fully set up and then we'll address that.

3 MS. BAILEY: Mr. Horsey, have a
4 seat at the table.

5 Madam Chair, the property was
6 posted for four days. As you know, 15 days
7 are required. So the Board would need to
8 waive the posting requirement if it's inclined
9 to do so.

10 CHAIRPERSON MOLDENHAUER: Ms.
11 Bailey, you identified that it was posted for
12 four days. I don't actually have in my record
13 an affidavit of posting. Do you have that?

14 MS. BAILEY: Yes, Madam Chair.

15 CHAIRPERSON MOLDENHAUER: Okay.
16 It appears as though it was posted on May 5.
17 Which, as Ms. Bailey indicated, does not
18 satisfy the 14-day requirement.

19 Mr. Horsey, do you have any
20 response to that?

21 MR. HORSEY: No, Madam Chair. I
22 don't. I apologize to the Board. It was an

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1 oversight on my part and only I can take full
2 responsibility for it.

3 I might add that I have talked to
4 all the affected neighbors including the head
5 of the Homeowners Association, and all the
6 parties support the project. So I apologize
7 for the lack of posting. My own opinion is
8 that it's not critical to the evaluation of
9 the bay window addition by the neighbors since
10 they've all reviewed it.

11 CHAIRPERSON MOLDENHAUER: I think
12 that obviously all of the requirements are
13 critical, but I do think that here we can
14 waive this requirement because there is actual
15 notice. As you've said, you have done a very
16 diligent job in meeting with the different
17 neighbors.

18 We have letters from the ANC
19 indicating that they've reviewed this
20 application at a March meeting, so obviously
21 the actual notice is there.

22 There's also notification we have

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1 in our record, Exhibit 23 and 22, which
2 indicates that the Commission of Fine Arts has
3 reviewed it.

4 So because of the sufficient
5 evidence of actual notice and the fact that it
6 has been posted, we will waive that
7 requirement and we can move on.

8 If you could identify yourself,
9 we'll get started on the merits of the case.

10 MR. HORSEY: Thank you, Madam
11 Chair.

12 I'm Outerbridge Horsey. I'm the
13 architect for Marjorie and Neil Schechter.

14 The proposal is for the addition
15 of a bay window on the east side of the house.

16 I don't know if I need to get
17 sworn in or anything. Do I?

18 MS. BAILEY: Yes, Mr. Horsey.

19 (WITNESS SWORN.)

20 MR. HORSEY: I can run through the
21 project briefly for you, if you'd like.

22 CHAIRPERSON MOLDENHAUER: If you'd

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1 like to run through the project -- I think
2 that the record is full. But please, go ahead
3 and walk through that.

4 I think you're going to actually
5 need a -- yes. Thank you.

6 MR. HORSEY: The project is
7 located -- there's a development of eight
8 houses that was built in the early 1980s off
9 of 31st Street NW, backing onto Avon Lane
10 which is also a city street. The garages for
11 these eight houses are all along Avon Lane.

12 The main entrance to the mews, the
13 common area, is off of 31st Street, and
14 there's a walkway that goes back past our
15 house, past our property to connect to the
16 garages. This property is the northwest house
17 in the development. The addition is on the
18 east side of that, sort of facing away from
19 all the other houses.

20 The addition that's in question
21 here is this one-story bay window, an addition
22 to the first floor on the east side. There's

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1 an existing side yard on that side. This is
2 in R-1-B.

3 Let me go to the plan. This shows
4 the plan view, the existing side yard.
5 There's a conforming side yard but we would be
6 reducing the effective width to 5'5" for the
7 length of the bay window.

8 As you said, the project's been
9 reviewed by the Old Georgetown Board and
10 approved both in concept and in permit. They
11 looked at it twice; it got altered a little
12 bit in the process due to design development.
13 The ANC has looked at it twice.

14 I have spoken with the neighbor to
15 the -- the neighbors to the east and to the
16 south. Neither one of them have a problem
17 with it.

18 There's an existing 8-foot brick
19 wall that separates this bay window from the
20 property to the east. The property was posted
21 along this walkway for the last 5 days.

22 The other person I talked to is

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1 the head of the Homeowners Association and he
2 talked to everybody else at some point.

3 So I think it satisfies the
4 criteria for a special exception in not having
5 any adverse impact, by comments of the
6 neighbors, and by the approval of the Old
7 Georgetown Board satisfies the compatibility
8 in scale and materials with the neighborhood.

9 I'd be happy to answer any
10 questions.

11 CHAIRPERSON MOLDENHAUER: Just for
12 the record, I'd like to clarify that while it
13 is a special exception it's actually a 223.
14 So it's a 223 relief. And then obviously
15 you're looking for relief under specific
16 requirements of 401, 403, and 405, but it
17 actually becomes before us under a 223.

18 MR. HORSEY: That's correct.

19 I don't know how all this works,
20 but the total lot coverage for all eight lots,
21 including the common area, satisfies the 5,000
22 square foot per lot requirement. I don't know

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1 how this was permitted. There's nothing in
2 the BZA records on this development. So we
3 were never really able to get to the bottom of
4 how it was allowed to be built with a
5 nonconforming lot in 1980 when the zoning
6 regulations were in effect. But other than to
7 say that the total area of all eight houses,
8 the lots of them, does satisfy the 5,000
9 square foot requirement. So I'll just add
10 that in.

11 CHAIRPERSON MOLDENHAUER: I'll
12 open up the floor to any additional Board
13 questions.

14 COMMISSIONER TURNBULL: Thank you,
15 Madam Chair.

16 Most of what you're doing is very
17 cosmetic. The only aspect that goes into the
18 lot occupancy issue is the bay window.

19 How far beyond the chimney line
20 does that go? They look like they're almost
21 in line but you might be a tad more.

22 MR. HORSEY: I would say it's no

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1 more than 12 inches.

2 COMMISSIONER TURNBULL: Okay.

3 Yes. I had a feeling it was very -- it's very
4 minimal?

5 MR. HORSEY: It's only one story,
6 the chimney. Well, the chimney decreases as
7 it goes up, too.

8 COMMISSIONER TURNBULL: Yes. I
9 just have one question. How good of a match
10 did you get on the brick?

11 MR. HORSEY: Well, the bay window
12 is made out of wood.

13 COMMISSIONER TURNBULL: No. I
14 mean, the windows you're closing in?

15 MR. HORSEY: That I don't know.
16 That's actually not a part of the application
17 but it's a fair question.

18 COMMISSIONER TURNBULL: I was just
19 curious.

20 MR. HORSEY: We haven't gotten
21 that far yet.

22 COMMISSIONER TURNBULL: Okay. All

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1 right. Thanks.

2 MR. HORSEY: We haven't started
3 construction. But I think we'll get a pretty
4 good match being that it's only 1980s that it
5 was built.

6 COMMISSIONER TURNBULL: Thank you.

7 CHAIRPERSON MOLDENHAUER: If no
8 other Board Members have any other questions,
9 at this time we'll move to the Office of
10 Planning for their report.

11 MS. JACKSON: Good morning. For
12 the record, my name is Arolva Jackson with the
13 Office of Planning.

14 The Office of Planning recommends
15 approval of the application. We find it meets
16 the special exception review criteria found in
17 section 223.

18 Therefore, I'd be happy to stand
19 on the record and answer any questions that
20 you have.

21 CHAIRPERSON MOLDENHAUER: Thank
22 you very much, Ms. Jackson.

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1 Does the applicant have any
2 specific questions for the Office of Planning?

3 MR. HORSEY: No, ma'am. Thank
4 you.

5 CHAIRPERSON MOLDENHAUER: Do any
6 of the other Board Members have any questions
7 for the Office of Planning?

8 COMMISSIONER TURNBULL: I just had
9 one.

10 Mr. Horsey talked about the lot
11 occupancy and how if you look at all of the
12 properties at once -- when you went back and
13 you did it now, you're basing it upon
14 individual lots?

15 MS. JACKSON: Right.

16 COMMISSIONER TURNBULL: Which is a
17 little bit difficult if it was originally
18 considered as an entire entity.

19 MS. JACKSON: I know. I tried to
20 go back, I guess similar to Mr. Horsey, and
21 find any record of how it was approved, when
22 the record lots were created. I couldn't find

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1 anything explaining how this was allowed to
2 occur.

