

GOVERNMENT OF THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

OCTOBER 20, 1999

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
BETTY KING	Vice Chair
JERRY GILREATH	Board Member
ROBERT SOCKWELL	Board Member

OFFICE OF ZONING STAFF PRESENT:

Sheri Pruitt, Secretary, BZA	
Beverly Bailey,	Office of Zoning
Paul Hart,	Office of Zoning
John Nyarku,	Office of Zoning

OTHER AGENCY STAFF PRESENT:

Andrew Altman, Director, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Alan Bergstein, Esq.

<u>AGENDA ITEM</u>	<u>PAGE</u>
REQUEST FOR POSTPONEMENT .....	6
	63
PRELIMINARY MATTERS .....	13
 <u>APPLICATION OF LA CLINICA DEL PUEBLO:</u>	
<u>16500 ANC-1A</u> .....	15
CHRIS MURPHY, ESQ.. .....	15
Hogan & Hartson LLP	
555 Thirteenth St., N.W.	
Washington, D.C. 20004-1161	
(202) 637-5600	
 <u>WITNESSES</u>	
JUAN RAMAGOZA .....	16
ENRIQUE COBHAM .....	18
ANDREW SCHAMESS .....	24
PETER SHIELD .....	26
GARY IMHOFF .....	46
LOUISE GOINES .....	108
MEREDITH JOSEPHS .....	109
ARNOLDO RAMOS .....	111
SALLY HANLON .....	130
LaVERT SEABRON .....	134
ANNE STOMMEL .....	145
HEIDE WESSELS .....	148
 <u>APPLICATION OF JUBILEE HOUSING, INC.:</u>	
<u>16502 ANC-1C</u> .....	167
ALLISON PRINCE, ESQ. ....	171
Wilkes, Artis, Hedrick & Lane, Chartered	
Suite 1100	
1666 K Street, N.W.	
Washington, D.C. 20006-2897	
(202) 457-7800	
 <u>WITNESSES</u>	
JENNIFER LILLEY .....	175
ROBERT MORRIS .....	180
DAVID JOHNSTON .....	185

(continued)

<u>AGENDA ITEM</u>	<u>PAGE</u>
<u>APPLICATION OF N STREET FOLLIES LIMITED</u>	
<u>PARTNERSHIP/A D.C. LIMITED PARTNERSHIP:</u>	
<u>16503 ANC-2B</u> .....	219
NORMAN GLASGOW, ESQ. ....	219
Wilkes, Artis, Hedrick & Lane, Chartered	
Suite 1100	
1666 K Street, N.W.	
Washington, D.C. 20006-2897	
(202) 457-7800	
 <u>WITNESSES</u>	
GARY SQUIRE .....	221
MARK BRODSKY .....	230
 PRELIMINARY MATTERS .....	 238
 <u>APPLICATION OF AFRICARE, INC.:</u>	
<u>16506 ANC 2-C, ANC 5C</u> .....	244
TERSHER BOASBERG, ESQ. ....	244
1800 Massachusetts Avenue, N.W.	
Suite 600	
Washington, D.C. 20036	
(202) 828-4333	
 <u>WITNESS</u>	
JOSEPH HANDWERGER .....	246
C. PAYNE LUCAS .....	248
ELTON KING .....	251
 <u>APPLICATION OF GILBERTSON DICK:</u>	
<u>16508 ANC-4B</u> .....	296
GILBERTSON DICK .....	296
CARMEN DICK .....	300
 <u>APPLICATION OF DENNIS L. LEEPLEY CO., INC.:</u>	
<u>16509 ANC-</u> .....	310
DENNIS LEEPLEY .....	310

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

(9:35 a.m.)

MS. PRUITT: Good morning, Madame Chair.

Before you today is a motion or a request for a postponement for the application of 16505, George Washington University Mount Vernon Campus Plan. The Neighborhood Alliance, I believe, is the organization -- is requesting that the campus plan -- I mean the hearing is actually scheduled for November 17th.

They are requesting a postponement until no sooner than the year 2000. Also today before you is responses to a motion from both the opponent and the applicant.

CHAIRPERSON REID: We received this information just about five minutes ago and it's quite lengthy. And because of the nature of the request, the Board feels that it would be better to allow corp counsel to weigh in on the situation.

It appears that the -- is it the Neighborhood Alliance -- has requested that this -- the hearing be postponed predicated upon some environmental issues, is that correct?

MS. PRUITT: The EIS statement, environmental impact statement.

CHAIRPERSON REID: And typically, the environmental impact statement is not a part of what we use for consideration for our applications in our deliberations. So given the fact that we have -- that this came in last night and we got it this

1 morning, and we got the responses this morning, it's a voluminous  
2 amount of material, that certainly has not given us time to absorb  
3 it, nor have we had the benefit of counsel.

4 So, based upon that, we felt that it would be in  
5 the best interest of all concerned to continue this particular  
6 hearing.

7 MR. GILREATH: Madame Chair, if we continue  
8 this, does that preclude still having a hearing on the 17th after  
9 we hear from corporation counsel and so forth?

10 MS. PRUITT: Excuse me. I would suggest that you  
11 not rule on whether or not an EIS is due today, but you do need to  
12 decide whether or not you're going to have the hearing on the 17th  
13 or continue it.

14 MR. GILREATH: I think that's the --

15 MS. PRUITT: That needs to be decided today.

16 MR. GILREATH: Okay, in other words, can we get  
17 response from corporation counsel and we can evaluate all of this,  
18 and can we be prepared to hear this on the 17th? Otherwise, as I  
19 understand Ms. Pruitt --

20 MS. PRUITT: You can be prepared. I mean, this --  
21 yes, we would be able to get information from corp counsel on the  
22 EIS by the 17th.

23 CHAIRPERSON REID: And would that give the parties  
24 involved the opportunity to be notified about that decision if we  
25 decide to go forward?

1 MS. PRUITT: Well, we are not the agency for doing  
2 an EIS. It's not in our jurisdiction. They're just stating that  
3 we cannot do a hearing and we should not have a hearing case. So  
4 if corp counsel comes back with a ruling saying yes, we should not  
5 have a hearing, the hearing would be canceled.

6 It would be not -- the people would have to --  
7 there's no way for us to notice everyone. We could put it back in  
8 the Register, but I don't think that would really be adequate. If  
9 they were to cancel the hearing because, for some reason, it was  
10 determined that an EIS was required on the date the hearing was  
11 scheduled, --

12 CHAIRPERSON REID: Then we cancel and everyone  
13 would be so notified.

14 MS. PRUITT: At that hearing date, yes.

15 CHAIRPERSON REID: However, if in fact it is  
16 determined that it is not necessary, then we will proceed --

17 MS. PRUITT: Correct.

18 CHAIRPERSON REID: -- on the 17th.

19 MS. PRUITT: Well, you will proceed on the date  
20 that you were going to decide whether or not it's going to be  
21 canceled to. That's what you need to decide today.

22 CHAIRPERSON REID: Okay, this is what Mr. Gilreath  
23 was asking and this is what you need to respond to.

24 MS. PRUITT: I'm sorry, then I'm not understanding  
25 your question.

1 MR. GILREATH: Well, if there is sufficient time,  
2 if all the parties can respond and we get the corporation  
3 counsel's response, I would suggest, from what I've heard, that we  
4 keep the 17th the way it's scheduled with the stipulation if,  
5 indeed, we are not permitted to go forward because of this EIS  
6 requirement, then we would cancel then.

7 Because otherwise, if we cancel it now, the case  
8 won't be heard until, if I understand, January or February.

9 MS. PRUITT: We will not cancel the hearing at all  
10 right now. I think there's a little confusion here. There are  
11 several items on the table for you. This last item on the EIS  
12 came in this morning.

13 Let's push that to the side completely. Don't  
14 think about that at all. That can be resolved before the hearing  
15 whenever it comes about, okay?

16 What you need to determine now is, based on the  
17 prior motion that was submitted -- I don't remember now. It's  
18 been a while ago, almost -- the initial motion by the Neighborhood  
19 Alliance requesting a postponement, whether or not you believe it  
20 is warranted based on that information and then also based on the  
21 response from GW.

22 MR. GILREATH: Well, Madame Chair, I thought we  
23 agreed to give the parties time to discuss and talk about this,  
24 and that if they couldn't resolve it, then we would go forward  
25 with the hearing. That was my understanding.

1 MS. PRUITT: No, not on this particular case.

2 CHAIRPERSON REID: Not on this case. That was a  
3 different --

4 MS. PRUITT: On this particular case two weeks ago,  
5 --

6 CHAIRPERSON REID: This is the Mt. Vernon campus.

7 MS. PRUITT: On this particular case two weeks ago,  
8 you were supposed to make a determination whether or not this case  
9 would be continued to sometime in the year 2000 based on a request  
10 by the Neighborhood Alliance.

11 Just prior to that decision, we got information  
12 from both sides, both GW and the Neighborhood Alliance, that they  
13 were doing some negotiations. And they requested that you  
14 postpone that decision a week because there may not be a need for  
15 the decision if they were able to come to some resolution.

16 CHAIRPERSON REID: Right, that's what I think Mr.  
17 Gilreath is referring to.

18 MS. PRUITT: That was last week.

19 CHAIRPERSON REID: Right.

20 MS. PRUITT: At that point, they had still not come  
21 to any conclusion and they thought that they would still be able  
22 to --

23 CHAIRPERSON REID: They were close.

24 MS. PRUITT: Close, exactly. As of today, they  
25 have not been able to come to a resolution that is amenable to

1 everybody, so the Neighborhood Alliance is still requesting -- the  
2 original request still stands on the table.

3 They are requesting that this be postponed until no  
4 sooner than January 20 -- I mean year 2000. So the initial  
5 request is back on the table basically.

6 MR. GILREATH: Well, Madame Chair, I would -- from  
7 what I've heard, I would -- do not support continuation of this to  
8 the year 2000. I think we should hold November 17th as date  
9 certain. And at such time, if indeed due factors come into play,  
10 we could always continue it at that time.

11 But I think we should stay on track of hearing this  
12 on November the 17th unless we get something in the future that  
13 suggests otherwise.

14 CHAIRPERSON REID: Okay, Mr. Sockwell.

15 Oh, Mr. Altman, I didn't know you were there. I  
16 didn't know that you were sitting there. You actually should be  
17 up here. So can you come up here, please? I'm sorry, I didn't  
18 notice you were sitting down there.

19 What's Mr. Altman's first name? Andrew Altman is  
20 the new director of the Office of Planning. And is planning now -  
21 - it's called Planning and Economic Development or Planning and  
22 Development? Planning.

23 And he is going to weigh in on this particular  
24 matter.

25 MR. ALTMAN: I was simply going to ask. We have

1 both parties -- representatives of the parties are both here. Is  
2 it possible I could speak to both parties very quickly outside and  
3 then come back within --

4 CHAIRPERSON REID: Sure.

5 MR. ALTMAN: -- 30 seconds and see if we can  
6 discuss something?

7 CHAIRPERSON REID: Sure, you can.

8 MR. ALTMAN: Thanks.

9 CHAIRPERSON REID: All right, thank you.

10 All right, well what we'll do is go ahead and  
11 proceed with our hearings and then we'll come back to see what  
12 decision they have made, and then we'll make whatever decision is  
13 appropriate at that time.

14 So let's proceed now with our regularly scheduled  
15 hearings.

16 All right, I'm going to adjourn the meeting and  
17 then I'm going to start now with the hearing. And then, when we  
18 come back -- when they come back, then I will reconvene the  
19 meeting to get a decision and then come back to the hearing just  
20 so we won't waste time.

21 The hearing will please come to order.

22 Good morning, ladies and gentlemen. This is the  
23 October 20th public hearing of the Board of Zoning Adjustment of  
24 the District of Columbia.

25 My name is Sheila Cross Reid, Chairperson. Joining

1 me today are Robert Sockwell and Jerry Gilreath representing the  
2 National Capital Planning Commission. Copies of today's hearing  
3 agenda are available to you. They are located to my left near the  
4 door.

5 All persons planning to testify either in favor or  
6 in opposition are to fill out two witness cards. These cards are  
7 located on each end of the table in front of us. Upon coming  
8 forward to speak to the Board, please give both cards to the  
9 reporter, who is sitting to my right.

10 The order of procedure are for special exceptions  
11 and variances, and that is statement and witnesses of the  
12 applicant; Government reports, including Office of Planning,  
13 Department of Public Works, ANC, etc.; persons or parties in  
14 support; persons or parties in opposition; closing remarks by the  
15 applicant.

16 Are there any appeal cases? Isn't there one  
17 appeal?

18 The order of procedure for appeal applications will  
19 be as follows: statement and witnesses of the applicant; the  
20 Zoning Administrator or other Government officials; the owner,  
21 lessee or operator of property involved if not the appellant; the  
22 ANC within which the property is located; the intervenor's case;  
23 rebuttal and closing statements by the appellant.

24 Cross examination of witnesses is permitted for  
25 persons or parties with direct interest in the case. The record

1 will be closed at the conclusion of each case except for any  
2 materials specifically requested by the Board, and the staff will  
3 specify at the end of the hearing exactly what is expected.

4 The decision of the Board in these contested cases  
5 must be based exclusively on the public record. To avoid any  
6 appearance to the contrary, the Board requests that persons  
7 present not engage the members of the Board in conversation.

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

10 The Board will now consider any preliminary  
11 matters. Preliminary matters are those which relate to whether a  
12 case will or should be heard today such as a request for  
13 postponement, continuance or withdrawal, or whether proper and  
14 adequate notice of the hearing has been given.

15 If you're not prepared to go forward with the case  
16 today or if you believe that the Board should not proceed, now is  
17 the time to raise such a matter.

18 Are there any preliminary matters?

19 Staff have any preliminary matters?

20 Okay, let's proceed with the first case of the day.

21 Thank you.

22 MS. PRUITT: First case of the day is 16500,  
23 application of La Clinica del Pueblo, pursuant to 11 DCMR 3107.2,  
24 for a variance under Subsection 2101.1 for a waiver from the  
25 number of required parking spaces from off-street parking to be

1 used by the clinic in an R-5-B District at 2831 15th Street, N.W.,  
2 (Square 2669, Lot 826).

3 All those planning to testify, would you please  
4 stand and raise your right hand? Everyone who wants to testify on  
5 this particular case. Right hand.

6 (Whereupon, the witnesses were sworn.)

7 CHAIRPERSON REID: How many people here are here in  
8 support of the application. Show of hands, please. Okay. Oh,  
9 okay.

10 How many people here are in opposition to the  
11 application? Three, okay.

12 In the interest of time, let me get a feel for  
13 approximately how long do you feel you need to put on your case?  
14 Oh, okay. And the persons who are here to testify in support,  
15 typically we have time limitations. And for individuals, three  
16 minutes.

17 And for the ANC -- is the ANC here? The ANC is  
18 five minutes. And the opposition three minutes. People in  
19 support, people in opposition three minutes. ANC is five minutes.

20 And parties are five minutes.

21 Okay, let's go ahead and proceed. Thank you.

22 MR. MURPHY: Madame Chairperson and members of the  
23 Board, my name is Chris Murphy. I'm here for Hogan & Hartson  
24 representing La Clinica del Pueblo.

25 We are here today in support of La Clinica del

1 Pueblo's application for a variance for the building at 2831 15th  
2 Street. The basis for the application is that this location can  
3 only accommodate five parking spaces and it is the only  
4 appropriate location for La Clinica in the area.

5 Therefore, La Clinica requires this variance if it  
6 is to continue to operate in the neighborhood.

7 We have submitted a written statement, and now I  
8 would like to present Dr. Juan Ramagoza, the Executive Director of  
9 La Clinica, who will present the oral statement in support of the  
10 application.

11 Dr. Ramagoza is accompanied by Dr. Peter Shields,  
12 who is the Section Chief of the Molecular Epidemiology Section at  
13 the National Cancer Institute, and he is also the President of La  
14 Clinica's board. He's also accompanied by Dr. Andrew Schames,  
15 who is the Medical Director of La Clinica, and Enrique Cobham, who  
16 is the Chief Administrator of La Clinica.

17 Dr. Ramagoza.

18 MR. RAMAGOZA: Yes, good morning. Bueno dias and  
19 thank you for this opportunity to speak to you today. My name is  
20 Juan Ramagoza. I am the Executive Director of La Clinica del  
21 Pueblo.

22 MS. PRUITT: Sir, can we get your home address,  
23 please?

24 MR. RAMAGOZA: 422 Longfellow St., N.W.

25 La Clinica del Pueblo is requesting that the Board

1 of Zoning Adjustment grants a variance in the number of parking  
2 spaces required for the medical clinic. La Clinica bought the  
3 previous vacant building at 2831 15th St., N.W. with the intention  
4 of moving from its present location a few blocks away at 1470  
5 Irving St., N.W.

6 At our new site, there is room for five parking  
7 spaces. Present zoning regulation would require 38 spaces. We  
8 hope that you will view our application in the context of where we  
9 are now. We is only three blocks away, basically in the same  
10 neighborhood.

11 We presently occupy a building with only two  
12 assigned spaces and have never found any difficulty in finding  
13 legal parking within walking distance. We believe that our  
14 request for BZA variance will not impose any substantial hardship  
15 or inconvenience to our new neighbor.

16 Most of La Clinica patient either walk or use  
17 public transportation to reach the clinic. Also, many of our  
18 staff and volunteers either live in the neighborhood or use public  
19 transportation. With the very recent opening of the Columbia  
20 Heights Metro station, we expect that a sizeable number of our  
21 staff and volunteers will begin to use the Metro, particularly  
22 with Metro's incentive.

23 To enable us to purchase the vacant building on  
24 2831 15th St., we received a significant amount of community  
25 support, including a grant for \$300,000 from the D.C. Department

1 of Housing and Community Development, another grant from the  
2 Office of Latino Affairs for \$15,000, as well as many local  
3 foundation and universities.

4 These grants are in recognition of the valuable  
5 service that La Clinica provide to the community. La Clinica has  
6 been at 1470 Irving St., N.W. for the past 17 years. We have been  
7 a good neighbor and have an outstanding record in this community,  
8 adding stability and security to the immediate neighborhood.

9 We expect that the three block move will not change  
10 our history of good, neighborly relation. Many of our staff and  
11 volunteers are homeowners in the District and wholeheartedly  
12 support the right, convenience and peace of home ownership.

13 Also, our move is expected not to increase the  
14 quantity of our service, but the quality of service. The new  
15 building is in accordance with our present need and will  
16 facilitate our having handicap access, proper heating and air  
17 conditioning, elevator and examination rooms that do not double as  
18 office for the staff and the like.

19 We believe that we will improve the immediate  
20 neighborhood and we expect that our formerly vacant property with  
21 no potential buyer interest before our offer will bring a high  
22 degree of quality and safety to the neighborhood.

23 La Clinica has historically served Latino and other  
24 minorities in this area of Ward 1. We have provided services for  
25 the whole community, as well as help people to integrate into the

1 system. It's important that we stay in the neighborhood.

2 This is where our clients are, where they live. We  
3 have an outstanding record as a good neighbor and we expect that  
4 being an owner/occupant in our new location will only ensure a  
5 continual policy of neighborly support.

6 We also feel that the merit of our move to 15th  
7 Street takes away the empty building providing a site for  
8 loitering and vagrance. In fact, as owners, we too are as  
9 concerned as any of our neighbors and have vested interest in  
10 maintaining and improving the quality and safety of our  
11 neighborhood for the sake of the community in which we work and  
12 reside.

13 We feel that La Clinica will be an asset to the  
14 neighborhood and the requirement for 38 parking space is in excess  
15 of present and future needs.

16 Thank you very much for your time and  
17 consideration.

18 Gracias.

19 CHAIRPERSON REID: Thank you.

20 MR. GILREATH: Personally, I'd like to say that I  
21 think, having read this material, I think the program you have of  
22 serving the community is superb. Two questions, I guess.

23 Number one, you have approximately 38 employees  
24 now, right?

25 MR. RAMAGOZA: Right.

1 MR. GILREATH: With this new building, will this  
2 enable you to increase your services so you'd be increasing your  
3 employees in the future?

4 MR. RAMAGOZA: No, we are thinking for this time  
5 only improving the quality of service that we are providing now.

6 MR. GILREATH: And it says in the material that you  
7 serve about 3,500 patients per year on site. That's in your old  
8 building. In the new building with the more modern facilities,  
9 you'd be serving more, most likely?

10 MR. COBHAM: Let me -- my name is Enrique Cobham.  
11 I'm the Chief Administrator. I'll be trying to field some of the  
12 questions.

13 CHAIRPERSON REID: Okay, well then do you want to  
14 hold the questions?

15 MR. GILREATH: Yes, we can hold these until later  
16 then.

17 CHAIRPERSON REID: Okay, so once you finish your  
18 complete case -- present your complete case, then we'll ask the  
19 questions.

20 MR. GILREATH: All right, okay.

21 MR. MURPHY: Madame Chair, we were finished with  
22 the oral testimony and we were just prepared to answer your  
23 questions. So there is no more statement to be read or anything.

24 CHAIRPERSON REID: Oh, there are no more  
25 statements?

1 MR. MURPHY: No, no. We tried to keep this as  
2 brief as possible and just answer your questions if you have them.

3 CHAIRPERSON REID: Okay. So then you can respond  
4 to Mr. Gilreath's question. But when you speak, give your name  
5 and your home address, each person, if you're going to address the  
6 question.

7 MR. COBHAM: Once again, my name is Enrique Cobham.  
8 I'm the Chief Administrator. I reside at 611 Allison St., N.E.,  
9 Washington, D.C.

10 Regarding the additional staff, patients,  
11 additional volume, the expectation of this move was primarily to  
12 enhance the services that we provide. There might be some  
13 increase in some of the services and/or staff, but we don't  
14 envision a major or large increase.

15 It's very difficult to predict because we provide  
16 free care to predict exactly how much it will or will not  
17 increase, but the primary purpose of the new location was to  
18 improve the facilities. We presently are in about 4,000 square  
19 feet and it is extremely cramped for the operation.

20 The building is not handicap accessible and the  
21 like. So this move was really to improve the existing services  
22 that we provide.

23 MR. GILREATH: I don't know whether this may be a  
24 question of the provisions for a variance -- are they permitted to  
25 -- if they can provide parking space off site if there were a lot

1 nearby and they worked out a deal with the owner of that, could we  
2 grant that as a variance as well, off site parking?

3 MS. PRUITT: That's a different request. That  
4 would be a request for accessory parking lot, which has not been  
5 advertised.

6 MR. GILREATH: So they'd have to come under --

7 MS. PRUITT: Correct.

8 MR. GILREATH: -- provisions.

9 MS. PRUITT: They'd have to go back through the  
10 process again.

11 MR. GILREATH: Well, have you made any endeavor to  
12 look around to see if there were a vacant lot nearby that you  
13 could work out some kind of arrangement with the owner? Because  
14 we can grant, if there's a reasonable basis for it, off site  
15 parking nearby that would meet your requirements as well.

16 Have you had any opportunity to explore that or  
17 even consider it as a possibility?

18 MR. MURPHY: Yes, La Clinica has done exactly that  
19 and is here requesting the variance, but has met with the ANC, has  
20 met with the neighborhood members and understands those concerns  
21 and has made efforts and has -- I think even has signed letters of  
22 agreement to do that.

23 They are continuing to ask for the variance to  
24 ensure flexibility in the future so that they don't have to come  
25 into the Board again and again. And this has already taken up

1 quite a bit of resources for La Clinica.

2 And so they would continue to ask for the variance;  
3 but, at the same time, are -- hearing those concerns of the ANC,  
4 and are willing to address them. And we can submit those letters  
5 if that would be helpful.

6 MR. GILREATH: Well, you know, I support what  
7 you're doing in this new facility. It's the question how can you  
8 get there. I do have a little bit of concern about there's  
9 potential for growth and you only have five parking spaces, that,  
10 to me, there is some potential perhaps, particularly if you  
11 increase your number of patient -- your patient load that there  
12 could possibly be some parking difficulties.

13 But I support what you're trying to achieve and the  
14 question is how can we get there.

15 MR. SCHAMESS: Thank you. And if I could add to  
16 that.

17 My name is Andrew SchameSS. I live at 1469 Harvard  
18 St., which is literally right across the street from the building,  
19 and I am a homeowner there. I've been a volunteer at the clinic -  
20 -

21 MS. PRUITT: Excuse me. If you'd turn off some of  
22 the mics up there, we won't get as much feedback.

23 MR. SCHAMESS: Thanks.

24 I've been a volunteer at the clinic since 1992 and  
25 I'm currently the Medical Director there. And we -- since I sort

1 of occupy both camps -- that is, I am a homeowner right in the  
2 area and I'm also associated with the clinic -- I feel like I do  
3 sort of sympathize with both perspectives.

4 We did meet with neighborhood residents a couple of  
5 weeks ago and heard their concerns. Some concerns related to  
6 loitering, and I think we were able to dispel those. One of the  
7 major concerns was parking, and I completely share that concern.

8 And we have a signed letter of agreement for 30  
9 parking spaces just down the block. And we are committed to using  
10 those parking spaces as well as creating a Metro program with our  
11 staff to encourage people from out of state to take Metro.

12 So it's my sense that we've addressed the parking  
13 concerns of the neighbors. And at last time we spoke to them,  
14 they seemed satisfied and supported an ANC resolution to support  
15 this zoning variance.

16 CHAIRPERSON REID: Where?

17 MR. SCHAMESS: That's in the lot of the Cardoza  
18 Clinic in the Columbia Heights Village.

19 CHAIRPERSON REID: And you have a signed agreement?

20 MR. SCHAMESS: Yes, we have a signed agreement.

21 CHAIRPERSON REID: But you didn't submit that as  
22 part of your submission.

23 MR. SHIELD: Correct, that's correct.

24 I'm Peter Shield. I'm the President of the board  
25 at 4719 Butterworth Place, N.W.

1           The two issues that I just want to address is we  
2 have the signed letters of agreement. We're looking for a passage  
3 of the variance without necessarily making that part of the record  
4 or having it as a permanent requirement for us.

5           We're interested in having maximal flexibility in  
6 the future and we want to encourage our staff, for example, to use  
7 the Metro. If we are bound to be also paying parking spaces,  
8 we're going to have those financial limitations where we're also  
9 paying for their parking as well as their Metro subsidies, for  
10 example.

11           So that's one concern for us. Parking is very  
12 important to us. If we were able to find a building, as we -- in  
13 the written statement, if we were able to find a building with  
14 parking, we would have had it.

15           We have significant problems in attracting  
16 volunteers and that sort of thing because people, you know, find a  
17 hard time coming and worrying about parking.

18           In fact, we think that the parking in the  
19 neighborhood is reasonable based on our own surveys. We don't  
20 expect that there will be a net difference in increased parking  
21 because we're moving around the corner.

22           But we are concerned about delaying this process  
23 because right now we are paying for the building that we own,  
24 which we would like to start renovating, as well as paying for our  
25 current rental space, and this is putting, you know, an undue

1 hardship on our, you know, nonprofit, free clinic.

2 MR. GILREATH: What is the length of time for the  
3 agreement you have for these three parking spaces, for one year,  
4 six months, two years, three years or what?

5 MR. COBHAM: The agreements are basically --  
6 they're really open ended. The organization provider does the  
7 letter stating that there are -- so many spaces are available --  
8 at least so many spaces are available and there were no limitation  
9 on when the agreement would end.

10 MR. GILREATH: Okay, the other party could  
11 terminate this if, for some reason, they needed the spaces. In  
12 three months, they could say, you know, they have to have the  
13 spaces?

14 MR. COBHAM: Well, we have a written letter signed  
15 by the executive directors of both organizations, and they do not  
16 have a limitation on time. One of the reasons why we do not have,  
17 say, maybe like a formal contract is we haven't moved into the  
18 building.

19 So the issue of having a formal contract or  
20 agreement lease is consistent with when we're going to start using  
21 the space. So the organization's provided us with a firm  
22 commitment under letterhead signed by the executive directors to  
23 allow everybody to know that this is a serious agreement.

24 MR. GILREATH: Could we get a copy of -- is a copy  
25 available for us?

1 MR. SCHAMESS: And in all honesty, at least it's my  
2 understanding, this -- how can I say -- this isn't sort of a  
3 provisional or temporary arrangement. There's every understanding  
4 that these parking spaces are going to be available for as long as  
5 we need them.

6 And it's our commitment that we're not going to  
7 increase the number of cars parked in the neighborhood, that we  
8 are going to make sure that parking for staff and clients is taken  
9 care of and volunteers.

10 That's the intent and the commitment. So we will  
11 be --

12 MR. GILREATH: Well, could you provide us with a  
13 letter subsequently for the record then?

14 MR. COBHAM: Yes, we will.

15 CHAIRPERSON REID: I think that I join Mr. Gilreath  
16 in his assessment of the organization of the clinic. I think that  
17 it's certainly very laudable that you are providing a very  
18 worthwhile service to the community, but we must look at it from  
19 the standpoint of how you need -- your three pronged test.

20 And what you need to do is to please demonstrate to  
21 us how you are able to comply with the regulation in regard to  
22 being granted a variance, getting approval for your application.  
23 I suppose the attorney should do that.

24 Although you have demonstrated it in your written  
25 submission, but for the record here today you need to -- this is

1 the purpose of your being here, to show why you feel that you all  
2 should be granted this variance.

3 MR. MURPHY: I understand, Madame Chair. I think  
4 Mr. Cobham is prepared to answer that question with respect to why  
5 the property is unique and requires a variance in this particular  
6 situation.

7 MR. COBHAM: Okay, basically the structure of the  
8 property is in such a way that the maximum amount of space that we  
9 could actually gain from the physical structure were five spaces.  
10 We have some drawings that we can pass out to the Board so you  
11 can see.

12 Maybe if I can wait a few seconds until they get  
13 passed out.

14 These were prepared by the architect, who is  
15 present here if we need additional comments from him. But  
16 basically, the yellow spaces listed on the -- I guess to the right  
17 of the form -- of the drawing are the legally available space that  
18 can be placed on the property.

19 The brown area is the physical structure. The  
20 green is either concrete around the building or grassy area on the  
21 left side of the form. And the five spaces are the maximum amount  
22 of spaces that we can legally design on the property.

23 And that's the extent -- the entire extent of the  
24 property in question.

25 CHAIRPERSON REID: Okay, so basically you're saying

1 that your practical difficulty is the fact that the property  
2 occupies a great percentage of the lot, to the extent that there  
3 is not the room there on that particular lot to be able to provide  
4 the required parking.

5 And to do so will require that you may have to take  
6 part of the building or something like that, which is a practical  
7 difficulty. That's what you're saying?

8 MR. COBHAM: Yes.

9 MR. GILREATH: Madame Chair, as I understand it,  
10 this property's been vacant for quite some time. And given the  
11 square footage, and we presume it's been used for some kind of  
12 office use, that the size of the building is such that to limit  
13 them to five parking spaces, the property is unusable.

14 You'd have to tear down part of the building or  
15 level it. So the building they have now with some other person  
16 going in there, they have the same problem. It's a sizeable  
17 building and five parking spaces would not be adequate. So they  
18 have an unusable property as is.

19 CHAIRPERSON REID: And in regard to adverse impact,  
20 have you had any complaints or want to address the issue that you  
21 have received or heard in regard to opposition to your particular  
22 application?

23 MR. SCHAMESS: Okay, as -- well, I'm not sure how  
24 much of the record show. There is an ANC resolution. I'm not  
25 sure how that was --

1 CHAIRPERSON REID: I did not receive anything from  
2 the ANC in my records.

3 Did anyone else?

4 MR. GILREATH: There was individual responses. I  
5 did not see an ANC letter.

6 CHAIRPERSON REID: Perhaps the ANC is here and are  
7 you going to submit something today?

8 MS. PRUITT: Madame Chair, you should have before  
9 you a copy of an ANC report.

10 MR. GILREATH: I don't think it's in mine.

11 CHAIRPERSON REID: Okay, I didn't have it.

12 MS. PRUITT: It wasn't in your package. It was  
13 before you today.

14 CHAIRPERSON REID: Oh, it came in late?

15 MS. PRUITT: Yes, right there.

16 CHAIRPERSON REID: Oh, so it has to be waived in?  
17 Okay, then if the other Board members have no objection, we will  
18 waive the record and allow this report to come in today.

19 It says that there was a quorum -- this is for ANC-  
20 1B. There was a quorum present and there was the resolution  
21 adopted that basically says that -- just let me read through this  
22 very quickly.

23 The ANC supports the application for a variance on  
24 the condition that the application -- the applicant be required to  
25 maintain leases for at least 30 off-street parking spaces. Okay.

1                   And we talked about that a little bit in regard to  
2 the expense that you would incur in order to be able to comply  
3 with that condition.

4                   MS. PRUITT:   Excuse me, Madame Chair.  You can't  
5 condition a variance.  That condition -- or rather that request  
6 from the ANC would have to be a private request between the  
7 applicant and the ANC.  The variance cannot be conditioned upon  
8 them providing 30 spaces.

9                   CHAIRPERSON REID:  Okay, thank you.

10                  So the issue, nonetheless, is parking.  And you say  
11 you have an agreement to lease the 30 spaces on the one hand.  On  
12 the other hand, you say that it would incur a financial -- a  
13 hardship.  So what are you going to do?

14                  MR. SHIELD:  Andrew, let me answer that.

15                  Right now the leases from our community, you know,  
16 neighbors is very inexpensive parking.  And so we could -- I mean  
17 we are fully prepared to meet about -- it's about a \$15,000 cost  
18 per year and we're fully prepared to meet that.

19                  It's budgeted for that as part of our cost of  
20 business.

21                  CHAIRPERSON REID:  Well, then why didn't you submit  
22 that agreement with your application?

23                  MR. SHIELD:  We didn't have it at the time.  And we  
24 also, when we submitted the application, we had met with the  
25 community members once and didn't have the ANC meeting.  So this

1 has been an evolving process.

2 CHAIRPERSON REID: Okay, so you now have five and  
3 that's for an additional 30. And you're required to have, what is  
4 it, 38? Is it 38 spaces?

5 MR. SHIELD: That's correct.

6 CHAIRPERSON REID: Okay. So then still you'd need  
7 a variance for the other -- you know, for the other three. No, I  
8 shouldn't say that. Not for the other three. You'd need a  
9 variance for 33 because you didn't apply for an accessory parking  
10 lot.

11 However, that would go a long ways in, you know,  
12 helping you with this particular case, the fact that you are  
13 trying to otherwise provide some parking accommodations.

14 And Mr. Gilreath had brought up the fact that --  
15 and just to make sense -- even though you're moving just right  
16 around the corner -- and I happen to live in that same community -  
17 - around the corner from your other -- your previous site, you're  
18 expanding greatly, so that would have to be more -- a more intense  
19 use, which would typically mean that you're going to have more  
20 parking, you know, more traffic and the like.

21 Even though you're saying that a lot of the  
22 employees will use the Metro, you will encourage that, which is  
23 great, but still we do have to take into consideration this -- you  
24 know, this parking issue.

25 MR. SHIELD: Let me just speak to the expansion

1 issues. Mr. Cobham had mentioned that we are currently in a space  
2 of about 4,000 square feet. Every examination room doubles as an  
3 office. We examine patients in the stairwells. We examine them  
4 in the waiting rooms when, obviously, that's appropriate.

5 And so the space that we're currently -- based on  
6 our space assessments done by two independent organizations, one  
7 of our contracted partners, we figured what we would need  
8 presently for a reasonable operation, and that's basically the  
9 building we went for because that's what we can afford.

10 We're not buying a building that's going to double  
11 our capacity or something like that. We just can't afford that.  
12 We didn't want to enter into that capital campaign. So we really  
13 -- and I can't say for sure we're not going to have some expansion  
14 or cram some people in, but it's really been a negative impact on  
15 our program.

16 It is inappropriate to examine people in a  
17 stairwell. And once we're in an appropriate building, I'm not  
18 going to do that again.

19 MR. MURPHY: And in fact, the written statement  
20 mentions that they are so overcrowded that they have been forced  
21 into these kinds of conditions and that this building will really  
22 only allow them to stay in the -- to serve the same number of  
23 patients.

24 And the issue here for them is funders have -- some  
25 of their funders have threatened to cut off their funding because

1 they're so overcrowded. So this really is a way to address the  
2 concerns of funders and to ensure that their situation doesn't  
3 occur again where they're forced to examine people in the  
4 stairwell.

5 It's really just to get them where they should be  
6 all along in terms of the number of patients they're seeing.

7 CHAIRPERSON REID: But if we have a larger  
8 facility, then it's a given that you will see more people.

9 MR. SHIELD: There's really not an increase in the  
10 number of examination rooms, for example, in terms of the current  
11 drawings. Again, we're looking to have an examination room as an  
12 examination room.

13 CHAIRPERSON REID: Right, but you've been in  
14 existence for how long?

15 MR. SHIELD: Since '83.

16 CHAIRPERSON REID: Since '83.

17 MR. SHIELD: Right.

18 CHAIRPERSON REID: And you've grown by leaps and  
19 bounds in the interim.

20 MR. SHIELD: Correct, correct.

21 CHAIRPERSON REID: So the way that I'm hearing it,  
22 you're going to now accommodate your overcrowdedness. And in the  
23 future, do you really think that you're not going to have the same  
24 problem? Because with the more space, that you're not going to  
25 increase the number of people that you serve?

1 I don't see that as being realistic.

2 MR. SHIELD: That is very hard to swallow. We're a  
3 different organization than when we were examining patients and  
4 taking care of people, you know, ten years ago. For example, now  
5 we would, of course, want to provide more services.

6 We had submitted just four months ago a plan to  
7 open a clinic in Maryland. I mean we're not going to be -- you  
8 know, we're not going to use this facility the way we've been  
9 using the old facility. We just can't get back into that  
10 situation.

11 I know it's sort of a "trust me" sort of statement,  
12 but we're a professional organization and we need to be raising  
13 serious money from different funders. They walk through and see  
14 the conditions that we've been living in before. They're just not  
15 going to tolerate that.

16 CHAIRPERSON REID: And you're moving from an  
17 ownership --

18 MR. SHIELD: No, from a rental.

19 CHAIRPERSON REID: Oh, I see. I thought he said  
20 we're moving from a property that we own to a property to lease.

21 MR. SHIELD: No, it's -- just to be clear on the  
22 record, we're in a building that is owned by the Presbyterian  
23 Church who basically leases it to the organizations in the  
24 building, of which we are one of them.

25 And the lease arrangement is basically we pay the

1 maintenance and no rent. That building is falling apart. It has  
2 no handicapped access. We are on the second and third floor. We  
3 literally have to carry patients up the stairs who can't -- you  
4 know, who can't walk who come in wheelchairs.

5 CHAIRPERSON REID: Well, I still contend that given  
6 the services that you provide and the influx of additional Latino  
7 and the people in the Latino community coming into this area, that  
8 you're going to have a similar problem in a few years.

9 So I would think that in your planning, your future  
10 planning, that you would make some provisions for not having the  
11 same problem that you had where you are now in ten years.

12 MR. SHIELD: We'll let our medical director who is  
13 there every day answer that question.

14 MR. SCHAMESS: Just briefly, you know, for the last  
15 ten years we've had -- or at least for the last several years,  
16 we've had basically the same staffing level and the same patient  
17 level that we project going into the new building, but with no  
18 Metro stop and no parking spaces.

19 So that's all been on street parking. In my  
20 opinion, I think there will be some growth, but modest growth in  
21 our new building simply because other factors limit our growth.  
22 The space in the new building is just enough to hold our current  
23 capacity.

24 And you know, it's difficult to expand because you  
25 have to raise the funds to expand. So it's not like we can serve

1 a zillion more patients or add a bunch more staff.

2 But at any rate, I think the point that I want to  
3 make is that in the new building we will have both Metro access  
4 for staff, which we didn't have before, and 33 parking spaces,  
5 which we didn't have before.

6 So if anything, I would think that would reduce the  
7 parking crunch -- any parking crunch that might be associated with  
8 the clinic from prior levels. If it were possible to grant this  
9 variance with the conditions stated in the ANC request, I would  
10 absolutely support that, but evidently it's not.

11 So the only alternatives would be to grant this  
12 variance. And we will be glad to submit our letter of agreement  
13 indicating that we have those parking spaces or to put off and  
14 make -- have us reapply.

15 And I guess that's where the cost to us comes in  
16 that I would hope you would take into consideration, that to  
17 prepare a new application and delay starting our new building  
18 while paying rent on it does impose a real burden on the  
19 organization.

20 So, you know, you should certainly make the best  
21 judgement that you can, but I hope that you would take those  
22 factors into consideration.

23 MR. SHIELD: I would also like to just make a  
24 couple of points about that to reemphasize Dr. Schames's point  
25 that we're going from a building where we have two spaces to one

1 where we have five plus an agreement for 30 is a benefit.

2 We've also done parking surveys in the neighborhood  
3 and there are available spaces -- you know, on street parking that  
4 are legal parking. And that's in the statement that we gave to  
5 you.

6 And then lastly, clearly we are sensitive to the  
7 homeowners' needs in the area. We're also going to be owning the  
8 building. I mean, we want to make sure that the neighborhood is  
9 accessible to every as possible.

10 I do want to point out that a lot of the neighbors,  
11 if not most of them, also have their own parking spaces behind  
12 their own lots. So they're certainly -- I think right now, even  
13 with some expansion, we're still better off than where we were two  
14 and a half blocks away.

15 MR. SOCKWELL: Madame Chair, questions.

16 In one of your previous statements, Mr. Shield, in  
17 describing the reasons for not wanting the parking agreement as  
18 part of the approval even if it had been available, it sounded --  
19 you specifically made statements as to flexibility and that sort  
20 of thing.

21 And of course, that would speak to any future  
22 situation where your parking arrangement might go away if the  
23 Cardoza Clinic is a tenant and not an owner. And your  
24 relationship is with the tenant

25 MR. SHIELD: They are an owner.

1 Am I correct, Andrew?

2 MR. SCHAMESS: Yes, they are.

3 MR. SHIELD: Yes, they are.

4 MR. SOCKWELL: Or if a best use of property changed  
5 and they were to leave and then sell the building or sell the  
6 property, your space agreement would then be terminated. Those  
7 things I understand.

