

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY,  
MAY 6, 2014

The Regular Public Hearing convened in the Jerrily R. Kress Memorial Hearing Chamber, Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice, at 9:30 a.m., Lloyd J. Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD J. JORDAN, Chairperson  
MARNIQUE HEATH, Board Member  
JEFFREY HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Board Secretary  
JOHN NYARKU, Zoning Specialist  
STEPHEN VARGA, Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

STEVE COCHRAN  
STEVE GYOR  
STEPHEN MORDFIN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.  
ALLISON MYERS, ESQ.

(This transcript constitutes the minutes from the Public Meeting/Hearing held on May 5, 2014)

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## TABLE OF CONTENTS

ITEM	PAGE
Case No. 18745 Application of Evan Goitein	3
Vote to approve	8
Case No. 18744, Application of SB-Urban LLC	9
Vote to approve	70
Case No. 18746, Application of Jubilee Housing	71
Vote to approve	82
Case No. 18747, Application of Jubilee Housing	82
Vote to approve	95
Case No. 18748, Application of Rob and Linda Low	96
Vote to approve	112
Case No. 18687, Application of William L. Ricks	113
Continued until June 24, 2014	134
Case No. 18722, Application of Andrew Keegan Theatre Company	134
Vote to approve (with four conditions)	157
Adjourn	158

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

2 (9:47 a.m.)

3 CHAIRPERSON JORDAN: Okay.

4 Thank you. Hearing Case the first one please?

5 MR. MOY: Okay. The top of the  
6 order then would be application No. 18745.  
7 This is the application of Even V. Goitein, if  
8 I pronounced that correctly, pursuant to 11  
9 DCMC 3104.1.

10 Mr. Chairman, this is a request for  
11 a special exception for a rear addition under  
12 Section 223, not meeting the rear yard  
13 requirements.

14 CHAIRPERSON JORDAN: Right.

15 Would you please introduce yourselves.

16 MR. COOKE: Patrick Cooke.

17 MR. GOITEIN: Evan Goitein.

18 CHAIRPERSON JORDAN: This is  
19 another matter I think the record would support  
20 without having additional testimony. It's a  
21 223 for a rear addition. In my estimation I  
22 don't think that I have to hear anything

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1 regarding this application. The file has been  
2 well documented with the necessary  
3 requirements. The ANC voted it's my  
4 understanding 6-0 in support of this  
5 application and there's no objection from DDOT.

6 Board, any questions or any issues  
7 we have with this that we need to hear  
8 additional testimony?

9 BOARD MEMBER HINKLE: Yes, thank  
10 you Mr. Chair. I just was curious. Oftentimes  
11 in these cases we get letters of support or  
12 opposition from neighbors and I was wondering  
13 if you had conversations with your neighbors,  
14 adjacent neighbors?

15 MR. GOITEIN: Yes. We've spoken  
16 with the nice orange sign we had outside of our  
17 house for about a month. I think we've had the  
18 opportunity to speak to just about neighbor  
19 that we have and everyone's in support.

20 At the ANC hearing we submitted a  
21 letter in support from every neighbor that  
22 would be in the general.

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1 CHAIRPERSON JORDAN: Okay.

2 MR. GOITEIN: So we've heard  
3 nothing but support from everyone.

4 CHAIRPERSON JORDAN: Good.  
5 Thank you. And I'm going to ask you to  
6 supplement the file with those letters that the  
7 neighbors submitted.

8 MR. GOITEIN: Sure.

9 CHAIRPERSON JORDAN: With that  
10 it's certainly up to the applicant if they think  
11 they need to put on -- do you have those letters  
12 with you?

13 MR. GOITEIN: I thought they were  
14 submitted with the ANC's filing but if they're  
15 not we can supplement them.

16 CHAIRPERSON JORDAN: No, it's the  
17 applicant's responsibility to make sure the  
18 file has everything that you have in it. But  
19 the ANC's letter was strong in support so I  
20 won't balk at not having the letters from the  
21 neighbors, and you've also been sworn so we take  
22 your representation as being correct. Now if

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1 we get letters that say to the contrary, then  
2 we've got an issue. But your representation is  
3 sufficient for the file.

4 So you have the opportunity if you  
5 want to do any presentation; otherwise we can  
6 move this along at this point. As I said, we  
7 believe that the evidence already submitted  
8 would support the --

9 MR. COOKE: We'll send on the  
10 report.

11 CHAIRPERSON JORDAN: Okay. Then  
12 let's turn to the Office of Planning and see if  
13 there's anything additional Ms. Thomas may have  
14 for us.

15 MS. THOMAS: Good morning, Mr.  
16 Chair and Members of the Board. I'm Karen  
17 Thomas with the Office of Planning and we have  
18 nothing further to add and we stand on the  
19 record of our report. Thank you.

20 CHAIRPERSON JORDAN: Board, any  
21 questions? The applicant in question to  
22 Office of Planning? Anyone here from the

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1 Department of Transportation on this matter?

2 We have a letter from the Department  
3 of Transportation with no objection to the  
4 relief requested.

5 Is there anyone here from ANC-3G?  
6 We do have a letter in support with the  
7 unanimous vote of 6-0 from ANC-3G. We don't  
8 have a letter in support but we have it by Office  
9 of Planning providing us the information that  
10 they did vote and it was 6-0. Is that correct?

11 MR. GOITEIN: That's correct.

12 CHAIRPERSON JORDAN: We can't  
13 give great weight because we don't have a formal  
14 letter. However, we will accept certainly the  
15 representation that's been made to the Board in  
16 the filings.

17 Is there anyone here wishing to  
18 speak in support of this application? Anyone  
19 wishing to speak in support of this  
20 application? Anyone wishing to speak in  
21 opposition? Anyone wishing to speak in  
22 opposition?

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1 (NO RESPONSE)

2 We would normally turn back to the  
3 applicant for any rebuttal evidence or any  
4 closing but since there's nothing to rebut and  
5 there's really no need to close then we would  
6 close the record based upon what's been  
7 submitted, the evidence to date, and I would  
8 move that we grant the relief requested by the  
9 application in 18745.

10 BOARD MEMBER HINKLE: Second.

11 CHAIRPERSON JORDAN: Motion made  
12 and second. Any additional discussion? All  
13 those in favor signify by saying aye. Those  
14 opposed nay.

15 (VOTE TAKEN)

16 Then the motion carries. Mr. Moy?

17 MR. MOY: Yes sir. Staff would  
18 record the vote as 4-0. This is on the motion  
19 of Chairman Jordan, second the motion Mr.  
20 Hinkle. Also in support Mr. Miller, Ms. Heath.  
21 We have a Board member not participating today.  
22 Motion carries on the vote of 4-0.

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1 CHAIRPERSON JORDAN: Summary  
2 order please.

3 MR. MOY: Great. Thank you, sir.

4 The next application is Application  
5 No. 18744 of SB-Urban LLC. I believe staff  
6 believes that this application has been amended  
7 but the caption reads which was advertised  
8 request for variance from the court width under  
9 subsection 536.3, a variance which we believe  
10 now is a special exception relief from the  
11 parking requirements under 2101.1 and 2100.10,  
12 special exception from the roof structure  
13 setback and uniform enclosing wall height  
14 requirements 411.11.

15 CHAIRPERSON JORDAN: Well that's  
16 a mouthful. When you settle in please if you  
17 would identify yourselves.

18 MR. AVITABILE: Certainly.  
19 David Avitabile with Goulston & Storrs, land  
20 use counsel to SB-Urban, the applicant.

21 MR. BALABAN: Mike Balaban,  
22 SB-Urban, we're the applicant.

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1 MS. LANZILLOTTA: Mary Kay  
2 Lanzillotta, Hartman Koch Architects.

3 CHAIRPERSON JORDAN: Your last  
4 name again?

5 MS. LANZILLOTTA: Lanzillotta.

6 CHAIRPERSON JORDAN: Okay.

7 MS. MILANOVICH: Good morning.  
8 Jami Milanovich with Wells & Associates,  
9 traffic consultant for the project.

10 CHAIRPERSON JORDAN: Okay.  
11 Counsel, just so that we're on the same page  
12 regarding the relief requested, we know there's  
13 been some amendment and I want to make sure our  
14 records reflect -- I think there's been a  
15 withdrawal of an amendment removing 2101 relief  
16 and you're going to special exception for  
17 2120.6?

18 MR. AVITABILE: That's correct.  
19 That is the only change. I can run through--

20 CHAIRPERSON JORDAN: Okay. If  
21 that's the only change then we're--

22 MR. AVITABILE: That's the only

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1 change.

2 CHAIRPERSON JORDAN: Mr. Moy, are  
3 you clear with that?

4 MR. MOY: Yes. I appreciate  
5 that, Mr. Chairman.

6 CHAIRPERSON JORDAN: Okay. I  
7 don't know if we're going to need testimony from  
8 the architect and there's been a request that  
9 Ms. Lanzillotta be accepted as an expert.  
10 She's not in our book, she's not been accepted  
11 before is my understanding to this Board as an  
12 expert, or have you?