3 Similarly, the one side of the
4 building is right on the lot line which causes
5 other issues. I don't know how it was done.
6 I assume the lots were created after the fact.
7 So it's led to some issues.

8 COMMISSIONER TURNBULL: Kind of a
9 unique setup.

10 MS. JACKSON: Yes.

11 COMMISSIONER TURNBULL: Okay.

12 Thank you.

13 CHAIRPERSON MOLDENHAUER: Were you
14 able to identify the date of the building
15 permits as opposed to the date of the
16 subdivisions?

17 MS. JACKSON: No.

18 CHAIRPERSON MOLDENHAUER: No?
19 Okay.

20 Seeing that there's no additional
21 questions for the Office of Planning, at this
22 time we'll move forward.

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1 Is the ANC present?

2 I don't see anybody coming
3 forward.

4 We have our Exhibit 23 and Exhibit
5 20. We have two different letters, both from
6 ANC-2E, which indicate that the ANC had a
7 public meeting which was duly noted on March
8 30, 2010; that six commissioners were present
9 which represented a quorum; and that a
10 unanimous vote was made to have no objection
11 to the proposed exception for a bay window in
12 the ground. This would satisfy our
13 requirements for great weight and we would
14 provide them great weight for their statement
15 of no objection.

16 We also have in our records
17 Exhibit 24, which is the letter from the Fine
18 Arts Commission, which indicates their
19 additional statement of no objection.

20 At this point in time, I would
21 open up the floor to any persons or parties in
22 support or opposition to this case.

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1 Seeing no individuals in the
2 audience in support or in opposition of this
3 case, we will go back to the applicant for any
4 closing remarks.

5 MR. HORSEY: No, we're done.

6 I would like to ask the Board for
7 a summary order, if we could, for approval of
8 the special exception and hopefully a summary
9 order.

10 Thank you, Madam Chairman.

11 CHAIRPERSON MOLDENHAUER: Thank
12 you very much.

13 For the record, the letter from
14 the Fine Arts Commission was actually our
15 Exhibit 22. I apologize, that was an
16 incorrect statement earlier.

17 At this point in time, thank you
18 very much, Mr. Horsey. We will conclude the
19 hearing portion of this case and we will go
20 into deliberation.

21 MEMBER SORG: Okay. I'll start
22 this off. This is an application under 223 to

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1 permit a bay window addition to a single-
2 family detached home at 1621 31st Street NW.
3 It's requiring special exception relief under
4 223 for an addition that doesn't meet lot
5 size, lot occupancy, or side yard
6 requirements.

7 We've already indicated that we
8 will waive our requirements for posting in
9 this case based on the applicant's outreach to
10 the ANC and the neighbors on either side of
11 the property, as well as the president of the
12 Homeowners Association, as has been testified
13 to today.

14 We can also note that the
15 applicant's received a letter of support in
16 our Exhibit 23 from ANC-2E, as well as a
17 letter indicating no objection from the
18 Commission of Fine Arts in our Exhibit 22.
19 And in our Exhibit 21, going backwards, OP
20 indicates that they recommend approval for the
21 application.

22 CHAIRPERSON MOLDENHAUER: Is there

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1 any additional deliberation from any of the
2 Board Members?

3 COMMISSIONER TURNBULL: Madam
4 Chair, I would just add that this is really a
5 de minimis case in what's being done to the
6 property. The only thing that comes into play
7 really is the bay window as far as an addition
8 onto the side. And what's unique is, as the
9 architect testified to, it only goes about a
10 foot beyond the line of the chimney and you
11 have an 8-foot brick wall on the other side
12 screening it. So this is really very cosmetic
13 and I can see that the neighbors would not
14 object to this.

15 CHAIRPERSON MOLDENHAUER: Thank
16 you very much, Mr. Turnbull and Ms. Sorg, for
17 your analysis.

18 I am in agreement. I think that
19 this is definitely a very limited relief
20 that's being sought. It's being sought under
21 223. The applicant has definitely exhibited
22 all of their efforts to work with the

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1 community, ANC, the Old Georgetown Board, and
2 their local neighbors.

3 If there is a motion I would be in
4 support of the application.

5 MEMBER SORG: Okay. I will submit
6 a motion to approve Application No. 18058 for
7 Neil Schechter under 223 for the residents at
8 1621 31st Street.

9 CHAIRPERSON MOLDENHAUER: That
10 motion has been made.

11 Is there a second?

12 COMMISSIONER TURNBULL: Second.

13 CHAIRPERSON MOLDENHAUER: The
14 motion has been made and seconded.

15 All those in favor say aye?

16 ALL: Aye.

17 MS. BAILEY: Madam Chair, the vote
18 is recorded as 3-0-2 to grant the application.

19 Ms. Sorg made the motion, Mr. Turnbull

20 seconded, Ms. Moldenhauer approved the

21 application as well. Again, it was 3-0-2.

22 Are we doing a summary order with

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1 this, Madam Chair?

2 CHAIRPERSON MOLDENHAUER: Yes.

3 Seeing that there are no parties in opposition
4 and the ANC is in support, we would like to
5 waive our requirements and have a summary
6 order.

7 MS. BAILEY: Thank you.

8 MS. GLAZER: Madam Chair, just a
9 technical matter. Is the caption going to be
10 for 223 relief?

11 CHAIRPERSON MOLDENHAUER: Yes.
12 The caption should be for 223 relief, and then
13 obviously identifying the subrelief as
14 required under 223.

15 MS. GLAZER: Very well.

16 CHAIRPERSON MOLDENHAUER: Thank
17 you very much for that clarification.

18 Ms. Bailey, whenever you're ready?

19 Thank you very much.

20 We can call the next case.

21 MR. HORSEY: Thank you so much.

22 MS. BAILEY: Madam Chair, just to

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1 give Mr. Horsey time to gather his materials,
2 and I'm not sure if the other applicants need
3 a few minutes to set up, but just a minute or
4 so. Thank you.

5 Members of the Board, the last
6 case of the morning is Application No. 18059
7 of Shiloh Baptist Church of Washington, as
8 pursuant to 11 DCMR Section 3104.1 and
9 31203.2, for a variance from the lot occupancy
10 requirements under section 401, and a special
11 exception to allow the construction of a
12 community service center under section 334.

13 The property is located at 1533
14 9th Street NW. It is known also as Square
15 397, Lot 31. It is zoned R-4.

16 I hastily add, Madam Chair, that
17 the applicant amended the application. And in
18 addition to the announcement that I read, the
19 applicant is also seeking relief for the
20 parking requirements and lot occupancy
21 requirements of the regulation.

22 CHAIRPERSON MOLDENHAUER: Thank

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1 you very much, Ms. Bailey.

2 I think there also is an issue of
3 a notice as a preliminary matter on the
4 amended issues. We can take that up after the
5 parties identify themselves for the record.

6 If you'd like to get started,
7 we'll move to the left.

8 MR. PRIOLEAU: Good morning. My
9 name is Greg Prioleau. I am a member of the
10 Board of Trustees, the Property Development
11 Committee of Shiloh Baptist Church.

12 We appreciate this moment to
13 present our project to you. It is the
14 community service center --

15 CHAIRPERSON MOLDENHAUER:
16 Actually, if you can just identify yourself
17 and then identify the other people at the
18 table? We may have another preliminary issue
19 first.

20 MR. PRIOLEAU: Sure. Okay. Greg
21 Prioleau. And my address also?

22 CHAIRPERSON MOLDENHAUER: Yes,

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1 please.

2 MR. PRIOLEAU: 910 Burns Street
3 SE, Washington, DC.

4 CHAIRPERSON MOLDENHAUER: Thank
5 you very much, Mr. Prioleau.

6 MR. KNIGHT: My name is Michael
7 Knight. I'm the architect on the project,
8 representing Lance Bailey's architects. The
9 address is 7961 Eastern Avenue in Silver
10 Spring, Maryland.

11 CHAIRPERSON MOLDENHAUER: Thank
12 you.

13 MR. KNIGHT: You're welcome.

14 MEMBER SORG: One other
15 preliminary matter on this case, Madam Chair.
16 I wanted to just state for the record that my
17 firm had a working relationship with Shiloh
18 Baptist Church, the applicant in this case.
19 But I find that in this case, it should cause
20 me no bias in judging the project before us.

21 CHAIRPERSON MOLDENHAUER: Thank
22 you very much, Ms. Sorg. I confer with you

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1 that I think you can judge and evaluate this
2 case with no additional bias.

