

GOVERNMENT OF THE DISTRICT OF COLUMBIA

BOARD OF ZONING ADJUSTMENT

PUBLIC HEARING

WEDNESDAY

SEPTEMBER 2, 1998

The Public Hearing convened in Hearing Room 220, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 1:00 p.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

Sheila Cross Reid, Chairperson
Betty King, Vice Chair
Anthony Hood, Zoning Commissioner

STAFF PRESENT:

Sheri M. Pruitt-Williams, Interim Director and
Secretary to the Board
Tracey Witten Rose, Staff, Office of Zoning
John Nyarku, Staff, Office of Zoning
Alberto Bastida, Office of Planning Staff
Angel F. Clarens, Zoning Commission Member

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CHAIRPERSON REID: The Hearing will please come to order. Good afternoon, ladies and gentlemen.

This is the public Hearing at the Board of Zoning Adjustments, District of Columbia. Joining me today are Betty King and Mr. Anthony Hood, representing the Zoning Commission.

The topics of today's Hearing agenda are available to you. They are located to my left, near the door. All persons planning to testify either in favor or in opposition are to fill out two witness' cards. These cards are located on each end of the table in front of us.

Before coming forward to speak to the Board, please give both cards to the Reporter who is sitting on my right.

The order of procedure for special exception in variance cases will proceed as follows; statements and witnesses of the Applicant, Government reports, including the Office of Planning and Department of Public Works, the NC, etcetera, persons or parties in support, persons or parties in opposition, closing remarks by the Applicant.

Cross examination of witnesses is

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1 permitted to persons or parties who have a direct
2 interest in the case. The record will be closed at
3 the conclusion of each case, except for any material
4 physically requested.

5 The Board and the Staff will specify, at
6 the end of the Hearing, exactly what is expected.
7 The decision of the Board in these contested cases
8 must be based, exclusively, on the public record.

9 To avoid any appearance to the contrary
10 the Board requests that person present not engage
11 the Members of the Board in conversation. The Board
12 will make every effort to conclude the public
13 Hearing as near as possible to 6 o'clock p.m.

14 If the afternoon cases are not completed
15 at 6 o'clock p.m. the Board will assess whether it
16 can complete the pending case or cases remaining on
17 the agenda.

18 At this time the Board will consider any
19 preliminary matters. Preliminary matters are those
20 which relate to whether a case will or should be
21 heard today, such as requests for postponement,
22 continuance, or withdrawal, or whether proper and
23 adequate notice of the Hearing has been given.

24 If you are not prepared to go forward
25 with the case today, or if you believe that the
26 Board should not proceed, now is the time to raise

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1 such a matter.

2 Please come forward.

3 MR. COOPER: Good afternoon, Madam
4 Chair. My name is Robert Cooper, I'm with the law
5 firm of Jackson & Campbell, and we are here on
6 behalf of Ira Clements, which is the second matter
7 before you, set for today.

8 We were recently -- we've just been
9 retained to represent them in this matter, which is
10 a forbearance for existing non-conforming structure,
11 and the addition of a deck that was built on the
12 rear of their property.

13 At this point, Madam Chair, I understand
14 that this has been continued before, with a
15 recommendation for no further continuances, but I --
16 this application was filed, I believe, late last
17 year, prior to the Commission's final rulemaking,
18 which would permit such a structure to perhaps be
19 permitted under -- not under the variance, but under
20 the special exception provision, under Section 223.

21 It is possible that, and unfortunately I
22 have not had an opportunity to fully investigate
23 this and do all the work that I would need, but I
24 have a suspicion that we might be able to fit this
25 under the Section 223 special exceptions, as opposed
26 to the variance.

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1 But if the Board is not -- would not
2 consider an additional continuance to allow me to
3 investigate that, then I would be prepared to go
4 forward, I presume today, on the variance request,
5 and see where that takes us.

6 CHAIRPERSON REID: Is the Applicant
7 here?

8 MR. COOPER: The Applicant's son is
9 here. The Applicant is an elderly gentleman who
10 just had hip surgery. His son had previously been -
11 - had submitted an authorization to speak on behalf
12 of his father, Mr. Michael Clements. He is here in
13 the room with us.

14 CHAIRPERSON REID: Well, am I
15 understanding that you said that they just retained
16 you as Counsel?

17 MR. COOPER: As I understand it, they
18 had retained other Counsel previously, but Counsel
19 has gone AWOL, and has also taken with him some of
20 the documents that they have provided to support
21 their application before you.

22 CHAIRPERSON REID: So heretofore they
23 had not been represented by Counsel?

24 MR. COOPER: Correct, they had not. On
25 two previous occasions they appeared for Hearings, I
26 believe, it was the December 17th, and February

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1 18th. They requested an extension of time to secure
2 Counsel. The Agenda here today reflects
3 that there was another Hearing that had been set for
4 May 6th. But, as I understand it, from notice from
5 the Board, that notice of that May 6th Hearing had
6 not been sent out to the parties, so no one appeared
7 on May 6th on behalf of the Clements.

8 They were unaware that the Hearing --
9 they had not received notice in the mail from the
10 Board that that Hearing was set for the 6th. But
11 they did receive the notice that the Hearing was
12 going to be set today, and I was contacted last
13 week, and was just retained to represent them in
14 this matter.

15 My preliminary investigation is that
16 there is a possibility we can fit this under Section
17 223, special exception.

18 CHAIRPERSON REID: So basically you are
19 saying that given the fact that you were just
20 recently retained you want to request an additional
21 continuance?

22 MS. KING: Well, it would also have to
23 be re-advertised if, in fact --

24 CHAIRPERSON REID: Let me finish.

25 MS. KING: Okay.

26 CHAIRPERSON REID: Based upon the fact

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1 that --

2 MS. KING: Sorry.

3 CHAIRPERSON REID: -- you need time to
4 research the case, and to pull the salient points
5 together in order to make a satisfactory
6 presentation?

7 MR. COOPER: Correct. If I'm not able
8 to go forward under Section 223, special exception,
9 then I would appear on behalf of the Clements in
10 request of the variance. But I would like to, at
11 least, get an opportunity to investigate that, meet
12 with the Zoning Administrator, and see if we can fit
13 it under a special exception.

14 CHAIRPERSON REID: Sure.

15 MR. COOPER: Then I would come back
16 under the special exception provision.

17 MS. KING: Then it would have to be re-
18 advertised, is that not correct? I mean, if we --
19 if we postpone it, it doesn't have to be re-
20 advertised, we just postpone it until a date
21 certain.

22 CHAIRPERSON REID: Correct.

23 MS. KING: What we need to do, if we
24 agree to do this, and my suggestion is that we
25 should --

26 CHAIRPERSON REID: If the Applicant

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1 would like to --

2 MS. KING: -- that we would postpone it
3 until a date certain, and then if prior to that
4 time, you want to abort the whole process by
5 withdrawing the application and refileing then --

6 MS. PRUITT-WILLIAMS: No, no.

7 MS. KING: Isn't that the way to go?
8

9 MS. PRUITT-WILLIAMS: We can, if you
10 want to investigate the special exception, the Staff
11 can allow him to talk to -- of course, go talk to
12 the Zoning Administrator, then we can amend the
13 application, but it would have to still be re-
14 advertised, he would not have to, you know, withdraw
15 and refile, it just could be amended.

16 So Staff would suggest that maybe the
17 Board consider letting Mr. Jackson investigate that
18 and let us know whether or not he wants to go
19 forward as a special exception. We can therefore
20 amend it, and then place notice and then put it on a
21 Hearing schedule based on that.

22 MR. COOPER: But if not, if we could --
23 I guess that --

24 MS. PRUITT-WILLIAMS: And that is a
25 suggestion.

26 MR. COOPER: -- option would be to go on

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1 and set it for a date certain, as Ms. King stated
2 for the variance.

3 CHAIRPERSON REID: Let me hear first
4 from the other Board member.

5 MR. HOOD: If there is no opposition for
6 us doing that, I will concur.

7 CHAIRPERSON REID: Okay. I have no
8 objection to it.

9 MS. KING: No, I believe we should allow
10 the postponement, and then -- I agree with Counsel
11 that postponing until a date certain is a good idea.
12 And then if he, you know, if we have to start all
13 over again from scratch, why, that just gets
14 canceled.

15 MS. ROSE: This case has taken four
16 Hearing slots so far, and we don't know how long it
17 is going to take for them to go back to the zoning
18 administrator.

19 My recommendation would be to postpone
20 indefinitely until we hear back from the Applicant,
21 because we would still have to re-advertise, or send
22 out notices, in any event, if we don't give a date
23 certain, today.

24 But if we give a date certain, and they
25 are not prepared to go forward that date, you know,
26 the Board starts to look kind of --

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1 CHAIRPERSON REID: Right. Why don't we
2 do it in the manner which you are suggesting.

3 MS. ROSE: Right.

4 CHAIRPERSON REID: First appear before
5 the zoning administrator, and then we can schedule
6 it accordingly. And then so notify the Applicant,
7 and his attorney.

8 MS. ROSE: Well, it is my impression
9 that the Applicant will be contacting the zoning
10 administrator, and notifying us when they are
11 prepared to go forward.

12 CHAIRPERSON REID: I'm sorry, it was
13 just -- once they have gone through the zoning
14 administrator then they will come back to us.

15 MS. ROSE: Yes, once he's made a
16 determination on whether -- how they would like to
17 proceed.

18 CHAIRPERSON REID: All right. Okay?

19 MR. COOPER: Sounds good to me.

20 CHAIRPERSON REID: Thank you.

21 MR. COOPER: Thank you.

22 MS. KING: While -- I would like to ask
23 the Staff, we seem to have had a proliferation of
24 decks built, and then they come to us. And I wonder
25 if there is any pattern of a specific builder, or if
26 it is widespread through the industry.

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1 I wonder if the Staff would like to
2 communicate with the Director of DCRA, or his
3 Deputy, or whomever, just to point out that a lot of
4 this is happening, that they might keep an eye out
5 for it, and see if they are tracking perpetrators,
6 who are particularly --

7 MS. PRUITT-WILLIAMS: We can certainly
8 pass that information on.

9 MS. KING: Because you know we seem to
10 have a lot of -- of course, they keep coming back.

11 CHAIRPERSON REID: All right. Staff, my
12 understanding is that we do have another preliminary
13 matter in regard to another postponement request by
14 LaVerne Lacy?

15 MS. ROSE: Yes. The first case on the
16 agenda, 16315 of LaVerne A. Lacy, there is a letter
17 written, today, and faxed over to us, from the
18 representative of the Applicant requesting that the
19 Board postpone this matter. An emergency has
20 arisen.

21 CHAIRPERSON REID: Is there anyone here
22 affiliated with that particular case, today?

23 (No response.)

24 MS. KING: I move that we postpone it.

25 MR. HOOD: Second the motion.

26 CHAIRPERSON REID: All in favor?

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1 (Chorus of ayes.)

2 CHAIRPERSON REID: Opposed?

3 (No response.)

4 MS. ROSE: Are we doing this
5 indefinitely, or to a date certain?

6 MS. KING: Well they are not -- they
7 don't have that conflicting problem. I think let's
8 give them a date certain, but this will be their
9 third postponement. No, the May 6th one was the one
10 where the notice was improper, is that correct?

11 MS. PRUITT-WILLIAMS: Well, this is also
12 another one that has been postponed on several
13 occasions.

14 MS. KING: Yes, but was the May 6th one
15 of theirs was that also -- did they really ask for a
16 postponement, or was it because we misadvertised, or
17 something?

18 I mean, this -- the attorney in the
19 previous case said that the May 6th one they were
20 not informed, or something.

21 MS. PRUITT-WILLIAMS: Usually for
22 postponements we don't send out public notice
23 because the notice is given at the Hearing where it
24 is postponed.

25 MS. KING: Oh, okay.

26 MS. PRUITT-WILLIAMS: That is the

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1 typical process. There may have been sometimes, and
2 we would have to research to find out, to be --

3 CHAIRPERSON REID: Maybe they didn't
4 take note at the Hearing that --

5 MS. PRUITT-WILLIAMS: The Staff will
6 certainly try to be clearer, that is what we are
7 trying to be clear now.

8 CHAIRPERSON REID: Once at the Hearing
9 we determine that we are going to postpone/defer,
10 then they get no other notice?

11 MS. PRUITT-WILLIAMS: Correct.

12 MS. KING: Well, could I ask, in this
13 case, since nobody from this -- and I mean, it is a
14 private individual, probably themselves not very
15 sophisticated about this; could I ask, as a matter
16 of courtesy, that the staff would call LaVerne Lacy
17 and tell her when the postponed Hearing is --

18 MS. PRUITT-WILLIAMS: Well, certainly on
19 this one, since there is nobody here we would
20 contact them.

21 MS. KING: Okay.

22 CHAIRPERSON REID: Do we have any other
23 preliminary matters?

24 MS. PRUITT-WILLIAMS: I'm sorry, still
25 want to clear up. Are you doing this to a date
26 certain? You want to put them on a date?

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1 CHAIRPERSON REID: November, or --

2 MS. PRUITT-WILLIAMS: The next
3 available, sort of date, that is closest to being
4 clear would be November 4th. That is a meeting
5 date, or November 18th. Does the Board have a
6 preference?

7 CHAIRPERSON REID: It doesn't matter,
8 whichever one is easier for you to schedule.

9 MS. PRUITT-WILLIAMS: We will make it
10 the first case, because we have George Washington on
11 the 18th.

12 MS. ROSE: 9:30 a.m?

13 MS. PRUITT-WILLIAMS: Yes.

14 MS. ROSE: So case 16315 is postponed to
15 November 18th at 9:30 a.m., as the first case of the
16 morning.

17 CHAIRPERSON REID: Are there any other
18 preliminary matters?

19 MS. ROSE: The staff has none.

20 CHAIRPERSON REID: Proceed to the first
21 case of the afternoon.

22 MS. ROSE: The first case of the
23 afternoon is 16347, the application of Liberty
24 Limited Partnership, pursuant to 11DCMR3107.2 for a
25 variance from the use provisions of paragraph 721.2J
26 to allow a public indoor storage facility in a C-2-A

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1 district, and the premise is 624 through 642 H
2 Street N.E., (Square 858; lots 845, 846, 851, 853,
3 854 and 855.

4 Would all persons planning to testify in
5 this application please rise to take the oath?

6 (WHEREUPON THE WITNESSES WERE SWORN.)

7 MR. AGUGLIA: Good afternoon. Is this
8 on?

9 MS. KING: Is the green light on?

10 MR. AGUGLIA: Good afternoon, I'm
11 Richard Aguglia, with the law firm of Hunting &
12 Williams, representing the Applicant in this case,
13 Liberty Limited Partnership.

14 As the clerk noted, this is an
15 application for a use variance to permit a public
16 indoor storage facility at 624, 642 H Street, N.E.
17 The property is zoned C-2-A, and under the C-2-A
18 zone district and regulations, not more than 2500
19 square feet of gross floor area may be used for
20 general indoor storage.

21 We are asking the Board to allow a use
22 variance to permit the public indoor storage
23 facility which will be in excess of the amount
24 permitted as a matter of right under the
25 regulations.

26 As the Board knows, the test is three

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1 parts. One, we must show undue hardship; second, we
2 must show exceptional nature of the property; third,
3 we must show no harm to the public or to the zone
4 plan.

5 In this respect we will provide
6 testimony from three witnesses, and also show
7 community support, and that under the test provided,
8 that the Board has the authority to grant the use
9 variance.

10 Our first witness will be Mr. Andrew
11 Schaeffer. We are passing out an outline of Mr.
12 Schaeffer's testimony, and we will do our best to
13 keep his testimony to ten minutes.

14 MR. SCHAEFFER: Hello, my name is Andrew
15 Schaeffer, I'm the owner of the project Liberty
16 Limited Partnership.

17 MS. KING: Could you speak up?

18 MR. SCHAEFFER: My name is Andrew
19 Schaeffer, I'm the owner of the project Liberty
20 Limited Partnership.

21 CHAIRPERSON REID: Mr. Schaeffer, I'm
22 not certain that you can be heard in the back of the
23 room. Are you able to hear?

24 Check to see if yr mike is on, and pull
25 it closer to you. And then if you could amplify
26 your voice, and please give your home address.

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1 MR. SCHAEFFER: I'm sorry?

2 CHAIRPERSON REID: Please give your home
3 address.

4 MR. SCHAEFFER: My address is 13305
5 Beale Creek Court, Potomac, Maryland, 20854.

6 I originally moved into this building in
7 April of 1975. I purchased the building in 1980.
8 The building was originally constructed in 1952 by
9 Ourisman Chevrolet as a Chevrolet facility, and to
10 store automobiles on the upper floors.

11 The building was vacant when I moved in,
12 in 1974, it had been vacant for about three or four
13 years prior to that. The use that I used it for was
14 to store taxicabs in the upper floors, and repair
15 taxicabs on the first floor.

16 I used that for a period from '74 to
17 '86. We had as many as 1,400 taxicabs using the
18 facility at one time. On Saturday was the day that
19 the people would come in for service and payment,
20 and we would easily handle 600 to 800 cars.

21 Since we moved out of the facility in
22 '86, we've been trying to sell the facility for
23 about 12 years now. There has been no offers, at
24 all, within the last 8 years, or 6 years.

25 The current offer to purchase the
26 building is to utilize it as a public storage

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1 facility, to renovate the facade, to hire employees,
2 70 percent from the community, to furnish a
3 community room for the use of the ANC or as a
4 possible police substation.

5 On the corner of 7th and H there is a
6 drug problem, which has always given us a lot of
7 problems. The building, basically, is a shell. It
8 is five floors, the first and the third floor have
9 relatively high ceilings; the second, fourth, and
10 fifth, have low ceilings.

11 We have had people look at it to see if
12 it was possible to renovate it into some type of
13 office, but they told us, at the time, that because
14 of the dropping of the HVAC and the mechanicals into
15 the ceiling, it wouldn't give enough ceiling height.

16 The building was basically designed as a
17 storage facility for automobiles. The first floor
18 is accessible through H street and a 30 foot alley
19 in the rear. The second floor is accessible through
20 a ramp on the 7th street side. The third, fourth,
21 fifth, and roof is accessible through an elevator,
22 two two-car elevators, which at the current time is
23 not working.

24 Currently we've been trying to lease it
25 for retail or office space, continually. We have
26 been able to do that. We now have a garage, a

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1 tenant, utilizing the first floor, at very minimal
2 rent. It does not even cover half of the real
3 estate taxes on the property, because the assessment
4 is substantial.

5 We have had debt on the property, we've
6 had a negative cash flow on this project for the
7 last 12 years. I feel that this is the highest and
8 best use at this time. The facade is run down, it
9 will be totally renovated, it will have new glass,
10 glazing all the way around, and it will have
11 security. It will have -- aesthetically it will
12 look much like an office building.

13 I think it will do much to improve the
14 neighborhood. We have had a tour of the building on
15 June 15th, asking the community to participate, and
16 there was a turnout of about 25 people.

17 Some of the ANCs that are in support of
18 it will testify later. Also, we have worked with
19 the Faith community, and the Northeast Citizens
20 Against Crime and Drugs are in support of the
21 project.

22 We have circulated a petition, at the
23 beginning, and got support of the businesses on both
24 sides of A street, within a block or two.

25 The issue of traffic, if there is any
26 large trucks going into the building, they will off-

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1 load in the back. There is now a Murray's beside
2 us, that is where they have their larger trucks.
3 But for the most part the storage will be by car
4 pickup or small van.

5 The surrounding area has quite a bit of
6 retail available that has not been able to be leased
7 for a considerable amount of time. The condition of
8 the building, right now, is that of one of a shell.
9 In other words, there is just the concrete building,
10 which is very strong, and minimal electricity, and
11 rest room and plumbing facilities on the upper
12 floor.

13 MR. AGUGLIA: Mr. Schaeffer, would you
14 just quickly go through the exhibits so that the
15 Board can follow the description of the subject
16 property, and the surrounding area?

17 MR. SCHAEFFER: The first picture is a
18 view of the front of the building facing H street
19 with the side of it exposed. On the second page,
20 this is also the front of the building, on the top
21 portion, all the glass will be replaced, and the
22 facade will be renovated.

23 The lower picture is a picture of the
24 7th street side, which actually is not on 7th
25 street, but can be viewed from 7th street. In the
26 lower right-hand corner there is a ramp to the

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1 project allowing access to the second floor.

2 On page 3 is a view looking down, the
3 top picture is a view looking down H street towards
4 6th street. And the lower picture is looking up
5 towards 7th street.

6 The next picture shows --

7 MS. KING: Excuse me, you are standing
8 in front of your building, Mr. Schaeffer?

9 MR. SCHAEFFER: I'm sorry?

10 MS. KING: This is -- the pictures
11 you've just described are standing in front of your
12 building looking across?

13 MR. SCHAEFFER: Yes.

14 MS. KING: Thank you.

15 MR. SCHAEFFER: The next picture is a
16 picture of the first floor which has fairly high
17 ceilings, and is currently used for parking. The
18 next picture, which is empty, is the second floor,
19 which would -- and some of the upper floors, which
20 show the lower ceilings and the cross beams, which
21 were the fact, the mechanicals, allowing not enough
22 ceiling height to be desirable for office.

23 Further on there is a mechanical
24 penthouse which shows two doors, and that houses the
25 elevators. The elevators, at this time, are not
26 working. We had them working back in '86. The

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1 purchaser plans on reconditioning the elevators at a
2 cost of about 200 to 250,000 dollars.

3 The purpose is that one elevator holds
4 6,000 pounds, and one elevator holds 8,000 pounds,
5 so it could transport heavy items.

6 As you go on, these are pictures of the
7 surrounding neighborhood. The top picture is the
8 500 block of H street, and the lower picture is also
9 the 500 block of H street, and there is a number of
10 retail establishments available for lease, and also
11 available for sale.

12 As you move on it is much of the same,
13 on H street areas that have not been rented or
14 renovated by the facade.

15 On the corner of the building there is
16 some boarded up property, and going -- there is
17 another property owner who purchased all the
18 property going up towards 7th street, including the
19 Apollo, and that is the Pilgrim Baptist Church. I
20 would hope that they would testify later on in our
21 behalf.

22 And so the stores going up 7th street
23 are vacant at this time, but do have plans to be
24 renovated at some time in the future.

25 So with Murray's on one end, with our
26 building renovated in the middle, and with the Faith

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1 Community Developing, the other corner, it would
2 help the entire block of H street.

3 There is a plat on the property, it is
4 all C-2-A. There is some R-4, which is only used
5 for parking, and that is separated by a public alley
6 on both sides, and on one side by 7th street. At
7 the time it is being used by the Pilgrim Baptist
8 Church for parking.

9 Lastly, we went to the businesses on
10 both sides of us and asked for their support with a
11 community petition.

12 MR. AGUGLIA: Mr. Schaeffer would be
13 happy to answer any questions that you may have.

14 MS. KING: Council member Ambrose's
15 letter in the final paragraph says, I and the
16 community are committed to working with the owner of
17 the property to assist in marketing this valuable
18 building to a tenant who is acceptable.

19 Has there been any action on the part of
20 the community to help you market this building over
21 the 10 years that it has been vacant?

22 MR. SCHAEFFER: No. We have met several
23 times with Council Person Ambrose, and we also have
24 the support of the single member ANC for that, and
25 also four of the other Commissioners.

26 MS. KING: But you received no help from

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1 any of the people who oppose this application in
2 trying to find an alternative use for the building?
3 A real alternative use; in other words a tenant or a
4 buyer who would use it for something other than a
5 storage business?

6 MR. SCHAEFFER: We've never been
7 contacted, in the entire time, by anyone from the
8 community approaching us with some type of options.
9 There was, at one point, there was some interest
10 from the YMCA, it didn't come directly from the
11 community, it came from a relationship that we have
12 with the Y. Funding was not available.

13 There was someone else, many, many years
14 ago, but the building just would not lay out for his
15 use.

16 MS. KING: Thank you.

17 MR. SCHAEFFER: There was also a
18 religious Muslim group that was interested, but
19 after studying the structure of the building, and
20 the high cost of any type of renovations, they
21 declined. It was a church.

22 MR. HOOD: Mr. Schaeffer, just a follow-
23 up. Did you ask for help from the community about
24 marketing the building, go out and ask for help?

25 MR. SCHAEFFER: Originally, when we put
26 the project up for sale, we contacted everyone in

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1 the real estate community. Also, we had spoken to
2 the H street CDC a number of times. The building
3 had a sign on it, for a number of years, for sale.

4 CHAIRPERSON REID: Was it listed with a
5 commercial real estate broker?

6 MR. SCHAEFFER: Yes. The -- Carey
7 Winston brought us the contract on this current
8 deal. It was listed with a number of brokers over
9 the years.

10 At the time that Carey Winston brought
11 us this deal, we were trying -- I was trying to sell
12 it myself, at that point.

13 CHAIRPERSON REID: Okay. It was on the
14 market for 10 years?

15 MR. SCHAEFFER: Almost 12 years.

16 CHAIRPERSON REID: Almost 12 years, and
17 during that time was your price consistent with the
18 market, or did you find that you started at one
19 price and then had to reduce?

20 MR. SCHAEFFER: What happened was, we
21 originally priced the building at three million
22 dollars. It is assessed at 2.4 million dollars. We
23 reduced the price in stages down to 2 million
24 dollars, and the current purchase price is below
25 that.

26 CHAIRPERSON REID: And what is the

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1 square footage of the building?

2 MR. SCHAEFFER: It is 122,000 square
3 foot of building.

4 CHAIRPERSON REID: What is it?

5 MR. SCHAEFFER: 122,000 square foot of
6 building.

7 CHAIRPERSON REID: And how many levels?

8 MR. SCHAEFFER: Five.

9 CHAIRPERSON REID: And equal amount of
10 square footage on each floor?

11 MR. SCHAEFFER: The first and second
12 floor are the largest. They are 27,000 square feet.
13 The third, fourth, and fifth are 22,000 square feet.

14 CHAIRPERSON REID: The petition that you
15 submitted were signed by adjacent business owners?

16 MR. SCHAEFFER: Yes.

17 CHAIRPERSON REID: Were there any
18 petitions signed by any community, or members, or
19 residents of the H street corridor?

20 MR. SCHAEFFER: We had letters from the
21 -- four ANC Commissioners filed for the record.

22 CHAIRPERSON REID: We have those.

23 MR. SCHAEFFER: And we also had, from
24 the Northeast Citizen's Committee, and from the
25 single member district ANC.

26 MR. HOOD: One other question, I don't

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1 know --

2 MR. SCHAEFFER: And Mr. Daniel Pernell.

3 MR. HOOD: I have one other question,
4 Madame Chair. About the trucks, I know you said you
5 are looking for small vehicles and cars. But for
6 the scenario of large 18 wheelers, how can you
7 accommodate in that area, say you do have some 18
8 wheelers, what would be the impact, what kind of
9 adjustments have you made so the traffic will flow
10 free and things won't -- because it is tight down
11 there to begin with.

12 MR. SCHAEFFER: Right, exactly. What
13 happened was, when we used it, we used to get car
14 carriers come in, which are the large tractor
15 trailers delivering taxis. And we always off-loaded
16 in the rear of the building.

17 We are more than willing to stipulate
18 that any large truck be off-loaded in the rear.
19 That is what it is designed for, and the alley is
20 very wide there, has access to 6th Street, I Street,
21 and 7th Street.

22 Safeway used to be next to us, but they
23 closed, and that is how they got all their trailers
24 in.

25 MR. HOOD: So you are saying that if you
26 have an 18 wheeler it would have to off-load in the

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1 alley?

2 MR. SCHAEFFER: It would off-load in the
3 alley, right. They would drive straight through,
4 basically, and off-load in the alley. The --
5 anybody coming in would not off-load in the street.
6 What they would do, would drive in through the
7 openings, and off-load inside the perimeter of the
8 building. There wouldn't be any off-loading on the
9 street, it would all be done on the interior of the
10 building.

11 MR. HOOD: Would there be any off-
12 loading in the alley, either? Am I understanding
13 you correct? MR. SCHAEFFER: Right,
14 right.

15 MR. HOOD: Okay.

16 CHAIRPERSON REID: Does that conclude
17 your --

18 MR. AGUGLIA: Well, we have our next
19 witness.

20 MR. SCHAEFFER: Thank you.

21 MR. AGUGLIA: Mr. James Darby.

22 MR. DARBY: James M. Darby, I reside at
23 1600 North Oak Street, unit 730, Arlington,
24 Virginia, 22209.

25 I'm a real estate sales person with
26 Transwester, Carey Winston Company, based in

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1 Bethesda, Maryland.

2 I was asked here to talk about the
3 property and its viability, and its highest and best
4 use, I should say, as a self storage facility.

5 I guess the primary thing I wanted to
6 make sure that I passed along was that the project
7 itself, because of some things that Andy already
8 mentioned, Mr. Schaeffer already mentioned, relating
9 to the ceiling heights, as well as the fact that
10 there are no modern electrical or HVAC system in
11 place, means that it is going to be a complete and
12 total renovation of the entire facade, which quite
13 frankly, in the letter that you will have, I may
14 have estimated a little on the low side, at 100
15 dollars a square foot.