13 MS. LANZILLOTTA: I have been.

14 CHAIRPERSON JORDAN: Okay. Well,  
15 it didn't make our expert record book. I've  
16 reviewed the resume and believe that she would  
17 be qualified to be an expert in architecture.  
18 Mr. Miller?

19 MR. MILLER: I think I've seen her  
20 with the Zoning Commission.

21 CHAIRPERSON JORDAN: Okay. So  
22 then if there's no objection from the Board then

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1 we will accept you as an expert and make sure  
2 that we're putting her in the book, put lines  
3 and arrows around it and circle it, you're in  
4 the book. Thank you.

5 I do have some transportation  
6 questions on this case. I don't have any other  
7 general issues about some of the other things.  
8 I don't know what the other Board Members need  
9 to get drilled down on. I don't think we need  
10 a full presentation. Is there anything that  
11 the Board really wants to hear from the  
12 applicant as I did say because you're seeking  
13 in a busy spot right there at Dupont Circle and  
14 you're required to have 23 parking spaces and  
15 you want to go to zero. I do have some questions  
16 about the impact upon the neighborhood and the  
17 community, etc.

18 Anyone else hear anything that they  
19 need to drill down on?

20 In other words, I think the file was  
21 well documented in regards to the relief that's  
22 necessary.

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1                   And then there were some -- okay.  
2                   This threw me for a loop. I'm just going to  
3                   drill down on some of the conditions and some  
4                   of the conditions that were proposed by the  
5                   applicant. I guess OP had some and then DDOT  
6                   had some and so I just kind of want to drill down  
7                   with some of those things.

8                   Anything else, Board, that you  
9                   think we need to talk about? As I said we  
10                  don't need to have a full presentation. But  
11                  let's focus on your transportation, the impact  
12                  of transportation.

13                 MR. AVITABILE: Well, to start  
14                 things off Chairman Jordan, we did review the  
15                 OP and the DDOT report and the ANC report.  
16                 We're pleased to have them all in support.

17                 With regard to DDOT they had one  
18                 recommendation regarding -- we had proposed  
19                 offering Capital Bike Share memberships and Zip  
20                 Car memberships to our tenants for the initial  
21                 term of their membership and we proposed doing  
22                 it for the first five years of occupancy of the

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1 project which has generally been kind of the  
2 outer limit of what people have done.

3 But we reviewed the District  
4 Department of Transportation's recommendation  
5 to provide those in perpetuity for the life of  
6 the project and so briefly I think to address  
7 one of the questions the Board might have, I'd  
8 like to ask Mike Balaban, the president of  
9 SB-Urban, to address our response to that.

10 CHAIRPERSON JORDAN: Well go back  
11 again. What did you say you agreed to in  
12 perpetuity?

13 MR. AVITABILE: They proposed in  
14 perpetuity and --

15 CHAIRPERSON JORDAN: Proposed  
16 what in perpetuity?

17 MR. AVITABILE: The Capital Bike  
18 Share memberships and the Zip Car membership in  
19 perpetuity so I wanted to ask Mr. Balaban to  
20 provide our brief response to that.

21 MR. MOY: And also they talked  
22 about the load management requirement and

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1 designation of a coordinator and some things  
2 that were not in what was tendered as  
3 conditions.

4 MR. AVITABILE: Correct. We  
5 actually aren't asking for loading relief so  
6 that's why we didn't tender any conditions  
7 regarding loading. I think we'd be happy to  
8 agree to our loading management plan as  
9 conditions of relief as well if the Board was  
10 so inclined. But since we didn't ask for  
11 loading relief we didn't think it was necessary  
12 to necessarily tack those on.

13 CHAIRPERSON JORDAN: Okay. All  
14 right.

15 MR. BALABAN: I'm Mike Balaban,  
16 president of SB-Urban. My partner, Frank  
17 Saul, and I formed SB-Urban specifically to  
18 provide small households, small unit  
19 apartments to the community in exceptional  
20 urban infill locations. The Dupont Circle  
21 location is a perfect example. It has a very  
22 high walk score, I think it's 98.

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1                   The other sites that we're  
2                   considering and that we expect to bring before  
3                   you in coming months have similarly very high  
4                   walk scores. The Latham Hotel has 100 and the  
5                   Blagden Alley location we're considering has I  
6                   think a 94.

7                   Our research indicates that the  
8                   customer to whom we will provide this product  
9                   really doesn't have, doesn't want and doesn't  
10                  use a car. And for that reason then as an  
11                  indicator of our commitment to providing a  
12                  product that in these locations contributes to  
13                  the urban fabric and the community, we're  
14                  prepared to commit to the bike share and the car  
15                  sharing in perpetuity.

16                  We don't really believe that that is  
17                  necessary in order to convince our customer.  
18                  Our customer is already convinced that he or she  
19                  doesn't want a car but we're delighted to make  
20                  that accommodation.

21                  Our customer for your perspective I  
22                  hope it may be of some interest, we intend our

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1 customer to be one who is very focused on  
2 immediate proximity to transit, immediate  
3 proximity to rich urban amenities and immediate  
4 proximity to the workplace.

5 And we believe that customer in many  
6 cases will come to Washington to do business  
7 here with a busy schedule without a lot of  
8 belongings, without a need or a desire for a  
9 large living space. We expect to provide  
10 shared living spaces to complement the small  
11 units that we'll provide in the Patterson  
12 Mansion and we expect that its urban setting and  
13 its architecture will combine to produce a very  
14 appealing environment for our automobile-free  
15 customer.

16 CHAIRPERSON JORDAN: Let me ask  
17 you, you said shared parking space where?  
18 You're going to offer shared parking?

19 MS. MILANOVICH: Shared living.

20 MR. BALABAN: I beg your pardon  
21 if I misspoke. We're going to provide shared  
22 living spaces within the facility.

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1                   CHAIRPERSON JORDAN:     Right. You  
2     are also very conclusive and emphatic that the  
3     tenants and that no one's going to have cars.  
4     Is that what you're offering to thie Board?

5                   MR. AVITABILE:     Correct. That's  
6     correct.

7                   CHAIRPERSON JORDAN:     How do you  
8     guarantee that no one's going to have cars?

9                   MR. AVITABILE:     Well, what we're  
10    guaranteeing is that we're not going to provide  
11    any parking, one, so they won't have a parking  
12    space in our project; we're guaranteeing that  
13    we've worked with the District Department of  
14    Transportation to ensure because of the address  
15    of our property and the lease provision we'll  
16    put into our lease that no one will be able to  
17    park on the street with an RPP sticker.

18                   We're going to provide them with  
19    incentives, we're going to provide plenty of  
20    bike parking, incentives for bike share and car  
21    share memberships so that you can get around  
22    without a car.

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1                   CHAIRPERSON JORDAN:     I understand  
2     everything     you're     doing,     but     the  
3     representation was made by the applicant that  
4     there's going to be no one having a car. You  
5     don't know that unless you know something  
6     differently. I haven't seen it in the reports  
7     that we've seen that indicates that the  
8     transportation demand management programs have  
9     conclusively said that no one's going to have  
10    cars. I think they even run contrary, I think  
11    you take your best shot. You take your best shot  
12    to--

13                  MR. BALABAN:        I certainly did not  
14    mean to represent that we have any way of  
15    projecting or knowing that no one will have a  
16    car. I meant to indicate that we earnestly  
17    believe that our profile of customer is not one  
18    who wants a car and that it will be unusual,  
19    trending towards rare, for any of our customers  
20    to have a car.

21                         It would obviously be fatuous for me  
22    to represent to you that I know that none of them

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1 will have a car.

2 CHAIRPERSON JORDAN: Right.

3 That kind of caught me and I wanted to underline  
4 that because I thought maybe you had something  
5 that I hadn't seen yet from all the different  
6 studies and reports that we really need to home  
7 in on.

8 What's the amount of rent, the range  
9 of rent?

10 MR. BALABAN: The range of rent,  
11 all of these units we expect to offer furnished  
12 and the range of rent for a furnished unit will  
13 be \$2,500 to \$3,000 dollars a month, in that  
14 range. There will be some that are less, some  
15 that are more. There are some units within the  
16 mansion itself that have tremendous  
17 architectural presence and views of the Circle  
18 that in addition to the fundamentals of our  
19 product are exceptionally attractive.

20 There are other units that are  
21 smaller with constrained views and we'll, of  
22 course, adjust the rents as called for.

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1 CHAIRPERSON JORDAN: And what is  
2 the target income level?

3 MR. BALABAN: The target income  
4 level is probably \$100,000 to \$125,000 dollars  
5 a year. The character of the location is  
6 certainly one where we expect some tenants to  
7 be earning higher and of course you know that  
8 there's inclusionary zoning units in the  
9 facility and we expect a range of customers to  
10 be part of our community.