8 The ANC does give -- is given great weight by this  
9 Board, and their support of your project is certainly granted  
10 under the understanding -- or with the understanding that the  
11 additional parking would be provided at the level stated in their  
12 letter.

13 And it would certainly be hoped that as an owner  
14 the clinic would want to maintain the relationship with the  
15 Advisory Neighborhood Commission; would want to maintain, of  
16 course, the best possible services to your clients; and would want  
17 to make the impacts on the neighborhood itself as minimal as  
18 possible to those people whose immediate surroundings border your  
19 proposed facility.

20 So it would certainly behoove you to have  
21 constantly in your minds for the future the provision of those  
22 spaces at some location convenient to the clinic should you be  
23 granted the variance. Admittedly, your services as provided in  
24 the previous facility were done with access to only two parking  
25 spaces.

1                   And there was no agreement for additional spaces,  
2 was there?

3                   MR. SHIELD: No.

4                   MR. SOCKWELL: And so under the new situation,  
5 based on the written documentation and my interpretation of it,  
6 you have now the opportunity to access more of the Howard  
7 University partnering services and to provide a more comfortable  
8 and certainly more separated clinical and office environment.

9                   So as you grow and are moving into a higher funding  
10 situation, you are also being put in a position to have to meet  
11 stronger or more stringent standards in order to maintain the  
12 funding which you alluded to, and I understand that.

13                   So my feeling is that you would not go back to  
14 stairwell examinations and things like that. It would certainly  
15 be rather disappointing in the case of a fire emergency. And oh,  
16 excuse me, let me get that.

17                   But I think you would be moving to a situation  
18 where you're going to be more of a mainstream operation with  
19 mainstream requirements and a situation that will possibly not  
20 increase the demand patient-wise by leaps and bounds, but will  
21 certainly allow you to service the patients that you have.

22                   And as the Latino community is one of the largest  
23 growing communities in the United States, the people that you're  
24 servicing as under insured and uninsured people are going to be  
25 moving more into a higher standard where they will be insured.

1           You may have Medicaid patients to replace your  
2 under insured and things like that. But perhaps this won't be a  
3 major increase to the need for -- or major increase in burden on  
4 the neighborhood services.

5           But you will be bringing in more staff people and a  
6 more -- a large variety of people as you partner with the  
7 university and as other things take place. And I think that we're  
8 concerned about that, that this building, which is much larger,  
9 has the potential of bringing in maybe not more patients at a high  
10 rate, but certainly more people.

11           And how that is managed is very important. And how  
12 little it impacts upon the community is very important. And that  
13 we have no control over the parking is very important. So I just  
14 want to make sure that you understand the importance of that  
15 parking agreement.

16           MR. SHIELD: Yes, Mr. Sockwell, this may sound like  
17 an insult because of the comparison, but you're much more  
18 articulate than I am and I don't think we could have said it  
19 better. But everything you said, I could tell you from a board of  
20 director's perspective, as well as a staff perspective, is that we  
21 support essentially everything, if not everything, that you said.

22           CHAIRPERSON REID: Okay, thank you very much.

23           Okay, now we will have the ANC come up and give  
24 their report. And if we have any reports by the -- Government  
25 reports, we will have those. I don't think we have any.

1                   Okay, you may go back. And then the ANC will come  
2 back. You can come back for closing remarks. You will have  
3 another opportunity to speak.

4                   MR. MURPHY: I was just going to ask if we could  
5 reserve some time at the end to respond.

6                   CHAIRPERSON REID: Yes, you can.

7                   MR. MURPHY: Great, thank you.

8                   MR. GILREATH: Madame Chair, I'd like to make one  
9 final comment on this.

10                   I have no problem with this agreement as open  
11 ended. If later on you were to find another lot that provided 30  
12 spaces and transfer -- as long as you provide the 30 spaces and  
13 you can get it at a reduced rate, we don't mind.

14                   Fifteen thousand dollars a year is substantial. So  
15 if you can find another agreement of another parking lot nearby  
16 for a lot less, fine. As long as you provide the 30 spaces.  
17 That's my concern.

18                   MR. IMHOFF: Good morning, Madame Chairman, members  
19 of the Board and staff.

20                   My name is Gary Imhoff. I am Advisory Neighborhood  
21 Commissioner for ANC-1B08 and I reside at 1327 Girard Street, N.W.

22                   The first thing that I provided you with is, in  
23 fact, a map of our ANC district. This was advertised for ANC-1A.

24                   And in fact, ANC-1B did not -- sure.

25                   As I said, this was advertised for ANC-1A and, in

1 fact, placarded as though it were ANC-1A. I assure you it is in  
2 my single member district, 1B08. And in fact, that is the primary  
3 reason that this resolution -- ANC resolution was given late to  
4 you.

5 Our meeting was on the 13th and our first notice of  
6 it was the placarding. There was a meeting between La Clinica del  
7 Pueblo and neighbors of the new facility about two weeks ago. And  
8 the primary concern -- other concerns were raised, but the primary  
9 concern was parking.

10 La Clinica is now in the 1400 block of Irving  
11 Street on a block that is very -- that has very few residents. It  
12 is primarily a block that has a few similar services to La Clinica  
13 and vacant buildings and an auto repair shop. And there are two  
14 apartment buildings.

15 The new block --

16 CHAIRPERSON REID: Is that the block that has the  
17 old -- the closed down Post Office?

18 MR. IMHOFF: Yes, yes.

19 CHAIRPERSON REID: Okay.

20 MR. IMHOFF: So there's very little residential  
21 parking need on that block. The new block, they are behind All  
22 Souls Church and the Mexican Embassy. And in fact, that side of  
23 the street has mostly parking that's reserved for diplomatic use.

24 The side streets are very heavily occupied and  
25 parking is really very tight in those nearby blocks. The

1 neighbors were very concerned about the additional parking. You  
2 will see in your submission from La Clinica del Pueblo that they  
3 estimate that 86% of their staff drives to work, about 20% of  
4 their patients drive.

5 At our meeting when they also added in volunteers -  
6 - they have about 100 volunteers, of course not all of whom come  
7 in any one day. But their estimate of their parking need, which I  
8 believe was very conservative, was that, in fact, they had 28 to  
9 35 people who would drive to the clinic each day.

10 The request made by the neighbors in order that  
11 they would be able to support this application would be that the  
12 clinic attempt to make some arrangement for off site parking. And  
13 the neighbors made several recommendations of nearby lots which  
14 would be within a few blocks.

15 Assuming that you couldn't really direct the  
16 patients where they would park, that these would be sites provided  
17 for the staff and volunteers. La Clinica did make two preliminary  
18 arrangements. They did write a letter to me.

19 I have given you a copy of the two letters that  
20 they had as attachments for off site parking. These are letters  
21 of intent. And our problem with them -- with those letters of  
22 intent continue to be that if La Clinica is given a full variance  
23 from any parking requirements, we wanted to have an assurance that  
24 those parking spaces, whether they were on those lots or other  
25 lots, would continue to be provided; that off site, off-street

1 parking be provided at least for the majority of staff and  
2 volunteers, if not for patients.

3 I continue personally to be uneasy that we have a  
4 firm commitment to that continued providence of spaces. What I  
5 heard even this morning from La Clinica is should our situation  
6 change, should we require fewer spaces in the future, we don't  
7 want to be bound to provide this number of spaces.

8 I see very little likelihood that, in fact, their  
9 parking needs will diminish in the future. And I continue to be  
10 personally uneasy at a complete variance that would not have any  
11 firm requirement of a commitment to off site parking.

12 As I said, the neighbors have very tight parking  
13 right now. Several neighbors at that meeting that they had with  
14 La Clinica described how coming home after work it would take them  
15 20 or 30 minutes driving around to find a vacant space somewhere  
16 close to their house.

17 And this can only make that situation worse unless  
18 provisions are made. And I believe that it is necessary that it  
19 be made a requirement. If it cannot be made a requirement on this  
20 kind of variance, I would ask that, in fact, you do have --  
21 another submission be made that La Clinica apply for a variance  
22 with off site parking.

23 CHAIRPERSON REID: Excuse me, say that again.

24 MR. IMHOFF: That La Clinica apply for a variance  
25 with off site parking.

1 CHAIRPERSON REID: No, what did you say before  
2 that. If they --

3 MR. IMHOFF: If a requirement cannot be placed on  
4 this variance --

5 CHAIRPERSON REID: A condition?

6 MR. IMHOFF: Yes, if a condition cannot be placed  
7 on this variance, that that would require provision of off site  
8 parking. I believe we're -- La Clinica's problem, as they  
9 described it to me, is that they didn't want to have to come back  
10 to the Board of Zoning Adjustment again and again should they have  
11 to change parking lots.

12 And as I said to them, we don't want to require you  
13 to use a particular parking lot. As you described, Mr. Hood, the  
14 parking lot --

15 CHAIRPERSON REID: Mr. Gilreath.

16 MR. IMHOFF: I'm sorry, Mr. Gilreath. You have Mr.  
17 Hood's -- no, that's Mr. Sockwell's. You don't have one.

18 The clinic's parking on 14th Street is, in fact,  
19 under an RLA parcel that within a few years may very well be  
20 developed and they may not -- the clinic itself may not have  
21 access to that parking, so it may not have the ability to lease it  
22 to La Clinica.

23 But there are other parking lots available. We  
24 would not want La Clinica to commit to specific leases in  
25 perpetuity. We just want them to commit to leasing a certain

1 number of spaces.

2 CHAIRPERSON REID: But my question was you said if  
3 we cannot condition the variance, then what?

4 MR. IMHOFF: Then I would really request that you  
5 deny this variance and require La Clinica to submit an application  
6 for a variance with off site parking. I don't know how you would  
7 -- what the formal title of that would be, --

8 CHAIRPERSON REID: Excuse me one second.

9 MR. IMHOFF: -- but I have seen BZA applications  
10 which had a condition -- which had off site parking provided where  
11 it was not available on site.

12 MS. PRUITT: Correct, but they came -- it is the  
13 applicant's choice to choose what they'd like to come in for a  
14 variance. If the Board was to -- the Board can either approve or  
15 deny this variance period.

16 MR. IMHOFF: Right.

17 MS. PRUITT: Then it would be on La Clinica to come  
18 back -- whether or not they want to come back for accessory  
19 parking or not.

20 I would like to just caution or remind everybody  
21 this is a variance. So adverse impact, while it's important and  
22 it does have an effect, is not the test that we're using today for  
23 looking at this.

24 You're looking at the exceptional properties of the  
25 -- let me read it actually so everybody will understand.

1           "Whereas, by reason of exceptional narrowness shape  
2 of specific piece of property at the time of original adoption of  
3 the regulation, or by exceptional topographic conditions or  
4 extraordinary exception situations or conditions of a specific  
5 piece of property, strict application of any regulations adopted  
6 under the code would result in a particular or exceptional  
7 practical difficulty or exceptional undue hardship upon the owner  
8 of the property to authorize upon an appeal relating to the  
9 property a variance from the strict application so as to relieve  
10 the difficulties or hardship provided that the relief can be  
11 granted without substantial detriment to the public good and  
12 without substantially impairing the intent and purpose and  
13 integrity of the zone."

14           CHAIRPERSON REID: I think that the aspect of the  
15 zoning regulation for a variance that pertains to the detriment to  
16 the public good is what we're relating to as far as adverse impact  
17 is concerned, and that is the issue of the parking.

18           MS. PRUITT: I just wanted to be -- if that's the  
19 case, then we need to make it clear on the record.

20           CHAIRPERSON REID: I think everyone's very clear on  
21 that. I mean, if that were not so, I don't think that this would  
22 be raised as an issue.

23           MS. PRUITT: It wasn't clear to me, so I wanted to  
24 be sure on the record.

25           CHAIRPERSON REID: The variance --

1 MR. IMHOFF: Thank you, Ms. Pruitt.

2 CHAIRPERSON REID: -- is for parking.

3 MS. PRUITT: Correct.

4 CHAIRPERSON REID: And before we, as an entity or  
5 body here, can approve this application, then it has to be  
6 demonstrated that if we do so, it is not going to cause a  
7 detriment to the public good. And in this instance, parking seems  
8 to be the issue that pertains to detriment to the public good.

9 And we have to make sure that everyone's on the  
10 same page and is understanding as to how this is going to impact  
11 upon that community.

12 Okay, any other questions?

13 MR. GILREATH: Is it possible -- I guess this is  
14 for the Board. Is it possible for this clinic to have an  
15 agreement drawn up with the -- I guess this parking firm and that  
16 it would be legally binding -- well, they could terminate that.

17 But I guess what I'm looking for is that somehow  
18 there be some kind of legally binding arrangement outside of this  
19 variance whereby they would have to provide this 30 parking as  
20 long as they operate the facility.

21 CHAIRPERSON REID: Well, I think that we have to  
22 allow the mechanisms of the -- the civic mechanisms to come into  
23 play here. While we're not -- we don't have -- it's beyond our  
24 purview to condition the parking, I get the impression from  
25 talking to the clinic that they are more than willing to be good

1 neighbors and that they will do what they feel would be  
2 appropriate and they would meet with the ANC.

3 And they have proffered to us that they will go  
4 into an agreement, they will have a parking agreement. And I  
5 think that that's as far as we can go. It has to be a trust  
6 factor. I think that beyond that, that's the best we can do.

7 MR. GILREATH: Well, I agree with that, Madame  
8 Chairman. They've been there since 1983 and apparently they've  
9 demonstrated that they are good neighbors, they are responsible.  
10 So I certainly can incur that I think that we can reasonably  
11 assume that they would certainly comply.

12 CHAIRPERSON REID: And when they come back, then we  
13 can then further question them to better assure ourselves that the  
14 issues that are being raised here by ANC -- and also we haven't  
15 heard from the other people who are in opposition yet -- will be  
16 properly addressed if, in fact, we decide that it would be in the  
17 best interest of everyone to grant this variance.

18 MR. SOCKWELL: Madame Chair, in the presentation of  
19 the applicant, if they returned an agreement as part of their  
20 presentation additional documentation, if they had an agreement  
21 with the Advisory Neighborhood Commission to provide at some  
22 location for the duration of their use parking in the amount of 30  
23 spaces, that they would put that in an agreement with the Advisory  
24 Neighborhood Commission, that would just be part of their  
25 submission to the record, then it would be additional information

1 for us to use in making a decision, --

2 CHAIRPERSON REID: Okay.

3 MR. SOCKWELL: -- but it would not be a condition.

4 CHAIRPERSON REID: Right, right, certainly.

5 MR. SOCKWELL: And therefore, that could be -- we  
6 could continue their --

7 CHAIRPERSON REID: We could consider --

8 MR. SOCKWELL: Consider.

9 CHAIRPERSON REID: -- what they have proffered to  
10 us in an effort to mitigate what is perceived as an adverse impact  
11 -- a potential adverse impact.

12 MR. ALTMAN: Potential significant adverse impact.

13 CHAIRPERSON REID: Okay, all right. All right.

14 MR. IMHOFF: As I said, the uneasiness that I feel  
15 is having a variance that is in perpetuity and not a parking  
16 condition that is actually a condition that can be enforced. So  
17 that while there are letters of intent for parking when the clinic  
18 opens, what happens two years down the road if the clinic -- La  
19 Clinica does not have any arrangements for parking at that time?

20 CHAIRPERSON REID: Okay.

21 MR. IMHOFF: And I'm uncomfortable.

22 CHAIRPERSON REID: All right, be that as it may,  
23 the fact of the matter is, I've already stated what we are -- what  
24 is within our authority to do. And that is all we can do. That's  
25 all we will do. And we don't have -- have no authority to

1 condition this variance.

2 And even though there are some reservations  
3 regarding what may happen in the future, again we have to remember  
4 that these are preconceived notions that may or may not take  
5 place. So all we can do is to rely upon our being assured by the  
6 applicant that they will conduct themselves appropriately.

7 And I don't think that there's more that they can  
8 do. There's much more, and maybe a little bit more -- much more  
9 they can do other than to willingly, willingly, without being  
10 required to, enter into an agreement to provide additional  
11 parking.

12 And that's it.

13 MR. SOCKWELL: Mr. Imhoff, I have a couple of  
14 questions for you.

15 How long have you resided in the neighborhood?

16 MR. IMHOFF: In the neighborhood, for 31 years.

17 MR. SOCKWELL: And in the immediate vicinity of the  
18 proposed clinic?

19 MR. IMHOFF: I've been in my present house for over  
20 15 years, but I've lived in the neighborhood since 1968. So  
21 within a few blocks of that address.

22 MR. SOCKWELL: So you would know the conditions  
23 along Irving Street?

24 MR. IMHOFF: Yes.

25 MR. SOCKWELL: And currently the parking available

1 along that street in the block occupied by the clinic?

2 MR. IMHOFF: Yes, actually the parking on Irving  
3 Street now, there -- as I said, it is not a street on which there  
4 are many residents. So parking is --

5 MR. SOCKWELL: That wasn't my question.

6 MR. IMHOFF: Yes.

7 MR. SOCKWELL: My question was how many parking  
8 spaces are available along that block?

9 MR. IMHOFF: I don't know.

10 MR. SOCKWELL: Generally speaking, is parking  
11 available -- allowed on both sides the full length? Or is it  
12 allowed --

13 MR. IMHOFF: No, no.

14 MR. SOCKWELL: -- only at the west end?

15 MR. IMHOFF: In fact, yes, at the west end. For  
16 the past few months in fact, there's been Metro construction and  
17 the street has been --

18 MR. SOCKWELL: For the past few years, in fact, --

19 MR. IMHOFF: -- closed.

20 MR. SOCKWELL: -- there's been Metro construction.

21 MR. IMHOFF: No, for the past few months I was  
22 saying, the block has been closed.

23 MR. SOCKWELL: Yes, my basic contention is that the  
24 parking in the neighborhood has been impacted by Metro  
25 construction for a period of years.

1 MR. IMHOFF: Yes.

2 MR. SOCKWELL: The clinic has been operating within  
3 the neighborhood for that same period of years, during which time  
4 almost every resident has been impacted by the lack of spaces, by  
5 the complete disruption of 14th Street, by the disruption of all  
6 of the accessory -- or, let's see, adjacent streets due to the  
7 construction.

8 And what I am saying is that potentially, with the  
9 completion of the Metro construction, the reestablishment of  
10 existing parking, that the issues that you feel are particularly  
11 difficult to accept have been alleviated -- in the large part  
12 alleviated.

13 MR. IMHOFF: I've lived --

14 MR. SOCKWELL: And as one who grew up at 17th and  
15 Euclid who knows the neighborhood almost like this back of his  
16 hand, I believe that you may be overstating. And I would ask you  
17 to think about it. Do you think that you might be overstating the  
18 impact based on the return of spaces?

19 MR. IMHOFF: Not really. I have lived there for  
20 many years before Metro construction started, and parking has  
21 always been tight on that block of Harvard Street, that block of  
22 Girard Street, made even tighter when parking was taken away for  
23 diplomatic uses on that block of 15th Street.

24 No, I would say that --

25 MR. SOCKWELL: But you wouldn't think that the

1 impacts of Metro construction have already been felt in the  
2 neighborhood and that the return of those spaces will at least  
3 make less obvious the impact of the clinic moving around the  
4 corner?

5 MR. IMHOFF: No, I think that's already been  
6 factored into the neighbor's concerns. I mean, most of these  
7 neighbors have lived there for many years and know the -- have  
8 known the parking situation for decades. The Metro construction  
9 really was not that big a factor in increasing residential parking  
10 problems.

11 CHAIRPERSON REID: All right, thank you.

12 Are you all ready? You are ready? Okay, let me  
13 recess. We're going to recess the hearing for a few minutes and  
14 then we will reconvene.

15 Thank you.

16 MR. ALTMAN: I'd like to thank members of the Board  
17 for --

18 CHAIRPERSON REID: Do you want to give your name?

19 MR. ALTMAN: Oh, Andrew Altman, Director of the  
20 Office of Planning.

21 I'd like to thank members of the Board for allowing  
22 me to meet with both parties to see if we can come to some  
23 resolution regarding the request for a delay, as well as a request  
24 to keep the hearing date to see if it was possible to have some  
25 more time to try to resolve these issues so that when it comes to

1 the Board, we can be as close as possible.

2 As you know, we've had a request both from -- both  
3 from a council member as well as from a community organization for  
4 a delay, and there's also a real urgency to move forward in terms  
5 of what George Washington's plans are and construction and time  
6 tables as they are.

7 We would like to -- I would like to request the  
8 following if the Board would be open to this. One is to have a  
9 special meeting of the Board in December. We are trying to find a  
10 date. We were suggesting either December 6th, I believe, which is  
11 a Tuesday.

12 Is that right?

13 MS. PRUITT: That's Monday.

14 MR. ALTMAN: I'm sorry, December 7th, which is a  
15 Tuesday. If that's not possible, we know you meet on December 8th  
16 and December 10th is a Friday. So we're pushing for the 6th or  
17 the 10th. Have a special meeting.

18 And then we have a backup possibility, which is  
19 December 15th if we need a second hearing on this given the number  
20 of issues that are there, which then allows this to proceed before  
21 the end of the year on track.

22 And I think the idea here is that the parties are  
23 going to be working very hard, as they have been, to come to as  
24 much resolution and bring -- try to narrow the issues as much as  
25 they possibly can and it keeps us on a very tight time line, which

1 I think is important so that we don't have indefinite postponement  
2 and the uncertainty that that brings.

3 So that is our proposal to you. And if the Board  
4 would like to, we hope that you'll look favorably upon it -- a  
5 date, depending upon which date works with the various schedules  
6 of the Board.

7 CHAIRPERSON REID: November 14th is on what day?

8 MS. PRUITT: November 15th is a scheduled hearing  
9 day for the Board. Right now we have the 15th, December 15th.  
10 I'm sorry, did you say November or December?

11 CHAIRPERSON REID: December.

12 MS. PRUITT: December 15th is --

13 CHAIRPERSON REID: I'm sorry, I mean the 15th.

14 MS. PRUITT: Right.

15 CHAIRPERSON REID: What day is it?

16 MS. PRUITT: That is a Wednesday and it is a  
17 regularly scheduled day for the Board for hearing.

18 CHAIRPERSON REID: Isn't that calendar full?

19 MS. PRUITT: The Register has not gone out for that  
20 particular place yet.

21 CHAIRPERSON REID: All right, then why could we not  
22 just place that on that -- on the December 15th calendar?

23 MS. PRUITT: I think what Mr. Altman is suggesting  
24 is that it's probably going to take more than one day to have this  
25 hearing. And if we put it on the 15th -- if you put it on the

1 15th, we're very close to Christmas. The following week is the  
2 22nd.

3 And I really don't think anybody would appreciate  
4 having the hearing that close, so it throws us into the next year  
5 --

6 CHAIRPERSON REID: Okay.

7 MS. PRUITT: -- for carry over of the hearing.

8 CHAIRPERSON REID: The calendar for the BZA for  
9 December -- I think we have three -- we have an extra meeting  
10 already scheduled --

11 MS. PRUITT: Yes, it's the --

12 CHAIRPERSON REID: Okay, what are those dates?

13 MS. PRUITT: The 1st, 8th and 15th. The 1st and  
14 8th have already been -- the agendas are full. The 15th has not  
15 gone up yet, so we could actually reschedule it and notice it for  
16 the 15th. The 1st and 8th are already out because we have a  
17 chance rescheduled on one and the other -- it's already in the  
18 Register.

19 CHAIRPERSON REID: So the 7th --

20 MS. PRUITT: The 6th is on a Monday.

21 CHAIRPERSON REID: No, the day they're requesting  
22 it, the 7th, isn't it?

23 MR. ALTMAN: 7th or --

24 MS. PRUITT: 7th or the 10th, I believe.

25 MR. ALTMAN: -- or the 10th.

1 MS. PRUITT: Monday or Friday of that week.

2 CHAIRPERSON REID: Then that would then add a  
3 fourth day to the calendar.

4 MS. PRUITT: Correct. And in that particular week,  
5 you would have two hearings.

6 CHAIRPERSON REID: And also my understanding is  
7 that we anticipate that this particular hearing is going to be a  
8 rather lengthy hearing.

9 MS. PRUITT: Right, which is why we're only going  
10 to put it on one -- make it the only agenda on that item -- I mean  
11 on that day.

12 MR. GILREATH: Madame Chair, can we schedule that  
13 for the 15th?

14 CHAIRPERSON REID: No, that's what she's saying.

15 MR. GILREATH: Why can't we --

16 MS. PRUITT: I think what they're proffering is  
17 that it's going to take more than one hearing.

18 MR. GILREATH: Well, why couldn't we do it on the  
19 15th?

20 MS. PRUITT: Because then the next time --

21 MR. GILREATH: Well, we can have the 15th and the  
22 16th. What's wrong with the two days? Christmas will be still  
23 several days away. That doesn't bother me that much.

24 MS. PRUITT: It would be two in that week, right.  
25 I believe the concern is that you didn't want it -- that neither

1 party wanted to carry it over to the next year, that they'd like  
2 to get it resolve this year.

3 CHAIRPERSON REID: Let's take a look at how we can  
4 best try to make the hearing itself a little bit more efficient.  
5 Can we get a feel for approximately how much time each side will  
6 need to put on their case?

7 How much time do you anticipate?

8 MR. ALTMAN: I'd have to defer to both sides as to  
9 that.

10 CHAIRPERSON REID: Yes, I know.

11 MS. DWYER: Madame Chair, Maureen Dwyer with  
12 Wilkes, Artis, counsel for the George Washington University.

13 In the event that we do not reach agreement, which  
14 is always a possibility, we are clearly estimating that this  
15 hearing would take more than one hearing date.

16 And for that reason, what we were hoping to do is  
17 schedule the two hearings in December so that we don't carry this  
18 over through the Christmas holidays into January into the next  
19 year because of the severe impact on the university.

20 In terms of the number of witnesses, the Office of  
21 Planning's presentation, Department of Public Works, the  
22 Neighborhood Alliance, the ANC and other parties, I think it's  
23 better to estimate two hearing days than to try and conclude this  
24 in one even with limitations on testimony.

25 Our think is, to the extent issues are raised that

1 require a post hearing submission, with two hearing dates we have  
2 time in between to respond to those issues and to have, you know,  
3 the second hearing address those.

4 We think it would be a much better process for both  
5 the community and the university to go in at this point in time  
6 with two dates. That gives the Alliance and the community a  
7 little bit more time, but also respects the university's need to  
8 have a decision on this sooner as opposed to later.

9 MR. GILREATH: Are you suggesting the two dates be  
10 perhaps a week apart rather than, say, the 15th and 16th? You  
11 need time in between that to --

12 MS. DWYER: It would be preferable; but  
13 understanding that your schedule is busy and it is the holiday,  
14 the two dates, one right next to each other, we would take that as  
15 well in order to stay with the time frame that's most important.

16 MR. ELLIOTT: I'm Robert Elliott and I represent  
17 the Alliance, the Neighborhood Alliance.

18 I would agree with Ms. Dwyer that some time between  
19 the two dates is helpful for a very simple reason. Our people are  
20 busy full time. They're neighbors. And it's hard for them to  
21 cover two successive days here before the Board.

22 But we will do whatever you want. Also, we never  
23 suggested an indefinite postponement, nor did Councilwoman  
24 Patterson in her letter to you, nor did the ANC in its resolution.

25 They all just suggested January.

1                   And this is a project that's going to change the  
2 character of the upper northwest. It's a very important case you  
3 have before you. So if it can't be done in December, then we  
4 would like it in January.

5                   Mr. Altman has again brought us together. The  
6 university would really like to go ahead in November and we'd like  
7 January. This is a compromise. We'll do whatever you want.

8                   CHAIRPERSON REID: The hardship, Ms. Dwyer, is for  
9 GW in getting this to the hearing as expeditiously as possible.

10                  MS. DWYER: The most significant hardship, Madame  
11 Chair, is the fact that one of the projects that is contemplated  
12 for construction is a dormitory. As it is, even with the -- we're  
13 ready to go ahead on November 17th with that hearing date.

14                  And assuming a prompt decision by the Board, the  
15 time it takes to process the permits and then the time frame for  
16 construction, we're very tight right now in getting that project  
17 on line for the fall of 2001.

18                  Even a two month delay in that means that if it's  
19 not ready in the fall 2001, it's going to have to wait an entire  
20 year because you don't bring dormitory projects on line mid  
21 semester. So it's a very significant impact in terms of providing  
22 the housing for students and then, of course, the loss of revenues  
23 during that time period.

24                  We are prepared -- we're ready to go ahead on  
25 November 17th. We're trying to be accommodating here, and we

1 would request two dates in December, whichever work best for your  
2 schedule so that, as I said, we can have a prompt resolution of  
3 this.

4 MR. ELLIOTT: Madame Chairman, I think part of the  
5 time line that concerns Ms. Dwyer and the university is the period  
6 between the end of the hearing and the issuance of the order.  
7 Now, I have never in my life been before this honorable Board, so  
8 I don't know how that works.

9 But it may be that if you do go to January, you  
10 could shorten up the period between completing the hearing and  
11 issuing an order, which would help them out.

12 And the other thing, if I may, is we really need  
13 some time. I just retained Mal Rivken a few days ago. I haven't  
14 even spoken to him yet. Our experts -- we need time to get our  
15 experts in place. We can live with December, but we really need  
16 time here.

17 MR. GILREATH: Madame Chair, it seems to me that,  
18 you know, this has been on the docket for -- or at least been  
19 scheduled for quite some time and scheduled for November. I  
20 personally, unless I hear something more compelling, is I would be  
21 reluctant to agree to a January schedule.

22 And I think it should be done in December. And  
23 even though there may be some inconvenience doing it back to back  
24 Wednesday and Thursday, the 15th and the 16th, I think that would  
25 motivate everyone to really be concise and compact and get this

1 thing settled and without unreasonable delay.

2 I think this dragging out to January is a mistake.

3 CHAIRPERSON REID: Mr. Sockwell, do you have any  
4 thoughts on this?

5 MR. SOCKWELL: It seems to me that to hold the  
6 hearings in December would be the better opportunity for all  
7 concerned. To hold them on consecutive days or a day apart in a  
8 single week might be a burden both to the applicants and to the  
9 Board.

10 CHAIRPERSON REID: Okay, all right, so then we have  
11 to -- so are you saying, Ms. Pruitt, that if we have the initial  
12 hearing on the 7th, that would finish up on the 15th?

13 MS. PRUITT: I believe that's what is being  
14 proffered by Mr. Altman.

15 MS. DWYER: That would be acceptable to us, Madame  
16 Chair.

17 MS. PRUITT: I do want to -- I don't know if  
18 anyone's thought of this. I was looking at the calendar. That's  
19 the week of Hanukkah. I don't know if that has an impact.

20 MS. DWYER: Mr. Shur has indicated it's not going  
21 to impact his schedule.

22 MS. PRUITT: Okay, I just put that out there  
23 because I was looking at all the holidays.

24 CHAIRPERSON REID: Okay, well the thing about it  
25 is, is that -- excuse me one second. The BZA, at this point in

1 time, has been laden with quite a bit of additional time for  
2 hearings, and typically we have meetings and hearings twice a  
3 month and we're now doing three times a month.

4 And this appears to be yet another day and that's  
5 four times a month, as well as -- I'm not sure if it's going to be  
6 even resolved during this time period, which means that it may  
7 drag on to another day. And it is a -- for us, it is rather  
8 difficult because the preparation time and being here.

9 So I would ask that, number one, you continue to  
10 work together to try to see if you can come to a resolution of  
11 this particular -- these issues, and that is always the best  
12 because then you give us what you've come up with and then we can  
13 just kind of work around those parameters.

14 And if you can't, then I would ask that we try to  
15 get through this particular hearing more efficiently than two  
16 days. I mean, if your case is tight on both sides and if you  
17 limit these cross examination and also we have, you know, time  
18 restrictions as far as the testimony is concerned, we have -- we  
19 certainly have dealt with big cases quite a bit and we've been  
20 able to do that and I'd like to stay consistent for all concerned.

21 Because this can just, you know, roll on and roll  
22 on and, you know, kind of get out of control. But I think that if  
23 the people -- if the parties -- I think the Board members have  
24 been -- we're willing to adjust our schedules and to go the extra  
25 mile to accommodate you, but what we're asking from you is that

1 you also meet us halfway and try to work this out.

2 And/or, if you can't work it out, narrow the issues  
3 to a manageable amount of issues and then come in and let's hear  
4 it and get it over with, get it done so that we can then move  
5 forward.

6 MS. DWYER: We agree, Madame Chair. We will do our  
7 very best and try and make this as focused and concise a hearing  
8 as possible.

9 MR. ELLIOTT: We will on our side, too, Madame  
10 Chairman. And I think another thing that might help expedite the  
11 hearing is if you would keep us on the calendar for November 17th  
12 for resolution of the environmental law issue. And I think that  
13 might cause you to get the input you need from the corporate  
14 counsel in time.

15 If we can get a ruling on that on November -- I  
16 don't know if Ms. Dwyer will adjoin me in this, but I think it  
17 will be good to have a ruling on that on November 17th.

18 CHAIRPERSON REID: I think we addressed that issue  
19 earlier, that we would do that. Mr. Gilreath has expressed the  
20 time line for -- rather than waiting until December, that in  
21 December we would take that up after we have consulted with corp  
22 counsel and we'd make a ruling on that at that time.

23 MR. ELLIOTT: At the eve of the hearing or  
24 beginning of the hearing?

25 CHAIRPERSON REID: I think that it was November

1 17th, was it not?

2 MS. PRUITT: Right. Looking at the calendar, --

3 CHAIRPERSON REID: I was prior to the regularly  
4 scheduled hearing.

5 MS. PRUITT: That is the only thing scheduled for  
6 that day.

7 MR. ELLIOTT: I'm just suggesting if you could --

8 MS. PRUITT: Well, it was the only thing scheduled  
9 for November 17th.

10 CHAIRPERSON REID: That's not a regularly scheduled  
11 hearing day?

12 MS. PRUITT: Yes, it is a regularly scheduled  
13 hearing day.

14 CHAIRPERSON REID: So we have hearings?

15 MS. PRUITT: That's the only item on the agenda for  
16 that day. That's what I'm saying.

17 MR. ELLIOTT: We're giving you a day back.

18 CHAIRPERSON REID: Oh, I see. We had already  
19 allocated November 17th as the date for this case?

20 MS. PRUITT: Correct. And I allocated a whole day  
21 because I knew it was going to be at least that, if not more.

22 CHAIRPERSON REID: So now we're going to waste that  
23 day, is that what I'm hearing?

24 MS. PRUITT: Well, we can't reschedule anything  
25 because we're less than the 40 day notice, and that's the whole

1 issue. In looking at the calendar, even putting it on for the  
2 7th, we are a little slight of the 40 day notice that we need  
3 because we have to have technically 47 days for the Register.

4 So we will need to at least convene for that  
5 meeting to then let anyone who comes who does not know that it has  
6 been rescheduled to a new day. This office will renotify people  
7 though within 200 feet.

8 CHAIRPERSON REID: So we're going to --

9 MS. PRUITT: But in case they don't catch it since  
10 it's been out there for a long time.

11 CHAIRPERSON REID: We're going to waste that day.

12 Basically what you're saying is that you want both sides -- that  
13 you would have both sides come prepared.

14 MS. PRUITT: No.

15 CHAIRPERSON REID: Or if we're just going to rule  
16 on the environmental issues, --

17 MS. PRUITT: You would just -- that was my  
18 understanding. You'd just rule on the environmental issue. We  
19 would let anybody know who had already scheduled this in their --  
20 on their agenda. Because this has been in the Register, it has  
21 been out there for so long, --

22 CHAIRPERSON REID: Okay.

23 MS. PRUITT: -- many people believe it's on the  
24 17th. There's no way for us to reschedule it in the Register and  
25 then to notify people within 200 feet that it has been

1 rescheduled. But we may get public coming in thinking that the  
2 hearing is that day.

3 So staff can at least tell them it has been  
4 rescheduled. But someone will be here to have to address that  
5 part.

6 MS. DWYER: Madame Chair, on the environmental  
7 issue, the response from corporation counsel and your ruling on  
8 that could be done at the public meeting in November.

9 MS. PRUITT: Correct.

10 MS. DWYER: And so there's no need for everybody to  
11 come down here for the short amount of time --

12 CHAIRPERSON REID: That's exactly where I'm going  
13 because I just can't see that date being wasted for us just to  
14 come down here for that purpose. We can just handle that and then  
15 --

16 MS. PRUITT: Right, and then staff will just say  
17 that it has been -- we will provide information for anyone who  
18 comes in.

19 CHAIRPERSON REID: Then that particular day will be  
20 a day that nothing will happen?

21 MS. PRUITT: At this point, there's nothing can  
22 happen. Of course, we can continue cases that come up before then  
23 to that time if we have to.

24 CHAIRPERSON REID: And it's just not possible to  
25 move forward?

1 MS. DWYER: The applicant is ready to move forward  
2 on the 17th, but you have this request. And we've been trying to  
3 be accommodating, but we're prepared to go ahead on the 17th.

4 CHAIRPERSON REID: Okay, then what I don't  
5 understand is -- tell me again. Maybe you've told me once. But  
6 just tell us again why you cannot go forward on the 17th.

7 MR. ELLIOTT: Well, first of all, we -- well, you  
8 have before you, and I don't want to undercut them -- the ANC has  
9 requested January 20, Councilwoman Patterson has requested January  
10 20, and I've submitted complete motion papers as to why I need  
11 more time.

12 And I just mentioned here in the hearing that I do  
13 not have experts in place. And the time fuse is very short here.

14 I understand the university is saying well we filed last July,  
15 but I wasn't involved in this until a few weeks ago and I need the  
16 time.

17 CHAIRPERSON REID: Okay, but today is the 20th, so  
18 you have almost a month.

19 MR. ELLIOTT: I really can't do it. And I think --

20 CHAIRPERSON REID: I mean, what I need for you to  
21 explain to us -- because see, the thing about it is a timing  
22 issue. We do not have -- our time is very, very precious here.

23 MR. ELLIOTT: I understand.

24 CHAIRPERSON REID: We do not have time to waste.  
25 We do not. So if this is going to result in us having a day

1 that's been scheduled that cannot be utilized, then that is going  
2 to cause, you know, some difficulty for us.

3 So now explain to me why you need more time and why  
4 you cannot do this in a month --

5 MR. ELLIOTT: Yes, this is a very --

6 CHAIRPERSON REID: -- be prepared to go forward in  
7 a little less than a month.

8 MR. ELLIOTT: I really can't be prepared for that.

9 And in addition, I think the -- well, primarily the expert  
10 witness problem, which is key to your decision. And it is a very  
11 complex --

12 CHAIRPERSON REID: What's the expert witness  
13 problem?

14 MR. ELLIOTT: That I haven't got experts. I have  
15 one at this point retained. It's been very hard because many of  
16 them have conflicts because they do -- we contacted about eight  
17 transportation consultants and they all had done work for the  
18 university and were conflicted out.

19 A lot of the people that we've talked to have had  
20 conflicts. That's been one problem. Then we have to have time to  
21 work with them. And some of them say well I could help you, but  
22 not before January. So that some of their schedules just -- even  
23 if they are available, they can't drop everything and work on this  
24 case to be ready to testify before you November 17th.

25 That's the primary problem.

1 CHAIRPERSON REID: And how long have you been  
2 trying to get these --

3 MR. ELLIOTT: Since I was retained. As soon as I  
4 was retained, I filed that motion, September 28th.

5 CHAIRPERSON REID: And what was happening before  
6 that?

7 MR. ELLIOTT: I don't know, but they --

8 CHAIRPERSON REID: I mean there was no attempt to -  
9 -

10 MR. ELLIOTT: Well, yes, they did actually have a  
11 transportation consultant in Leesburg and they had hired an  
12 architect. But as soon as I talked to him, he said, "Well, but I  
13 can't testify. I may have conflicts." He said, "I could just  
14 help the neighbors."

15 I mean they didn't use a lawyer, you know, and they  
16 didn't realize that, by getting an architect, they had to get  
17 someone who could testify. So he dropped out. Now I don't have  
18 an architect. I've got exactly one land use planner.

19 So there are good reasons why. In addition, there  
20 are consultations in the community among all the citizens  
21 associations.

22 CHAIRPERSON REID: But you still have the time.  
23 And what is to assure us that if you don't have it by November the  
24 17th, that you're going to have everything in place by December  
25 the 7th? That's only a couple more weeks.

1 MR. ELLIOTT: I will commit to you that I will not  
2 ask another continuance. I will go forward December. This is a  
3 reasonable compromise worked out by the Director of Planning back  
4 there who talked to us for about an hour.

5 I moved back from January to December. Maureen  
6 moved forward, reluctantly, from November to December. And I  
7 thought this was agreed coming in here, but --

8 MS. PRUITT: But the Board still has the final  
9 decision.

10 MR. ELLIOTT: Of course, of course. I don't mean  
11 to say --

12 CHAIRPERSON REID: Okay, just give me one second,  
13 one second. One second, please.

14 MR. SOCKWELL: Ms. Dwyer, with regard to the  
15 permits that the university would be seeking, and I hold myself  
16 out as one who knows a little bit about the process, what is the  
17 particular constraint that say a month, 30 days would impose upon  
18 your client?

19 MS. DWYER: It just shortens the time period for  
20 the required city agency reviews. I mean right now we have  
21 conceptual plans, which is all that's required for the BZA  
22 process. So it's a question of once we have the -- we're not  
23 going to wait for the written order.

24 Once we have the verbal approval of the Board, then  
25 they will go to work on the permit drawings so that once the

1 written order is ready, they can file. But a month, you know,  
2 shortens the amount of time for both the architects and the city  
3 agency review.

4 And obviously, once construction begins, we're at  
5 the whim of, you know, weather conditions and other things. So it  
6 just abbreviates what is already a very tight schedule. We've  
7 agreed, in essence, to lose 30 days by agreeing to wait from  
8 November 17th until December.

9 But we absolutely cannot go beyond that date. And  
10 as I indicated earlier, we're ready to go ahead on the 17th. We  
11 have been meeting with the community. We knew during the summer  
12 they had a traffic consultant. It was a surprise to us that  
13 suddenly they didn't have the experts in place.

14 We are ready to put all our materials together and  
15 make what we think is a strong case.

16 MR. ALTMAN: I was just simply going to reiterate  
17 that's why I thought the agreement per the December date keeps it  
18 time certain, at the same time gives parties time to work this out  
19 and respecting what both of their needs are.