16 Based on the fact that I was using
17 comparable rents in the Capitol Hill submarket, and
18 there is really not a critical mass of office, or
19 retail, or residential product of a mid or high-rise
20 classification in this particular submarket, the
21 most valuable highest and best use is a self
22 storage.

23 The people that I've spoken to, from a
24 residential or an office point of view just weren't
25 interested in taking the risk in an area that didn't
26 have a critical mass of similar product.

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1 Either they, or the tenants they've been
2 working with, or lenders, just needed a little more
3 comfort level, which usually only comes with a
4 little bit more commercial development in such an
5 area.

6 When I've been working with J. McCarthy
7 for several years, in some other projects, and I
8 think the thing that really struck me in talking to
9 Mr. Schaeffer about this building, over the years,
10 is that I knew that Jay would, once he went through
11 it, would be interested in making a complete and
12 total renovation of the building.

13 MR. AGUGLIA: Would you explain who Mr.
14 McCarthy is?

15 MR. DARBY: I'm sorry, Mr. McCarthy is
16 the contract purchaser for the property. He will
17 get into his presentation, also, about what he plans
18 to do with it.

19 But I guess given the fact that it
20 requires a variance to the zoning, and given some
21 comments and concerns that I knew were present in
22 the community as to what happens to this project,
23 and knowing that Mr. McCarthy would be making a
24 total renovation of the project, including the
25 facade and window treatment, it is -- I firmly
26 believe that this is the highest and best use for

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1 the project.

2 MR. AGUGLIA: Mr. Darby, is it a fair
3 statement to say that the cost of renovating the
4 building to office or residential far outweigh any
5 potential return to make it economically
6 impractical?

7 MR. DARBY: That is the response that
8 I've gotten from the marketplace. I will clarify
9 that I'm not an appraiser or a consultant, and I
10 consider that a positive situation, here, because
11 when I'm talking to people, I'm talking to people
12 that are going to do something immediately, or in
13 the very near future, not just based on some numbers
14 and some comparables.

15 I have been talking to people that, you
16 know, put their money or their lender's money on the
17 line, right away. And I've been told that the
18 return is just not there for the amount of risk and
19 the equity that would be required for this
20 investment.

21 MS. KING: There's a letter from your
22 employer, signed by you, Mr. Darby?

23 MR. DARBY: Right.

24 MS. KING: This is not --

25 MR. DARBY: That is my letter.

26 MS. KING: -- talking about the

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1 economics of the situation?

2 MR. DARBY: Correct. That is the letter
3 that I was addressing, that since we last came in
4 here, in reviewing the building with the general
5 contractor some numbers came back which were
6 actually much higher than 100 dollars a square foot
7 for a complete renovation of a five story facade.

8 It is still a question mark with a
9 couple of the floors that they would be a viable
10 tenant, because as Mr. Schaeffer mentioned before,
11 the ceilings are so low, you have to get HVAC and
12 electrical systems in place, and it makes it
13 difficult to lease if you end up with 7 foot ceiling
14 heights.

15 MR. AGUGLIA: Does the Board have any
16 further questions of Mr. Darby?

17 CHAIRPERSON REID: On your letter, Mr.
18 Darby, on the second paragraph it says, one would
19 expect to achieve five to eight dollars rent. Is
20 that per foot?

21 MR. DARBY: Correct. That is based on a
22 triple net rental rate.

23 CHAIRPERSON REID: Are you saying that
24 this is based on a renovated building?

25 MR. DARBY: Well, I guess the main thing
26 here is that, you know, you could do -- you see

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1 rents that are being asked in the Capitol Height,
2 and the Capitol Hill market that approach 25 to 30
3 dollars a foot. Expenses are anywhere -- the lowest
4 I've seen is 10 or 11 dollars a square foot, and the
5 highest is about 15.

6 CHAIRPERSON REID: Right.

7 MR. DARBY: For someone to take a risk
8 in an unestablished office market, someone would be
9 looking at an 18 to 20 dollars a square foot, at
10 full service rental rate. So I think at the end of
11 the day you are probably going to net anywhere from,
12 you know, 8 to 10 dollars, as far as someone taking
13 the risk in an unestablished marketplace.

14 That doesn't take into consideration the
15 fact that there could be two floors that really
16 aren't viable to lease at any number. And the fact
17 that this -- that most of the tenants that you would
18 try to attract to this project, are also looking at
19 comparable buildings that are in and around the
20 Union Station area, where there aren't just
21 buildings under construction, but millions of square
22 feet of additional FAR.

23 MR. AGUGLIA: Well, I think the 5 to 8
24 was triple net. That may equate to something like,
25 I'm guessing, 15 dollars a foot full service.

26 MR. DARBY: You can actually -- you

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1 would be closer to 18 to 20 dollars full service.

2 That is where I was --

3 CHAIRPERSON REID: Now, I think that it
4 appears to me that for even a triple net lease, I
5 think that this figure is on the low side, given the
6 fact that -- I think you just said that you could
7 expect rents anywhere from 11 to 15 dollars a square
8 foot?

9 MR. DARBY: Expenses.

10 CHAIRPERSON REID: For Capitol Hill?

11 MR. DARBY: Expenses.

12 CHAIRPERSON REID: Expenses?

13 MR. DARBY: Right. So that is why when
14 you take a 20 dollar full service number, and minus
15 11 to 15 dollars a square foot, you end up with a
16 lower net number. That is what the investor ends up
17 with, at the end of the day, after he pays his
18 expenses.

19 That doesn't take into consideration
20 carrying, and the risk of leasing.

21 CHAIRPERSON REID: Notwithstanding that,
22 it still appears to me that this is a low number for
23 a fully renovated building on -- well, H street is
24 on the peripheral of Capitol Hill, but the numbers
25 seem kind of low, in my opinion, on that end.

26 MR. DARBY: You are absolutely correct,

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1 that number takes into consideration the risk that
2 someone would need to take to go into an area that
3 doesn't have a critical mass of the current product.

4 CHAIRPERSON REID: Well, we don't want
5 to split hairs on this.

6 MR. DARBY: Maybe I can answer it. If
7 you are at Union Station, for instance, you would be
8 trying to push 27 to 35 dollars --

9 CHAIRPERSON REID: -- dollars a square
10 foot renovated.

11 MR. DARBY: -- because you would be
12 right in -- right.

13 CHAIRPERSON REID: Yes.

14 MR. DARBY: So you are absolutely right.

15 CHAIRPERSON REID: And H street is not
16 yet proven, it is an up and coming corridor, which
17 is not -- it is in rather close proximity to Union
18 Station.

19 MR. DARBY: Right.

20 CHAIRPERSON REID: So, again, I just --
21 it just struck me that that figure was kind of on
22 the low side. I'm just wondering how you came about
23 it, that is all.

24 MR. DARBY: Okay.

25 CHAIRPERSON REID: Next witness?

26 MR. AGUGLIA: I think the problem was

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1 the expenses to renovate this building to achieve
2 those costs is what throws it out of whack, because
3 the net is going to be so low, and the risk
4 associated with it so high, that it wouldn't work.

5 CHAIRPERSON REID: Okay. Thank you for
6 your testimony.

7 MR. AGUGLIA: Our next witness is Mr.
8 James McCarthy.

9 MR. MCCARTHY: Good afternoon. James J.
10 McCarthy, 8700 Falls Road, Potomac, Maryland, 20854.

11 I'm the president of the Williams
12 Borough Development Corporation, and we own several
13 self-storage businesses in this area, one in
14 Alexandria, one in upper Marlboro, Leesburg, and
15 Frederick, and a couple of other facilities down in
16 the Florida area.

17 Our plans for the H street building
18 include, as has been said, renovating the facade,
19 which now has a deteriorating warehouse look, and
20 give it a more of an office building look, as has
21 been discussed; changing the casement style windows
22 to a tinted glass, or strip glass; new doors,
23 awnings, new doors and awnings at the sidewalk
24 level, painting and repairs where needed, and so on,
25 to give the passers-by an impression of prosperity,
26 replacing the current impression of deterioration.

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1 The building was originally designed, as
2 has been said, for auto sales, vehicle storage and
3 repair. And I think our proposed usage is somewhat
4 similar, at least the storage aspect of it.

5 The building is ideally suited for my
6 business for a couple of reasons. The large
7 entrances on H street, as well as the alley behind
8 will allow drive-through access for loading and
9 unloading within the building itself.

10 So the people on the street won't see
11 anything that is happening in my building. The
12 larger trucks, the 16 or 18 wheeled vehicles will be
13 accessing through the alleyway.

14 And one of the unusual features of the
15 building is that it has these two huge lifts that
16 open onto the alleyway, itself, because the vehicles
17 back in the chevrolet days, and the taxi days, had
18 to access the building and drive into the lifts. It
19 was easier to do that directly from the street.

20 So the elevators, actually, have two
21 entrances, one inside for our interior customers,
22 and one outside for the folks that come and want to
23 unload via the alleyway.

24 And when I say these elevators are
25 large, these elevators are huge. They are enormous,
26 you know, you can drive a truck into them.

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1 The low ceiling height in the upper
2 floors, which create a problem for office or retail
3 purposes, really has very little impact on us. Our
4 space is supposed to be unfinished, we will be
5 adding sprinklers, of course, and some things to
6 bring the building up to code.

7 The floors and the ceilings and walls
8 which are now bare concrete or glass will, that is a
9 benefit to us, because it lowers our cost of our
10 retrofit.

11 We will serve the immediate local
12 community residents who may need additional space
13 for many reasons, as well as any small businesses
14 which will run their operations from our space. In
15 our experience, about 25 percent of our clients will
16 be businesses.

17 I think a copy of our traffic impact
18 study was submitted earlier?

19 MR. AGUGLIA: Yes, we've attached it to
20 this testimony, just for your convenience, along
21 with the need for self storage.

22 MR. MCCARTHY: But, briefly, the traffic
23 impact should be substantially less for our use than
24 any retail or office use for one, or maybe two
25 simple reasons.

26 The majority of our clients will visit

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1 our property only twice, the day that they move
2 their stuff in, and the day that they move it out.
3 So somebody may be renting for several years, but
4 they won't visit the facility but two times.

5 And another thing is that a lot of our
6 clients, they come when they have free time, and
7 most folks have free time on the weekends. So we
8 will have, you know, we will have more traffic on
9 the weekends than we will, you know, during regular
10 business hours when our clients have to work
11 themselves.

12 At our Alexandria site, for example, our
13 rush hour traffic count averages 2.2 vehicles per
14 hour, which is, you know, is very little traffic.
15 And Alexandria is a 55,000 square foot facility,
16 which is a medium size facility. And it is in the
17 downtown area, which isn't quite the same as --

18 MS. KING: This is going to be how many
19 square feet?

20 MR. MCCARTHY: Well, we will start off
21 at 50 and depending on demand, you know, we will
22 work up from there. We can go up as high as 75.

23 MR. AGUGLIA: Would you explain, Mr.
24 McCarthy, the security controls that would be in
25 place?

26 MR. MCCARTHY: Well, we will be using --

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1 we will be using a handful of security techniques.
2 In addition to having a resident manager we will
3 have personal security entrance cards for everybody.
4 And anyone that leases space will need a -- have
5 their own personal access code number.

6 The facility will be closed at 7 o'clock
7 at night through 7 a.m. in the morning. We will
8 have, you know, video cameras at various locations,
9 in the front, the rear and the side, and that will
10 be -- most of those manned during the daytime as
11 well as the night-time. High intensity lighting in
12 the rear.

13 It is in our best interest, as well as
14 our clients' interests that we make it as secure as
15 possible.

16 MS. KING: When you say a resident
17 manager, do you mean you are going to build an
18 apartment in the structure so that somebody could
19 live there?

20 MR. MCCARTHY: There is a resident
21 manager living in there now.

22 MS. KING: Oh, I see.

23 MR. MCCARTHY: And we would need to --
24 it is in a poor state of repair, we would need to
25 make it more habitable, you know, for one of our
26 managers. But there are facilities in there right

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1 now for a resident manager.

2 MR. HOOD: And you say someone is living
3 in there now?

4 MR. MCCARTHY: That's correct.

5 MR. HOOD: Okay.

6 MR. MCCARTHY: As regards to demand for
7 our project, a copy of our demand analysis is also
8 part of the testimony.

9 Our industry standards, that is the self
10 storage industry standard, is that each person in a
11 given area requires 3 square feet of storage space.
12 And within a five mile radius of this building,
13 according to the 1990 census report, there are
14 617,000 or so people, which means there is a demand,
15 a theoretical demand of 1,850,000 square feet.

16 The current supply within this five mile
17 radius is approximately 700,000 square feet, leaving
18 an unmet demand of 1,100,000 square feet. In our
19 estimation there is a very substantial unmet demand
20 that we would like to help fill.

21 Now, I understand that there are many
22 people in the community who would rather see retail
23 operation, or something that would draw shopping or
24 shoppers to the avenue, you know, Sears or a Hecht
25 company.

26 And this would be wonderful for the

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1 neighborhood. But the facts, as I see them as a
2 businessman, I mean, this building is dilapidated,
3 it is in need of a lot of money to bring it up, even
4 for storage the interior work is enormous.

5 There are many boarded up storage front
6 around us, third tier retail. It is a poor street,
7 at this moment, with a lot of dreams and a lot of
8 possibilities that we are willing to buy into.

9 When I'm finished with this building we
10 will look like a prosperous office building. And
11 since our clients will load and unload inside the
12 building itself, then most of the folks driving by
13 will think it is an office building.

14 But most importantly I think it will
15 transform this building from being a part of the H
16 street problem, to a part of its solution. It is
17 one step among many needed to transform this street.
18 But maybe 10 or 15 years from now, when the avenue
19 looks a lot better, a Hecht company or somebody will
20 come and make us an offer, and we will sell the
21 building to them.

22 MR. AGUGLIA: Mr. McCarthy, could you
23 explain how the storage could help small businessmen
24 who are mom and pop type operations in the
25 neighborhood?

26 MR. MCCARTHY: In our other facilities,

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1 we will have plumbers and painters, and rug
2 installers, that will really have no place, they try
3 to run their businesses out of their homes, but that
4 is difficult for storage. So they will store their
5 things in our place, and in the mornings, you know,
6 6 a.m. they will come and pick up their equipment,
7 and then they will go out on their routes during the
8 day, and at the end of business they will bring
9 their stuff home.

10 And we have, as I think I mentioned,
11 around 25 percent of our business should be local
12 businesses servicing, you know, the local community.

13 MR. AGUGLIA: What percentage would you
14 estimate would be from residents who need storage
15 facilities because they don't have enough closet
16 space, or cellar space in their home?

17 MR. MCCARTHY: That is a hard one to
18 say, but I would think that in this particular area,
19 the more intercity or urban that you get, the less
20 space the tenants seem to have in their apartments
21 and townhouses. And in single family homes you have
22 basements and attics, and places to keep your stuff.

23 You know, when you are in an apartment,
24 you are kind of closed in, so where are you going to
25 keep your bicycles, and your ski equipment and all
26 those other things? So we get a large amount of our

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1 clients that will be from the local community just
2 keeping their things there, because they have no
3 room.

4 MR. AGUGLIA: Mr. McCarthy, this Hearing
5 was continued so we could get more -- we and the
6 Board could get more community input. As a result
7 of meeting with the community, are there some
8 conditions that you have agreed upon, which would be
9 incorporated into the Board's order, should the
10 Board approve the use variance?

11 MR. MCCARTHY: Well, I know that it is
12 important that the facade renovation be done, and be
13 done properly, and done upfront. And we are going
14 to make sure that, you know, that there will be no
15 delay on handling that.

16 Certainly the 70 percent of our
17 employees will be hired from the local community.
18 If we are going to -- I think as has been mentioned,
19 we are going to have an ANC meeting room, as well as
20 a neighborhood watch or crime watch room.

21 The streetscape and landscaping shall be
22 provided as depicted in the -- as illustrated.
23 Large truck access, 16 wheels or more, will strictly
24 be -- will be restricted to the alleyway behind. No
25 curb cuts or expansion of existing curbs shall be
26 asked for.

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1 MR. AGUGLIA: What is the access vis-a-
2 vis curbs on H street now? I draw the Board's
3 attention to the first page following his outline,
4 the depiction of the renovated facade.

5 MR. MCCARTHY: If you notice there are
6 five awnings. The middle three awnings each have
7 curb cuts. We intend to close off the middle curb
8 cut and use that as our office area, and allow
9 access through the building through the door in
10 front of which is a white car.

11 And on the right-hand side there will be
12 parking for our customers that go in to rent units.

13 MS. KING: At the extreme right of the
14 building, or here in the center? Because it looks
15 to me as if there is steps there where the white car
16 is.

17 MR. MCCARTHY: That is actually a curb
18 cut. In the center we are going to have our office
19 area, right behind the tree.

20 MS. KING: Right. And then on either
21 side, here is where the regular size cars and vans
22 drive through?

23 MR. MCCARTHY: That's correct.

24 MS. KING: I see, okay.

25 MR. MCCARTHY: And the ceiling height is
26 large enough so that we can get trucks up to, you

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1 know, almost any size vehicle will go through that
2 building. It has been designed for that.

3 MR. AGUGLIA: And, lastly, --

4 MR. MCCARTHY: The ANC meeting area, by
5 the way, we are targeting for the left-hand side,
6 under the left-hand awning, first floor.

7 MR. HOOD: One question about the
8 meeting room. Under the conditions, will the
9 meeting room be free of costs to the ANC?

10 MR. MCCARTHY: That's correct. We would
11 like to have some -- we would like it to be
12 restricted to the ANC and to Neighborhood Watch
13 personnel.

14 MR. HOOD: What you are saying, you mean
15 associations?

16 MR. MCCARTHY: We are not going to
17 charge rent, we will provide that space for free.

18 MR. HOOD: Organized community groups,
19 basically?

20 MR. MCCARTHY: Well, the ANC
21 specifically, as well as the Neighborhood Watch
22 group, specifically. MR. HOOD: And civic
23 associations? I'm just trying to get a clear
24 picture. Just with ANC, or Neighborhood Watch, or
25 civic associations, organized neighborhood groups?
26 That is where I'm going.

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1 MR. MCCARTHY: Up to this point it has
2 been just the two organizations, the ANC and the
3 Neighborhood Watch group that have specifically
4 requested that. We would entertain other groups.

5 One concern we have is with security of
6 the facility, and so we would like to know who would
7 be entering our facility.

8 MR. HOOD: If approved I think that that
9 is very key that 70 percent of employees be hired
10 from the neighborhood, like you have here. A lot of
11 times they will come in to get things through, and
12 say, this is what we are going to do, and then after
13 that something else happens. So I think that is
14 key.

15 MR. MCCARTHY: I think you have the
16 power to control that, I think.

17 MR. HOOD: Right, but I've also seen
18 other things happen, too.

19 MR. MCCARTHY: In my experience we try
20 to hire from the areas around our facilities,
21 because it is easier for our managers to get there.
22 It just makes, as a practical matter --

23 MR. HOOD: But I just want to stress
24 that that is key, very key.

25 MR. AGUGLIA: And as I said, we would
26 have the Board incorporate this into its order, so

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1 there is no slip between the -- and then lastly, I
2 suggest that we conclude with Mr. McCarthy, as we've
3 already submitted to the Board the self-storage
4 needs, and the traffic impact report.

5 If the Board has any further questions
6 of Mr. McCarthy?

7 MS. KING: I have none.

8 CHAIRPERSON REID: I have none. Is
9 there any cross examination from parties?

10 MR. AGUGLIA: I believe there are none.

11 CHAIRPERSON REID: Is ANC present? Are
12 there any Government reports? I don't think that we
13 have one from the Office of Planning, or any other
14 Government reports on this case. I see none. I
15 will now have a report from the ANC. Please come
16 up.

17 You want to remove your things from the
18 table, because this is the ANC portion. I did ask
19 you to stay in the event there was some cross
20 examination. But there was none.

21 MR. PERNELL: Good morning, I'm
22 Commissioner Daniel Pernel III, and I would like to
23 say that --

24 CHAIRPERSON REID: Please give your
25 address.

26 MR. PERNELL: I'm sorry. I have been

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1 working on the H street corridor for a little over
2 11 years now, with what we call the H Street task
3 force.

4 CHAIRPERSON REID: Your address.

5 MS. KING: Your home address.

6 MR. PERNELL: I'm sorry, 1132 4th Street
7 N. E.

8 CHAIRPERSON REID: Okay.

9 MR. PERNELL: And in these 11 years, in
10 1989, we did a survey that we wanted that particular
11 building at 624 H Street, that garage, Chevrolet
12 garage, we wanted it as a high scale restaurant.
13 But as years went on we found out that it is not
14 capable of supporting such a facility, so we went
15 against that.

16 In 1995 the task force came back
17 together, again, with Commissioner Karen Wort, and
18 we made a list of abandoned buildings, and one of
19 them was 624 H Street, and a number of abandoned
20 homes on both sides, south and north of H Street,
21 along with District U.S. Attorney Eric Holder, and a
22 number of members of civic groups, within the area;
23 Stanton Park, public interest civic association, and
24 the Northeast Citizens Against Crime and Drugs.

25 We all met and we came to the conclusion
26 that this building can only be a storage facility,

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1 but a possibility of a community office in and out
2 there, you know, seven days a week, if that is
3 possible.

4 We had viewed the building in June for
5 the second time to make sure that our doubts and our
6 thinking was in perspective, and indeed it was.
7 That this building, the number of floors that they
8 have, only two floors were high enough to get
9 anything going in there.

10 The cost of renovation would be
11 astronomical, and I mean, which is no cost to us,
12 but nevertheless it was the type of building I don't
13 think that I would want to use for -- but a storage
14 facility would be the proper thing, so we voted in
15 favor of the storage facility there on H street,
16 624.

17 The main concern is that we have been
18 wanting for years, and Mr. Schaeffer has come to us
19 twice in those 11 years, concerning 624, and this
20 was a major time for him, because we really had to
21 think this out. We involved every community group,
22 every group that wasn't registered, was registered,
23 had a concern in this, and we all arrived pretty
24 much at the same, that this facility at 624 H Street
25 could only be a facility for storage.

26 Thank you.

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1 MS. KING: Are you all going to testify?
2 Maybe I should hold my questions. But I'm a little
3 confused. Was there a meeting of the ANC at which a
4 quorum was present, at which a vote was taken, where
5 the ANC voted in support? I mean, those that are
6 for, or opposition? This is a test for great
7 weight, and I just wanted to clarify that issue.

8 MR. PERNELL: Right. That was, I
9 believe, May 7th -- I mean, July 7th there was a
10 meeting.

11 CHAIRPERSON REID: What is your --

12 MS. KING: How many members are there in
13 ANC?

14 MR. PERNELL: Ten at the moment.

15 CHAIRPERSON REID: And what is ANC?

16 MR. PERNELL: It is at -- 6A.

17 CHAIRPERSON REID: Because we have a
18 letter from 6A that --

19 MR. PERNELL: Was there a name on it?

20 CHAIRPERSON REID: Karen Wort.

21 MR. FERRELL: Let me explain. There was
22 not a meeting where a quorum was held.

23 CHAIRPERSON REID: Okay, this is what we
24 need to ascertain; if there was a meeting of the ANC
25 in which there was a quorum, number one; and if
26 there was a vote taken.

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1 MR. FERRELL: No. There was not a
2 meeting where a quorum was present, we could not
3 establish a quorum, and subsequently those ANC in
4 their individual capacity, represent the individual
5 single member district elected to either support, or
6 either oppose the BZA application. Some ANC
7 Commissioners wrote letters of support.

8 But due to a lack of a quorum we were
9 not able to take a vote as an ANC body.

10 MR. HOOD: Which SMD is this in, and who
11 is the SMD?

12 MR. FERRELL: The SMD is located at
13 6A08.

14 MS. ROSE: Sir, please identify yourself
15 for the record.

16 MR. FERRELL: My name is ANC
17 Commissioner Gregory Ferrell.

18 MR. HOOD: 6A08?

19 MR. FERRELL: 6A08 was represented by
20 Susan Orndorff, at that particular time. Since, I
21 believe, Ms. Orndorff submitted a letter of
22 resignation August 5th of 1988.

23 MR. HOOD: Let me interrupt you, for the
24 sake of time. Who is the chairperson?

25 MR. FERRELL: The chairperson,
26 currently, is Dereck Barnes.

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1 MR. HOOD: Okay, thank you.

2 MR. PERNELL: To make it clear for the
3 record, when we were down here several years ago and
4 had a continuance for Mr. Schaeffer and Mr.
5 McCarthy, the letter that was supposed to be
6 submitted by the 6A commission at that time, by the
7 chairman had not come into your office, even though
8 he told us it did.

9 And we still find out, to this day, that
10 it is not. So we find that letter be invalid, if it
11 does show up, and that presently our statement to be
12 for the record.

13 MS. KING: There is a letter dated May
14 11th pursuant to request of the --

15 MR. PERNELL: Whose name is on it?

16 MS. KING: ANC voted to disapprove the
17 request for a zoning variance. ANC's decision was
18 based on lack of information from the Applicant.
19 That was May 11th.

20 MR. HOOD: But I believe --

21 CHAIRPERSON REID: Subsequent to that --

22 MR. HOOD: -- since then a --

23 MS. KING: -- a letter from four, I
24 guess the four who were here before us. No?
25 Veronica Raglin, Marvin Fields, Gregory Ferrell, and
26 Daniel Pernell III.

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1 CHAIRPERSON REID: Now, here is where
2 I'm finding some difficulty, and that is, did you
3 say the ANC could not meet in order to come up with
4 a quorum, in order to be able to vote as a body and
5 submit a report to the BZA?

6 MR. FERRELL: What had happened was that
7 the -- there were several members of the ANC
8 Commission that were not exactly sure about the
9 structure of the building.

10 CHAIRPERSON REID: Now, I understand
11 that. But before you go any further, often there
12 may be a split of opinions, or difference of opinion
13 within the ANC. However, this is why the quorum is
14 important, because then we could get a vote taken,
15 and then we get a, basically, a feel for the body,
16 based on your having had that meeting with the
17 quorum and taken a vote.

18 Now, I'm still not clear why that didn't
19 happen.

20 MS. KING: The letter from Dereck Barnes
21 does not make any reference to a quorum being
22 present, and therefore it would not meet the test
23 for great weight.

24 MR. FERRELL: As I said --

25 MS. KING: -- testify under oath is that
26 since then they have not been able to achieve --

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1 MR. FERRELL: -- establish quorum.

2 MS. KING: -- quorum.

3 MR. FERRELL: And what had happened was,
4 because there -- we did have a tour of the facility.
5 There were ANC Commissioners at the table, that they
6 were present at the tour of the building. We wanted
7 to look at the structure of the building to get a
8 better idea with regards to a suitable purpose for
9 the building.

10 At that particular meeting there were
11 several other civic association members, members
12 from the H Street Merchant's Association, churches
13 was also present.

14 Subsequent to the meeting we were not
15 able to establish a quorum at our July meeting. We
16 recess during the month of August, we don't have
17 meetings during the month of August.

18 So, therefore, commissioners who decided
19 that they felt that the BZA application should be
20 supported wrote letters in their individual
21 capacity. But we were not able to establish a
22 quorum after the tour of the building in June.

23 MR. SCHULMAN: I can shed some light,
24 perhaps.

25 CHAIRPERSON REID: Into the mike.
26 Please identify yourself.

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1 MR. SCHULMAN: My name is Jim Schulman,
2 I'm the Acting Chairman of the Zoning and Licensing
3 Committee. You are correct, there was division in
4 the ANC about this issue.

5 But with respect to the letter that our
6 Chairman wrote, I must say, just to clarify, that
7 there was a quorum at that meeting. However, many
8 commissioners were unhappy with the characterization
9 of the reasons the vote was negative in that letter,
10 because it actually went beyond that issue of lack
11 of information.

12 It was, without going into any great
13 length, there were commissioners who were concerned
14 about the change of use.

15 However, it is correct that we did
16 attempt to have a quorum of the Zoning and Licensing
17 Committee to revisit this issue. At the time that I
18 took a telephone poll, because of lack of quorum, at
19 the time where we were going to submit a report, we
20 had a tie vote, a 4 to 4.

21 However, subsequent to that time,
22 several of the individuals who did not vote at that
23 time have come out in favor of granting the
24 variance. And for what it is worth I can tell you
25 the names of those individuals.

26 So even though I personally am in

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1 opposition, I want to come here to accurately
2 reflect that there was a majority of the commission
3 that was in favor of granting --

4 MS. KING: Can you speak for the Zoning
5 Comitee, of the Committee?

6 MR. SCHULMAN: I can only speak as
7 Acting Chair of the Committee, the Zoning and
8 Licensing Committee. But I'm also Vice-Chairman of
9 the ANC as a whole, and it is a majority of both.

10 CHAIRPERSON REID: Did you say you are
11 in opposition?

12 MR. SCHULMAN: I, personally, am in
13 opposition, but I wanted to be fair to the project,
14 so that people know that --

15 MS. KING: So what you are saying is
16 that a majority of the commissioners now support the
17 project?

18 MR. SCHULMAN: Right. Even not
19 including Ms. Orndorff, in whose single member
20 district this resides, even though she is -- she has
21 resigned.