3 We will move forward.

4 Mr. Prioleau, if you'd like to
5 start your testimony, your statements?

6 MR. PRIOLEAU: Thank you. Our
7 community service center is the first of our
8 projects in our Victory Village development.
9 We are rehabbing the properties that the
10 church owns. This project --

11 CHAIRPERSON MOLDENHAUER: I'm
12 sorry, Mr. Prioleau. Before you get started,
13 OAG has just identified that maybe what we
14 should do is if there are any parties in
15 opposition, any additional parties or the
16 applicant -- if there is any objection to the
17 issue of disclosing any complex, we can hear
18 that issue now if there are any concerns.

19 You actually have to come forward
20 and speak on the record.

21 MS. KNOPF: Hello. My name is
22 Ilana Knopf. I don't believe I'm an official

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1 party. I did not apply for that status. So
2 I will have some questions and concerns and
3 possible objections, but I don't believe I'm
4 official party status.

5 CHAIRPERSON MOLDENHAUER: Okay.
6 Thank you very much.

7 Then with that point, I'm sorry,
8 we will continue on.

9 Thank you OAG for identifying
10 that.

11 MR. PRIOLEAU: Okay. As far as
12 the Victory Village portion of our church, the
13 church has three ways that we provide
14 missionary services: through the church
15 itself, through our family life center, and
16 this will provide our professional nonprofit
17 services for the community.

18 So this project is a community-
19 based, community service type of building
20 which will service the community, and is part
21 of developing our relationship with the
22 community in the Shiloh area.

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1 Mr. Michael Knight will expound on
2 the exact contents of the variances.

3 MR. KNIGHT: The intent of this
4 project is basically to renovate an existing
5 structure that has been locked up for a little
6 while. And also, to do a new addition in
7 conjunction that blends in with that existing
8 structure in order to create this new
9 community service center which we are
10 proposing at this time.

11 In doing so, we came across some
12 obstacles in terms of the time when this
13 building was built it was not accommodating
14 for handicapped access; it wasn't ADA
15 accessible.

16 And in doing so, we came across
17 some problems, which leads to our requests
18 here in terms of seeking a variance in three
19 areas:

20 (1) for the parking, relief from
21 the allowed parking;

22 (2) the lot occupancy, which I

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1 will explain some of the reasons why we had to
2 propose to go over the maximum lot coverage;
3 and,

4 (3) the special use exception for
5 the community service center.

6 If you don't mind, I'd like to
7 just go through a certain amount of scenarios
8 here.

9 Hello? Yes. Sorry about that.

10 To begin with, I'd just like to
11 present the buildings itself. Here, this
12 building is the existing structure that's
13 there. This is the new building that we
14 propose to add to this existing building, with
15 openings that makes them operate on each
16 level.

17 We joined both of them together.
18 In doing so, we came up with these three areas
19 that we have made our requests for the
20 parking, lot occupancy, and also special use.

21 I just have an area map to show
22 the relationship between the buildings within

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1 the neighborhood area that will be affected.

2 The first one I could address is
3 to show the relationship between the existing
4 structure, which would be here -- it's in an
5 R-5 Zone; all the rowhouses are here. Further
6 to the south we have a C-2-A area, here.

7 One of the areas that we are
8 asking for variance relief from is the parking
9 issue. Due to the shape of this lot -- it's
10 only 40 feet wide. And that could only
11 accommodate from -- there's an alleyway across
12 here that we have made provisions for parking.
13 Based on 40 feet wide, we could only get four
14 parking spaces which include one for the
15 handicapped.

16 We would love to incorporate more
17 parking because the parking requirements --
18 for this type of facility, it states that we
19 need one parking space for every 600 gross
20 square feet within the total facility. And
21 the total gross square footage for this
22 facility is 7,100 plus, or just under 7,200.

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1 In doing the calculations which
2 requires 7,200 divided by 600, it would call
3 for 12 parking spaces. The maximum that we
4 could cater for in this situation, without
5 doing an underground structure, is only four
6 parking spaces.

7 Upon our request, we are asking
8 for relief based on the fact that Shiloh
9 Baptist Church own most of these properties
10 along here which includes the church and the
11 Family Life Center. The Family Life Center,
12 they have their own parking lot underground.
13 But the church has a big parking lot just
14 behind it, here.ere.

15 We are asking that some of the
16 overflow parking that we could not allow on-
17 site could be accommodated over in the church
18 parking lot, because that's only used during
19 the Sundays, mostly, for services. So it's
20 mostly vacant during the week, during the
21 working hours.

22 The working hours proposed for the

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1 use of this facility is from 8:30 a.m. to 5:00
2 p.m. in the evenings. In doing so, we are
3 asking for that relief. There is also on-
4 street parking for short-term visitors to the
5 facility that would be taken care of in that
6 respect.

7 On that note, we make a proposal
8 to ask that relief for the minimum parking
9 areas be granted.

10 In terms of lot occupancies, I
11 would just like to point out that the code
12 calls for 40 percent lot coverage. Based on
13 this analysis for this type of facility, we
14 have the existing building which is outlined
15 in grey here. This section is the existing
16 building which consists of 1,135 square feet.

17 The code requires that we entail
18 40 percent of the total lot coverage. The
19 total lot coverage is 3,900 plus square feet;
20 3,962 square feet. Now, if we use 30 percent
21 of that 3,962, we would end up with 1,585
22 square feet which would be the total that

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1 would be required for this lot. If we take
2 away the existing building from that 1,585, we
3 would be left with 450 square feet.

4 I just wanted to indicate to you
5 what 450 square feet would look like. This
6 would be the remainder that would suffice the
7 lot coverage to piggyback on this existing
8 building.

9 But in doing our design to cater
10 to this type of facility and in order to meet
11 all the code requirements including the ADA
12 access ability, we have introduced a lobby
13 area here at sidewalk level which a wheelchair
14 person could just wheel right into the
15 building at this point. Once they come into
16 the building they would have access to the
17 elevator which takes them to all floors. We
18 also have to have access from the rear of the
19 building that shows -- okay.

20 We have one service elevator which
21 is inside the building. We provide parking in
22 the rear of the building. We have to have

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1 ramps for the handicapped that leads from the
2 rear of the building into the building that
3 gives access to the elevator.

4 This would take them from the rear
5 of the building to this point to access the
6 building, which takes them along corridors
7 here, which are ramped, to the elevator so
8 that they can get to each floor from the rear
9 as well as from the front.

10 Now, in doing so, we also had to
11 accommodate an additional stairwell for the
12 fire coding on this building. We already have
13 one stairwell. We have two stairwells in the
14 building. One is over in this section that
15 takes us to the upper floors. We have this
16 stairwell over here and then we have a new
17 stairwell over here. In order to keep in
18 order with the handicap requirements, we also
19 had to introduce a handicapped bathroom in the
20 facility as well.

21 In trying to achieve all these
22 goals, I have separated the service areas and

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1 accessibility areas. And we came up with a
2 total of 1,035 square feet, which is shaded.
3 This is all the service areas that would be
4 needed for this facility. That accounts for
5 1,035 square feet.

6 Now, if we look back, in terms of
7 the code we found that all we had left over
8 based on 40 percent lot coverage is this area.
9 We have 450 square feet here and we need 1,035
10 square feet total for circulation and service
11 areas. This would be impossible to accomplish
12 for this type of facility without going over
13 and applying for relief for excessive lot
14 coverage.

15 In doing so, this is the reason
16 why we chose to make this application, hoping
17 to get the relief in this area. Of course,
18 the third area was a special use for using
19 this facility as the community service center.
20 So those are the three areas which we are here
21 to ask relief for.

22 CHAIRPERSON MOLDENHAUER: Thank

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1 you very much, Mr. Knight.

2 Does the applicant have any
3 additional parties that will be testifying on
4 its behalf?

5 You have to actually speak into
6 the microphone. I see you shaking your head
7 but we actually need --

8 MR. PRIOLEAU: No, we have no
9 further -- no.

10 CHAIRPERSON MOLDENHAUER: Then at
11 this time we will open up the floor to some
12 Board questions.

13 I actually have a couple of
14 questions.

15 One, there is the issue that the
16 application was amended, which is our Exhibit
17 23, back on March 23 to include the additional
18 relief for the parking variance. In that
19 notification you indicate that the ANC was
20 going to be notified and that that language
21 was going to be included on your posting.