20 And I think you've represented that would meet your  
21 needs as well.

22 MR. ELLIOTT: I think on that question of getting  
23 the architects okay, that's one building that I think we've  
24 narrowed the issues enough maybe we can, in the next day or so,  
25 give Ms. Dwyer the assurance she needs to go ahead with those

1 plans if her own internal delays aren't holding her up here.

2 MS. DWYER: I'd still like the approval of the  
3 Board, but thank you.

4 MR. ELLIOTT: But we aren't disputing that one --

5 MR. ALTMAN: Not to reopen, but you see where we --

6 MR. GILREATH: Well, what would prevent the -- in  
7 terms of expert witnesses and so forth, could you provide part of  
8 your case on November the 17th with the understanding that  
9 anything handing could be taken upon the -- either December 7th or  
10 the 15th?

11 So we'd have a two day period, but one could be  
12 November and the other carry over into December. Is it possible  
13 you could put together some kind of a substantial portion of your  
14 case on the 17th?

15 MR. ELLIOTT: I don't think I could. You can't do  
16 law that way. You can't have half your case and not have the  
17 other half together. They interrelate to each other. The traffic  
18 issues and gate issues interrelate to the land use planning  
19 issues.

20 CHAIRPERSON REID: But Mr. Gilreath is saying that  
21 rather than us losing a day, now we could use that day and then we  
22 could have the portion of your testimony -- your case, I'm sorry,  
23 that pertains to the traffic analysis or the expert witnesses to  
24 come on the second day in December so we don't have to schedule  
25 two days in December to have one day in December.

1 And I cannot see why you can't do that.

2 MR. ELLIOTT: Well, could I suggest this. Could  
3 the university put on its non-expert part of its case? They have  
4 a lengthy presentation. And I don't mean their architect, but any  
5 other experts they have.

6 Could they put on that portion of their case on  
7 November 17th, and then bring in their experts. Because we need  
8 our experts when they have their experts. Bring in their experts  
9 and put on the rest -- their case and our case on the second date?

10 CHAIRPERSON REID: But all you would have -- all  
11 you would need is to -- if GW started and they put on their case  
12 on the --

13 MS. PRUITT: On November 17th.

14 CHAIRPERSON REID: -- November 17th, then the cross  
15 examination aspect of it would be something that you could -- you  
16 know, you could handle yourself.

17 MR. ELLIOTT: Yes, except for expert witnesses. I  
18 could do that.

19 CHAIRPERSON REID: Except for your -- and then put  
20 on your case on the subsequent day. And if your expert witnesses  
21 are not in place, then they could certainly read the transcript.

22 MR. ELLIOTT: I need --

23 CHAIRPERSON REID: And then that would allow us to  
24 move in a more expeditious fashion. Because other than that,  
25 we're losing a day.

1 MR. ELLIOTT: Well, my -- I think there's some way  
2 we could do that, --

3 CHAIRPERSON REID: And adding a day in December.

4 MR. ELLIOTT: -- but what my concern is, that the  
5 way I try cases is I want my expert with me who corresponds to  
6 their expert. And I'm concerned about them putting experts on in  
7 the first day when I haven't got any expert input with which to  
8 cross examine them.

9 Except for the architect. We've heard his  
10 presentation and I don't have any problem with that, with cross  
11 examining him. But if they have other experts to put on, I'd like  
12 them put on at the beginning of the second day.

13 CHAIRPERSON REID: Okay, let's do this. Let's do  
14 this, just throw it out. If we go on the 17th, GW puts on their  
15 part, and then we have a transcript and your expert witnesses --  
16 then when you bring them on in December, if they have questions,  
17 we will allow them to address those questions or cross examine GW.

18 MR. ELLIOTT: Cross examine their experts in  
19 December? Yes, I could do that.

20 CHAIRPERSON REID: We could allow that.

21 MR. ELLIOTT: I could do that.

22 CHAIRPERSON REID: But then we can move forward and  
23 we will not lose so much time. Is that amenable to both of you?

24 MS. DWYER: That's amenable to the university, yes.

25 CHAIRPERSON REID: Okay, so we will move forward --

1 MR. ELLIOTT: Let me just understand it.

2 CHAIRPERSON REID: Let me finish. We move forward  
3 on November the 17th. GW puts on their case and we'll get as far  
4 as we can with their -- hopefully they'll wrap. And if there are  
5 some questions -- you can cross. But if there are questions that  
6 would be better answered -- better asked by your expert witnesses,  
7 then we will allow, on the day in December --

8 MR. ELLIOTT: To call back the experts?

9 CHAIRPERSON REID: Exactly. And in the interim,  
10 they can read the transcript to ascertain if there are any areas  
11 in which they want to question. How about that?

12 MS. DWYER: That would be fine with us, Madame  
13 Chair.

14 CHAIRPERSON REID: Okay, then let's move forward  
15 with that.

16 MR. ALTMAN: May I ask a question?

17 CHAIRPERSON REID: Is there any objection to that?

18 MR. GILREATH: Mr. Altman.

19 CHAIRPERSON REID: Okay.

20 MR. ALTMAN: I'd just like clarification because  
21 I'm not sure -- being new to this, so you have to bear with me for  
22 two seconds here.

23 CHAIRPERSON REID: Okay.

24 MR. ALTMAN: So what you're saying is the November  
25 17th -- is there still a meeting in December?

1 CHAIRPERSON REID: Well, what we're going to do is  
2 to have the December 15th --

3 MR. ALTMAN: Okay.

4 CHAIRPERSON REID: -- is when we would use that to  
5 conclude.

6 MR. ALTMAN: That would be the -- in other words,  
7 I'm just trying to understand this from the way --

8 CHAIRPERSON REID: The decision --

9 MR. ALTMAN: Decision day --

10 CHAIRPERSON REID: The decision would not be until  
11 --

12 MR. ALTMAN: December 15.

13 CHAIRPERSON REID: -- until January.

14 MS. PRUITT: January.

15 CHAIRPERSON REID: Because of the fact that --

16 MR. ALTMAN: The order. Or go ahead, I'm sorry.

17 CHAIRPERSON REID: -- we have to -- this particular  
18 case, especially in that there is such opposition, we would have  
19 to have a full order and that would have to -- we couldn't make --  
20 do a summary order, so then we would have to deliberate. And that  
21 would be our first -- our next first meeting would be the January  
22 meeting.

23 There is no way that -- if we start this case in  
24 November and finish it in December, there's no way that we can  
25 render the decision before January, the January first meeting of

1 the BZA.

2 MS. PRUITT: Madame Chair, I just wanted --

3 MR. ALTMAN: Go ahead. Well, I'm just trying to  
4 understand.

5 MS. PRUITT: I was going to recap what --

6 MR. ALTMAN: Go ahead. Yes, please.

7 MS. PRUITT: -- what my understanding was since I'm  
8 taking notes here, is that we will start the hearing as scheduled  
9 on November 15th. Excuse me, 17th.

10 CHAIRPERSON REID: We'll have a meeting. We'll  
11 have a premeeting to address the issue of the environment.

12 MS. PRUITT: Right, but then we will actually start  
13 the hearing for the master plan for GW campus at Mt. Vernon on the  
14 17th. At that time, we will try to conclude as much as possible  
15 with everybody -- parties being granted, parties being able to  
16 cross examine and everything.

17 However, if there's some expert issues that have to  
18 come up -- wait a minute -- that if he has some questions on some  
19 expert testimony given by the university, whoever has any  
20 questions on expert testimony given by the university -- on  
21 December 15th, those experts would -- we would then bring back  
22 basically the university to be cross examined by those experts to  
23 kind of clean up whatever has not been able to -- that would allow  
24 you to have a copy of the transcript to give it to your experts so  
25 that they will know what was testified to and then could direct

1 their questions.

2 MR. ELLIOTT: That's all correct, to my  
3 understanding, except that Madame Chair made it clear that what  
4 you're trying to do as much as possible of on November 17th is the  
5 university's case.

6 MS. PRUITT: Well, no, we're trying to do the whole  
7 case as much --

8 CHAIRPERSON REID: We wanted to get through that.  
9 We want them to conclude their part.

10 MR. ELLIOTT: But we wouldn't start. In other  
11 words, we would get -- they're going to take -- you're going to  
12 take a good, long time anyway. I've seen what they've got. But  
13 we wouldn't be --

14 MS. DWYER: You've seen it. So we're ready. We're  
15 ready today.

16 MR. ELLIOTT: We wouldn't be able to start.

17 MR. SOCKWELL: Can I restate what I think you're  
18 getting ready to say? On November 17th, George Washington  
19 University will make its presentation. You will make, for the  
20 opponent, a non-technical rebuttal cross examination.

21 On December 15th, your expert witnesses will  
22 continue the cross examination of the George Washington University  
23 presentation. And concluding that, the opposition will make its  
24 presentation, which will then be cross examined by the university.

25 MR. ELLIOTT: Exactly.

1 MS. PRUITT: That is correct.

2 MR. ELLIOTT: I can live with that. That's a very  
3 creative solution.

4 MS. PRUITT: That means that all testimony from  
5 applicant -- from the regular person does not come until December  
6 15th unless you go out of sequence. Because the sequence --

7 CHAIRPERSON REID: All the testimony from --

8 MS. PRUITT: All testimony from anybody who just  
9 wants to come in and testify without being a party would have to  
10 come on December 15th.

11 MR. ELLIOTT: That's correct.

12 CHAIRPERSON REID: Yes, yes. Persons in support  
13 and persons in opposition, we'll take that up at that time.

14 MR. ELLIOTT: Yes.

15 MS. PRUITT: So we will just hear the -- I just  
16 want to be clear for myself -- the university's case on the 15th  
17 with cross examination.

18 Is that correct?

19 MS. DWYER: On the 17th, November 17th.

20 MS. PRUITT: I'm sorry, on the 17th, yes.

21 MS. DWYER: The university's case. And prior to  
22 that, at your regularly scheduled November meeting, you will  
23 decide the environmental issue on the basis of your advice from  
24 corporation -- so that will be out of the way by the time we get  
25 there on the 17th.

1 CHAIRPERSON REID: Correct.

2 MS. DWYER: So we start fresh and go through --

3 CHAIRPERSON REID: And we can move forward and we  
4 can accommodate both sides in that the university wants to move  
5 forward. Okay, we're going to move forward, but we're going to  
6 finish in December as requested by the opposition.

7 MS. DWYER: Correct.

8 CHAIRPERSON REID: Okay? All right.

9 MR. ALTMAN: So, in other words, what we're really  
10 saying is the bottom line is there are two -- essentially two  
11 hearings. We have a November 17th and a December 15th.

12 CHAIRPERSON REID: Right, rather than having two --  
13 another day added in December, we're going to use our regularly  
14 scheduled day because that would be a waste, and we don't have a  
15 day to waste.

16 MR. ALTMAN: Then I would just -- I would just want  
17 to request, from my perspective -- don't worry, I'm not surprising  
18 anyone. I can see the looks here. In terms of the OP report, I  
19 would like to -- because I wanted time to work with the parties  
20 and that we're on top of this.

21 Report could be for the decision day of the 15th,  
22 but I will try to get it earlier to you.

23 CHAIRPERSON REID: That's not the decision date.  
24 For the hearing date.

25 MR. ALTMAN: Well, however you --

1 CHAIRPERSON REID: You'd like the later date. You  
2 would like to have your part --

3 MR. ALTMAN: Sometime to do that.

4 CHAIRPERSON REID: -- your part on that day.

5 MR. ELLIOTT: That's acceptable to us. We'd like  
6 to have --

7 CHAIRPERSON REID: You can't have that ready on the  
8 17th?

9 MR. ALTMAN: What's that?

10 MR. ELLIOTT: It would be due on the 10th  
11 otherwise.

12 CHAIRPERSON REID: You can't have it ready for the  
13 17th?

14 MR. ALTMAN: I mean we're working on this issue  
15 very hard and I'd like to make sure our report's reflective of all  
16 the different --

17 CHAIRPERSON REID: So you want to have --

18 MS. PRUITT: Except for that it doesn't allow the -  
19 -

20 MS. DWYER: Right, generally the applicant knows  
21 the Agency's reports beforehand because those are some of the  
22 issues that we might want to respond to. Is it possible to maybe  
23 provide you additional time for the filing of that as opposed to  
24 it being due November 10th, which is a week before, to allow --

25 MS. PRUITT: OP reports are usually due one week

1 prior to the hearing.

2 MS. DWYER: Right, which would be November 10th.

3 MR. ALTMAN: So you're saying that you can't have  
4 the OP report in for the December meeting even if we do an earlier  
5 noticing of that?

6 CHAIRPERSON REID: You need to have it prior to the  
7 --

8 MS. DWYER: Prior to the applicant's case starting.

9 CHAIRPERSON REID: -- November 17th hearing.

10 MR. ELLIOTT: Can it be amended after?

11 MS. DWYER: Yes, it can be amended.

12 MR. ELLIOTT: Well, I think it should probably be  
13 in the 10th, but I think the Office of Planning needs more time on  
14 this, too.

15 MR. ALTMAN: I mean, I like the idea of starting  
16 the momentum very much. I think that's a very good thing to get  
17 it going. I just, from our perspective --

18 MR. ELLIOTT: I think Mr. Altman needs more time.

19 CHAIRPERSON REID: You think that Mr. Altman needs  
20 more time?

21 (Laughter.)

22 MR. ELLIOTT: Yes, I do.

23 MR. ALTMAN: I appreciate that. Thank you.

24 MR. ELLIOTT: I think this is a very complex issue.

25 It is a very --

1 CHAIRPERSON REID: Mr. Altman I think --

2 MS. DWYER: And we think this is a very simple,  
3 straightforward case and we're ready.

4 CHAIRPERSON REID: He's sitting right here.

5 MR. ALTMAN: Let me be clear. I'm supporting the -  
6 - I like this idea. I think you've worked out a creative solution  
7 to get something moving and, at the same time, keep us on a time  
8 line. I'm simply saying I'd like to have our report ready for the  
9 December meeting.

10 It gives us sufficient time. It gets the hearing  
11 going. We'll hear all the issues at the hearing. We'll hear GW's  
12 case. We'll make our position known to everyone.

13 CHAIRPERSON REID: I think that we have to have  
14 that prior to the applicant's -- at the time the applicant brings  
15 their case. Is there any way you can expedite your staff to -- I  
16 mean, is there any way you can have your staff to expedite to have  
17 that report?

18 MR. ALTMAN: I mean that was part of our issue. I  
19 mean, I'm trying to --

20 CHAIRPERSON REID: Now the ball gets stalled in  
21 your court.

22 MR. ALTMAN: Well, that's why I was trying to find  
23 a good compromise.

24 MS. PRUITT: What the Board can do is waive its  
25 filing time so that if you're sharing information with both -- you

1 know, both parties, they will have an idea, but the actual report  
2 could come in a little bit later to give you as much time as  
3 possible.

4 CHAIRPERSON REID: So rather than it being -- doing  
5 it November the 10th, then we could allow you to get it in to us a  
6 couple days before the hearing. You could fax it in and we could  
7 read it prior to the hearing. It might not be in our package that  
8 we get on Fridays, but at least it would give you some additional  
9 time

10 MR. GILREATH: Are you saying prior to the 17th or  
11 December 15th?

12 CHAIRPERSON REID: No, no, we're in November 17th.

13 MR. GILREATH: Oh, I just understood him to say --  
14 Mr. Altman to say that they wouldn't have a report.

15 MR. ALTMAN: That's what I was -- for us, the best  
16 case, just coming in to this, is -- and I'm trying to find a way  
17 that we can have that time for our professional case as well to be  
18 thorough for the Board for -- that's why I was thinking of  
19 December 15th as your decision date.

20 I know it's your formal decision date with the  
21 final hearing that we could have that report thoroughly done for  
22 you in advance.

23 CHAIRPERSON REID: The only thing is --

24 MR. ALTMAN: That's my concern.

25 CHAIRPERSON REID: -- that we have --

1 MS. PRUITT: Well, Madame Chair, let me just make  
2 the suggestion. I'm just thinking about it, so please don't shoot  
3 me. If there appears to be a problem with OP being able to  
4 provide a report that will help everybody, maybe what we can do is  
5 the applicant puts on its case on the 17th.

6 We get the report later, but then the applicant  
7 gets an opportunity to respond since they would not have had that  
8 opportunity earlier to do so. I mean, that --

9 MS. DWYER: If I could just say a couple of things.  
10 One of the things -- one of the purposes of the OP report is to  
11 frame the issues for the hearing and to provide you with some  
12 assistance. And perhaps if they could do just a preliminary  
13 report maybe the day before the hearing and then their detailed,  
14 revised report by the time of the December 15th hearing.

15 MS. PRUITT: And then you would have the  
16 opportunity to respond since you didn't have it.

17 CHAIRPERSON REID: Okay, that can work.

18 MR. ALTMAN: I was thinking in terms of we used to  
19 do a hearing report that lays out the issues. Exactly what you  
20 said. And then a recommendation report that would come to you for  
21 your December 15th date gives us time with the parties as well.

22 And we could certainly -- I'm committing staff, but  
23 I think they've already told me we can certainly do the contextual  
24 piece and lay out the case and narrow the issues.

25 CHAIRPERSON REID: In the preliminary, wouldn't we

1 --

2 MR. ALTMAN: That's no problem.

3 CHAIRPERSON REID: -- get some -- couldn't we glean  
4 where you're going?

5 MS. DWYER: Yes, we would like that.

6 MR. SOCKWELL: See, the only option I could think  
7 of would be to put the OP report at the end of everybody's  
8 presentation, and that wouldn't do any good because we'd have to  
9 revisit all the issues.

10 CHAIRPERSON REID: Right.

11 MR. SOCKWELL: So it would be very advantageous if  
12 you had at least more than bulleted points on those findings,  
13 preliminary findings, so that we could all have access to where  
14 you're going.

15 CHAIRPERSON REID: And then give us a full report  
16 in the December hearing.

17 MR. SOCKWELL: And then you could tell us what  
18 you've changed your mind on and what you had improved and what  
19 not, and we'd be able to work with that.

20 MR. ALTMAN: I don't disagree with that. I just --  
21 you have to understand a part of our request to have more time was  
22 to be able to do a thorough report and then also guiding, based on  
23 the outstanding community issues that were there, which they're  
24 still working through and we would like to be a party to, to help  
25 them work through those issues to bring you that report.

1           What I am willing to do is -- I think was put well  
2           -- is to -- we can lay out here is what, you know, the issues are  
3           that we've heard from both perspectives and what the analysis is.

4           But in terms of making a recommendation to you, that's where I  
5           also was requesting some more time with the parties based on their  
6           request and trying to meet the needs of GW to move forward quickly  
7           so that you have a strong recommendation.

8           I do think it's a complicated case. I do think  
9           that's true. We're just -- even though my staff has followed it,  
10          I'm just coming in to this new so I want to make sure I've -- this  
11          has come up over and over as a very important case to the city.

12          And I've heard about it all around town and I think  
13          it's very important that we do that job and to give you the best  
14          advice. That's why I thought more time would be helpful. But I  
15          think that we could proceed along these lines if you're amenable  
16          to that's the way OP would structure its report at that date.

17          MR. SOCKWELL: And consider this. With your  
18          preliminary report in the hands of these able, legal  
19          professionals, after the hearing on the 17th, most of your boiler  
20          plate's already going to be in place because they will have  
21          discussed the issues and that will help you to solidify where  
22          you're going.

23          And believe me, it will be very well done by the  
24          time it's done.

25          MR. ALTMAN: I think that's why this is a good

1 solution.

2 CHAIRPERSON REID: Okay, so now is everyone  
3 thoroughly confused?

4 MR. ELLIOTT: I think it's clear. In fact, I've  
5 never heard one agreement stated so many times.

6 MS. PRUITT: Madame Chair, I just wanted to  
7 clarify. OP will do a hearing report for the 17th. On the 15th,  
8 they will have the final technical report. And then the applicant  
9 will be able to -- will be allowed to respond to the technical  
10 report on the 17th.

11 CHAIRPERSON REID: And cross examine.

12 MS. PRUITT: And cross examine. And then the  
13 opposition will put on its case in chief starting on the 15th of  
14 December.

15 CHAIRPERSON REID: Okay. All right, that's fine.  
16 I think that that is a great demonstration of great minds working  
17 together to come to some resolution.

18 MR. ELLIOTT: I think it is good. I would say on  
19 this last point, which I hadn't heard, that I think you ought to  
20 be guided on the 17th by what the Office of Planning wants to do  
21 in terms of being -- testifying then or the next date.

22 If they're still --

23 MS. PRUITT: I don't understand what you're saying.

24 MR. ELLIOTT: I thought you said that they would  
25 testify in November. I thought we're going to just have the

1 university's case in November.

2 CHAIRPERSON REID: We are.

3 MS. PRUITT: We are.

4 MR. ELLIOTT: And then so OP would testify in  
5 December?

6 MS. PRUITT: But they will provide a hearing  
7 report.

8 MR. ELLIOTT: I understand.

9 CHAIRPERSON REID: Prehearing submission.

10 MR. ALTMAN: Provide a prehearing submission. And  
11 if you'd like, we can even do a brief report to the Board that  
12 just sets out that context, what some of the issues are, frames  
13 the issues for us. Then you can start.

14 And I think what you said, Mr. Sockwell, makes  
15 sense. Then we'll come back with our recommendations and we can  
16 be cross examined or however you do it here.

17 CHAIRPERSON REID: That could work, that could  
18 work.

19 MS. DWYER: And I would just add that one of the  
20 other agencies that we've been working with, the Department of  
21 Public Works, they will be testifying likely on the 17th. So they  
22 would be an additional witness on that day from the City  
23 Government, even though Office of Planning might not be until the  
24 15th of December.

25 CHAIRPERSON REID: Okay. Well, they will be so

1 notified.

2 MR. ELLIOTT: And I guess they could go either day.

3 Again, one could hear from them first.

4 MS. PRUITT: Also, I just want to state since we're  
5 going to have the hearing on the 17th, we will take up the EIS as  
6 a preliminary matter, not as a special public meeting.

7 CHAIRPERSON REID: I think that DPW's already been  
8 notified of the 17th.

9 MS. PRUITT: Yes, we would have -- yes.

10 CHAIRPERSON REID: So they should be ready. They  
11 should be prepared.

12 MS. DWYER: But rather than take it up on that day,  
13 I thought we were suggesting that at your regularly scheduled  
14 November meeting --

15 MS. PRUITT: That's correct. Thank you.

16 MS. DWYER: -- this could be an agenda item dealt  
17 with them so we don't spend any time the morning of the hearing on  
18 that issue.

19 MR. ELLIOTT: That would be better.

20 MS. PRUITT: Thank you.

21 CHAIRPERSON REID: Okay.

22 MS. DWYER: Thank you.

23 CHAIRPERSON REID: Okay, thank you very much.

24 MR. ELLIOTT: Thank you.

25 CHAIRPERSON REID: Okay, so now we'll reconvene our

1 hearing. And we're at -- at this point, we had the ANC. So this  
2 is persons and parties in support of the application for the La  
3 Clinica del Pueblo.

4 MR. SHIELD: Madame Chairperson, if I might, in  
5 just the time we have ten or 12 individuals here who are prepared  
6 to talk about the public benefit, as well as that they live in the  
7 neighborhood and they walk and they're not using cars and that  
8 sort of thing.

9 If you want to save time, we could just have them  
10 show hands or we could have a few of them come up.

11 CHAIRPERSON REID: Okay, why don't we do that. Why  
12 not make a statement -- why not have a statement from the persons  
13 in support basically outlining the areas of support because  
14 basically I'm thinking that the areas of support are going to be  
15 basically the same.

16 So rather than have 12 people say the same thing,  
17 if one person could say this is how we feel and then just  
18 basically, you know, outline for us -- bullet for us one, two,  
19 three, four, how they feel, and then show of hands and that could  
20 be in the record and we could move forward.

21 MR. SHIELD: Okay.

22 CHAIRPERSON REID: And everyone still can give  
23 their witness cards to the reporter so that they will be recorded  
24 as having appeared as one of the persons in support. And of the  
25 people who are in support, how many are people who actually are

1 staff people for the clinic?

2 Can we see a show of hands for that? So all 12?  
3 All 12? Okay, so speak for the staff people for the clinic. And  
4 then how many people are residents in support? Okay, so can you  
5 speak for the residents, and we'll have someone speak for the  
6 people -- the staff.

7 Oh, you're residents and you work for the clinic?  
8 Oh, I see. Okay, how many people are residents who do not work  
9 for the clinic? Okay, let's hear from you and then we'll hear  
10 from people who work for the clinic.

11 Okay, go ahead. Name and address, please.

12 MS. GOINES: All right, my name is Louise Goines  
13 and I reside at 1479 Harvard Street, literally around the corner  
14 from the new facility.

15 I have been there for 13 years. I do not drive a  
16 car. I know I will be attacked for this. But I think the parking  
17 problem is highly overstated. Everyone in the neighboring  
18 community within 200 feet and further has off-street parking.

19 I do not drive, but we frequently, morning, noon,  
20 afternoon, evening, 2:00 in the morning, have people coming by to  
21 visit us or people working in our house. We have never faced more  
22 than a half a block walk for anyone to park on the block.

23 I have been there 13 years. Though we do not  
24 drive, I do feel that the parking issue has become almost  
25 insurmountable in terms of people's reactions and their need to

1 have their own space. This is a city block.

2 CHAIRPERSON REID: Thank you. Thank you very much.

3 Now a staff person in support or someone to speak  
4 on behalf of the staff people here in support of the application.

5 DR. JOSEPHS: Good morning.

6 CHAIRPERSON REID: You've been sworn, right?

7 DR. JOSEPHS: Yes, I was here for the swearing.

8 My name is Dr. Meredith Josephs. I'm a family  
9 physician employed by Clinica del Pueblo. I live at 1835 Lamont  
10 Street, which is in the Mt. Pleasant neighborhood, and I walk to  
11 work.

12 Thank you.

13 CHAIRPERSON REID: Oh, that's it?

14 DR. JOSEPHS: That's it.

15 CHAIRPERSON REID: So basically are you -- in  
16 saying that, are you expressing the sentiments of most of the  
17 employees, that they actually walk to work?

18 That's what they say in the testimony.

19 DR. JOSEPHS: I know. I am speaking on behalf of  
20 the employees that live in the neighborhood who walk to work.

21 CHAIRPERSON REID: Who walk to work?

22 DR. JOSEPHS: Yes, there are staff that do not live  
23 in the neighborhood, and I cannot speak on behalf of them.

24 CHAIRPERSON REID: Okay, those who live in the  
25 neighborhood?

1 DR. JOSEPHS: Right. And I would like to add that  
2 when the building -- when we move to the new building, I will  
3 continue to walk to work, as would the employees that live in the  
4 neighborhood.

5 CHAIRPERSON REID: Okay.

6 DR. JOSEPHS: Thank you.

7 CHAIRPERSON REID: Well, since you're here on  
8 behalf of the staff, let me just ask you one question. Do you  
9 have any knowledge of plans for moving into the new building in  
10 regard to the staff or personnel there driving or taking the new  
11 Metro? Can you speak to that?

12 DR. JOSEPHS: Is there someone more qualified to  
13 speak to that?

14 May I turn that over to somebody who's more  
15 knowledgeable on that question?

16 MR. SCHAMESS: Yes, I think the truth is that some  
17 people who do live in the suburbs will probably continue to drive.

18 A fair number have expressed interest in taking the Metro and we  
19 are working on a Metro pass program to reduce or eliminate the  
20 expense to them for taking the Metro.

21 I think the main concern I've heard raised is, is  
22 it going to cost them more to drive. They'd rather take the Metro  
23 in terms of convenience. Is it going to cost them more to drive  
24 or take the Metro? And I think we can make it less expensive for  
25 them to take the Metro, that that would be the choice.

1 MR. SOCKWELL: My question --

2 MR. SCHAMESS: Does that answer the question?

3 CHAIRPERSON REID: Go ahead.

4 MR. SOCKWELL: My question to you. Currently,  
5 based on your parking survey, which was a La Clinica del Pueblo  
6 study, and I guess talking with your own staff and clients, the  
7 staff -- presently 82% approximately are using their cars, and  
8 that was prior to the opening of the Metro.

9 With any subsidies that you provided and any  
10 incentives, has the number of staff persons using public  
11 transportation increased significantly to close to the 43% that  
12 you projected? Or can you give me some figures that are part of  
13 your plan?

14 MR. SCHAMESS: At this point, the only thing I  
15 could give you would be off the top of my head estimates. We  
16 haven't -- first of all, we haven't yet instituted a Metro  
17 program. The Metro only opened a couple -- a few weeks ago.

18 And so rather than sort of float a statistic, I'll  
19 simply have to say I don't have any data pertaining to that and I  
20 can't give you data to answer the question.

21 MR. SOCKWELL: Just to continue that, have you put  
22 in place, through your board of directors or operating group, have  
23 you put in place a Metro incentive program or whatever you were  
24 going to do and you just haven't started it, or are you just  
25 contemplating such?

1 MR. SCHAMESS: I would say it's in process.

2 Enrique, do you want to say anything about that?

3 MR. COBHAM: Yes, I wanted to clarify a couple of  
4 things. First of all, regarding the Metro Checks program, what we  
5 started -- we have all of the information regarding the  
6 availability of the program. And we did a survey a few weeks ago.

7 A total of about 16 employees expressed interest in  
8 the Metro Checks program.

9 CHAIRPERSON REID: How many?

10 MR. COBHAM: Sixteen of the -- the total staff is  
11 38. Sixteen expressed interest in the Metro Checks program. The  
12 process we are going through now is to really clearly define  
13 because the survey was somewhat anonymous, it was not specific by  
14 employee name, the issue regarding how many of those 16 -- how  
15 many of those that are presently using mass transit to come to  
16 work versus those that are driving.

17 But the intent is that we want to institute some  
18 type of a program that will alleviate the need for driving to  
19 work.

20 There's one other item I want to clear up. The  
21 statement about the 82% of the employees driving to work, the  
22 survey was -- the 82% was a function of the respondents to the  
23 survey.

24 There were 23 respondents to the survey, and we  
25 presently have about 20 employees that drive, but 20 of the 38

1 employees that drive. So that the percentage in the survey  
2 reflects a rather high percentage, but the number of employees  
3 that drive is -- that would have been equivalent to 19 in the  
4 survey of 23 employees that responded.

5 So the number of employees that drive is around 20,  
6 and that number is -- and that's really rather around 52% of the  
7 staff as opposed to 82% of the staff.

8 CHAIRPERSON REID: Okay, but that's not what it  
9 said.

10 MR. COBHAM: Yes, but the survey does state that 23  
11 employees responded. So the top part of the survey explains that  
12 23 responded, so it's 82% of the 23, not 82% of the 38. Just for  
13 clarity.

14 CHAIRPERSON REID: All right, okay. But  
15 nonetheless, given your problem there, that's still -- that's high  
16 --

17 MR. COBHAM: No, I understand that.

18 CHAIRPERSON REID: -- by anybody's, you know,  
19 estimation. So it appears to me that what you're faced with is a  
20 situation wherein you're looking at incurring another \$15,000 or  
21 so in parking expenses for a nonprofit organization, which I would  
22 feel would be rather burdensome.

23 To offset that expense, if you have employees who  
24 can drive, then it would seem to me that you would have, as Mr.  
25 Sockwell said, a Metro incentive program of some nature where it

1 would definitely encourage as many as possible to drive other than  
2 -- now, will they have to -- if they drive, do they have to pay to  
3 park or are they going to park on the street?

4 MR. COBHAM: Well, if there's none provided, they  
5 will park in the street, and this is what we're trying to avoid.

6 CHAIRPERSON REID: What did you say?

7 MR. COBHAM: If nothing is provided to the  
8 employees, they will park on the street, and that's what we're  
9 trying to avoid. So what I'm saying is that one alternative is if  
10 we -- if they use the parking spaces that we have arranged for, it  
11 will not cost the employee -- that will be a cost that we will  
12 have to bear, which the president of the board expressed that we  
13 are prepared and we have factored that in our discussion, that 30  
14 spaces that we have talked about already.

15 The issue is do we encourage employees to be able  
16 to use mass transit? And here again, that would then have to also  
17 be a cost that we bear. And that may then have to come out of  
18 the, you know, \$15, \$17,000 that we already are factoring  
19 regarding the 30 spaces.

20 Because the way the agreement letters from the two  
21 organizations stated is that they have so many spaces and possibly  
22 more available for us. The issue is how many spaces will we  
23 actually need. And the commitment that we made to the ANC was  
24 that we were working with the 30 spaces, the 30 arrangement.

25 And you know, the part we explained earlier

1 regarding some type of legal requirement is the volatility of  
2 having to pay for parking that you may not need depending on what  
3 alternative we have worked out.

4 CHAIRPERSON REID: Well, the solution to that, I  
5 would think, sir, would be to simply have the agreement to  
6 stipulate up to --

7 MR. COBHAM: No, we understand that.

8 CHAIRPERSON REID: -- up to a certain amount of  
9 spaces so that you're not tied into a set number and then you pay  
10 for those that you actually utilize for that time, for the period.

11 MR. COBHAM: Right, and that's what we are  
12 basically stating. The reference to the mandatory spaces is the  
13 position that the ANC is taking that they want it to be a  
14 requirement to have these number of spaces in a legally binding  
15 contract into the future.

16 And what we are saying is that if we work out an  
17 alternative to reduce the requirement, *ie*, if we pay for Metro  
18 Checks for the employees and reduce or increase the number of  
19 employees that use mass transit, then we will not necessarily need  
20 the 30 spaces.

21 Although we are committed --

22 CHAIRPERSON REID: That's exactly what I was  
23 thinking.

24 MR. COBHAM: Okay.

25 MR. GILREATH: Madame Chair, don't you think that

1 they should provide the 30 spaces if it comes close to the 38  
2 because it may -- since they have all these patients coming in,  
3 they may have to give some of this for the patient parking too.

4 To simply say they're just going to accommodate the  
5 employees I think is giving a complete --

6 CHAIRPERSON REID: Well, my understanding that this  
7 was -- that the additional parking spaces was as a -- was being  
8 proffered as a means of being able to alleviate all of the parking  
9 problems. Not just employees, but also people who may drive  
10 there.

11 But also, I think that in some of the submission --  
12 my understanding was that most of the patients walk or they come  
13 from the community. They walk to the facility or catch the bus.

14 MR. COBHAM: Yes, that is correct.

15 CHAIRPERSON REID: Are these indigent patients?

16 MR. COBHAM: Yes.

17 CHAIRPERSON REID: Okay, so they --

18 MR. GILREATH: Some of the patients do drive  
19 though, according to this report.

20 CHAIRPERSON REID: Okay. Well, I said most of them  
21 did.

22 MR. GILREATH: But suppose that the Metro Check  
23 system works. Are we saying that they could simply reduce the  
24 number of parking spaces to be provided at this lot to 15 or ten  
25 or five or something like that? I think we should almost have

1 this 30 as a minimum to cover all contingencies.

2 MR. SOCKWELL: Well, remember, if I might interrupt  
3 Madame Chair and Mr. Gilreath, we don't have the ability to  
4 condition the variance based on any number of spaces provided.  
5 That's not in our -- not our responsibility.

6 I would think that if the clinic is providing  
7 available parking spaces to its staff and to clients, then there  
8 might be a subsidy reduction or subsidy that the staff would pay  
9 as part of their ability to park in those spaces; that the clinic  
10 wouldn't be providing it as a necessarily 100% coverage of their  
11 cost, but certainly would be providing a certain number of spaces  
12 for the clients who are the people who are getting the free  
13 services and/or are generally under or uninsured.

14 Those people would be provided with the spaces at  
15 no cost. I think that the program that is -- that has been  
16 discussed has not been shown to be fully implemented.

17 But to me, unfortunately, it seems that this is an  
18 idea that you have come up with as a result of the ANC's rejection  
19 of a no parking situation and that you have to really firm this up  
20 so that it becomes something that the ANC can feel comfortable  
21 with and that the clinic can feel comfortable with.

22 Because you're going to do this for the long haul  
23 and you're a neighborhood organization that provides an essential  
24 service to the community, and certainly we want to see that  
25 service continued in the neighborhood.

1           But we do want to make sure that the impacts are  
2 minimized. And the only one is parking that seems to be the --

3           MR. SHIELD: Yes, if I could just speak to that. I  
4 was going to -- I think it's more appropriate to say now rather  
5 than in the closing statement. But in the issue -- I mean, I  
6 think we're all satisfied that the space doesn't -- the lot won't  
7 accommodate more spaces, so then the issue is what's the public  
8 good.

9           And of course, our position is that our public good  
10 is substantially helped and offset by any sort of detriment to  
11 parking. We need to serve that community. We have to be in that  
12 community. We didn't have a choice of moving downtown where there  
13 will be underground parking.

14           We looked very hard for a building that would  
15 accommodate parking in that neighborhood and it just wasn't  
16 available. I mean we looked for three years as a number one  
17 priority to our real estate people and consultants.

18           And I think you also have to weigh that again in  
19 terms of the public benefit of what's there now. It's a vacant  
20 building that's been vacant for more than three years. A vacant  
21 building won't benefit the public.

22           If we don't move in, then it could either be used  
23 as a warehouse or some other building. You know, by not a  
24 community organization, and we're very sensitive to the community.

25           In fact, we answer to the community.

1           We are prepared -- this is something that just  
2 occurred to us now if this would help as well, to specifically  
3 designate a -- and I'm sure the Board would support this -- a  
4 space on our board of directors from a local community  
5 representative who would also be able to keep us on a straight and  
6 narrow.

7           Half of our board is already community  
8 representatives. We can designate a slot for someone within a two  
9 or three block area as well. And then ultimately I think that, as  
10 far as we're trying to move, we're showing our intent is to indeed  
11 satisfy the neighbors in any respects right now.

12           We're focused on parking and who knows -- you know,  
13 if there's an earthquake in five years from now, we may have to  
14 deal with that. But for right now, we've already gotten two  
15 letters showing that we've secured 30 spaces or that we have a  
16 commitment of 30 spaces.

17           If we need to do more with the ANC to satisfy them,  
18 then we certainly will. We're a community organization. We're  
19 not a Staples or an Office Depot who could care less.

20           So, based on that, we're willing to give any --  
21 whatever written assurances we need to whether it's the ANC or the  
22 local neighborhood or whatever structure they want to put together  
23 that we are going to always -- you know, always satisfy the  
24 community in terms of the necessary and appropriate number of  
25 spaces.

1 MR. GILREATH: Madame Chair, if we approve this  
2 variance, the applicant has the option -- if the Metro Check  
3 system works and so forth, they could get to the point that they  
4 would not have to provide one single parking space, is that right?

5 Because we were -- the regulation says they would  
6 have to provide 38, but the variance would say you don't have to  
7 provide any if there's no --

8 CHAIRPERSON REID: No, the variance would be silent  
9 on that matter.

10 MR. GILREATH: So theoretically, they do not -- if  
11 we grant this, they would not have to provide any even though  
12 they're willing to agree with the ANC, is that right?

13 CHAIRPERSON REID: Theoretically, that's correct.

14 MR. GILREATH: Yes. Okay, well an agreement with  
15 the ANC -- they have someone on the board or what have you, to me  
16 would be adequate to assure there will be adequate parking  
17 provided.

18 CHAIRPERSON REID: Well, I think that's what the  
19 gentleman here has just proffered to us, that they would take the  
20 additional step. Now, I think that given the fact that people  
21 have aired their feelings and their positions, that it gives you  
22 something to kind of think about and to work with.

23 And even since you've been here today, you've come  
24 up with some very creative solutions to proffer to help to  
25 mitigate the situation. So I think that the best thing to do at

1 this point would be to have you, in your agreement with the ANC,  
2 to come up with whatever types of mitigating or compromising type  
3 of suggestions that you can and incorporate that into something  
4 that is amenable to both parties.

5 Then have it submitted. We'll leave the record  
6 open. Have you submit that. And prior to our making our  
7 deliberations, we will look at it and take that into  
8 consideration. And we're looking to see that you're addressing  
9 the concerns of the community and that you're reaching out to try  
10 to ameliorate whatever problems that, you know, may arise, and we  
11 appreciate that.

12 We have here today our council member at large,  
13 Cantania, who wishes to speak on behalf -- in support of your  
14 application. So why not let him come up. He has to leave.

15 Thank you and welcome to the BZA.

16 COUNCILMAN CATANIA: Madame Chairperson Reid, thank  
17 you very much for this opportunity. And again, I appreciate you  
18 being amenable to this quick and hopefully brief statement given  
19 the schedule.

20 I just want to put on the record that there is a  
21 precedent within the BZA for approving an application subject to  
22 off site parking, and I wanted to bring that to the Board's  
23 attention. My staff was here earlier when I was at another  
24 meeting and I just wanted to give you the date and the application  
25 number so that if you're wondering whether or not you can

1 conditionally approve an application based on off site parking, it  
2 has been done in the past.

3 Whether or not that was legitimate is an another  
4 example or another issue. The fact is that you can do it. And it  
5 was specifically done -- excuse me, application number 16179, and  
6 I'd ask that the staff make reference and they can make that  
7 available to you.

8 Again, it's application number 16179. And the  
9 decision was decided on December 4, 1996. So it's about a three  
10 year old.

11 MR. HART: Excuse me, what's the number?

12 COUNCILMAN CATANIA: 16179, 1-6-1-7-9. It was  
13 decided on December 4, 1996 and it was a matter involving a  
14 variance for a diplomatic installation in Kalorama. And the  
15 application was conditioned on the embassy providing -- or the  
16 chancery providing three, I believe, off site parking spaces and a  
17 commercial site because the residents had the same concern.

18 And so I just wanted to, you know, for the record  
19 suggest that there are ways that we've been flexible in the past.

20 But in any event, I would certainly hope that -- you know, and I  
21 know Mr. Ramagoza from the clinic and I know him to be an  
22 honorable man and I know that his word is good.

23 And so I know that if he commits to the ANC that  
24 something will happen, that it will happen. For what it's worth,  
25 I know Mr. Grand, who is the ward member for this ward, he and I

1 both serve on the Metro board as two of the District's four  
2 representatives.