22 MS. KING: She supported?

23 MR. SCHULMAN: Correct, that is what I'm
24 saying.

25 MR. FERRELL: There's a letter, on the
26 record, from former Commissioner Susan Orndorff,

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1 before she resigned.

2 MS. KING: Yes, we've got a copy.

3 MR. FERRELL: She wrote a letter. Some
4 of what Mr. Schulman said was accurate, and some was
5 not accurate. There was no telephone poll, as far
6 as I'm concerned. The Z&L Committee initially heard
7 from Mr. Schaeffer and Mr. McCarthy, with regards to
8 the application.

9 At that particular time there was no
10 action taken, none whatsoever. And it was supposed
11 to be sent over to the full Commission, because
12 there was division in our Commission, there was no
13 real consensus as to what we support as a body, or
14 reject it as a body.

15 Subsequent we had a tour of the building
16 in June, several ANC commissioners were there. ANC
17 commissioners that supported the BZA application
18 decided to submit letters in support or in
19 opposition to, in their individual capacity, because
20 we were not able to deal with the issue as an ANC
21 body.

22 MS. KING: Ms. Raglin, do you have
23 anything?

24 MS. RAGLIN: Yes. I just wanted to add
25 that the zoning and licensing --

26 CHAIRPERSON REID: Ms. Raglin, would you

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1 give your name and your address?

2 MS. RAGLIN: I'm sorry. My name is
3 Veronica Raglin, ANC 6814, I live at 4008 21st
4 Street, N. E.

5 I just want to add that the Zoning and
6 Licensing Committee did hear something from the
7 project. It was also brought forth to the full
8 Commission, and once the full Commission votes, it
9 cannot go back to the Zoning and Licensing Committee
10 as was stated.

11 Plus the Commission did not ask that the
12 Zoning and Licensing Committee take it up for
13 further information. It was directly from the
14 Commission that we said we needed more information.

15 And based on that Mr. Schaeffer was able
16 to set up a meeting in which the Commissioners came,
17 other community members came, and there was a lot of
18 input and information. There was also the question
19 asked, at that meeting, and I'm talking about the
20 June 15th tour of the building, what are other uses?
21 And we asked people, tell us what you recommend.

22 Nothing has come forward, and therefore
23 we -- those of us who feel that the project is good
24 for H Street, feel that this is now the time to move
25 so that we can get on.

26 MR. FERRELL: And also, I may also add

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1 that last Tuesday we also met with the City
2 Councilperson for Ward 6, Sharon Ambrose, and at
3 that particular time it was myself, Commissioner
4 Raglin, Commissioner Fields, Commissioner Pernell,
5 representatives from Mr. Schaeffer, his attorney.

6 And we reiterated the fact that we
7 wanted to have at least 70 percent employment for
8 residents that live in that particular neighborhood.
9 Mr. Schaeffer, Mr. McCarthy, and the attorney
10 understand the importance of having residents in
11 that neighborhood employed.

12 As the ANC we support the project. We
13 are ready, and in my capacity as a job developer,
14 working with the social service organization, and my
15 brother is a director, executive director for the
16 Coalition for the Homeless, the shelter resides in
17 the rear of the building.

18 I can assure you that Mr. Schaeffer --
19 Mr. McCarthy will be entertaining applications from
20 those who are most needy in terms of jobs for that
21 particular project.

22 We also reiterated the importance of
23 high density lights on the 7th street side, and in
24 the rear of the alley. 7th street and H street
25 corridor is ridden with drugs, and all kinds of
26 quality of life issues.

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1 They have consented to place high
2 density lights around the building in order to
3 illuminate that area at night.

4 Mr. Schaeffer has consented to have a
5 meeting area that will be utilized by the ANC and
6 also the Metropolitan Police Department, if they
7 desire to have a substation there.

8 Mr. Hood raised the question about other
9 civic associations or groups using that particular
10 meeting area. I don't see a problem from the ANC
11 sharing space. There may be some security issues
12 there.

13 At the time when we were negotiating
14 objectives from the community, there were no real
15 concern raised about the meeting space besides the
16 concern that Ms. Ambrose echoed, that a substation
17 or the Metropolitan Police would have access to the
18 meeting area.

19 MR. HOOD: Let me just take you back on
20 what you said. I was under the assumption that it
21 was going to be a community room, not the ANC
22 office. So now what you are telling me, it is going
23 to be the ANC office?

24 MR. FERRELL: No, sir, it is a community
25 meeting area space for --

26 MR. HOOD: But you already have a

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1 location for your ANC office?

2 MR. FERRELL: We have an office
3 location, we are under a lease agreement, day by day
4 for the ANC office at the Medlink Hospital. This
5 area is more to be utilized as a meeting space for
6 the ANC and the Metropolitan Police.

7 That is the original agreement, but of
8 course there could be some modifications made to
9 that.

10 MR. HOOD: Let me ask one
11 other question. When Ms. Orndorff was the ANC
12 Commissioner, at any time, did she ever have an SMD
13 meeting? A single member district meeting?

14 MR. FERRELL: With regards to the
15 project?

16 MR. HOOD: Yes, at any time,
17 right.

18 MR. PERNELL: Did she have a what, now?

19 MR. FERRELL: Did she have a meeting, an
20 SMD meeting regarding the Schaeffer's project?

21 MR. PERNELL: She met with the civic
22 group with Ms. Laura Mary and myself.

23 MR. HOOD: And that was her SMD meeting?

24 MR. FERRELL: Right.

25 CHAIRPERSON REID: Okay.

26 MR. SCHULMAN: I can just speak to that.
I don't know whether she held an SMD meeting or not,
but she did tell me, over the telephone, that she

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1 did make a survey of the area. Now, I don't know if
2 that included residential, or it was just businesses
3 that she spoke to. But she found overwhelming
4 support for anything to happen at that facility, and
5 that was one of the things I wanted to convey.

6 MR. HOOD: Thank you.

7 CHAIRPERSON REID: Okay. I think that
8 at this juncture what we need, as a Board, is to get
9 from you, before our meeting where we will actually
10 make a decision on this particular application, that
11 you have your meeting, and you all have a quorum, at
12 which time you will submit a report that will advise
13 us as to what your position is.

14 Because at this point, what we have is,
15 several single member district representatives who
16 are testifying, but we cannot give you great weight.

17 The great weight aspect comes from your
18 submitting to us, as a body, what your position is.
19 And it seems to me that that position has been
20 evolving, and you have people who were not on board
21 with you who later, after touring the facility,
22 realized that perhaps this was the highest and best
23 use, after all. And they then started to work with
24 Mr. Schaeffer, and making concessions as far as what
25 you wanted to see there, and also what you --
26 amenities you wanted to see have, that would be most

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1 conducive to that particular neighborhood.

2 So your report, then, should stipulate
3 what your stipulation is, one. And that there was a
4 quorum, and that you will support the application
5 with the conditions that you've laid forth here
6 today, and have that submitted to us so that we will
7 have it for our meeting.

8 MR. PERNELL: Madam Chair, what would
9 happen, four out of 14 -- I'm sorry, 5 out of 15 ANC
10 Commissioners have applied -- reapplied for ANC
11 positions, registered for ANC positions, and they
12 have turned them in, only 5 out of 14.

13 With the Congress cutting the budget for
14 the ANCs, and it would be final as of September
15 22nd, if we don't put forth a report such as we ask,
16 what would happen after that? I'm just a little
17 bit --

18 MR. HOOD: This is pertaining exactly to
19 what he said.

20 CHAIRPERSON REID: I'm going to give you
21 an opportunity, just let me answer his question,
22 first.

23 MR. HOOD: Okay.

24 CHAIRPERSON REID: At this point, the
25 regulations, as they are written, the ones -- the
26 regulation in which we have to abide by, or comply

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1 with, stipulate that in order for you to be given
2 great weight you have to have that quorum.

3 However, I understand that these
4 regulations did not take into consideration that
5 perhaps your budget might be cut, and it might
6 cause, as a result of that, some difficulties.

7 So to answer your question, I'm really
8 not sure how that would be handled. Maybe I will
9 defer that. Mr. Hood, can you respond to it?

10 MR. HOOD: I think, at least when I've
11 been on the other side, I think they usually, the
12 Board usually gives commissioners, gives them great
13 consideration, but not great weight. If we could
14 just consider, and that way we don't have to prolong
15 it.

16 And I'm not trying to -- being the
17 rookie member I'm not trying to come down and have
18 the know it all, but I do think that we need to have
19 -- if we can give them consideration and move
20 forward, as opposed -- like he said, for example,
21 and this is happening throughout the whole city, not
22 being able to get quorums, and necessarily people
23 not wanting to participate in the ANC process.

24 CHAIRPERSON REID: Well, certainly Mr.
25 Hood, whatever you have to proffer to this Board is
26 taken, we appreciate, and is taken with great

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1 significance.

2 MR. HOOD: Thank you.

3 CHAIRPERSON REID: Ms. Pruitt-Williams,
4 can you weigh in on this?

5 MS. KING: Madam Chair?

6 CHAIRPERSON REID: Let her, and then --

7 MS. KING: Could I say something?

8 CHAIRPERSON REID: Yes, right after she

9 --

10 MS. PRUITT-WILLIAMS: I would agree with
11 Mr. Hood. I think you have -- if the Board feels
12 they have enough information to make an informed
13 decision, you have got a lot of information from the
14 ANC, you just don't have an official letter from
15 them with great weight.

16 However, you have gotten testimony from
17 single member districts. If you feel you have
18 enough information, I don't see why you can't go
19 forward, if you would like, today, to make a bench
20 decision, if you feel comfortable with that.

21 Or, you know, have the -- submit --

22 CHAIRPERSON REID: Well, we will see --

23 MS. PRUITT-WILLIAMS: Submit, right.

24 CHAIRPERSON REID: We will play it by
25 ear, depending on how the rest of the testimony
26 goes.

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1 MS. KING: Ms. Pruitt and I, great minds
2 think alike. I think that we should wait to
3 determine what additional information we want or
4 need, when we get to the end of the process this
5 afternoon, and then determine whether we can go
6 forward without an official great weight quorum,
7 etcetera, of the ANC.

8 CHAIRPERSON REID: Okay, all right. Any
9 other further comments? Ms. Raglin?

10 MS. RAGLIN: Yes. I would just like to
11 start again. Veronica Raglin, ANC6814.

12 I would like to thank you for the
13 opportunity to come before the BZA board to talk
14 about the H street storage facility.

15 First and foremost, the facility was
16 formerly a car dealership, and later used for cabs.
17 This pre-existing use should be the basis for
18 continuing the use of this facility for storage.

19 It has been the case of personal items,
20 we now feel that this would be something that would
21 be added and needed for the community.

22 Secondly, the storage facility will
23 stimulate much needed business development of the H
24 Street Corridor, unlike the other corridors in the
25 1968 riots, which have seen a revitalization.

26 Although there appears to be an

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1 abundance of retail space in the corridor, merchants
2 and tenants cannot afford to pay the exorbitant
3 prices required, and therefore, business development
4 has been stifled, and the H Street Corridor has not
5 been revitalized as other parts of the city.

6 Third, this will provide a stable
7 business, which will help to anchor other businesses
8 to the H Street Corridor.

9 Fourth, the community has had an ample
10 opportunity to ask questions and preview the
11 building, and to make suggestions and
12 recommendations or comments. There has been a
13 traffic study, as previously stated, and extensive
14 discussions on alternative businesses.

15 However, to date, we have not heard from
16 these people who continue to say that there should
17 be some other use.

18 I also concur with all of the previous
19 comments of the attorney and my fellow commissioners
20 in support of the project. You can see that we
21 consider this a very important project, we've taken
22 our time to come down and testify, we just didn't
23 send a letter.

24 So we do feel that this is something
25 that will benefit the total community.

26 In conclusion I urge the BZA to support

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1 the variance, because we are tired of the blight
2 that the vacant and abandoned buildings, and the
3 unused rental space.

4 There must be some forward movement in
5 the city. The broken buildings and the vacant
6 buildings encourage vandalism, fire, crime, and
7 environmental problems.

8 Let's move forward and make sure that we
9 can provide the best possible situation for business
10 development on the H Street Corridor, otherwise you
11 are actually lowering the standard of living for
12 city residents.

13 Thank you for your time, and I will be
14 happy to answer any questions that you may have.

15 CHAIRPERSON REID: Thank you, Ms.
16 Raglin. Do you have a copy of your testimony to
17 submit to the Board?

18 MS. RAGLIN: Yes.

19 CHAIRPERSON REID: Please.

20 MR. SCHULMAN: Very briefly, I just want
21 to --

22 CHAIRPERSON REID: Give your name again.

23 MR. SCHULMAN: Yes, James Schulman, 631
24 E Street N. E.

25 I just wanted to report that among both
26 the supporters of this project, and the detractors,

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1 they share concerns regarding the presence of the
2 large trucks that has been spoken of today, for
3 loading at the facility, and the need for the ground
4 floor activity to be seen from the street.

5 A number of comments were made at our
6 meetings in this issue, about how it would be useful
7 for the office, or the place where they are going to
8 buy and sell boxes to the public, be visible from
9 the street, through some kind of window, just to add
10 to the activity of H Street.

11 But, personally, I do not agree that a
12 self storage is a highest and best use for a
13 building of this prominence on revitalizing H
14 street, and that is why I'm opposed to granting the
15 variance.

16 CHAIRPERSON REID: I should just add,
17 for the single member district representatives, any
18 and all conditions that you would like to see be a
19 part of any order that we come up --

20 MS. KING: Excuse me, could I deal with
21 what this gentleman has just testified to, can I ask
22 him the question before you finish with him?

23 CHAIRPERSON REID: Okay.

24 MS. KING: Have you participated in any
25 -- you don't want a mini storage facility there.
26 Have you participated in any effort, with the owner,

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1 to find alternative tenants for that building that
2 would be within the framework of the kind of
3 business that you would like to see on H street?

4 MR. SCHULMAN: No, but I have maintained
5 that a little bit of creativity on the potential
6 owner's part in terms of multi uses for the building
7 might be in order.

8 MS. KING: You don't accept their
9 suggestion that the low ceilings and all of the
10 girders that we have seen, and so forth, would make
11 it impossible to install the kind of air
12 conditioning and other things that you need, and
13 still have a ceiling height that is acceptable for
14 an office, or any other kind of undertaking like
15 that?

16 MR. SCHULMAN: I'm a registered
17 architect in the District of Columbia, and I have
18 toured the facility, along with everybody else. And
19 only on one of the floors does that even begin to
20 present itself as a problem.

21 I think that has been overblown as an
22 issue. I think that, again, with a little
23 creativity, there is plenty of room for duct space.
24 So that has been somewhat of a red herring.

25 MS. KING: And you feel that it is
26 financially viable that their estimates of what kind

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1 of rent they could receive in an area which -- I
2 don't know if it was you, or one of your friends
3 testified is a drug hangout, and so forth, to turn
4 that into office space in that kind of a
5 neighborhood would be viable, economically, for the
6 kind of investment that needs to be made?

7 MR. SCHULMAN: I'm not calling for
8 office space.

9 MS. KING: You are not calling for
10 office space?

11 MR. SCHULMAN: No, I'm not calling for
12 office space. I'm just saying that the argument
13 given that it doesn't make sense for use as retail
14 or commercial is a specious argument.

15 And I'm not an appraiser, I can't speak
16 to -- I haven't done market studies, and no I
17 haven't helped the owner determine alternative uses.
18 But there is a, as some of our other commissioners
19 have pointed out, there is a self storage facility
20 not too far away, around the corner.

21 And I would really hate to see this
22 become, H street become a warehouse district because
23 of a little too great lenience with regard to zoning
24 variances.

25 MR. PERNELL: Board members, Mr.
26 Schulman was just -- admitted that he did not attend

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1 any of the meetings that we had. As I said before,
2 I've been on the H Street task force, and the H
3 Street corridor for 11 years now, working with Ms.
4 Lord-Mer, the civic group, the Reverend Bowman, the
5 Public Interest Civic Association, and Mrs. Eichman,
6 with the Stanton Park Civic Association. I think
7 some members came from Kingman's Civic Association.

8 The idea of this becoming a warehouse
9 district, we looked at that, and we saw this to be
10 special and different. That we need something on
11 that H Street corridor, we need something to show
12 the rest of the community it can be upscaled, and it
13 can look like it is being revitalized.

14 And that is what we look forward to. We
15 had no intention of making H street a warehouse
16 district. That was our first concern, and our
17 position at first. But we changed our minds because
18 we want this building to go forward, to spruce up
19 the avenue.

20 And that is what I wanted to make clear
21 for the Board.

22 CHAIRPERSON REID: Thank you.

23 MR. PERNELL: Is that I have been
24 working a long time, and I understand. But it seems
25 like every time we get something going, someone
26 comes from another area and wants to be opposition

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1 against it. And that is the thing that hold us up.

2 CHAIRPERSON REID: What we don't want is
3 -- you all have made it very clear what your
4 position is, and the basis of your position, and
5 that is well taken, I think we all have that.

6 We don't want this to be a forum for you
7 all to debate your issues, because that is what was
8 supposed to have been done at the meeting that
9 didn't occur.

10 So having said that, my other point was
11 simply that any conditions that you would want to
12 have put into any order that comes from this Board,
13 you should make sure that you get that up to us,
14 particularly some of the items that you raised
15 today, I have not heard before, or seen in any of
16 the materials that were submitted.

17 And to simply say that you were promised
18 this or promised that, that has to be reduced to
19 writing so that --

20 MR. PERNELL: Madam Chair?

21 CHAIRPERSON REID: Sure?

22 MR. PERNELL: There were several letters
23 submitted by several agencies --

24 CHAIRPERSON REID: We have them.

25 MR. PERNELL: -- and everything that I
26 testified to is included.

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1 CHAIRPERSON REID: I don't think I heard
2 any, I saw -- and you can correct me if I'm wrong,
3 the issue regarding the lighting in the rear?

4 MR. PERNELL: That was after we
5 submitted our letters.

6 CHAIRPERSON REID: That is what I'm
7 saying, the whole point I'm making is that there are
8 some issues that you raised that we haven't seen
9 yet, we don't have it.

10 MR. PERNELL: Well, could you give me a
11 time frame with regards to the submission of --

12 MS. KING: Well, let's start right now.

13 MS. PRUITT-WILLIAMS: That will all
14 happen at the end. The Board has to, one, determine
15 whether or not they are going to approve it. If
16 they do approve it, that would go into the
17 conditions, and we are not at that part in the
18 process, yet.

19 You will be notified as to when you can
20 submit additional information at the end of the
21 Hearing here.

22 MS. KING: I'm sorry, but if we decide
23 to make a bench decision today, it will be too late.
24 Let's go over. You say the facade is renovated,
25 that that is the agreement?

26 MR. PERNELL: Yes.

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1 MS. KING: 70 percent of the employees
2 hired are from the surrounding community, the
3 community room for the ANC is provided within a
4 reasonable time after construction has been
5 completed, and you want to add to that your request
6 that there be --

7 MS. PRUITT-WILLIAMS: Let's do that at
8 the --

9 MS. KING: -- security lighting on the
10 outside?

11 CHAIRPERSON REID: Excuse me one second.
12 Let's do that at the end.

13 MS. KING: But these people will not be
14 on at the end. The last thing at the end is the
15 closing statement by the Applicant, is that not
16 correct?

17 CHAIRPERSON REID: I see, you just want
18 to get --

19 MS. KING: I want to know what they
20 want.

21 CHAIRPERSON REID: -- when we get to the
22 end --

23 MS. KING: Not in writing, I just want
24 them to tell me.

25 MR. FERRELL: Madam Chair, for the
26 record, the additional items we would like to see in

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1 the agreement, if the BZA elects to support the
2 application, as stated would be high density lights
3 around the buildings, in particular on the 7th
4 street side, and the rear of the building, because
5 it is a high drug area.

6 We would also like to see, if feasible,
7 a community police station.

8 MS. KING: Well, that is something that
9 we can't mandate. They've indicated, as part of
10 their testimony, that they would be willing to do
11 that, it is up to the Metropolitan Police
12 Department. Anybody who has a mini storage in a
13 transitional neighborhood would be delighted to
14 supply space to a police department.

15 So I don't think that that is a problem,
16 but the lighting is something that wasn't on your
17 original --

18 MR. FERRELL: Also, we did not request
19 for any additional curb cuts. That came at the
20 meeting with Sharon Ambrose, but we agree that there
21 should be no additional curb cuts, as ANC, my single
22 member district, we agree with that, also.

23 And also our highest priority is to make
24 sure that Mr. McCarthy and his business hire at
25 least 70 percent of the residents in the particular
26 area, that is high on our priorities.

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1 CHAIRPERSON REID: And the other thing
2 was the community room?

3 MS. KING: Yes, that is right.

4 MR. FERRELL: And the community room.

5 MS. KING: And the facade renovation.

6 MS. ROSE: Madam chair?

7 MR. PERNELL: May I -- civic groups and
8 any other groups in the area that would like to use
9 it as a meeting place.

10 MS. KING: Well, what the owners have
11 said is that they will make it available to the ANC
12 and to the Neighborhood Watch?

13 MR. PERNELL: Yes.

14 MR. FERRELL: Yes.

15 MS. PRUITT-WILLIAMS: Madam Chair, staff
16 would just like to -- while the hiring of 70 percent
17 of neighborhood is a very good idea, you may think
18 that it is a very good idea, there is no way that
19 this Board can enforce that, if you make it a
20 condition. I just wanted to let you know.

21 MS. KING: But in the order we can make
22 sure that it is said, that the --

23 MS. PRUITT-WILLIAMS: Correct, but it
24 can, as a condition it would --

25 MS. KING: -- the owners have undertaken
26 to do that.

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1 CHAIRPERSON REID: But what you can do
2 is to enter into an agreement with the owners,
3 yourself, regarding some of the things that we
4 cannot -- we don't have the power to enforce.

5 MS. RAGLIN: Okay. One last comment. I
6 would just like the Board to consider, if at all, a
7 temporary variance that could be granted for a
8 couple of years in order to asses the viability of a
9 storage facility.

10 CHAIRPERSON REID: We can put a time
11 limit.

12 MS. KING: Not on a variance.

13 CHAIRPERSON REID: Not on a variance?

14 MS. KING: Not on a variance. A
15 variance goes to the land.

16 MR. FERRELL: Let me also just --

17 CHAIRPERSON REID: I'm sorry, I was
18 confusing it with a special exception. We can't
19 because the variance, once it is -- the site
20 receives a variance it goes with the land.

21 MR. FERRELL: Let me also state, for the
22 record, that Mr. Schulman had indicated he did not
23 want to see H street turned into a warehouse
24 district.

25 The building at question today is
26 perhaps the largest edifice that is vacant on H

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1 Street. And there is no real possibility that H
2 Street could be turned into a warehouse district,
3 because the vacant facilities that are there now,
4 are basically storefronts, or small vacant lots.

5 I'm a native Washingtonian, I lived
6 through the 1968 riots, and I saw H street
7 devastated. When I was a child I used to walk H
8 Street, and I used to buy my school clothes there.
9 And 30 years has passed since the 1968 riots, and we
10 still have those devastated sites along the H Street
11 corridor.

12 And if we continue to procrastinate, as
13 ANC representatives and elected officials, then
14 those corridors will remain blighted forever, if we
15 start talking about issues that are really not
16 germane to economic development, and real job
17 opportunities for people in our community.

18 So I just hope and pray that the BZA
19 will help the H Street corridor by stimulating some
20 economic development by supporting this BZA
21 application.

22 CHAIRPERSON REID: Thank you very much
23 for your testimony. Stay right there and let me see
24 if there is any cross examination by the Applicant.

25 MR. AGUGLIA: No, there is not. If it
26 will assist the Board now or later, I have a

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1 proposed order that incorporates each and every one
2 of the conditions.

3 CHAIRPERSON REID: At the end the
4 Applicant will have closing remarks.

5 Okay, thank you very much for your
6 testimony.

7 CHAIRPERSON REID: Persons and parties
8 in support of the application please come forward.

9 MR. JONES: Good afternoon.

10 CHAIRPERSON REID: Good afternoon.

11 MR. JONES: My name is Louis B. Jones
12 II, 3609 Golden Hill Drive, Mitchelville, Maryland,
13 20721. I'm the Pastor of the Pilgrim Baptist Church
14 at 700 I Street, N.E.

15 In August of 1997 we purchased five
16 commercial buildings adjacent to this Liberty Cab,
17 or this variance project that we are talking about
18 today.

19 We are in the process of revitalizing
20 and restructuring the facade on those properties. We
21 had a meeting with Mr. Schaeffer and his group,
22 perspective buyers, and they shared with us their --
23 the storage possibility, and we were concerned about
24 that building as well. It has been sitting there,
25 again, for 12 years. It is certainly an eyesore to
26 those who drive down the H Street corridor.

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1 And after talking with Mr. Schaeffer,
2 Mr. McCarthy, and his group, they assured us that
3 our main concern is the revitalization of the facade
4 of that building. And what we will have on H
5 Street, on one end, on 6th and H Street, you have
6 Murray's, and then we are on 7th And H.

7 We are in the process, our construction,
8 to start the end of September, the 1st of October,
9 and then their project in the middle. We will have
10 one complete block completely revitalized on H
11 Street.

12 And there is a thrust that is going
13 forth to take H Street, or to bring H Street back to
14 a level of respectability from the '68 riots and all
15 that took place.

16 And I'm here in favor of the variance
17 for this indoor storage property.

18 CHAIRPERSON REID: Thank you. Any
19 comments or questions?

20 (No response.)

21 MS. KING: Thank you.

22 CHAIRPERSON REID: Now, persons or
23 parties in opposition to this application please
24 come forward.

25 MR. SALIM: Good afternoon. My name is
26 Anwar Salim, the Chairperson of H Street Merchant's

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1 Association, and I own a business on H Street, at
2 1017 H Street N.E.

3 MS. KING: Is that your home address,
4 Mr. Salim?

5 MR. SALIM: My home address is 1810 9th
6 Street, N.W.

7 On Thursday, August the 27th, the
8 Merchant's Association met at 6:30, and we had
9 approximately 20 members there, at that meeting.
10 And at that meeting the merchants voted against the
11 variance to have a public storage place on H Street.

12 We thought that placing a public storage
13 on a corridor that is being given quite a bit of
14 attention now will basically more likely hurt the
15 corridor than to help it at this time.

16 Years ago we probably would have said
17 yes, but now that a lot of attention is being placed
18 on H Street, we are saying no.

19 It is just like fixing a facade and 70
20 percent of jobs, which we probably will get about 5
21 jobs, and employ about three people from the
22 neighborhood, it is just like putting a Rolls Royce
23 in front of the building and keeping the keys in
24 your pocket; it would look good, you can move around
25 in it, but you can't do anything with it, basically.

26 We want the neighborhood to grow, we

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1 want it to be revitalized. We want a business there
2 that would help bring people into the community,
3 instead of killing a block that is already there.
4 We want to revitalize the block, we want to
5 revitalize all of H Street.

6 And in order for us to do that we have
7 to have dialogue with the owner of the building. I
8 was invited only to two meetings, one with ANC
9 meeting, which they voted at the time opposition
10 against it because they needed more information.
11 And one was to do a view of the building, which was
12 a few months ago.

13 We feel that more can be done with the
14 building. It is a nice building, the building is in
15 pretty good shape. It is not in disrepair, and I
16 think the building has probably one of the greatest
17 potentials on H Street. It is the largest building
18 on H Street, it can serve as an anchor to help feed
19 into more of the businesses.

20 We need more, basically, good traffic on
21 H Street, instead of a one time traffic. We need
22 more than buildings that just look good, we want
23 buildings that will help, again, bring business to H
24 Street.

25 CHAIRPERSON REID: Okay. Any comments
26 or questions? Ms. King?

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1 MS. KING: Yes. I'm going to ask you
2 the question I've asked all the other people. This
3 building has been vacant for almost 12 years.
4 During that time have you worked, at all, with Mr.
5 Schaeffer, the owner, to try and identify some
6 viable use that will make it possible for him to
7 sell or rent the building?

8 MR. SALIM: I did, but at this time I
9 think I mentioned it to him, I think it was in the
10 rooftop of the building, but he mentioned that he
11 had a contract, and that when you have a contract on
12 a building you can't go any further as long as that
13 contract is on the table.

14 I also have tried to contact and have
15 talked to a few people in reference to a few agents
16 that may be interested in the corridor to come look
17 at the building, but it can't be done until the
18 contract is basically off the table.

19 Maybe it can be revisited another day.
20 But I think that if we put a lot of energy, and a
21 lot of attention on this building, that we can put
22 something positive right at that building. This
23 building is only a few blocks from the back of Union
24 Station.

25 And we also know that the city
26 Government, and a few other people, are looking at

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1 the 300 block of H Street to build an H Street
2 gateway to help poor businesses on H Street.

3 There are a lot of plans for H Street.
4 But in order for us to make it right, in order for
5 us to look years down the future, in order for us to
6 go into the year 2,000, we have to put businesses
7 there that will last for years to come, and give us
8 room to grow.

9 And I don't think a public storage will
10 give us that opportunity.

11 MS. KING: Well, Mr. Salim, you and I
12 have been around long enough to know that there have
13 been lots of plans for H Street; they come and go.
14 There is no question that progress has been made
15 over the years, but there is still a long way to go.