22 I just want to confirm that that

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1 language was specifically included on the
2 posting that was posted on the building and
3 that you did speak with the ANC about that
4 amendment.

5 MR. KNIGHT: Yes, we did.

6 CHAIRPERSON MOLDENHAUER: At what
7 point in time, if you can just provide a
8 little more?

9 MR. KNIGHT: Okay. We did have a
10 meeting with the ANC in early April. We did
11 have a meeting in which we did present all
12 these requests to them. And I think they said
13 it was favorably granted. We did do a
14 presentation of all of this also to the
15 Historic Preservation Office, as well.

16 CHAIRPERSON MOLDENHAUER: And the
17 ANC did not have any concerns about the
18 parking or any of the additional relief that's
19 being sought?

20 MR. KNIGHT: No. I was told that
21 they would forward a favorable report to
22 the --

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1 CHAIRPERSON MOLDENHAUER: We do
2 not have a copy of any ANC report. All we
3 have is in OP's report, they indicate that a
4 meeting did occur in April and that there was
5 a vote. But we don't actually have any
6 specific letter that would be given great
7 weight on our records.

8 MR. KNIGHT: The young lady, I
9 think she's the chairperson or something,
10 Teresa from ANC; I spoke to her and she told
11 me that she sent the report. And she was even
12 going to send me a copy, which I didn't really
13 get.

14 CHAIRPERSON MOLDENHAUER: We don't
15 have that. At a later portion in the hearing
16 it may be something that we will want to hold
17 off on any potential deliberation on the case
18 until we can get a letter from the ANC, if
19 you're indicating that one does exist.

20 MR. KNIGHT: I think I might have
21 her number. If I could be excused I could
22 probably make a quick phone call.

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1 CHAIRPERSON MOLDENHAUER: But
2 obviously if it's not here yet, we would need
3 to wait to have time to review it and
4 everything.

5 MR. KNIGHT: Okay.

6 CHAIRPERSON MOLDENHAUER: So if we
7 do get to that point today, we would maybe
8 then just delay any decision.

9 Another question I have is under
10 the different relief that's being requested,
11 it's essentially variance relief. It's a very
12 high standard. But for certain nonprofits,
13 case law has indicated under Monaco and under
14 a specific church case, First Baptist Church,
15 that churches and the missions of the church
16 is considered a nonprofit organization.

17 We do not actually need to look
18 for specific factors that are related to land.
19 We can actually look at other factors that are
20 associated with the mission of the nonprofit.

21 If there can be some testimony
22 about how the need for the different service

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1 access is correlated with the mission of the
2 church and the mission of this service center,
3 that would help the Board kind of draw that
4 correlation between the relief that's being
5 sought and the additional lot occupancy and
6 parking that's required.

7 MR. PRIOLEAU: Okay. I'd like to
8 address that. Good point.

9 Within the church, as I began to
10 explain before, we are on a path of trying to
11 develop what we call Victory Village, which is
12 a concept our pastor brought to us to provide
13 services for our constituency and for the
14 community. Within the church now, we do
15 provide missionary services which include
16 missionary groups that go out and feed,
17 clothe, and those types of activities.

18 We also include with the Family
19 Life Center, which is the building that is
20 adjacent to the church itself, the Family Life
21 Center Board. They provide services
22 specifically aimed at things like the Male

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1 Youth Project; we had an AIDS project; we had
2 those types of projects that are funded
3 through grants. This project is a further
4 extension of what we are trying to do for the
5 community as far as a professional, nonprofit
6 type of extension that will be occupying this
7 building.

8 With the three missions that the
9 whole process puts together, it provides us
10 the opportunity to serve the community in
11 personal ways (missionary, food, clothing),
12 programmatic ways (helping young men off the
13 streets after school in the afternoon and
14 evening), and services that this building will
15 provide on a professional basis.

16 So again, this is an extension of
17 what our -- Shiloh has been in existence since
18 1863 and we have a total history of that being
19 our calling and what we've done in this
20 community. We've been in this community since
21 1924 and we have a history of doing this, and
22 this is a further extension of that.

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1 So when we speak of this community
2 service building that we are now attempting to
3 construct, again, it is community-based for
4 residents within the Shaw community, our
5 constituency, our people that belong to our
6 church. Again, it's just another step in our
7 long history of providing these services to
8 the community.

9 CHAIRPERSON MOLDENHAUER: Thank
10 you. I guess one of my questions would be in
11 this programmatic meter, there are a lot of
12 services for handicapped? I mean, Mr.
13 Knight's focus was a lot on the ADA
14 requirements. Are some of the services here
15 going to focus on the elderly or on the
16 handicapped?

17 MR. PRIOLEAU: The actual
18 occupants of this building -- we have those
19 services already existing within the Family
20 Life Center and the church itself now. Those
21 are addressed.

22 Accessibility in this building is,

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1 as he was saying, one of the main ADA
2 challenges of this project because of the way
3 9th Street slopes and the way that the access
4 had been previously. As you can tell in the
5 adjacent building that we are now rehabbing,
6 the entry to that store is going up a flight
7 of steps. So that's why they had to go
8 through such dramatic intent as to how could
9 a handicapped person access this building from
10 the street level. Which, both of the other
11 buildings on that side, again, have to have
12 steps to be able to gain access to.

13 So as the occupants of this
14 building are determined, one thing we can tell
15 for sure is there will be no Autozone or
16 anything of that nature occupying this
17 building, but professional nonprofit types of
18 organizations that can cater to the elderly.
19 Again, we have that in motion now. A
20 continuation of that is what we are trying to
21 do to, again, provide these services to more
22 people.

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1 CHAIRPERSON MOLDENHAUER: Okay.
2 Then, kind of switching gears and asking you
3 some questions about the parking requirement.

4 From what I understand right now,
5 just to clarify for the record, the record is
6 you are not seeking relief for off-site
7 parking. You're simply seeking relief to
8 reduce the parking from 12 to four.

9 I understand that you're
10 testifying that there would be additional
11 opportunities for parking throughout the
12 community and the church facilities that are
13 located nearby. But I just want to make sure
14 that on the record right now, the relief that
15 you're looking for is actually a reduction, or
16 a decrease, in the required parking from 12 to
17 four?

18 MR. KNIGHT: Parking spaces?

19 CHAIRPERSON MOLDENHAUER: Yes.

20 MR. KNIGHT: Yes. And I would
21 also like to add to that the type of facility
22 which we are planning here is one that caters

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1 to the immediate community. Therefore, most
2 of the customers would be walk-ins; they live
3 directly in and around the area.

4 CHAIRPERSON MOLDENHAUER: That was
5 actually going to be by next question so thank
6 you for addressing that.

7 MR. KNIGHT: And in addition to
8 that, we have bus service that passes right by
9 there. We have a metro station within 3
10 blocks of this facility.

11 CHAIRPERSON MOLDENHAUER: Thank
12 you. The bus service and the metro were going
13 to be my follow-up questions so I appreciate
14 you providing that information.

15 At this point I don't think I have
16 any additional questions. I may have some
17 later on.

18 I'll open up the panel for any
19 additional questions from the Board.

20 COMMISSIONER TURNBULL: Thank you,
21 Madam Chair.

22 I'd just reiterate the issue on

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1 the parking is if you were looking for off-
2 site parking, that would have required another
3 variance.

4 MR. KNIGHT: Okay. I see.

5 COMMISSIONER TURNBULL: Which you
6 didn't. And it's easier for us to address the
7 minimum requirements.

8 Just going through on Exhibit 25
9 which you have submitted, you talk about the
10 new facility being used as a community service
11 center for the purpose of improving social and
12 economic wellbeing of the residents. I'm
13 looking and you talk about job training,
14 consumer cooperative family counseling. But
15 when I look at the floor plan -- and I commend
16 you -- I just see mainly general office areas.

17 Getting back to the mission, which
18 I think the Chair is trying to hone in for us
19 that by looking at your mission and what
20 you're trying to do, it makes it a little bit
21 easier for us to address the issues of the
22 variances that you're looking for.

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1 I just see a big general area.
2 Counseling is sort of -- I look at smaller
3 rooms where people can talk about their
4 personal issues. I'm just curious how this
5 space actually works with your mission.