11 CHAIRPERSON JORDAN: What is the  
12 affordable median that you're shooting for?

13 MR. AVITABILE: We're going to be  
14 shooting for -- our requirement is 80 percent  
15 of the area median income.

16 CHAIRPERSON JORDAN: So we're  
17 still at \$96,000, \$90 something thousand  
18 dollars a year?

19 MR. AVITABILE: I'm not sure it's  
20 quite that high since this will be a single  
21 person household.

22 CHAIRPERSON JORDAN: Right.

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1       Pretty clear. And the reason why I ask this  
2       question is there's a direct correlation about  
3       income levels and the abilities and the  
4       probability people having cars. And so I  
5       wanted to get a range of what that was going to  
6       be.

7               The other thing is what are you  
8       offering for people on the weekends so that they  
9       need to get around and do shopping and they go  
10      do things? So what's going to offset that?

11             MR. AVITABILE: Well, I think as  
12      we have in the record I'll start and then Jami  
13      you can supplement. They have full access to  
14      obviously the Metro rail system which is two  
15      blocks from the entrance; the bus system. In  
16      addition they have full access that we'll be  
17      promoting through this TDM package to Capital  
18      Bike Share memberships, an easy way to get  
19      around town on the weekends.

20             They'll have full access to a car  
21      sharing service which allows you to get around  
22      if you need to go out to Home Depot or what have

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1       you though I can't imagine in a small urban  
2       suite you'd have much need to go to Home Depot  
3       for more than a hammer and a few nails.

4               They'll also have access to walk and  
5       I think in the record and our pre-hearing  
6       statement we included an image that showed  
7       everything that's within walking distance of  
8       the site which includes, among other things,  
9       the Whole Foods that's at 14th and P Street, a  
10      multitude of restaurants and other  
11      establishments in the Dupont Circle area as  
12      well as along 17th Street.

13              Quite honestly the 14th Street and  
14      U Street corridors are not that far away.

15              There's no reason you'd need to get  
16      in a car if you're a single person who spends  
17      most of your day walking and you have a small  
18      unit you're going to go out and you're going to  
19      enjoy the weekend and you're going to get  
20      together with friends out somewhere in public.  
21      You're not going to be entertaining people  
22      here, the people who you're friends with are

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1       likely to also be going out and getting around  
2       town without a car.

3                   CHAIRPERSON     JORDAN:                Ms.  
4       Lanzillotta, do you want to add into that?

5                   MS. LANZILLOTTA:     Just to tack on,  
6       I mean in terms of the transportation demand  
7       management, the applicant is offering what I  
8       think as far as I've seen is the most  
9       comprehensive       transportation       demand  
10      management.

11                  As Mike had indicated, they have  
12      agreed to provide a car share membership and a  
13      bike share membership both for the initial term  
14      of the resident's lease and that's in  
15      perpetuity.     So ten years from now if a  
16      resident moves in they get that same benefit.

17                  There will be a bicycle repair  
18      facility in the building for those who do own  
19      bicycles.     There will be a transit screen--

20                  CHAIRPERSON JORDAN:     I saw that.  
21      Let me ask you, is that just for the people in  
22      the building?   Is it going to be a commercial

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1 operation? How is that--

2 MS. LANZILLOTTA: It's just for  
3 the residents of the building.

4 CHAIRPERSON JORDAN: That's staff  
5 or how is that going to go because I saw that  
6 and I found that interesting.

7 MR. AVITABILE: I think the idea  
8 is there'll be a bike pump, there'll be one of  
9 those racks you can put your bike on so that you  
10 can kind of put it in place. There'll be the  
11 tools that you need to repair your bike. That  
12 sort of thing.

13 CHAIRPERSON JORDAN: Okay.  
14 Because I saw that and I was thinking what  
15 you're going to hire somebody who's going to be  
16 there to repair bikes on a regular basis? And  
17 I thought well that's pretty nice.

18 MR. AVATIBILE: And I think one  
19 thing that might be possible and we were talking  
20 about this yesterday in the context of another  
21 project, would be to on occasion bring in one  
22 of the area bike shop owners to do a little bit

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1 of a clinic on here's how you maintain your  
2 bike, that sort of thing. Mike, I think you  
3 could support that that's something we'd  
4 certainly do.

5 CHAIRPERSON JORDAN: Don't talk  
6 yourself into something extra.

7 MR. AVITABILE: Pardon?

8 CHAIRPERSON JORDAN: I understand  
9 what you're saying. You were going to--

10 MS. LANZILLOTTA: Just to  
11 conclude, they're also providing bicycle  
12 helmets for residents so just an added benefit  
13 for those who want to take advantage of bike  
14 share.

15 And if you'd like, and I know the  
16 question has come up before, this TDM plan is  
17 great and I would note that the ANC has said that  
18 they consider it a model TDM plan, they were  
19 very impressed with it. But the real question  
20 is does TDM work and that question's been raised  
21 before and I've actually pulled three examples  
22 where we've actually gone out after the project

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1 is complete and done some traffic counts and  
2 surveys, and if you would like I could take a  
3 couple of minutes and just kind of walk through  
4 those.

5 CHAIRPERSON JORDAN: You have a  
6 before and after? Are these the District of  
7 Columbia studies?

8 MS. LANZILLOTTA: Well, one is  
9 from the District of Columbia. One of the  
10 issues we have when looking at trip generation  
11 and how many people are using cars in the  
12 District, it's hard to separate what benefit  
13 we're getting from the TDM plan versus what  
14 benefit we're just getting because we happen to  
15 be right across the street from a Metro station.

16 So in addition to the example that  
17 I got in the District, I've also pulled two  
18 examples from Fairfax County that are a little  
19 bit further away from Metro where the TDM plan  
20 is really more important because they don't  
21 have that convenience of Metro. So those are  
22 the three examples and then we've also got an

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1       Arlington County study that looked at the  
2       effect of their TDM plans on several  
3       residential buildings.

4                   CHAIRPERSON JORDAN:    And I really  
5       appreciate you referring those into your  
6       document because me, as I said not having  
7       anything else to do, I've read all of them. And  
8       I appreciate you giving a lead to that because  
9       it's of such interest to the citizens of the  
10      District of Columbia and we've asked over and  
11      over again for the backup type of studies and  
12      information.

13                   We sit all the time and people will  
14      come in and say they're going to do this and  
15      they're going to do this, and we hear it over  
16      and over again, but we never get anything that  
17      really says okay we've been doing this for two,  
18      three, four, five years and it really works. So  
19      it's very interesting when you provided that  
20      data and I pulled up those reports and spent an  
21      evening reading all through that and fell  
22      asleep, woke up, read some more, fell asleep and

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1       woke up and made some notes but it was really  
2       interesting information.

3                   MS. LANZILLOTTA:     Great.     Would  
4       you like me to hit the highlights for just a  
5       couple of minutes?

6                   CHAIRPERSON JORDAN:     Sure, yes.  
7       For the Board yes please.

8                   MS. LANZILLOTTA:     Okay.     Great.

9                   CHAIRPERSON JORDAN:     I kept a list  
10      of some questions I wanted to ask you from those  
11      reports.

12                   MS. LANZILLOTTA:     Well I'll do my  
13      best to answer them.     The first example is  
14      Square 54, which I'm sure you're all familiar  
15      with, on 23rd Street near Washington Circle,  
16      just across the street from the Foggy Bottom  
17      Metro Station.

18                   The development at completion  
19      included 335 apartments, approximately 440,000  
20      square feet of office and approximately 70,000  
21      square feet of retail.

22                   When we did the study for that

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1 development before it was built, we anticipated  
2 a trip reduction of 60 percent and when I talk  
3 about trip reductions I'm talking about trip  
4 reductions from the Standard Institute or  
5 Transportation Engineer rates that we use.

6 CHAIRPERSON JORDAN: So we seem to  
7 be in this area of beating their estimations  
8 pretty much?

9 MS. LANZILLOTTA: Yes. And when  
10 we went out this past October and that was  
11 really about a year after completion of the  
12 project, we did traffic counts at the driveway  
13 to determine how many peak hours they are  
14 generating and we found that they've actually  
15 been achieving a 75 percent reduction in the AM  
16 peak and an 82 percent reduction in the PM peak  
17 hour. And again that's significantly exceeding  
18 the 60 percent reduction that we had estimated.

19 In addition to doing the--

20 CHAIRPERSON JORDAN: How close is  
21 this facility to the Metro?

22 MS. LANZILLOTTA: It's right

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1 across the street from the Foggy Bottom Metro  
2 entrance. So in addition to doing the traffic  
3 counts we've also surveyed the employees of the  
4 building and the residents of the building and  
5 asked them how they typically travel to work.

6 And what we found there was that 85  
7 percent of the residential respondents  
8 indicated that they use non-single occupant  
9 vehicles, meaning 15 percent are driving  
10 themselves to work; the remaining 85 percent  
11 are taking alternate modes of transportation or  
12 car pooling.

13 For the office component, and this  
14 does include also the retail employees, the  
15 employees reported a 55 percent non-SOV, so 55  
16 percent are taking other modes of  
17 transportation or car pooling.