16 And, you know, one of the tests for Mr.
17 Schaeffer is the practical difficulty. And having a
18 building empty, not bringing in sufficient revenue
19 to pay the property for 11 plus years is a real
20 practical difficulty, and we have to be
21 compassionate and take that into account.

22 MR. SALIM: I know something about it.
23 I also own a few buildings on H Street and I have
24 one that I've been trying to rent out, also. And
25 I've had people to come to me with the wrong use,
26 with use that I didn't think it would help H Street

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1 to grow.

2 So, therefore, I had to eat taxes, also.
3 As a business investor, as a business owner, I have
4 to eat that. And I could have put a few businesses
5 on H Street that would fill my pocket, but that
6 burden that I had, I had to make that painful
7 choice, do I need businesses to come here that would
8 give the other businesses a chance to grow, and my
9 additional business a chance to grow, or should I go
10 ahead and go for the money? It is a choice I had to
11 make, and I chose not to accept those tenants, and
12 my building is still vacant, being used basically as
13 a warehouse.

14 And so I understand, that is why
15 personally I will come on board, and I will try to
16 bring people together to help work with Mr.
17 Schaeffer. That is if he wants that help.

18 I think that, again, and I don't think
19 that I can overemphasize it enough, that I really
20 feel that the building could be of better use than a
21 public storage.

22 I mean, we can imagine the 700 block of
23 H Street, which is a historic district area, and
24 what if they was to take that building, because
25 those buildings have been vacant for years, and put
26 a public storage right there? How would the

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1 community feel about that?

2 CHAIRPERSON REID: You said that you
3 were talking to some type of sports -- what kind of
4 sports owners?

5 MR. SALIM: I was talking to an agent of
6 Mr. Johnson, and we know he want to put some
7 businesses here on H Street. And he had also had
8 some -- he had some interest in the Washington, D.C.
9 area.

10 CHAIRPERSON REID: Who?

11 MR. SALIM: Magic Johnson. And one of
12 my clients that comes to my shops, one of my
13 clients, as a matter of fact, wrote a letter to him,
14 and we are waiting for a response for him to come
15 down. Another basketball player that was
16 interested, but he is no longer in the area.

17 CHAIRPERSON REID: Okay. You have some
18 possibilities, speculatively, that perhaps there may
19 be some sports figures who may be interested in that
20 building, maybe?

21 MR. SALIM: Maybe, I agree.

22 CHAIRPERSON REID: On the other hand you
23 have someone who is interested, and who will do
24 something with a building that has been sitting
25 there for 12 years, it is contributing to the blight
26 and decay of that particular corridor.

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1 My question then becomes what -- were
2 you doing anything in the last 10 or 12 years?

3 MR. SALIM: Well, basically I didn't
4 know it was up for sale.

5 CHAIRPERSON REID: But there has been
6 signs on the building? I asked, specifically,
7 whether or not it was with a broker, and whether or
8 not there were signs posted.

9 Now, if you have been over there for all
10 this amount of time, then it would appear to me that
11 you would have seen the signs, and if you had some
12 suggestions, then to come forward with suggestions
13 before such time that it had gotten to a point where
14 there is finally someone who wants to do something
15 to try to eliminate the blight for the business, and
16 perhaps it is not the ideal business, it is not
17 going to be what you ideally would like to see.
18 Nonetheless it certainly is better than what is
19 there right now.

20 It does not, in my opinion, contribute
21 negatively to the welfare of that particular
22 corridor. So those are things that I think, you
23 know, you should look at.

24 Would you rather for them to just stand
25 by at this time and say, let's not do anything, and
26 let's just wait to see if one of these basketball,

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1 or one of these athletes come forward?

2 Because that may or may not happen. In
3 the meantime there is no one else coming forth to do
4 anything with it, and it is just sitting there
5 contributing to the blight, and that will deter
6 other investors who might be interested to coming to
7 H Street, from coming over there, because of so much
8 blight. So it is six on the one hand, and half a
9 dozen on the other.

10 MR. SALIM: I can go further. I've been
11 working pretty closely with the CDC, H Street CDC,
12 and it was my understanding that they wanted to use
13 -- there was some interest in using the building for
14 office space, and there were some tenants that were
15 interested in using it.

16 But, again, as long as there was an
17 offer on the table it couldn't be discussed again.
18 I didn't realize, basically, that it had gone this
19 far until I saw a notice, a BZA notice on the
20 building. I didn't know that Mr. Schaeffer wanted
21 to sell the building, I didn't know if he was just
22 holding the building for a better date, I didn't
23 know what was going on, basically.

24 So I did know that the CDC had
25 mentioned, on a few occasions, to me that the
26 director of CDC did mention, and the president of

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1 the H Street Investment Corporation did mention that
2 they had some interest in the building.

3 But I was hoping that the interest they
4 had shared with me was fruitful, and I think it
5 would be more fruitful than a public storage.

6 So, again, I'm just expressing the views
7 of the H Street merchants, the meeting that we had
8 on the 27th.

9 CHAIRPERSON REID: But you would agree
10 that interest by the CDC, which I'm familiar with
11 CDC, would have been best proven or manifested by a
12 contract on that property. They've certainly have
13 had ample opportunity to do that over the years, and
14 that just did not happen, for whatever reason.

15 So, you know, you have to look at the
16 full picture. Any other questions?

17 MS. KING: No other questions. Thank
18 you very much. It was nice to see you, Mr. Salim.
19 It has been a long time.

20 CHAIRPERSON REID: All right. Closing
21 remarks? I'm sorry, did you want to cross examine
22 this witness? I'm sorry, I didn't give you -- come
23 forward. Now we have your closing remarks.

24 MR. AGUGLIA: Yes, I will try to keep
25 them to about a minute.

26 CHAIRPERSON REID: Okay.

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1 MR. AGUGLIA: All right. I believe that
2 our testimony has met the test. We have met our
3 burden of proof, we've shown that the property has
4 extraordinary, or exceptional situations or
5 conditions. It is a shell, it has virtually no
6 utilities, it has a low ceiling, which could make
7 renovation to an acceptable zoning as a matter of
8 right, impractical and impossible.

9 Mr. Schaeffer has shown undue hardship.
10 He has been unable to sell it, he has had a
11 substantial deficit for many, many years, and he has
12 tried to sell the property for many, many years
13 without success.

14 We've also shown not only that there is
15 no harm to the public, but in fact there is going to
16 be a benefit to the public. That this will allow a
17 jump start for the neighborhood in the right
18 direction, as Reverend Jones testified, it will give
19 them a critical mass between 6th Street and 7th
20 Street.

21 Ladies and gentlemen of the Board, you
22 have to walk before you can run. This will give
23 them an opportunity to get something going in the
24 right direction, as Mr. McCarthy testified, in five
25 or six years, ten years, if things are really
26 rolling and a Hecht's wants to move in, or a Home

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1 Depot, this will be the balance of the basis which
2 will move it forward.

3 They are not going to move in to that
4 particular situation right now, given the
5 neighborhood condition, and the condition of the
6 building.

7 With all due respect to Ms. Ambrose, her
8 letter was premised upon the fact that Near
9 Northeast Against Drugs had voted against it, in
10 fact they changed their vote and sent something to
11 the record to the fact that they had changed their
12 mind in favor of it.

13 In deference to Mr. Schulman, I must
14 applaud him, even though he was an opponent, he made
15 it clear that as a result of a poll of various
16 members, because of the inability to get a quorum,
17 and I will say that we tried to meet with the ANC
18 twice after our Hearing was continued, to try and
19 answer all their questions, that we were unable to
20 meet with them for lack of a quorum, so we met with
21 them individually; that he testified that poll
22 indicated that a majority of the committee members
23 on the Zoning Committee, and a majority of the
24 members of the Commission, themselves, were in favor
25 of the project.

26 So based upon that I don't feel there is

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1 any necessity to have the -- to go back and perhaps
2 fruitlessly get the Commission to meet without a
3 quorum.

4 That is why I think there is enough
5 evidence on the record for the Commission. And even
6 by an opponent of the project, that a majority of
7 the members of the Committee, as well as the
8 Commission were in favor of it, and you have a
9 statement from them, single member district Orndorff
10 that she was in favor.

11 So for those reasons I would ask that
12 you approve the use variance. What I have is a
13 proposed order, and the order -- the order depicts
14 as conditions to the use variance --

15 MS. KING: You are too far away from the
16 mike. If you need to stand up, then you can use
17 this mike, and you can hold that.

18 MR. AGUGLIA: The order puts in as
19 condition to approval that each and every condition
20 that was mentioned today is met.

21 Let me pass this up so we can go through
22 it quickly. May I have one copy to pass back to the
23 ANC members?

24 MS. KING: Yes, here, you can have mine.
25 We will share one, if you don't mind, Ms. Reid?

26 MS. PRUITT-WILLIAMS: Madam Chair?

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1 CHAIRPERSON REID: Yes?

2 MS. PRUITT-WILLIAMS: Typically you
3 don't condition a use variance. It is the use that
4 they are requesting a variance for. This can be
5 part of the order, but as a condition, we typically
6 have not -- the Board has typically not conditioned
7 a use.

8 A variance from a use is what is being
9 requested, so you don't usually condition that use.
10 Because these all go to the physicality of the
11 building, and things of that nature. So you can put
12 them in the order and --

13 CHAIRPERSON REID: Well, we will just
14 put them in the order --

15 MS. PRUITT-WILLIAMS: -- I just wanted
16 to give you that as a point of clarification.

17 CHAIRPERSON REID: -- incorporated.

18 MS. PRUITT-WILLIAMS: It can be
19 incorporated in the order.

20 MR. AGUGLIA: I'm just trying to satisfy
21 the Board that the conditions that the community
22 wanted have been met.

23 MS. PRUITT-WILLIAMS: I believe you will
24 be able to sort of make both parties happy that way.

25 CHAIRPERSON REID: -- the enforceability
26 aspect of it.

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1 MR. AGUGLIA: Yes.

2 CHAIRPERSON REID: But that can be
3 accomplished through an agreement with the entities
4 that are proffering these conditions.

5 MR. AGUGLIA: All right. But you will
6 see, starting with number 2, number 1 being pro
7 forma; number 2, the facade is renovated; number 3,
8 70 percent of the employees that would be hired for
9 the storage facility from the --

10 MS. KING: Wait, wait, wait. You are
11 getting a use variance?

12 MR. AGUGLIA: Yes.

13 MS. KING: Is it time sensitive? I
14 mean, do we set a time limit on it?

15 MR. AGUGLIA: No.

16 MS. PRUITT-WILLIAMS: No, that is the
17 other thing, that once it is done it runs with the
18 land.

19 MS. KING: It runs with the land. So
20 one is out.

21 MR. AGUGLIA: Okay.

22 MS. KING: You will be happy to hear.

23 MR. AGUGLIA: Yes.

24 MS. PRUITT-WILLIAMS: That is why it is
25 difficult to condition.

26 MS. KING: I understand, because once

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1 you've given permission it is done, 150 years down
2 the road is it still -- well, we won't think about
3 that, none of us are going to be here. Certainly
4 not the members of the BZA.

5 MR. AGUGLIA: Whatever the Board feels
6 is appropriate so that the needs of the community
7 are met, within the parameters that we've listed,
8 which I believe are in agreement with the community,
9 we would be happy to provide.

10 MS. KING: In order to be tidy why don't
11 you have an agreement with the ANC and the
12 Neighborhood Watch, and I will put it in this legal
13 document, is that --

14 CHAIRPERSON REID: No, she said, Ms.
15 Pruitt said that it could be --

16 MS. KING: It can be in.

17 CHAIRPERSON REID: -- in the order, but
18 just not a condition.

19 MS. KING: Okay.

20 CHAIRPERSON REID: It is not a
21 condition, correct?

22 MS. KING: Right.

23 CHAIRPERSON REID: We can do it like
24 that.

MS. KING: That there is an
25 agreement between the parties that this shall take
26 place, but not to say that it is a condition. I get

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1 you. Sorry, I was just being a little dull. I
2 understand. Thank you.

3 MR. AGUGLIA: Thank you.

4 MS. KING: Shall we give a bench
5 decision?

6 CHAIRPERSON REID: I have no problem
7 with that. Are you requesting a bench decision?

8 MR. AGUGLIA: Yes.

9 MS. KING: He doesn't have to request
10 it, we can do it.

11 CHAIRPERSON REID: Are you able to
12 dispose of this case today?

13 MR. HOOD: I am, Madam Chair.

14 MS. KING: I am too.

15 CHAIRPERSON REID: All right.

16 MS. KING: I think that the burden of
17 proof has been amply met by the Applicant.
18 Certainly there are unique circumstances that have
19 been of great detriment to Mr. Schaeffer in terms of
20 not having been able to dispose of this property for
21 11 years.

22 I think -- I am sympathetic to the point
23 of view put forward by Mr. Salim and Ms. Ambrose,
24 and others, that it would be nice to have a very
25 upscale office here, and I suspect that in the long
26 run, if that part of the neighborhood does come

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1 back, partly as a result of the work that the church
2 and Mr. McCarthy are going to do to restore that
3 part of H Street, that eventually it will become
4 uneconomical to have mini storage there, because it
5 may become a very up-market neighborhood as a result
6 of its proximity to Union Station, and any
7 development that may take place there.

8 But I think in the meantime that this is
9 a bona fide use; the case has been well made that it
10 is not a violation of the zoning, it will not cause
11 -- in fact, it will have some benefits for the
12 community, in the long run. Many benefits, perhaps.
13 And certainly the burden of proof has been made on
14 unique circumstances and a hardship.

15 And, therefore, I move that we grant
16 this application without conditions, but making note
17 of those items that have been agreed upon between
18 the -- Mr. McCarthy on behalf of the storage
19 company, and the individuals we spoke to, today, on
20 behalf of the Advisory Neighborhood Commission.

21 MR. HOOD: I'll second the motion.

22 CHAIRPERSON REID: And I would add to
23 that that in accordance to adverse impact, it
24 appears that there will not be any adverse impact
25 and it will not impair the integrity of the zoning
26 regulations for the map.

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1 All in favor?

2 (Chorus of ayes.)

3 CHAIRPERSON REID: Opposed?

4 (No response.)

5 MS. ROSE: Is this the issuance of a
6 summary order?

7 CHAIRPERSON REID: Yes.

8 MS. KING: Yes.

9 MS. ROSE: We do have a party in
10 opposition.

11 MS. KING: No, I don't think we've got
12 Karen Witt, who is unable to be here, and Karen
13 Ambrose as having submitted testimony in writing.

14 MS. ROSE: But they did not request, nor
15 were they granted party status.

16 MS. KING: Oh, I see, okay. So we can
17 do a summary order?

18 MS. ROSE: Yes.

19 MS. KING: I beg your pardon.

20 CHAIRPERSON REID: Ms. Pruitt-Williams
21 is thinking of something.

22 MS. PRUITT-WILLIAMS: I would suggest
23 that because there was some opposition that we do a
24 fall order. I mean, I think we can get this out in
25 time.

26 MS. KING: I'd be more comfortable with

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1 that, too, I think.

2 MS. PRUITT-WILLIAMS: We will just use
3 due diligence to get it out to you in a very quick
4 time.

5 CHAIRPERSON REID: Okay, then we --

6 MS. KING: We have a draft from Mr.
7 Aguglia.

8 MS. PRUITT-WILLIAMS: We have most of
9 the information here, anyway. I don't anticipate it
10 being a big issue.

11 CHAIRPERSON REID: Mr. Aguglia, would
12 you then submit with your proposed order the
13 additional information that we need as far as
14 findings of fact and --

15 MS. PRUITT-WILLIAMS: We can --

16 CHAIRPERSON REID: -- and submit it to
17 us with a --

18 MS. PRUITT-WILLIAMS: Yes, we can close
19 the -- I would suggest that the Board close the
20 record and then staff can talk to Mr. Aguglia about
21 getting a disk and things of that nature.

22 CHAIRPERSON REID: All right, thank you.
23 We are going to adjourn for 10 minutes, and we will
24 reconvene.

25 (Whereupon, the above-entitled matter
26 went off the record at 3:03 p.m. and

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1 went back on the record at 3:13 p.m.)

2 CHAIRPERSON REID: We will now resume
3 the afternoon session.

4 MS. ROSE: The next application is
5 16360, application of Lawrence A. Laurenzi, pursuant
6 to 11 DCMR 3107.2 for a variance from the allowable
7 lot occupancy to allow an addition to a structure
8 that exceeds the allowable percentage of lot
9 occupancy, section 2001.3(z); a variance from the
10 allowable percentage of lot occupancy for a building
11 that exceeds the allowable floor area ratio
12 limitation, section 403.2, a variance to allow an
13 addition to a gross floor area to a building that
14 currently exceeds the allowable floor area ratio,
15 section 2001.3(c); a variance from the rear yard
16 requirements for a building under section 404.1; and
17 a variance from the required width and area of a
18 closed court, section 406.1; for a building to allow
19 the construction of a deck and bay window in the R-
20 5-B district at premises 1719 Willard Street N.W.,
21 (Square 151, lot 158).

22 Would all persons planning to testify in
23 this application please rise to take the oath?

24 (WHEREUPON, THE WITNESSES WERE SWORN.)

25 MR. LAURENZI: My name is Laurence
26 Laurenzi, and I reside at 1719 Willard Street, NW,

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1 Washington.

2 I have been directed by the Board to --
3 the Board has required me to satisfy the burden of
4 proving elements which are necessary to establish
5 the case for the --

6 CHAIRPERSON REID: Would you please
7 speak up? Amplify your voice, because they won't be
8 able to hear you in the back, and we can barely hear
9 you here.

10 MR. LAURENZI: I'm sorry. I am seeking
11 a variance to allow an addition to a structure that
12 currently exceeds the allowable percentage of
13 occupancy, to permit the use of a deck and a bay
14 window addition in the rear of the building.

15 I'm applying for the variances because
16 my building was, when I moved in 12 years ago, it
17 was missing a certain part of the floor area that is
18 in the back two story section, so I'm not really
19 getting the full effect of the gross floor area that
20 I can get.

21 What I want to do is to add the small
22 bay window are onto the back of the building, on top
23 of a deck, to create more space in that area.

24 I -- my work study, I'm very confined in
25 a section back there, it is hard for me to move
26 around in. If I get the variance to add five feet

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1 back onto the building, this bay area, that is going
2 to move the deck space back, so I need to go for a
3 closed court to be able to get the turning radius
4 for my cars to go underneath of this deck.

5 If you will look at the pictures and the
6 drawings, I think you will see.

7 MS. KING: Now, there is a uniqueness to
8 your house in that it has an interior court, is that
9 correct?

10 MR. LAURENZI: Interior court being
11 open.

12 MS. KING: You've got an interior court
13 at your house, that is unique on your block, is it?

14 MR. LAURENZI: Yes, it is atypical.

15 CHAIRPERSON REID: Okay, continue.

16 MS. KING: I think he thinks that is it.

17 CHAIRPERSON REID: Are you done?

18 MS. KING: Let's go over the standards
19 for the variance that he needs.

20 CHAIRPERSON REID: Well, let me first
21 say that we read your submission, which was very
22 interesting, and it was very exhaustive regarding
23 the history of the house, and the siting of it, as
24 well as the architecture of the property, and the
25 fact that you have a unique situation with the
26 court. Is this something like an atrium?

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1 MR. LAURENZI: Well, yes, ma'am. It is
2 open -- what happened was they took the section of
3 floor out to bring in more light from the skylights.

4 CHAIRPERSON REID: That was the previous
5 owners who did that?

6 MR. LAURENZI: Yes, yes.

7 CHAIRPERSON REID: And go ahead Ms.
8 King.

9 MR. LAURENZI: Actually there were two
10 buildings done, right next to each other, right
11 there. The folks next door had twins, and they just
12 went ahead and covered it.

13 CHAIRPERSON REID: You are familiar with
14 the fact that in order to receive your variance,
15 that you must meet your burden of proof, which is a
16 three-prong test?

17 MR. LAURENZI: Yes.

18 CHAIRPERSON REID: Okay. And Ms. King
19 will kind of walk you through that.

20 MS. KING: Right, I'm going to. You are
21 going to give me your cheat sheets.

22 The unique or unusual situation that is
23 inherent in your piece of property is that you have
24 that central courtyard in -- sort of plunked down in
25 the middle of what is a substandard rather small --
26 is your house attached, or detached?

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1 MR. LAURENZI: It is attached.

2 MS. KING: It is attached on both sides,
3 and in the middle of it you've got sort of a
4 doughnut hole, right?

5 MR. LAURENZI: The back section is not
6 attached on both sides, it is a three story building
7 in front, it is a two story building in the rear,
8 and that two story part is the section where there
9 is the kitchen below, and there is just like a
10 walkway on top. I had my desk and computer back
11 there, and there is really no space.

12 So what I would really like to do is to
13 open that space up with this bay window. It would
14 bring a lot more light.

15 MS. KING: I understand. Now, the next
16 -- the practical difficulty aspect seems to be well
17 covered, or the uniqueness, I beg your pardon.

18 CHAIRPERSON REID: But the uniqueness
19 that brings about a practical difficulty.

20 MS. KING: -- about a practical
21 difficulty.

22 The next test is undue hardship or
23 practical difficulty caused -- that makes it
24 difficult to comply with what is permitted in that
25 area.

26 MR. LAURENZI: Yes.

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1 MS. KING: And again?

2 MR. LAURENZI: The buildings are already
3 over lot occupancy, and if I were to add anywhere, I
4 would have to go for a variance of some type.

5 MS. KING: And the next test you have to
6 meet is that will there be any substantial detriment
7 to the public good, any adverse impact? Your
8 neighbors have weighed in with the -- with testimony
9 in favor of your proposal. In fact, they all seem
10 rather enthusiastic about it.

11 MR. LAURENZI: Yes, ma'am.

12 MS. KING: As is the Historic
13 Preservation Review Board, since you live in an area
14 that is covered by them.

15 And then finally, the final test is,
16 will it substantially impair the purpose and
17 integrity of zoning regulations in the map. And it
18 doesn't appear to me that it would. That whole area
19 is a patchwork of substandard lots.

20 So I think that, you know, it simply --
21 it is an old part of the city, it is simply a matter
22 of accepting the inevitable.

23 CHAIRPERSON REID: Also, let me ask you,
24 have you had any complaints, or any concerns from
25 anyone that abuts your property in regard to your
26 application after you post it, and notified them

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1 that you were going to be going after these
2 variances?

3 MR. LAURENZI: I've had no complaints,
4 and I've talked with my neighbors in that area, and
5 they are very much in favor of this deck because of
6 the lighting that it is going to create in the
7 alleyway. It is going to get the general sense of
8 use.

9 It is an alleyway where many people
10 speed through, and it is pretty unsafe back there.
11 And there is a lot of robberies, and actually
12 gunshots in the area, and I think this is going to
13 create a sense of use.

14 MS. KING: You received letters from
15 your abutting neighbors in support of your project?

16 MR. LAURENZI: Yes, ma'am.

17 MS. KING: And from the people who face
18 you across the alley, behind?

19 MR. LAURENZI: Yes, ma'am.

20 CHAIRPERSON REID: And I think he has a
21 couple of petitions, as well.

22 MS. KING: What I was particularly
23 concerned about were the people who would be
24 directly impacted, in other words, the abutting
25 neighbors and the people, you know, for whom -- you
26 know, who would be expected to complain bitterly if

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1 you were going to obstruct their view, or do
2 something that was detrimental.

3 And I think he has received letters of
4 support from all of the people who are directly
5 impacted by what he proposes to do.

6 CHAIRPERSON REID: So you are testifying
7 that to your knowledge there is no negative adverse
8 impact in regard to traffic, parking, lighting,
9 noise, or any type of annoyance, or anything that
10 would cause any neighbor any type of inconvenience?

11 MR. LAURENZI: I'm testifying to that
12 statement, yes.

13 CHAIRPERSON REID: Okay. Mr. Hood?

14 MR. HOOD: No, I have no questions, no
15 comments. I think everything is in order.

16 CHAIRPERSON REID: The ANC has not
17 submitted anything. Have you talked to your ANC?

18 MR. LAURENZI: I called the ANC twice to
19 report that I was going to have a Hearing, but --

20 CHAIRPERSON REID: They did not submit
21 anything on your particular case.

22 MR. LAURENZI: No, ma'am.

23 CHAIRPERSON REID: And in regard to the
24 government reports, Ms. King mentioned that we did
25 receive a letter of support from the Historic
26 Preservation Review Board on your behalf, so we do

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1 have that.

2 Persons and parties -- just stay right
3 there. Persons and parties who are in opposition of
4 this application?

5 (No response.)

6 CHAIRPERSON REID: Persons and parties
7 in support of the application?

8 (No response.)

9 CHAIRPERSON REID: Okay. Closing
10 remarks?

11 MR. LAURENZI: In conclusion, if granted
12 this addition, I will only enhance the alley between
13 Willard Street and Near Street, and not cause
14 detriment to any -- or detriment to public good, and
15 will not substantially impair the intent, purpose,
16 or integrity of the zoning regulations or maps.

17 CHAIRPERSON REID: And would you like us
18 to give you a decision today?

19 MR. LAURENZI: I'm sorry?

20 CHAIRPERSON REID: Are you requesting
21 that you receive a decision today?

22 MR. LAURENZI: I would like a decision,
23 if possible.

24 CHAIRPERSON REID: Board members, I
25 would recommend that we -- I move approval of this
26 application. I think that the Applicant has

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1 demonstrated that he has met his burden of proof,
2 that his property is unique, for the reasons that
3 have been proffered here today, and that it doesn't
4 pose a practical difficulty on him, that there is no
5 adverse impact as is evidenced by the lack of any
6 opposition here today, or letters of opposition.

7 There is very strong support for the
8 application from the community and the neighbors.
9 There is no report from the ANC, so they -- we would
10 assume that they must not be in opposition to --
11 they certainly would be here if there were, and that
12 it does not impair the intent and integrity of the
13 zoning map or the zoning regulations.

14 Second?

15 MS. KING: I second.

16 CHAIRPERSON REID: All in favor?

17 (Chorus of ayes.)

18 CHAIRPERSON REID: Opposed?

19 (No response.)

20 MS. KING: Summary order?

21 CHAIRPERSON REID: Summary order, which
22 means that you will get your order in approximately
23 two weeks.

24 MR. LAURENZI: Okay.

25 CHAIRPERSON REID: Do you have any other
26 questions?

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1 MR. LAURENZI: No, I would just like to
2 say thank you very much for allowing me to have this
3 deck space.

4 CHAIRPERSON REID: You are quite
5 welcome.

6 MR. LAURENZI: I know how very hard it
7 is to get. Thank you.

8 CHAIRPERSON REID: Thank you.

9 MS. ROSE: The staff will record the
10 vote as 3 to 0 with Ms. Reid, Ms. King, and Mr. Hood
11 to grant the application and the issuance of a
12 summary order.

13 MR. LAURENZI: Thank you.

14 MS. ROSE: The next application is 16361
15 of The Fishing School, pursuant to 11 DCMR 3107.2
16 for a variance from Subsection 334.3 to allow
17 structural changes to a Temporary Community Service
18 Center, a variance from the minimum lot area and
19 width requirements of (Subsection 401.3), a variance
20 from the allowable percentage of lot occupancy
21 (Subsection 403.2) for a structure, and a special
22 exception under the provision of Subsection 334.1,
23 to continue a Temporary Community service Center and
24 to expand to an adjacent building in an R-4 District
25 at premise 1238-40, Wylie Street N.E. (Square 1003,
26 lot 73 (Site per subdivision))

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1 Would all persons planning to testify in
2 this application please rise to take the oath?

3 (WHEREUPON, THE WITNESSES WERE SWORN.)

4 MS. PRUITT-WILLIAMS: Madam Chair?

5 CHAIRPERSON REID: Yes?

6 MS. PRUITT-WILLIAMS: Before we start
7 there is a couple of things we would like to clear
8 up.

9 The Applicant has requested a reduction
10 in fee, and it is before the Board to determine --
11 it should be in your file, when they submitted they
12 requested that the Board consider reducing the fee,
13 and I suggest you take that up now, prior to
14 starting the case, and then afterwards, of course,
15 as you also determine party status for this case.

16 MR. HOOD: I think I'm going to reserve
17 my comments.

18 CHAIRPERSON REID: Ms. King?

19 MS. KING: Although I'm sympathetic,
20 everything that I have read about this program makes
21 me feel that it is something that is very admirable
22 and of great value to the community.

23 However, the fees for zoning relief are
24 set based on our costs, and more than half of the
25 budget to run this office is predicated on our
26 collecting those fees.

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1 I would not, at this point, move to
2 reduce them. I don't think that we are in any
3 position to be able to do that, at this time, much
4 to my regret.

5 I mean, I would like to waive our fees
6 for all good works, but I'm afraid that it is simply
7 not -- it would not be fiscally responsibility for
8 us to do it at this time.

9 CHAIRPERSON REID: Mr. Hood?

10 MR. HOOD: Well, as much as I hate to,
11 too, I'm going to have to agree with Ms. King. As
12 far as us not being able to, at this time, to be
13 able to do that, I guess we are going to have to
14 stick to the fee that is set.