6 MR. KNIGHT: I think that's a very
7 good question.

8 The intent here is to try to make
9 it as flexible as possible. We have an idea
10 of the type of tenants that we would be
11 seeking, but at this point in time we do not
12 have specifics. So we kind of left some of
13 the general office space in an open platform
14 whereby it can be built up later on to
15 accommodate whatever type of organization we
16 get to occupy it. Although, we are keeping
17 within a certain boundary.

18 COMMISSIONER TURNBULL: You just
19 mentioned something that has me a little bit
20 confused. You mentioned a tenant. I thought
21 you were the tenant operating the facility.

22 MR. PRIOLEAU: The building will

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1 be used by nonprofit organizations. The way
2 it's been designed as of this moment, it's
3 almost like on a base building type of concept
4 in that each floor is individually metered,
5 individually sustainable. So the ability to
6 rent the building out for one tenant to take
7 all three or one per floor, we have the
8 flexibility to be able to provide that.

9 As we stated earlier, the actual
10 tenants have not been identified. I cannot
11 tell you that Company A or Organization B is
12 going to do it right now. As they come on
13 board, they have the flexibility to lay out
14 the floor as it will best fit their needs.

15 COMMISSIONER TURNBULL: But these
16 tenants are nonprofits working under your
17 mission, under your guidance?

18 MR. PRIOLEAU: Well, they must be
19 consistent with what the church does, if they
20 are providing services for the community in a
21 way that is beneficial. Again, this is a
22 professional outlet that we are trying to

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1 establish. Those are the types of tenants
2 that will be occupying this building.

3 COMMISSIONER TURNBULL: My first
4 reason was I thought you were running it. I
5 didn't realize that there were nonprofit
6 tenants going into the building.

7 MR. PRIOLEAU: Yes. As I said, we
8 as the church right now, we have an arm in the
9 church itself; the missions, as I said, of
10 feeding, clothing, visiting, and those types
11 of things. And our Family Life Center
12 Foundation Board serves as a programmatic
13 thing.

14 We saw that we needed a way to
15 also provide professional assistance to the
16 community. And this is the origin of this
17 portion of Victory Village.

18 COMMISSIONER TURNBULL: That's
19 something you don't have under your
20 organization's capacity right now to provide
21 that yourself?

22 MR. PRIOLEAU: Not right now, no.

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1 We will be selecting nonprofits that will be
2 occupying this building.

3 COMMISSIONER TURNBULL: Okay.

4 Thank you.

5 MEMBER SORG: I'd like to ask one
6 follow-up question related to that. Are there
7 particular outreach programs that the church
8 has currently that you're looking to augment
9 through the nonprofit tenants that you're
10 looking for?

11 MR. PRIOLEAU: Right now that is
12 something that we would accept and we would
13 embrace. But until we actually identify those
14 tenants that would be eligible to move in --
15 to answer your question, yes. We always are
16 in need to service the elderly, you know,
17 those kinds of things that we're doing now; if
18 we find counseling, job training, those kinds
19 of things. That's what we do; that's what we
20 have done over our whole history.

21 So to augment that and create even
22 new opportunities if an organization was to

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1 present itself that could be beneficial to the
2 community, we would definitely review their
3 application and make a statement whether we
4 would accept that or not. But it is not going
5 to be a retail.

6 Again, our history speaks for
7 itself. And we have a prudent history of
8 doing this throughout many, many -- a very
9 long time on this very corner. And we have no
10 intent to change what we've done and what we
11 plan to do.

12 MEMBER SORG: So you're looking to
13 go through an application process, then --

14 MR. PRIOLEAU: Yes.

15 MEMBER SORG: -- for the nonprofit
16 organizations that you're looking to occupy
17 the building?

18 MR. PRIOLEAU: Yes.

19 MEMBER SORG: Okay. Thank you.

20 CHAIRPERSON MOLDENHAUER: And
21 obviously under special exception section 334
22 for a community service center, I'm sure the

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1 applicant is aware that they would be required
2 to put in any tenant that actually had to be
3 a nonprofit.

4 The regulations require that this
5 community service center shall not be
6 organized for profit and no part of its net
7 income shall endure to the benefit of any
8 private shareholder or individual. So
9 obviously any tenant that you put in would
10 have to satisfy the obligations of 334, under
11 the different uses which shall be limited to
12 job training, family counseling, consumer
13 cooperatives, or other facilities that are
14 similar in nature or purpose.

15 I'm assuming that's in parallel
16 with your requirements and your mission of the
17 church that that would be the limitation on
18 any potential tenants that you'd be looking.

19 MR. KNIGHT: Yes, ma'am. We
20 understand.

21 CHAIRPERSON MOLDENHAUER: That
22 being stated, I don't have any further

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1 questions at this time. It doesn't appear
2 that any of the Board Members do.

3 What we'll do is we'll now move
4 forward to the Office of Planning report.

5 MS. THOMAS: Good morning, Madam
6 Chair and members of the Board. I'm Karen
7 Thomas with the Office of Planning.

8 OP is recommending approval of the
9 special exception to permit a nonprofit
10 organization within the R-4 District to
11 operate in conjunction with the church.

12 It's also recommending approval of
13 the lot occupancy variance to increase the lot
14 occupancy from 40 percent to 59.9 percent, and
15 variance relief to permit a reduction of on-
16 site parking spaces from the 12 required to
17 the four that would be provided.

18 The Office of Planning believes
19 that the applicant, Shiloh Baptist Church, has
20 satisfied the special exception requirements
21 for a community service center.

22 We did express some concern

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1 regarding the way the program is going to be
2 administered through the nonprofits. I
3 believe we became satisfied that it was going
4 to be corresponding to the church's mission,
5 that this is how they were going to operate
6 since they apparently didn't have every
7 capacity to operate a community service center
8 or provide every service. So in a sense, they
9 would be outsourcing their nonprofit
10 capabilities. So we believe that they did
11 satisfy the special exception requirements for
12 a community service center.

13 With respect to the lot occupancy,
14 the variance request, again, we noted that
15 there was an exceptional situation with this
16 property since it was typically designed as a
17 former residence. It's a former residence;
18 it's been vacant for quite some time. And in
19 that capacity since it was designed as a
20 residence, it would not be ADA compliant,
21 particularly since it is a historic structure.

22 The church's mission could not be

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1 accommodated within the former residential
2 structure, even if you just had included an
3 elevator and handicapped access, so more space
4 was needed.

5 We were satisfied with the way the
6 applicant explained the ADA requirements.
7 They had to go into the building in terms of
8 its square footage. We believe that the
9 request would allow for an adaptive reuse in
10 a long-vacant building. So we were satisfied
11 that the impact would not be adversely
12 affecting the zone plan of the neighborhood.

13 We recommend approval of the
14 variance from the lot occupancy. Similarly
15 with respect to the parking, with the addition
16 they needed to put on there, there was no way
17 to accommodate extra parking on the site.
18 Underground parking would not be feasible. So
19 there would be a practical difficulty in
20 providing that amount of parking on the
21 remaining lot.

22 We don't believe there would be an

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1 adverse impact on the zone plan in the
2 neighborhood as it is a multimodal corridor.
3 Various types of transportation options are
4 available within that corridor. And it would
5 be servicing the community, directly impacting
6 and servicing in the community, and wouldn't
7 be drawing from a wider area. We were
8 satisfied with that.

9 We recommend approval for the
10 variance and relief that the applicant is
11 requesting in this application.

12 I'll be happy to take any
13 questions. Thank you.

14 CHAIRPERSON MOLDENHAUER: Thank
15 you very much, Ms. Thomas.

16 In your report you reference ANC-
17 2C. Did you have any specific communication
18 with them to confirm that they were in support
19 of the application?

20 MS. THOMAS: No, I did not. I got
21 that information directly from the applicant.

22 CHAIRPERSON MOLDENHAUER: Directly

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1 from the applicant?

2 MS. THOMAS: Yes.

3 CHAIRPERSON MOLDENHAUER: Okay.

4 My other question is I just have some concern
5 about identifying ADA compliance as an
6 exceptional situation. It's almost like
7 saying they have to comply with building code
8 thus creating an exceptional circumstance.

9 However, I feel like from your
10 oral testimony it seems as though you're
11 saying more that the historical aspect and the
12 actual existing structure of the residence is
13 the exceptional factor for it's suggested use,
14 and that the programmatic needs of the church
15 require ADA compliance. Thus it's more the
16 programmatic needs versus the compliance in
17 and of itself.