3 The committee that I chair has jurisdiction over  
4 Metro and our money that we give Metro. So I think we would have  
5 a good degree of leverage and I would commit my office. And I  
6 know I could speak for Councilmember Grand in looking for any  
7 alternatives in terms of shuttle service or whatever that has to  
8 happen to make the impact on the community as minimal as possible.

9 Because we also are eager. You know, Mr. Grand and  
10 myself live in areas that are high density and we know the  
11 difficulty with finding parking and we certainly don't want to  
12 burden the residents of the area.

13 At the same time, you know, this is such an  
14 important clinic that serves such an important part of our  
15 population that has really not had a voice in this Government for  
16 some time and, as a consequence, the services, especially the  
17 medical services available, are not there.

18 And the important work that Mr. Ramagoza does at La  
19 Clinica really we need to support. Because if we don't support  
20 it, I'll tell you, there is an additional financial impact on this  
21 city. Either Mr. Ramagoza provides the services through La  
22 Clinica, or we provide them through our nine neighborhood clinics  
23 and D.C. General.

24 So in all fairness, I appreciate that the community  
25 does have legitimate concern with parking. The need is so great.

1 I would really implore you to look at that application that I  
2 brought to your attention and know that whatever conditions that  
3 the Board puts on the application, for myself, I'd be perfectly  
4 wiling to work with Mr. Ramagoza.

5 And as a member of the Metro board, be joined with  
6 Mr. Grand in looking for ways to ameliorate the parking problem.  
7 And with that, thank you both -- or thank all three of you for  
8 this chance to talk and I hope this has been some help.

9 CHAIRPERSON REID: Thank you. Thank you very much.

10 Okay, persons or parties in opposition come  
11 forward.

12 Okay, you need to come forward and give your name  
13 and your address before you speak, sir.

14 MR. RAMOS: My name is Arnolde Ramos. I'm  
15 Executive Director of the Council of Latino Agencies. This is the  
16 umbrella organization of 35 community-based organizations serving  
17 the Latino community.

18 To a large extent, we do function in some ways  
19 similar to the ANC for Latinos, so it's very important to bring in  
20 my testimony. I work at 2437 15th Street. I have lived in the  
21 neighborhood for at least nine years.

22 Up to this point, I live on 1525 Upshur Street,  
23 N.W., just about seven blocks up. My point is simply, number one,  
24 this is one of the luckiest sectors of our city in that it is best  
25 serviced by public transit.

1 Up to now, I don't think we even have Metro -- the  
2 impact of Metro on the positive side. How many people will be  
3 using Metro? Number one again, the clinic would be only about two  
4 blocks and a half from Metro, so we don't need any special  
5 shuttle.

6 Number two, you have the lines of 14th Street and  
7 16th Street, some of the busiest and best lines in our city. And  
8 thirdly also, the public good here, the public benefit -- from the  
9 point of view of our community, the public good is health.

10 Parking is secondary from a community that, as Mr.  
11 Catania was saying, for a long, long time was under serviced. And  
12 not only that, I really thank you for thinking of the future.

13 This community -- we don't want this community to  
14 go to Silver Spring, to Virginia. We want this community to  
15 continue to work and pay taxes in the District of Columbia. One  
16 of the most important additions to the District of Columbia has  
17 been the influx of the Latino community that works.

18 Has three, sometimes even four jobs. So, providing  
19 this health service is one of the key elements in the development  
20 of this community, in the development of this new citizenship, new  
21 residency. So I applaud your concern.

22 I believe also -- let me remind you. In our  
23 membership, we have -- the other clinics in the area that service  
24 the Latino community, you have the Cardoza -- upper Cardoza  
25 Clinic. You have a Mary Center for maternal health.

1           You also have the Spanish Catholic Center in the  
2 neighborhood at Monroe and 16th. So you're not going to have an  
3 influx of people going like crazy to La Clinica del Pueblo. The  
4 community is pretty established there.

5           So that -- basically my last point again, one of  
6 the most important developments in the Adams-Morgan, Columbia  
7 Heights is the establishment, the development of the Latino  
8 community. We're there to stay.

9           And institutions such as La Clinica del Pueblo add  
10 more than detract. We're very proud. We also guarantee our  
11 offices to work with Mr. Catania, with Mr. Grand, 35 other  
12 agencies to make sure that the relationships with the ANC and  
13 other community organizations are the best.

14           It's in our best interest to coexist and to carry  
15 out the development of our communities. So thank you again for  
16 your concern. And let me guarantee to you that we will do  
17 everything we can in union with Clinica to make that neighborhood  
18 one of the model neighborhoods in our city.

19           CHAIRPERSON REID: You are in support, right?

20           MR. RAMOS: Most definitely.

21           (Laughter.)

22           CHAIRPERSON REID: Did I just call for people in  
23 opposition? But that's okay. I think it's very clear that you  
24 are --

25           MR. RAMOS: I sneaked in when -- simply because it

1 was very important. You have not yet heard from a community  
2 member, from a resident actually. And it's very important to  
3 emphasize that part of the community in the Columbia Heights area  
4 is the Latino community.

5 CHAIRPERSON REID: Yes.

6 MR. RAMOS: And I could come back tomorrow with  
7 20,000 signatures.

8 CHAIRPERSON REID: Oh, please.

9 (Laughter.)

10 MR. RAMOS: But you don't want to read them, okay.

11 CHAIRPERSON REID: Okay, thank you very much.

12 MR. RAMOS: And I am more than in support.

13 CHAIRPERSON REID: Thank you very much.

14 MR. RAMOS: Thank you.

15 CHAIRPERSON REID: We had -- also I did not  
16 indicate that we did also have a letter of support from council  
17 member Jim Grand, who is also the Ward 1 representative, and a  
18 letter of support from the Walt Whitman Clinic as well in our  
19 file.

20 Now, are we done with persons and parties in  
21 support?

22 Okay, persons or parties -- support?

23 MS. HANLON: As someone who lives in the  
24 neighborhood, 1812 Monroe Street, N.W., who can testify to --

25 CHAIRPERSON REID: Your name, your name and your

1 address.

2 MS. HANLON: Sally Hanlon.

3 CHAIRPERSON REID: Okay.

4 MS. HANLON: To the service of this clinic,  
5 although it is particularly devoted to the Spanish speaking, but  
6 to me and others who are non-Latino, they serve on a need basis.  
7 And in closing, I'll give you an outstanding example of that  
8 spirit of service.

9 But I wanted to make a point that as I have  
10 experienced the clinic and other people that I have brought in,  
11 there are many of us who are into voluntary poverty as a way of  
12 serving the community so that we living there -- I have bene  
13 living in the area since 1978, the fall of '78.

14 But I have experienced the clinic as not only a  
15 service center which is attending to people who come directly in  
16 to serve there, but also as kind of a referral center with medical  
17 experts from around the city of goodwill, each of whom may give  
18 one patient a month, you know, in their specialty and we have been  
19 sent to those places.

20 And so not all of what they do is done on the  
21 premises. And other institutions like where they are right now is  
22 like the Barbara Chambers Children Center, which was formed by  
23 parents right after the death of Martin Luther King, interracial  
24 group that wanted to have that neighborhood be a place where  
25 children could grow up and be helped from different races and

1 groups.

2 And in closing I'd give this example that I  
3 overheard, a great surprise to me. Among the people that are  
4 helped at the clinic are those who suffer from post traumatic  
5 stress from wars and suffering in Central America.

6 And I personally overheard Juan Ramagoza say to  
7 another colleague, Oscar Reyes, the editor of the Pregonero, both  
8 of whom were torture victims, how they both believed that the  
9 perpetrators also needed health and needed help.

10 And Juan himself found one of his own torturers on  
11 Mt. Pleasant in an alcoholic state and he took him in and helped  
12 that man back to health. So for the residents around in the  
13 neighborhood, this will be a blessing on the land.

14 And as Biblical prophets tell us, every society is  
15 judged by how it treats its most vulnerable members, the orphan,  
16 the widow and the stranger in the land.

17 Thank you.

18 CHAIRPERSON REID: Thank you very much.

19 Persons or parties in opposition please come  
20 forward. Three people please come up at the same time. All  
21 right, in giving your testimonies, please try not to be  
22 repetitive. If one person has already expressed one of your  
23 points, please just give us things that we have not already heard.

24 Thank you, sir. Begin.

25 MR. SEABRON: My name is LaVert Seabron. I live at

1 2827 15th Street, which is right next door to the clinic. I have  
2 been a resident of the community for 11 years.

3 I speak in opposition to the variance. Earlier, as  
4 was stated by the ANC commissioner -- I am the vice president of  
5 the condo association in my building. I'm also on the board of  
6 Columbia Heights Village, which is one of the agencies that  
7 offered parking space.

8 Earlier this month, I met with the clinic, had a  
9 meeting at All Souls Church, invited the community. I went to the  
10 meeting. I told them at that point that we have no problem -- the  
11 neighborhood has no problem with the clinic.

12 We think they do a wonderful job. Our problem is  
13 parking. I asked them at that time -- they were asking for a  
14 variance. They were asking how low were they asking the 38 spaces  
15 required to be reduced to, and they told me they were asking that  
16 it be reduced to zero.

17 I told them then that we would -- my organization  
18 would oppose a variance that gave them no responsibility for the  
19 parking, off site parking in the community. They have -- we  
20 referred them to two places where we thought they could get  
21 additional parking.

22 One was Columbia Heights Village, which they did  
23 contact the manager there. They have assured them of 20 spaces.  
24 We also recommended them to go to NCBA Estates, which is right  
25 across the street from Columbia Heights Village, because they have

1 a very large parking lot and very few cars.

2 So the off site parking is available. The prices  
3 that they're referring to, these are for off site fenced and gated  
4 parking facilities. They're referring to a cost of a little bit  
5 more than a dollar a day per car and this is very, very  
6 reasonable.

7 Metro has had two impacts in the community in terms  
8 of parking. Number one, there are residents in the community who  
9 used to drive to work who no longer drive. They use the Metro.  
10 They don't -- their cars remain in the neighborhood all day.

11 Secondly, we're now experiencing people from  
12 outside of the community who drive in in the morning and park and  
13 then walk to the Metro station at 14th and Columbia Road, Irving.

14 Our major concern is that we concur with the resolution passed by  
15 the ANC.

16 We would hope that in some way the clinic be  
17 required to maintain some off site accessible parking for its  
18 volunteers and staff. Even recommended, suggested to Mr. Enrique  
19 that if they kept the 20 spaces or the 30 spaces that they have  
20 commitments for for volunteers and staff and they use the five  
21 spaces behind the clinic for patients, this should solve their  
22 problem.

23 We live next door. We have six condos in our  
24 building and five parking spaces. We know from experience of the  
25 former tenants of the building when all their parking spaces are

1 taken up, they then begin to use the parking spaces of residents  
2 in our building.

3 And then we find ourselves -- we can't -- we're  
4 locked in. We can't go to the store. And if we go to the -- we  
5 come home from work, we can't park because others are in our  
6 parking spaces. And it's a nuisance to have to call the police  
7 and have cars ticketed and towed every day.

8 And we think -- we wish them luck. We're happy to  
9 have them as neighbors. But we would ask that in some way this  
10 matter of accessory parking be dealt with because the neighborhood  
11 just cannot stand 28 to 30 more additional cars parked on the  
12 street during the day.

13 Thank you.

14 CHAIRPERSON REID: Just one question, sir. Do you  
15 live right next door, and is that a house or in a condominium?

16 MR. SEABRON: It's a condominium. Columbia House  
17 Condominium. We have six units in our building.

18 CHAIRPERSON REID: And do you have designated  
19 parking in the rear or somewhere?

20 MR. SEABRON: We have five parking spaces in the  
21 rear for six units.

22 CHAIRPERSON REID: So one person doesn't have a  
23 parking space?

24 MR. SEABRON: Correct.

25 CHAIRPERSON REID: So one person has to park on the

1 street. So it's not assigned parking, you just whoever gets there  
2 first, --

3 MR. SEABRON: No, no, it's assigned. In fact, they  
4 are -- the purchase of the unit includes your parking space.

5 CHAIRPERSON REID: So you have a parking space,  
6 except one person does not have a parking space?

7 MR. SEABRON: Correct.

8 CHAIRPERSON REID: Okay, thank you.

9 MR. SOCKWELL: It's not your testimony that the  
10 people being ticketed for using the spaces in an unauthorized  
11 manner are coming from the clinic, is it?

12 MR. SEABRON: Because the clinic is not there yet.

13 MR. SOCKWELL: Right. You're just saying that  
14 someone --

15 MR. SEABRON: I am saying that that's the --

16 MR. SOCKWELL: -- uses the spaces, but you're not -  
17 -

18 MR. SEABRON: That's the alternative that we would  
19 have if they do not have accessory parking.

20 MR. SOCKWELL: But you're not saying that you know  
21 for a fact that users of the clinic would be parking in your  
22 parking lot?

23 MR. SEABRON: We know for a -- I know for a --

24 MR. SOCKWELL: You know that someone is, but you're  
25 not -- you have no evidence, nor any experience with users of the

1 clinic parking in these spaces?

2 MR. SEABRON: All we have is experiences when their  
3 contractors came there to look at the building, they parked in our  
4 parking spaces.

5 MR. SOCKWELL: Yes, but because someone --

6 MR. SEABRON: They have sealed off their parking  
7 spaces. Right now it's impossible to park behind their building,  
8 so the only spaces if you pull in there off the street are the  
9 five spaces next door.

10 MR. SOCKWELL: But a contractor is certainly far  
11 different from anyone else.

12 MR. SEABRON: I agree with that.

13 MR. SOCKWELL: Your neighbors would not park in  
14 your space if you had one, and their visitors would not park in  
15 your space if you had one, would they?

16 MR. SEABRON: My neighbors?

17 MR. SOCKWELL: Your neighbors in your condominium.

18 MR. SEABRON: No, they have assigned --

19 MR. SOCKWELL: And their visitors to their places  
20 would never park in your space, would they?

21 MR. SEABRON: They park on the street.

22 MR. SOCKWELL: Right. Contractor's a different  
23 person, an unknown.

24 MR. SEABRON: But our experience has been with the  
25 prior tenants that this was a problem. And that was one of the

1 reasons the prior tenants moved out.

2 MR. SOCKWELL: What was the prior tenancy?

3 MR. SEABRON: The History Factory.

4 MR. SOCKWELL: What was that?

5 MR. SEABRON: It was archival organization that  
6 researched documents from companies that were no longer in  
7 existence. It was an archives operation. They had the five  
8 parking spaces. As their staff grew and they had to hire  
9 additional persons, they had no place for them to park, so that  
10 was one of the reasons that they moved.

11 The tenants before them, which was an audio/visual  
12 company, had the same thing. As business got better, they had to  
13 hire more people. There was no place for them to park. I knew --  
14 both owners came to me, because I was the developer of the  
15 building that I live in, and told me they would like to stay  
16 there, but it's just that there's no place for our staff to park.  
17 We can't hire people.

18 This was before Metro. We can't hire people  
19 because there's no place for them to park.

20 MR. SOCKWELL: Right. Do you have any feeling that  
21 the inclusion of a community person, either an ANC commission or  
22 slot or someone else from the community who's active and  
23 knowledgeable and known to the community, on the board of this  
24 clinic would be helpful in preventing the kind of usages that you  
25 are most concerned about?

1 MR. SEABRON: I have mixed feelings about that. I  
2 think somewhere in the documents associated with this, if there  
3 was a letter that says that this has been agreed to, historical  
4 memory -- boards change.

5 And persons coming on this board ten years from now  
6 or further down the road will have no knowledge of this hearing  
7 and my telling them as their neighbor what was supposed to be the  
8 procedure. It may have very little or no impact on them.

9 I think something in writing as an amendment to the  
10 variance or -- somewhere we need to put this in writing that  
11 accessory parking must be obtained for the staff and the  
12 volunteers. Granted, they're not all going to come in in one day.

13 And if you don't park in a space, you don't have to  
14 pay for the space. It's that simple.

15 MR. SOCKWELL: Did the condominium take any action  
16 to secure its parking?

17 MR. SEABRON: No, we've never had to. We've never  
18 had to.

19 MR. SOCKWELL: Sounds like the problem has  
20 persisted for a long time. It seems that you should have had to.

21 MR. SEABRON: I'm not sure I understand what you're  
22 talking about. When you say did we take any --

23 MR. SOCKWELL: Well, you stated that over the years  
24 every business that's been in that building has parked in your  
25 spaces.

1 MR. SEABRON: No, no, I didn't say that.

2 MR. SOCKWELL: Well, you said the last two.

3 MR. SEABRON: No, I said the last two --

4 MR. SOCKWELL: You said the history --

5 MR. SEABRON: -- moved because of the fact that  
6 there was no parking for additional staff members.

7 MR. SOCKWELL: Okay.

8 MR. SEABRON: And occasionally, which I did not  
9 say, occasionally a visitor or a client would come in, pull around  
10 the back and park in one of our spaces. This meant we had to --  
11 if I came in and my space was occupied, I had to find a place to  
12 park, number one, go in, call the History Factory, tell them  
13 someone is in my space, either have them move their car or we're  
14 going to have it ticketed and towed.

15 MR. SOCKWELL: But now you said it's occasionally.  
16 So it wasn't a constant thing?

17 MR. SEABRON: Right, but this was not a clinic that  
18 has 8,000 patient visits a year or 4,000 patient visits a year.

19 MR. SOCKWELL: Four thousand patient visits a year  
20 divided by 360 -- well let's say by 320 days is about how much?

21 MR. SEABRON: I don't know. You're good on the  
22 math.

23 MR. SOCKWELL: Well, 300 into 1,000 is about three  
24 times. If you multiply that by eight, that's 24. So you have to  
25 -- I mean, you're a very knowledgeable gentleman and you have to

1 understand that when you throw a number out, you have to divide  
2 the number so that you really know what it means.

3 Because if I say 50,000, it doesn't mean anything  
4 unless I break it down into a day rate.

5 MR. SEABRON: They assured us when we met with them  
6 -- and my association goes back to them -- goes back to the day  
7 they dedicated their building. I was there. I talked to them  
8 then. I welcomed them and I told them what the problems were.

9 Okay, our concern, since they've told us that the  
10 majority of their patients are walk ups, --

11 MR. SOCKWELL: Yes.

12 MR. SEABRON: -- what we're concerned about is that  
13 the off site be set aside for volunteers and staff. This then  
14 frees curb side parking, as little as it is, for the patients who  
15 come and they don't have to compete with staff for places to park.

16 MR. SOCKWELL: So you must be equally as concerned  
17 about the new development proposals for the neighborhood, because  
18 they're going to increase the density of development a hundred  
19 fold.

20 MR. SEABRON: I don't know where they're going to  
21 put the cars, sir.

22 CHAIRPERSON REID: Okay, thank you.

23 All right, next witness, please.

24 MS. STOMMEL: Yes, my name is Anne Stommel.

25 CHAIRPERSON REID: Is your mic on?

1 MS. STOMMEL: Oh, I'm sorry.

2 MS. PRUITT: You also need to push the button so  
3 your mic will come on.

4 MS. STOMMEL: Thank you. Good morning.

5 My name is Anne Stommel. I'm a resident of 1480  
6 Harvard Street, which is also immediate next to the clinic as  
7 well. I did not become an opponent to the variance -- and not to  
8 the clinic, but to the parking variance -- until our meeting, our  
9 community meeting with the clinic at All Souls Church.

10 And I notice although after one year of purchase,  
11 that was the first time they trim the hedges that was in front of  
12 the building that was seven feet high. That was the first time  
13 they trim it because that evening the church -- they were holding  
14 the meeting at the church.

15 And then I notice they also clean in front of the  
16 building yesterday. However, they didn't clean in front of their  
17 current clinic. And it just -- the little issues that makes me  
18 concerned is if this parking variance is something that they know  
19 about for more than a year and yet they make no effort whether it  
20 was during the community meeting or whether during ANC meeting or  
21 whether in this meeting to have any preparation of honest effort  
22 of making any kind of parking provision.

23 CHAIRPERSON REID: Are you aware of the fact --  
24 here today that they talked in terms of having an agreement with  
25 two parking lots to provide off-street parking?

1 MS. STOMMEL: That was after the community meeting.

2 CHAIRPERSON REID: Okay, but you're aware of that?

3 I don't understand where you're going with this.

4 MS. STOMMEL: Well, my concern is knowing that the  
5 parking was required by them, instead of making the arrangement,  
6 they -- I mean we're all here over the issue of parking. And to  
7 me, it's like a smoke screen for, you know, a more serious issue  
8 in later on because they keep saying this is what -- this is a  
9 community clinic.

10 However, their intention is to be citywide and  
11 nationwide. So although they're talking about 4,000 patients now,  
12 most likely their intention is to increase that number.

13 CHAIRPERSON REID: Okay, but what are -- can you  
14 make your point, please?

15 MS. STOMMEL: My point is total opposition of their  
16 variance.

17 CHAIRPERSON REID: Thank you.

18 MS. STOMMEL: Thank you.

19 CHAIRPERSON REID: All right, next.

20 MS. STOMMEL: I'm very sorry. One more point.  
21 They also keep comparing themselves to Cardoza Clinic, which  
22 Cardoza, I believe, is a family clinic. But they -- I don't  
23 believe the Pueblo, Inc. is a family clinic, quote, unquote. I  
24 believe they treat like HIV or other type of -- it's not the  
25 similar client as Cardoza.

1 MS. PRUITT: Excuse me, ma'am, do you -- I was just  
2 going to say this clinic is there as a matter of right.

3 MS. STOMMEL: I understand.

4 MS. PRUITT: So the clinic is really not of issue,  
5 who they serve, whatever.

6 MS. STOMMEL: I understand.

7 MS. PRUITT: Okay, I just wanted to be --

8 MS. STOMMEL: But my concern is just if they  
9 couldn't even provide with a simple issue of parking, what make  
10 you think they going to take other issues that's required of them  
11 seriously?

12 MS. PRUITT: That's not in the Board's  
13 jurisdiction. We're really just looking at the parking and that's  
14 all we can look at.

15 MS. STOMMEL: I understand.

16 MS. PRUITT: Okay.

17 MS. STOMMEL: Thank you. I'm sorry.

18 MS. WESSELS: My name is Heide Wessels. I'm an  
19 owner at 1472 Harvard St., which just backs on the property.  
20 Number one, I oppose it for I believe that this has not been  
21 properly notified within a radius of 200 feet.

22 I personally know that I haven't gotten a notice  
23 from the BZA for the hearing. There are two people here who can  
24 testify whether they have received a notice, but I know I don't.

25 CHAIRPERSON REID: Okay, well just wait one second.

1 Let me just check that. The letter should have been sent out by  
2 this office to persons within 200 feet. It was sent out on the  
3 8th of July -- is that July? -- on the 8th of July. Two hundred  
4 persons within 200 feet were noticed.

5 MS. WESSELS: Well, I looked at the map and I have  
6 -- I know where the 200 feet radius is and I know for a fact that  
7 the addresses that were given to me by the Zoning Commission did  
8 not include all the people in the 200 feet radius.

9 MR. SEABRON: And we're next door and we have six  
10 tenants and none of us received a notice.

11 MS. PRUITT: Tenants don't receive. Only owners.

12 MR. SEABRON: These are owners. This is a  
13 condominium.

14 MS. PRUITT: Okay, well you said tenants, so I  
15 wasn't sure.

16 MR. SEABRON: All our units are owned. All our  
17 units are owner occupied.

18 MS. PRUITT: Ma'am --

19 MR. SEABRON: I have never received a notice.

20 MS. PRUITT: In reference to notice, we require  
21 applicants to supply us with a list of 200 people. That is the  
22 list we send out. Because there are, unfortunately, times where  
23 not everybody within the 200 feet get notice, that is why we have  
24 three means of notice.

25 You have the letter that you get from our office,

1 it's published in the Register, and there's a posting of the  
2 property. In case one of them falls through, you are guaranteed  
3 due notice. Our regs require that we provide due notice; not, you  
4 know, absolute notice on every three issues.

5 I'm very sorry you didn't get it and --

6 MS. WESSELS: Well, I'd say the applicant did not  
7 make an effort to take all the addresses down.

8 MS. PRUITT: Usually they go to Office of Finance  
9 and Revenue and receive the list from them. So it's Office of  
10 Finance and Revenue where the glitch started. That is our normal  
11 procedure. That is what we advise all applicants to do.

12 They go to the Office of Finance and Revenue and  
13 they actually have a computer program where they give them an  
14 address and they give all the addresses within the 200 foot  
15 radius. That's how we've been doing it for a very long time.

16 MS. WESSELS: Well, I'm very familiar with this  
17 process as I used to work as a paralegal. And I have a map here  
18 which shows the 200 foot radius that I have from that office, and  
19 it would have clearly indicated that they did not keep those  
20 addresses.

21 But be that as it may, that's number one.

22 MS. PRUITT: As I said, you know, unfortunately  
23 things happen and that's why we have three forms of notice.

24 MS. WESSELS: Number two, an exception is something  
25 that is given at times when the applicant meets certain

1 conditions. A variance is a very serious matter.

2 I've attended many commission hearings where an  
3 applicant stated I have an undue hardship, I bought this property  
4 and now I cannot build and the commission was not swayed by that  
5 because an applicant has the duty to assure himself that he can  
6 use the property for the stated purpose that he intends to.

7 This applicant decided to buy the property knowing  
8 full well that the parking was going to be an issue. I know for a  
9 fact that this building had two previous orders for an exception.  
10 I'm sorry, one, I believe.

11 One of them was for a variance for the parking and  
12 it was a nonconforming structure and a nonconforming use. At that  
13 time, the order said that the applicant was to provide indoor  
14 parking for the use, which they constructed.

15 There was a garage in there provided parking  
16 spaces. I know for a fact when I bought the property ten years  
17 ago that applicant did not use that garage for parking. They  
18 always parked outside, which they were not supposed to do.

19 As a matter of fact, they would park on the alley.  
20 When I asked them to move the car because I could not get out in  
21 the small alley, they refused and I had no recourse. I called the  
22 police. They didn't tow the car.

23 So what I'm saying is that when there's certain  
24 conditions, even as stringent as that, they were not complied with  
25 because there's no enforcement mechanism. Then the ownership

1 changed. The second person proceeded to do construction in this  
2 building without a building permit in large nonconforming  
3 structure, which should have gone to the BZA.

4 They did illegally and now those parking spaces are  
5 converted partially into spaces. The clinic there -- the space is  
6 there for larger than it was before. It was done illegally. It  
7 is my contention that there is no problem with the property.

8 It can be used as a residential building. There  
9 would be parking inside a garage for residential unit. There  
10 would be no hardship to use this property as an R-5 use, which is  
11 a residential use.

12 CHAIRPERSON REID: Where is the garage?

13 MS. WESSELS: It is in the rear and it's now been  
14 partially converted into the space, and the other one has a metal  
15 door on it. And those parking spaces that they claim they now  
16 have are not really parking spaces.

17 CHAIRPERSON REID: What are they?

18 MS. WESSELS: They're not supposed to be there.

19 MR. SEABRON: Actually, those spaces are -- the  
20 inside parking spaces that she's referring to, there's a metal  
21 gate that pulls down. And they put a loading dock in there and  
22 they backed their trucks up to the dock, pull the gates down.

23 What they're now using for parking spaces was the  
24 driveway to get into the inside parking area for their trucks.

25 CHAIRPERSON REID: Well, what I don't understand is

1 that there was a one level garage?

2 MR. SEABRON: No, it's not a -- it's a -- they  
3 added on -- looks like they added onto the building and they put a  
4 loading platform to the rear of the building.

5 MS. WESSELS: Which was all done illegally.

6 MR. SEABRON: And then they enclosed it and put a  
7 gate that they could electrically raise and lower so that they  
8 could -- had an inside area to load and unload their trucks.  
9 That's what it amounted to.

10 MR. SOCKWELL: So they projected the first floor  
11 out so that they could enclose a loading dock to bring the truck  
12 up to the dock, raise the gate --

13 MR. SEABRON: Right, and park their cars inside it  
14 and close the gate.

15 CHAIRPERSON REID: Okay, when you say "they," you  
16 mean the previous owner expanded this building?

17 MS. WESSELS: The first person that I referred to  
18 was the video service, which was a very low density kind of a use.  
19 But even though they who had gotten permission as an exception,  
20 who were required to construct the parking garages for inside  
21 parking, totally abused it and never used it as such.

22 And I know that firsthand because it impacted on my  
23 property. I couldn't back out of my back yard. So then when the  
24 artifact -- History Factory people took it, they renovated it  
25 illegally, further enlarged the building that was a nonconforming

1 use and a nonconforming structure.

2 And now, because they did that, there is now more  
3 space than there used to be and that's why I guess it's attractive  
4 to La Clinica. But it is perfectly usable for -- its intended use  
5 was this R-5 as a residential unit like a condo like the adjacent  
6 building. It would have adequate parking.

7 If you have four indoor parking spaces, that would  
8 provide for eight units. That would be perfectly adequate to use  
9 that property for a legal use without a variance.

10 And the other issue I have is that a clinic with  
11 staff has trash needs, loading needs, any of that aside from  
12 traffic going and that is also not addressed in this issue.

13 MR. SOCKWELL: I have a question for you. Is it  
14 pronounced Wessels?

15 MS. WESSELS: Yes.

16 MR. SOCKWELL: You said -- first of all, let me  
17 establish that the building has had a commercial use certificate  
18 of occupancy.

19 MS. WESSELS: No, it has not.

20 MR. SOCKWELL: It has not?

21 MS. WESSELS: No.

22 MR. SOCKWELL: You're saying that the audio/video -  
23 -

24 MS. WESSELS: It has had a special exception at one  
25 time.

1 MR. SOCKWELL: I understand what a special  
2 exception is.

3 MS. WESSELS: Which does not transfer to the next  
4 owner.

5 MR. SOCKWELL: But I suggested to you that it has  
6 had a commercial use certificate of occupancy. Do you know what a  
7 certificate of occupancy is?

8 MS. WESSELS: Yes, I do.

9 MR. SOCKWELL: Okay, and do you not agree with me?

10 MS. WESSELS: I don't know what the History Factory  
11 certificate of occupancy says, but --

12 MR. SOCKWELL: But it wouldn't be a residential  
13 use. It would be a commercial use.

14 MS. WESSELS: It would have had --

15 MR. SOCKWELL: The History Factory isn't an  
16 apartment building and it's not a hotel.

17 MS. WESSELS: They would have had to get -- have a  
18 special exception case for them, which they didn't have.

19 MR. SOCKWELL: But that's a Board of Zoning  
20 Adjustment issue. That is prerequisite to the issuance of an  
21 occupancy permit.

22 MS. WESSELS: Correct, but they didn't it.

23 MR. SOCKWELL: And the occupancy permit would --  
24 beg pardon?

25 MS. WESSELS: They didn't get that.

1 MR. SOCKWELL: Well how did they operate as the  
2 History Factory? How did the audio/visual place operate without -  
3 -

4 MS. WESSELS: The audio/visual place had a special  
5 exception for the building with a BZA case.

6 MR. SOCKWELL: Right.

7 MS. WESSELS: The History Factory did not.

8 MR. SOCKWELL: Okay. So but I'm saying at one  
9 point the building has most recently, whatever certificate of  
10 occupancy was in place, it was a commercial use. It was not a  
11 residential use.

12 If the History Factory took it over and did not  
13 have the certificate of occupancy transferred and if it couldn't,  
14 still the audio/visual use was a legal use and had a certificate  
15 of occupancy issued to it, which would have been commercial.

16 MS. WESSELS: Like I said again and again, it does  
17 not transfer. A special exception --

18 MR. SOCKWELL: You're not hearing what I'm saying.  
19 I didn't ask you if it transferred.

20 MS. WESSELS: Well, then how does the History  
21 Factory have -- it didn't have a certificate of occupancy.

22 MR. SOCKWELL: What I'm saying is it had -- let me  
23 rephrase it. The building hasn't been used for residential  
24 purposes in some time, has it?

25 MS. WESSELS: I don't see what relevance that has.

1 MR. SOCKWELL: I just asked the question and I  
2 guess you don't know, so I apologize for asking. But -- that's  
3 the end of my questions, thank you.

4 MS. WESSELS: But what I'm saying is if the History  
5 Factory, in fact, occupied it for commercial use, it was not legal  
6 to do so.

7 CHAIRPERSON REID: Okay, thank you very much for  
8 your testimony.

9 All right, closing remarks by the applicant.

10 MR. SHIELD: Okay, again I'd like to thank you for  
11 your time and attention. There's just a couple of small points  
12 that we'd just like to make.

13 If we were to assume the worst case scenario, that  
14 the parking in the neighborhood is as awful as has been  
15 represented, and if we assume, for the sake of argument, that we  
16 had a hidden plan to double or triple our capacity, I think that a  
17 reasonable person would have concluded that's actually impossible.

18 If we wanted to have more volunteers in the  
19 building and there's no parking, they're going to drive up and  
20 then go home. We're not going to keep good staff. We know what  
21 the use of this building can be and there's only so much that we  
22 can do expanding within it because of what's going on in the  
23 neighborhood.

24 We are equally concerned about all the development  
25 in the neighborhood. We expect that the parking situation will

1 get worse -- not because of us, but because of other residents --  
2 and we have to deal with all of this, and that will include off  
3 site parking as well as Metro and everything else.

4 We have been good neighbors. We continue to be  
5 good neighbors. I think that -- we had a community meeting. We  
6 heard the concerns about parking and we said okay, we're going to  
7 go out and get these parking spaces.

8 You don't just materialize these parking spaces  
9 overnight. This was something that we've been working on for some  
10 time. We knew we had to respond to our local neighbors. So we  
11 did that. We've provided for you those two letters. That shows  
12 what our intent is.

13 We will certainly have a community representative  
14 on our board of directors to do that. We can incorporate that in  
15 the bylaws. I can't promise you that our board will do this at  
16 this time; but, quite frankly, our board has never turned down any  
17 request from myself and Dr. Ramagoza.

18 So I think it's unlikely that our board would turn  
19 down a bylaw request that requires a community member when more  
20 than half of our board are already community members.

21 And then lastly, I think the use of that building  
22 as a warehouse -- we're not going to have big trucks coming down  
23 the alley. We're not -- you know, we're going to do the best we  
24 can for parking. And obviously whatever happened in prior uses is  
25 not our responsibility, but that building is well suited for our

1 needs and it is a solid structure.

2 So I'll just stop there.

3 CHAIRPERSON REID: One of the issues that was  
4 brought up was loitering outside.

5 MR. SHIELD: Okay, sure. We don't have loitering  
6 now. We don't expect to be loitering. We are an owner/occupant.  
7 We want our neighborhood, whether it's our old neighborhood or  
8 where we're moving now, to be as safe as possible.

9 CHAIRPERSON REID: You said you don't?

10 MR. SHIELD: We don't. We don't have loitering  
11 because of La Clinica's patients, clients or volunteers. In fact,  
12 --

13 CHAIRPERSON REID: So, I mean, you don't have a  
14 problem with people hanging outside the front of that facility?

15 MR. SHIELD: No, we have problems of loitering in  
16 the neighborhood in general, which we don't add to and we don't  
17 affect, right.

18 CHAIRPERSON REID: That is not germane to your  
19 clinic?

20 MR. SHIELD: That's exactly right.

21 CHAIRPERSON REID: Okay.

22 MR. SHIELD: That's exactly right. And that was  
23 one of the issues. The other issue was trash. Our medical trash  
24 is indeed picked -- you know, we handle our biohazard according to  
25 OSHA standards. It remains in the building. It's picked up by a

1 certified contractor.

2 We're running our office just like any other  
3 private doctor's office. And then the other issue was general  
4 trash. You know, we're going to handle our general trash just  
5 like any other business in that building would handle their  
6 general trash.

7 CHAIRPERSON REID: Okay, thank you.

8 MR. SCHAMESS: I'll just be brief, and I want to  
9 thank the Board very much for hearing this rather lengthy  
10 testimony on both sides. And I wanted to address myself almost as  
11 much to the folks -- the community members who testified against  
12 as to the Board simply to say, you know, I really -- I thought  
13 that Mr. Imhoff's testimony was very reasonable and I thought that  
14 there was a lot of reason and restraint in the testimony of all  
15 the people who testified in support, as well as against.

16 And I think Ms. Reid really hit it. There is a  
17 trust issue here. And frankly, you know, I think the folks who  
18 live in the building next door don't know the clinic well. And if  
19 I didn't know the clinic well and it were moving next door to me,  
20 I would have concerns as well.

21 You know, I regret that we didn't have a meeting  
22 with them sooner. But when we did have the meeting, we listened  
23 very carefully to all their complaints. We have responded to all  
24 of them, including what I thought was the toughest one, which was  
25 coming up with 30 parking spaces and we have those.

1           And I'll tell you, you know, all these people are  
2 my neighbors and I want to be able to see them every day and look  
3 them in the eye. And to me, that means the clinic keeping its  
4 commitment that there's not going to be a parking problem, at  
5 least not a parking problem because of La Clinica.

6           And I'll tell you, the day that we go back on that  
7 is the day that I leave the clinic, and qualified internists who  
8 will see patients for free is not -- are not easy to come by. So  
9 I hope that if we've started off on a note of mistrust, we can  
10 earn that trust, and we will earn that trust.

11           And I really appreciate everybody who came to  
12 testify on both sides.

13           Thanks.

14           CHAIRPERSON REID: Well, I am convinced that, even  
15 though it will take maybe some reaching out, but I think that this  
16 is fixable and that you can come to some reasonable resolution and  
17 let it be reflected in the agreement that we talked about with the  
18 ANC and have that in your post hearing submission.

19           We'll leave the record open to receive it. And  
20 we'll -- the decision for your particular case will be made at our  
21 December -- our regularly scheduled December meeting, which is  
22 December the -- what day?

23           MS. PRUITT: Excuse me? I'm sorry, the next  
24 scheduled meeting is November 3rd.

25           CHAIRPERSON REID: I'm sorry, I'm sorry. I skipped

1 a month. November the 3rd.

2 MS. PRUITT: I know, we've been all the way up to  
3 the year 2000, so it's hard to keep track.

4 MR. SHIELD: So just to clarify, that decision will  
5 be made or will there be a need or opportunity for additional  
6 testimony?

7 CHAIRPERSON REID: No.

8 MR. SHIELD: Or you announce and that's it?

9 CHAIRPERSON REID: No, that's it.

10 MS. PRUITT: The record is closed. You are welcome  
11 to submit a draft findings of fact and conclusions of law if you'd  
12 like. In fact, that's helpful.

13 CHAIRPERSON REID: Okay, earlier I had said that  
14 the record will be open to receive the agreement.

15 MS. PRUITT: Okay, I'm sorry, the agreement. That  
16 would be the only thing then that would be -- I'm sorry, I stepped  
17 out -- be allowed. But would you like to set a time certain for  
18 you to get draft findings of fact and conclusions of law?

19 CHAIRPERSON REID: Well, tell me when they can be  
20 submitted. When do they have to be in?

21 MS. PRUITT: Well, your packages go out on the  
22 29th, which is a week from Friday. It would be nice if we could  
23 get them in a little earlier, but I understand that's a tight time  
24 crunch and we will work with you as much as we can.

25 CHAIRPERSON REID: Your attorney, is that doable?

1 Okay. And disk if you have disk -- if you can submit it on disk,  
2 that would be great.

3 MS. PRUITT: You can give us a hard copy and a  
4 disk. That will be very helpful.

5 CHAIRPERSON REID: Okay.

6 MS. PRUITT: So can we say the 28th? Does that  
7 work for you?

8 MR. MURPHY: That's fine.

9 MS. PRUITT: Great, thank you.

10 CHAIRPERSON REID: You have to come up to the mic,  
11 sir.

12 Microsoft or Mcintosh?

13 MS. PRUITT: Yes, that would be for the agreement.  
14 And a draft conclusions of law and findings of fact.

15 MR. MURPHY: Okay, as long as the ANC is amenable  
16 to meeting with us on a reasonable time line, we're happy to do  
17 that.

18 CHAIRPERSON REID: Okay, thank you.

19 MS. PRUITT: Does that work with the ANC?

20 CHAIRPERSON REID: He nodded yes.

21 MS. PRUITT: Okay. And if you have some questions  
22 on what draft orders looks like, please give us a call and we can,  
23 you know, give you copies of past orders.

24 MR. MURPHY: Great, thank you.

25 CHAIRPERSON REID: Okay, thank you very much.

1                   Let's see, we need to address the time issues  
2 because we're running way over for the morning segment. There are  
3 two cases yet to be heard this morning. One is Jubilee Housing  
4 and the other is -- what's the other application?

5                   Okay, so now what do we want to do? Do we want to  
6 -- I don't think that it's going to take that long. I think that  
7 we should try to zip them real quick and then break for the  
8 afternoon.

9                   Ms. Prince, can you come to -- approach the Board,  
10 please? How long do you think that your case is going to take?

11                   MS. PRINCE: Less than 15 minutes.

12                   CHAIRPERSON REID: Okay, is there anyone here in  
13 opposition to -- okay, then let's do this. We're going to have to  
14 take a five minute recess. And then we'll come back and we'll  
15 finish Jubilee and we'll finish the cases for the morning, and  
16 then we'll start the afternoon cases.

17                   MS. PRINCE: Terrific.

18                   CHAIRPERSON REID: Thank you.

19                   (Whereupon, the foregoing matter went off the  
20 record at 12:43 p.m. and went back on the record at  
21 12:58 p.m.)

22                   CHAIRPERSON REID: Call the next case, please.

23                   MS. PRUITT: The next case on the agenda is  
24 application 16502, application of Jubilee Housing, Inc., pursuant  
25 to 11 DCMR 3108.1 for a special exception to establish a child

1 care development center under Section 205 for 50 children, ages  
2 infant to six years old, and staff of 15 person in the basement of  
3 an apartment building in Section 3107.2 for a variance from the  
4 off-street parking requirement and Subsection 2101.1 in an R-5-B  
5 District at 1730 Euclid Street (Square 2563, Lot 873).

6 All those planning to testify, would you please  
7 stand and raise your right hand.

8 (The witnesses were sworn.)

9 Madame Chair, there's one preliminary issue, if you  
10 don't mind. Before you, you have a letter. And in fact here, let  
11 me give a copy to the applicant. There was an active duty Air  
12 Force major here earlier who had scheduled time to come down and  
13 testify.