15 CHAIRPERSON REID: Shall we vote, or do
16 we do that by consensus?

17 MS. PRUITT-WILLIAMS: You can do that by
18 consensus.

19 CHAIRPERSON REID: All right. I would
20 go along with my colleagues. I feel that the
21 program that the application is concerned with is a
22 highly laudable program, but I cannot at this time
23 justify a basis for a reduction of fees.

24 So by consensus I think we all agree
25 that we deny that request.

26 Before we get started, may I see a show

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1 of hands for those person who are in support of this
2 application?

3 Is there anyone here who is in
4 opposition to the application?

5 MS. PRUITT-WILLIAMS: Madam Chair, you
6 may -- you might want to poll the people to find out
7 if those who are in opposition or for the project
8 have similar issues.

9 CHAIRPERSON REID: That is what I'm --

10 MS. PRUITT-WILLIAMS: So that there is not a
11 duplication or redundancy.

12 MS. PRUITT-WILLIAMS: The persons who
13 are in opposition, basically, are the persons who
14 appeared before, the Single Member District person,
15 and you ma'am, you are -- could you come please,
16 forward.

17 And the persons in support, are you
18 members of the same entities, groups, organizations?

19 MS. PRUITT-WILLIAMS: You need them to
20 come forward, Madam Chair.

21 CHAIRPERSON REID: Okay. ANC as well as
22 the organizations, I would just like to ask, if you
23 could have your -- whatever your position is that
24 you ask a single individual, it would certainly help
25 us to kind of facilitate this Hearing.

26 MR. JONES: Madam Chair, a couple of

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1 Board members are here to speak in favor of The
2 Fishing School, and the zoning.

3 CHAIRPERSON REID: What members,
4 including yourself?

5 MR. JONES: Yes, including myself.

6 MS. PRUITT-WILLIAMS: Is this Board
7 members of the school, sir? Board members of the
8 school?

9 MR. JONES: Yes.

10 MS. PRUITT-WILLIAMS: So you are not
11 requesting party status?

12 MR. JONES: No, I'm not.

13 CHAIRPERSON REID: So then would you be
14 able to speak on behalf of --

15 MR. JONES: One of us will. I have
16 another meeting at 4:30.

17 CHAIRPERSON REID: Okay, good. The pre-
18 hearing submission is very extensive, and we have
19 read the record, and we are very familiar with the
20 issues in regard to this particular --

21 MS. PRUITT-WILLIAMS: Excuse me, Madam
22 Chair?

23 CHAIRPERSON REID: Yes.

24 MS. PRUITT-WILLIAMS: The Reporter is
25 indicating she can't hear you.

26 MR. JONES: Louis B. Jones II.

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1 CHAIRPERSON REID: Thank you, Mr. Jones.

2 MR. SCHULMAN: I'm Jim Schulman, again,
3 with the ANC6-A, and also with me is Commissioner
4 Rosalee Johnson.

5 MS. KING: Are you a Commissioner
6 yourself?

7 MR. SCHULMAN: I am a Commissioner, and
8 Ms. Johnson is the Single Member -- represents that
9 Single Member District.

10 MS. KING: And is here in opposition to
11 The Fishing School?

12 MR. SCHULMAN: No, we are here in
13 support.

14 CHAIRPERSON REID: When the time comes,
15 if you all could basically have one speaker to
16 address this Board on your support. Next?

17 MR. PERNELL: Daniel Pernell, ANC6A02,
18 who has been the moderator between Wylie Street
19 community and the ANC, there, in that community, and
20 I'm also testifying in opposition of The Fishing
21 School.

22 MS. ROSE: Is he requesting --

23 MS. PRUITT-WILLIAMS: Madam Chair, we
24 still -- staff is unclear who is requesting party
25 status.

26 CHAIRPERSON REID: No one has so far.

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1 MS. PRUITT-WILLIAMS: Okay, that is what
2 we needed to know.

3 CHAIRPERSON REID: Okay. Come forward,
4 please.

5 MR. TATE: My name is Atif Tate, I'm a
6 former resident/participant, and now I'm a community
7 outreach coordinator with DC Habitat, and we work
8 with these different organizations in this
9 community.

10 CHAIRPERSON REID: And you are speaking
11 in favor?

12 MR. TATE: I'm speaking in support of
13 The Fishing School.

14 CHAIRPERSON REID: Okay, thank you.

15 MS. RUFFIN: My name is Vanessa Ruffin,
16 I'm a resident on the street on which The Fishing
17 School is presently asking for these variances and
18 changes to occur. I speak on behalf as a resident
19 and in representation as a community member, and
20 again, a resident on that street.

21 MS. KING: Are you in favor or
22 opposition?

23 MS. RUFFIN: I am in opposition.

24 MS. KING: Opposition, okay.

25 MS. RUFFIN: Right.

26 CHAIRPERSON REID: ANC, Single Member

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1 ANC Commissioner is here?

2 MS. RUFFIN: I beg your pardon?

3 CHAIRPERSON REID: Is your ANC
4 Commissioner here?

5 MS. RUFFIN: Yes, she is.

6 CHAIRPERSON REID: Okay, then --

7 MS. RUFFIN: She is a Board member and
8 she is in support.

9 CHAIRPERSON REID: Oh, so she cannot --

10 MS. RUFFIN: No, she cannot.

11 CHAIRPERSON REID: Thank you.

12 MS. RUFFIN: Thank you.

13 MR. MCCRAE: My name is Derrick McCrae,
14 and I live on I Street, around the corner from The
15 Fishing School, and I'm also representing the
16 employees of The Fishing School, and we are in
17 support.

18 CHAIRPERSON REID: Okay.

19 MR. FERRELL: My name is Gregory
20 Ferrell, and I'm Advisory Neighborhood Commissioner,
21 represent 6A12, and I'm in opposition.

22 MS. KING: You are in opposition?

23 MR. FERRELL: Yes, I am.

24 MS. ROSS: Good evening. My name is
25 Ethel R. Ross, I'm a resident of -- across from The
26 Fishing School. I've been there for 20 years, and I

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1 would like to talk about the goodness that I have
2 seen since I've been there.

3 CHAIRPERSON REID: Support?

4 MS. ROSS: Support, yes.

5 MS. WASHINGTON: Good afternoon. My
6 name is Joyce Washington, I live directly next to
7 the Fishing School, so therefore I'm a resident in
8 the street, and I'm in support.

9 CHAIRPERSON REID: Can you hear, did you
10 get that?

11 MS. BISHOP: Good afternoon, my name is
12 Patricia Bishop, I have lived in Washington, D.C.
13 for 38 years. I've been raised on Wylie Street, and
14 have also lived and raised children on the block of
15 Wylie Street, and I'm here in support of the Fishing
16 School.

17 CHAIRPERSON REID: Thank you.

18 MS. BISHOP-BROOKS: Good afternoon, my
19 name is Blondell Bishop Brooks, I'm the youth
20 coordinator for the Fishing School, I have lived
21 around there for 30 years, and I'm here to support
22 for the Fishing School.

23 MS. BRAYSON: Good afternoon, Menzelna
24 Brayson, I'm the office manager of the Fishing
25 School, and I'm in support.

26 MR. KRASIK: My name is Rudolph Krasik,

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1 I live at 649 Gerard Street, NE, and I'm here in
2 support of the Fishing School.

3 MS. LEO: Good afternoon. My name is
4 Madeline Leo, and I live at 1221 G Street N.E., and
5 I am employed at the Fishing School, and I'm also in
6 favor of the Fishing School.

7 MR. COLTRINE: Good afternoon, Madam
8 Chair. My name is Gary Coltraine, I'm at 1741 E
9 Street, N.E. I'm no staff at the Fishing School, in
10 favor of the Fishing School, will be heading up the
11 Deanwood Site. Thank you.

12 MS. DAVIS: I'm Martha Davis working
13 with the Fishing School on the real estate project.
14 I live at 1227 W Street, N.W. I'm in favor.

15 CHAIRPERSON REID: Okay. Just let me
16 say this, for the record. We have some time
17 constraints, because at five o'clock persons will
18 have to leave, so what we would like to do is, Mr.
19 Ellis, have you to present your case, and we have
20 read the material so that you can basically expedite
21 it, and bring out your salient points.

22 And those persons who are involved with
23 the school and the board, as an employee, have one
24 person speak to something, to say, on behalf of
25 those persons, and we will hear the opposition.

26 And those in opposition we ask that you

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1 not be redundant, give you an opportunity to speak,
2 but if it has already been addressed, or someone has
3 already expressed it, then we ask that you not be
4 repetitive, so that we can get through this as --

5 MR. LEWIS: Could I ask for three
6 minutes to get with my people here, I think I can
7 truncate my portion of it, and help -- I think I
8 will try to help the Board out with this, if --

9 CHAIRPERSON REID: Fine.

10 MR. LEWIS: If you can give me three
11 minutes to meet with my people and then we can deal
12 with it from that standpoint?

13 CHAIRPERSON REID: That is fine with me.

14

15 MS. PRUITT-WILLIAMS: Madam Chair, maybe
16 those in opposition could also --

17 CHAIRPERSON REID: Great point made by
18 Ms. Pruitt-Williams. Those in opposition, maybe you
19 all can get together and, you know, basically try to
20 -- have one person to --

21 MS. KING: Coordinate your presentation.

22 CHAIRPERSON REID: -- express, for you,
23 what you want said. So that we don't have --

24 MS. KING: Take the time now to work out
25 the presentations on both sides of the issues.

26 CHAIRPERSON REID: And that way it will

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1 save time for everyone involved.

2 (Whereupon, the above-entitled matter
3 went off the record at 3:38 p.m. and
4 went back on the record at 3:42 p.m.)

5 MR. ELLIS: For the record -- oh, the
6 case hasn't been called?

7 CHAIRPERSON REID: It has.

8 MR. ELLIS: For the record I'm Craig
9 Ellis, Counsel for the Fishing School. To my right
10 is Mr. Tom Lewis, the CEO for the Fishing School,
11 and to my left, over here, is Mr. Tom Raitel, who is
12 our architect.

13 Very briefly, you already know the
14 relief that we are requesting. I will have Mr.
15 Lewis, rather than go over the relief, since you
16 already have it there, Mr. Lewis give you some
17 overview of the Fishing School, very briefly, let
18 you know what it is, and how it came about.

19 MR. LEWIS: Madam Chair, my name is Tom
20 Lewis, and I'm the founder, CEO of the Fishing
21 School, and we organized the program in 1990 in a
22 house that I owned at 1240 Wylie Street. Also there
23 is a lot right next door that was owned by the city,
24 the house was condemned and torn down, used as a
25 community dump, and we've been using that area.

26 The house that we are operating in is a

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1 very small house, less than 900 square feet, and in
2 the process of our work there, we work as an after
3 school motivation program for children between the
4 ages of 5 and 15. It is a pay based program, and we
5 have a variety of services that we offer to children
6 and parents in that area.

7 The neighborhood that we operate in is
8 devastated by drugs, we have an open air drug market
9 there. And, of course, our children are exposed to
10 this kind of element. And the Fishing School acts
11 as a safe haven for them. We have a place for them
12 to come and be safe. And, of course, we have a
13 respite that serves as a respite for our parents.
14 And we have some additional training for our parents
15 and our children.

16 The Fishing School is a community
17 orientated, family orientated program for people
18 that need to come for help and that kind of thing.

19 So as a result of us being a small
20 program, needing more space, in order to operate, as
21 we began to get known by the community, and by the
22 broader community, we began to employ people. We
23 have four paid staff as we apply for a space for
24 them to be in order to be with our children, and
25 some volunteers that come.

26 So in the process of that we have the

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1 opportunity to purchase the house next door, which
2 used to be a crack house, and when I first came
3 there, it was about 15 people in front of the door
4 every evening.

5 So we have the opportunity to purchase
6 that house, and in the process of that we applied
7 for a community development block grant so that that
8 could take place. And we receive that okay for that
9 grant, and in order for that to happen we are
10 requesting a variance in order to -- we have an
11 original variance there, which expired.

12 So we are looking for a special
13 exception in order to continue our work, and to
14 expand to the house next door.

15 Thank you.

16 MR. RAITHEL: Hi, my name is Tom
17 Raithel. I represent the architects. We've been
18 retained by the Fishing School to provide
19 architectural services for the project.

20 As a brief overview of the existing
21 conditions, these are two relatively narrow
22 buildings, approximately 13 feet wide, and there is
23 about a 4 or 5 foot space between the buildings,
24 which is occupied by nothing.

25 This here is the space that is existing
26 between the buildings. Each building presently has

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1 its own staircases, toilet facilities and kitchens.
2 The concept of the construction project is to
3 combine both buildings into one, as an economic
4 alternative to renovating both buildings.

5 What it does is we only have a limited
6 cost because we would only be providing a single set
7 of toilet facilities, a single set of stairs, a
8 single mechanical system, rather than duplicating
9 all these systems.

10 In addition we would be utilizing, after
11 bridging the gap between the buildings, we would be
12 utilizing this space as the central access corridor
13 to get to both sides of the building.

14 The new construction would be in the
15 same character, in keeping with the character of the
16 adjacent buildings. I will show you the elevation.

17 So we are maintaining the general look
18 of the building. The new construction would be ADA
19 accessible, all the functions of the school would be
20 ADA accessible, on the first floor. The toilet
21 facilities are on the first floor, and in my opinion
22 the building as a whole would be totally renovated,
23 new windows, new doors, the exterior walls will be
24 taken care of, new roof, and in my opinion this will
25 be a positive impact for this street.

26 I have no further --

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1 MR. ELLIS: Just very briefly, the
2 building that was previously there, and approved in
3 an earlier order that is exhibit to our filing, was
4 not ADA accessible, and the difficulty was being
5 able to serve children that need special help. They
6 could not come in the building, at all, because the
7 way it would have to be organized, you know, the
8 bathroom stacks over the kitchen, and since the
9 bathrooms were upstairs, you could not handle the
10 children.

11 And even if you moved the bathroom,
12 switched places, the back door would be coming into
13 the bathroom as opposed -- the bathroom and the
14 kitchen as it presently is, if you switched the
15 bathroom from upstairs to downstairs, then the back
16 door would come into the bathroom as opposed to
17 coming into the kitchen now.

18 MS. KING: Where is the ramp that is ADA
19 accessible? It is not at the back?

20 MR. RAITHEL: That will be at the rear
21 of the property.

22 MR. ELLIS: If you look at the bottom of
23 the --

24 MS. KING: Do you have a rear elevation?

25 MR. RAITHEL: Right here. It doesn't
26 actually show the ramp, but it will be there.

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1 MS. KING: That is where it is going to
2 be?
3 MR. RAITHEL: Yes.
4 MS. KING: Off an alley, behind the
5 house, is that it?
6 MR. RAITHEL: Yes.
7 CHAIRPERSON REID: How does the alley
8 access?
9 MR. RAITHEL: Via automobile.
10 CHAIRPERSON REID: No, I mean, on the
11 other side of the house, is that where the entrance
12 to the alley is? I want to see the --
13 MR. RAITHEL: The alley runs along the
14 back of the house.
15 CHAIRPERSON REID: No, getting into the
16 alley.
17 CHAIRPERSON REID: How do you get into
18 it? Let's see, maybe it is in one of these.
19 MR. ELLIS: You come off of 13th Street,
20 and you come down through the alley.
21 CHAIRPERSON REID: It is not that far.
22 MR. ELLIS: It is not that far off
23 there.
24 CHAIRPERSON REID: And then do you have
25 a --
26 MS. KING: This is -- the buildings have

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1 different depths at the rear, is that correct?

2 MR. RAITHEL: Yes, that is correct.

3 MS. KING: And you are going to maintain
4 the shell of the building?

5 MR. RAITHEL: Yes.

6 MS. KING: So this one will be very
7 close to the alley, and this will not be so close.

8 MR. RAITHEL: The only additional
9 construction is bridging the gap between the
10 buildings.

11 MS. KING: And that is going to be solid
12 for the two stories of the two buildings?

13 MR. RAITHEL: Yes, absolutely.

14 MS. KING: Okay.

15 MR. RAITHEL: Just to add, just to
16 illustrate the difficulty in having -- in showing
17 you the location -- this is one of the existing
18 buildings on the right, here. You can see how much
19 space is taken up by the bathroom and the stairs.
20 It leaves very little remaining of the building. It
21 just makes a lot of sense.

22 Do you have any other questions?

23 MS. PRUITT-WILLIAMS: Just for
24 clarification, the joins indicate this is a corner
25 building, it is an -- rather on one side you --

26 MR. RAITHEL: It is not a corner.

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1 CHAIRPERSON REID: It is not a corner.

2 MS. PRUITT-WILLIAMS: Okay, I just
3 wanted to be sure.

4 MR. ELLIS: I will then address, if
5 there are no questions for the architect? Okay, I'm
6 sorry.

7 CHAIRPERSON REID: I do have a question
8 for the architect, in looking at the plans. On the
9 13th Street side it appears that there is an alley
10 that goes right down the center, that these houses
11 abut -- or the houses that are facing Wylie Street,
12 so there is --

13 MR. RAITHEL: The building on the left
14 does abut an adjacent structure.

15 CHAIRPERSON REID: -- access the alley
16 from Wylie?

17 MR. RAITHEL: No.

18 CHAIRPERSON REID: So you have to go to
19 12th to 13th. I see what you mean now. There is no
20 -- these houses on the end of 13th Street and 12th
21 Street are landlocked?

22 MR. RAITHEL: Essentially so.

23 CHAIRPERSON REID: Yes. Okay, all
24 right. Just curious about that.

25 MR. HOOD: I just have one question, the
26 existing on the corner cutoff on the building, on

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1 the construction, the rest of the backyard, what is
2 that used for? I'm not sure exactly who --

3 MR. RAITHEL: You can best address that.

4 MR. LEWIS: It is the yard. The rest,
5 behind the building? Yes, sir, it is the yard back
6 there.

7 MR. HOOD: Is there anything that takes
8 place back there?

9 MR. LEWIS: Outdoor activities.

10 MR. HOOD: Okay.

11 MS. KING: And also on an adjacent
12 vacant lot?

13 MR. ELLIS: What happens, just so you
14 know, there is an adjacent vacant lot, which I will
15 address in a moment, but I had passed around to you,
16 the Fishing School has just received, on August
17 25th, the right to purchase, they have been
18 negotiating with Breen and the District of Columbia
19 for this property, and they have just offered -- and
20 part of this CDBG money that has been provided will
21 be used to purchase this piece of property.

22 And it has given us an exact number that
23 what we can purchase it for, and that is a piece of
24 property that heretofore was being used to be dumped
25 on.

26 So it has been fenced in by the

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1 Applicant. MS. KING: When we look at
2 this, is it to our right or our left?

3 MR. ELLIS: As you look at it, it is to
4 your right.

5 CHAIRPERSON REID: That is going to be
6 used as a play area for the children, or parking or?

7 MS. KING: So you will have --

8 MR. ELLIS: It is a play area.

9 MS. KING: -- three plots of land?

10 MR. ELLIS: Three plots of land. But
11 the application before you I had to deal with only
12 the two, but you understand that, you know, we just
13 got the letter that now -- we were told earlier, but
14 it has now come in writing that we can now purchase
15 this piece of property.

16 So if this is approved we will move
17 post-haste to get that third piece of property.

18 MS. KING: Okay.

19 MR. ELLIS: Very quickly, going through
20 the relief that is being requested. First we are
21 asking a variance from section 334.3 to allow
22 structural changes to a building which will be used
23 for a temporary community services center.

24 As you understand, a temporary community
25 services center cannot, the idea is that it is
26 temporary, so therefore the building would not be

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1 changed. That is an area has been talked about at
2 the BZA level for several years now, of going to the
3 Zoning Commission and asking for a change in this
4 reg, because a temporary community service center,
5 you just keep coming back and coming back, and
6 communities need these centers.

7 And they are saying that they shouldn't
8 be temporary where you have to come back, that there
9 should be some change in this regulation, and that
10 it is quite costly for these organizations to come
11 back every three years.

12 But the -- we are seeking a variance, as
13 you know, if you look at the item number 2, a
14 variance from the minimum lot area requires that any
15 building that is not a flat one family semi-detached
16 dwelling, or a building to be converted to apartment
17 must have 4,000 square feet.

18 Well, this property, all of it, all
19 three -- the two sections are not 4,000 square feet
20 total, anyway. This property, this area is very
21 unique. These lots are very, very small. They have
22 been bisected by an alley, chopped off, and that
23 whole section right there is very small.

24 And as a result these properties are
25 unique in that they are below the minimum lot size
26 in R-4 zone. In R-4 zone the minimum lot is 1,800

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1 square feet. Each of these lots is 990 square feet
2 each.

3 So, therefore, these lots, because of
4 the way this alley comes through there, and this is
5 -- these -- it is just this one little narrow block
6 in there that it has happened. And we believe that
7 the property is unique because of its size, and the
8 ADA requirement also is the big problem here for us.

9 If you have a temporary community
10 service, temporary community center there, service
11 center, you have the problem of being able to serve
12 all kids.

13 Here these buildings are so narrow you
14 have a very narrow staircase that the staircase
15 going up is 30 inches wide. It is sheer going up.
16 It is so sheer that it is difficult to even put a
17 rail down it, in the space, considering a rail, that
18 is so narrow that it is difficult getting a rail in
19 there for people to, you know, go up and down.

20 And it would be very difficult for
21 someone who is on a cane, crutches, to get up and
22 down, and totally inaccessible for someone who is in
23 a wheelchair or a walker.

24 And the bathroom, as I stated earlier,
25 is on the second floor. And the difficulty we had
26 was how do we comply with trying to meet our ADA

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1 requirement in a building without being able to
2 expand it? And the logical thing for us was to
3 expand in the building next door that was being used
4 as a crack house, as was recently said.

5 The property also, the owner, which is
6 the Fishing School, would encounter an exceptional
7 practical difficulty as a result of strict
8 application, in that if you say no, essentially they
9 could not operate and provide services to everyone
10 who would want to have services in that building.

11 It would also be difficult in that
12 staffing, these buildings -- although I say in here
13 it is 1,200 square feet, because that is what I was
14 led to believe, actually the buildings are -- the --
15 each building contains roughly a little over 400
16 square feet per floor, so it is about less than 900
17 square feet in the building.

18 It is difficult to run programs and
19 staffing, considering this operation has to run by
20 raising money. And you have to have people to raise
21 money, and we are utilizing, under the old order
22 issued by the Commission, there are 20 students in
23 there per day, four staff people.

24 It is difficult to have 20 students --
25 20 individuals, I shouldn't say students; 20
26 individuals and 4 staff people when you only have

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1 800 square feet and you are trying to run programs.

2 MS. KING: Could I ask you a question at
3 this point? Somewhere in my reading, in preparation
4 for this meeting, I saw the number 40. Do you
5 intend to double the size of the enrollment, or --
6 and what will the impact on staff; and apparently
7 you are going to have additional staff to raise
8 moneys and so forth.

9 MR. ELLIS: The additional staff is
10 there. We don't -- that is --

11 MS. KING: You have four staff people?

12 MR. ELLIS: Four staff people, yes.

13 MS. KING: And you don't intend to
14 exceed four staff people?

15 MR. ELLIS: Four FTE's full time
16 equivalent.

17 MS. KING: Fine.

18 MR. ELLIS: There may be six or seven
19 people in there, but there will be only four FTEs.

20 MS. KING: Four FTEs, okay. And how
21 many students or participants in the program?

22 MR. ELLIS: There will be 20 students
23 utilizing the program, but you have to understand,
24 there will be more at times. What happens is the
25 Fishing School has done a good job of taking these
26 kids and allowing them to partake of services in

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1 other parts of the city.

2 So where there might be 20 students in
3 the house actually partaking of the services of the
4 house, there may be another 20 that come to the
5 house, because that is where they get on the vans to
6 be taken to tutorial services at other places, to
7 sports events at other places.

8 MS. KING: What is your certificate of
9 occupancy going to set as the capacity of the
10 building?

11 MR. ELLIS: The certificate of
12 occupancy, based on the square footage of the two
13 buildings put there, will be 50, allowable by code
14 will be 50.

15 But what we are trying to say is we are
16 not trying to -- the philosophy of the school is
17 coming into a community, and helping on a small
18 scale. Not to grow this program to -- because the
19 idea, if you heard one gentleman who came up and
20 testified and said, I'm in the Northeast, the idea
21 is to have fishing schools in other places
22 throughout the city that have needs like the needs
23 being met in this community, not to take the Fishing
24 School and grow it into some monstrosity there in
25 that community, because then you are bringing kids
26 in from outside.

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1 It is to help the kids within that
2 community, and go to each community that needs
3 services, as money and funds will allow, to open up
4 another Fishing School to help within that
5 community, that is the philosophy.

6 So to answer your question again, Ms.
7 King, it is to primarily keep it at its present
8 size, but recognizing that there will be children
9 that will come to the school to be disseminated to
10 other places, but they will not be there for the
11 purposes of utilizing the program there at the
12 facility. They are just -- it is sort of like a
13 pick up point and drop off point.

14 MS. KING: Okay, thank you.

15 MR. ELLIS: The last of the legal tests,
16 the variance would not cause substantial detriment
17 to the public good, and would not impair the intent,
18 purpose, and integrity of the zone plan.

19 The Board has passed on -- excuse me.
20 This particular organization is trying to do help
21 for this community. There will be no way, shape or
22 form, that it is trying to do any harm to this
23 community.

24 In terms of traffic, the major traffic
25 that this organization provides is the traffic it
26 generates in trying to take children somewhere in

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1 its vehicles. The majority of the children walk
2 right into the facility.

3 So we are not talking about individuals
4 that, you know, large -- some day care facilities
5 where you have, where people are coming in at 4, and
6 their cars are lined up to drop or pick kids up, or
7 early in the morning to drop kids off, that is not
8 the intent of this.

9 We have the -- we recognize, and we are,
10 right now, actively and have gotten an agreement
11 that to the extent our parking facilities are off,
12 we are trying to move -- we are not trying, we have
13 gotten agreement to be able to move our vans off the
14 street to keep the parking problem down.

15 We will pick up our kids on the street,
16 but we are in the process, now, of finalizing the
17 agreement with H Street CDC so we can park our vans
18 someplace else, so it will not be a hindrance to the
19 community.

20 Going to the next variance. A variance
21 from the minimum lot area and width requirements.
22 The minimum lot area will be 4,000 square feet.
23 Well, as I just said, with three lots together, we
24 come up to 2,970. With this application we will
25 have 1,980.

26 Again, it is like I said, with the first

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1 one, this area, this street has been chopped by this
2 alley. They are unique in that these are very small
3 lots. If you look at that whole area, this is the
4 only area within that geographic area that has these
5 small lots, these ridiculously small lots, 990
6 square feet each.

7 Their width, together, would be 36, it
8 requires 40. But actually when you add the
9 additional lot which, again, we have shown you here,
10 we will be purchasing shortly, we will have 54
11 square feet, which we will have more lot width than
12 that required by the regulations.

13 We will still be short approximately
14 1,130 square feet in the lot size.

15 Again, going back to our test, as I
16 said, these properties are unique in that they are
17 smaller than the average lots within the community.
18 The average lots would be 1,800 square feet, these
19 are half the size of the average lot in an R-4.

20 Again, without this, for the same
21 reasons we did with the first variance request, the
22 owner would encounter exceptional practical
23 difficulties as a result of the strict application
24 of these regulations, because again, without it we
25 can't meet the needs of the youth that we want to
26 serve.

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1 It is very difficult for us. We have
2 gotten plenty of organizations that have come in to
3 assist the Fishing School, we have a computer lab.
4 Right now we have computers on top of computers
5 because we can't get them out on tables, because we
6 just don't have the room to perform the services for
7 the 20 kids that are in there. We have to break
8 them up in groups, because we just don't have the
9 room.

10 Finally, with the variance cause
11 substantial detriment to the public good, and not
12 impair the intent and purpose and the integrity of
13 the zone plan. Again, this program is set up to
14 help this very community.

15 As Mr. Lewis stated earlier, this is a
16 neighborhood that has been devastated by drugs. You
17 have open air drug markets, you have houses that are
18 being used for crack houses, and this is to give
19 children a place where they can go; parents a place
20 where they can go to seek both training and
21 educational services, so they can better themselves,
22 and not have to deal with the problems that surround
23 them along that street.

24 The third variance is variance from the
25 allowable percentage of lot occupancy pursuant to
26 403.2, for a structure in an R-4 zone. Essentially

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1 the proposed structure would occupy approximately
2 1,337.73 square feet, based on its present size of
3 1,980, which is only the two lots. It would only be
4 able to occupy 792 square feet, which means that we
5 exceed the amount by approximately 542 -- 545.73
6 square feet.

7 However, as you -- again, we have told
8 you we are going to buy that lot next door, which
9 actually, once you add that up, we are only -- we
10 would end up being able to have a lot occupancy of -
11 - that is on page 12 of my brief to you, we would be
12 able to have a lot occupancy of approximately 1,188
13 square feet, or approximately -- we would only be
14 seeking a variance of 13 percent now, as opposed to
15 nearly 50 percent.