18 BOARD MEMBER HINKLE: Did you ask  
19 how many residents are students at GW or other  
20 schools because this is right in GW?

21 MS. LANZILLOTTA: It is and I  
22 don't think we asked the question specifically

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1 but we know from our contacts at the site, the  
2 property management company, that there is a  
3 very significant number of students who are  
4 living in that building. And that certainly  
5 has some influence on the residential survey  
6 because obviously if they're student and  
7 they're going to school, you know, they're  
8 walking because they're so close by.

9 BOARD MEMBER HINKLE: Sure.  
10 Thank you.

11 MS. LANZILLOTTA: And I've  
12 provided just a brief list of what that TDM plan  
13 includes, both in terms of the residential and  
14 commercial component.

15 But as I said, you know, they're  
16 obviously getting a significant benefit, not  
17 just from the students who live there but also  
18 because they're so close to the Metro stations.

19 So what I did was I looked at a  
20 couple of projects we've worked on in Fairfax  
21 County. The Ridgewood is--

22 CHAIRPERSON JORDAN: A question

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1 if I may.

2 MS. LANZILLOTTA: Sure.

3 CHAIRPERSON JORDAN: In your  
4 original estimations in your 60 percent goal  
5 did you factor in that this is a student area  
6 or not?

7 MS. LANZILLOTTA: At the time I  
8 don't think we were thinking that there would  
9 be as many students living there as what it  
10 turned out to be so we were thinking it would  
11 be more of a general residential population. So  
12 yes, when we estimated the 60 percent I think  
13 we obviously underestimated it a bit and that's  
14 one of the reasons.

15 So the Ridgewood is in Fairfax  
16 County. It's about four miles from the nearest  
17 Metro station and includes 483 apartments.  
18 The goal of that TDM plan was to achieve a 20  
19 percent reduction during the PM peak hours.

20 Our post-development study in  
21 November 2013, this past November, we found  
22 from trip counts conducted at the site that they

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1       were actually achieving a 46 percent reduction  
2       during the PM peak hour.

3               Again, we also did a survey of the  
4       residents who lived there and found, based on  
5       the survey results, that the residents were  
6       reporting that 29 percent of them were  
7       commuting by non-single occupant vehicle modes  
8       of transportation.

9               And you'll note there is a little  
10      bit of a disparity between the 29 percent and  
11      the 46 percent but remember we're measuring  
12      just a peak hour. One of the things that  
13      happens is people you know they may be driving  
14      but they might be shifting their work times so  
15      that they're avoiding the rush hour, so that  
16      plays into it as well. That's another TDM  
17      strategy but that's why there's a little bit of  
18      disparity in those numbers.

19              And you can see on the slide the list  
20      of TDM measures that are in effect there.

21              The third example I pulled is the  
22      Mosaic District, this is near the Dunn Loring

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1 Metro Station, it's about three-quarters of a  
2 mile from the Metro Station. This one's really  
3 still in development. When it's complete,  
4 it's a mixed use development that will include  
5 about 750 residential units.

6 At the time our survey was  
7 conducted, only 136 of those units were  
8 occupied. This is a development that's  
9 required to have annual monitoring and so as  
10 time goes on we'll be doing additional studies,  
11 but this initial study we looked at because it's  
12 in its infancy we just did the surveys of those  
13 residents that occupy the 136 units and found  
14 that they were achieving a 42 percent  
15 non-single occupant vehicle mode. So again  
16 you know--

17 CHAIRPERSON JORDAN: What was the  
18 target?

19 MS. LANZILLOTTA: I don't have  
20 that target in front of me. I believe it was also  
21 20 percent but I would have to confirm that. I  
22 apologize. I don't have that.

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1 CHAIRPERSON JORDAN:  
2 Three-quarters of a mile away from the closest  
3 Metro?

4 MS. LANZILLOTTA: Yes, it's about  
5 0.7 miles from the Dunn Loring Metro. And you  
6 can see the TDM plan listed there. These are  
7 the TDM measures that were in effect at the time  
8 of the survey; as the development continues  
9 there will be more TDM measures added to that.

10 So those are the three examples that  
11 I pulled from the work that we've done but I'd  
12 also like to just call your attention to a  
13 recent study, I think it was published in  
14 December of 2013, from Arlington County and  
15 what they did they surveyed a number of  
16 residential buildings in Arlington County and  
17 the study was to determine the effectiveness of  
18 the TDM plan.

19 And just to hit a couple of  
20 highlights from that study, what they found was  
21 that auto ownership for apartments and condos  
22 that were along a Metro corridor were

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1 substantially lower than obviously  
2 developments outside of Metro corridors.

3 Vehicle ownership decreased as the  
4 transit score increased. At our site on Dupont  
5 Circle we have a transit score of 97 out of 100  
6 so we have a very high transit score.

7 They also found that vehicle  
8 ownership decreased as the number of parking  
9 spaces provided decreased so there's a  
10 correlation between providing fewer parking--

11 CHAIRPERSON JORDAN: And the cost  
12 of parking.

13 MS. LANZILLOTTA: Right. And as  
14 the costs increase the vehicle ownership also  
15 decreased.

16 And then one of the things that I've  
17 found probably most interesting, because some  
18 of the other stuff is kind of what we've also  
19 thought and their studies sort of bear out those  
20 facts, but the final thing that was most  
21 interesting to me was that the percentage of  
22 residents at those residential buildings who

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1 walked and biked, that increased when they  
2 provided information on walking and biking to  
3 those residents and when bicycle parking was  
4 provided.

5 So that shows that providing  
6 bicycle facilities, bicycle helmets, the  
7 bicycle repair facility that we're providing  
8 will encourage people to in fact bike.

9 CHAIRPERSON JORDAN: And  
10 information that was providing to the  
11 employers?

12 MS. LANZILLOTTA: Well, that  
13 survey happened to just be for residential but,  
14 yes, I think you would have--

15 CHAIRPERSON JORDAN: But they  
16 surveyed and asked about did they have that  
17 information also at the various employers?

18 MS. LANZILLOTTA: Oh yes. Yes.

19 CHAIRPERSON JORDAN: Okay. Any  
20 other questions? Again, I really appreciate  
21 it and since I've downloaded it I'll shoot it  
22 out to the Board and we can all pull it down.

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1 That's good information to pull down and take  
2 a look at.

3 MR. MILLER: Thank you, Mr.  
4 Chairman. I just wanted to comment that I think  
5 this is a great project and I want to compliment  
6 for all the work that you've done to adapt and  
7 re-use this historic landmark. And I think it  
8 will be a great asset for the Dupont Circle  
9 neighborhood and the city and I'm sure the  
10 Chairman was going to shortly note that the ANC  
11 unanimously supported the request for relief to  
12 permit this project to go forward.

13 And I think a lot of the relief that  
14 you're requesting is necessitated by the  
15 constraints that this Historic Landmark has  
16 place on the development and your efforts to try  
17 to minimize adverse effects on the landmark and  
18 adverse effects on the surrounding  
19 neighborhood as well.

20 I did have one question, just a  
21 follow up question on the inclusionary zoning  
22 units. Even though the affordability levels

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1 under that are not as deep as many of us are  
2 coming to realize that they need to be for this  
3 city, and I think the Zoning Commission will be  
4 looking at that in a case later this year, not  
5 ZRR but it's come up in the ZRR hearings a lot,  
6 that the 80 percent AMI is just not sufficient.  
7 And of course in some cases it's half 50 half  
8 80, the 50 and 60 certainly help to get there.

9 But you are complying which we  
10 appreciate. How many units of the 92 units  
11 will be -- is it seven or eight?

12 MR. AVITABILE: It's 8 percent.

13 MR. MILLER: 8 percent?

14 MR. AVITABILE: 8 percent of the  
15 units, 7 or 8 I believe is correct.

16 MR. MILLER: And I just want to  
17 thank you also for your commitment to do the  
18 bike share and car sharing membership in  
19 perpetuity. That's very much appreciated.  
20 Thank you.

21 CHAIRPERSON JORDAN: Board, any  
22 other questions? I appreciate having the

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1 conversation and for the record you know  
2 parking is the issue for everybody and people  
3 just start shaking when they see relief from  
4 parking and it's so much relief from parking  
5 going from 23 spaces, but I really do appreciate  
6 your report. It was very thorough. Thank you.

7 MR. MILLER: Mr. Chairman, the  
8 filing noted I was surprised to learn that there  
9 were 15 garages within a quarter of a mile of  
10 this Dupont Circle location that had 70 monthly  
11 spaces available which shows you that the  
12 on-street parking pricing is still very  
13 attractive.

14 CHAIRPERSON JORDAN: Yes. And  
15 that's also what the reports talk about, the  
16 cost of parking is another issue for the  
17 overall--

18 Board, any additional questions?  
19 Anything you need to hear from the applicant?  
20 My intent would be to continue to have -- go  
21 through and then come back at the end and deal  
22 with conditions.