14 As you read in the letter, he is working on some  
15 important issues with the Saudi Arabian Government and cannot go  
16 past the time that was allotted, so he's requesting that -- he's  
17 in opposition. He's requesting that the record be open for a week  
18 for him to provide formal comment.

19 He wanted to provide it verbally and it's scheduled  
20 this morning; but given our schedule and the time crunch, he was  
21 no longer able to stay.

22 CHAIRPERSON REID: Well, I did read this letter,  
23 but what I didn't understand was why didn't he proffer the nature  
24 of his opposition in the letter?

25 MS. PRUITT: Because he actually -- he wrote the

1 letter outside of our office in five minutes because he had to  
2 leave.

3 CHAIRPERSON REID: Again? If he had some  
4 opposition, then I think that the tenor of the letter would have  
5 best been served with him to outline his opposition.

6 MS. PRUITT: I think the concern was he had  
7 scheduled this morning to testify in person because --

8 CHAIRPERSON REID: I understand that.

9 MS. PRUITT: -- he had some issues. Unfortunately,  
10 he was not able to stay. He caught me as I was coming through.

11 CHAIRPERSON REID: But again, my point is that --

12 MS. PRUITT: Well, I guess he had five minutes to  
13 do it and he just didn't have the time. He didn't feel he could  
14 correctly do so.

15 CHAIRPERSON REID: Then he could have outlined  
16 those issues. Because, I mean, we don't know -- I mean he's  
17 asking us to leave the record open. But if he had even voiced --  
18 give us some indication of what the opposition is about, you know,  
19 just to leave it open just to leave it open, --

20 MS. PRUITT: Well, he's asking it to be left open  
21 for a week for him to just note his opposition.

22 CHAIRPERSON REID: I read the letter, I read the  
23 letter. And I just don't -- I don't understand why he didn't  
24 stipulate to us what his opposition was about in the letter.

25 MR. SOCKWELL: Madame Chair, I believe the record

1 is open anyway for the submission of an agreement.

2 MS. PRUITT: No, this is on the case coming up,  
3 sir.

4 MR. SOCKWELL: Oh, I'm sorry.

5 MS. PRUITT: That's all right. There's a similar  
6 issue in the same neighborhood.

7 CHAIRPERSON REID: But anyway, at any rate, I'm not  
8 -- I am not so inclined to leave the record open for a week.

9 MS. PRUITT: I would caution you. I don't know his  
10 address. He may appeal the decision. That's my only concern.

11 CHAIRPERSON REID: Thank you very much. Okay.

12 MS. PRUITT: I'm sorry, then is that a consensus  
13 that the record will not be left open? Or rather that's your  
14 decision?

15 CHAIRPERSON REID: Well, let's make that decision  
16 at the end --

17 MS. PRUITT: Okay.

18 CHAIRPERSON REID: -- and just see how it goes --

19 MS. PRUITT: I just wanted to know.

20 CHAIRPERSON REID: -- rather than, you know, here.  
21 No, I just told you my inclination.

22 MS. PRUITT: Right.

23 CHAIRPERSON REID: That was my inclination.  
24 However, let's -- I will -- I have no problem with revisiting that  
25 issue after closing remarks.

1 MR. GILREATH: Well, Madame Chair, could we --  
2 after we've heard this, if we make a decision, is there any value  
3 of leaving the record open? Is there any harm? I think it's  
4 irrelevant.

5 CHAIRPERSON REID: No, no. No, you're right.

6 MR. GILREATH: So if we have decided we have enough  
7 information to make a decision --

8 CHAIRPERSON REID: Sure, sure.

9 MR. GILREATH: -- then what he wants to do in the  
10 record is --

11 CHAIRPERSON REID: It's a good point, sure.

12 MR. GILREATH: Okay.

13 CHAIRPERSON REID: Okay.

14 MS. PRINCE: Good afternoon, members of the Board.

15

16 My name is Allison Prince of Wilkes, Artis, Hedrick  
17 & Lane. I am also the president of the Jubilee Support Alliance,  
18 which is the fund raising arm of Jubilee Housing. We annually  
19 raise about \$150,000 for Jubilee Housing and its programs.

20 Patricia Harris of my firm was formerly the  
21 president of the board of directors of The Garden, and that is why  
22 I'm handling this case today. I'm here today on behalf of The  
23 Garden, which is an existing child care center located in a  
24 Jubilee Housing building at 1740 Euclid Street.

25 Special exception and variance approval is required

1 to allow for the continued operation of the previously approved  
2 child care center for 50 children and 15 staff. The hours of  
3 operation are from 7:00 a.m. to 6:00 p.m. Monday through Friday.  
4 The building is located in the R-5-B zone.

5 By way of background, the center was established on  
6 the site in 1989. The Board's approval limited the center's  
7 operation to 54 children and 12 staff. The order was modified in  
8 1992, which provided a final expiration date of 1995.

9 The order then lapsed. There have been several  
10 changes in the directors of The Garden, which is why this lapse  
11 was not picked up. In addition, there was an unusual situation  
12 where the certificate of occupancy for The Garden did not  
13 reference the expiration date, so it appeared to still be in  
14 effect.

15 In addition, the license was granted every year  
16 pursuant to proper inspections. And usually the license procedure  
17 is the checkpoint for picking up the certificate of occupancy  
18 expiration. But when Pat was the president of the board, she  
19 became aware of the issue and brought it to the attention of my  
20 firm and we agreed to straighten this out.

21 It's not a situation where The Garden has been  
22 cited for not having a certificate of occupancy, and we've taken  
23 it upon ourselves to straighten this out immediately upon learning  
24 of the problem.

25 The Garden rents space from Jubilee Housing for \$10

1 a year. The Garden established in the building after raising  
2 \$100,000 to completely upgrade the space in the building. The  
3 children that go to The Garden benefit from a sliding scale for  
4 the cost of the center.

5 There are parents who pay \$30 a month to have their  
6 children in this child care center, and then there are parents  
7 from more fortunate economic circumstances that pay as much as  
8 \$800 a month.

9 The Garden is a wonderful and needed use in the  
10 community. There is always a waiting list. Currently there is a  
11 waiting list of 200 children. The center is clean, it is  
12 cheerful, it is appropriately staffed, and it is properly  
13 licensed. It is an asset to the building and to the community.

14 Today you will hear from at least one community  
15 member who has larger community issues and problems that we  
16 believe are not created by The Garden. The Garden lives in a  
17 community that has a lot going on and has existing traffic  
18 conditions which we believe we do not exacerbate.

19 And we are opposed to the use of this forum to try  
20 to address other issues in the community that have nothing to do  
21 with the burden of proof before this Board in connection with the  
22 case for The Garden.

23 Here today I have Jennifer Lilley, who is the  
24 director of The Garden. She will present her testimony and will  
25 be followed by Bob Morris, our traffic engineer who's well known

1 by this Board as an expert in traffic engineering.

2 Finally, so that you're aware, I do have Hugh  
3 Hammett, who is a representative of Jubilee Housing, the owner of  
4 the building, and he is here to answer any questions from the  
5 Board or any other persons who testify.

6 I don't have any direct testimony planned for Hugh  
7 unless you find it necessary.

8 CHAIRPERSON REID: Ms. Prince, you, in your  
9 prehearing submission, outline the compliance with Section 205?

10 MS. PRINCE: Correct.

11 CHAIRPERSON REID: Would you just highlight that  
12 for the record, please?

13 MS. PRINCE: The 205 issues are really covered by  
14 Ms. Lilley. I didn't want to testify with respect --

15 CHAIRPERSON REID: By who?

16 MS. PRINCE: Ms. Lilley, the Executive Director.

17 CHAIRPERSON REID: Oh, okay, that's fine. All  
18 right.

19 MS. LILLEY: Good afternoon, Madame Chairman and  
20 members of the Board of Zoning Adjustment.

21 My name is Jennifer Lilley. My home address is 150  
22 Century Drive, #4418, Alexandria, Virginia, 22304.

23 I am the Director of The Garden Family and Child  
24 Care Center. The Garden is requesting permission, pursuant to  
25 Sections 205 and 2101.1 of the zoning regulations, to continue to

1 operate a child development center at the subject property.

2           The center has been in operation since 1989. The  
3 center occupies renovated space in an apartment house located at  
4 1740 Euclid Street, N.W. The apartment house, which is owned by  
5 Jubilee Housing, Inc., a nonprofit organization, was renovated and  
6 is occupied by low income families and individuals.

7           The Garden serves low income families within the  
8 Adams-Morgan area, including those living in the subject apartment  
9 building. Funding from the center comes from foundations,  
10 individual donations, government subsidies and tuition.

11           Each family pays tuition for its child or children  
12 based on a sliding scale that is tied to family income. Both the  
13 interior and exterior spaces used by the center are inspected  
14 regularly by city agencies and complies with the city's code and  
15 licensing requirements.

16           The center is very clean and well maintained.  
17 Trash generated by the center, as well as the apartment building,  
18 is stored in an enclosed container and is removed on a regular  
19 basis. The center itself generates minimal trash.

20           We, as the tenant, already engage a rodent control  
21 company, Attack, which visits the site two times a month at a cost  
22 of \$180 per month. Also the sidewalk is cleaned every morning.  
23 It's swept and rinsed off.

24           The center is propose to serve 50 children ranging  
25 in age from infants to six years old. The center is proposed to

1 continue to operate from 7:00 a.m. to 6:00 p.m. Monday through  
2 Friday.

3 The center proposes to employ 15 persons. The  
4 center is located and designed to create no objectionable traffic  
5 condition and no unsafe condition for picking up and dropping off  
6 children. A large number of our children live in the immediate  
7 area and walk to the center with their parents.

8 Those parents who do drive drop off and pick up  
9 their children at the supervised entrance during a two hour period  
10 in the morning and in the evening. The children have been safely  
11 escorted into the center using this method since the center's  
12 creation.

13 There is no room on the property to provide parking  
14 on site. However, there is sufficient off site parking in the  
15 immediate area for teachers, other employees and visitors. Only a  
16 few of our staff drive to work.

17 Those that do drive find more than adequate parking  
18 opportunities on nearby commercial lots. As discussed in our  
19 written statement, there is no practical way to provide four  
20 parking spaces on the subject property.

21 The Board, in its original approval, reached this  
22 conclusion as well. As will be described by Mr. Morris, there is  
23 sufficient public parking opportunities to serve the needs of the  
24 teachers, other employees and visitors.

25 Strict compliance with the parking requirements

1 would result in a practical difficulty on the center. Our outdoor  
2 play space is located and designed so that there is no  
3 objectionable impact on adjacent or nearby properties due to noise  
4 or activity or visual or other objectionable conditions.

5 As you can see by the photos in our written  
6 statement, our play area is safely enclosed for the protection of  
7 the children and sensitivity to the adjacent properties.

8 The Garden is an attractive and well maintained  
9 child care facility. There are no other child development centers  
10 located within the same square or within 1,000 feet of the subject  
11 site.

12 In conclusion, I would respectfully request that  
13 this application be approved, as the application can be granted  
14 without substantial detriment to the public goods and without  
15 substantially impairing the intent, purpose and integrating of the  
16 zoning regulations.

17 The Garden provides a much needed service to the  
18 residents of the area, and I will be happy to answer any questions  
19 that the Board may have.

20 Thank you.

21 MS. PRINCE: I have one question for Ms. Lilley.

22 Could you explain the availability of four parking  
23 spaces at the Festival Center for The Garden?

24 MS. LILLEY: There are four spaces that are just  
25 made available to any employee who would want to use them, but

1 that's up to them. And if they want to find another lot in the  
2 area, that's up to them to do so.

3 CHAIRPERSON REID: Okay, you are going from -- how  
4 many children do you have now?

5 MS. LILLEY: Excuse me?

6 CHAIRPERSON REID: How many children did you have  
7 before you reduced it to 50?

8 MR. GILREATH: Fifty-four, wasn't it originally?

9 CHAIRPERSON REID: You had 54 and now you are at  
10 50?

11 MS. LILLEY: Well, that's because of a licensing  
12 requirement. It's according to space. DHS -- you have to go by  
13 square footage of the area and we're only permitted to have 50 in  
14 that area.

15 CHAIRPERSON REID: Okay.

16 MS. LILLEY: So I don't know why 54 was on there,  
17 but we're only permitted to have 50 children.

18 CHAIRPERSON REID: Okay. The number of the  
19 employees -- okay, I see. Number of employees has increased from  
20 -- since the last Board order. Now is that -- that's in keeping  
21 with the ratio of children to staff?

22 MS. LILLEY: Right, right, you need so many  
23 teachers per student according to their ages.

24 CHAIRPERSON REID: Okay.

25 All right, Mr. Morris.

1 MR. MORRIS: Good afternoon, Madame Chairperson,  
2 members of the Board.

3 I'm Robert L. Morris, traffic engineer and  
4 transportation planner. My home address, 9109 Rouen Lane,  
5 Potomac, Maryland, 20854.

6 I have prepared a statement which I believe you  
7 have in the material before you. The issue, as far as I'm  
8 concerned, is the variance request from the parking requirement  
9 for four spaces.

10 In my report, I note rather significantly, I think,  
11 that there are 15 Metro bus routes within two blocks of the  
12 subject site. And relating that to the actual mode of  
13 transportation by staff members, more than 80% either walk or take  
14 bus to the site.

15 In fact, there are only three members of the staff  
16 who drive, plus a fourth who sometimes drives, sometimes walks.

17 Of the three who drive, one parks in the parking  
18 lot on Champlaine Street, one parks at 14th and U Streets and  
19 walks to the site, and the other one lives in the general  
20 neighborhood and has a Zone 1 sticker so she can park legally in  
21 the two hour residential permit parking that prevails in the area.

22 I have made surveys at various times of the day to  
23 see the availability of on street parking and, on an average,  
24 there are about 48 spaces available within a two block radius of  
25 the site. So there is parking space, in normal circumstances

1 obviously, at all times for someone who wants to park briefly, as  
2 I say, within the two hour limit.

3 As far as the children coming to the site, most of  
4 the children either walk or -- that is, they're walked to the site  
5 or come by public transportation. Those who drive to the site,  
6 the children are dropped off in front of the facility and then  
7 picked up again in the afternoon.

8 This operation has worked well, from my  
9 observations, at various times. I testified in the original  
10 application on this project and I've been by it a number of times.

11 My bottom line is that the variance would be appropriate.

12 There is adequate parking for those very few people  
13 who do park in the area, and the approval of the requested  
14 variance would be appropriate from a traffic engineering  
15 viewpoint.

16 CHAIRPERSON REID: Thank you very much, Mr. Morris.

17 MR. MORRIS: Thank you.

18 MS. PRINCE: That concludes our direct  
19 presentation, Madame Chair. I would like to note if a decision is  
20 made to leave the record open to accept testimony from the  
21 property owner that was discussed earlier, I would like an  
22 opportunity to respond in writing.

23 CHAIRPERSON REID: Okay. I had a question  
24 regarding the previous Board order that you had provided copies of  
25 in your submission. You have Board order number 14932 dated

1 February 8, 1989, decision date March 1, 1989.

2 And then you had Board order number 15936 that was  
3 dated April 13, 1994, but it's for -- I don't know how this is  
4 relevant to your case.

5 MS. PRINCE: It isn't. It was included in error.  
6 I apologize.

7 CHAIRPERSON REID: Okay, there were two. There  
8 were two such -- there was another one that was submitted.

9 MR. SOCKWELL: Summary order for the same thing.

10 CHAIRPERSON REID: Okay.

11 MR. SOCKWELL: One's a modification order and one's  
12 a summary order.

13 CHAIRPERSON REID: That was -- this has no  
14 relevance. This is a mistake.

15 MS. PRINCE: Correct, that was for an unrelated  
16 project. It must have been attached to the other order in error.

17 CHAIRPERSON REID: 2:00 in the morning, that kinds  
18 of throws you, you know?

19 (Laughter.)

20 Okay, all right, then questions? If not, then  
21 we'll go persons or parties in support of the application.  
22 Persons or parties in opposition to the application?

23 I'm sorry, I forgot one thing. ANC reports. I did  
24 not receive a letter from the ANC; however, they had in 1992, I  
25 think it was, submitted a letter and set out conditions. So I

1 guess since we have not heard anything from them this time, that  
2 we'll just basically assume that they're okay with it and that  
3 they still want to have those conditions contained, you know, in  
4 the subsequent orders.

5 MR. GILREATH: Madame Chair, I think some of the  
6 conditions though they said upgrade maybe the play area and so  
7 forth. We're assuming that that would be done.

8 CHAIRPERSON REID: Well, I think that that would  
9 already be done. When we get to the end and we can like --

10 MR. GILREATH: We can go over and see the ones that  
11 still apply?

12 CHAIRPERSON REID: Yes.

13 MR. GILREATH: Okay.

14 CHAIRPERSON REID: Persons or parties in opposition  
15 to the application. We had one Government report, and that was  
16 from the Department of Health.

17 And it's basically saying that they had not -- they  
18 had not made a decision on the license, but they recommend that we  
19 approve it with the following conditions, and that is basically  
20 that it be complied with the D.C. licensing regulations, which is  
21 a given.

22 Okay, thank you very much.

23 MR. JOHNSTON: Madame Chair, council members, I'm  
24 not familiar with your forum, so please bear with me. I'd like to  
25 give you a handout, a map of the neighborhood and a petition.

1                   And I'm David Johnston, a neighbor at 2510 Ontario  
2 Road, N.W., very near --

3                   MR. SOCKWELL: What was your last name again, sir?

4                   MR. JOHNSTON: Johnston.

5                   MR. SOCKWELL: Oh, thank you.

6                   MR. JOHNSTON: With a t, no e.

7                   Sitting with me would be all of the neighbors on  
8 the immediate block that have signed the petition that you are  
9 being presented. They could not attend today, but they are in  
10 agreement on the points that I am about to make.

11                   We are most concerned about the micro environment,  
12 if you will, at Ontario and Euclid. With the current facilities  
13 that these two sister organizations -- that is, Jubilee Housing  
14 and Samaritan Inns, Inc. -- hold in that immediate neighborhood,  
15 we --

16                   CHAIRPERSON REID: That Jubilee Housing and what?

17                   MR. JOHNSTON: Samaritan Inns, Inc.

18                   CHAIRPERSON REID: Okay.

19                   MR. JOHNSTON: Both not for profits.

20                   CHAIRPERSON REID: I'm sorry, did you give your  
21 name and address?

22                   MR. JOHNSTON: I did, David Johnston, 2510 --

23                   CHAIRPERSON REID: I must have been reading your  
24 map.

25                   Okay, Mr. Johnston?

1 MR. JOHNSTON: Correct.

2 CHAIRPERSON REID: You can only, for this  
3 particular hearing, concern yourself with the issues that are  
4 germane to Jubilee Housing.

5 MR. JOHNSTON: That is exactly what I'm doing.

6 CHAIRPERSON REID: All right. I heard you say  
7 something about Samaritan Inns?

8 MR. JOHNSTON: Samaritan Inns. They are sister  
9 corporations. They're identical for corporate purposes.

10 CHAIRPERSON REID: But again, we're still dealing  
11 with only Jubilee Housing.

12 MR. JOHNSTON: Correct. If you look at all the  
13 circles, those are Jubilee Housing related or Samaritan Inn  
14 related. Those little circles are all of the facilities that are  
15 run by the sister organizations. I'm trying to bring context to  
16 the parking and traffic situation created.

17 CHAIRPERSON REID: I'm not sure that those -- I'm  
18 not sure you can do it -- I'm not sure that that is the correct  
19 way to proceed here. Notwithstanding the fact that there may be a  
20 sister organization, which I don't know if that's been really  
21 verified, but we still have to deal only with Jubilee Housing.

22 MR. JOHNSTON: All of these facilities are Jubilee  
23 Housing. The little circles.

24 CHAIRPERSON REID: Just one second, please.

25 MR. JOHNSTON: Sure.

1 CHAIRPERSON REID: Okay, let me hear what you have  
2 to say.

3 MR. JOHNSTON: Proceed?

4 CHAIRPERSON REID: Let me hear what you have to  
5 say.

6 MR. JOHNSTON: Okay. The neighbors and I are most  
7 concerned about the gridlock and the traffic problems created in  
8 our micro environment. That's Ontario Road and Euclid Street. If  
9 you see, there are four facilities right on our immediate block,  
10 this being one.

11 At each juncture, we're given the same arguments  
12 regarding parking and traffic. That is why I'm here today in  
13 support of some rational plan regarding parking and traffic for  
14 this particular facility, the kiddie care center at the corner of  
15 Ontario and Euclid.

16 We are very concerned about the traffic that is  
17 created. As I've just learned, it sounds like four hours every  
18 day. I thought it was shorter. But a four hour period in the --  
19 two hours in the morning, two hours in the afternoon when the  
20 children are dropped off, when the staff arrive and leave.

21 To use something I just heard from the last  
22 hearing, the number of pick ups and drop offs per day, with 50  
23 children and 15 staff, depending on who is doing what, it's a  
24 potential of 65 in the morning and 65 in the afternoon.

25 When we're trying to use our streets or our parking

1 in our neighborhood, it does feel like 65 people are being picked  
2 up or dropped off twice per day. To my knowledge, there is no  
3 parking whatsoever at that building.

4 That building is an apartment complex with I don't  
5 know how many apartments and regular residents. It is also used  
6 for the kiddie care center down in the basement. My understanding  
7 is there is no on site parking whatsoever.

8 Therefore, they're coming to our street parking for  
9 their needs in the neighborhood. Most of the homes on both  
10 streets, Ontario and Euclid, in that immediate micro environment  
11 do not have off street parking.

12 We rely on on street parking and our zoning  
13 stickers to have parking during the day and in the evenings. This  
14 is, of course, also the restaurant district. You're aware of  
15 Adams-Morgan, the restaurant district, and the increased parking  
16 burden we have in the evenings and weekends.

17 This parking situation leads to blocking off our  
18 alley and out street, total gridlock on a very regular basis. The  
19 traffic and parking. Ambulances, fire trucks, police cannot get  
20 down our alley, cannot get down our street on a regular basis.

21 The facilities here double park blocking the  
22 traffic on a regular basis. Again, total gridlock in the  
23 immediate neighborhood. It creates a safety issue at night when  
24 we have to drive further out to park and come home.

25 We are very concerned about these issues and would

1 like something that is in a written, binding, enforceable format  
2 to alleviate parking and traffic situations in the neighborhood.  
3 Our experience with the corporation to date has not been that  
4 there is any goodwill to be granted with the corporation.

5 In community hearings, in other discussions with  
6 the corporation regarding its facilities in our neighborhood, we  
7 have not been treated in a fashion whereby goodwill would  
8 reasonably be granted.

9 Quite a few misstatements on a regular basis. If  
10 anything is agreed upon, I would please ask for it to be in  
11 writing and enforceable, otherwise it will have no merit regarding  
12 the situation.

13 Again, the people in my neighborhood who have  
14 signed the petition and I in that immediate block are very  
15 concerned about the parking and density issues, the traffic issues  
16 created by this facility. We would strongly request something be  
17 done about that in this particular facility.

18 We're interested that counsel is very concerned  
19 about my concerns, the neighborhood's concerns. In the past year  
20 and a half that I've been dealing quite actively with this  
21 situation, we have not had those issues addressed by the  
22 corporation in any facility.

23 So, if there are any questions?

24 CHAIRPERSON REID: Did you submit the petition that  
25 you referred to?

1 MR. JOHNSTON: It's 15 -- I just handed it to Mr.  
2 Hart. It's 15 pages. It was with the map. I can give you  
3 another copy. I have the originals here. And those are all of  
4 the homes -- those are all of the homes on our side of Euclid,  
5 Ontario and across.

6 It's a one way street, by the way, right in front  
7 of the facility, so the traffic dumps into our block coming north.

8 CHAIRPERSON REID: Okay. All right, thank you very  
9 much.

10 MR. JOHNSTON: Thank you.

11 CHAIRPERSON REID: Okay, closing remarks. Are  
12 there any other persons here in opposition? Okay, closing remarks  
13 by the applicant.

14 MS. PRINCE: Thank you, members of the Board.

15 I did not learn about that petition until the start  
16 of this hearing. I would like to see a copy of it and again have  
17 an opportunity to respond in writing. We're not at all certain  
18 how the petition was worded and we were not aware of any of this  
19 opposition in writing or orally from neighbors prior to this  
20 hearing.

21 I would like to state once again that The Garden  
22 serves a vital need in the community. With a waiting list of 200,  
23 that speaks for itself. The center is extremely well run. I've  
24 been out to the site innumerable occasions.

25 It is a licensed facility. It has a current

1 license. There is daily care taken to the site to ensure that it  
2 is maintained in pristine condition. The safety of the children  
3 is at issue, and that's always a concern to the operator of a  
4 center.

5           Regarding the purported gridlock, 20 cars travel to  
6 the site over a two hour time span to drop of children in the  
7 morning. Thirty of the parents use public transportation or walk  
8 to the site.

9           And I do not believe that an organization such as  
10 The Garden, which is doing so much good for the community, should  
11 be forced to pay for the sins of other uses in the area that are  
12 completely unrelated to The Garden.

13           Regarding the previous order, almost all of the  
14 conditions in the previous order would be acceptable conditions  
15 except that many have already been addressed. As I said, the site  
16 is -- the facility is properly licensed, but the drop off and pick  
17 up conditions are fine.

18           We have an arrangement with the Festival Center.  
19 Four spaces are available there for use by staff if they so choose  
20 that as opposed to an alternative parking arrangement. The  
21 dumpster location is in place.

22           The play areas have been improved. It is a lovely,  
23 lovely play area for these children. The hours of operation will  
24 not change. The number of children will decrease.

25           And I should note that that shows the diligence of

1 the director in complying with the licensing requirements because  
2 it would have been very easy to her to say let's go for the extra  
3 four kids and try to sneak them in, and instead she said it's not  
4 permitted under our license.

5 The staff does, in fact, have to increase slightly  
6 to meet the licensing requirement. The final condition about a  
7 community liaison is quite appropriate. And I would --

8 CHAIRPERSON REID: Where is that condition?

9 MS. PRINCE: The final condition on page -- it's  
10 condition 11 on the -- in order 14932. I would include it in a  
11 proposed draft order that I submit to the Board.

12 CHAIRPERSON REID: I'm sorry, I don't see that  
13 right away. What page is it, page nine did you say?

14 MS. PRINCE: Page ten of order 14932 discusses a  
15 community liaison representative to work closely with the ANC and  
16 the neighborhood. That, in fact, has been a role that's been  
17 assumed by the director.

18 CHAIRPERSON REID: And how far did that go because  
19 the person in opposition states that there has not been a, you  
20 know, good dialogue or relationship, and that person also  
21 submitted the petition.

22 MS. PRINCE: Right. I mean, I believe we should be  
23 very up front in acknowledging that there has been turn over among  
24 the directors, and that always affects communications with the  
25 neighborhood.

1 Jennifer, who is here today, has been with The  
2 Garden only since April. However, I think renewed emphasis can be  
3 placed on The Garden regarding this community liaison position.

4 There is a staff member that regularly has  
5 discussions with representatives of the ANC about goings on in the  
6 community, but it should be more formalized, especially in light  
7 of some of the issues that have come up.

8 And that would be perfectly acceptable. I know in  
9 previous cases we've considered quarterly meetings. We could  
10 voluntarily go to the ANC quarterly. We're open to anything that  
11 would ensure improved communications.

12 CHAIRPERSON REID: Well, I think that given the  
13 fact that you do have some sentiments that have been aired here  
14 today regarding the parking, a couple of things I would like to  
15 find out. Number one, the employees -- the parents who bring the  
16 children, they drop them off and come back and pick them up.

17 Okay, now when that occurs, does that cause a  
18 disruption in the traffic there in front of Jubilee House or The  
19 Garden?

20 MS. PRINCE: It's my understanding that there is  
21 not any gridlock created as a result of the drop off activities.

22 CHAIRPERSON REID: Why don't we have the director -  
23 -

24 MS. PRINCE: But Bob Morris is here and the  
25 director is here and they can both address that.

1 CHAIRPERSON REID: Let's have the director come up  
2 and see what she -- how she addresses that question.

3 MS. LILLEY: This is the question about the parking  
4 in the morning?

5 CHAIRPERSON REID: No, this is regarding traffic,  
6 traffic pile up or traffic ensnarles -- being ensnarled pick up  
7 and drop off.

8 MS. LILLEY: Okay, when the parents drop off or  
9 pick up their children, they do park right outside the door and  
10 it's just a matter of minutes. They come in, they get their child  
11 or drop their child off and then they go back to their cars.

12 The congestion that I have seen, you know, since I  
13 have been there has not necessarily been our parents, but there  
14 has been a lot of work in the area. I mean, I've seen utility  
15 companies and people living there having work done on their homes.

16 That's the congestion I've seen. There are -- as  
17 we said, I counted the number of parents who actually drive their  
18 children to the center, and there are only 20. And we open at  
19 7:00 a.m. The children have to be there by 9:30 a.m.

20 So that's two and a half hours where there are only  
21 20 cars coming during that period of time.

22 CHAIRPERSON REID: But -- go ahead.

23 MS. LILLEY: And in the afternoon it's the same  
24 thing. Some of the parents come as early as 3:30 and we're open  
25 until 6:00.

1 CHAIRPERSON REID: So it's staggered?

2 MS. LILLEY: Right, it's staggered. They don't all  
3 come at one time. It's a two and a half hour period either way in  
4 the morning and in the afternoon. And we're only talking about 20  
5 parents who actually drive their children to the center.

6 CHAIRPERSON REID: Okay, but you have also, within  
7 your submission -- your response to 205.3, that a staff member is  
8 posted at the entrance.

9 MS. LILLEY: Right inside the --

10 CHAIRPERSON REID: So if the staff member is  
11 posted, the parents have to park? I mean the staff member does  
12 not come to the car?

13 MS. LILLEY: Okay, can I explain that? The staff  
14 person is posted right inside the door, the entrance. They're not  
15 out on the --

16 CHAIRPERSON REID: Okay.

17 MS. LILLEY: -- on the sidewalk.

18 CHAIRPERSON REID: In regard to -- there are a  
19 couple of things that concerns me. One is that you were three  
20 years delayed -- is it three years? You were supposed to -- '95,  
21 right. Your previous order expired in '92 -- I'm sorry, expired  
22 in '95, and this is 1999 and you're just getting here.

23 So the fact that you all had changes in  
24 administration and what have you to me is not really an adequate  
25 excuse for your not being in compliance because they reason why

1 they stipulated three years was so that they could ascertain the  
2 impact or the adverse impact of your facility in the neighborhood.

3 And consequently, it has now been six years, which  
4 means then that any issues that had arisen were allowed to fester  
5 and the neighbors had to basically -- the community folks who --  
6 residents had to suffer through whatever until you got around to  
7 coming here.

8 And I think that it's very important that you  
9 realize that no matter who is at the realm of the organization,  
10 there's still obligation to be in compliance with the Board  
11 orders, and that was not done.

12 So that means that you've been in violation for  
13 three years. That's one thing. The other thing is if the  
14 problems that are coming up -- it appears that I'm hearing that  
15 it's a lack of communication with you and the community or the  
16 people who live in the community.

17 And again, it's been proffered that that came about  
18 as a result of not having consistent -- or you lost your  
19 institutional memory and consistent administration. Nonetheless,  
20 there is still already stipulated in your order what in fact the  
21 conditions of your -- being granted the order would be, and that  
22 was to be able to have an ongoing, consistent relationship with  
23 the community, with the community -- in the form of a community  
24 liaison.

25 And that has been faulty. I guess that's the best

1 word to say, faulty. You did and sometimes you didn't. And I  
2 think that if that had been done, as had been conditioned in the  
3 order, then we certainly would probably have less of that kind of  
4 adverse -- or that kind of opposition coming here or submitting to  
5 us these concerns.

6 So I think that it is extremely important that on  
7 an ongoing basis, if not with the advent of a person on your board  
8 from the community, to make sure that these things are being  
9 addressed on a consistent basis.

10 Obviously Jubilee Housing -- The Garden serves a  
11 very worthwhile purpose. But, at the same time, it cannot be --  
12 it cannot be allowed to operate at the expense of causing a  
13 nuisance to the community or the neighbors.

14 And even though some of it may be conceived --  
15 preconceived or conceived because of the fact that there is so  
16 much other activity going on in the community, but because you  
17 don't have the communication as a result of that, you're being  
18 singled out as the cause of a lot of the problem.

19 And this did not even have to become an issue is  
20 the whole point I'm trying to make.

21 The other thing is in regard to the other Jubilee  
22 facilities that are reflected on the map that was presented by the  
23 gentleman who testified in opposition.

24 I don't understand. What does he mean by the fact  
25 that all of these are part of Jubilee House, the ones that have a

1 circle around them? I don't understand the relationship or the  
2 structure or --

3 MS. PRINCE: I'm prepared to address that. The map  
4 is quite over inclusive. Jubilee Housing is a completely separate  
5 entity from more than half of the facilities that are circled.

6 Obviously I should have said first none of these  
7 facilities are the subject of this hearing and none of these  
8 facilities have any ongoing zoning cases associated with them, so  
9 I believe it's just not germane to the hearing.

10 But Jubilee, as an organization that's had a  
11 presence in the community for the past 30 years, has had spin off  
12 organizations over the years that have created entities like the  
13 Christ House, entities like The Garden, entities like The Family  
14 Place.

15 They are separate corporate entities governed by  
16 entirely separate boards, separate budgets, separately funded.

17 CHAIRPERSON REID: Okay.

18 MR. GILREATH: Madame Chair, I concur with your  
19 remarks that the school or day care center obviously should have  
20 been more vigilant in identifying the approaching expiration of  
21 the order and so forth.

22 However, I understood that the director of the  
23 school, that she apparently, when she came aboard, she identified  
24 this and brought it to our attention. So there was an attempt for  
25 the new management to rectify this problem, so I think they

1 receive credit for that.

2           Secondly, I have difficulty associating all these  
3 other facilities with this one. This school has been permitted to  
4 operate in the stagger -- when they pick up and drop off, 20  
5 parents who drop their kids off and pick them up.

6           I'm sure there's probably a little bit of extra  
7 congestion, but to place all the burden on this school for -- I  
8 suspect during rush hour Euclid Street and some of these other  
9 streets are pretty heavily congested.

10           So that -- and they are providing four parking  
11 spaces I think off site for people who want to park there. The  
12 fact I've not heard -- I know this general statement of complaint,  
13 but I've not heard from the ANC saying that there is identifiable,  
14 specific traffic difficulties and so forth.

15           They've been operating and, from my point of view,  
16 I don't -- I think we'd be very remiss to rescind their authority  
17 to continue to operate. I think indeed they should be permitted  
18 to do so. And we can certainly keep the orders and certainly  
19 emphasize the need for them to have a better liaison for the  
20 neighborhood.

21           I think that's appropriate. But I've not heard  
22 anything to say -- that would justify drastic, major measures to  
23 say they can't continue. I think they should be permitted to do  
24 so.

25           CHAIRPERSON REID: Okay.

1 MR. SOCKWELL: I have a couple of questions I'll  
2 direct to Mr. Morris. And while I realize we've had discussions  
3 before, let me at least preface my statement by saying that I grew  
4 up at 1724 Euclid Street, all the way.

5 So I know the neighborhood like the back of my  
6 hand. I know all the alleys. I know all the buildings. I even  
7 surveyed that building probably prior to the day care center going  
8 in for that purpose in '80 whatever it was.

9 The thing is that the neighborhood is heavily  
10 impacted by traffic, has always been heavily impact by traffic.  
11 The mere presence of a single car double parked on Ontario Road  
12 near the corner of Euclid would potentially cause a problem with  
13 the stop sign system and people getting around.

14 Multiple cars would be another problem. Is there a  
15 loading area provided at your drop off point?

16 MR. MORRIS: If you're asking me, sir, --

17 MR. SOCKWELL: Yes.

18 MR. MORRIS: No, there is not one provided there.

19 MR. SOCKWELL: Okay, so it is obvious that, under  
20 any circumstances, cars will either have to park or double park to  
21 discharge or pick up the children?

22 MR. MORRIS: That's correct, sir.

23 MR. SOCKWELL: Okay. And directly across from the  
24 entrance is the driveway, the double driveway with the deck above  
25 it that I played on as a child, threw water balloons in the street

1 from. But the point is that the neighborhood is impacted, has  
2 been impacted over a number of years.

3 The day care use has established its own impact,  
4 and that impact is probably not going to be changed to be made  
5 better or particularly worse by a decision of this Board with  
6 regard to those parking spaces.

7 And I believe that a conscientious effort by The  
8 Garden to reestablish its communication with the community is  
9 paramount to creating the relationship that may not exist now. It  
10 might even be more important to have that community relationship  
11 and a good control of getting the kids in and out than would be  
12 requesting a drop off, which would further reduce the amount of  
13 parking.

14 I do not know where the 46 cars that you  
15 established during the day came from because I've never, even  
16 growing up, when I first got my driver's license, I was usually  
17 parking two blocks away from home because there were no parking  
18 spaces available.

19 And it can't have gotten any better. Because I've  
20 frequented Adams Morgan -- in fact, the reason I don't go is  
21 because you can't park. But I do believe that The Garden is a use  
22 that is important to the community and that it should be  
23 maintained, and that it, as a service, is something that is  
24 germane to the area and the area's needs.

25 Very definitely so.

1 CHAIRPERSON REID: Thank you.

2 Okay, Ms. Prince, does that conclude your remarks?

3 MS. PRINCE: That concludes my remarks. We have  
4 not had any discussion about a term for the Board's approval. And  
5 if you would like my thoughts on that, I'd be happy to provide  
6 them.

7 CHAIRPERSON REID: Uh-huh.

8 MS. PRINCE: We would appreciate a three year term.  
9 We understand the issue with the noncompliance during the period  
10 that the order had lapsed. As I explained, it was quite an  
11 unusual condition in that the certificate of occupancy does not  
12 contain an expiration date.

13 And for that reason, the normal triggers did not  
14 trigger and the center was able to secure its license repeatedly.

15 And that's quite an unusual --

16 CHAIRPERSON REID: Yes, it is.

17 MS. PRINCE: -- situation.

18 CHAIRPERSON REID: But maybe not.

19 MS. PRINCE: Nonetheless, I believe that with an  
20 established community liaison relationship and a lot of input from  
21 the ANC and discussions with the immediately affected neighbors,  
22 we can continue to serve a very important need in the community  
23 and we'll still have to come back here in three years and  
24 demonstrate that we've done that.

25 CHAIRPERSON REID: All right, is that it?

1 MS. PRINCE: I would appreciate your action today;  
2 but with opposition in the record, I'm not sure that you're in a  
3 position to do that. That's your call.

4 CHAIRPERSON REID: I think that given the fact that  
5 we don't have a party in opposition -- Ms. Pruitt -- no, we don't  
6 have a -- so that we can act on it if we choose to today.

7 MS. PRUITT: So you've decided not to leave the  
8 record open for -- as requested by the letter?

9 CHAIRPERSON REID: Does that preclude us being able  
10 to receive a statement?

11 MS. PRUITT: Well, I mean, if you make a decision  
12 today, it doesn't really make -- why would you receive a statement  
13 because the record would -- I mean it would be essentially closed.

14 CHAIRPERSON REID: Well, I think that given the  
15 fact that the gentleman was here and that he wrote us a note, that  
16 he could have therein indicated to us what the nature of his  
17 opposition was and he failed to do that.

18 I don't think there should be a reason for us to  
19 hold up making a decision today. I don't know how the other  
20 Board members feel.

21 MR. GILREATH: I think we have adequate information  
22 to make a decision. And I feel that the gentleman who left the  
23 note, he was at fault in that he did not -- instead of writing a  
24 full paragraph of how important his work is, he could simply have  
25 said I have concerns regarding A, B and C, a sentence or two, but

1 we have no notion.

2 So I have no problem of it going in the record, but  
3 frankly I think his statement to be irrelevant.

4 CHAIRPERSON REID: Do you want to make a motion?

5 MS. PRUITT: I just wanted to know for the record.

6 MR. SOCKWELL: The one thing I did want to say  
7 specifically about the parking and drop off issue is that there's  
8 no way that Ontario Road will be passable if people double park in  
9 the up -- in the north and south direction at the same time trying  
10 to drop the children off.

11 And there needs to be some control of that because  
12 Ontario Road is entirely too narrow with parking on both sides.  
13 Euclid Street from Champlaine to 17th to Ontario Road is one way  
14 going east. From that block forward or further east, it's two  
15 way.

16 CHAIRPERSON REID: Do you want to condition it?

17 MR. SOCKWELL: The condition -- I would like to  
18 condition the approval on a requirement that the center restrict  
19 drop offs to the southbound lane, double parking for minimum  
20 periods only. It would first be safer for the children; and  
21 second, it would prevent the blockage of the street.

22 CHAIRPERSON REID: Okay, do I have a motion?

23 MR. GILREATH: If this is viable and will work  
24 reasonably efficiently and without detriment -- we don't want them  
25 to get the point --

1 MR. SOCKWELL: You have a choice, you have a  
2 choice. Some inconvenience to the parents or gridlock. That's  
3 your choice.

4 MR. GILREATH: Well, the traffic consultant said  
5 they don't have gridlock.

6 MR. SOCKWELL: He didn't grow up there. I did.

7 MR. GILREATH: Yes, but he did his recently.

8 MR. SOCKWELL: But his research I do not agree  
9 with.

10 CHAIRPERSON REID: Okay, is there any objection to  
11 that stipulation that the drop off be contained to one lane during  
12 the rush hour periods?

13 MS. PRINCE: No objection.

14 MR. GILREATH: That can be done without really  
15 adversely affecting the drop off? Okay, fine, I have no problem  
16 then.

17 CHAIRPERSON REID: Okay. All right, is there a  
18 motion?

19 MR. GILREATH: Madame Chair, I move that we approve  
20 the application. I think that the applicant has reason to justify  
21 the basis for a continuation and so forth and their willingness to  
22 reestablish communications with the community and so forth, so I  
23 think they've amply made their case.