18 Am I correctly stating your
19 opinion?

20 MS. THOMAS: In a sense, yes. The
21 existing structure in conjunction with the
22 program requirements -- in combination would

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1 create an exceptional situation. Just to use
2 that existing structure for the church's
3 programming needs. So you have two factors
4 combining together to create the situation.

5 Then when you do the addition, if
6 it remains within the 40 percent you still
7 wouldn't be able to accommodate the
8 programming needs of the church's mission. So
9 I would more state it along those lines.

10 CHAIRPERSON MOLDENHAUER: Okay.
11 Thank you for that clarification.

12 Do any other Board Members have
13 questions for the Office of Planning?

14 COMMISSIONER TURNBULL: I just
15 have one. I could have easily asked the
16 applicant.

17 Is this basically just Monday
18 through Friday?

19 MS. THOMAS: Yes. That's the way
20 we understood it, Monday through Friday.

21 COMMISSIONER TURNBULL: On the
22 weekends it would be closed?

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1 MS. THOMAS: No weekends. Yes.
2 No weekends, no nights.

3 COMMISSIONER TURNBULL: Okay.
4 Thank you.

5 CHAIRPERSON MOLDENHAUER: Just for
6 the record, I believe the applicant did
7 already say that it was Monday through Friday,
8 8:30 to 5:00 p.m.

9 COMMISSIONER TURNBULL: Yes. I
10 thought I heard that. But I didn't realize
11 that excluded weekends totally. I just wanted
12 to be sure.

13 CHAIRPERSON MOLDENHAUER: We'll
14 just go back to the applicant.

15 If you can confirm that it would
16 be Monday through Friday?

17 MR. PRIOLEAU: Right now present
18 use is during the week for their services and
19 as part of their leasing. We are not planning
20 right now to open it up on the weekends.

21 CHAIRPERSON MOLDENHAUER: Okay.
22 Thank you very much.

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1 Does the applicant at this time
2 have any questions for the Office of Planning?

3 MR. KNIGHT: No questions.

4 CHAIRPERSON MOLDENHAUER: At this
5 point in time we will turn to ANC-2C.

6 Is anybody in the audience from
7 ANC-2C?

8 No.

9 Then we will turn to any persons
10 or parties in support or in opposition.

11 You can come forward and state
12 your name for the record, and then what we'll
13 do is we'll give you 3 minutes to testify and
14 present any of your concerns.

15 MS. KNOPF: Thank you. My name is
16 Ilana Knopf and I have as many questions as
17 opposed outright objections. I wanted to get
18 some more information.

19 The overarching concern -- I guess
20 I'm in support of the variance for less
21 parking and would ask for consideration of
22 even --

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1 COMMISSIONER TURNBULL: Ms. Knopf,
2 I wonder if I could just interrupt you. What
3 is your address; where do you live?

4 MS. KNOPF: My address is 1532 8th
5 Street NW. The back of my house is directly
6 behind the proposed project.

7 COMMISSIONER TURNBULL: Okay.
8 Thank you very much.

9 MS. KNOPF: So the other side of
10 the alley.

11 COMMISSIONER TURNBULL: Thank you.

12 MS. KNOPF: And I have concerns
13 over the traffic to the alley that will be
14 brought including the last subject which you
15 just addressed, the hours.

16 So I wondered if -- one question
17 would be considering even less parking, given
18 that there is ample parking during the
19 business hours across the street at Shiloh.
20 And this is community-based; you really don't
21 need any more, so even just leaving it for the
22 handicapped. I wondered if you knew about how

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1 often the cars would be coming and going down
2 the alley.

3 The overarching question I have is
4 if Shiloh is willing or if Ms. Ford would
5 grant the variances conditioned on certain
6 contractual agreements, both construction and
7 contract, for questions I have about the
8 construction project itself.

9 But also in approving the
10 variances, the various conditions such as cars
11 idling and having the carbon monoxide, having
12 the noise, having the alley blocked by cars
13 coming and going and double-parking, cars
14 alarms going off, some noise and traffic
15 congestion and the carbon monoxide. And as we
16 just heard the testimony, right now it's
17 planned to be 8:30 to 5:00, Monday through
18 Friday.

19 However, they don't even have
20 tenants. The tenants may need different
21 hours. So I would ask that we do keep it to
22 Monday through Friday, 8:30 to 5:00 for the

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1 condition of the lease and the use of the
2 building.

3 Also, if the employees in the
4 building -- if the parking is only allowed
5 during those business hours. I could see the
6 center being closed but employees -- I'm
7 curious if employees will have access to that
8 parking area. Is it secure? If it is secure,
9 who has access if they are only permitted to
10 use that building during those business hours
11 as specified?

12 Also, garbage pickup or recycling
13 pickup; if that is going to be in the back, if
14 it that's done during reasonable hours and not
15 on weekends, holidays, or early mornings.
16 Likewise, deliveries to the center, if those
17 could be done in the front of the building to
18 reduce the congestion that occurs in the alley
19 already.

20 I have other questions about if
21 there are any outdoor uses planned. You don't
22 have tenants yet so you may not know what will

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1 be used outside. But the back area, what kind
2 of noise will be coming from the building, and
3 things along those lines.

4 Also, a little bit about the
5 building plans, the HVAC system. My review,
6 which I am not -- I am a layperson. I just
7 wanted to ensure that the HVAC wasn't going to
8 be very noisy or blowing the alleys.

9 Again, questions about the fencing
10 and security of the building. And then the
11 construction itself, again, just the
12 variances.

13 I would like that to be granted
14 with Shiloh willing to work denture to a
15 construction agreement with the neighbors. I
16 had some ideas; I don't need to go into the
17 specifics. But we could come back if they
18 weren't deficient construction agreements, and
19 come back before the Board. But I'm sure we
20 could work something out, the community with
21 Shiloh.

22 I think those are the big ones.

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1 Also keeping the alley clean and neat during
2 the grading process.

3 I am also concerned when they go
4 into renovate the house about rat abatement.
5 I know there's laws on the books and they'll
6 be responsible, but if that was explicit, rat
7 abatement, asbestos, and things like that.

8 These have been problems on the
9 alley in past construction projects, all of
10 these things I've raised. Which is why I am
11 interested in seeing approval of the variances
12 that they're asking for conditioned on these
13 types of things.

14 CHAIRPERSON MOLDENHAUER: Thank
15 you very much.

16 Just to kind of address some
17 issues, we actually have no authority over
18 construction agreements. We obviously always
19 encourage applicants and the neighbors to work
20 together on things to that effect. But we
21 cannot condition any of our approval based on
22 construction issues. Anything that has to do

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1 with enforcement of already existing rules are
2 also not under our purview. But if there are
3 any concerns, DCRA has the authority to
4 address those.

5 To address some of the questions
6 that you had about the actual issues before
7 us, some of the hours and the parking. I
8 think that does bring up some points as to
9 making sure that there is no negative impact
10 on the local community in that regard.

11 If the applicant can address some
12 of the parking concerns about the access or
13 the use of that parking during non-business
14 hours?

15 MR. PRIOLEAU: If a gate is
16 sufficient, the architect is to put a gate at
17 the back of the lot that will lock at the end
18 of the day. I'm guessing that I'm hearing her
19 ask the question: will people gain access to
20 those parking spaces after the building is
21 closed? I think that's what I'm hearing her
22 ask.

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1 My response to that is no, they
2 won't, by fencing or gates that we will
3 construct as part of the project. It's not
4 going to be a free-for-all extra four parking
5 spaces at the end of the day that anybody else
6 can come and park in.

7 CHAIRPERSON MOLDENHAUER: Okay.
8 So you would be providing some sort of gate or
9 access restriction for the tenants that would
10 be using the property for the programmatic
11 needs?

12 MR. PRIOLEAU: Exactly. That is
13 the same on our administration building.
14 That's our practice of how we do that. So
15 it's consistent, again, with what we are
16 already doing with our properties.

17 MR. KNIGHT: We'd use some type of
18 barricade to make sure that they can be locked
19 up outside of the normal business hours.

20 MS. KNOFF: Just for
21 clarification, the employees who work there
22 may have keys. And if they needed to work on

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1 the weekends or extend their hours, or they
2 wanted to come downtown and they weren't using
3 the building but wanted to use the parking
4 spots, they would have access to the gate. So
5 if that was in the lease?