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1                   MR. ATABILE:     I wanted to note we  
2     do have revised conditions that include  
3     changing those two conditions to in perpetuity  
4     for the Board's consideration at the  
5     appropriate time.

6                   CHAIRPERSON JORDAN:     Okay.   We  
7     kind of go through these conditions ahead of  
8     time and kind of look at them and try to make  
9     sure but if you want to add something we can talk  
10    about it.

11                   If it's okay then we can go over to  
12    Office of Planning and see if Mr. Cochran has  
13    anything else for us.

14                   MR. COCHRAN:     If you'll give me  
15    just a second I'm actually looking up the 2014  
16    AMI for a single person which might help just  
17    to clarify it for the record.

18                   CHAIRPERSON    JORDAN:             We're  
19    probably okay with that.   We can come back to  
20    that.

21                   MR. COCHRAN:     Okay.   Because it  
22    is lower for a single -- it would be about

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1       \$70,000 for a family of four so go down  
2       correspondingly for a single person which would  
3       actually make for some fairly nice digs for a  
4       person earning that moderate amount of money.

5               Well, if he has nothing really to  
6       add -- excuse me, I was thinking back to when  
7       I was talking--

8               CHAIRPERSON JORDAN:       I know you  
9       said "moderate amount" and I said people would  
10      die for \$70,000 a year.

11              MR. COCHRAN:       Exactly. We have  
12      a high area median income as you know. OP  
13      doesn't have anything to add to its report. The  
14      conditions that were recommended by the  
15      Department of Transportation are extensive and  
16      we certainly support your adding those  
17      conditions to a decision should you decide to  
18      grant the relief requested.

19              CHAIRPERSON JORDAN:               Any  
20      additional questions from Office of Planning?

21              MR. COCHRAN:       I do appreciate your  
22      report and hitting the real point to this and

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1       how concise it was.

2                   CHAIRPERSON JORDAN:       I'll pass  
3       that along to the staff person who actually  
4       wrote the report whose wife recently had a baby.

5                   MR. COCHRAN:     Okay.   We're good.  
6       Thank you.

7                   CHAIRPERSON JORDAN:     Board, any  
8       questions?   Applicant any questions?

9                   MR. AVITABILE:    No questions.

10                  CHAIRPERSON JORDAN:    All right.  
11       Anyone from the Department of Transportation?  
12       As I said, we do have a letter of no objection  
13       subject to conditions from the Department of  
14       Transportation and I think the only one that's  
15       different than what was included -- well  
16       there's two.   That they set a low management  
17       plan and we can talk about that.

18                  And the other was that the short  
19       term parking bicycle spaces in public space I  
20       didn't see that in your initial tender  
21       conditions.

22                  MR. AVITABILE:       I think we're

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1 happy to provide bike parking. Ultimately it's  
2 subject to DDOT approval through the space  
3 permit process so they'll tell us what to do and  
4 we'll do it.

5 CHAIRPERSON JORDAN: Okay. Is  
6 there anyone here from ANC-2B? We do have a  
7 letter of support from ANC-2B to which the Board  
8 will give great weight who certainly supports  
9 the relief you're requesting.

10 Is there anyone here wishing to  
11 speak in support of this application? Anyone  
12 in support? Anyone in opposition? Please,  
13 come forward. Opposition please. And take a  
14 seat at the table, both at the same time please.  
15 And I want to make sure that you both have  
16 submitted the witness statement to the court  
17 reporter. You have both of them?

18 MR. MCGRATH: Yes, I have both of  
19 them. And I have the--

20 CHAIRPERSON JORDAN: If you give  
21 that to Mr. Moy please. Thank you. And please  
22 take a seat and then I want you to identify

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1 yourselves. Make sure the microphones are  
2 turned on please. It should have a bright  
3 glowing green light. Just push the button that  
4 says push.

5 MS. ARRAZOLA: Thank you. I  
6 couldn't see it, sorry.

7 CHAIRPERSON JORDAN: Please  
8 identify yourself before you start.

9 MS. ARRAZOLA: My name is  
10 Natividad Arrazola. I live on--

11 CHAIRPERSON JORDAN: Can you  
12 spell your last name for me please.

13 MS. ARRAZOLA:  
14 N-a-t-i-v-i-d-a-d.

15 CHAIRPERSON JORDAN: Thank you.  
16 And you have three minutes to present to the  
17 Board.

18 MS. ARRAZOLA: Yes. I guess  
19 those gentlemen are the owners, the future  
20 owners, but I didn't know what was going on  
21 until just recently that they intend to make  
22 apartments and parking.

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1 I live in that area for almost 45  
2 years and I always had a problem with parking.  
3 However, Washington Club it has been a famous,  
4 famous club for the city. It does have three  
5 humongous ballrooms which they had President  
6 Coolidge, Angelina Jolie, Charles Lindbergh,  
7 very, very famous people. And the building is  
8 built by a very famous architect, Stanford  
9 White. He built one of the most famous  
10 mansions all over the nation and all over the  
11 world.

12 However, Washington Club doesn't  
13 have enough parking and they did just fine  
14 without parking. I think 10 or 15 cars. We  
15 don't need the parking in that area because we  
16 do have excellent transportation, like today I  
17 came Metro. We have a Red line, we have buses  
18 that come into all over the area of D.C., and  
19 having a car in that is just too expensive  
20 which like myself I have donated my car because  
21 I couldn't afford to pay parking.

22 I don't know where the gentleman

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1 wants to put the parking space because it  
2 doesn't have a parking.

3 Now making apartments like I have  
4 read in the yellow sign there, apartments I  
5 don't know what they're going to put it  
6 apartments because they have to block the Iraqi  
7 Embassy in order to make parking. The Iraqi  
8 Embassy is just next door.

9 And there's another big building  
10 that has windows to Washington Club, so in order  
11 to make apartments they have to close all the  
12 parking so the other buildings were not going  
13 to have the view. And not only that,  
14 Washington Club is considered an historical  
15 building that you cannot destroy it. It was  
16 built for that particular reason to entertain  
17 people.

18 And with apartment buildings today  
19 they are 94 percent vacant apartments in this  
20 city. I live in an apartment building. We  
21 have to advertise for six months in order to  
22 rent one apartment that cost under \$2,000

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1 dollars. They're looking for \$3,000 dollars  
2 an apartment, I don't know whether that  
3 apartment will go with the parking or without  
4 the parking or they intend to charge different  
5 for the parking.

6 CHAIRPERSON JORDAN: I'm going to  
7 need you to begin to wrap up please.

8 MS. ARRAZOLA: Well, that  
9 building is built to be a private club. It would  
10 do very well B&B because they do have three  
11 beautiful ballrooms, you could make big money.  
12 They have a parking lot right there that you pay  
13 a little bit, maybe \$4 dollars an hour of \$10  
14 dollars for a whole night right under the  
15 bookstore. And they have across the street  
16 another parking.

17 So I don't know why this gentleman  
18 wants to put apartments there when they could  
19 make five times more money as a B&B.

20 CHAIRPERSON JORDAN: Okay. We  
21 appreciate you taking the time and coming down  
22 and expressing your concerns to the Board.

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1                   That was kind of the conversation we  
2                   were having. The first part of this is to  
3                   understand the impact of this property not  
4                   having parking.

5                   MS. ARRAZOLA: Well, we like to  
6                   maintain the building as an historical. If they  
7                   planning to make apartments, who's going to pay  
8                   \$3,000 or \$4,000 dollars for an apartment? We  
9                   do have excellent transportation.

10                  CHAIRPERSON JORDAN: I'm going to  
11                  need you to cooperate with me.

12                  MS. ARRAZOLA: And it's a  
13                  historical building and I will hate to see  
14                  destroy it.

15                  CHAIRPERSON JORDAN: All right. I  
16                  appreciate your comments and I'm going to also  
17                  ask that the applicant meet with you to discuss  
18                  what's going on with their project. I'm sure  
19                  they've had forums, they've had ANC forums so  
20                  you can completely understand what's going on  
21                  because that historic building is not going to  
22                  be torn down. The historic building is

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1 remaining.

2 MS. ARRAZOLA: We like to keep it  
3 as it is. You know I'm an American and I live  
4 there 45 years and I pass that building maybe  
5 ten times you know. And I have seen more famous  
6 people in that club. And making apartments,  
7 they cannot use the ballrooms if they have  
8 apartments because there will be children,  
9 there will be dogs, even if they don't allow  
10 animals, who are they going to rent to?  
11 Millionaires don't want to live in the city,  
12 they live in McLean, they live on Foxhall Road,  
13 they live in Chevy Chase, they live in Bethesda  
14 and Potomac.

15 CHAIRPERSON JORDAN: We  
16 appreciate your comment and we will take that  
17 into consideration.

18 MS. ARRAZOLA: Thank you.

19 CHAIRPERSON JORDAN: Our next  
20 witness please.

21 MR. MCGRATH: Good morning, Mr.  
22 Chairman and Members of the Board. My name is

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1 Jim McGrath, I'm Chairman of TENAC the D.C.  
2 tenant's advocacy coalition which is the lead  
3 tenant's organization in the city. We  
4 represent everybody who lives in rental housing  
5 and that as you know is most of the residents  
6 of the city, like two-thirds of the population.