24 And therefore, I recommend we approve the  
25 application.

1 CHAIRPERSON REID: For both the special exception  
2 and the variance?

3 MR. GILREATH: The special exception for the  
4 school, the variance for the parking, yes.

5 CHAIRPERSON REID: All right, what about -- do you  
6 want to include the condition as --

7 MR. GILREATH: Well, I think in the back there most  
8 of those still apply.

9 CHAIRPERSON REID: Did you say something?

10 MR. SOCKWELL: No one seconded it.

11 CHAIRPERSON REID: I'll second it. All right, and  
12 with the conditions as set forth in the previous Board order.

13 MR. GILREATH: All right, three years. And had  
14 they complied in a minimum time, we might have been first inclined  
15 to give them five.

16 CHAIRPERSON REID: Right.

17 MR. GILREATH: But three we'll provide.

18 CHAIRPERSON REID: And some orders -- I mean some  
19 of the conditions that have already been dealt with they have --  
20 they're no longer relevant, so let's not --

21 MR. GILREATH: And the --

22 MR. SOCKWELL: Do you want to read the conditions?

23 CHAIRPERSON REID: Fire and safety -- okay, let's  
24 see. Approval of the facility for the present applicant only.  
25 That's good.

1 MS. PRINCE: Actually, that's an unenforceable  
2 condition, just by point of information, under well established  
3 case law, including the Black Child case. The approval cannot  
4 flow just to -- the approval travels with the property.

5 CHAIRPERSON REID: The variance goes with the land?

6 MS. PRUITT: The approval travels with the property  
7 for the time specified.

8 MR. SOCKWELL: I would --

9 MS. PRINCE: For the time specified, correct.

10 MR. SOCKWELL: I would change --

11 CHAIRPERSON REID: Okay, so -- wait, wait, wait,  
12 let's be clear.

13 Ms. Prince, while it's true that the variance goes  
14 with the land, I think that in this instance we're referring to  
15 during the three year period in which the day care center will be  
16 operating there, that it will be for that use and that use alone.

17 And I think that's permissible.

18 MS. PRINCE: For that use, yes. For that operator,  
19 no.

20 CHAIRPERSON REID: During that three year period.

21 MS. PRINCE: We do not anticipate any change in  
22 operator. I'm just --

23 CHAIRPERSON REID: So then that's not a problem,  
24 number one.

25 MS. PRINCE: It's not a problem. I'm just -- I

1 just wanted to note that to restrict the -- it's the use that you  
2 need to dictate rather than the operator.

3 CHAIRPERSON REID: Used for the child care center?

4 MS. PRINCE: Correct.

5 CHAIRPERSON REID: Okay.

6 MS. PRINCE: Correct.

7 CHAIRPERSON REID: I see, a point of law. Thank  
8 you.

9 All right, fire and safety deficiencies, that's  
10 been taken care of, I presume?

11 MR. SOCKWELL: I would restate that. All fire and  
12 life safety systems shall be maintained according to District of  
13 Columbia law.

14 CHAIRPERSON REID: Okay, the number three, the  
15 staff member being posted at the entrance, that's still good.

16 MS. PRINCE: That's fine.

17 CHAIRPERSON REID: And you have now what, four  
18 parking spaces?

19 MS. PRINCE: Correct.

20 CHAIRPERSON REID: Four parking spaces. So it  
21 would be amended to say four proposed play areas on site and off  
22 site shall be substantially improved to ensure that there will be  
23 no objectionable impacts on adjacent or nearby properties.

24 MR. SOCKWELL: See, you need to change those to  
25 present condition because these were probably done --

1 CHAIRPERSON REID: How do you want it to be  
2 changed?

3 MR. SOCKWELL: I would say proposed play areas on  
4 site and off site shall be maintained with -- shall be maintained  
5 as existing or improved.

6 CHAIRPERSON REID: Okay.

7 MS. PRINCE: That's fine.

8 MR. GILREATH: Well, that's an unnecessary  
9 redundancy.

10 MR. SOCKWELL: Well, the thing is --

11 MR. GILREATH: How does that change --

12 MR. SOCKWELL: The thing is that maintained as  
13 existing means that they're in compliance now, improve means  
14 they'd be made better. And they can do that. But this doesn't  
15 require that.

16 MR. GILREATH: Why can't you say shall continue to  
17 be maintained or something like that?

18 MR. SOCKWELL: That's fine.

19 MR. GILREATH: Or shall be maintained.

20 CHAIRPERSON REID: All right, number five is okay.  
21 Number six, the trash dumpsters are located adjacent to the  
22 entrance of the facility. Should be properly screened.

23 Was that done?

24 MS. PRINCE: Yes.

25 CHAIRPERSON REID: Okay, so then scratch that. The

1 driveway walkway will provide access to the property --

2 MS. PRINCE: It is paved.

3 CHAIRPERSON REID: That's done?

4 MS. PRINCE: Done.

5 CHAIRPERSON REID: So scratch that. Okay, now the  
6 Office of Planning had conditions regarding hiring qualified  
7 personnel from Adams-Morgan community. Has that been done?

8 MS. PRINCE: I'm sure that it has been, but I don't  
9 see it as a condition in the order.

10 CHAIRPERSON REID: Oh, I'm sorry, the ANC  
11 condition. I mean I'm sorry, the -- wait a minute, this is the  
12 Advisory Neighborhood Commission's conditions. The approval was  
13 predicated upon these conditions being met.

14 And that is part of the order?

15 MS. PRINCE: The conditions in order number 14932  
16 don't include any hiring limitations.

17 CHAIRPERSON REID: Wait a minute.

18 MS. PRINCE: However, --

19 CHAIRPERSON REID: Okay, I see what you're saying.

20 In other words, those were the --

21 MS. PRINCE: Recommended by the Advisory  
22 Neighborhood Commission, but not adopted by the Board.

23 CHAIRPERSON REID: Right, they did not condition  
24 it. Okay, it was not conditioned, okay.

25 MS. PRINCE: In reality, a tremendous number of the

1 staff comes from Adams-Morgan.

2 CHAIRPERSON REID: That's been taken care of. And  
3 the parking matter has been taken care of.

4 MS. PRINCE: Correct.

5 CHAIRPERSON REID: The other thing would be the  
6 condition from -- that Mr. Sockwell indicated, and that is that  
7 the center restrict drop offs to southbound lanes during drop off  
8 and pick up rush hours. And there was also a change in the number  
9 of children to 50 children.

10 MS. PRINCE: Correct.

11 CHAIRPERSON REID: And 12 teachers and staff.

12 MR. GILREATH: Fifteen.

13 CHAIRPERSON REID: I'm sorry, 15 rather than 12.  
14 And still Monday through Friday, 6:00 to 7:00 p.m., correct?

15 MS. PRINCE: 7:00 to 6:00.

16 CHAIRPERSON REID: Oh, okay.

17 MS. PRINCE: Two hours less.

18 CHAIRPERSON REID: 7:00 a.m. to 6:00 p.m. Okay,  
19 were there any other conditions that --

20 MR. GILREATH: Well, from the Department of Health  
21 Licensing Regulation Administration, do we really need to put that  
22 in there, they've got to comply with this --

23 CHAIRPERSON REID: Yes, they've got to.

24 MS. PRINCE: We have a current license.

25 CHAIRPERSON REID: All right, and in regard to the

1 community liaison, did we mention that one?

2 MR. SOCKWELL: We did not.

3 CHAIRPERSON REID: Where was that? Hold on. Hold  
4 on a second. Let's make sure we've got -- which condition was  
5 that?

6 MR. GILREATH: The applicant shall effectively  
7 maintain a community liaison representative or something like  
8 that.

9 CHAIRPERSON REID: Okay, these were --

10 MR. SOCKWELL: They don't have one designated now.

11 MS. PRINCE: I think it's effectively functioned as  
12 the director.

13 MR. SOCKWELL: Okay.

14 MS. PRINCE: And there's one staff member that  
15 regularly communicates with the ANC, so --

16 CHAIRPERSON REID: Okay, with the ANC. But I think  
17 that it would behoove you to make contact somehow with the persons  
18 who signed the petition just -- this is not a condition, but I  
19 just think that it would be in your best interest to contact them  
20 and to try to get some type of communication, dialogue going.

21 If you have a newsletter, perhaps you can make sure  
22 that these people are included on your mailing list so that they  
23 will understand better what's going on and perhaps when you have  
24 your -- I don't know if you have meetings with the community.

25 I think Ms. Prince mentioned something about four

1 times a year or something like that.

2 MS. PRINCE: We'd be happy to do that.

3 CHAIRPERSON REID: That you make sure that you  
4 reach out to the persons who are most impacted by your facility  
5 being in their neighborhood. I don't know if we can put in the  
6 community liaison -- work with the ANC and neighborhood in order  
7 to monitor and eliminate any adverse impacts.

8 MR. SOCKWELL: I'd say mediate, not eliminate  
9 because there may be some existing impacts.

10 CHAIRPERSON REID: To mediate --

11 MR. SOCKWELL: And eliminate.

12 CHAIRPERSON REID: To mediate and/or eliminate --

13 MR. SOCKWELL: And/or eliminate.

14 CHAIRPERSON REID: -- any adverse impacts and meet  
15 with the community or have some type of interaction at least four  
16 times a year. Would that be all right?

17 MS. PRINCE: That's fine.

18 CHAIRPERSON REID: Okay. All right, all in favor?

19 (Chorus of ayes.)

20 Opposed?

21 MS. PRUITT: Staff would record the vote as three  
22 to zero to approve, motion made by Mr. Gilreath and seconded by  
23 Ms. Reid.

24 MS. PRINCE: Thank you.

25 CHAIRPERSON REID: Okay, the last case of the

1 morning.

2 MS. PRUITT: The last case on the morning agenda is  
3 16503, application of N Street Follies Limited Partnership/A D.C.  
4 Limited Partnership, pursuant to 11 DCMR 3108.1, for a special  
5 exception to use the premises as a general office use under  
6 Section 508 in a DC/SP-1 District at 1746 N Street, N.W. (Square  
7 159, Lot 40).

8 All those planning to testify, would you please  
9 stand and raise your right hand.

10 (The witnesses were sworn.)

11 MR. GLASGOW: Madame Chair, for the record, my name  
12 is Norman M. Glasgow, Jr., law firm of Wilkes, Artis, Hedrick &  
13 Lane.

14 CHAIRPERSON REID: Did you call the case?

15 MS. PRUITT: Yes.

16 MR. GLASGOW: Representing the applicants in the  
17 case. I'm here with Mr. Brodsky, who is here also on behalf of  
18 the applicant. And to my immediate right is Mr. Gary Squire. Mr.  
19 Squire is here as the contract purchaser of the property who wants  
20 to relocate his offices to the premises.

21 And to my far right is Mr. Brodsky, who is also  
22 here on behalf of the applicant.

23 This case involves a special exception for office  
24 use of a four story mid block building at premises 1746 N Street,  
25 N.W. The building is abutted on both sides by office uses, and

1 office use is the predominant use of the block.

2 I assume the members of the Board have received a  
3 copy of the statement of the applicant which sets forth the  
4 special exception test and how it is met by the applicant. I've  
5 got a copy of that here. I assume that the Board members have  
6 seen this document.

7 CHAIRPERSON REID: Yes, we have.

8 MR. GLASGOW: Thank you.

9 CHAIRPERSON REID: Mr. Glasgow, let me -- I'm  
10 sorry, I was talking to someone. Let me get an idea as to -- are  
11 there persons here in opposition to this particular case? Okay,  
12 fine.

13 And so therefore, as usual -- and also given the  
14 lateness of the day and the fact that you all have had to wait so  
15 long -- I apologize for that -- Mr. Glasgow, could you just  
16 expedite. We have read your submission.

17 MR. GLASGOW: Sure.

18 CHAIRPERSON REID: Give us the highlights and we  
19 should be able to get through this fairly quickly.

20 MR. SOCKWELL: And thank you for not being a strip  
21 club.

22 (Laughter.)

23 CHAIRPERSON REID: I know. I kind of raised my  
24 eyebrow when I first picked up the case, the packet.

25 MR. GLASGOW: No, this is just an office use.

1                   Mr. Squires is the real party and interest and  
2 he'll be able to -- Mr. Squires, the statement of applicant that  
3 has been filed, have you read that statement?

4                   MR. SQUIRE: Yes.

5                   MR. GLASGOW: And with respect to that statement,  
6 do you adopt that statement as your testimony in this case?

7                   MR. SQUIRE: Yes, I do.

8                   MR. GLASGOW: I will highlight that statement for  
9 the Board members briefly. And if you have any questions of Mr.  
10 Squire, then you can proceed with those.

11                   With respect to the application, going through the  
12 exhibits we first have as Exhibit A the based atlas plat that  
13 shows the subject property outlined. It's lot 40 located on the  
14 south side of N Street between Connecticut Avenue and 17th Street.

15                   Exhibit B is a copy of the tax assessor's square  
16 map. And if you go two lots to the west of the subject property,  
17 you'll see lot 88, which is a five and a half FAR 90 foot office  
18 building. Lot 82 is a six and a half FAR 90 foot office building.

19                   Lot 89 is the site that St. Matthews Cathedral is  
20 on, which is also the site of an office PUD to be constructed.  
21 And if you look on the N Street, the north and south side has a  
22 lot of associations, law office uses, and is essentially an office  
23 street with a couple of small hotels on that street.

24                   With respect to Exhibit C, it's the zoning map  
25 showing the subject site as located in the D.C. SP1 category which

1 permits office use with special exception in this situation. And  
2 we immediately about C-3-C property.

3 Well, it's two lots to the west. And also to the  
4 south, not shown on the zoning map, the PUD was approved as a C-3-  
5 C PUD. Then the next Exhibit D shows the lot. It is -- north is  
6 facing down on this particular plat.

7 There is a parking area to the south of the  
8 property, on the southern edge of the property, which holds three  
9 parking spaces. Exhibit E are photographs of the subject property  
10 showing the office use. It is presently an office use.

11 Exhibit F is a plat of the comprehensive plan land  
12 use map. Exhibit G is an outline of the testimony of Mr. Squire.

13 Exhibit H is a series of tax bills which have been received for  
14 the property showing -- designating the subject property as office  
15 use for the past several years.

16 The special exception criteria is found in Section  
17 508 of the zoning regulations. It provides that this Board can  
18 approve the office use, construction of a new office building, or  
19 construction of addition to an office building for office use or  
20 conversion of an existing building to office use as permitted with  
21 BZA approval.

22 We're here asking that approval, although there is  
23 office use in the property at this point in time. 508.2, each  
24 application shall be referred to the Office of Planning. That has  
25 been done, but I understand there is no OP report.

1                   508.3, the use site bulk and design shall be in  
2 harmony with existing uses and structures on neighboring  
3 properties. The use is the same as it's been, although we are  
4 going to have less employees. You have -- Mr. Squire has eight  
5 employees. The present use of the property has 12.

6                   The height, bulk and design of the property shall  
7 remain the same. It's not being changed. With respect to 508.4,  
8 if an application proposes to convert a residential or a hotel to  
9 office use, then it has specific provisions dealing with that.

10                   We are not proposing to convert a residential or  
11 hotel building to office use. That's already in existence.  
12 Section 508.5, the use shall not create dangerous or other  
13 objectionable traffic conditions.

14                   The traffic conditions will be the same before and  
15 after action by the Board on this. Section 508.6, the Board may  
16 require special treatment in the way of design, screening of  
17 buildings, accessory use of signs.

18                   There's going to be no change. This site is  
19 located in the historic district. If we desire to change the  
20 building, it must go to the Historic Preservation Review Board,  
21 and Mr. Squire doesn't anticipate any changes to the building.

22                   I think that gives a summary of the manner in which  
23 the applicant meets its burden of proof in this case. If there  
24 are any questions for Mr. Squire, he'd be happy to answer them.

25                   CHAIRPERSON REID: I'm sorry.

1                   MR. GLASGOW: I've completed my summary of how the  
2 application meets its -- how the applicant meets its burden of  
3 proof, and Mr. Squire is available for any questions.

4                   MR. SOCKWELL: Mr. Squire, in the property  
5 management function side of your business, how many people will be  
6 visiting the building during a given day? Will it be staff people  
7 from the building engineers?

8                   MR. SQUIRE: In general, no. We have some large  
9 buildings that we own and manage, and those buildings have staff  
10 at the buildings.

11                   And what we do is we send -- we have someone from  
12 the office who visits the buildings to pick up the rents --  
13 because the rents are not paid at our office, they're paid at the  
14 buildings -- and pick up other materials and deliver other  
15 materials.

16                   So we -- it's more like someone from our office is  
17 a courier for the larger buildings. Visitors in our -- we don't  
18 accept rent at our office. We only -- we were thinking about how  
19 many people come during a day.

20                   The mail delivery. I have an occasional FedEx  
21 delivery, not even every day. And then sometimes, if we're  
22 working on a project, our architect might send over a messenger  
23 with plans. But the traffic is very light. We don't really  
24 entertain at our office. We just work.

25                   And so I don't think there's much of an impact in

1 terms of traffic.

2 MR. SOCKWELL: And in the law side of your  
3 business, is it connected primarily with the property acquisition  
4 disposition and management of tenant issues operation, or is it a  
5 separate entity entirely?

6 MR. SQUIRE: Although the application states I am  
7 an attorney by training, I actually don't really practice law.  
8 The background helps because in our business I am the in house  
9 lawyer, but I'm not much of a lawyer, to be honest.

10 So if we have any legal work, it's outside. So I  
11 don't have clients is what I'm saying. We run -- my partner and I  
12 run our local business for the last 15 years in Dupont area  
13 renovating historic buildings and then acquiring apartments and  
14 managing them and doing small scale development is what I probably  
15 -- is the most accurate term.

16 MR. SOCKWELL: So the office is a convenience to  
17 the general location of most of your properties?

18 MR. SQUIRE: Right, allows us to go to the  
19 properties mostly and to be on site. And to perform the  
20 accounting functions in the office. And a lot of it's accounting  
21 and bill paying. And then we do have a leasing agent in the  
22 office who would go out on some of the smaller buildings in Dupont  
23 Circle and would go to the buildings.

24 But it's more of a home base for our people.

25 MR. SOCKWELL: So with the smaller buildings, and

1 probably only with the smaller buildings, would a potential lessee  
2 come to the office to negotiate a lease once having seen the  
3 property?

4 MR. SQUIRE: They could in certain cases. I don't  
5 want to say that that doesn't happen. But we try to have as  
6 little activity at the office. We don't like to have visitors to  
7 the office really for those purposes. We usually handle it at the  
8 sites.

9 MR. SOCKWELL: And there's room in the back for one  
10 parking space maybe?

11 MR. SQUIRE: There's three, three. A number of our  
12 people live in the neighborhood and walk to work, so we probably  
13 have, of the eight employees, four or five are drivers. We would  
14 have to get one or two spaces perhaps at 1225 Connecticut, which  
15 is where I used to practice law a long time ago at the corner.

16 So I think our parking needs can be handled pretty  
17 easily.

18 MR. SOCKWELL: And your operational hours are from  
19 approximately 7:00 a.m. --

20 MR. SQUIRE: Some people come in -- a couple of our  
21 accounting people come in at 8:00. Most people are gone by 5:00.

22 My partner and I usually stay a little later. We're there from  
23 6:00 or 7:00. But it's typical office hours.

24 No weekends, not much activity.

25 MR. SOCKWELL: So you're never there when the music

1 picks up at 1223 around the corner?

2 MR. SQUIRE: No, no, I don't know about --

3 CHAIRPERSON REID: Let's see, there were no parking  
4 requirements if it's the historic district, right?

5 MR. SOCKWELL: Three spaces in the back.

6 CHAIRPERSON REID: Yes, that they just provide.  
7 They're not required to do so.

8 And it appears that the office use will be for  
9 seven to eight employees as opposed to the 12 that they previously  
10 employ in the building, so therefore there's less intense use  
11 there.

12 I didn't have any other questions.

13 MR. GILREATH: I don't have any questions either.

14 This building has been used for office use for a  
15 substantial period of time?

16 MR. SQUIRE: At least for the 12 years that the  
17 current owner has occupied it. And I believe before that it was  
18 also used for office. I don't know how long, but we tried to  
19 investigate that a little. But we know for sure -- is it 12  
20 years, Norm?

21 MR. GLASGOW: 1988.

22 MR. SQUIRE: Eleven years for sure. I think there  
23 are multiple office users in there now. We're just our office  
24 use. It's a small, local -- we're a small, local company. We're  
25 not too publicity conscious. Active in the neighborhood.

1 CHAIRPERSON REID: Okay, thank you.

2 MR. SOCKWELL: Was a copy of the certificate of  
3 occupancy included in your package?

4 MR. GLASGOW: Mr. Sockwell, if we had a certificate  
5 of occupancy that we could have located, we wouldn't be here  
6 today.

7 MR. SOCKWELL: Oh, okay.

8 CHAIRPERSON REID: All right, there is no one here  
9 -- there's no ANC report, so we're assuming that the ANC has no  
10 objection to your application because they certainly would let us  
11 know.

12 MR. GLASGOW: Do you want the ANC number? It's 2B.

13 CHAIRPERSON REID: 2-B? Thank you. ANC-2B had no  
14 objection. And they're not here today. We don't have any  
15 Government reports in regards to this application. There's no one  
16 here in opposition or in support, so I guess we go to closing  
17 remarks by the applicant.

18 But I just had one question. Mr. Brodsky -- are  
19 you Mr. Brodsky?

20 MR. BRODSKY: I am, ma'am.

21 CHAIRPERSON REID: Okay.

22 MR. BRODSKY: Mark Brodsky. I'm identify myself  
23 for the record. And I am here in my capacity as an attorney for  
24 the owner, but just to reiterate that Wilkes & Artis, through Mr.  
25 Glasgow and his client, are authorized by my client to proceed

1 with this application.

2 And if I was needed for any questions, --

3 CHAIRPERSON REID: That's where I'm a little  
4 confused because the authorization letter is to authorize Mark  
5 Brodsky, and Mr. Glasgow is here --

6 MR. GLASGOW: Right, Mr. Brodsky has authorized me  
7 to proceed.

8 CHAIRPERSON REID: All right, do we need to have  
9 that in writing?

10 MR. GLASGOW: You don't need that in writing. He's  
11 just -- he's done it. He's the authorized agent.

12 CHAIRPERSON REID: Okay, but still I don't know if  
13 we have to have it -- we don't have to have it for the record?  
14 Okay. I was just not sure what role who was playing here.

15 Okay, closing remarks by the applicant.

16 MR. BRODSKY: Thank you.

17 MR. GLASGOW: Just very briefly, I believe that  
18 we've met our burden of proof and we'd like to get an approval as  
19 soon as possible from the Board members.

20 CHAIRPERSON REID: Okay, Board members, I have no  
21 problem with this application. I'd like to move that we approve  
22 the application. I think that they have certainly met their  
23 burden of proof in regard to special exception, and they have  
24 complied with Section 508.

25 There is no one here in opposition. There does not

1 appear to be any adverse impact in regard to parking and light  
2 traffic, noise or the like. And it does not appear to impair the  
3 intent or integrity of the zoning regulations or map.

4 MR. SOCKWELL: There will be no trucks serving the  
5 site from the standpoint of property management people putting  
6 pick up trucks and small paneled vehicles?

7 MR. SQUIRE: No, we don't have any pick up trucks  
8 or soft paneled vehicles actually.

9 MR. SOCKWELL: All right.

10 CHAIRPERSON REID: Okay.

11 MR. SOCKWELL: Thank you.

12 CHAIRPERSON REID: Is there a second?

13 MR. GILREATH: I fully concur with Madame  
14 Chairman's assessment. I think you have met the burden of proof,  
15 and therefore I gladly second the motion for approval.

16 CHAIRPERSON REID: Okay, all in favor?

17 (Chorus of ayes.)

18 Opposed?

19 All right, thank you. You should have your  
20 decision -- your order in about two weeks. This concludes the  
21 morning session.

22 Now for the afternoon.

23 Yes, Mr. Shor.

24 MR. SHOR: Madame Chair, if I may, I'd like to try  
25 and help the Board with one matter. I'd like to withdraw a case

1 that was scheduled for today, but I'd just like to get that  
2 quickly on the record and then be gone.

3 CHAIRPERSON REID: Let's see, Mr. Shor, let me do  
4 this. I'd have to open the -- it's the afternoon session?

5 MR. SHOR: Yes, it was continued from two weeks ago  
6 to be the last case of the day. And Mr. Gell and Mr. Johnson, the  
7 zoning administer and I, are the only parties here. Mr. Johnson  
8 is here. I think he's just inside. And we're all --

9 CHAIRPERSON REID: Okay, let me do this. Let me  
10 convene the afternoon session to allow you to do that.

11 MR. SHOR: Okay.

12 CHAIRPERSON REID: Okay, all right. I will not  
13 read the remarks. I'll do that later. But let me open the  
14 afternoon session of the October 20th Board of Zoning Adjustment  
15 proceedings.

16 And we'll allow you to take care of preliminary  
17 matters in that regard.

18 MR. SHOR: Madame Chair, I'm sorry. For the  
19 record, my name is Steven E. Shor. I'm the Director of Zoning  
20 Services with the law firm of Wilkes, Artis, Hedrick & Lane. We  
21 represent the appellant in appeal number 16471, 33 New York  
22 Avenue, N.E.

23 It doesn't appear on any of the printed agendas  
24 I've seen. It was a case that was originally scheduled for  
25 hearing in July, continued to the hearing two weeks ago, and then

1 continued again from that date at the request of the zoning  
2 administrator to this afternoon.

3 We have been through a series of iterations of  
4 plans and drawings with the zoning administrator. The operator of  
5 the business is represented by Mr. Gell, seated to my left.  
6 Submitted a plan this morning to the zoning administrator.

7 The zoning administrator has inspected the property  
8 and determined that the actual field condition matches the plan  
9 that's been submitted. And we are prepared to withdraw the  
10 application -- withdraw our appeal, sorry, provided that there is  
11 an understanding, which I think both Mr. Gell and Mr. Johnson have  
12 agreed to, that the use is to be operated in accordance with that  
13 plan that was submitted this morning showing seven parking spaces,  
14 one loading berth, one service delivery space and two loading  
15 berths inside the building.

16 And on that stipulation, we are prepared to  
17 withdraw 16471.

18 CHAIRPERSON REID: Okay, did you want to say  
19 something, Mr. --

20 MR. GELL: I would simply concur. We would not  
21 object to the withdrawal of the application -- of the appeal.

22 CHAIRPERSON REID: Do we move to allow them to  
23 withdraw?

24 MS. PRUITT: Madame Chair, you can.

25 CHAIRPERSON REID: Okay.

1 MR. GILREATH: Madame Chair, I move that we approve  
2 the withdrawal of their appeal.

3 CHAIRPERSON REID: All right, seconded.

4 All in favor?

5 (Chorus of ayes.)

6 Opposed. Okay.

7 MR. SHOR: Thank you very much.

8 CHAIRPERSON REID: Thank you. And sorry for the  
9 delay.

10 MR. SHOR: No, I just wanted to try and get that  
11 one out of the way.

12 MR. SOCKWELL: If you'd like to stay longer, feel  
13 free because --

14 (Laughter.)

15 CHAIRPERSON REID: Okay, thank you. We'll recess  
16 for approximately 15 minutes.

17 (Whereupon, the foregoing matter went off the  
18 record at 2:18 p.m. and went back on the record at  
19 2:49 p.m.)

20 CHAIRPERSON REID: Joining me today are Robert  
21 Sockwell and Jerry Gilreath representing the National Capital  
22 Planning Commission. Copies of today's hearing agenda are  
23 available to you. They're located to my left near the door.

24 All persons planning to testify either in favor or  
25 opposition are to fill out two witness cards. These cards are

1 located on each end of the table in front of us. When coming  
2 forward to speak to the Board, please give both cards to the  
3 reporter, who is sitting to my right.

4 The order of procedure for a special exception and  
5 variance cases are statement and witnesses of the applicant;  
6 Government reports, including Office of Planning, Department of  
7 Public Works, etc.; person or parties in support; persons or  
8 parties in opposition; closing remarks by the applicant.

9 Cross examination of witnesses is permitted for  
10 persons or parties with direct interest in the case. The record  
11 will be closed at the conclusion of each case except for any  
12 material specifically requested.

13 The Board and staff will specify at the end of the  
14 hearing exactly what is expected. The decision of the Board in  
15 these contested cases must be based exclusively on the public  
16 record. To avoid any appearance to the contrary, the Board  
17 requests that persons present not engage members of the Board in  
18 conversation.

19 Please turn off all beepers and cell phones at this  
20 time so as not to disrupt these proceedings.

21 The Board will make every effort to conclude the  
22 public hearing as near as possible to 6:00 p.m. If the afternoon  
23 cases are not completed by 6:00 p.m., the Board will assess  
24 whether to complete the pending case or cases remaining on the  
25 agenda.

1           At this time, the Board will consider any  
2 preliminary matters. Preliminary matters are those which relate  
3 to whether a case will or should be heard today, such as request  
4 for postponement, continuance or withdrawal, or whether proper and  
5 adequate notice of the case has been given.

6           If you are not prepared to go forward with the case  
7 today or if you believe that the Board should not proceed, now is  
8 the time to raise such a matter.

9           Are there any preliminary matters?

10          Does the staff have any preliminary matters?

11          MS. PRUITT: Yes, Madame Chair. On the first  
12 application, 16506, application of Africare, Inc., this is a case  
13 -- this case was self certified and the self certification wasn't  
14 clear to staff, so it was advertised in the Register as a special  
15 -- I mean a variance from a use -- for a use variance.

16          However, what the applicant is really requesting is  
17 an area variance under Subsection 404.1. So I just wanted to  
18 bring that to your attention and let you know.

19          Mr. Boasberg, you posted the property?

20          MR. BOASBERG: Yes.

21          MS. PRUITT: What was on your posting?

22          MR. BOASBERG: It was -- did we have -- this is  
23 Section 3107, Elton?

24          I'm sure that was it. It was a variance under  
25 3107. We didn't put the subsection.

1 MS. PRUITT: Okay.

2 MR. BOASBERG: -- 404.1, did we? Because we didn't  
3 know about it when we went through the certification.

4 MR. KING: I'm sure it was 3107.

5 MR. BOASBERG: Yes, yes.

6 CHAIRPERSON REID: That's not the question, right?

7 MS. PRUITT: Well, the question -- what he stated  
8 was I believe that what was on the application was the section for  
9 a variance and that was it.

10 CHAIRPERSON REID: Right.

11 MS. PRUITT: 3107, that's all that was on the  
12 posting.

13 CHAIRPERSON REID: Oh, so you're saying that on the  
14 posting of the property you didn't indicate what subsection you  
15 were coming under?

16 MR. BOASBERG: Well, when we applied, we just put  
17 under -- that was my understanding at the time -- just Section  
18 3107. And when I discussed it at the time here, there didn't seem  
19 to be a problem. We just used 3107. And it was -- we did say for  
20 a variance of six feet from the south lot line.

21 But for some reason, it didn't include the  
22 subsection from the rear lot lines. A six feet variance is what  
23 it is from the rear lot line. And when I was talking to Ms.  
24 Pruitt, we thought that maybe we could -- that the Board could  
25 consent to hear it.

1 I don't think we have any opposition here. We  
2 could repost it with that subsection in addition to 41 -- 404.1.  
3 I don't think we're misleading anyone because it is a variance, we  
4 have asked for a variance, and that's what we are asking for.

5 But we didn't put the subsection.

6 CHAIRPERSON REID: Okay, but when you appeared  
7 before this Board -- or you self certified, then it is incumbent  
8 upon you to indicate. And we have two types of variances, the use  
9 variance and the area variance.

10 And one is different from the other. One requires  
11 the higher level of proof in order to be approved. And if the  
12 public is not notified as to what variance you're actually coming  
13 under, then, you know, that's an oversight that can be costly.

14 MR. GILREATH: Madame Chair, is it possible we  
15 could hear the case today, not make a decision, but let them  
16 repost the property and so that a potentially affected property  
17 owner would have access to come, I guess, to our next session when  
18 we heard it or made the decision?

19 CHAIRPERSON REID: Or to --

20 MS. PRUITT: Leave the record open.

21 CHAIRPERSON REID: -- leave the record open.

22 MR. GILREATH: Open so we would have access to that  
23 and can take that into account when we make our decision.

24 CHAIRPERSON REID: Okay, well just for the record -  
25 - I mean for subsequent submissions of self certification, that's

1 one of the liabilities of self certifying that, you know, it is  
2 incumbent upon the person who does that to ensure that everything  
3 is correct and that it is posted in the right place so that you  
4 won't run into any problems and that we won't run afoul of the  
5 statutes or regulations and how we conduct our proceedings.

6 I have no problem with that.

7 Is there anyone here in opposition to this  
8 particular case? All right, in that there's no one here opposing  
9 the case, then, as Mr. Gilreath has suggested, what we can do is  
10 leave the record open, allow you to post it correctly with the  
11 correct section and allow time for anyone who so wished to submit  
12 a letter in opposition or in support to do so within a time  
13 certain, and then we can proceed.

14 MR. BOASBERG: I appreciate that, Madame Chair.

15 MR. GILREATH: One question. I guess Ms. Pruitt,  
16 what would be the earliest -- we hear the case today. When would  
17 be the next available time that we could make a -- take into  
18 account any kind of additional appeal to the record and make a  
19 decision then?

20 MS. PRUITT: Well, we were just looking at that.  
21 We would give them 16 days to post because, of course, you can't  
22 do it today. So 16 days from tomorrow would be when the record  
23 closes. So that puts it on the 5th of November.

24 So it misses our November meeting, correct? Yes,  
25 but you could do a special public meeting, as we've done before,

1 for the next day -- it would either then have to fall to the  
2 December 3rd meeting or you could do a special public meeting on  
3 December 10th before the hearing to decide this individual case.

4 CHAIRPERSON REID: Well, why would we do it on a  
5 December 3rd meeting?

6 MS. PRUITT: Because you've missed the November 3rd  
7 meeting. If you post it for 16 days from tomorrow, it gets you  
8 here at November 5th. That's after the November 3rd meeting.

9 CHAIRPERSON REID: So you're saying that we could  
10 take it up on the hearing date in November --

11 MS. PRUITT: Right, because you --

12 CHAIRPERSON REID: -- before the hearing?

13 MS. PRUITT: Right, because you would have missed  
14 the meeting date in November.

15 CHAIRPERSON REID: Okay, all right, that's fine.

16 MS. PRUITT: So you could -- which means that the  
17 decision for this would be done on the 10th of November at 9:00 in  
18 the morning.

19 CHAIRPERSON REID: Okay.

20 MR. BOASBERG: That would be fine.

21 MS. PRUITT: You ready? No, I'm actually going to  
22 call the case now.

23 Application 16506, application of Africare, Inc.,  
24 pursuant to 11 DCMR 3107.2 for a variance to add an annex to an  
25 existing structure under Section -- I believe it was listed

1 previously -- 2104.3, from the use provisions to use all floors of  
2 the subject premise as "Headquarters Office of Charitable  
3 Organization" in an R-4 District at 440 R Street, N.W. (Square  
4 509, Lot 805.)

5 Everyone planning to testify, would you please  
6 stand and raise your right hand.

7 (The witnesses were sworn.)

8 Staff would like to note that we are going to amend  
9 the application to be from Subsection 404.1, and that is for an  
10 area variance.

11 CHAIRPERSON REID: All right.

12 MR. BOASBERG: Yes, I just want to clear that up.  
13 My name is Tersh Boasberg, Madame Chair. I am the counsel for the  
14 applicant. This case was heard for the main building, which is  
15 the reconversion of the school house back in 1983, and you all  
16 have that decision of the BZA as Exhibit I in the application.

17 That gave the use variance to go for the  
18 headquarters of Africare, which is nonprofit, from the R-4 zone,  
19 and now we're just adding an annex. And we don't need a use  
20 variance because we have a use variance for the property.

21 All we need is the variance from the rear lot line  
22 of six feet. And we'll be very quick because I know the Board is  
23 racing behind.

24 The architect with me, Joe Handwerger, will discuss  
25 very briefly the plans. Seated to my right is C. Payne Lucas, who

1 is the founder and president of Africare, will describe very  
2 briefly the need.

3 And Elton King, the manager of services, will  
4 describe the efforts that we've made with the community. We've  
5 worked hard with the community, of course, and I think we've done  
6 a good job. We will show that we will meet the requirements of  
7 3107 by reasonable of exceptional topographical condition and so  
8 forth, as we've laid out in our application, and we will show the  
9 need for this.

10 So what I'd like to do very briefly, Madame Chair,  
11 members of the Board, is to have architect Handwerger just  
12 outline, by going to the front there with the easel -- go ahead,  
13 Joe -- to show what we're planning to do here, and then have Mr.  
14 Lucas talk about the need for it.

15 So you have to speak into the mic and just identify  
16 yourself by name. And if you would show the Board, we'd be happy  
17 to answer any questions the Board might have.

18 MR. HANDWERGER: My name is Joseph Handwerger.  
19 Good afternoon, Madame Chairman and members of the Board. I have  
20 a number of exhibits here, but I will limit myself to a couple.  
21 And if you have questions and want to see additional explanations,  
22 I'll be glad to do that.

23 This first exhibit here is the view of the site  
24 from R Street, N.W. This is the existing Africare building. And  
25 the property extends to this group of townhouses. And this shows

1 the annex that is placed here preserving a courtyard between the  
2 two buildings.

3 This piece that you're seeing back here, it's an L-  
4 shaped building, which I'll demonstrate on another drawing. The  
5 intention is to provide -- to relieve some of the crowding in the  
6 current building and to provide some space for such things as  
7 meetings rooms.

8 As I understand, there's no meeting room there now  
9 that can accommodate even all their staff. The computer room will  
10 be expanded probably into the existing canteen, so we need to  
11 provide for that, for the canteen.

12 And in addition, there is office space and  
13 additional parking. This is R Street here. Here are the three  
14 townhouses that we spoke of. The property is bounded on the east  
15 side by a ten foot alley and on the south side by a ten foot  
16 alley.

17 But we've -- this is the existing building. What  
18 we've done is placed the new annex at this point. The entrance to  
19 the court is up some stairs here. And then you enter both  
20 buildings from this courtyard.

21 Most of the -- on the previous drawing, I think you  
22 saw that we attempted to be sensitive to the neighborhood by  
23 having the windows compatible with the windows of the existing  
24 townhouses as well as Africare.

25 I think that's the major part of it. We've pulled

1 this piece of the building out to accommodate the stair and the  
2 elevator in order that you're able to develop uninterrupted space  
3 in the main body of the building.

4 The building is placed here along the -- aligned  
5 with the rear wall of the present Africare building 14 feet from  
6 the back line. This is the ten foot alley here.

7 MR. BOASBERG: If the Board would like to see, we  
8 have floor plans of each floor and other elevations. You have  
9 those drawings -- those plans in your files. But if you would  
10 like to do more, we would be happy to do that.

11 Otherwise, I will ask C. Payne Lucas if he would  
12 talk to us briefly about the need at Africare for this and why he  
13 needs the space that he does.

14 Mr. Lucas.

15 MR. LUCAS: Thank you, Madame Chairman and  
16 distinguished members of the Board.

17 I delighted to be here because when we started this  
18 project several years ago, I had no idea that we would grow like  
19 this. But we have grown and this facility now has people living  
20 on top of each other.

21 We're in more countries now and there are more  
22 things that happen at Africare House. And one of the things that  
23 we are most pleased about, in addition to our fundamental goal of  
24 helping countries in Africare, this has become almost a community  
25 museum.

1                   We have over two million dollars of African art.  
2                   And what Mr. King will address later that this is a kind of a  
3                   public facility in which the neighborhood and people throughout  
4                   the District use this building virtually at no cost.

5                   Our only requirement is that you should make a  
6                   contribution, and that contribution could be as small as a penny.

7                   So there's no fixed fee. But the building is really in great  
8                   use. And to be quite honest, the properties in this neighborhood  
9                   have been enhanced considerably by this project.

10                  As you well know, the African Diplomatic Corps  
11                  meets there periodically once or twice a month. It's also on the  
12                  historic visit by people showing buildings in the District of  
13                  Columbia. And the value of the properties in the neighborhood  
14                  have increased ten fold.

15                  That was a mistake we made. We should have bought  
16                  some properties when we took over this facility. So we're hoping  
17                  that we can proceed with this because, quite frankly, people are  
18                  living on top of each other there and they really do need space.

19                  Even Mr. King, our director of management services,  
20                  accommodating more than 50 people a year and hundreds of people  
21                  overseas is living in a small cubicle.

22                  So we hope by increasing the in house facilities to  
23                  have meetings and to store our equipment and supplies, our  
24                  computer equipment and what not, that this will alleviate a lot of  
25                  the pressure and, at the same time, make more space available to

1 community groups who want to use the facility.

2 I might add even the District Government, on  
3 occasions, have used the facility for off site meetings because,  
4 to be honest with you, it's a delightful building with a lot of  
5 light and feeling there that one doesn't normally anticipate they  
6 would find in this section of the city.

7 And we went to this section deliberately because we  
8 wanted Africare House, which is a predominantly African-American  
9 institution, to be located in the African-American community.

10 MR. BOASBERG: Thank you, Mr. Lucas.

11 I have known Payne for almost 40 years, when he  
12 came to Washington to work for the Kennedy Administration in the  
13 Peace Corps and to see what has happened to Africare and how it  
14 has grown in prominence. It's one of the leading American  
15 institutions applying aid in Africa to many numerous African  
16 countries.

17 But we have not neglected the community at all.  
18 And I would like Elton King, in view of the letter we have got  
19 from Mr. Thorp, to detail the work that he has done in the  
20 community and the availability.

21 As you will notice in the application, attached to  
22 Exhibit E we do have a list of the organizations who use Africare.

23 And as Mr. Lucas says, it is open to all and it is a real  
24 community resource.

25 Mr. King.

1 MR. KING: Thank you very much to the Chairman and  
2 to the members of the Zoning Administration.

3 Thank you so much for the opportunity to talk to  
4 you this morning. I would like to explain what I have been doing  
5 in the neighborhood.