16 So, again, going back to our test, it is
17 the same thing over and over again. These lots are
18 unique, but for their smallness and size; had they
19 been at least average size we would not have to deal
20 with this variance. But because they are half the
21 size that they are supposed to be, or would be in an
22 R-4 zone, we are not able to have the sufficient
23 square footage for lot occupancy here.

24 The smallness, the uniqueness of their
25 size causes us a practical difficulty. Again, if we
26 don't receive this we cannot provide the services

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1 that we need to provide, and also do the fundraising
2 that needs to continue this program.

3 And, thirdly, again, we are trying to
4 better this community, in no way are we trying to
5 harm it, or cause it any practical difficulties. We
6 are doing everything we can to even beautify this
7 neighborhood.

8 The variance that is complete. We have,
9 last, the special exception relief that we are
10 seeking. The special exception, the first item is
11 334.2, a temporary community service center shall be
12 located so that it is not likely to become
13 objectionable to neighborhood properties because of
14 noise and other objectionable conditions.

15 Again, the subject properties, both of
16 them, the initial property, and the property that
17 was recently been bought, had at some point been
18 used as crack houses. It is clear that they are
19 being used to the better of the community, not to
20 the deterioration of the community now.

21 The programs provided by the Fishing
22 School are structured to assist the community,
23 specially youths, but also there are programs for
24 parents. Parents are receiving computer training,
25 there will be more programs for computer training
26 with the expansion of the building, in that there

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1 will be a computer lab.

2 One thing I failed to mention, up in the
3 arts and crafts section of the building, since the
4 building is ADA accessible, although there will be
5 an upstairs, and therefore the children who are
6 handicapped will not be able to go upstairs, the
7 same services that will be provided upstairs will be
8 provided for them downstairs in the arts and crafts
9 center, in that there are going to be computers
10 moved in there for them, for their use on that
11 level.

12 So everything, every service will be
13 duplicated for them downstairs, it will just be
14 that, you know, when they are there, they will have
15 to partake of it on the lower level.

16 Section 334.3, no structure changes
17 shall be made except those required by municipal
18 laws. Well, that is why we are here on this one, to
19 make structural changes in the building. So that is
20 the structural changes we are trying to make, but we
21 do not plan, once we get this, to make any more
22 structural changes, because any further changes in
23 this program would cause us to go out of this
24 community. We are going to build in more than one
25 community.

26 This is our first, we have a second

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1 underway, and actually recently there is a Fishing
2 School that opened up in North Carolina.

3 The item was -- section 334.4, the use
4 shall be reasonably necessary and convenient to the
5 neighborhood in which it is proposed to be located.
6 It is right in the heart of Wylie Street. This is
7 one of the most underserved communities there is.
8 And what we are there to do is provide them the
9 services.

10 334.5, a temporary community service
11 center shall not be organized for profit, and no
12 part of its net income is to the benefit of any
13 private shareholder or individual. As you saw, with
14 our exhibit we have there, the Fishing School is a
15 501C3 organization, and therefore no money endures
16 to the benefit of any individual.

17 That completes my statement of the legal
18 tests. If there is any question?

19 CHAIRPERSON REID: Mr. Ellis, very
20 quickly. While you were adequately -- went through
21 the various parts of the three-pronged test, except
22 here you speak to adverse impact. Would you very
23 briefly do that? Just as far as traffic, parking,
24 noise and the like. Generally, just for the record.

25 MR. ELLIS: Okay. Traffic, as I said,
26 the majority of our children walk in. The majority

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1 of the traffic that will be engendered will be the
2 traffic that the Fishing School itself does by
3 taking the kids away from the community.

4 CHAIRPERSON REID: But that would not
5 have any adverse impact on --

6 MR. ELLIS: We do not believe so. We do
7 recognize that we have caused problems in the
8 community in terms of we have vans, so we park the
9 vans on the street, and vans are bigger than cars,
10 so they take up some space.

11 Recognize that, when they came to me, I
12 set out to alleviate the parking problems of the
13 vans, of leaving them on the street. And we have
14 worked out with H Street CDC an agreement to park
15 the vans when they are not being used for the kids,
16 off the street, on the Atlas building that is on H
17 Street behind the Atlas building.

18 We are just finalizing that agreement.
19 Mr. Barrow is here, he is sitting back in the back.
20 Mr. Barrow is here, if the Board wants him to
21 testify that we do have an agreement, we just
22 haven't -- to be honest with you, I had a death in
23 the family and was away, and was not able to get the
24 agreement finalized before this Hearing.

25 But we have an agreement in principle,
26 and all we are getting ready to do is just finalize

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1 it in writing.

2 CHAIRPERSON REID: Okay, so you are
3 saying that you did, at one time, have a problem,
4 some complaints about the vans parking, and that has
5 now been mitigated by the agreement with the H
6 Street CDC, and also parking on the Atlas parking
7 lot?

8 MR. ELLIS: But moving the parking to,
9 you know, when the vans are not in use, by parking
10 them in the Atlas parking lot.

11 CHAIRPERSON REID: Okay.

12 MR. ELLIS: There was some complaints
13 that were being made to us about noise, children
14 making noise. What we will do, what we have done is
15 making sure that the children, when they are being
16 dismissed, and sometimes they would leave, and as
17 kids will be, like leaving school, or anywhere else,
18 they will be boisterous and noisy.

19 What we will do now is at least we will
20 send staff people out with them to keep the noise
21 down, you know, walking them out of the community,
22 dispersing them out of the community.

23 Now, those kids that actually live on
24 the street, though, there is a recognition that
25 there is only so much we can do. But kids who may
26 live around the corner, or live somewhere, you know,

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1 in the neighborhood, we will assist and do as much
2 as we can with assisting in helping keeping these
3 kids quiet so they will not disturb anyone, you
4 know, in the community.

5 And understand, the Fishing School is
6 willing to do whatever it can to help that
7 community, in any program, you know, that they can
8 assist, be of assistance in.

9 CHAIRPERSON REID: We understand that.
10 Ms. King, did you have any questions?

11 MS. KING: Mr. Lewis, do you have
12 regular meetings with the neighbors, and do you have
13 a formal mechanism for meeting on a regular basis
14 with the immediate community?

15 I mean, I understand that the children
16 and the parents, and so forth, who participate in
17 your program are by and large people in the
18 community. But do you have sort of a regular formal
19 sort of --

20 MR. LEWIS: Up to this point we didn't
21 have regular formal meetings. We had meetings, open
22 house, when we began our summer program, we had
23 meetings with the community, and when we began our
24 after school fall program. During the Christmas
25 holiday season we have meetings posted for the
26 community.

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1 MS. KING: Which are basically social,
2 not to discuss any problems?

3 MR. LEWIS: Right, but since this came
4 up to our attention in April, we have offered to
5 have monthly meetings with the community, and we've
6 had three or four with the community. And, of
7 course, the same people that complained decided they
8 didn't want to come to the meeting. We all hope to
9 have monthly meetings with the community.

10 MS. KING: And what are your hours of
11 operation? Refresh my memory.

12 MR. LEWIS: Our doors open now at 10 in
13 the morning, we close at 8 p.m.

14 MS. KING: That is right.

15 MR. LEWIS: The children come at 4
16 o'clock, 3:30, 4, as soon as school gets out in the
17 afternoon.

18 MS. KING: And all of your children are
19 school age, you don't have any --

20 MR. LEWIS: No, ma'am, we don't have any
21 -- they are between the ages of 6 and 14.

22 MR. ELLIS: There is one caveat to
23 that. You recognize that summer hours are a little
24 different than that. When we have summer hours,
25 when the kids are out of school, we do have children
26 in the house from --

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1 MR. LEWIS: From when school gets out,
2 our summer hours are from -- the staff is from 8 to
3 4, and the children come from 9 to 3.

4 MS. KING: Okay. So from September
5 through May --

6 MR. LEWIS: September through June.

7 MS. KING: -- June, it is from 10 a.m.
8 to 8 p.m.?

9 MR. LEWIS: That's correct.

10 MS. KING: And in June, in what, July
11 and August?

12 MR. LEWIS: June, July and August,
13 latter part of June, all of July, and up to about
14 the third week in August the children are there from
15 9 until 3.

16 MS. KING: And the place is open from 9
17 until what time?

18 MR. LEWIS: 8 to 4.

19 MS. KING: 8 to 4 p.m.?

20 MR. LEWIS: Yes, ma'am.

21 MS. KING: Okay. So your hours are
22 shorter in the summer, but they start earlier?

23 MR. LEWIS: Absolutely.

24 MS. KING: Because these will probably
25 be as conditions to your -- I have no further
26 questions, Madam Chair.

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1 MR. HOOD: I just have one or two. I
2 don't know if I'm confusing myself or not. The
3 addition, what is that passageway being used for
4 now, where the --

5 MR. ELLIS: The breezeway, actually
6 people were throwing trash. You need to understand
7 that these are row houses, you have like three row
8 house. Actually, the lot we were buying was a row
9 house that was torn down, actually torn down.

10 But what happens is you have three row
11 houses, a breezeway, three rowhouses, a breezeway.
12 And the breezeway had to have a fence put up because
13 people would just walk by and throw trash in there.

14 And so it is being -- what happens there
15 is a fence across it right now, and it is
16 essentially there. I mean, you know, it is nothing.
17 You don't -- it is a place where you don't want it
18 to be utilized for anything, because a kid may be
19 pulled off in there, or anything. So what we -- it
20 has been stopped.

21 MR. HOOD: A couple more. Are both
22 houses being used now, or just --

23 MR. ELLIS: Both houses, and that was a
24 matter, both houses, the second house was bought,
25 and some cursory work was done on it. But the --
26 it, too, was previously used as a crack house, and

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1 so it was bought with the idea that there was some
2 funds that the CBDG required the Fishing School to
3 put up 87,000 dollars of its own money, and it used
4 a portion of that money to buy that house next door,
5 you know, to be hooked up. So they own both houses.

6 MR. HOOD: On the other side of both
7 houses, with exception of the vacant lot, then
8 continues town homes the rest of the way?

9 MR. ELLIS: Yes.

10 MR. HOOD: Okay, thank you.

11 CHAIRPERSON REID: Okay. Are you done
12 with your presentation?

13 MR. ELLIS: That is it.

14 CHAIRPERSON REID: Okay, thank you. Do
15 we have any cross exam by the ANC?

16 MS. PRUITT-WILLIAMS: Madam Chair asked
17 for cross examination, not in favor. You will have
18 time to do that later. Sir, you can only cross
19 examine them in reference to what they testified to
20 today, if you are a party, but you didn't request
21 party status.

22 CHAIRPERSON REID: No. The government
23 report, I don't think that there were any -- we had
24 a letter from the ANC6-A that --

25 MR. ELLIS: Well, the ANC representative
26 is here.

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1 CHAIRPERSON REID: You are the vice
2 chair person of the ANC?

3 MR. ELLIS: No, the person who signed
4 it, it was Jim Schulman signing on behalf of the
5 ANC.

6 CHAIRPERSON REID: Mr. Ellis, you can go
7 back there and I will bring out the ANC.

8 MS. PRUITT-WILLIAMS: Madam Chair, just
9 for the record, there is no report from the ANC.

10 CHAIRPERSON REID: The reports that we
11 have in our file are --

12 MS. PRUITT-WILLIAMS: Are single member
13 district, right.

14 MS. ROSS: There was one --

15 MS. PRUITT-WILLIAMS: So we have no
16 official report from the overall ANC.

17 CHAIRPERSON REID: I do have a question,
18 though, because --

19 MS. PRUITT-WILLIAMS: You do? I'm
20 sorry.

21 CHAIRPERSON REID: There was one letter
22 that came in that stated that they had taken -- they
23 had a meeting, they couldn't vote because of the
24 lack of a quorum, but then they took a telephone
25 vote, and at the telephone vote they were approving
26 the --

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1 MS. PRUITT-WILLIAMS: I retract my
2 statement, it came in later than what I had in my
3 package.

4 CHAIRPERSON REID: Yes, this is dated
5 August 25th.

6 MS. PRUITT-WILLIAMS: Okay.

7 CHAIRPERSON REID: So based on this I
8 will allow it to be submitted for the record, and
9 afford this ANC6-A great weight. All right?

10 MS. PRUITT-WILLIAMS: You may want to
11 read it for the record if Mr. Schulman isn't --

12 CHAIRPERSON REID: Mr. Schulman --
13 basically in part it said that this matter was given
14 consideration on, at two meetings, May 13th and June
15 10th, and that adequate and proper notice was given
16 to the public.

17 MS. KING: Those are meetings of the
18 Zoning and Licensing Committee.

19 CHAIRPERSON REID: That is what I'm
20 saying. The ANC as a whole, there was no vote on
21 this issue at its July 2nd meeting due to lack of a
22 quorum. The issue was voted, however, via telephone
23 on August 25th, 1998, with the ANC. Nine
24 Commissioners voted on the issue with four voting
25 yea, two voting no, one recusing herself from voting
26 due to membership from the Board of Directors on the

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1 Fishing School, and two abstaining. The vote tally
2 regarding approval of their support follows below.

3 MR. SCHULMAN: So there were two that we
4 could not reach, one of whom is sitting next to me
5 today.

6 CHAIRPERSON REID: Basically it seems
7 that the -- it appears that both --

8 MR. FERRELL: Madam Chair, with regards
9 to that letter submitted by Mr. Schulman, Mr.
10 Schulman was not authorized to submit any voice
11 telephone poll of the ANC. I was never polled. We
12 were not able to reach a quorum at the regularly
13 scheduled ANC meeting. Therefore the ANC did not
14 take a position one way or the other on the Fishing
15 School.

16 Mr. Schulman reports that he has done
17 some voice poll with the consent of the executive
18 committee of the Advisory Neighborhood Commission 6-
19 A, which is not appropriate. The executive
20 committee doesn't have the authority to do that.

21 Our bylaws, and even the BZA's
22 guidelines require that the chair person sign off on
23 any written statements or in support of, or
24 opposition to, a BZA application.

25 Mr. Schulman is the vice chair of the
26 ANC, and as he stated in his letter, that there was

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1 not a quorum, and I certainly was not polled.

2 CHAIRPERSON REID: Do you want to speak
3 to that?

4 MR. HOOD: Madam Chair, how many members
5 are there of the ANC?

6 MR. FERRELL: There are exactly, at this
7 particular time, when this matter was going before
8 the ANC, there were 11. Now there is currently 10.

9 MR. HOOD: How many are recorded as
10 being ANC Commissioners, how many are on the
11 commission?

12 MS. KING: It is a 12 member commission.

13 MR. FERRELL: There are 14 seats, but
14 there are not 14 seats filled, there are only 10
15 seats occupied.

16 CHAIRPERSON REID: 10 seats occupied,
17 and a quorum consists of --

18 MR. FERRELL: There are 11.

19 CHAIRPERSON REID: 11 seats.

20 MS. KING: A quorum is 6.

21 CHAIRPERSON REID: A quorum is 6 of
22 those 11.

23 MR. FERRELL: A quorum would be 6.

24 CHAIRPERSON REID: The letter that was
25 submitted to the record --

26 MR. TATE: We are getting here.

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1 CHAIRPERSON REID: I don't have the --

2 MS. PRUITT-WILLIAMS: Madam Chair? There you
3 go.

4 CHAIRPERSON REID: This is the copy that
5 is in the file.

6 MR. SCHULMAN: I have the original with
7 signatures here, if you would like.

8 MR. FERRELL: Madam Chair, at the time
9 this was being addressed before the ANC
10 Commissioners, there were 12 seated ANC
11 Commissioners, and to constitute a quorum there had
12 to be seven.

13 MS. KING: But even if there were seven,
14 I mean, there were one, two, three, four, five, six,
15 seven, eight, nine people, apparently, were
16 consulted, and four of them voted yes. That is not
17 an affirmative vote, to my mind.

18 MR. SCHULMAN: I believe, as much as I
19 do not like the telephone poll, I would be the first
20 one to say that we --

21 MS. KING: Don't talk about -- talk
22 about how four votes out of nine people is a quorum,
23 I mean, is a majority.

24 MR. SCHULMAN: Of the -- we have --
25 well, I'm not going to purport to speak for him
26 today, but Deleanne Ware, called me, after the fact,

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1 and said that he was firmly in favor of this
2 project. So we actually have one more yes than is
3 on this letter.

4 But even with this we have a majority,
5 because we had several abstains. People who abstain
6 from voting, by choice, so they voted not to place a
7 vote. Now --

8 MR. ELLIS: Excuse me, may I address
9 this for just a second? The issue that I believe
10 you are asking is, there is not a majority of the
11 members of the ANC voting for this. The question is
12 not whether there is a majority voting.

13 Just like the BZA, there are five of
14 you, actually there are only four of you right now,
15 but there are five seats. And today, if you vote
16 two to one, there is not a majority of the BZA, it
17 is a majority of the quorum.

18 And the question here is, was there a
19 quorum? And then once there is a quorum, what is
20 the vote. And the question that Mr. Schulman should
21 be addressing, or the others should be addressing
22 here is not the number, but did the vote constitute
23 a quorum?

24 MR. FERRELL: No.

25 MR. ELLIS: And then after there was a -
26 - whether there was a quorum, then what is the vote.

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1 MR. FERRELL: There was no quorum.

2 MR. ELLIS: And if you look at the
3 numbers --

4 MS. KING: Let's not debate that. I
5 mean, we can go on arguing there was or there
6 wasn't. But we just -- we have the information, I
7 think that is all we need, Madam Chair, as to the
8 circumstances of the telephone poll on the -- of the
9 ANC6-A.

10 MR. SCHULMAN: There was a precedent for
11 this in the Washington community fellowship case
12 that was heard before you not that long ago. And it
13 is a bad precedent, one we don't want to continue,
14 but because we were able to successfully use the
15 phone poll in that case, we thought we could
16 appropriately use it in this case.

17 CHAIRPERSON REID: Well, another thing
18 too is I don't know if we are able to accept the
19 telephone vote. I don't know if there is a
20 precedent for that. Ms. Pruitt-Williams, have you
21 experienced that, or are you knowledgeable about a
22 telephone vote?

23 MS. PRUITT-WILLIAMS: Telephone poll?
24 No way. I have not -- I mean, there is no policy,
25 or --

26 CHAIRPERSON REID: Yes, if you have a

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1 meeting then --

2 MS. PRUITT-WILLIAMS: Although I mean
3 there is no policy for or against it, that is what
4 I'm saying.

5 CHAIRPERSON REID: Right, but I think
6 that --

7 MS. PRUITT-WILLIAMS: Telephone polls
8 are done in other issues. I mean, --

9 CHAIRPERSON REID: We have --

10 MS. KING: -- telephone polling --

11 MR. BASTIDA: Madam Chair?

12 CHAIRPERSON REID: Yes?

13 MR. BASTIDA: I think that the bylaws
14 require that there is a properly constituted
15 meeting.

16 MS. KING: For the great weight, yes.

17 MR. BASTIDA: Yes, for the great weight.

18 CHAIRPERSON REID: IN which there is a
19 quorum.

20 MR. BASTIDA: In which there is a
21 quorum. So the word meeting and quorum go in
22 tandem. So that is all what I have to say.

23 CHAIRPERSON REID: I agree with you.
24 All right?

25 MR. PERNELL: Madam Chair, I have one
26 opponent, Ms. Yolanda Rivera, who lives on Wylie

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1 Street, 1232 Wylie Street. She couldn't stay, so I
2 want to submit for the record her letter. She did
3 original --

4 MS. PRUITT-WILLIAMS: Excuse me, Madam
5 Chair?

6 CHAIRPERSON REID: Yes?

7 MS. PRUITT-WILLIAMS: Staff is a little
8 lost as to where we are in the process.

9 CHAIRPERSON REID: Right now the ANC --

10 MS. PRUITT-WILLIAMS: Are we doing ANC?

11 CHAIRPERSON REID: The ANC for 6-A,
12 within itself, there is no representation of that
13 particular ANC, and the people who are coming forth
14 now are chairs of the single member district that
15 make up the ANC.

16 MS. PRUITT-WILLIAMS: So you need to
17 determine not to give great weight.

18 CHAIRPERSON REID: I don't see how we
19 can.

20 MS. KING: I don't see how we can.

21 MS. PRUITT-WILLIAMS: We just want to be
22 clear for the record.

23 MS. ROSS: Based on --

24 MS. KING: There is no, they just can't
25 do it.

26 MR. ELLIS: Again, when an ANC vote, the

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1 question is, and I don't disagree with Mr. Bastida,
2 I just may disagree with the operation as he lays it
3 out.

4 There is a meeting, there is nothing in
5 the regulations before this Board that requires the
6 meeting and the vote to happen simultaneously.

7 CHAIRPERSON REID: Okay.

8 MR. ELLIS: And there was, and there is,
9 if you read this letter --

10 CHAIRPERSON REID: Mr. Ellis we
11 understand where you are going with that, the point
12 is well taken, and what we will do is we will take
13 it under advisement, and we will make a decision
14 accordingly.

15 We don't want to take the time now to
16 debate that issue if the meeting occurred, or did
17 not occur, and all of that. We will take it under
18 advisement.

19 MS. PRUITT-WILLIAMS: But you need that
20 in order to give great weight, or not, for this
21 particular --

22 MR. BASTIDA: She can visit that later
23 on, but I think that you should clarify, for the
24 record, just in case you want to consult corporation
25 counsel later on, that at the meeting that was
26 properly constituted, how many people were present?

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1 CHAIRPERSON REID: Physically.

2 MR. FERRELL: There was a quorum, Madam
3 Chair. That is stated in the --

4 MR. BASTIDA: Let me answer the question
5 and see, and then you can counter argue.

6 CHAIRPERSON REID: My understanding, Mr.
7 Bastida, is that the meeting failed, there was no
8 vote because there was not a quorum.

9 MR. BASTIDA: But I do want to clarify
10 that for the record, and that way you can then
11 debate it later on.

12 CHAIRPERSON REID: All right. Then we
13 will --

14 MR. BASTIDA: If you have to. There was
15 not a quorum, right?

16 MR. FERRELL: No.

17 MR. BASTIDA: Okay, thank you.

18 MR. PERNELL: Are you ready now?

19 CHAIRPERSON REID: Yes, I'm ready.

20 MR. PERNELL: First of all, my name is
21 Daniel Pernell, ANC6-A02, 1132 4th Street N.E.

22 Ms. Yolanda Rivera, who lives at 1232
23 Wylie Street N.E. could not be here today, and I
24 have her statement for the record, Madam Chair. I
25 have a list, she did a survey and petition in the
26 area of Wylie Street and surrounding community, that

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1 is for the record.

2 She required a calendar from the Fishing
3 School which was dated 1997, that is for the record,
4 and also some pictures that you all can look at
5 while I go over it.

6 Madam Chair, I met with Wylie Street and
7 the surrounding community there, and also I visited
8 Mr. Lewis at the Fishing School.

9 MS. KING: Excuse me, sir, are you the
10 single member district representative?

11 MR. PERNELL: No, I'm not.

12 MS. KING: I see.

13 MR. PERNELL: I was asked by a nearby
14 member to be the arbitrary person between the two
15 groups.

16 I wrote out, we met on June 12th, and
17 had the community come forward at Holy Name Church,
18 along with residents of the community. After June
19 12th, on June 15th I wrote a letter to Mr. Lewis
20 thanking him for coming out and listening to the
21 concerns of the community, because there were some
22 serious concerns there.

23 MS. KING: What were they?

24 MR. PERNELL: And they are listed right
25 here, and I'm submitting them to the record.

26 CHAIRPERSON REID: Well, could you read

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1 them?

2 MR. PERNELL: Sure. One of the concerns
3 were parking, the parking situation. And I believe
4 Mr. Lewis has corrected that, because I checked it
5 out. Children making unusual noise in the community
6 in coming and leaving of the facility.

7 Ms. Vanessa Ruffin who lives right next
8 door to the facility had some suggestions -- well,
9 within the area, suggested to the director, Mr.
10 Lewis, to help in planning and implementing the
11 future of the Fishing School, and had not been
12 answered, and I wanted him to answer her, and I
13 think he is going to talk to her.

14 Ms. Yolanda Rivera also wanted to be in
15 part of the planning of the facility, and was not
16 asked to do so. Ms. LaVerne Loss still have some
17 unanswered questions, she lives on 13th Street and
18 Wylie area.

19 MS. KING: What are they?

20 MR. PERNELL: She didn't mention them,
21 and I'm considering them to be valid at the meeting.
22 She may have discussed them with Mr. Lewis. I
23 didn't hear any more complaints from her.

24 Mr. Lewis was asked, by me, to meet
25 before the ANC July 2nd, which is our general
26 meeting, in which there was not a quorum. And --

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1 MR. SCHULMAN: But he did appear?

2 MR. PERNELL: Yes, he did appear, but we
3 didn't have a quorum.

4 I just want to say, Madam Chair, I was
5 the arbitrator between the community, and I like to
6 see a community work together. There is a number of
7 members here for the Fishing School, and there is
8 some members here against the Fishing School.

9 I think that Mr. Lewis can do good on
10 that block, but there are still some concerns from
11 the ANC, and those concerns are the number of kids
12 going in and out of the Fishing School, the age of
13 the kids, the hourly time they are going to be open
14 and closed.

15 I understand that the parking was taken
16 care of, because we did not want to see those huge
17 vans on that little narrow street, as when I give
18 you these pictures you will see what I'm talking
19 about.

20 We wanted the school to have adequate
21 lighting in that area, and also participate in
22 community clean up on a full time basis, seven days
23 a week. And that was it for that concern.

24 The number of people that attended that
25 June 11 meeting, I have a list of them, that are
26 here for the record. And I just want to say, in my

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1 statement, to say that I have -- I'm not a proponent
2 or opponent against the Fishing School, is that I
3 wanted to -- I came forward as a moderator to see
4 the community come together and work out a problem.

5 I always say if they have the problem
6 with the director, work with the director. That
7 they are invited to their meeting. I believe Mr.
8 Lewis called a meeting on June the 24th. I don't
9 have the results of that meeting, I don't know if
10 Mr. Schulman went to that meeting, but I don't have
11 the results of that.

12 That is all I want to say. I'm going to
13 turn it over to Mr. Ferrell.

14 CHAIRPERSON REID: Thank you.

15 MR. FERRELL: My name is Greg Ferrell,
16 I'm an Advisory Neighborhood Commissioner represent
17 6-A12. I echo some of the concerns of Commissioner
18 Pernell.

19 However, I do have some additional
20 concerns, that if the BZA application is approved by
21 this Board, there are a number of concerns in the
22 community with regards to additional participants
23 inside of the Fishing School. Whether they will
24 expand from 20 to 50.

25 I believe it was testified to, today,
26 that they are including the parents in this computer

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1 learning lab, as well as children.

2 I know there has been concerns about
3 parking. I heard the testimony today with regards
4 to the use of the Atlas in the rear. I know there
5 is nothing that has been submitted to the community,
6 in writing, to solidify that, to rest some of the
7 myths that has been going around in the community
8 with regards to the parking issues.

9 I believe that Mr. Lewis and the Fishing
10 School has done a great deal of good in the
11 community. However, to expand the operations in
12 such a narrow street, which is R-4, currently, you
13 are going to have increased parking, will have
14 increased participation from parents, and also kids.

15 And I believe that you also will have
16 increased trash, if the kids are actually being fed
17 or lunch, or snacks, or whatever, etcetera, and
18 there will be a need to have some clean ups,
19 sanitation in the particular corridor of Wylie Court
20 Street.

21 I'm not so sure everybody in that
22 community is persuaded that everything that is
23 stated will actually take place. And I think there
24 needs to be something a little more concrete to rest
25 some of the community's concerns.

26 CHAIRPERSON REID: Okay, thank you.

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1 MS. KING: Can I ask a question? So you
2 are advising us to turn down this application, you
3 don't want the school to expand, and you don't want
4 it to be accessible to handicapped students? I
5 mean, I want to be clear as to what you want. Do
6 you want us to deny this application, and therefore
7 they will not be able to utilize the building next
8 door that they purchased?

9 MR. FERRELL: Currently I would ask the
10 Board to deny their -- currently, as it stands
11 today, all that I know about the school is what was
12 submitted on the record. From what I understand,
13 there has been some additional information that
14 could have been submitted with regards to the
15 parking problem.

16 I'm not so sure if that has been
17 addressed, but currently with the information that I
18 have, echoing what the attorney spoke about the ADA
19 thing --

20 MS. KING: I mean, you've heard
21 everything that we've heard.

22 MR. FERRELL: The problem is that right
23 now --

24 MS. KING: You still wish that we would
25 deny this application?

26 MR. FERRELL: Yes.

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1 MS. KING: And that the school would not
2 be permitted to expand?

3 MR. FERRELL: Yes.

4 MS. KING: And you, sir, do you fell the
5 same way?

6 MR. PERNELL: No, I don't. I think that
7 the school has been a vital tool to the community in
8 helping African-American kids, in getting
9 prostitutes and drugs off the corner. It is no
10 longer a haven for drug dealers, and people who
11 breaks into abandoned homes and live there, and set
12 them on fire when the wintertime comes.

13 I think the -- all the problems that I
14 have it was that Mr. Lewis didn't communicate with
15 the community. Make sure that the community is
16 aware of where he is at. And along with the ANC,
17 who is Ms. Rosalie Johnson in that area, we didn't
18 hear anything about that until he came to the ANC,
19 and we was in the dark.