7 I have to tell you, Mr. Chairman,  
8 that there are serious issues here both in terms  
9 of affordable housing and historic  
10 preservation and there is no way I can address  
11 them in three minutes. We requested party  
12 status. I'm aware that it came in late.

13 CHAIRPERSON JORDAN: You made a  
14 request for party status? I don't think we've  
15 received the request for party status.

16 MR. MCGRATH: Well, we asked for  
17 it later and part of it is my medical situation  
18 here which has preempted me from -- although I  
19 participate in the community.

20 CHAIRPERSON JORDAN: For  
21 organizations you take five minutes please to  
22 go ahead.

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1                   MR. MCGRATH:    All right.    I had  
2                   the privilege of heading a very historic group  
3                   called the Citizens Coalition Against the  
4                   Proposed Brooking Office Building which  
5                   resulted in a landmark ruling by the Zoning  
6                   Commission of this city affecting a locale  
7                   right on the doorstep of this proposed  
8                   development, the 1700 block of P Street.

9                   And what the Zoning Commission said  
10                  then was the change of zoning from high density  
11                  residential to SE would not be permitted, that  
12                  that block had to remain high density  
13                  residential zoning in perpetuity or whatever  
14                  that provision calls for.

15                 Now we are seeing rampant  
16                 redevelopment in this city. You know, once  
17                 upon a time there was a concept that you judge  
18                 a fight on how it reaches old, you know, and how  
19                 it reaches old buildings. That's what  
20                 historic preservation is all about. How  
21                 ironic that the National Trust for Historic  
22                 Preservation is within feet of this proposed

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1 development.

2 The essential thing is internal  
3 desecration as well as external desecration  
4 when it comes to historic preservation.

5 This development in this city which  
6 is becoming rentally unavailable, affordable  
7 housing is crucial. This development does  
8 nothing for affordable housing. This is high  
9 powered, high priced residential development.  
10 Forget about the 6 percent allocated. That is  
11 chicken feed in terms of addressing the  
12 problems of affordability iin this city.

13 Washington, D.C. has become  
14 Hotsville, USA.

15 CHAIRPERSON JORDAN: I'm going to  
16 ask you to back off the microphone just a little  
17 bit because your voice is getting distorted.  
18 Apologies.

19 MR. MCGRATH: I'm sorry.

20 You know let's try to be a little bit  
21 less Hotsville USA and remember those who were  
22 here first and who have been here for a very long

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1 time. I'm talking about low income people, poor  
2 people, fixed income people, African American,  
3 Latinos, students and all the rest of it,  
4 virtually none of whom are going to be able to  
5 live in this place after they convert it into  
6 what I call the animal rights people would be  
7 happy if it would a rabbit warren.

8 How on earth you can get 90 units out  
9 of that place to me is positively absurd, that  
10 are going to be livable and historic  
11 preservation is a scandal. And what's  
12 happening in this community in general and in  
13 the Dupont Circle area is also a scandal and  
14 this Board I respectfully request needs to  
15 intervene far more often and more forcefully,  
16 not only in this case but all across the board.

17 You take a look around and what do  
18 you see? You see the Heurich Mansion, sold.  
19 You see the Columbia Hospital for Women  
20 completely demolished. You see the Old Post  
21 Office Building turned over to a human wrecking  
22 ball by the name of Donald Trump. Okay?

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1                   Those are only a few examples. I  
2                   could go on and on and on, of course I don't have  
3                   the time and you don't have the patience for  
4                   this kind of -- but I believe the historic  
5                   preservation arguments but in this case the  
6                   affordability question and preservation issues  
7                   are crucially important and I think they need  
8                   a lot more venting and a lot more attention, and  
9                   I'll stop right there.

10                  CHAIRPERSON JORDAN:        Again, I  
11                  appreciate you coming down and making your  
12                  statement.     And a lot of people don't  
13                  understand, this Board has certain areas in  
14                  which it can deal with or doesn't have authority  
15                  to handle, one of which is the overall  
16                  affordability issue.   And as you know we talked  
17                  about that earlier but it's just more of an  
18                  inquiring conversation because we can't  
19                  control the affordability.   That's not what  
20                  this Board does.

21                  And the historic preservation  
22                  aspect of it is something that this Board

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1 doesn't control. And I say this for the  
2 record, a lot of times we personally may have  
3 our feelings in supporting things but we have  
4 to do what's in the bounds of the law that's  
5 allowed by this Board.

6 Now outside of that we might have a  
7 whole different posture but in this particular  
8 case that's before us we're dealing with the  
9 size of the court and the relief from parking  
10 and the requirements that need to have relief  
11 from parking because of the landmark historic  
12 aspect that says that building cannot be taken  
13 down and so they're handcuffed in being able to  
14 do some of the things that normally a developer  
15 or somebody will want to do but just because of  
16 the things you said the District has laws in  
17 place that will prevent them from doing that.

18 So that's the only thing that we're  
19 dealing with is the parking, the roof exception  
20 and the court.

21 And so others can understand, when  
22 people are asking for relief under what's

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1       called a relief from special exception, we're  
2       basically handcuffed. That means they might  
3       have a requirement to go from A to Z and if they  
4       hit all A to Z then we have to do it.

5               Sometimes people come before us and  
6       ask for a variance relief and we have some legal  
7       aid where we can look at other aspects and make  
8       some other demands. So the Board's kind of at  
9       times in a quagmire, it's not that we don't  
10      appreciate what you -- we certainly appreciate  
11      you taking the time to come down here. We  
12      probably wish more people came down beforehand  
13      and had a conversation with us then afterwards  
14      talk about well can you believe that they did?

15             Well sometimes we have these  
16      hearings and no one shows. But I understand  
17      what you're saying and there are some  
18      safeguards in there. For instance, just the  
19      building itself, the historic building, the  
20      landmark building is not going to be torn down.  
21      It's an issue about something going on in the  
22      interior but we can't control that.

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1                   So I do appreciate that. Is there  
2 anyone else wishing to speak in opposition?

3                   MS. ARRAZOLA:       Can I--

4                   CHAIRPERSON JORDAN:       No, I'm  
5 sorry but you can't. We've given you additional  
6 leeway. Anyone else wishing to speak in  
7 opposition? Anyone to speak in opposition?  
8 In opposition? We've already gone through the  
9 support aspect, I'm sorry.

10                  Let's turn back to the applicant for  
11 two things before we go to your rebuttal. No,  
12 let me hear your rebuttal then we'll go through  
13 conditions if there's any rebuttal that you  
14 feel you need to place in the record.

15                  MR. AVITABILE:       I don't think  
16 there's much we need to do. I think it's  
17 already in the record. First, as the Board is  
18 aware, this project has been before the  
19 Historic Preservation Review Board. The  
20 addition and it should be clear all 90 units are  
21 not within the mansion, we're constructing an  
22 addition on the property in between the Iraqi

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1 embassy and the mansion so it's 90 units split  
2 between the mansion and the addition.

3 That design was reviewed and given  
4 concept approval by the Historic Preservation  
5 Review Board. We included that staff report,  
6 I believe it's Exhibit E of our pre-hearing  
7 submission. And then regarding inclusionary  
8 zoning, the law requires what it requires and  
9 we're complying with that obligation.

10 I think the only thing I'd note is  
11 actually if we built a smaller addition we  
12 wouldn't be required to do inclusionary zoning  
13 at all, so actually by building the size of the  
14 addition we're building we're actually  
15 providing more of a benefit.

16 But I don't think we have much else  
17 to add in rebuttal. We continue to be happy to  
18 answer additional questions from the Board.

19 CHAIRPERSON JORDAN: Board, any  
20 additional questions?

21 Then let's talk a minute here about  
22 the conditions. Let me go through what I have

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1 as conditions and we'll talk about each one and  
2 see how they may have changed if that's okay  
3 with the Board.

4 On the first one I have, and some of  
5 these I've altered to make more enforceable or  
6 to clarify them in a sense. The one it stays  
7 the same, the applicant should have flexibility  
8 to modify the design of the building and to  
9 address any comments from D.C. Historic  
10 Preservation Review Board and HPRB staff during  
11 the final review of the project as long as  
12 modification does not require additional  
13 zoning relief or substantially impact the plans  
14 that have been submitted to the Board.

15 Two, the applicant shall implement  
16 the following transportation management  
17 measures which shall (a) designate a member of  
18 the property management team as a  
19 transportation management coordinator, TMC  
20 abbreviated. The TMC shall provide  
21 information to residents identifying the  
22 available alternative modes of transportation

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1 and other supportive programs.

2 B, direct new residents to the  
3 property's web site which will include  
4 information on transportation options. I  
5 dropped various available.