6 CHAIRPERSON REID: You want to give your name and  
7 your address, please?

8 MR. KING: Yes, my name is Elton King.

9 CHAIRPERSON REID: And your address, your home  
10 address?

11 MR. KING: Home address is 14716 Cobblestone Drive  
12 in Silver Spring, but I work for Africare at 440 R Street.

13 CHAIRPERSON REID: In what capacity?

14 MR. KING: As a management -- director of  
15 management services.

16 CHAIRPERSON REID: Okay.

17 MR. KING: And I have been there since 1987.

18 When asked to go into the community, I went out to  
19 the community with a letter to the neighbors in the immediate  
20 community and I delivered it myself to eight different houses.  
21 I've talked with people on our block on R Street.

22 I've talked with people on 5th Street. And I've  
23 also talked with the people who are immediate behind us on Warner  
24 Street, two of which would be willing to come in if you needed  
25 them to talk to us about their association with Africare, Mr.

1 Brian Williams, who used to -- who lives right in the 400 block of  
2 Warner, and Mr. Butler, who lives across the street on R right  
3 near the cleaners.

4 When I took the letters around, I wrote a letter,  
5 which I have a copy of I can leave with the Board if you'd like to  
6 have it, saying dear neighbors, what we were trying to do and for  
7 them, in our behalf, to send you something if they didn't mind  
8 sending you a letter or either giving me a copy and I would have  
9 brought it to you.

10 I didn't get any, so I assume that they probably  
11 might have sent it down or would be sending it down if they wish  
12 to. But I've talked with them and none of them had any opposition  
13 to us in the neighborhood.

14 MR. GILREATH: I'd like to ask, did you have an  
15 opportunity to talk to the ANC organization?

16 MR. KING: Yes, I did. I had an opportunity to  
17 talk with Mr. Laurence Thomas. I carried him a packet of all the  
18 materials that we have submitted to you back in August of 1999. I  
19 carried it to his school, to Terrell Junior High School, and he  
20 received it.

21 And he got back with me in September at my request  
22 asking him to respond to me. And he told me he was sorry, he was  
23 pretty tied up, he hadn't been able to do much with it. But he  
24 did tell me that he would -- that he would pass it on.

25 But in the meantime, we got message from one of the

1 other persons in the 2 ANC who told us that he had not heard any  
2 information about us whatsoever. So I eventually carried him a  
3 copy over to his house, which is right on 5th Street, that's Mr.  
4 Thorp, on October the 5th.

5 And I carried him the same packet that I've given  
6 to Mr. Thomas. And I also had a meeting with the 5-C on Saturday  
7 before last at their regular meeting and went over the issues with  
8 them. And their concern only was that they would like for us, if  
9 we didn't mind, having one meeting at Africare after they could  
10 pull together the community leaders and church leaders and civic  
11 leaders in this area.

12 He thought it would be a good idea if they could  
13 pull everybody together for a meeting at Africare House one day  
14 anytime we had time to do it after he was able to pull them  
15 together and let us go over and let them know what Africare is  
16 doing.

17 Because several of them that were there that night  
18 knew that Africare had a very good outreach program and that they  
19 had received a lot of materials themselves in the mail through  
20 their kids and they wanted the rest of the neighborhood to also  
21 know what good we were doing.

22 And they said they would be willing to have a  
23 meeting. I told them anytime they would get it together, I would  
24 then go to Mr. Lucas and ask if we could have a meeting at  
25 Africare House to let them see what we are doing.

1 So that was my meeting with the ANC.

2 MR. GILREATH: Did they give any kind of indication  
3 they would send us something?

4 MR. KING: No, they did not. They did not say  
5 that. Because I told them we had a meeting on October the 20th  
6 and they didn't say whether they could. They didn't have a quorum  
7 at that particular meeting anyway, so I don't know whether they  
8 were able to do anything.

9 I did ask them if they would send something, I  
10 would appreciate it.

11 MR. BOASBERG: This is a confusing thing because  
12 there are two ANCs. 2C is the one they're actually in, but  
13 they're right across the avenue from 5C. As soon as we got the  
14 letter from Ms. Kress on September 9th, the packets -- the full  
15 packets were delivered by Mr. King to both ANCs.

16 We were told to contact Laurence Thomas, chairman  
17 of 2C, which we did, and to contact James Barry, the chairman of  
18 ANC-5C, which we did. And the run in that Mr. King had with Mr.  
19 Leroy Thorpe is probably not able to go on the record, but he has  
20 received a full copy of everything.

21 We're always open to them. Africare House has  
22 really been an incredible asset to that neighborhood.

23 Elton, is there any other --

24 MR. KING: Well, I was just going to mention a few  
25 of the organizations that have met at Africare House: Ford,

1 Chevron, Discovery Channel, Coca Cola, IBM, Carnegie, the Vice  
2 President of the United States, prime ministers of various African  
3 countries.

4 And we have an outreach program that we have people  
5 coming in. And also the East Civic Association used to meet at  
6 our Africare House on a monthly basis.

7 And anything that goes on in the community, they  
8 would always contact Africare and I would be the contact person to  
9 represent our Africare at any of their meetings or any of their  
10 activities that they have and support them, including one activity  
11 they had for the children in their neighborhood, of which we  
12 participated.

13 MR. GILREATH: You know, having read the material,  
14 I certainly am fully convinced that you're an admirable  
15 organization. The only thing I'm not hearing is you've met with  
16 these people, but in terms -- we look at it in terms of light, air  
17 and traffic and so forth, and I don't have anything other than you  
18 said you met with them.

19 Is it possible that perhaps you could approach the  
20 affected agencies and, since we don't make a decision today, the  
21 record will be open. There will be a letter from them saying  
22 they've looked at it, they don't feel that the neighbors are going  
23 to be adversely affected.

24 So that would certainly help me on my part in  
25 rendering a decision or a judgement on this.

1 CHAIRPERSON REID: Mr. Gilreath, let's see. I  
2 don't think that there was anyone here in opposition to this  
3 particular care.

4 MR. GILREATH: Well, you can just assume that  
5 that's indicative that there were no problems?

6 CHAIRPERSON REID: There's no one here and we don't  
7 have any letters in opposition, so I -- do we?

8 MR. SOCKWELL: I have questions.

9 CHAIRPERSON REID: Okay, so I think that once it's  
10 posted, we would have to delay our decision until the posting  
11 occurs, so we wouldn't be able to make it today. But I do have  
12 questions.

13 Mr. Lucas, first of all, I would just like to  
14 commend you on the wonderful work you have done with the  
15 organization. I think it's certainly a tribute to our great city  
16 that we have Africare headquarters here in Washington.

17 In regard to the other organizations that use the  
18 facility, do you have -- have you had any complaints from any of  
19 the neighbors in regard to people coming to these events that are  
20 held there? Well, let me ask you further.

21 What type of events are held there? Are there  
22 parties, receptions or what?

23 MR. LUCAS: Well, we have a combination of events.  
24 Nearly all the sororities and fraternities hold their meetings  
25 there from time to time. We also have nearly every African head

1 of state or ministerial person who comes to Washington almost  
2 invariably will have a meeting at Africare.

3 There are also church and community groups that are  
4 -- that meet there. And I think for our record we ought to give  
5 them a list of all the people who have been meeting there over the  
6 past several years. The only group of people that -- we don't  
7 have anybody -- you cannot have a fund raiser there other than for  
8 Africare.

9 So we don't permit fund raisers. We don't -- I  
10 wanted my daughter to have her wedding there, so she can't have a  
11 wedding there because we don't permit weddings at Africare House.  
12 Because, to be quite frankly, I don't know if you've seen it.

13 The inside of this building is really quite  
14 breathtaking. Because this building is 100 years old. We don't  
15 even permit people to smoke in the building. And only when there  
16 is a reception there can you eat in the building.

17 You can't eat in our building.

18 CHAIRPERSON REID: Do these meetings occur during  
19 the day or do you have affairs also in the evening?

20 MR. LUCAS: They're in the evening, they're in the  
21 day time. There are people from all over the country that meets  
22 there. The State Department, HUD, everybody -- it's a great off  
23 site meeting place which does hold about 50 to 60 people quite  
24 comfortable.

25 CHAIRPERSON REID: So these events that you have

1 can only accommodate 50 to 60 people no matter --

2 MR. LUCAS: No question about that.

3 CHAIRPERSON REID: So it's not like two or three  
4 hundred people converging on that particular site?

5 MR. LUCAS: No, you can't have that. No, no, no.

6 CHAIRPERSON REID: So it's small meetings and  
7 receptions, I guess?

8 MR. LUCAS: They are meetings and receptions that  
9 almost invariably never get past 50 or 60 people. We do have --  
10 we don't -- we have not funerals, but we do have --

11 CHAIRPERSON REID: Wakes or --

12 MR. LUCAS: -- memorial services there, for  
13 example. When the Secretary of Labor passed, we had his memorial  
14 -- Deputy Secretary of Labor passed, we had his memorial services  
15 there. Now almost invariably, when we have more than 60 people at  
16 Africare House, it's almost in the spring and summer when we can  
17 have them outdoors and we can put a tent up.

18 CHAIRPERSON REID: And then how many can you  
19 accommodate?

20 MR. LUCAS: We can accommodate 150 out in the yard,  
21 but we don't have that when we have a new building because the  
22 yard will be gone because we're going to build it on top of the --

23 CHAIRPERSON REID: Well, the new building will also  
24 allow you to accommodate larger events, will it not?

25 MR. LUCAS: We will be able to have in our new

1 building upwards of 100 people seated in our little auditorium.

2 CHAIRPERSON REID: So what about -- if you have --  
3 do you have affairs there where there's music, dancing or --

4 MR. LUCAS: Well, we don't have any dancing and  
5 music at Africare House. No, that's just unacceptable to us.

6 CHAIRPERSON REID: Okay.

7 MR. LUCAS: So it's almost invariably under very  
8 quiet conditions that -- we show our work in film there from time  
9 to time.

10 CHAIRPERSON REID: So there's no complaints in  
11 regard to are people converging on that site and there being noise  
12 or traffic or parking problems or music, loud music?

13 MR. LUCAS: Not at all. I have been there, you  
14 know, since -- I have been there since day one. And I think an  
15 index of how well Africare is received in the neighborhood is that  
16 in the entire time that we've been there, we've never had but one  
17 break in and no defacing of our facility.

18 That's miraculous. That's because the people in  
19 the neighborhood are very happy and proud that we're in that  
20 building. And our people try to associate with the people in the  
21 neighborhood. We use the facilities.

22 We use the restaurants in the neighborhood. We buy  
23 in the neighborhood. So it's sort of like a kind of extended  
24 family.

25 CHAIRPERSON REID: Well, how do you allow the

1 people who live in the community to use your facility, if at all?

2 I mean, how do you reach out to them?

3 MR. LUCAS: Well, we've made it known to the groups  
4 in the neighborhood that our facility is available as a meeting  
5 place. And in fact, the ANC used to meet there.

6 CHAIRPERSON REID: The ANC uses it?

7 MR. LUCAS: They've met there with no charges, and  
8 we let them meet there at night and we provide the security for  
9 all of that. And we do have to have security because, as I said  
10 earlier, we have nearly two million dollars worth of African art  
11 in this building.

12 And as a matter of fact, if we were not in this  
13 neighborhood, there would be some neighbors who would never see a  
14 piece of African art because they're not going to go downtown to  
15 the museum. But they will come to Africare House.

16 So they're getting some exposure. The neighborhood  
17 is getting some exposure to Africa and they're getting some  
18 exposure to people that they normally would not even see. And so  
19 there's a sense of enormous pride about this facility being where  
20 it is.

21 And that pride is reflected in our own staff  
22 because we are there in that neighborhood because we want to be in  
23 that neighborhood. We bought that school for that reason. We  
24 would have gone to Georgetown or northern Virginia some place.

25 But we are there because we are inside of Africa.

1 That neighborhood looks a lot like a lot of Africa looks.

2 CHAIRPERSON REID: How many people do you employ?

3 MR. LUCAS: We have about 55 to 60 people.

4 CHAIRPERSON REID: Fifty to fifty-five staff  
5 people?

6 MR. LUCAS: Yes, and then we have consultants in  
7 and out from time to time.

8 CHAIRPERSON REID: Okay. I had just another  
9 question regarding parking. The parking was --

10 MR. BOASBERG: Madame Chair, we do have a parking  
11 report which has been submitted, independent parking analysis.  
12 And we are providing 15 on site parking places. We've done a  
13 parking study of the employees and how many drive and so forth.

14 That's all in your Appendix J. The new building --  
15 maybe, Joe, you could show where the parking's going to be  
16 underneath the new annex for 15 --

17 CHAIRPERSON REID: Do you mean J or do you mean E?

18 MR. BOASBERG: The parking --

19 CHAIRPERSON REID: That's traffic.

20 MR. BOASBERG: The traffic assessments report by  
21 Osborne George.

22 CHAIRPERSON REID: Yes, but right now I was  
23 referring to the parking, Mr. Boasberg, and that's under number --  
24 Tab E.

25 MR. BOASBERG: Right. And it says that there are

1 55 employees and that there will be an additional 20 employees.  
2 So you're going to have a total of 75 employees after the annex is  
3 built, correct?

4 MR. BOASBERG: Yes, yes.

5 CHAIRPERSON REID: And that you have 15 spaces. It  
6 says ten of the 15 spaces will be in tandem. So can you explain  
7 that?

8 MR. HANDWERGER: Yes, let me show you the parking  
9 level. First of all, you enter the parking level -- you enter  
10 from R Street through the present curb cut and you ramp down to  
11 the floor below this main level, and that level looks like this.

12 The tandem parking is this group here, which means  
13 that there's one car in here and another car blocking it.

14 CHAIRPERSON REID: Piggy-back?

15 MR. HANDWERGER: Yes. So that this car has to be  
16 moved in order to get that car out. But there is someone in the  
17 organization identified to be responsible for the moving of cars.

18 MR. BOASBERG: Madame Chair, when we met with the  
19 Office of Planning when we were submitting the application, the  
20 question of parking came up because we do have an R-4 zone, so  
21 parking obviously isn't -- the regulations aren't applicable to  
22 us.

23 So we decided to treat the organization as a  
24 nonprofit in an SP zone, and we will comply with the SP --  
25 requirements for the SP, which are outlined here, are 15 spaces.

1 And we do have the 15 spaces. But as you'll notice in the parking  
2 report, there is ample room on street as well and most of the area  
3 has got ample parking for the staff.

4 So it -- and I've reported the conclusion there.  
5 There seemed to be no problem at all in the parking matter.

6 CHAIRPERSON REID: Okay, thank you.

7 MR. GILREATH: I have a question. You said that  
8 this -- the theater and this annex would accommodate what,  
9 approximately 100 persons? Did I understand that correctly? You  
10 said something about you had a tent before and you said you were  
11 going to be able to accommodate so many in the theater.

12 CHAIRPERSON REID: With the annex.

13 MR. GILREATH: What's the number you would  
14 accommodate in that for some kind of meeting or activity?

15 MR. HANDWERGER: The larger meeting space will  
16 accommodate up to 100 people. Well now where would these people -  
17 - of course, I presume these would tend to be held at night. When  
18 do these activities -- when would they normally be held, day time  
19 or night or at all hours?

20 MR. LUCAS: It would be all hours. We accommodate  
21 people all hours.

22 MR. GILREATH: What I'm getting at is if you've got  
23 15 parking spaces on site, is there ample street parking to  
24 accommodate -- a lot of these people obviously will drive their  
25 cars there, so is there spill over parking?

1 MR. LUCAS: Well, most people who come -- unless  
2 it's diplomats, then most people who come to our meetings are  
3 people who either take taxis or come by Metro. And almost  
4 invariably, in our neighborhood you can always find parking,  
5 legitimate parking.

6 In fact, they're the best places to park in  
7 Washington, D.C.

8 CHAIRPERSON REID: How close are you to the Metro  
9 station?

10 MR. LUCAS: One and a half blocks from the Metro  
11 station. And by the way, we require our people to walk to the  
12 Metro station. We give them no bus because we want them to learn  
13 to live in the neighborhood.

14 You see what I mean? We have all kinds of people  
15 down there, white, black, blue and green. You walk.

16 CHAIRPERSON REID: There's blue and green people  
17 down there.

18 (Laughter.)

19 MR. LUCAS: And another index of our people in that  
20 neighborhood, none of our people --

21 CHAIRPERSON REID: That's a rough neighborhood.

22 MR. LUCAS: None of our people have ever been  
23 attacked in that neighborhood. So we must have some very good  
24 relationships down there. Almost invariably you'll find somebody  
25 who don't like you; but on balance, on balance, this is a very

1 popular place we're talking about here today.

2 MR. KING: And with a drug area that's been cleaned  
3 up completely.

4 MR. LUCAS: Oh, yes, there's no drugs.

5 MR. KING: No drugs. They cleaned that area up. R  
6 was a big drug area.

7 CHAIRPERSON REID: Sure, we know. I mean I know.  
8 I'm sure Mr. Sockwell knows. We're both native Washingtonians.

9 MR. LUCAS: I might add for your own -- since we're  
10 talking about this, we're going to rename -- if this is approved,  
11 we're going to rename this facility not Africare House. It's  
12 going to be renamed Mandela Plaza.

13 CHAIRPERSON REID: Oh, that sounds good.

14 MR. LUCAS: And we expect Mr. Mandela to come here  
15 if you all decide to give us our thing to open it, to be quite  
16 honest.

17 MR. SOCKWELL: I have a few questions I'd like to  
18 pose. One, Mr. King, you brought to our attention the letter that  
19 had been distributed to the local community by yourself  
20 personally.

21 MR. KING: Yes, sir.

22 MR. SOCKWELL: What is the make up of the immediate  
23 surrounding neighborhood in terms of just your perception of their  
24 income level, education level, the couple of blocks or two across  
25 the street, around the corner?

1 MR. KING: Well, I happen to know that right on 5th  
2 Street there are some people that are very high level employees,  
3 high level educated. In fact, I think one or two of them that  
4 applied for Africare is working with Africare now, Mr. Clements  
5 and others.

6 Other ones, I would say probably from high school  
7 to first year, second year of college.

8 MR. SOCKWELL: The letter that you took around to  
9 them speaks of the annex as your proposed project and does mention  
10 that the BZA would be required to approve that project. But it  
11 did not state in any way, with no specificity, what the specifics  
12 of the BZA action might be.

13 In other words, there was nothing to say that in  
14 order to build this we may need to reduce the rear yard or  
15 whatever. So it was really more of a we're building this, we hope  
16 you like it, and please write your support.

17 And while that might well be appreciated in a  
18 community that tends not to read as much or spend as much time  
19 with things like a zoning ordinance or economic development  
20 issues, in another community such a letter might not have been as  
21 well received because it wouldn't have stated what the purpose of  
22 the remedial action would be.

23 And I just wondered about that, because I read the  
24 letter and I read it from my perspective and perhaps not from the  
25 perspective of the neighbors of Africare House.

1                   The next question is for Mr. Lucas, who stated that  
2 the art work approximately of two million dollars' value that is  
3 on display at Africare House is available to the community to see.

4                   And I wanted to know under what circumstances or what programs  
5 Africare House provides to invite the community to have the  
6 opportunity to view and enjoy that art work?

7                   MR. LUCAS: Do you want me to answer that first or  
8 his question?

9                   MR. SOCKWELL: Well, I'd like for you to answer  
10 that question. My statement to Mr. King was more one of my  
11 perception of the letter and I want him to think about that while  
12 I asked you this.

13                   MR. LUCAS: Well, I think, first of all, through  
14 our literature that we pass out in the neighborhood, our annual  
15 reports and what not, that has been accommodating. Our employees  
16 have made it known to people in the neighborhood that we have this  
17 African art.

18                   We have students and we've had ANC people into the  
19 building and they have seen this African art. We now have a  
20 request pending before foundations in Washington so that we can  
21 hire some docents and what not to bring people in and to show them  
22 around the meaning of all these pieces because most people don't  
23 even know what some of these things mean.

24                   So our principal way of educating the neighborhood  
25 to date has been our literature, our annual reports and what not,

1 our literature, to the groups that have been able to come and  
2 visit the organization, including the ANC and school kids and what  
3 have you.

4 And thirdly is beyond the immediate neighborhood,  
5 the sororities, fraternities and college groups who use this  
6 facility all the time.

7 MR. SOCKWELL: Now I realize --

8 MR. LUCAS: May I go a step further?

9 MR. SOCKWELL: Please.

10 MR. LUCAS: This is related to the question that  
11 went to Mr. King. I think one of the things that has happened  
12 with the building of Africare House, it has enhanced the prestige  
13 of the neighborhood. It has brought more security, it has brought  
14 more value to their house, you know, value to their own facilities  
15 and what not.

16 We can see this when we see kids playing on  
17 Africare property in the neighborhood. So, for once in our life,  
18 we're having something that normally went somewhere else has come  
19 to our neighborhood. It has boiled down to that.

20 You know, we haven't taken a survey. But if I had  
21 to bet on a survey, even between high school, elementary kids what  
22 have you, or education of tenth grade level, that we'd get about  
23 99% support for what we do and where we are because we've enhanced  
24 -- I don't know what the enhanced value of the property is, but  
25 the adjacent property to our lot, which was selling when we bought

1 the facility, they wanted \$30,000 for it.

2 Now the owner wants in excess of \$200,000 for his  
3 little row house. So people understand economics. And there are  
4 real economics going on in this street.

5 MR. SOCKWELL: Well, you're in a neighborhood that  
6 has also been the home of Dunbar High School --

7 MR. LUCAS: Right.

8 MR. SOCKWELL: -- and Armstrong. And if you talk  
9 about African-Americans and our contributions to the world, you  
10 can't discount those two facilities.

11 MR. LUCAS: No, I don't want to --

12 MR. SOCKWELL: And at the same time, my question to  
13 you was really about how as a beautiful neighbor to the community  
14 Africare House reaches out to the most average individuals in the  
15 community because Africare is about care.

16 And what you didn't tell me was that you had a way  
17 of throwing the doors open and opening your arms to the community  
18 to present to them an opportunity to learn more about the heritage  
19 which so richly resides within those walls.

20 MR. LUCAS: Yes, we've done that, too.

21 MR. SOCKWELL: But you mentioned the annual  
22 reports, and most people perhaps don't read the annual reports.

23 MR. LUCAS: You've got to remember that Africare  
24 holds -- up to this past year, held its annual essay contest in  
25 which kids from all over the schools gave their essays and won

1 prizes on what Africa meant to them.

2 MR. SOCKWELL: Certainly.

3 MR. LUCAS: And one of the active participants in  
4 that program was Dunbar High School and all the other high schools  
5 in the District of Columbia. That took place -- that is an  
6 Africare program.

7 MR. SOCKWELL: Right.

8 MR. LUCAS: And we are -- I think when you add  
9 Africare House to the rich history of Dunbar, you just make the  
10 neighborhood that much better.

11 MR. SOCKWELL: I'm sure you do, but I guess --

12 MR. LUCAS: Let me add one thing. The other thing  
13 is we used to hold, until just -- until we started the annual  
14 dinner, we held Africare Day at Africare House every year and the  
15 neighbors came and ate and listened free at Africare House.

16 MR. SOCKWELL: And that's what I want to know  
17 about.

18 MR. LUCAS: That was a big, major outreach program  
19 with flags up and excitement that day for everyone.

20 MR. SOCKWELL: But you specifically mentioned the  
21 art work. And the art work, while probably more than interesting  
22 and exciting to me, and my familiarity with African art is  
23 probably somewhat better than many of the neighbors who reside in  
24 the vicinity of Africare House, and I just wanted to know how they  
25 might have been invited to see and feel -- if not touch -- but see

1 and really interact.

2 And the docent program sounds like a wonderful  
3 future program. I just wondered if there was anything going on  
4 right now because you mentioned the art work, and I just thought  
5 that was very exciting.

6 MR. LUCAS: Thank you.

7 MR. GILREATH: Madame Chair, I would like to ask  
8 the architect -- I read the report but I'm a little fuzzy still.

9 Could you identify the buildings around the annex,  
10 kind of the general nature of the townhouses or the kind of land  
11 use and the type -- because those are the buildings that will be  
12 impacted by this annex.

13 Just kind of generally characterize the general  
14 nature of the townhouses or a little office or what have you that  
15 would be potentially impacted by the annex.

16 MR. BOASBERG: You might look at Exhibit D in your  
17 folder. It has the streetscape there.

18 MR. HANDWERGER: I pointed out earlier the abutting  
19 three townhouses. 5th Street is just off -- just off this drawing  
20 at this point. This corner lot is a former mortuary now used for  
21 document storage by Africare. New Jersey Avenue parallels this  
22 alley at about this point.

23 And there are townhouses from here to the next  
24 corner. Facing Warner Street, those townhouses back up to this  
25 alley. And that's the extent of the --

1 MR. GILREATH: Where the annex would go, assuming  
2 that vertical is north, what is beyond the alley?

3 MR. HANDWERGER: This is north. I'm sorry for  
4 that.

5 MR. GILREATH: Just across that alley, what's over  
6 there?

7 MR. HANDWERGER: There are townhouses facing the  
8 street that parallels R, which I believe is Warner. Their rear  
9 yards --

10 MR. GILREATH: How close are they to the alley, the  
11 townhouses north of this potential annex?

12 MR. HANDWERGER: I think I have a drawing with a  
13 section that might give you an idea.

14 MR. BOASBERG: Commissioner Gilreath, as you'll  
15 see, the houses are on Warner Street and it's the back yards which  
16 back up to the alley there, not the houses.

17 MR. GILREATH: Well, that's why I want to get an  
18 idea of it, mainly townhouses there.

19 MR. BOASBERG: Yes, the houses though front on  
20 Warner Street. It's only the back. And there's a --

21 MR. GILREATH: Okay, the houses actually -- it  
22 would be the rear part of the houses that will actually be facing  
23 the annex?

24 MR. BOASBERG: Well, it will be their rear lots  
25 which will face, not the houses. The houses themselves will face

1 Warner Street.

2 MR. SOCKWELL: Would you flip the board over, that  
3 first -- the board that's up, would you flip it 180 degrees?  
4 Because realistically, that shows north in the right direction.

5 MR. HANDWERGER: R Street and the alley. This is a  
6 section through the building with R Street here, the alley here,  
7 the yards to these townhouses there, and these townhouses face  
8 front on Warner Street.

9 MR. SOCKWELL: Do you have an elevation the other  
10 way? Do you have -- hold the other elevation up for a moment,  
11 please.

12 MR. HANDWERGER: Did you want the R Street  
13 elevation?

14 MR. SOCKWELL: Yes.

15 MR. BOASBERG: We've got all four elevations, Mr.  
16 Sockwell.

17 MR. SOCKWELL: So basically that one places the --  
18 flip it around. I'm using my book, so I'm turning it into the  
19 right direction. So in our case, north is toward me, south is  
20 behind us -- is behind the building.

21 MR. HANDWERGER: We are looking south.

22 MR. SOCKWELL: We are looking south, exactly,  
23 behind the building.

24 MR. GILREATH: Well, immediately right of what  
25 would be the annex, is that open area there or a road or what? I

1 know the townhouses in the rear, but if you were looking out the  
2 window of the annex, what would you see over to your right going  
3 to your right now?

4 Moving from the annex, going to your right, what's  
5 over there? It looks like it's open. Not in the rear, but the  
6 townhouses are behind the annex, right?

7 MR. HANDWERGER: These townhouses shown here front  
8 on R Street, as does Africare House, and they abut this building.

9 MR. GILREATH: Okay, right.

10 MR. HANDWERGER: This one abuts --

11 MR. GILREATH: Okay, now what -- say you left the  
12 townhouse and you're walking toward the annex on the right there.

13 Is that a street or a grassy area? Is that part of the --

14 MR. HANDWERGER: This?

15 MR. GILREATH: The open area to the right there.

16 MR. HANDWERGER: It's a street. It's a street.

17 MR. GILREATH: That's a street?

18 MR. HANDWERGER: That's 5th Street.

19 MR. GILREATH: Okay. And so the open area there to  
20 the street is the part of the lot for your annex then, is that  
21 correct? Well, I see the townhouses in the rear. There is this  
22 open area where that tree is like there could be a park area.

23 MR. HANDWERGER: That's a sidewalk. That's a set  
24 back of these townhouses from the street.

25 MR. GILREATH: Okay, all right. Okay, now I'm

1 getting the picture.

2 MR. HANDWERGER: There are three townhouses there.

3 MR. GILREATH: I see.

4 MR. HANDWERGER: And just off about here is 5th  
5 Street.

6 MR. GILREATH: Okay, that's much clearer. Thank  
7 you.

8 MR. SOCKWELL: I would assume that the way the  
9 annex is oriented and the way your project is oriented, there's  
10 virtually no effect on availability of sunlight and things like  
11 that for the adjacent properties from what I can see, not a  
12 significant change except perhaps the three projects at 5th Street  
13 might lose some summer sun, but much of that is going to be really  
14 up against the buildings and not to affect the yards.

15 MR. HANDWERGER: That's right. This is south. And  
16 so --

17 MR. SOCKWELL: Sixty-one degrees solar angle,  
18 whatever you want to call it.

19 MR. HANDWERGER: You might get some shadow in this  
20 yard. In the afternoon, the shadow of this building is in front  
21 and in the courtyard.

22 MR. SOCKWELL: Right.

23 MR. HANDWERGER: So it really has no sunlight -- no  
24 significant sunlight impact on the adjacent building.

25 MR. SOCKWELL: Yes, I don't think so.

1 MR. GILREATH: I generally agree with your  
2 assessment, Mr. Sockwell. I just wanted to make sure that there  
3 was no impact -- significant impact on the light and so forth, but  
4 I agree with your judgement. It does not appear that there would  
5 be.

6 MR. SOCKWELL: I have two things to say. One, if  
7 your building were located directly across the street on the other  
8 side of R, you'd be in the C-2-A district.

9 MR. HANDWERGER: That's right.

10 MR. SOCKWELL: Your rear yard requirement would be  
11 15 feet. You'd be one foot shy.

12 MR. HANDWERGER: I think that's right.

13 MR. SOCKWELL: It is. If you were an SP, which is  
14 the approximation of your use, as Mr. Boasberg spoke of earlier,  
15 and I put all this together earlier myself, you'd be required to  
16 have a 20 foot yard that started at the center line of the alley  
17 based on the current site, and that would actually provide you,  
18 since it's a ten foot alley, with 19 feet of rear yard and you'd  
19 be one foot short under the SP.

20 And since an SP is really a buffer between R-4 and  
21 -- between residential and commercial districts, your building is  
22 placed in a somewhat buffer position and, relative to its use,  
23 occupies a buffer use.

24 And realistically, there are ways to say that  
25 although the ordinance doesn't solve your problem, the use and

1 position and relative relationships are so similar to ones that  
2 would be zoned to your benefit that I can see the applicability of  
3 your case.

4 MR. BOASBERG: That's exactly right, and I wish you  
5 were a lawyer rather than an architect.

6 CHAIRPERSON REID: He kinds of lays it out for you,  
7 doesn't he?

8 MR. BOASBERG: I think that's right. And we are --

9 CHAIRPERSON REID: Thank you, Mr. Sockwell.

10 MR. BOASBERG: Are there any other questions like  
11 that?

12 CHAIRPERSON REID: Mr. Boasberg, basically the  
13 purpose of your being here is to show -- demonstrate to us how you  
14 are able to meet your burden of proof for being granted the  
15 variance that you're asking for, so I'd just like to ask you to  
16 address that, your three-pronged test.

17 MR. BOASBERG: Okay, as we have stated in the  
18 application on Appendix E, by reason of -- the 3107 variance is  
19 allowed by reason of exceptional topographical condition or other  
20 exceptional situation. Strict application of the zoning  
21 regulations would work a particularly exceptional difficulty or  
22 undue hardship upon the applicant.

23 And we do ask that his is the case because the  
24 applicant does need this extra space. That extra six feet is  
25 absolutely necessary in order to have this annex as a success.

1 And without the annex and without the variance, we just couldn't  
2 possibly justify the cost of the annex.

3 Secondly, to meet the variance test under 3107, the  
4 applicant must show that the relief can be granted without  
5 substantial detriment to the public good and without substantially  
6 impairing the integrity of zoning regulations.

7 We feel that when the BZA granted the use variance  
8 back in 1983, it obviously found these cases to be true, and we  
9 submit that they are still true. I think that Mr. Sockwell  
10 enunciated the light and air is not going to have an adverse  
11 impact upon the neighbors.

12 And in fact, we feel that, together with the main  
13 headquarters house, it will be an improvement, a great improvement  
14 to that neighborhood and work a very successful addition to that  
15 neighborhood.

16 CHAIRPERSON REID: What did you just say in regard  
17 to the property being something unique or exceptional about the  
18 property inherent in the land that makes it a practical difficulty  
19 for you to comply with existing zoning regulations?

20 MR. BOASBERG: Well, we feel, Madame Chair, that we  
21 -- that because the space is so small, it is the balance of the  
22 space on that property, that we -- without being able to use the  
23 exception, we could not get an annex in there which would be  
24 worthwhile, worth the expense and the payment.

25 Those extra six feet are absolutely necessary. And

1 the property is unique in the sense that that's all that's left of  
2 it. We will use the entire property with that annex, the school  
3 building and the courtyard in the middle.

4 MR. SOCKWELL: Mr. Boasberg, the building has four  
5 particularly significant facades, the existing building, does it  
6 not?

7 MR. BOASBERG: Yes.

8 MR. SOCKWELL: And on that basis, to continue and  
9 preserve the commodity and the light -- this is already there --  
10 of all of the sides, you have to pull your annex back far enough  
11 that it would -- even regardless of the site conditions of  
12 percentage of lot occupancy, you would want to have the annex  
13 pulled away so that you have access to the view of significant  
14 exterior features of the existing building.

15 And that works well with the auditorium space that  
16 opens glazed to the courtyard, correct?

17 MR. BOASBERG: Absolutely.

18 MR. SOCKWELL: Okay.

19 MR. BOASBERG: And as you pointed out, we are  
20 holding the line of the school so that the annex then does frame,  
21 as you pointed out, not only the school, but the addition and the  
22 lovely addition, the striking addition. It does then serve as a  
23 framework for that.

24 And I don't think there's any other way we could  
25 have done that.

1 CHAIRPERSON REID: Okay, thank you.

2 MR. BOASBERG: Thank you.

3 CHAIRPERSON REID: We have now the -- I think the  
4 office -- go to the Government reports. And I think that the --  
5 and you don't have to go back because there's no one else here for  
6 this particular case, I don't think.

7 There's no one else in support or in opposition, so  
8 you stay right there. And let's look at the Government reports.  
9 There was a report from the Office of Planning in which they  
10 basically supported the application and saying in part that the --  
11 oh, that's correct.

12 Thank you very much.

13 I'm sorry, it was the Office of Planning, a letter  
14 from the previous order that you received, and they were in  
15 agreement then and they have not submitted to us anything to alert  
16 us to the fact that they have, in any way, changed their position.

17 They did cite that they wanted the use to be  
18 nontransferable. In other words, used only by Africare and that  
19 it will be available to the community, which has been established  
20 here today, and that the parking lot will be secured after work  
21 hours. Has that been done? Is the parking lot secure  
22 after work hours?

23 MR. BOASBERG: Well, what we put in the last order  
24 was we had an open parking lot. Now that open parking lot will go  
25 underground now, so it will be secure, yes.

1 CHAIRPERSON REID: Okay, ANC report. You said that  
2 you did meet with ANC-2C and they had no objection. They did not  
3 send a letter, so therefore --

4 MR. GILREATH: We have a letter from --

5 CHAIRPERSON REID: From a single member district.

6 MR. GILREATH: Yes, ANC-2C.

7 CHAIRPERSON REID: Mr. Thorp.

8 Are you familiar with this letter from Mr. Thorp?  
9 He is saying that you all did not get in contact with him and he  
10 tried to contact you and some problem with the communication, and  
11 he feels that the ANC was not given their due respect.

12 Are you familiar with this letter?

13 MR. KING: Yes, I saw this letter today, but on  
14 behalf of Africare, I would say that when we were first given the  
15 -- from the BZA the name of the person to contact for the 2 ANC,  
16 Laurence Thomas, I carried a packet over to Mr. Thomas --

17 CHAIRPERSON REID: Right.

18 MR. KING: -- in August. When Mr. Thorpe contacted  
19 me to tell me that we were trying to bypass the ANC, I said no, I  
20 had given a packet to Mr. Thomas. He was unaware of that at that  
21 point, and this was in September.

22 CHAIRPERSON REID: Okay, now excuse me one second.

23 MR. KING: And then I did give him a packet.

24 CHAIRPERSON REID: Okay, my understanding from  
25 staff was that this letter came in, and the letter -- it's not

1 dated, but it --

2 MR. KING: It's dated October the 18th.

3 CHAIRPERSON REID: No, no, I'm -- oh, I see,  
4 October 18th. I'm sorry, it is. But there was another letter  
5 that -- where he rescinded his opposition and changed his  
6 position.

7 All right, so basically it says that he opposed it  
8 until the -- "Africare meets with me and the community, at which  
9 time that -- at which time that has not occurred to date."

10 So obviously --

11 MR. BOASBERG: That is not true, as Mr. King -- we  
12 have record testimony. Mr. King has met with Mr. Thorpe. Mr.  
13 Thorpe has all the materials. And Mr. King has met with Mr.  
14 Thomas.

15 CHAIRPERSON REID: When did you meet with them?

16 MR. KING: As of October the 5th, he had the entire  
17 packet. I carried it to his house.

18 CHAIRPERSON REID: Well, then this is on the 18th  
19 when he submitted this letter, so I don't know what that's all  
20 about.

21 MR. KING: And I have a copy of the packet that I  
22 gave Mr. Thorpe, including a copy of the letter that I also gave  
23 to him too after he came to my office.

24 CHAIRPERSON REID: Will you submit that to --

25 MR. KING: Sure.

1 CHAIRPERSON REID: Do we have a copy of that  
2 already?

3 MR. KING: Well, you have the whole packet, but  
4 I'll give you this. This is a copy of the letter.

5 CHAIRPERSON REID: That's the same thing that you  
6 had submitted here?

7 MR. KING: No, only it has the letter to him.

8 CHAIRPERSON REID: Okay, then just give us the  
9 cover letter.

10 MR. KING: Yes.

11 CHAIRPERSON REID: Give it to staff and we'll look  
12 at it, and it will also become a part of the record.

13 All right, so now -- I'm sorry? Okay, go ahead.

14 MR. SOCKWELL: Mr. King, in this letter from Mr.  
15 Thorpe, he asserts that you stated that the Office of Zoning  
16 informed you that Africare did not need the ANC's approval, which  
17 I assume means that Africare would not need ANC input on the  
18 issue.

19 MR. KING: No, that's not correct. I never told  
20 him that whatsoever, never, never.

21 MR. SOCKWELL: Okay, because --

22 MR. BOASBERG: We know we need the ANC, and Mr.  
23 King has told that to them.

24 MR. KING: And I had already given the packet to  
25 Mr. Laurence Thomas as of August the 12th.

1 MR. SOCKWELL: And Mr. Thomas is the --

2 MR. KING: ANC --

3 MR. BOASBERG: Chairman.

4 MR. SOCKWELL: Chairman.

5 MR. BOASBERG: Mr. Thomas was the contact point.

6 In the letter that we received from BZA, we were told to contact  
7 2C. And when Mr. King called, they said get in touch with  
8 Laurence Thomas. And he has just repeated how many times -- we've  
9 tried to get in touch with Mr. Thomas.

10 Mr. Thomas has a packet. We've met with Mr.  
11 Thomas, but Mr. Thomas didn't choose to do anything.

12 MR. KING: In addition, I gave a copy of it to the  
13 5C, too, to the 5C ANC.

14 MR. BOASBERG: ANC-5C, James Barry.

15 MR. KING: Mr. Barry.

16 MR. SOCKWELL: But you're actually in 2C what?

17 MR. BOASBERG: We are in 2C02.

18 MR. SOCKWELL: You are in 2C02?

19 MR. BOASBERG: Yes.

20 MR. SOCKWELL: So your a single member district  
21 representative is Mr. Thorpe?

22 MR. BOASBERG: Evidently.

23 MR. SOCKWELL: Based on his letter here.

24 MR. LUCAS: Based on his letter, yes. I didn't  
25 have his name to contact. However, when I was told that he wanted

1 a copy, the Board said I could give him a copy if I wished. And I  
2 said certainly, I don't mind at all, and I took it over to him  
3 that very same evening.

4 CHAIRPERSON REID: I'm satisfied that you have met  
5 -- that you did communicate with him.

6 MR. SOCKWELL: My one concern is -- and I'm pushing  
7 this home, and I'm sure that Mr. Lucas understands why. You are,  
8 as I stated before, a beautiful addition to the community there.  
9 And it might be apparent that from some of this -- some of the  
10 questions that I have asked and some of the things, in particular  
11 this letter, that perhaps your direct connection to the immediate  
12 community needs to be reinforced.

13 Because you should know, as such an important part  
14 of that community, who your single member district representative  
15 is, and you should have a relationship with him or her whenever  
16 that representative exists.

17 Because that is the Government's way of  
18 communicating the people's needs through development interests and  
19 independently back to itself. Because the Advisory Neighborhood  
20 Commissions are there for that reason, to bring the people  
21 together, to represent the community, and to provide their input  
22 on issues of importance to the community.

23 And organizations of your size with your tremendous  
24 resources, art collection, capabilities must be one with your  
25 neighborhood. And it's just more important than keeping a

1 wonderful place and having that as a golden palace for people to  
2 look at from outside.

3 You've got to bring them in.

4 MR. KING: Yes, indeed.

5 MR. LUCAS: I support that condition. I would like  
6 to add, however, that if it's anything at all, that is not really  
7 much of a golden palace.

8 MR. SOCKWELL: Well, it's a beautiful building.

9 MR. LUCAS: We're fighting some terrible problems -  
10 -

11 MR. SOCKWELL: I'm sure.

12 MR. LUCAS: -- in Africa and here, too. Because of  
13 considerable amount of our time is spent trying to strengthen the  
14 relationship between African-Americans and Africa. And I take  
15 your charge seriously. We're going to give them a bigger dose of  
16 what this relationship ought to be like.

17 I have no problem with your charge to us. In fact,  
18 that is part of what we -- we are about constituency building.  
19 Unless we can get the neighborhood to support our work, then we're  
20 not likely to change the U.S. foreign policy to Africa.