6 CHAIRPERSON MOLDENHAUER:

7 Obviously, we can't require that restriction
8 but it would be recommended.

9 If you're working with the
10 neighborhood -- you're a church organization;
11 I'm sure that your goals would be to work with
12 the neighborhood and to provide any additional
13 benefit that would satisfy some of the
14 neighbors' concerns.

15 MS. KNOPF: Could the approval be
16 -- are you able to ask that the building is
17 only used during 8:30 to 5:00, and if that
18 were to change that it has to come before you
19 again?

20 CHAIRPERSON MOLDENHAUER: It is
21 something that we'll consider. There are
22 different issues in regards to timing of

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1 different special exceptions. And a lot of
2 different special exceptions such as child
3 development centers are specifically limited
4 to certain timeframes that are presented, and
5 things to that effect.

6 A community service center is a
7 very similar type of exception and there are
8 conditions that we can put upon that in
9 regards to timing. That's one of the reasons
10 why before your questions were even raised we
11 did ask, "What would be the hours of
12 operation, Monday through Friday?" Things to
13 that effect.

14 So, thank you. At this point in
15 time your statements are concluded. I
16 appreciate that and obviously we'll address
17 all of your concerns during the process.

18 We addressed the issue with the
19 gate.

20 The loading; what currently are
21 your plans for loading the facility?

22 MR. PRIOLEAU: We have access,

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1 again, from the front and from the rear. We
2 are not foreseeing tenants for restaurants or
3 any of, again, those types of retail or for-
4 profit tenants.

5 Everything we are going to do is
6 on the service line. So paper delivery, I
7 guess, boxes of productive paper for Xerox
8 machines and things that usual types of
9 organizations use. But I don't see big trucks
10 pulling up to deliver. That's not the intent
11 of what we have, of what we're doing.

12 CHAIRPERSON MOLDENHAUER: Thank
13 you. I appreciate those very candid and
14 honest responses.

15 Do any other Board Members have
16 any questions that have stemmed from the
17 person in support but with concerns?

18 COMMISSIONER TURNBULL: Madam
19 Chair, yes.

20 Ms. Knopf, I guess the one
21 question in looking is we've often gone over
22 this on parking areas with other buildings.

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1 I didn't see an actual location
2 for trash, a compactor or bins, located
3 anywhere on the plan. I was just wondering,
4 how are you allowing for that? Maybe I missed
5 it.

6 MR. KNIGHT: No.

7 COMMISSIONER TURNBULL: I mean,
8 you've got the two parking spaces, the one
9 handicapped parking, and then there's a 5-foot
10 strip in the middle.

11 MR. KNIGHT: In terms of --

12 COMMISSIONER TURNBULL: Mr.
13 Knight, I think you're going to need to be on
14 the microphone.

15 MR. KNIGHT: Sorry. Hello? Yes.
16 I would suggest that the trash collection
17 would be located somewhere in this area.
18 Which isn't clear from here, but it's an open
19 area by itself which is not regularly being
20 used by any form of pedestrian traffic or
21 otherwise.

22 COMMISSIONER TURNBULL: You're

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1 pointing to a grassy area?

2 MR. KNIGHT: Yes.

3 COMMISSIONER TURNBULL: So it
4 would be a --

5 MR. KNIGHT: Just off the general
6 walk strip.

7 COMMISSIONER TURNBULL: You're
8 basically foreseeing just something that's 3
9 feet by 6 feet, a bin or something?

10 MR. KNIGHT: Nothing too --

11 COMMISSIONER TURNBULL: You don't
12 have those kind of clients?

13 MR. KNIGHT: We don't have that
14 type of client that would incur that type of
15 bulk trash collection.

16 COMMISSIONER TURNBULL: Okay. I
17 guess my other question then on the parking
18 area is lighting.

19 MR. KNIGHT: Yes. I just wanted
20 to mention, and I forgot to mention this
21 earlier, that we do have security lighting in
22 the back. However, we made some concentrated

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1 effort that although this lighting is for
2 security, it would not have any direct
3 influence and glare on the rest of the
4 community.

5 COMMISSIONER TURNBULL: On the
6 neighbors?

7 MR. KNIGHT: On the neighbors.

8 COMMISSIONER TURNBULL: So
9 basically downlighting --

10 MR. KNIGHT: Right.

11 COMMISSIONER TURNBULL: -- on the
12 surface's spot?

13 MR. KNIGHT: Right. Just for
14 security.

15 COMMISSIONER TURNBULL: And the
16 drainage of the lot; you're containing the
17 water on your property?

18 MR. KNIGHT: Yes. I'm not too
19 sure if you can see this. This is a smaller
20 plan of the total area.

21 COMMISSIONER TURNBULL: Yes.

22 MR. KNIGHT: The roof water will

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1 be collected in downspouts that goes
2 underground and goes to the front of the
3 building. Some of the water will be
4 percolated in the general area. And the
5 remaining water that's collected here would
6 run down. This is a ramp area that goes down.
7 And we have two area drains that takes the
8 water from this area, collects it, sends it
9 underground, and sends it out.

10 COMMISSIONER TURNBULL: So is the
11 parking pervious, then?

12 MR. KNIGHT: Yes. As you can see,
13 these are like paver blocks.

14 COMMISSIONER TURNBULL: Right.

15 MR. KNIGHT: Yes.

16 COMMISSIONER TURNBULL: I just
17 wanted to clarify that.

18 MR. KNIGHT: Yes. That's a good
19 point. We intentionally took that into
20 consideration for more than one reason.

21 COMMISSIONER TURNBULL: Good.

22 Thank you. All right. Thank you.

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1 CHAIRPERSON MOLDENHAUER:

2 Actually, I was just looking down at my notes
3 and I saw another issue.

4 Can you address how you have ramps
5 but you don't actually have any sort of noise
6 filtration, like trees or anything, along the
7 edge of the property? If that grass area is
8 used by one of your tenants for some sort of
9 outdoor facility, for children or for
10 something else, for outdoor discussions or
11 outdoor programs, how would you then ensure
12 that that does not negatively impact the
13 surrounding communities?

14 MR. KNIGHT: Well, to begin with,
15 the grass area is very minimal, as you can see
16 here. This is about 20 feet, 23 feet. So
17 this would be about 15 feet, approximately 15
18 feet by 15 feet, which is very minimal. So it
19 doesn't really lend itself to much outdoor
20 activity within this area.

21 CHAIRPERSON MOLDENHAUER: We don't
22 have dimensions on our plan, so that's

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1 helpful. What about the area to the right?

2 MR. KNIGHT: The area to the right
3 is more self-contained because this ramp here
4 would form a buffer on this side, and the
5 building would form a buffer on the other
6 side. So this here is more self-contained.
7 And again, sorry about the dimensions; here we
8 would be talking maybe about 20-23 feet by 12
9 feet, which is still minimal.

10 CHAIRPERSON MOLDENHAUER: Thank
11 you for that clarification.

12 Ms. Sorg, do you have any
13 questions for the applicant?

14 MEMBER SORG: Thank you, Madam
15 Chair.

16 Just one follow-up question, Mr.
17 Kline. Is that an existing mature tree that's
18 shown --

19 MR. KNIGHT: Yes.

20 MEMBER SORG: -- on your plan?
21 Okay.

22 MR. KNIGHT: Yes, it is to remain.

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1 MEMBER SORG: Thank you.

2 CHAIRPERSON MOLDENHAUER: Sorry,
3 let me get back on the mic.

4 At this point, what we'll do is if
5 the applicant has any closing remarks?

6 MR. PRIOLEAU: We'd just like to
7 thank you for this opportunity. We hope that
8 you will render a favorable decision in our
9 favor because we are in the process of trying
10 to move forward.

11 If there's any other questions
12 that you may have for us, we'd be glad to
13 address them at any time.

14 CHAIRPERSON MOLDENHAUER:
15 Wonderful.

16 At this point in time, what I'd
17 like to do is I'd like to actually
18 specifically ask if you can work with the ANC
19 to have them -- it seems as though there's
20 testimony from you that they are in support.
21 If we can confirm that in a written submission
22 to the Board, that would be appreciated.

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1 What we'll do is we'll leave the
2 record open for an additional, let's say, 7
3 days. And then what we'll do is we will come
4 back and have a deliberation on this case.