6 C, provide a transportation  
7 information screen in shared space in the  
8 building that will show real time availability  
9 information for nearby trains, buses and other  
10 transportation alternatives. I think  
11 alternatively we would allow that you encourage  
12 people to get the Metro app or something and  
13 just utilize the Metro app. And I think that's  
14 probably something that DDOT needs to think  
15 about adding to their--

16 D, kind of beat up D a little bit.  
17 Restrict tenants from eligibility in the  
18 residential parking permit program through DMV  
19 and shall include at least a provision that  
20 prohibits residents from applying for a  
21 residential parking permit. And this is  
22 something I believe should run with the land so

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1 we need to probably -- we have this restriction  
2 recorded.

3 MR. AVITABILE: Okay. We'd  
4 certainly be happy to do that though the BZA  
5 order has the same effect, but whatever the  
6 Board is inclined.

7 CHAIRPERSON JORDAN: Fine. I  
8 want to make sure that it's there.

9 Provide at least -- yeah but the  
10 order's not usually recorded with the land.  
11 The recorder sits at DCRA whatever it is but it  
12 doesn't necessarily run with the land. If you  
13 don't know or you're not going to do something  
14 that's going to trigger it, then it's not going  
15 to be seen. I just want to make sure it's seen.

16 MR. AVITABLE: I understand.

17 CHAIRPERSON JORDAN: And also  
18 there is a pattern of, not this applicant or  
19 anybody, but sometimes these buildings get  
20 flipped as you know. And it's a whole new day  
21 and we're not going to have that.

22 All right. E, provide at least 31

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1 secure covered bicycle parking spaces within  
2 the building, and I added and for short term  
3 bicycle spaces and public spaces designated or  
4 in conjunction with DOT.

5 F, provide a bicycle repair  
6 facility within the building.

7 G, provide a minimum of 10 bicycle  
8 helmets for use by the residents in the  
9 building. That's something you guys suggested  
10 which is certainly interesting.

11 Offer Capital Bike Share  
12 memberships for each new tenant who does not own  
13 a bicycle in perpetuity. Such memberships are  
14 required only for new tenants who sign leases.

15 Offer membership in a car share  
16 program to each new tenant in the building upon  
17 the initial lease. Because I think it's an  
18 impact issue so I think it directly kind of  
19 relates to parking, have a place to pull into  
20 and what have you so therefore that's kind of  
21 how I back into the loading question because I  
22 think if there was a parking area then you might

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1 be able to use some of the parking spaces to  
2 allow for people to load. So that's how I'm  
3 backing into our loading and justifying it  
4 within this type of relief because I think the  
5 worst thing is to have trucks and people backing  
6 up and blocking Dupont Circle and that whole  
7 street and causing the residents all kind of  
8 heck.

9 So designate a loading management  
10 coordinator to coordinate all loading  
11 activities of the building, require all tenants  
12 to notify the loading coordinator before moving  
13 in and out of the building. Designate a loading  
14 management coordinator. Require all tenants to  
15 notify the loading coordinator before moving in  
16 and out and advise that the loading plan and the  
17 property is not -- that's OP1 to just simply let  
18 folks know that when they do unloading that they  
19 don't have the opportunity to take advantage of  
20 DOT's emergency no parking signage.

21 MR. AVITABILE: Well, I think  
22 DOT's comment was that you can't do it on the

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1 property in front of our building, that's what  
2 it is. It's not that we couldn't do emergency  
3 parking, we'd have to do it across the street  
4 or somewhere else.

5 CHAIRPERSON JORDAN: Yes, they  
6 said just put notice and I think that's  
7 reasonable. That's all I have. Is there  
8 anything additional? Board, anything else?  
9 And is that in conjunction with whatever  
10 changes you were going to make?

11 MR. AVITABILE: The only changes  
12 I was proposing were to bring in the in  
13 perpetuity for 2HI and you've addressed them  
14 better than I did.

15 CHAIRPERSON JORDAN: So anything  
16 else? And so then what we will do is close this  
17 record and see if the Board's ready to  
18 deliberate on this.

19 MR. MILLER: Thank you, Mr.  
20 Chairman, I've already really stated my  
21 comments in support so I would just move  
22 approval of BZA Case 18744 SB-Urban LLC and ask

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1 for a second.

2 CHAIRPERSON JORDAN: With the  
3 conditions.

4 MR. MILLER: With the conditions  
5 that you have enumerated.

6 BOARD MEMBER HEATH: I would  
7 second.

8 CHAIRPERSON JORDAN: Motion made  
9 and seconded. Any discussions, concerns?  
10 Mr. Hinkle?

11 BOARD MEMBER HINKLE: No, I think  
12 the applicant you know they've done a good job  
13 in really working with the existing historic  
14 building. It's a difficult site.

15 But I do think they've lucked out in  
16 terms of having a special exception on the  
17 parking versus a variance. I would have a  
18 difficult time if we were looking at a variance  
19 here but with that said I do support the  
20 application. I think the conditions are  
21 pretty well stated and this is actually a good  
22 use to go on the Circle. I mean it's mostly

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1 just commercial and retain at this point and it  
2 will be nice to have a residential component  
3 directly on the circle I think.

4 CHAIRPERSON JORDAN: Yes, again  
5 the Board takes parking and relief from parking  
6 very seriously and I think you've done a good  
7 job. And this is also a special exception, as  
8 Mr. Hinkle said, so our hands are tied but I  
9 really do again appreciate your traffic report  
10 and pointing us to those other studies because  
11 we've been asking for that information over and  
12 over and over again, verify that these things  
13 are actually working or not.

14 And again it was very interesting  
15 reading from my point.

16 BOARD MEMBER HINKLE: Mr. Chair,  
17 just to add, I really appreciate Ms.  
18 Milanovich's research and study on this.

19 CHAIRPERSON JORDAN: You've  
20 probably heard us beat up on people for -- good.  
21 All that in favor of the motion signify by  
22 saying aye. Those opposed nay?

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1 (VOTE TAKEN)

2 The motion carries. Mr. Moy?

3 MR. MOY: Yes sir. Staff would  
4 record the vote a 4-0. This is on a motion of  
5 Mr. Miller, seconded by Ms. Heath, also in  
6 support Chairman Jordan and Mr. Hinkle. We  
7 have a Board member not present. The motion  
8 carries 4-0 Mr. Chairman with conditions.

9 CHAIRPERSON JORDAN: Yes, I  
10 believe we can do a summary with that.

11 MR. MOY: Yes sir.

12 CHAIRPERSON JORDAN: And we want  
13 to recess for five minutes. A five minute  
14 recess and then we'll come back for 18746.  
15 Thank you. Thank you all.

16 (A BRIEF RECESS WAS TAKEN)

17 CHAIRPERSON JORDAN: Mr. Moy, we  
18 will call 18746.

19 MR. MOY: Yes sir. Application  
20 No. 18746. This is the application of Jubilee  
21 Housing Inc. Mr. Chairman, this is a request  
22 for a special exception relief to allow an adult

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1 rehabilitation home for ten men under Section  
2 732.1(d) and 358.2 through 358.7.

3 CHAIRPERSON JORDAN: Okay.  
4 Please identify yourselves.

5 MR. SHER: Good morning, Mr.  
6 Chairman and members of the commission, For the  
7 record my name is Steven E. Sher, the director  
8 of zoning and land use services with the law  
9 firm of Holland & Knight.

10 I'm accompanied this morning by  
11 Jessica Bloomfield seated two over from my  
12 right who's an attorney with the firm and--

13 MR. KNIGHT: My name's Jim Knight,  
14 I'm the executive director of Jubilee Housing  
15 where I've served for 12 years.

16 CHAIRPERSON JORDAN: Very good.  
17 This is just to enforce a special exception  
18 under 732.1 and a series of 358 respectively.  
19 I think the file is very complete about the  
20 relief. I don't have any questions. I was  
21 shocked that there wasn't any opposition on  
22 this because normally we hear there's issues

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1 with these facilities but no one has written in  
2 opposition.

3 In fact, we have ANC support, DDOT  
4 support and it's just simply a special  
5 exception relief being requested here. Does  
6 the Board hear anything on this case from the  
7 applicant that they believe is deficient in  
8 their application? I can't see anything. Mr.  
9 Hinkle?

10 BOARD MEMBER HINKLE: Just a  
11 question. This is currently operating as a  
12 boarding house?

13 MR. SHER: Yes, it is currently  
14 operating as a boarding house but we need  
15 permission from the Board before we can expand  
16 the population that we can house in the same  
17 building in the same manner.

18 BOARD MEMBER HINKLE: Correct. And  
19 it's been operating for how long?

20 MR. SHER: A year.

21 CHAIRPERSON JORDAN: On this site  
22 since January.

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1 BOARD MEMBER HINKLE: Okay.

2 CHAIRPERSON JORDAN: Funding  
3 classification requirement right basically?

4 BOARD MEMBER HINKLE: Right. I  
5 mean you mentioned, Mr. Chair, the absence of  
6 opposition and I was wondering because in the  
7 next case there are some letters of support. I  
8 understand this is more of a commercial area but  
9 have you talked to the neighbors in terms of  
10 support for the request?