21 And it's often that people who are on welfare and  
22 the street people who support us. And I might add that in  
23 Africare's beginning, our major financial support when we had the  
24 drought in the Sahara came from the poor people in southeast,  
25 welfare mothers bringing their pennies and dimes to help their

1 brothers and sisters in Africa.

2 So we don't take any high and mighty position. I  
3 think we've been so preoccupied with our work. We are prone  
4 sometimes to neglect the kinds of things that you have brought to  
5 our attention today.

6 MR. SOCKWELL: And I'm glad you said that because I  
7 was thinking that you have a global perspective. Sometimes you  
8 can't see the shadow at your feet when you can see well beyond the  
9 horizon.

10 MR. LUCAS: Right.

11 MR. KING: Mr. Sockwell, also Mr. Thorpe just moved  
12 into our neighborhood -- moved in on 5th Street in July. And  
13 immediately, as soon as he moved in, I went over to talk with Mr.  
14 Thorpe. And at that point, he told me that he had heard that  
15 Africare was trying to buy three pieces of property and he didn't  
16 have time to talk with me at that particular time.

17 I was going to invite him to one of the functions  
18 that we had, the latest one we had.

19 CHAIRPERSON REID: Thank you.

20 MR. SOCKWELL: Okay, thank you very much. That's  
21 fine.

22 CHAIRPERSON REID: My colleagues join me in being  
23 satisfied that your responsibility to the ANC commission has been  
24 fulfilled and you're reaching out to him and there was a  
25 communication -- some little heated attitudes that transpired.

1 But that's, you know, par for the course.

2 That's all part of family or extending and trying  
3 to work out things. So that is not uncommon. But the bottom line  
4 is that you did do what you felt was appropriate.

5 Could we please have closing remarks?

6 MR. BOASBERG: No, we appreciate the opportunity to  
7 talk before the Board. We appreciate the Board's careful  
8 examination and remarks. We really do. We found it very  
9 meaningful, especially myself, who has been before you many times,  
10 and we will take that remarks to heart.

11 We will ask then for a Board decision and a summary  
12 order when you meet on November the 10th. And we will post that  
13 property and we will submit an affidavit to you of posting before  
14 that time, okay?

15 CHAIRPERSON REID: Okay, all right.

16 MR. BOASBERG: Thank you very much.

17 CHAIRPERSON REID: Any questions?

18 MR. GILREATH: No further questions.

19 CHAIRPERSON REID: Mr. Sockwell?

20 MR. SOCKWELL: No.

21 CHAIRPERSON REID: Thank you very much.

22 MR. HART: The next case is application number  
23 16508 of Gilbertson Dick, pursuant to 11 DCMR 3107.2, for a  
24 variance under Section 404.1 from the minimum rear yard set back  
25 requirements under variance under Section 405.9 from the minimum

1 side yard set back requirements for a proposed covered walkway to  
2 connect the existing single family dwelling to an existing garage  
3 in an R-1-B District at premises 901 Butternut Street, N.W.  
4 That's in Square 2967, Lot 16.

5 (The witnesses were sworn.)

6 MR. DICK: Madame Chairperson, members of the  
7 committee, my name is Gilbertson Dick living at 901 Butternut  
8 Street, N.W., Washington, D.C.

9 I am the applicant for the proposal of the variance  
10 under Section 404 for the minimum rear yard set back requirement  
11 and a variance under Section 405 for the minimum side yard set  
12 back requirement for a proposed covered walkway to connect the  
13 single existing family dwelling to an existing garage in the R-1-B  
14 District premises of 901 Butternut Street.

15 I must say that this proposed walkway will not be  
16 enclosed. It will be only covered. And the purpose of that is to  
17 try to get away from some of the elements such as snow and rain so  
18 that you will not be wet to get into the main building.

19 CHAIRPERSON REID: That's it?

20 MR. DICK: Yes, ma'am.

21 MR. GILREATH: I could ask him one question. Is  
22 there a health related problem that's the basis for this? Someone  
23 perhaps is -- if they are chilled or what have you, they can  
24 suffer respiratory problems?

25 MR. DICK: I have two grandchildren. One is three,

1 one is nine. I myself is not that well and I was informed by my  
2 doctor to try my utmost best not to slide on the snow or fall  
3 because it might just -- I might just get paralyzed.

4 My wife is here to substantiate what I am saying.

5 MR. GILREATH: Since it's not enclosed, normally  
6 when we get snow -- or if not normally, frequently, it's blown a  
7 bit. So if it's not enclosed, it seems to me you're going to get  
8 a coating on the walkway regardless.

9 MR. DICK: What I might intend to do is to get  
10 something like a tarpaulin and put on the side, but it will not be  
11 enclosed. That could be always rolled up when it's possible.

12 MR. GILREATH: Like some kind of canvas cover?

13 MR. DICK: Yes, on the side.

14 CHAIRPERSON REID: A canvas cover? That's not --  
15 okay, we don't have any plans. Okay, so he's putting a canvas  
16 cover, so it's not --

17 MR. DICK: No, the -- what I'm saying, the walkway  
18 will be covered.

19 CHAIRPERSON REID: Okay.

20 MR. DICK: But in case of wind or snow or anything,  
21 we could use a tarpaulin at the side to prevent the walkway itself  
22 from accumulating any snow or anything like that.

23 MR. GILREATH: What's the length of this cover?  
24 How many feet is it, about ball park? Is it 20 feet, 30 feet, 50  
25 feet? I don't have to know exactly. I just need to know -- it

1 seems to me -- how are you going to raise and lower this cover?  
2 You got some kind of special crank or something?

3 MR. DICK: No, it will use a chord to lower it down  
4 in case of any rain or anything like that and you don't want to  
5 get wet at the side. That's only -- not the top. The top will be  
6 covered.

7 MR. GILREATH: I think we understand that.

8 MR. DICK: Yes, the top will be covered. The top  
9 will be covered.

10 CHAIRPERSON REID: Okay, let's just cut right  
11 through this.

12 Okay, Mr. Dick, --

13 MR. DICK: Yes, ma'am.

14 CHAIRPERSON REID: -- for a variance, you're coming  
15 before this Board, you have to be able to demonstrate how you --  
16 why you feel that you should be given a variance from the existing  
17 zoning regulations predicated upon your demonstrating that it  
18 would cause a practical difficulty to you to comply with the  
19 existing zoning regulations.

20 And we have to be a three pronged test. You have  
21 to show that there's something unique or unusual, exceptional  
22 that's inherent in the land, and then that -- such that it would  
23 cause a practical difficulty for you to comply with existing  
24 zoning regulations.

25 And then you have to show that it will not cause

1 any adverse impact to others who live in that -- or abut that  
2 property, and that it will not impair the intent and integrity of  
3 the zoning regulations or map. And I'm not sure, from looking at  
4 what you've submitted here, that you have done that.

5 MR. DICK: I don't understand you, ma'am.

6 CHAIRPERSON REID: Okay, let's start with number  
7 one. If you want to do something that is different from the  
8 zoning regulations, then the reason why you come here is to try to  
9 get a variance.

10 MR. DICK: Yes, ma'am.

11 CHAIRPERSON REID: All right, but for you to be  
12 able to get a variance, then you have to demonstrate why. I mean  
13 why should you be allowed to do something that everyone else can't  
14 do? Is it going to cause you some practical difficulty in order  
15 for you not to be able to comply with the existing zoning  
16 regulations?

17 Do you understand what I'm saying? You have the  
18 regulations, and then you want to do something that's not in  
19 keeping with the regulations. So you have to convince us as to  
20 why should we give you a variance predicated upon this being  
21 something unique or different about this property that is not  
22 unique and different for anybody else's property in the same  
23 neighborhood.

24 MS. DICK: We have to come back because --

25 CHAIRPERSON REID: We can't hear you, ma'am.

1 MS. DICK: We did not know it was going to be --

2 CHAIRPERSON REID: First of all, we can't hear you.

3 You have to speak into the mic and give us your name and your  
4 address.

5 MR. GILREATH: Push the button right there in the  
6 middle.

7 MS. DICK: My name is Carmen Dick. We were not  
8 prepared for this. We thought it was going to be more simple.

9 CHAIRPERSON REID: No, it's not simple really.

10 MS. DICK: Because all they asked for we had given.  
11 You know, we got all the information and all the papers.

12 CHAIRPERSON REID: But you didn't understand the  
13 procedures. You didn't understand what, in fact, you had to do  
14 when you came here.

15 MS. DICK: Right.

16 CHAIRPERSON REID: So therefore, you don't have  
17 what you need to have to be able to make your case. And even if  
18 you did, I'm not sure that you could because I don't see -- from  
19 looking at the material that you submitted, I don't see what's  
20 unique or different or unusual about your property.

21 So maybe Mr. Gilreath or Mr. Sockwell --

22 MR. SOCKWELL: Well, let me. First, I am -- I  
23 looked at all of the material that you provided. And my  
24 assumption is that you initiated your construction without  
25 securing a building permit from the District of Columbia based

1 upon the things that are existing in your photographs such as  
2 supports, --

3 CHAIRPERSON REID: It's built already?

4 MR. SOCKWELL: -- a concrete slab that links the  
5 garage and the main stairs to the house, which has the posts  
6 embedded in it. So the slab did not exist before the posts went  
7 up, and those posts are in exactly the same locations as your  
8 drawing.

9 So my assumption is that the inspectors came and  
10 stopped you.

11 MR. DICK: Well, I did not get the -- let me say  
12 the information from -- the person who was doing it did not inform  
13 me that I have to get it first.

14 MS. DICK: We didn't know that.

15 MR. DICK: We did not know that.

16 MR. SOCKWELL: Okay, all right. So the contractor  
17 did not --

18 MR. DICK: Did not.

19 MR. SOCKWELL: The garage, I assume, existed  
20 previously?

21 MR. DICK: Previously with the building, yes.

22 MR. SOCKWELL: The Section 2503 of the zoning  
23 ordinance states that except for structures specified and the  
24 exceptions set forth in this section, every part of a yard  
25 required under the provisions of this title shall be open and

1 unobstructed to the sky from the ground up.

2           And then it lists structures -- not including  
3 buildings, fences and stairs and antennas. The covered walkway  
4 that you wish to build is not one of those structures. And in  
5 order for the Board of Zoning Adjustment to approve such a  
6 structure, there would have to be first an allowance that says  
7 that such a structure is okay to build.

8           And second, that you can't build it by matter of  
9 right because of the specifics of your lot being unusually  
10 constrained on some physical way, either topography, shape, etc.  
11 So that you cannot build what would normally be available to you  
12 as a matter of right.

13           In this case, the structure itself isn't really a  
14 matter of right structure because it is within your rear yard.

15           MR. DICK: Yes.

16           MR. SOCKWELL: And it is more than four feet high,  
17 exclusive of posts, which would be railing. And therefore, it's  
18 more difficult. So I'm not sure that we can -- that we have a  
19 valid reason for allowing you not to have the rear yard or side  
20 yard that the ordinance requires.

21           That's part of the problem. The problem is that  
22 there has to be a compelling reason, hardship, specific problems  
23 with the site. Your site is a very normal shaped lot, a garage at  
24 one end, a house at the other, and a rear yard and side yard  
25 requirements.

1                   It's difficult for me to see a burden of proof for  
2 a variance.

3                   MS. DICK: A what?

4                   MR. SOCKWELL: It's difficult for me to see how we  
5 can support your variance request because we don't see the  
6 problems that are so restrictive with regard to the lot that you  
7 have that would say that yes, we can do this.

8                   Because you have two problems. You have your rear  
9 yard problem and your side yard problem, and yet there's nothing  
10 about the site -- there's nothing about the lot and nothing about  
11 what's there that makes your lot unusual. That's all.

12                  MR. GILREATH: I'd like clarification. You've  
13 actually build this cover already. It's already in place?

14                  MR. DICK: No, it's not covered. Just the posts  
15 that we have.

16                  MR. GILREATH: Well, what about the concrete  
17 walkway?

18                  MR. DICK: We put the concrete. Yes, we did put  
19 the concrete because it was -- when the rain fall, it's soggy.  
20 The grass is soggy.

21                  MR. GILREATH: Well, I'm not prepared to go quite  
22 as far as Mr. Sockwell. Admittedly, what you've given us kind of  
23 going to be rather difficult for us to come up with any kind of  
24 judgement that would be favorable to you.

25                  I am not sure that you were inclined to invest in

1 some legal advice. At least we had one case before where this  
2 gentleman wanted to build an addition to his house and we weren't  
3 able to go along, but I suggested that he get a good land use  
4 lawyer who came in with a proposal that did establish some unique  
5 characteristics and qualities to his yard.

6 I'm not sure you're prepared to sustain that cost,  
7 but I think today, at least for me, I could not vote in favor of  
8 this. On the other hand, if you want to pursue this further, I  
9 would suggest you get some kind of -- maybe that there is a pro  
10 bono lawyer in the neighborhood.

11 CHAIRPERSON REID: Mr. Gilreath's staff is prepared  
12 to give assistance, some guidance to them as to what, in fact,  
13 they need to do before they bring their case to this Board.  
14 Unfortunately, it's just inadequately prepared.

15 And even if they are to be able to make a case,  
16 even if they did have a case, and I'm not sure -- so in all  
17 fairness, I would not want to except your case or make a decision  
18 on your case particularly today and allow you time to go and talk  
19 to staff and see if, in fact, there is something that they can  
20 suggest for you or they may suggest that it doesn't look like --  
21 you know, it may not be a viable -- I mean it may not be something  
22 that's doable.

23 So you need to know that and know why before you  
24 come here because it is -- you know, it's just unfair for us to  
25 look at it and say oh, well, it doesn't look like it's going to

1 work and then just turn you down.

2 So would you like to come back? Would you like to  
3 meet with staff and then come back on -- Mr. Hart, can you make  
4 some suggestions as to what they might be able to do as far as  
5 getting back?

6 MR. HART: I'm thinking that -- first of all, you  
7 need to talk to staff and we'll determine whether it can go  
8 forward or not. So what we want to do is give you a continuation  
9 now. But I would like a particular date for continuation.

10 We could have a tentative date of January the 19th.

11 CHAIRPERSON REID: Or what you might want to do is  
12 like talk to them and meet with them and see, and then schedule  
13 them accordingly --

14 MR. HART: Yes.

15 CHAIRPERSON REID: -- based on what you're able to  
16 ascertain once you all meet with them.

17 MR. HART: Certainly, I would prefer that.

18 MR. GILREATH: Madame Chair, could I suggest -- I  
19 don't know whether it's feasible or not. When they meet with the  
20 staff, is it possible that counsel, Mr. Bergstein, who has very  
21 substantial knowledge and expertise in this area, can sit down  
22 with him and really just dry rule and say this is what you've got  
23 to do?

24 CHAIRPERSON REID: I'm not sure.

25 MR. GILREATH: Do you have some expertise or

1 someone?

2 CHAIRPERSON REID: I'm not sure if -- corp counsel  
3 is what is made available to us, the Board. I don't know if we  
4 could extend that to --

5 MR. HART: No. What I would suggest is --

6 CHAIRPERSON REID: -- applicants.

7 MR. HART: -- that staff meets with the applicant  
8 and we can take it from there. We can talk to the corporation  
9 counsel.

10 CHAIRPERSON REID: Yes.

11 MR. HART: We can present the case to them. And  
12 then we will take the -- we determine a date. So I will not give  
13 them a date.

14 MR. GILREATH: That sounds very agreeable. It's  
15 just that we need some legal expertise beyond just reading the  
16 regulations.

17 CHAIRPERSON REID: Okay, well let us do this.  
18 Let's just table your application for right now so you can meet  
19 with staff. And then once they determine what you need to do,  
20 then they'll so advise you and then we'll take it from there.  
21 Okay?

22 MR. DICK: Thank you.

23 MR. HART: Let me suggest at your earliest  
24 convenience that you come back to the office and the person who is  
25 handling this case is Ms. Beverly Bailey over there. Ask for her

1 and you can move forward from there.

2 MR. DICK: Thank you, sir.

3 MR. HART: Sure.

4 MS. DICK: We apologize. We didn't mean to give --

5 CHAIRPERSON REID: No, no, there's no apology  
6 necessary. Unfortunately, sometimes people come here and they're  
7 really not aware of exactly what this procedure entails and what's  
8 involved in it. And it's no apology necessary.

9 What we do is try to help as much as we can and to  
10 give you assistance that we are able to give you to guide you to  
11 what may be helpful to you.

12 MR. DICK: Thank you, ma'am.

13 MR. GILREATH: I would like to offer one additional  
14 observation. Even if your property is determined to be unique in  
15 some way, I must admit, from what you've told me, I'm going to  
16 have problems with putting a canvas or some kind of cover across.

17 I think unless you've got other similar kinds of  
18 walkways in the neighborhood with canvas covers, some way you have  
19 to be able to address that. Maybe you wouldn't have a cover at  
20 all. But I'm going to have some problems with that.

21 But at least explore it, and it's conceivable  
22 something could be worked out. We certainly hope so.

23 MR. DICK: I might have mislead you. It's not  
24 canvas over the top of it. It is not canvas to cover the top of  
25 the walkway.

1 MR. SOCKWELL: He's talking about side curtains.

2 MR. DICK: I'm just talking about the side.

3 MR. GILREATH: Well, that's what I'm having a  
4 problem with is the side curtains. I think this would be almost  
5 unsightly and bizarre.

6 CHAIRPERSON REID: Okay, we'll let them --

7 MR. GILREATH: Explore it and see what can be  
8 worked out. We will certainly listen fairly as we possibly can  
9 when you come back.

10 CHAIRPERSON REID: Thank you very much.

11 MS. DICK: Thank you very much.

12 MR. HART: The final case, application 16509 of  
13 Dennis L. Leepley Company, Inc., pursuant to 11 DCMR 3108.1 for a  
14 special exception under Subsection 1403.2 to continue the use of a  
15 service parking lot establishment to be used by the employees in  
16 an R-C-C2B District at premises 2341 Ontario Road, N.W.

17 That's Square 2566, Lot 841.

18 (The witness was sworn.)

19 MR. LEEPLEY: Good afternoon.

20 My name is Dennis Leepley. I'm here to apply for a  
21 special exception for a continued use of a parking lot that I've  
22 been using since 1980 when I first purchased it but neglected to  
23 file for an occupancy permit, and so that's why I'm here today.

24 This parking lot was built in the 1930s as a  
25 parking lot. I've been paying taxes, and the tax records show

1 that it's been taxed as a commercial parking structure since I  
2 purchased it in 1980. I also am the general partner for an office  
3 building at 1724 Kalorama Road which we have been using this lot  
4 for parking for my employees and storage for the last 19 years.

5 I think I've filled out all of the required  
6 information to allow you to evaluate, you know, our use for it in  
7 this special exception.

8 MR. GILREATH: You said that you purchased the  
9 property in 1980 and you failed to acquire an operation permit.  
10 Could you give us a little explanation as to why you didn't do  
11 this? Weren't aware of the rules or --

12 MR. LEEPLEY: I was ignorant, to be honest with  
13 you. I just didn't know any better, I guess, in 1980. We  
14 continued this. This was zoned CM2 at the time we purchased this,  
15 and then it was rezoned with the Reed-Cooke overlay I guess in the  
16 mid '80s or late '80s when it was rezoned.

17 So that it was just plain ignorance. Because as  
18 time went on and I had it all these years, we just continued using  
19 it. And it wasn't until I went in to get a permit to demolish the  
20 existing structures that this even came about.

21 MR. GILREATH: I see.

22 MR. LEEPLEY: Otherwise, you know, we'd still be  
23 parking and wouldn't have an issue today.

24 MR. GILREATH: I understand. Thank you.

25 CHAIRPERSON REID: All right, you're going to come

1 under 1403.2, right? And so basically what you need to do, sir,  
2 is to demonstrate to us how you are able to comply with Section  
3 1403.1 or 2 of the zoning regulations --

4 MR. LEEPLEY: Yes, ma'am.

5 CHAIRPERSON REID: -- for a special exception.

6 MR. LEEPLEY: Yes, ma'am. And I think under that  
7 part of the Reed-Cooke overlay, they provide special exception for  
8 parking if you're within 800 feet of the intended use. And I put  
9 in a little map there showing that I'm less than 400 feet from  
10 there, Attachment 12.

11 CHAIRPERSON REID: Attachment 12? Hold it up. Let  
12 me see which one you're referring to.

13 MR. LEEPLEY: I have the numbers down at the bottom  
14 of the page.

15 CHAIRPERSON REID: Oh, this one, this?

16 MR. LEEPLEY: Yes, ma'am.

17 CHAIRPERSON REID: You're showing that you are --  
18 oh, I see, 200 feet.

19 MR. LEEPLEY: It's actually 387 linear feet taking  
20 the most -- the lengthiest measurement --

21 CHAIRPERSON REID: Okay.

22 MR. LEEPLEY: -- to get there.

23 CHAIRPERSON REID: Okay.

24 MR. LEEPLEY: And this currently has the curb cuts.  
25 I don't have to do anything there. There's an existing four inch

1 concrete slab that has been the surface there since the '30s.

2 There's an existing fence gate that's there.

3 This has been there for all these many years.

4 MR. SOCKWELL: Actually, because I played on the  
5 property as a child because I grew up on that block --

6 MR. LEEPLEY: You probably played on the roof of  
7 that property then.

8 MR. SOCKWELL: No, actually we didn't go up on the  
9 roof very often. We played ball between the garages which had the  
10 big, heavy, wooden doors on them.

11 MR. LEEPLEY: Right.

12 MR. SOCKWELL: And Color Tone Press was back there  
13 then, all of those facilities.

14 MR. LEEPLEY: You know the neighborhood well then.

15 MR. SOCKWELL: I know the neighborhood like the  
16 back of my hand, including Meridian Hill Baptist Church, the  
17 addition that they built, the drycleaner that was there at one  
18 time.

19 MR. LEEPLEY: And you've probably gone there on  
20 Fridays and gotten a --

21 MR. SOCKWELL: And I got my hair cut at LaSayne's  
22 Barbershop, which before then was Timbers Barbershop and Timbers  
23 Restaurant was on the corner.

24 MR. LEEPLEY: Yes, we've been in the neighborhood  
25 since 1975 is when we opened our offices there.

1 CHAIRPERSON REID: Have you received any complaints  
2 from anyone in the community, in the neighborhood regarding  
3 adverse impact --

4 MR. LEEPLEY: Not adversely.

5 CHAIRPERSON REID: -- as it pertains to parking,  
6 traffic, noise, light?

7 MR. LEEPLEY: No, ma'am. As a matter of fact, I  
8 went to -- on October 12th, I went to the Reed-Cooke Neighborhood  
9 Association, you know, to tell them, you know, what we were doing  
10 there. And the only complaint I got was the fact that I wasn't  
11 going to be renting out of parking places to the neighborhood.

12 CHAIRPERSON REID: What about the ANC, did you talk  
13 to them?

14 MR. LEEPLEY: You know, I did not. I did not send  
15 this to the ANC, and it was only as I was sitting here in the  
16 meeting reading through this that I picked that up in the  
17 application. But I did attend the local community association  
18 meeting there.

19 CHAIRPERSON REID: Well, ANC has not submitted  
20 anything to us, so we usually assume that to mean that they have  
21 no objection. We don't have any Government reports. There is no  
22 one here in opposition. There is no one here in support.

23 So we move now to closing remarks by the applicant.

24

25 Do we have questions?

1 MR. SOCKWELL: Let me ask one question first.

2 MR. LEEPLEY: Yes, sir.

3 MR. SOCKWELL: Question number one.

4 CHAIRPERSON REID: Your microphone.

5 MR. SOCKWELL: Question number one. There will be  
6 no outdoor storage of materials?

7 MR. LEEPLEY: Absolutely not.

8 MR. SOCKWELL: There would be no outdoor repair of  
9 vehicles?

10 MR. LEEPLEY: Absolutely not.

11 MR. SOCKWELL: Okay.

12 MR. LEEPLEY: This is strictly for parking for my  
13 employees and tenants in the building at 1724. There's no evening  
14 parking, no outside, third party parking, no hourly parking.

15 MR. SOCKWELL: Would you be amenable, if requested,  
16 to provide a minimum shrubbery buffer outside of the gated area  
17 along the front of that lot?

18 MR. LEEPLEY: I guess I would be amenable. Right  
19 now it's concrete all the way back there so it would have to --

20 MR. SOCKWELL: Like maybe a wood --

21 MR. LEEPLEY: You know, --

22 MR. SOCKWELL: -- railroad tie planter-sized thing.

23 MR. LEEPLEY: Something low. I worry about  
24 security.

25 MR. SOCKWELL: Low, low, yes.

1                   MR. LEEPLEY:     You know, in other words, my  
2 intention is to put lights in there to face back. You know, if  
3 you're aware of that property there, it backs up to an existing  
4 office building now where I think the court system has some  
5 facility in there.

6                   And the Mary Center I think just purchased that  
7 property. But I want to put some lighting in there to point back  
8 towards that building just for security reasons. The fact is  
9 that, like we've said, we've been -- I've been in that  
10 neighborhood for 25 years and I was born and raised in Washington.

11                   And there's a different perception of what reality  
12 is in that neighborhood. Getting employees to come to interview  
13 with my company, oftentimes they will drive right on by and not  
14 even stop in once they drive through the neighborhood.

15                   The neighborhood isn't a bad neighborhood at all.  
16 It's a great neighborhood. But if I can't offer secure parking  
17 within walking distance and sight, then I'm at a real  
18 disadvantage.

19                   MR. SOCKWELL:    But most often parking lots are  
20 required to have a five percent shrubbery or landscaping. And  
21 where you might be able to provide a landscaped frontage that  
22 would make it a bit more attractive, something low maintenance,  
23 would be just low shrubs, would certainly improve the appearance  
24 and take some of the industrial feeling away.

25                   And you do have a vacant apartment building

1 immediately to the south.

2 MR. LEEPLEY: Right, I used to own that building,  
3 too. That was zoned C-M-2. I just recently sold that piece of  
4 property to Mike Minkoff.

5 MR. SOCKWELL: Okay, and do you know what the  
6 disposition of that is going to be?

7 MR. LEEPLEY: You know, Mike had said he was going  
8 to reconvert it back. We had used it for offices for years. And  
9 he said he was going to reconvert that back to residential, and I  
10 think he has prospective tenants that are in one of his office  
11 buildings he always has lined up there.

12 MR. SOCKWELL: Well, it might be a valuable thing  
13 to consider since you're going to be adjacent to a working  
14 property again. And north of the two apartment buildings that are  
15 on the other side of the incline driveway that goes up to the --

16 MR. LEEPLEY: I think there's a loading dock here  
17 and then there's an incline driveway that goes up to the --

18 MR. SOCKWELL: Right, and then --

19 MR. LEEPLEY: I think I put pictures in there, too.

20 MR. SOCKWELL: Yes, well I don't have to see the  
21 pictures.

22 MR. LEEPLEY: Okay.

23 MR. SOCKWELL: Believe me, I know what everything  
24 looks like. Beyond those two, everything is raised lawns with  
25 walls and planting. And then on the other side, most of the lawns

1 --

2 MR. LEEPLEY: Right.

3 MR. SOCKWELL: -- are on raised retaining walls.

4 So I'm just thinking that it would be worthwhile to do that, if we  
5 were to approve this, --

6 MR. LEEPLEY: Okay.

7 MR. SOCKWELL: -- to have you do a landscaped front  
8 just minimal.

9 MR. LEEPLEY: Okay.

10 MR. SOCKWELL: But something that would improve the  
11 visual appearance of the street.

12 MR. LEEPLEY: You know, we currently have a fence  
13 there and, you know, I want to maintain that fence as security  
14 there.

15 MR. SOCKWELL: You could put it behind the fence if  
16 you had to.

17 MR. LEEPLEY: Yes, I just want to leave it open so  
18 that it would be low shrubs so there wouldn't be any expectation  
19 of high that, you know, there could be any, you know --

20 MR. SOCKWELL: Thirty-six inches would be fine.

21 MR. LEEPLEY: Sure.

22 CHAIRPERSON REID: Okay.

23 MR. GILREATH: That answers my question. I was  
24 going to say that if he put shrubbery under there, would it create  
25 a security problem. But if you keep them 36 inches, --

1 MR. LEEPLEY: Yes, I'd like to keep them even lower  
2 than that. You know, some high grasses or something like that  
3 that's more ornamental than I would 36 inches. Somebody can still  
4 lay down behind 36 inches.

5 You know, if you're coming out at 10:00 at night,  
6 you know --

7 MR. SOCKWELL: If they're lying flat on the ground,  
8 they can lie between the cars.

9 MR. LEEPLEY: Sure.

10 MR. SOCKWELL: Trust me, it's not going to make  
11 that much difference.

12 CHAIRPERSON REID: Well, maybe something that will  
13 serve that purpose, but at the same time maintain the security  
14 aspect.

15 MR. LEEPLEY: But I understand, you know, what you  
16 want. You want something that's ornamental there that will  
17 improve the -- you know, make one more step further in improving  
18 the neighborhood.

19 MR. SOCKWELL: I mean grass is probably going to  
20 require more maintenance.

21 MR. LEEPLEY: Well, like I have this ornamental  
22 grass in front of our building now that only grows about 12 to 14  
23 inches and it's very popular here. You see it along Reno Road in  
24 a lot of houses along there that we have put in the planters that  
25 are along the street there.

1 MR. SOCKWELL: Well, something that's low  
2 maintenance, but a landscaped barrier between the physical lot and  
3 the physical sidewalk.

4 MR. LEEPLEY: Sure.

5 CHAIRPERSON REID: Okay.

6 MR. GILREATH: But it would be done within the  
7 context that we don't compromise security. I agree with you, but  
8 he should be given the latitude of saying it does not compromise  
9 your security.

10 MR. LEEPLEY: Yes. But I understand. I understand  
11 your objective and we'll try to achieve that.

12 CHAIRPERSON REID: All right, so are you looking  
13 for an answer today, a decision today?

14 MR. LEEPLEY: Yes, ma'am, because I haven't parked  
15 -- since I didn't have my occupancy permit, I stopped all parking  
16 there. So I haven't parked there in the last two and a half  
17 months, and it's a --

18 MR. SOCKWELL: Before I make a motion, is the  
19 surface of the lot currently solid?

20 MR. LEEPLEY: Yes, it's four inch concrete. Now,  
21 my objective would be later on to put a topping on there, an  
22 asphalt topping. But right now there's four inches of concrete  
23 that have been there for forever.

24 MR. SOCKWELL: Okay.

25 MR. LEEPLEY: It's parkable right now.

1 MR. SOCKWELL: Because that lot was always in bad  
2 condition surface-wise.

3 MR. LEEPLEY: If you look at it right now, you will  
4 see that you could drive on there and park on there without a  
5 problem at all.

6 MR. SOCKWELL: Okay.

7 MR. LEEPLEY: But yes, to answer your question, my  
8 long term goal is, as soon as I get my other floor, which I have  
9 half vacant right now in my building leased up and I'd like to put  
10 a topping on there with an automatic gate on there.

11 MR. SOCKWELL: Thank you.

12 I move that we approve the variance as requested to  
13 -- I mean special exception. I'm looking at the wrong thing and  
14 talking. I move that we approve the request for a special  
15 exception for use as a parking lot to Section 1403.2 of Title 11.

16 MR. GILREATH: With the condition that he provides  
17 --

18 MR. SOCKWELL: With the condition that a landscaped  
19 barrier be placed on non-driving surface at the edge of the  
20 sidewalk side of the lot that does not affect security.

21 MR. GILREATH: I believe the applicant has --

22 CHAIRPERSON REID: Did you second it?

23 MR. GILREATH: Well, I'm going to.

24 CHAIRPERSON REID: Oh, okay.

25 MR. GILREATH: I believe the applicant has made a

1 convincing and credible case for -- that they will not be  
2 detrimental to the neighborhood or community and that I think the  
3 proposed landscaping will certainly soften the industrial-like  
4 appearance.

5 And therefore, I second the motion for the  
6 approval.

7 CHAIRPERSON REID: And I also want to add that I  
8 think that approving it will not impair the integrity or intent of  
9 the zoning regulation or map.

10 All in favor?

11 (Chorus of ayes.)

12 Opposed?

13 MR. HART: Staff would record the vote as three to  
14 zero, Mr. Sockwell, Mr. Gilreath and Ms. Reid, summary order with  
15 a condition.

16 MR. LEEPLEY: Thank you very much.

17 MS. BAILEY: Madame Chair, Beverly Bailey, Office  
18 of Zoning. I have two questions, one of which is under Section  
19 2117 there is some standard conditions that go along with parking  
20 lots, and would it be appropriate to include those as a part of  
21 this?

22 CHAIRPERSON REID: Not only the letter, and I just  
23 couldn't remember if that was something that was imposed by Mr.  
24 Nunley from this office as to parking lots or if it was something  
25 that --

1 MR. SOCKWELL: It's standard.

2 MS. BAILEY: Right, they're standard conditions.

3 MR. SOCKWELL: It's a standard language for access  
4 maintenance operation of any parking lot.

5 MS. BAILEY: Right, exactly, exactly.

6 CHAIRPERSON REID: So what are you saying?

7 MR. SOCKWELL: He couldn't have it as a dirt lot.

8 CHAIRPERSON REID: So that would be something that  
9 would be --

10 MS. BAILEY: Part of the order under the  
11 conditions, yes.

12 CHAIRPERSON REID: Okay, is that what you're  
13 saying, Mr. Sockwell?

14 MR. SOCKWELL: Yes.

15 MR. GILREATH: Can those be read to the applicant  
16 so he can see it?

17 MR. SOCKWELL: These are --

18 CHAIRPERSON REID: I thought about that, but now --

19 MR. SOCKWELL: There are certain ones that apply  
20 and certain ones that don't.

21 CHAIRPERSON REID: Well, let me understand. I know  
22 there are conditions that we have for a parking lot typically, but  
23 --

24 MR. SOCKWELL: Well, actually these are -- these  
25 are actually not required spaces.

1 CHAIRPERSON REID: But I thought Mr. Nunley would  
2 stipulate as to whether or not it had to comply with that  
3 particular regulation. I wasn't sure.

4 MS. BAILEY: Basically parking lots -- they're  
5 basic conditions such as what Mr. Sockwell has mentioned. Five  
6 percent of the lot shall be landscaped. The parking spaces shall  
7 be paved and maintained with a bituminous concrete surface.

8 Any lighting shall be arranged so that they're not  
9 obstructing the -- they're not obstructing adjacent properties.  
10 And then the last question would be because you have indicated  
11 that some landscaping should be provided.

12 It would be useful if Mr. LEEPLEY could just maybe  
13 draw in on a map -- it doesn't have to be a professionally done --  
14 where the landscape could be done. Not today, but just submit  
15 that prior to the order.

16 MR. LEEPLEY: On the parking plane that I had faxed  
17 in to you, I could mark up onto that --

18 MS. BAILEY: Right, exactly.

19 MR. LEEPLEY: -- and do the planning area there.

20 CHAIRPERSON REID: Mr. Sockwell, then will you  
21 amend your motion to include those parking lot conditions as --

22 MR. SOCKWELL: Yes.

23 CHAIRPERSON REID: -- outlined by Ms. Bailey?

24 MR. SOCKWELL: Yes, I would amend my motion that  
25 the applicable sections of Section 2117, access, maintenance and

1 operation of parking -- of off street parking, be bound into the  
2 order.

3 MR. LEEPLEY: Just one --

4 MR. SOCKWELL: Just the ones -- see not all of them  
5 apply --

6 MR. LEEPLEY: Okay.

7 MR. SOCKWELL: -- because you're not required --

8 MR. LEEPLEY: Mr. Nunley was pointing out to me  
9 when I was up here a couple months ago about the four foot wall.  
10 And I asked him about that, and he said no, he says I don't think  
11 you'll have to do that because I think some place in there they  
12 talk about a four foot wall.

13 MR. SOCKWELL: They do. It's Section --

14 MR. LEEPLEY: And I was afraid of a security issue  
15 there with that.

16 MR. GILREATH: And was it five percent of the area  
17 has to be landscaped?

18 MS. BAILEY: Yes.

19 MR. GILREATH: I think he should -- it's in  
20 concrete now. That to the degree that it's reasonable, --

21 CHAIRPERSON REID: Reasonable or appropriate.

22 MR. SOCKWELL: So you have a contiguous residential  
23 property, which is the one next door, but it's not in an R  
24 district, is it? The apartment building that's next door, --

25 MR. LEEPLEY: To the left as you're facing the

1 property north?

2 MR. SOCKWELL: Yes, what's your zone for this  
3 parking?

4 MR. LEEPLEY: R-2 --

5 MS. BAILEY: C-2-B. R-C-C2B.

6 MR. SOCKWELL: Okay. It's a C. So that  
7 residential property screening is a 12 inch wall, 42 inches high  
8 or by evergreens -- dah, dah, dah.

9 MR. LEEPLEY: But I'm not adjacent to that

10 MR. SOCKWELL: No, you're not.

11 MR. LEEPLEY: It's between me and two other  
12 commercial properties.

13 MR. SOCKWELL: Right. Yes, I don't think that that  
14 applies to you. So there are certain ones that apply to you  
15 because you are parking an opening parking lot.

16 MR. LEEPLEY: Right.

17 MR. SOCKWELL: The fact that you are not required -  
18 -

19 MR. LEEPLEY: I know I've got to stripe it and  
20 things like that, and I've got to leave adequate spaces, you know,  
21 by code, whatever the width has to be.

22 MR. SOCKWELL: And we can provide in the order the  
23 specific subsections that you would be --

24 MR. LEEPLEY: Okay.

25 MR. SOCKWELL: -- required to comply with under

1 2117.

2 MR. GILREATH: I think to be completely rigid and  
3 flexible, saying five percent of the area has to be landscaped, I  
4 think that is excessive to the degree that reasonably landscaping  
5 can be provided. But I don't -- to say he's got to comply with  
6 this, the five percent, I think -- I have problems with that.

7 CHAIRPERSON REID: Well, Mr. Sockwell, can we --

8 MR. SOCKWELL: How many parking spaces are you  
9 providing?

10 MR. LEEPLEY: Eighteen, I think.

11 MR. SOCKWELL: Okay. Okay, now here's the thing.  
12 It states in 2117.11 "landscaping with trees and shrubs shall be  
13 provided for all open parking spaces provided on a lot where there  
14 are more than ten open spaces provided collectively as accessory  
15 to any building or structure."

16 Now, these are not on site accessory spaces, but  
17 they are accessory spaces to a use. But I'm not sure that they're  
18 accessory to the building.

19 MS. BAILEY: Mr. Sockwell, if you want to waive  
20 that requirement that he doesn't have to provide the five percent,  
21 --

22 MR. SOCKWELL: I would waive --

23 MS. BAILEY: -- then you can.

24 MR. SOCKWELL: Yes, I would waive the five percent  
25 portion of the rule.

1 MR. LEEPLEY: Thank you.

2 CHAIRPERSON REID: And put -- and do it, as Mr.  
3 Gilreath said, as is reasonable and appropriate.

4 MR. GILREATH: Exactly.

5 CHAIRPERSON REID: And we'll leave that to your  
6 discretion.

7 MR. LEEPLEY: I understand what Mr. Sockwell is  
8 trying to get me to do.

9 CHAIRPERSON REID: Sure.

10 MR. LEEPLEY: It's right along the front there and  
11 I appreciate that.

12 CHAIRPERSON REID: And you have no problem with it?

13 MR. LEEPLEY: No.

14 MR. SOCKWELL: I would waive the second sentence of  
15 2117.11, which states the landscaping shall cover a minimum of  
16 five percent of the total area devoted to parking, including  
17 aisles and driveways.

18 And it would just say landscaping trees and shrubs  
19 shall be provided for all open parking spaces provided on a lot  
20 where there are more than ten parking spaces provided collectively  
21 as accessory to any building or structure.

22 And then the last sentence, the landscaping shall  
23 be maintained in a health growing condition. And you can make  
24 that shrub --

25 MR. LEEPLEY: I'm going to get perennials, believe

1 me. I'm not getting annuals.

2 MR. SOCKWELL: Right.

3 MR. GILREATH: As I understood you, you said that  
4 when your building is completely occupied, that you will -- you  
5 plan to put lighting in the parking area?

6 MR. LEEPLEY: Right. In other words, I need that  
7 income to pay for the improvements.

8 MR. GILREATH: We've had some filling station  
9 applications here. The only relevance there is they have some  
10 kind of down lighting that does not extend over to the surrounding  
11 neighborhood. So you would put the lighting so that it tends to  
12 go down rather than extending to the apartment building?

13 MR. LEEPLEY: Yes, it would point back towards the  
14 commercial window. It has no windows on that side.

15 MR. GILREATH: Okay, yes.

16 MR. LEEPLEY: I'm sensitive to the neighborhood.  
17 I've been there a long time and I intend to be there a long time.

18 MR. SOCKWELL: The adjacent apartment building,  
19 which is vacant, is two lots removed from him I think on the south  
20 and then two wide lots removed on the north.

21 MR. LEEPLEY: I'm adjacent to the one four unit  
22 building, but they have two windows on that side.

23 MR. SOCKWELL: But that's commercial use right now,  
24 but it's not a residential use and so this doesn't apply today.

25 MR. GILREATH: On the apartment building though --

1 MR. SOCKWELL: It's up the street.

2 MR. GILREATH: Is this far enough away his lighting  
3 is not a factor?

4 MR. SOCKWELL: It won't be a problem.

5 MR. GILREATH: Okay.

6 MR. LEEPLEY: There's current lighting on the  
7 commercial property between me and that apartment building as  
8 there is.

9 MR. GILREATH: Okay. Well, if there's no  
10 residential impact, then it's whatever you feel is appropriate  
11 there.

12 CHAIRPERSON REID: Okay.

13 MR. LEEPLEY: Thank you. Now, I'm not familiar  
14 with the time frame.

15 CHAIRPERSON REID: You should receive your order in  
16 approximately two weeks.

17 MR. LEEPLEY: Okay, so then I can go down and get  
18 my permit and everything after two weeks?

19 CHAIRPERSON REID: Absolutely.

20 MR. LEEPLEY: Thank you very much.

21 CHAIRPERSON REID: Thank you.

22 This will conclude the October 20th hearings for  
23 the BZA.

24 Thank you.

25 (Whereupon, the proceedings were concluded at 4:42

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14

p.m.)