20 MS. KING: Fine.

21 MR. PERNELL: If we were well --

22 MS. KING: So if we impose a condition
23 that he meet on a regular basis with the single
24 member district, and/or representatives of the ANC,
25 and the neighbors and so forth, you would not have a
26 -- you would not feel that it was necessary to deny

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1 this application?

2 MR. PERNELL: That's correct.

3 MS. KING: Thank you very much.

4 MR. FERRELL: One other point, Ms. King,
5 before we go on.

6 Ms. Rosalie Johnson is the Commissioner
7 for that single member district, but she also has a
8 seat on the Board of Directors. And one of the
9 problems was that some individuals felt that she
10 could not be impartial, as being an ANC
11 representative, and also sitting on the Board of
12 Directors.

13 And Commissioner Pernell kind of filled
14 in some of the gaps to try to ease some of the
15 people's reservations about any biases, one way or
16 the other, because she has two hats.

17 Now whether she will be a candidate for
18 the ANC for this coming election, I'm not sure. But
19 the BZA should be placed on notice that Ms. Johnson
20 is -- currently is a representative, and if she
21 choose to run and is elected, there will be a
22 conflict of interest.

23 MR. PERNELL: And I would like to say
24 one more thing for the record.

25 MR. HOOD: It is in our records, we are
26 notified of that.

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1 MR. PERNELL: I would also like to say,
2 for the record, that on all my steps in dealing with
3 Wylie street and the surrounding community of -- Ms.
4 Johnson was informed. Ms. Johnson and I had a
5 consultation talk on the phone, and she didn't have
6 any problems with me being the mediator.

7 MS. KING: Thank you.

8 MR. PERNELL: There, in the community.

9 MR. HOOD: May I ask Mr. Ferrell another
10 question?

11 I understand that there is some
12 discrepancies that you might have had a few
13 problems, but all in all has this school helped
14 benefit the community?

15 MR. FERRELL: Without a shadow of a
16 doubt.

17 MR. HOOD: Excuse me?

18 MR. FERRELL: Without a shadow of a
19 doubt.

20 MR. HOOD: Okay, thank you.

21 MR. SCHULMAN: I'll be brief, Jim
22 Schulman, again, ANC6-A04. Obviously the ANC was
23 divided, but a clear majority of those voting, from
24 the whole ANC, not just the Zoning and Licensing
25 Committee, were in favor of the variances and
26 special exception requests.

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1 Commissioner Rosalie Johnson obviously
2 would love to speak, and would testify if we had
3 more time.

4 While we believe there is legitimacy to
5 some of the resident's concerns regarding non-
6 residential uses on Wylie Street, the students who
7 attend the after-school program, and their parents,
8 who are from the immediate area, are residents also,
9 and deserve the services that they can obtain in the
10 neighborhood.

11 Expansion of the Fishing School will be
12 directly related to the improvement of the existing
13 and adjacent property. And the ANC feels that the
14 community fears regarding possible declines in
15 property value on the street as a result of the
16 Fishing School expansion are overblown, if not
17 absolutely incorrect.

18 I know somebody, an adult, Atif Tate,
19 who is in the room today, who was a student at the
20 Fishing School and would testify here, if we had
21 more time, as well, that that facility saved his
22 life.

23 And I did review the BZA's 1992 summary
24 order for this case, and I can see no reason why
25 permission to operate should not be, again, granted.

26 Thank you very much.

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1 CHAIRPERSON REID: Thank you. Any cross
2 examination from the Applicant?

3 (No response.)

4 CHAIRPERSON REID: Thank you very much.

5 MR. PERNELL: Thank you, Madam Chair.

6 CHAIRPERSON REID: Persons and parties
7 in support of this application please come forward.

8 MR. MCCRAE: My name is Derrick McCrae,
9 and I'm a staff at the Fishing School, and also --

10 CHAIRPERSON REID: Mr. McCrae, could we
11 have your home address, please?

12 MR. MCCRAE: 1337 I Street N.E.

13 CHAIRPERSON REID: Okay.

14 MR. MCCRAE: Can everybody hear me? As
15 I was saying, I'm a staff person at the Fishing
16 School and I also live in the neighborhood.

17 Now, from what I'm hearing, from what I
18 just heard from some of the folks that oppose the
19 Fishing School, is generally parking, children
20 making noise. All those things, I thought we
21 already settled those things in the prior meetings
22 that we had.

23 You know we made promises to them, and
24 we would do these things, and we would take care of
25 them, and we have taken care of them. And I don't
26 know why they just keep coming up, it is just a

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1 waste of time for the Board and myself.

2 Now, the school is the only positive
3 thing that is going on in that street right now.
4 And we help a lot of children down there. And I've
5 been there for almost 5 years now, and a few of the
6 kids that -- I will just go from the year past.

7 We had one of the kids that attended
8 Fishing School scored the highest marks on the
9 Stafford 9 in math, because he attended the Fishing
10 School.

11 And we also had, let me see, I'd say
12 about another five or six kids that made honor roll
13 because of the Fishing School. And also we are able
14 to keep a lot of the kids, let's say, between the
15 ages of 11 and 13 off the streets, because they are
16 at the Fishing School doing positive things.

17 And the biggest thing about the Fishing
18 School is that is where the kids come get their
19 spiritual healing. Some of them don't like it, but
20 they get it. And that is the most important part
21 about the Fishing School.

22 And that is all I have to say.

23 CHAIRPERSON REID: Thank you very much
24 for your testimony.

25 At this time we will have persons and
26 parties in opposition. Please come forward.

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1 MS. KING: That was the one person.

2 CHAIRPERSON REID: That was in support.

3 MS. KING: That was in support, okay.

4 MS. RUFFIN: My name is Vanessa Ruffin,
5 I live at 1219 Wylie Street N.E., I've been a 21
6 year resident on that street, and a fourth
7 generation resident on that street.

8 I did not live there all of my life, and
9 until 21 years ago only visited over years while my
10 family members lived on the block, and can only
11 attest to the 21 years that I have lived there.

12 I have one question before I begin,
13 because I want to be clear, before I speak, since I
14 generally speak from the standpoint of fact.

15 Is the Fishing School on trial, or its
16 location?

17 CHAIRPERSON REID: It is not a trial.

18 MS. RUFFIN: I'm sorry. When I say on -
19 - I'm sorry, I used the wrong term. Is the Fishing
20 School itself in question with the BZA, or its
21 location?

22 CHAIRPERSON REID: It is the use, it is
23 the --

24 MS. RUFFIN: And size.

25 CHAIRPERSON REID: -- actual use of that
26 particular location.

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1 MS. RUFFIN: The actual use, in an R-4.

2 CHAIRPERSON REID: In that location, in
3 the R-4 district as well. We are here today, the
4 purpose of this Hearing is to look at the case, and
5 what the -- the relief that they are asking for,
6 from this Board, which is the special exception, and
7 a variance; two variances, I think.

8 MS. RUFFIN: My reason for asking that
9 was because I needed to be clear that we were not
10 discussing the validity of the Fishing School,
11 because I have yet to ever question that.

12 The Fishing School, and Mr. Lewis'
13 concept and idea, as well as the programs that it
14 carries out are commendable. It has, however, in
15 total agreement from the testimony given by Mr.
16 Lewis, the architect, and everyone else, outgrown
17 the capabilities of that R-4 residential area.

18 And if we are looking at those facts in
19 their pure sense, I cannot support, even with the
20 alterations that will call for, and I will go down
21 my list of oppositions on those alterations, based
22 on the needs of the Fishing School within Wylie
23 Street N.E. to operate.

24 As far as my concern in this matter, Mr.
25 Pernell mentioned it, I have offered -- have run
26 behind Mr. Lewis, I have made myself a nuisance

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1 attempting to help him more appropriately locate, in
2 direct proximity, to continue this good work and
3 service to our community, because it is very much
4 needed.

5 However, he doesn't even want to
6 entertain basically even seeing me, let alone
7 legitimately looking at any of the assistance I have
8 attempted to provide.

9 If you are interested on any of the
10 information upon contact, in other words, somebody
11 indicating that it is wanted, I will provide as much
12 as I possibly can in order to assist in the
13 appropriate location for the expanded needs, for the
14 accessibility compliance, and the needs to serve the
15 individuals in direct proximity in our community, as
16 the Fishing School has attempted to do.

17 One of the first things that hit me like
18 a ton of bricks, today, was the accessibility
19 compliance, that they had an interest to serve
20 persons with special needs.

21 I happen to be a volunteer, but a Board
22 member for the District's Council for Independent
23 Living. I serve with a number of other individuals
24 with disabilities relating to independent living
25 legislation and compliances within the District of
26 Columbia.

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1 And I find that to have individuals with
2 disabilities to go past, and I call it the pink
3 house on 13th street, by way of that alley, to enter
4 into the Fishing School unless some major changes
5 can be made in those proximity areas, from my
6 position unacceptable.

7 And I don't think that there were very
8 many people who looked at the needs of persons who
9 already have challenges putting themselves at risk
10 to enter beyond, or past those particular
11 conditions.

12 We have recently had some improvements
13 on the street, they tore up some areas, and they are
14 repaving. However, even the sidewalk which is old
15 brick, as well as the condition of the alley, and a
16 house that is continuously on the nuisance property
17 task force list, exists in proximity of the
18 disability access that was presented here.

19 The next thing that I am concerned about
20 is this. With all of the information concerning the
21 alterations of the building, and the square footage,
22 and the very good job that the Fishing School is
23 doing, whether that space really, really is going to
24 be adequate, or if as the BZA originally stated,
25 when it was in compliance, when the variance was
26 given, another location should have been being

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1 sought, or certainly looked at over the extensive
2 period of time that Mr. Lewis has had to
3 appropriately relocate for the expansion of these
4 much needed services in our community.

5 Presently we need, on Wylie Street, good
6 responsible residents. That is individuals who are
7 not just doing it at the time the Fishing School is
8 opened, but at all times, good neighbors who look
9 out for one another, who have concern for individual
10 property rights.

11 And at this juncture, as I start to look
12 at good neighbors, Mr. Lewis I'm hoping being one of
13 mine, I can't say that as I've lived there, for the
14 period of time, and had experiences around him as a
15 neighbor, that I always got those feelings that he
16 was a good neighbor.

17 The Fishing School, again, is an
18 admirable situation. However, when it came to
19 actual questions and needs within our community, and
20 the cooperation to take care of anything other than
21 his business during hours, be it for profit, or not
22 for profit, I did not get the kind of response from
23 a good neighbor in a residential community needed.

24 That has, I believe, trickled down in
25 some of the behaviors of those individuals
26 associated with the Fishing School.

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1 When the doors close I still live on
2 that street, as do many other neighbors who have
3 children, who have moved, due to the lack of a
4 strong residential or community atmosphere on that
5 street.

6 I support, at this point, that that be a
7 priority of the R-4. That the BZA first take a look
8 at us doing the things that we need to do to be that
9 good community, and that the Fishing School be urged
10 to do what the original variance indicated, and that
11 is to appropriately locate this service where it can
12 carry out the full scope of what it is attempting to
13 do.

14 I have a letter that I submitted, I
15 think it may also be in your paperwork, with my
16 concerns. Just a whole bunch of things here. Let's
17 see.

18 That letter is a result of questions
19 posed by Mr. Lewis, and a response that I gave, I
20 believe, back in May, as a result of us as a
21 community going to him and try to solicit him as a
22 good neighbor, on behalf of the Fishing School, and
23 to work with us on some of the concerns that we had
24 to improve the block of Wylie Street.

25 Thank you.

26 CHAIRPERSON REID: Thank you very much.

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1 We now will have closing statements by the
2 Applicant. Excuse me, did you have any cross
3 examination?

4 MR. ELLIS: No.

5 CHAIRPERSON REID: Okay.

6 MR. ELLIS: Very briefly. There were
7 certain concerns that were made, one the number of
8 kids. As we stated, we are not trying to increase
9 the number of kids. We explained to you how we
10 calculated that the order that you had before was 20
11 kids, 4 staff people.

12 We are still there, we recognize -- we
13 want you to recognize that there may be times that
14 there will be children there, but they will be
15 congregating there only to get on the buses to
16 leave.

17 The age of the kids was testified to.
18 The kids are basically age 9 to 13 -- excuse me --

19 MS. KING: 6 to 14 was told, we were
20 told earlier.

21 MR. ELLIS: 6 to 14, I'm sorry. The
22 hours were previously stated, we have summer hours
23 and winter hours. We stated those. Parking, we've
24 told you about the parking, that we have gotten an
25 agreement with H Street CDC.

26 Do you want me to go back over the

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1 parking?

2 CHAIRPERSON REID: The hours, just give
3 me the hours.

4 MS. KING: I've got the -- let me check
5 to make sure. The hours are from 10 a.m. to 8 p.m.
6 during school, when school is in session, and from 8
7 a.m. to 4 p.m. during the summer holidays?

8 MR. ELLIS: That's correct.

9 MS. KING: Would it be appropriate for
10 us to ask, I mean, there is opposition, therefore we
11 can't decide this until our next meeting, which is a
12 month away. Can we ask that Mr. Ellis file a copy
13 of the agreement on parking that is to be reached
14 with the H Street CDC?

15 MR. ELLIS: I don't have a problem with
16 that, but Ms. King, there is no one that asked for
17 party status.

18 MS. KING: I beg your pardon?

19 MR. ELLIS: There is no one that asked
20 for party status.

21 CHAIRPERSON REID: For party opposition.

22 MS. KING: Okay.

23 CHAIRPERSON REID: So no one here has
24 asked for party status who is in opposition.

25 MS. KING: I see, okay.

26 CHAIRPERSON REID: The hours are Monday

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1 through Friday only?

2 MR. ELLIS: Monday through Friday, yes.

3 CHAIRPERSON REID: Even in the
4 summertime?

5 MR. LEWIS: At this, during the
6 summertime yes, but starting this coming fall, well,
7 starting two weeks from now, we are going to be
8 having a Saturday program as well. At one point we
9 had a Saturday program, but the person that was
10 running it for us transferred to Baltimore.

11 CHAIRPERSON REID: Monday through
12 Saturday and the same hours?

13 MR. LEWIS: About five hours on
14 Saturdays.

15 CHAIRPERSON REID: Which would be?

16 MR. LEWIS: It would be from about 9 to
17 1, 9 to 2.

18 CHAIRPERSON REID: Okay.

19 MS. KING: 9 to 2?

20 MR. LEWIS: Yes.

21 MR. ELLIS: The parking, as we told you
22 about, we have an agreement. Lighting, we have
23 placed, I believe, mercury vapor lights, and they
24 are to be incorporated into the project, I mean,
25 once they do the project it will -- some of them
26 will come down and then go back up, but we have

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1 mercury vapor lights, already.

2 Community clean up, there is already a
3 plan with the children, as community service, that
4 they go out every other day to do help with
5 community clean up. That is the Fishing School
6 doing it themselves.

7 Again, the trash was -- Ms. Ruffin said
8 that -- about the ADA access, she brought up about
9 that. The rear of the building is already concreted
10 in. The only thing you have to do is put a slight
11 ramp there that is out of wood, and it is there.

12 Need for good responsible residents.
13 The problem is these properties, as we stated
14 earlier, they were crack houses. One was -- Mr.
15 Lewis got the first one, was a crack house. And
16 when he got the second one it had been used as a
17 crack house.

18 Somebody converted it, or attempted to
19 convert it to a rental unit, and it had been allowed
20 to deteriorate. But it had been a crack house right
21 before that.

22 And appropriate location. One thing
23 about the appropriate location is, it is within the
24 community where the people need the services. The
25 Fishing School is in the heart of the community
26 where the services are needed, and we believe that

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1 that is where it needs to be.

2 CHAIRPERSON REID: Is there food
3 prepared on the premises?

4 MR. ELLIS: There is a kitchen, and
5 there is some food that is prepared on the premises,
6 yes.

7 CHAIRPERSON REID: And what about the
8 issue of trash? I know you said that there is a
9 community clean up by the school, but what about
10 trash pickup?

11 MR. ELLIS: It is not a daily lunch
12 program.

13 MR. LEWIS: No, we have trash pickup,
14 and we have regular pickup from the city. We have a
15 relationship with the Department of Public Works.
16 We also have a neighbor who lives two doors down
17 from us. Whenever any additional trash comes, he
18 picks it up himself. We pay him to do that.

19 And as far as trash is concerned, the
20 Fishing School has always, exclusive of the
21 neighbors on Wylie Street, the Fishing School, with
22 our children, have always gone up and down the block
23 every other day, and cleaned the streets.

24 CHAIRPERSON REID: My question was if,
25 in fact, you prepared food on the premises, then you
26 have additional trash.

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1 MR. LEWIS: We have a man on-site to
2 load up all the trash every day, and we have a
3 relationship with the Department of Public Works.

4 CHAIRPERSON REID: To take it away?

5 MR. LEWIS: Yes, to take it away.

6 MS. ROSE: Daily?

7 CHAIRPERSON REID: You have a contract -

8 -

9 MR. LEWIS: Not every day.

10 MS. ROSE: How often is it removed?

11 MR. LEWIS: About every day, sometimes
12 three times a week.

13 CHAIRPERSON REID: Two to three times
14 per week?

15 MR. ELLIS: Yes, public works comes in
16 at least twice a week, and then the individual --
17 the private individual --

18 CHAIRPERSON REID: In addition to the
19 regular scheduled pickups by Public Works you have
20 someone else that --

21 MR. LEWIS: Yes, we have --

22 CHAIRPERSON REID: -- you contracted
23 with to pick up?

24 MR. LEWIS: That's correct.

25 CHAIRPERSON REID: Remove trash from
26 premises at least twice a week?

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1 MR. LEWIS: At least twice a week.

2 MR. ELLIS: I misspoke. Public Works
3 comes twice a week, and the other gentleman comes
4 once a week.

5 CHAIRPERSON REID: Okay.

6 MR. LEWIS: And trash is not a problem
7 at the Fishing School, never has been.

8 CHAIRPERSON REID: Okay. Mr. Ellis,
9 continue?

10 MR. ELLIS: I'm finished.

11 CHAIRPERSON REID: All right. Are you -

12 -

13 MR. ELLIS: We would request a bench
14 decision since there was no party opposition.

15 CHAIRPERSON REID: Mr. Hood?

16 MR. HOOD: I'm prepared to vote if all
17 the Commissioners are. I would just like to add,
18 I'm not sure, can we put something in there that
19 Mr. Lewis continue to work with --

20 CHAIRPERSON REID: We can, once we have
21 a motion. Do you want to move approval?

22 MR. HOOD: I'm ready to move approval of
23 the Fishing School for its variances and special
24 exceptions.

25 MS. KING: May I suggest some conditions
26 regarding --

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1 CHAIRPERSON REID: Before that, let's
2 for the record reflect that the burden of proof has
3 been met, the attorney for the Fishing School has
4 set forth the -- the condition under which he is
5 requesting relief.

6 The property is unique, it is a
7 substandard lot, and the fact that there is
8 certainly a practical difficulty for complying with
9 existing zoning regulations predicated upon the fact
10 that the compliance -- unable to comply with the ADA
11 regulations, in addition to the fact that the size
12 of the lot precludes them being able to carry out
13 their regularly scheduled program.

14 And in regard to the adverse impact,
15 they spoke to mediating some of the negative aspects
16 of the parking, which would be addressed through a
17 plan to park the vans off the street on the Atlas
18 parking lot, as well as making sure that the vans
19 were not left in front of the building, I think they
20 said.

21 They also talked about noise abatement,
22 by having a staff member to accompany the children
23 from -- I guess it is from the site, and to caution
24 them about making too much noise.

25 I don't think traffic was a problem.
26 They also talked about trash, and we talked about

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1 mitigating that, and we can do that in the
2 conditions.

3 And, lastly, the test regarding
4 impairing the integrity of the zoning plan and map,
5 I think that that has been properly addressed, that
6 there is no impairment.

7 MS. KING: I would suggest that this be
8 for a period of three years. I think that is the
9 maximum that we can grant with the regulations.

10 CHAIRPERSON REID: Did you second it?

11 MS. KING: I don't care, sure, I
12 seconded it, of course. Don't you remember?

13 CHAIRPERSON REID: Now we go to
14 conditions.

15 MS. KING: Shall it be for no more than
16 a period of three years.

17 CHAIRPERSON REID: As is required within
18 the regulations.

19 MS. KING: Right. The student
20 enrollment shall not be more -- or there shall not
21 be more than 20 students at any time in the
22 building, the students being between the ages of 6
23 and 14, and there shall be no more than four full
24 time equivalent staff people.

25 MR. ELLIS: Ms. King, can I ask you
26 about the conditions? You said 20 students in the

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1 building. Can it be 20 students in the building
2 participating in programs, as opposed to, like if
3 the kids come in, you don't want us to keep -- if we
4 have 20 kids in the program, and 15 kids coming to
5 get on a bus, you don't want us to leave 15 kids
6 outside, do you?

7 MS. KING: Well, I don't know. I mean,
8 what is the maximum number of students who will be
9 in the school at any one time?

10 MR. ELLIS: In the school at any one
11 time, we will have many times a total of 20 in there

12 MS. KING: Okay, that is what I was
13 saying.

14 MR. ELLIS: But we might have 15 kids
15 that come there to go someplace else.

16 MS. ROSE: So ask for 35.

17 MS. KING: So your number is 35, then,
18 no more than 35 students in the building at any one
19 time.

20 MR. ELLIS: At one time, okay, 35.

21 MS. KING: No more than 35 students of
22 ages 6 through 14 in the building at any one time; a
23 maximum staff of four full time equivalent
24 employees; the hours during school days from late
25 August until mid-June is from 10 a.m. to 8 p.m.,
26 Monday through Friday.

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1 During the summer holidays, for most of
2 June, July, and August it is from 8 a.m. to 4 p.m..

3 MR. ELLIS: Monday through Friday.

4 MS. KING: Monday through Friday, and
5 Saturday programs are being instituted that will run
6 from 9 until 2.

7 MS. ROSE: Saturday programs?

8 MS. KING: Those are the hours of
9 operation.

10 MS. ROSE: The Saturday programs are
11 only during the summer, or all year?

12 MS. KING: Year round.

13 MR. LEWIS: During the fall, right now,
14 but year round if possible.

15 MS. KING: Year round.

16 MR. LEWIS: Thank you.

17 MS. KING: And I think that we need to
18 mandate that, particularly Mr. Lewis, because you
19 are going to have to come back in three years, that
20 you meet at least four times a year with
21 representatives of the Advisory Neighborhood
22 Commission, and with the immediate neighbors of your
23 property.

24 And particularly, I think, you are
25 going, during the construction period you are going
26 to need to be sensitive to their concerns.

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1 But I think we need to require you to
2 meet a minimum of four times a year, and heal any
3 problems that you have with your neighbors.

4 Adequate trash removal is to be
5 provided, and --

6 CHAIRPERSON REID: Are you going to
7 specify to at least pick up twice?

8 MS. KING: At least twice weekly trash
9 removal will be provided. And arrangement will be
10 made for your vans when not in actual use to be
11 parked away from the site in an off street parking.

12 Is there anything else?

13 CHAIRPERSON REID: What about the
14 community clean up that the school participates in
15 at least twice a week, that you said that they are
16 already involved in that?

17 MR. LEWIS: We are already involved in
18 that. We do it, the community doesn't have a
19 problem, we are willing to do that. And I would
20 also add, if you don't mind, about the meetings, if
21 you would make the mandate that we make an attempt
22 to meet with the community, because we've had two
23 meetings previously, recently, that they didn't come
24 to. So they use that against us. We will have the
25 meetings.

26 MS. KING: I think, you know, I've had a

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1 lot of experience in community relations and so
2 forth. Your ANC Commissioner is a member of your
3 board. She has a constituency that has, at least in
4 the past, has been sufficiently supportive of her to
5 elect her. That is 2,000 people who elected her, or
6 had the opportunity to vote for her.

7 It seems to me that it is not
8 unreasonable for us to require that you hold those
9 meetings, use your best efforts, and the efforts of
10 your board members to get the participation of your
11 neighbors.

12 And if you meet them as co-equals, not
13 doing a PR number with them, but sitting down and
14 saying, how can we help you, what are we doing wrong
15 that you don't like, what do you like that we are
16 doing, and what do you dislike.

17 And it is our intention to let you
18 remain in that community, and to expand your
19 facility. But you've got to, I mean, you talk about
20 serving your neighbors, and yet you have some of
21 your neighbors who are up in arms against you. And
22 I think it is just a matter of simple logic that you
23 should try and repair that, otherwise you are not
24 really serving your community.

25 I don't mean to preach at you, but I
26 think it is -- but I did. And I think it is

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1 unreasonable for you to say that you use your best
2 efforts and if you can't pull it off we don't care.
3 We do care, four times a year.

4 You know, really pulling out all the
5 stops to make -- you are serving your community,
6 certainly there are parents of the children, and so
7 forth, who must be willing to come and talk to you
8 about any problems that exist in your community. It
9 is not unreasonable, four times a year.

10 CHAIRPERSON REID: Do you have other
11 conditions with regard to the lighting? I think it
12 is the Applicant's proffer that they were going to
13 provide vapor lights?

14 MR. ELLIS: We have mercury vapor lights
15 up.

16 CHAIRPERSON REID: Already?

17 MR. ELLIS: Yes.

18 CHAIRPERSON REID: That will be put up?

19 MR. ELLIS: Yes, we have lights up,
20 already. What we are saying is when we get finished
21 with the renovations we will put them back, probably
22 during the renovation some of them will be moved,
23 and then we will put them back up, there will be
24 adequate lighting.

25 CHAIRPERSON REID: Adequate lighting is
26 provided.

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1 MS. KING: But we need to make certain
2 that they don't spill over into other people's
3 property and become a nuisance to the neighbors.

4 MR. ELLIS: We will have our architect.

5 CHAIRPERSON REID: Okay. Appropriate
6 adequate lighting.

7 Mr. Hood, did you have --

8 MR. HOOD: No, I think we've covered it
9 all.

10 MS. KING: No spillover beyond the
11 property line is essentially what we are talking
12 about.

13 MS. ROSE: Did you address whether the
14 ANC gets great weight or not? Because that goes
15 into our order.

16 CHAIRPERSON REID: At this point, based
17 on the fact that the ANC did not have a meeting with
18 a quorum, that is the basis for which they are given
19 great weight. We would certainly take their
20 position into consideration.

21 MS. KING: And that of the -- it is my
22 impression that there is nobody wants this school,
23 well, possibly one person who wants the school to
24 shut down, you know, they wish it were -- some
25 people wish it weren't where it is, but everybody
26 seems to be very supportive of the mission of the

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1 school, and what it has accomplished.

2 CHAIRPERSON REID: And the services they
3 are provided.

4 MS. KING: Even those people on the ANC
5 who apparently voted against it.

6 CHAIRPERSON REID: Even the people who
7 may have some problem with the school, nonetheless,
8 I think that it is far better than what was there
9 before.

10 MS. KING: Yes, better than a
11 crackhouse.

12 MR. HOOD: Let me just add, if the
13 school were not there, we need to think about what
14 situation could exist if the school is not there to
15 take care of our kids.

16 CHAIRPERSON REID: All in favor?

17 (Chorus of ayes.)

18 CHAIRPERSON REID: Opposed?

19 (No response.)

20 MS. ROSE: Staff will report the vote is
21 3 to 0 with Mr. Hood, Ms. King, and Ms. Reid to
22 grant the application with conditions. And is this
23 a summary order, or a full order?

24 CHAIRPERSON REID: Yes, it is. Could
25 you provide a proposed order for us?

26 MR. ELLIS: I will draft the proposed

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1 order.

2 CHAIRPERSON REID: Yes, a proposed draft
3 order, and on disk.

4 MR. ELLIS: Yes. The problem is that
5 the system that you have set up is different from my
6 system. I will give you a proposed order, but you
7 guys are on Office, and I'm on Wordperfect.

8 MS. ROSE: Madam Chair, we can discuss
9 that off the record.

10 CHAIRPERSON REID: We will discuss it.

11 MR. ELLIS: Okay.

12 CHAIRPERSON REID: The case is over.
13 Any other discussion regarding this case can be done
14 directly with the Applicant and the participants
15 therein. The case, for the purpose of this Hearing,
16 is now over and done with.

17 MS. ROSE: The next --

18 MS. KING: The case is closed.

19 CHAIRPERSON REID: The Hearing for the
20 day is not yet over, so any discussion that you
21 have, I would ask that you please move it out into
22 the hall, and we will now have the next case. Thank
23 you.

24 MS. ROSE: The next application is
25 16387, of Square 456 Associates, pursuant to
26 11DCMR3108.1 and 3107.2, for a special exception

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1 under (subsection 411.11) for a roof structure and a
2 variance from (subsection 1706.22(g)) which is an
3 error, to permit commercial development to proceed
4 prior to issuance of a certificate of occupancy for
5 non-residential development within the DD District
6 until a certificate of occupancy is issued for
7 affordable housing in a DD/C-4 district at premises
8 625-627 E Street, and 620 and 626 F Street, 501-507,
9 and 511-517 7th Street, N.W. (Square 455, Lots 37,
10 39, 868 and 869.)