5 We will leave the record open for
6 submission until the 18th from the ANC.

7 MR. MOY: Our next Board meeting,
8 Madam Chair, would be June 8.

9 CHAIRPERSON MOLDENHAUER: Okay.

10 MR. MOY: If that's too soon then
11 I would suggest June 15.

12 CHAIRPERSON MOLDENHAUER: I
13 believe that June 8 would be fine. That gives
14 the ANC sufficient time to get all the
15 submissions in. Why don't we actually just
16 say that submission should be in by June 1,
17 giving you plenty of time to work with the ANC
18 and make sure that they have time to get that
19 in. And then we'll have June 8, the decision.

20 MR. PRIOLEAU: If we can provide
21 that documentation at a sooner point, is there
22 a way we could move up that approval? Because

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1 I was at the meeting itself when the motion
2 was passed unanimously and approved. So I was
3 there when it actually happened, when we made
4 a presentation. So I'm just of the mind-set
5 that maybe it was just some kind of clerical
6 whatever-whatever, that they should have that
7 readily available.

8 MR. KNIGHT: And I think I could
9 actually do the legwork to go there and pick
10 it up and bring it down to the office here.

11 CHAIRPERSON MOLDENHAUER: Mr. Moy,
12 do we have any availability on the 18th or no;
13 is our schedule pretty packed?

14 MR. MOY: That can be done. I had
15 one anticipated case for decision that's going
16 to be put off. So we can possibly add this
17 along with a decision on the 17973 of DCPL.
18 I think it's doable.

19 CHAIRPERSON MOLDENHAUER: Okay.
20 Well then, I'll ask that you work with the ANC
21 to get us something by the 14th, this Friday.

22 MR. KNIGHT: Yes.

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1 MR. PRIOLEAU: That will be done.

2 CHAIRPERSON MOLDENHAUER: Okay.

3 And then we will have this on the calendar for
4 decision on May 18.

5 Thank you very much. And
6 obviously, I encourage you to continue to work
7 with the ANC and the neighborhood to address
8 any of the additional concerns that are beyond
9 our purview. I would assume that as a church
10 and as a community organization that you would
11 continue to do that.

12 MR. PRIOLEAU: We will do that; we
13 will continue to do that. That will not
14 present an issue to you, Madam.

15 CHAIRPERSON MOLDENHAUER:
16 Wonderful. Well, thank you very much. We'll
17 look forward to receiving the documentation
18 and reviewing the case on the merits on the
19 18th.

20 MR. KNIGHT: Okay. Thank you very
21 much, once again.

22 (Whereupon, at 11:33 a.m. the

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1 hearing was adjourned to reconvene at 1:50
2 p.m.)
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1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 1:50 p.m.

3 CHAIRPERSON MOLDENHAUER: This
4 hearing will come to order.

5 Good afternoon, ladies and
6 gentlemen. This is the May 11 Public Hearing
7 of the Board of Zoning Adjustments of the
8 District of Columbia.

9 My name is Meridith Moldenhauer,
10 Chairperson.

11 Joining me today to my right is
12 Michael Turnbull, representative of the Zoning
13 Commission. To my left is Nicole Sorg,
14 mayoral appointee.

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

18 Please be aware that this
19 proceeding is being recorded by a court
20 reporter and is also being Webcast live.
21 Accordingly, we must ask you to refrain from
22 any disruptive noise or actions in the hearing

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1 room.

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

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

17 The order of procedures for
18 appeals, which is what we have this afternoon,
19 would be: statements of witnesses of the
20 appellant; the Zoning Administrator or the
21 government official's case; case of the owner,
22 lessee, operator of the property involved if

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1 not the applicant, and the ANC within which
2 the property is located; interveners in the
3 case if permitted by the Board; and then
4 rebuttal and closing statements by the
5 appellant.

6 Pursuant to Section 3117.4 and
7 3117.5, the following time constraints will be
8 maintained. The appellant, applicant, persons
9 and parties in support except the ANC,
10 including witnesses, get 60 minutes
11 collectively. Appellees, persons and parties
12 in opposition except the ANC, including
13 witnesses, get 60 minutes collectively.
14 Individuals get 3 minutes.

15 These time restraints do not
16 include cross-examinations or questions from
17 the Board. Cross-examination of witnesses
18 will be permitted by the applicant or parties.

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

22 Nothing prohibits the Board from

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1 placing reasonable restrictions on the cross-
2 examination, including time limits and
3 limitation on the scope of cross-examination.

4 The record will be closed at the
5 conclusion of each case except for any
6 materials specifically requested by the Board.
7 The Board and the staff will specifically ask
8 at the end of the hearing for the documents
9 that are requested and the date when that
10 person must submit the evidence to the Office
11 of Zoning. After the record is closed, we
12 will take no other information except what is
13 requested by the Board.

14 The Sunshine Act requires that the
15 Public Hearing on each case be held in the
16 open before the public. The Board may,
17 consistent with the rules and procedures in
18 the Sunshine Act, enter into Executive Session
19 during or after the Public Hearing on a case
20 for purposes of reviewing the record or
21 deliberating on the case.

22 The decision of the Board in these

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1 contested cases must be based exclusively on
2 the public record. To avoid any appearance of
3 the contrary, the Board requests that the
4 persons present do not engage members of the
5 Board in conversation.

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

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

15 At this time, the Board will
16 consider any preliminary matters. Preliminary
17 matters are those that relate to whether a
18 case will or should be heard today, such as
19 requests for postponement, continuance,
20 withdrawal, or whether the proper adequate
21 notice of the hearing has been given. If you
22 are not prepared to go forward today or you

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1 believe the Board should not proceed, now is
2 the time to raise such matters.

3 Does the staff have any
4 preliminary matters?

5 MS. BAILEY: Madam Chair, yes.
6 There is a preliminary matter. It has to do
7 with Appeal No. 18057. There is a request for
8 continuance of this case this afternoon, Madam
9 Chair.

10 CHAIRPERSON MOLDENHAUER: Thank
11 you very much.

12 For those parties who are present,
13 please come forward for that. Thank you.

14 Come forward to the table for
15 those who weren't already there. You were
16 ahead of schedule.

17 So what we'll do is we'll just go
18 down.

19 Mr. Diamond, if you want to start
20 by introducing yourself and the party that
21 you're representing?

22 MR. DIAMOND: Thank you. Good

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1 afternoon.

2 I'm Robert Diamond. I live at
3 6251 29th Street.

4 Last night the ANC voted to
5 present a motion for a continuance. And it
6 has designated me, although I'm not a member
7 of the ANC, to present that motion today.

8 CHAIRPERSON MOLDENHAUER: Thank
9 you very much.

10 MR. SURABIAN: Assistant Attorney
11 General Jay Surabian for DCRA.

12 MR. LEGRANT: Matthew LeGrant,
13 Zoning Administrator.

14 MR. TUMMONDS: Good afternoon,
15 Madam Chair.

16 Paul Tummonds, the attorney on
17 behalf of the proposed intervener, the
18 Knollwood Foundation.

19 CHAIRPERSON MOLDENHAUER: I
20 believe that all parties are consenting to the
21 continuance; is that correct?

22 MR. SURABIAN: That's correct.

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1 MR. TUMMONDS: That is correct.

2 CHAIRPERSON MOLDENHAUER: Okay.

3 Wonderful.

4 Mr. Moy, I believe we have a date
5 you've already identified for the continuance.

6 MR. MOY: It's my understanding,
7 Madam Chair, that as part of the consent
8 motion that the request was -- as early or as
9 late, whichever way you look at it -- for
10 October 19, 2010. That's the third Tuesday in
11 October.

12 CHAIRPERSON MOLDENHAUER: Okay.
13 So we will put this on the agenda for October
14 19. I don't believe we have anything else
15 scheduled that day. So that will be the first
16 thing on the agenda.

17 Thank you very much. We look
18 forward to seeing everybody at that point in
19 time.

20 MR. LEGRANT: Thank you.

21 MR. DIAMOND: Thank you very much.

22 CHAIRPERSON MOLDENHAUER: At this

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1 point in time we will conclude our Public
2 Hearing for the day.

3 We will take a 10 minute break and
4 then we will reconvene our morning Special
5 Meeting and we will be back in -- let's just
6 say we'll come back at 3:15 -- 2:15. Wouldn't
7 that have been crazy? We'll come back at
8 2:15.

9 (Whereupon, at 1:56 p.m. the
10 hearing was concluded.)

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