11 Would all persons planning to testify in
12 this application please rise to take the oath?

13 (WHEREUPON, THE WITNESSES WERE SWORN.)

14 CHAIRPERSON REID: Good afternoon.

15 MR. GLASGOW: Good afternoon, Madam
16 Chair, Members of the Board. For the record my name
17 is Norman Glasgow, Jr. with the law firm of Wilkes,
18 Artis, Hedrick and Lane appearing on behalf of
19 Square 456 Associates, the Applicant for a variance
20 relief from the provisions of the DD District, and
21 also for special exception with respect to roof
22 structure setback.

23 Here with me today are Ms. Pamela
24 Benoil, of Compus management, Mr. Colden Florance of
25 the architectural firm of KCFSHG, Mr. Steven Sher,
26 Land Planner, Mr. Bill Davis, appearing on behalf,

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1 he is also appearing on behalf of Golden Rule Plaza
2 Inc.

3 Mr. Sher you already know, and then also
4 Ms. Shaw of our office is here in the audience, from
5 Wilkes, Artis.

6 Mr. Florance and Mr. Sher are offered as
7 expert witnesses in the field of architectural land
8 planning. They have previously testified before
9 this Board on many occasions. Mr. Davis has
10 previously appeared before this Board in the
11 capacity of project developer with particular
12 emphasis on financing of projects eligible for, I
13 guess, HUD financing, CDBG financing, and other
14 various areas of financing to build various number
15 of projects in the city.

16 I don't know how much the Board has read
17 through our tome.

18 MS. KING: Every word.

19 CHAIRPERSON REID: Mr. Glasgow, what we
20 like to do, is to expedite this case. I don't think
21 there is any opposition.

22 MR. GLASGOW: We are not aware of any.

23 CHAIRPERSON REID: Yes, there is no
24 opposition.

25 MS. KING: The two gentlemen sitting on
26 our left, are you here just for information, or are

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1 you in opposition, or -- just for information, okay.

2 CHAIRPERSON REID: That being the case,
3 then you may want to expedite, give us the salient
4 points. For the record, we have read the materials
5 that were submitted to us, to basically be able to
6 facilitate your case.

7 MS. KING: Make your case.

8 MR. GLASGOW: I think at this point in
9 time, having gone through the statement of
10 Applicant, you have the Office of Planning report,
11 and the letter that was signed by three of the ANC
12 Commissioners, I'm not going to argue whether there
13 was a quorum or not, there wasn't. They had no
14 meeting in August, so three signatures was all that
15 we could get.

16 MS. KING: I'm not sure I have a copy of
17 the ANC letter, was it in the package? Maybe it
18 didn't get into mine for some reason. I have an ANC
19 question mark on my page. Well, staff can give me a
20 copy while you proceed. I'm sorry, I don't mean to
21 tie you up.

22 MR. GLASGOW: I can give you a copy.

23 MS. KING: Thank you.

24 MR. GLASGOW: I believe it was filed
25 with your office in August 31st.

26 MS. KING: I don't doubt it, it seems to

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1 have gone missing from my file.

2 CHAIRPERSON REID: Mr. Glasgow, I'm not
3 sure that -- staff just informed me that there was
4 not an ANC letter. We didn't receive it.

5 MS. KING: Well, we have a copy now.

6 CHAIRPERSON REID: Yes. And their
7 position is in support?

8 MS. KING: The ANC supports a granting
9 of special exception relief to allow roof structures
10 which do not meet the normal setback. ANC
11 understands that --

12 MR. BASTIDA: You might want to submit
13 that into the record, before you read it.

14 MS. KING: Have we not already done
15 that?

16 MR. BASTIDA: Well, they cannot find the
17 copy of the --

18 CHAIRPERSON REID: So we have to waive
19 the rules to accept it into the record. It is so
20 waived.

21 MS. KING: The ANC strongly supported
22 the variance relief requested, which is very
23 important to the ability of the Golden Rule Plaza
24 project, etcetera.

25 Now, the purpose of this letter is to
26 advise the Board of the support of the undersigned

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1 members of 2-C. ANC2-C does not meet in August, and
2 was therefore unable to hold an official meeting to
3 deal with the matter. And it is signed by Lawrence
4 L. Thomas, chair person, vice chair person Norma
5 Davis, and Treasurer Doris L. Brooks.

6 CHAIRPERSON REID: So there was no
7 quorum, not vote taken?

8 MS. KING: It is a 6 member body, and
9 the three officers, I presume meeting in executive
10 session, the chair, the vice chair and the treasurer
11 signed this. So we can't give it great weight.

12 CHAIRPERSON REID: But they come in,
13 they weigh in as being in support of the
14 application?

15 MS. KING: Absolutely.

16 CHAIR PERSON REID: So the record will
17 then reflect the fact that ANC2-C has submitted a
18 letter in which they are in support. However, they
19 were unable to meet because of it being August, and
20 so therefore we are not able to give great weight,
21 but we will certainly take their position into
22 consideration.

23 MS. ROSE: So it is not the ANC, but the
24 single member district members?

25 MS. KING: Three members of the ANC.

26 MS. ROSE: Three members of the ANC?

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1 MS. KING: Have supported it.

2 MS. ROSE: Okay.

3 MR. GLASGOW: Madam Chair, I think that
4 given the lateness of the hour, and your previous
5 comments, that we want to skip Ms. Benoil's
6 testimony. She is here on behalf of --

7 CHAIR PERSON REID: Can she summarize,
8 quickly? We would like to hear from her.

9 MR. GLASGOW: Either that or we can go
10 straight to the burden of proof.

11 CHAIR PERSON REID: Okay, all right.

12 MR. GLASGOW: Why don't we go to Mr.
13 Florance, and talk roof structures.

14 MR. FLORANCE: I'm sure you are all
15 generally familiar with the site?

16 CHAIR PERSON REID: Yes.

17 MR. FLORANCE: Can you hear me now? You
18 are generally familiar with the site. This is the
19 Hecht's building, F Street, 7th Street, this is the
20 earlier Hecht's building, this is dated from the
21 last quarter of the 19th century, this is the 1924
22 structure with which you are all familiar. And this
23 is not now part of the project, but it has been
24 restored, it is the Top House. Jemal owns that
25 property and restored that.

26 This is the four story Murray building

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1 existing on the corner, and we are proposing to add
2 six stories to that for a total of 10. This has
3 been approved by the Historic Preservation Review
4 Board, and has gone before the Mayor's agent, and
5 has been approved.

6 And then around the corner, on E Street,
7 are 625 and 627 E Street, and they too will be
8 restored, and remodeled as residential, as is this
9 building.

10 Now, there is a courtyard in between.
11 We have a total on-site of about 56,000 square feet
12 of residential, and we also have on the order of
13 230,000 square feet of office construction, and
14 there is retail at the ground floor.

15 And that is all, as the material we have
16 submitted indicates, in accordance --

17 MS. KING: Is that the AARP building on
18 the other side?

19 MR. FLORANCE: Yes, you are absolutely
20 right. AARP is here, this is a vacant parking lot,
21 and you can see that from this drawing. This is the
22 Hecht's, this is the Murray building, 7th, F, this
23 is the arena, says proposed here, but we now know
24 that it exists.

25 This is the AARP building, this is the
26 Oriental building association, which is not a part

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1 of this project. This is the vacant parking lot
2 which is proposed as a new office building to
3 complete the block.

4 The roof structures that we are talking
5 about include the one that you see here, and which
6 there will be the penthouse, mechanical equipment,
7 elevator, penthouse, so on and so forth, the usual
8 things that occur in the penthouse, and obviously we
9 are well back from the face of this building.

10 But because of our negotiations with the
11 HPRB, and the way in which we designed this project,
12 requiring a setback for the new addition, from the
13 existing street, we are unable, on the back, on the
14 alley, to have the full 18 foot 5 -- I'm sorry, 18
15 foot 6 inches setback because of the constraints of
16 the existing rooftop structure of the Hecht's and
17 because of our concern with the design, and how it
18 is perceived from 7th street, and that was a part of
19 the approvals of the HPRB.

20 And I have to say we like it, we think
21 it is a good design.

22 So what we have, in effect, is an eight
23 and a half foot setback from the face of the
24 building in this location. And so that is one
25 relief that we are requesting.

26 In the case of the Murray building,

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1 although this model is not entirely accurate, what
2 is actually happening is that north-south, these two
3 locations, we are only able to provide a 15 foot
4 setback. We are all right east-west, we have the
5 full required 18 and a half foot setback.

6 And the reason for that is clear. We
7 have a stair shaft in here, we have an elevator
8 overrun, and we have mechanical equipment. And
9 although we worked very hard to reduce them to the
10 absolute minimum, we could not squeeze this any
11 further without introducing, really, engineering
12 impracticalities that would be very difficult to
13 contend with.

14 So those are the two rooftop reliefs
15 that we are looking for.

16 Now, I would also like to say that we
17 are interested in some design flexibility. And the
18 kinds of design flexibility that we need are related
19 to the future leasing and use of the building, and
20 would have no impact on the numbers or the kind of
21 retail, or anything else, that we have proposed, and
22 have received approval of in the past.

23 The thing that we need is an ability to
24 move retail, for example, either horizontally or
25 even vertically, below grade, above grade, to
26 respond to market demand.

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1 If a Nike superstore were to want to
2 come and occupy that corner, or perhaps that corner,
3 we need the flexibility to do that within the design
4 parameters of the project, and also without, as I
5 say, violating any of the numbers which are
6 carefully calculated, as you have read, to provide
7 the special arts uses that the overlay, the DD
8 overlay asked for.

9 Another kind of relief that we need, not
10 relief, but flexibility in design, as this building
11 becomes a reality, we have to make an interesting
12 design choice. And that is, do we align the floors
13 of this building with the floor to floor heights of
14 Hecht's, which are quite unusual for a downtown
15 office building, but still offer some interesting
16 opportunities, or do we align the floor to floor
17 heights of this new building with the AARP building
18 to the south, which gives a different set of
19 circumstances.

20 And that, really, is a market driven
21 sort of issue which will require a lot of analysis,
22 a lot of work with potential tenants, so on and so
23 forth, but which will have no practical impact in
24 terms of FAR, the height of the building, anything
25 else of that nature.

26 But it is the kind of design flexibility

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1 that we would very much like to have.

2 Another kind of design flexibility is
3 that the elevation on F street, of the proposed "new
4 building" was approved by the HPRB, and it looks
5 like that. That is what was approved.

6 This, of course, is Hecht's, and across
7 the street, obviously, is the arena. We are
8 interested in being able, as time goes on, to
9 rethink the design of this facade.

10 Now, that is in the historic district,
11 so if we do that, we will have to take it back to
12 the HPRB, so there will be design control on that
13 facade, but we feel that that is another example of
14 the sort of flexibility that the project really
15 needs in order to be viable as it goes forward.

16 And we are all aware that the project
17 has been lying fallow, very fallow, for a long, long
18 time. And everyone is, at least I am, very anxious
19 to have this thing stabilized and occupied, and
20 healthy, and back in action.

21 That is, in effect, what it is we are
22 asking for. Thank you.

23 MR. GLASGOW: That is the testimony on
24 one area of the relief that we have. The other area
25 of relief is, if I may make a brief proffer --

26 MS. KING: Under law, what is the

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1 difference between flexibility and relief?

2 MR. GLASGOW: The flexibility that he
3 desires is, one, we need -- it won't impact any of
4 the relief that we are requesting, all right? with
5 respect to the roof structure setback. We already
6 have to go to the Historic Preservation Review
7 Board, and the Mayor's agent.

8 Sometimes Board orders come out and says
9 the project shall be constructed in accordance with
10 plans marked exhibit X.

11 MS. KING: I see, you don't want us to
12 do that?

13 MR. GLASGOW: We don't want you to do
14 that.

15 MS. KING: I understand.

16 MR. GLASGOW: -- necessity to do it.

17 MS. KING: I mean, however, you would
18 have no objection to our saying that the roof
19 structures, for which we are granting a variance,
20 must be accomplished according to the design
21 submitted?

22 MR. GLASGOW: Correct. And in the
23 Office of Planning Report there are two conditions
24 that are referenced, and one of those talks about
25 the -- the second one on page 8 of the OP report,
26 the Applicant may modify the design of the building

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1 subject to approval under DC law 2-144, Historic
2 Preservation Review Board, and/or Mayor's agent.

3 MS. KING: That is okay, I understand,
4 but I just, you know?

5 MR. GLASGOW: And that specifically
6 says, provided that those changes do not diminish
7 the roof structure setbacks. That is the very next
8 line.

9 So we understand where the Board's
10 concern would be.

11 MS. KING: I like this word flexibility.

12 MR. GLASGOW: The second area is that
13 the Square 456 Associates was approached by the
14 representatives of Golden Rule Plaza to see whether
15 or not we could fund the 500,000 dollar off-site
16 affordable housing contribution in our joint
17 venture, earlier than just doing it at the time when
18 they were getting their certificates of occupancy,
19 and we knew that their project was going forward.

20 They said, can you fund us early? I
21 took it to the representatives of Square 456, and
22 they said yes, we can do that, provided that we know
23 that when we have made that 500,000 dollar
24 contributing, that we have made the contribution,
25 and that we are not in a position where, in effect,
26 we are at risk as to how Golden Rule Plaza proceeds.

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1 And so that is what generated this
2 second area of relief, the variance request. And so
3 we have agreed with Golden Rule Plaza on that. The
4 representative from Golden Rule Plaza is here if
5 there are any questions on that.

6 Also there is a condition that has been
7 agreed to between Golden Rule Plaza and the Square
8 456 Associates, representatives. That is the first
9 condition, talked about when the 500,000 dollar
10 amount should be placed, that it should be placed in
11 an escrow account to be made available for Golden
12 Rule Plaza at the time of settlement on its
13 financing for the low and moderate income housing
14 project, which it will be developing between New
15 Jersey Avenue, New York Avenue, K Street, and east
16 of the Center Lake freeway, just south of By The Way
17 Church.

18 So after placing the 500,000 dollars in
19 escrow, then as soon as Golden Rule Plaza is ready
20 to close on its construction financing, the 500,000
21 is there, they are able to pull that out.

22 They also are going to be able to use
23 that as they finish up their financing, and use
24 that, as they've got 500,000 dollars worth of equity
25 on the project. So that will assist them in a
26 number of ways, and Mr. Davis can address that in

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1 however much detail the Board needs.

2 MR. DAVIS: Shall I speak?

3 MS. KING: Just a brief overview, don't
4 you think?

5 CHAIR PERSON REID: Yes.

6 MR. DAVIS: Some of you may know about
7 the Golden Rule Plaza apartment project. We've been
8 working, diligently, on this project for at least
9 six years. It took a great deal of effort to obtain
10 the right to the land. This land is near the corner
11 of K Street and New Jersey Avenue, and is excess
12 highway land so we had to go all the way through the
13 Federal Highway Administration, Secretary of
14 Transportation, to get site control for this
15 project.

16 It is going to be a seven-story
17 apartment building with 127 units, about twelve one-
18 bedrooms, 103 two-bedrooms, and another 12 two-
19 bedroom apartments.

20 We are going to have the apartments are
21 targeted for senior citizens. About 50 percent of
22 those senior citizens will be very low income
23 seniors. The price on the units will go from about
24 450 dollars a month, up to about 800 dollars a
25 month, so we will have a great deal of variation,
26 but it is all well below the moderate income HUD

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1 limits.

2 The project, right now, has a total
3 development cost of about 12.6 million dollars.
4 That 500,000 from the joint venture that we are
5 speaking about is very critical to the financing of
6 the project.

7 If the 500,000 is available at the
8 commencement of construction, that is 500,000 that
9 we don't have to borrow, which keeps the rental
10 levels lower.

11 Also, Hud, which is providing the FHA
12 insurance on the taxes and bonds for the project,
13 has stipulated that all the funds have to be
14 available to construct the project from day one.

15 So that means that having 500,000
16 dollars in an escrow account that we can't get until
17 the certificate of occupancy, is not going to help
18 us to pay the construction firm.

19 So it would be very helpful to our
20 project to have those funds available at the
21 commencement of construction.

22 Finally, you may be concerned about the
23 imminence of this project. I can assure you that
24 our project will be up before his project is up. WE
25 should be starting construction on this project
26 within the next six months, hopefully by the end of

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1 December, but certainly by February of next year.

2 We have already received approvals from
3 the department -- DC Housing Finance Agency, to
4 issue taxes and bonds for the project, and we are
5 now in the process of negotiating the tax credit
6 investment for the project.

7 I will stop at that point.

8 CHAIR PERSON REID: Thank you very much.
9 Mr. Hood?

10 MS. KING: No questions.

11 MR. GLASGOW: Mr. Sher is here if you
12 have any questions for him, but I think our
13 statement is pretty clear as to how it is that we
14 meet all the burden of proof, how it is we meet the
15 provisions of section 1706 of the regulations
16 dealing with that variance request for that
17 submission of those bonds.

18 I would suggest -- we did suggest, and
19 had worked with the Office of Planning on two
20 conditions to the order. Assuming that the Board is
21 in a position to grant, those are set forth on pages
22 7 and 8, and they deal with when we would place the
23 funds in escrow, and how they are obtained from the
24 escrow account.

25 And then, also, the Office of Planning
26 was concerned that if for whatever reason that the

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1 Gold Rule Plaza project did not go forward, that
2 there was a mechanism to then retransfer the 500,000
3 dollars to some other affordable housing project,
4 and that has all been reviewed by the parties
5 involved.

6 And then, of course, the flexibility
7 issue that Mr. Florance dealt with was the other
8 condition.

9 CHAIR PERSON REID: Okay.

10 MR. GLASGOW: With that, if there are no
11 questions?

12 MR. HOOD: I just have one very brief
13 question. The residential piece, I don't see the
14 parking for the residential piece.

15 MR. GLASGOW: That parking -- that
16 residential parking is going to be included in the
17 garage that goes underneath the commercial piece.
18 With the small historic buildings, you are right,
19 there is no parking garage underneath those
20 buildings. That parking is provided for under the
21 commercial portion of the project.

22 MR. HOOD: So that is where the
23 residents will be parking?

24 MR. GLASGOW: Exactly.

25 MR. HOOD: Okay, thank you.

26 MR. BASTIDA: I think what is not clear

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1 to the Board members is that existing parking lot is
2 really a part of the project in front of them.

3 MR. GLASGOW: Yes, the large parking lot
4 located --

5 MR. BASTIDA: Along F Street, between
6 7th and 6th.

7 MS. KING: Opposite the MCI center?

8 MR. BASTIDA: Correct.

9 MR. GLASGOW: Yes, that parking lot, on
10 the north side of the square. It is right in this
11 location, this looks like a building, it is for
12 parking.

13 MS. KING: Okay.

14 MR. BASTIDA: Presently, not for long, I
15 hope?

16 MR. FLORANCE: There are in excess of
17 600 parking spaces on the site.

18 MS. KING: And how many underground --
19 well, it is really none of our business, but just
20 curious. How many underground spaces are you going
21 to have?

22 MR. FLORANCE: About 625 throughout the
23 entire site.

24 CHAIR PERSON REID: And there are how
25 many residential units?

26 MR. GLASGOW: About 55. But we have

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1 worked with the community that we have the
2 flexibility, depending upon market demand, and
3 needs, to either increase or decrease size of units.
4 Right now it is programmed for about 55 units, but
5 that number could go up or down, depending upon size
6 of units.

7 MR. FLORANCE: The residential parking
8 will be satisfied by the commercial parking, which
9 is across the alley, and there we have 625 cars, or
10 will have, when we are built out.

11 CHAIR PERSON REID: Okay. Thank you
12 very much for your testimony. We will now move to -
13 - well, the ANC, we've already dealt with that. And
14 the government report, the Office of Planning
15 report, I don't think there were any other
16 government reports, were there?

17 MS. KING: Yes, there is one from the
18 Department of Housing and Community Development,
19 which is a yes.

20 CHAIR PERSON REID: Yes, I forgot about
21 that.

22 MS. KING: And the Historic Preservation
23 Review Board, and the Mayor's agent for historic
24 preservation all weighed in.

25 CHAIR PERSON REID: Okay. In support of
26 the application?

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1 MS. KING: Well, they are all -- well,
2 Historic Preservation Review, I mean, is going to
3 have to approve after Mr. Florance exercises all of
4 his flexibility all over the place, they are going
5 to have to say whether he can build it or not.

6 MR. FLORANCE: The rights of
7 flexibility.

8 MR. BASTIDA: Good afternoon, Madam
9 Chairperson, members of the Board. For the record,
10 my name is Alberto Bastida, with the DC Office of
11 Planning. The Office of Planning submitted its
12 report on August 25th, and basically will be very
13 brief.

14 The Office of Planning basically
15 recommends approval of this project, with two
16 conditions. They are spelled out on pages 7 and 8
17 of our report. Chip already took my thunder off of
18 me, and addressed those two recommendations. So I
19 will not elaborate on them, because since you know
20 the content of them.

21 The only thing I will elaborate slightly
22 is on the regulations and how the Applicant meets
23 the burden of proof.

24 The roof structure is a special
25 exception, and there is basically three issues
26 related to roof structure, by which it should be

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1 approved; the historic preservation issue, the
2 structural condition of the existing buildings, and
3 I forget the third one right now. And the setbacks
4 are minimal, and the minimum need of providing those
5 services as required for the structures, and by the
6 Historic Preservation Review Board.

7 The variance is an area variance in
8 which regarding the prohibition of the -- which
9 would be separated from the need to have it on hand
10 prior to the occupancy of the building, the office
11 building specially, after being built. And that is
12 because of the historic preservation issue, the
13 different overlays in the area, and economics.

14 And those are the four factors by which
15 the Applicant meets the burden of proof regarding
16 the variance.

17 Accordingly, the Office of Planning
18 recommends approval of this application provided
19 that the two conditions spelled out on pages 7 and 8
20 of the Office of Planning report are included in the
21 Board's approval.

22 Regarding the flexibility, the
23 flexibility under the same issue is more related to
24 historic preservation, and even though the Board has
25 the authority to be the final reviewer of such
26 design, the Board has the authority to delegate that

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1 responsibility to the Historic Preservation Review
2 Board. But it is the authority of the Board being
3 delegated to HPRB, but it is still the authority of
4 the Board.

5 That concludes my presentation. I would
6 answer any questions you might have. Thank you.

7 CHAIR PERSON REID: Thank you. Mr.
8 Bastida, for the record, would you please speak to
9 the conditions?

10 MR. BASTIDA: The conditions, basically,
11 makes first that regrading the half million dollars,
12 that it will not be sitting in a bank account for
13 perpetuity, because the intent of this is to provide
14 housing downtown, and the Office of Planning is
15 interested in providing that housing in the short
16 term, rather than in the long term. And that
17 assures that, in fact, it will be provided in the --
18 well, it doesn't assure, but it goes as far as
19 possible to assure that that housing will be
20 provided on the short term.

21 And that is the condition on page 7 that
22 goes through to page 8.

23 And the second condition at the bottom
24 of page 8 is regarding the so-called flexibility
25 that has been discussed, so HPRB could dictate what
26 the final visual appearance of the project would be

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1 like, but it also retains that the roof structures
2 should be built as presented to the Board.

3 MS. KING: And that there should be no
4 reduction of on-site housing?

5 MR. BASTIDA: That's correct. But that
6 on-site housing is regarding to the amount of square
7 footage, not to the number of dwelling units,
8 because that responds to the market demands, which
9 could make -- it could give latitude in the number
10 of units that end up, so it will be a slight
11 increase, or a slight decrease.

12 CHAIR PERSON REID: You want to indicate
13 in this condition how many square feet will be
14 allocated towards the housing, regardless of the
15 amount of units?

16 MR. BASTIDA: That's right. It is on
17 the record.

18 CHAIR PERSON REID: Not less than, or
19 something like that?

20 MR. BASTIDA: Right, that the 50,000
21 square feet that has been proffered by the
22 Applicant.

23 MS. KING: So it is 50,000 square feet?

24 MR. BASTIDA: Plus or minus 50,000
25 square feet.

26 MR. FLORANCE: It is 56 and change.

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1 MR. BASTIDA: Yes. The approximately
2 57,000 square feet that is provided by the
3 Applicant. Because we better be on the upper ranges
4 than on the lower ones.

5 MR. GLASGOW: We can give a precise
6 number. I don't want to have an issue with the
7 zoning administrator's office.

8 MR. BASTIDA: Fine, I have no problem.
9 If you want to --

10 MR. GLASGOW: 56,240, that is the
11 number.

12 MS. KING: 56,240 square feet of
13 housing.

14 MR. BASTIDA: Residential.

15 MR. GLASGOW: Right.

16 MR. BASTIDA: The Office of Planning
17 could be more difficult and request that when is the
18 construction going to begin, if the Board approves
19 it. That was a rhetoric question.

20 MS. KING: Did I hear an answer?

21 MR. BASTIDA: Unfortunately you did.

22 CHAIR PERSON REID: Okay.

23 MS. ROSE: Madam Chair, I just wanted to
24 clarify the provision of the regulation that this is
25 under. My reading of 1706.22 doesn't have a G to
26 it, and I just wanted to cite the correct one when

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1 we do the order.

2 CHAIR PERSON REID: 1706.2?

3 MS. ROSE: This is the 1995 regulations,
4 and I don't know if there has been something --

5 MR. GLASGOW: Show her the updated
6 regulations, please.

7 MS. ROSE: Okay, it is updated, then.

8 MS. KING: Mr. Sher, what have you done?

9 MS. ROSE: This is -- okay. What year
10 is this? It has been renumbered. Okay, thank you.

11 MR. BASTIDA: You might want to put, for
12 the record, what the date of the regulations you use
13 for the basis, so there is not any doubt.

14 MR. SHER: With revisions through 1997,
15 June 6th, 1997.

16 MR. BASTIDA: Thank you.

17 CHAIR PERSON REID: We should be
18 operating from that.

19 MS. ROSE: Exactly.

20 CHAIR PERSON REID: Do we not?

21 MS. ROSE: I'd have to check, I don't
22 have that here. This was out of the counter. This
23 is 1995.

24 CHAIR PERSON REID: Okay. Any further
25 questions, Mr. Hood, Ms. King?

26 MS. KING: No further questions, thank

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1 you.

2 CHAIR PERSON REID: Okay. Thank you so
3 much, Mr. Bastida. Were there any cross examination
4 questions of Mr. Bastida from the Applicant?

5 MR. GLASGOW: No.

6 CHAIR PERSON REID: Okay.

7 MR. BASTIDA: You are welcome.

8 CHAIR PERSON REID: Now we have closing
9 remarks by the Applicant.

10 MR. GLASGOW: I don't think I have any
11 closing remarks, other than to ask if we could get a
12 bench decision, we would appreciate it.

13 CHAIR PERSON REID: Members, are you
14 amenable to disposing of this particular case today?

15 MS. KING: Absolutely.

16 CHAIR PERSON REID: Can I get a motion?

17 MS. KING: I move that we approve this
18 application with the conditions as described, as
19 imposed by, or suggested by the Office of Planning
20 regarding the half a million dollars for the Golden
21 Rule Plaza, and the escrow, and the wording that Mr.
22 Bastida put forward.

23 Also that there be some flexibility in
24 the design of the building, that we, in effect,
25 delegate our authority to approve final design to
26 the Historic Preservation Review Board. At the same

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1 time provided that there are no changes in the roof
2 structure setbacks as shown on the plans that were
3 submitted as part of this case.

4 And that there be no reduction in the
5 56,240 square feet of residential housing on site.
6 I feel that they have met the burden of proof, very
7 adequately, and that we should applaud them for this
8 development, and encourage them to speed them along.

9 CHAIR PERSON REID: There does not
10 appear to be any adverse impact, or opposition to
11 this particular --

12 MS. KING: Exactly.

13 CHAIR PERSON REID: And it does not
14 impair the integrity of the zoning map or
15 regulations?

16 MS. KING: On the contrary.

17 CHAIR PERSON REID: All in favor?

18 (Chorus of ayes.)

19 CHAIR PERSON REID: Opposed?

20 (No response.)

21 MS. ROSE: Who seconded the motion?

22 MR. HOOD: I will second the motion.

23 MS. ROSE: Staff will record the vote as
24 30 to 0, with Ms. King, Mr. Hood to grant with
25 conditions. Is this a summary order?

26 CHAIR PERSON REID: Yes a summary order.

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1 You should have your order out in about two weeks,
2 Mr. Glasgow.

3 MR. GLASGOW: Thank you.

4 CHAIR PERSON REID: Do you have a draft
5 of a proposed draft order?

6 MR. GLASGOW: Yes, we have a draft. Due
7 to some insert of a couple of words today, we will
8 get it in tomorrow.

9 CHAIR PERSON REID: Do you have it on
10 disk?

11 MR. GLASGOW: Yes.

12 CHAIR PERSON REID: Very good, we
13 appreciate that. It will expedite things. Are
14 there any other -- is there any other business?

15 MS. ROSE: I think that we are done.

16 CHAIR PERSON REID: Okay. This
17 concludes today's Hearing.

18 (Whereupon, the above-entitled matter
19 was concluded at 5:57 p.m.)

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