11 MR. SHER: We have some letters in  
12 the file. There are people actually here who  
13 are prepared to testify in support if you want  
14 to hear from them.

15 CHAIRPERSON JORDAN: We have ten  
16 letters, I've read at least ten letters.

17 BOARD MEMBER HINKLE: Then my  
18 mistake.

19 CHAIRPERSON JORDAN: Well, no we  
20 need you to say that because sometimes you know  
21 I drive right by it and it is important to have  
22 either support or the community weighing in. It

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1 helps us and you've been real good in making  
2 sure that that -- and I appreciate it.

3 BOARD MEMBER HINKLE: Well I'm  
4 going to read the letters right now.

5 MR. SHER: And at the appropriate  
6 time the chair of the ANC is also here.

7 CHAIRPERSON JORDAN: Very good.  
8 Board, is there anything else we want to drill  
9 down because like I said you know Steve's at the  
10 table, the application everything is done well.  
11 We have good data. Unless you think you need to  
12 make a presentation?

13 MR. SHER: We're prepared to stand  
14 on the record.

15 CHAIRPERSON JORDAN: Then we will  
16 turn to Mr. Cochran whose report was very  
17 helpful and see if there's anything in addition  
18 to that nice chart that you did for us.

19 MR. COCHRAN: Thank you, sir. No  
20 we have nothing to add.

21 CHAIRPERSON JORDAN: Any  
22 questions Board? OP? Any questions applicant

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1 and OP? Okay. Anyone here from the  
2 Department of Transportation for this  
3 particular matter? We have a letter of no  
4 objection from the Department of  
5 Transportation. A representative of ANC-1C?

6 MR. SIMPSON: Good morning.

7 CHAIRPERSON JORDAN: Are you  
8 turned on there? Push it one more time.  
9 There we go. All right.

10 MR. SIMPSON: My name is William  
11 Simpson. I'm the Chair of Advisory Neighborhood  
12 Commission 1-C. I have some testimony  
13 prepared, I know there are two cases and my  
14 testimony would be identical for both so I  
15 assume I should give it now.

16 CHAIRPERSON JORDAN: You can give  
17 it now and you can just ditto.

18 MR. SIMPSON: Okay. As I'm sure  
19 you're aware, ANCs have to deal with a lot of  
20 different matters and typically we would just  
21 send in a letter of support and be done with it.  
22 We did indeed send a letter of support here. We

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1       overwhelmingly supported both this application  
2       and the one that comes next.

3               But in addition to sending a letter  
4       I wanted to personally come down today because  
5       these applications are a matter of particular  
6       significance to ANC-1C

7               They're actually relatively small  
8       applications. It's just two row houses that  
9       house about ten individuals, but has a much  
10      greater significance in terms of what it means  
11      for our community.

12              Adams Morgan has always taken great  
13      pride in being a very diverse community and a  
14      community that is both racially and  
15      socioeconomically inclusive. Obviously, we  
16      are subject to the same sorts of macroeconomic  
17      pressures that are affecting the city entirely  
18      and we're watching as some of that diversity  
19      slips away.

20              But for us this represents some  
21      small additional step that we can take as a  
22      community to continue to try to look out for our

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1        fellow man.    We are incredibly fortunate to  
2        have Jubilee Housing here to be the  
3        organization that's doing that for our  
4        community.

5                    They already operate within the  
6        community I believe it's eight residential  
7        apartment facilities that are not  
8        rehabilitative housing, they're low income  
9        housing. Four of those happen to be in my  
10       single member district and the other four are  
11       not far from it. And I'm pleased to be able to  
12       say that not only is Jubilee Housing not viewed  
13       as a problem in any respect, not only are they  
14       not viewed as just something that we have to  
15       tolerate, they are actively and broadly viewed  
16       in the community as a big credit and a  
17       contributing organization to our community.

18                   I would just note that in all of the  
19        facilities that they currently operate they  
20        keep their facilities at the highest level of  
21        repair and operation. They have sister  
22        organizations that provide all sorts of support

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1       for the residents who live there and we have  
2       just the utmost confidence in their ability to  
3       run these rehabilitative homes in a  
4       professional and wonderful manner.

5               It is my understand that at least  
6       with respect to the next application there's  
7       one neighbor that has submitted a letter in  
8       opposition and I hope that that neighbor will  
9       reach out directly to them and speak with them  
10      directly.

11             I wanted to share the experience of  
12      some of my constituents who live immediately  
13      across the street from one of the projects.  
14      When they learned that the BZA application had  
15      been filed they came to me and asked me about  
16      it.

17             I brought this to the attention of  
18      Mr. Knight and Mr. Miller who immediately  
19      assertively, aggressively reached out to those  
20      neighbors and ask for an opportunity to meet  
21      with them, to bring them through the house.

22             They came, they saw the facilities,

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1       they learned about the program.       Their  
2       concerns were immediately taken care of and  
3       they actually left the meeting feeling that the  
4       presence of Jubilee on the block is going to  
5       actually help them deal with some of the rowdier  
6       non-rehabilitated residents who live on the  
7       block.

8               So again ANC-1C overwhelmingly  
9       supports this application and it's my pleasure  
10      to be able to testify in support this morning.

11             CHAIRPERSON JORDAN:    Thank you. I  
12      appreciate your taking the time and joining us  
13      today. Board, any questions of Commissioner  
14      Simpson?   No?   Good. Appreciate it. Thank  
15      you and we will pass it on to the next case and  
16      appreciate it.

17             Applicant, any questions of the  
18      Commissioner?

19             MR. SHER:    No sir.

20             CHAIRPERSON JORDAN:    Okay. Is  
21      there anyone here wishing to speak in support  
22      of this application? Anyone wishing to speak

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1 in support? As I said, we do have ten letters  
2 in the file of support for this application.

3 Anyone wishing to speak in  
4 opposition? Anyone wishing to speak in  
5 opposition? Then we will turn back to the  
6 applicant which we normally have rebuttal and  
7 closing but seeing there is nothing to rebut and  
8 nothing to close on, so we will close the record  
9 in this matter. Is the Board ready to  
10 deliberate?

11 Okay. I would move that we grant  
12 the relief requested in 18746.

13 MR. MILLER: I would second that,  
14 Mr. Chairman and just comment that it speaks  
15 volumes about Jubilee Housing that there is so  
16 much support in the community. And how you've  
17 been a good neighbor in Adams Morgan and thank  
18 you for all that you've done for affordable  
19 housing and support of services for the  
20 residents of the District.

21 CHAIRPERSON JORDAN: Anything  
22 additional? All those in favor of the motion

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1 signify by saying I. Those opposed nay.

2 (VOTE TAKEN)

3 The motion carries. Mr. Moy?

4 MR. MOY: Staff would record the  
5 vote as 4-0. This is on the motion of Chairman  
6 Jordan to approve the application. This is for  
7 a special exception for ten men in an existing  
8 building. Second the motion Mr. Miller. Also  
9 in support Ms. Heath and Mr. Hinkle and we have  
10 a Board member not present. The motion  
11 carries, Mr. Chairman.

12 CHAIRPERSON JORDAN: Okay.  
13 Summary order please.

14 MR. MOY: Thank you, sir.

15 CHAIRPERSON JORDAN: Okay. Now  
16 let's move to 18747. Do you want to identify  
17 the case?

18 MR. MOY: Yes sir. Application  
19 No. 18747 also with Jubilee Housing. Same  
20 relief except that this is for an adult  
21 rehabilitation home for ten women. Same  
22 relief. There you go.

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1 CHAIRPERSON JORDAN: Okay. So  
2 for the record just identify yourselves for  
3 this part of the case.

4 MR. SHER: For the record, Mr.  
5 Chairman, Steven E. Sher, Director of Zoning  
6 and Land Use Services with the law firm of  
7 Holland & Knight.

8 MR. KNIGHT: Jim Knight, executive  
9 director of Jubilee Houseing.

10 MS. BLOOMFIELD: Jessica  
11 Bloomfield with Holland & Knight.

12 CHAIRPERSON JORDAN: Okay.  
13 You're aware that we received a letter from I  
14 think, Ms. is it Oca, a neighbor, regarding some  
15 concerns about this property. Would you  
16 address that for us. Her concerns. Have you  
17 had a chance to talk to her, etc.

18 MR. KNIGHT: Sure. She's in fact  
19 here and you may want to know that. What I  
20 would offer is that through the months that  
21 we've been in the property our residents and  
22 staff who work directly with the women's

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1 program have come to know her and have had an  
2 opportunity to communicate and she's been on  
3 the premises and has expressed support a number  
4 of times.

5 We just got -- the letter came to our  
6 attention yesterday afternoon and we didn't  
7 have an opportunity to reach her before the this  
8 morning so we just had a moment to speak in the  
9 hall a little while ago. I have a better  
10 appreciation of what her concerns are and if you  
11 want her to express them herself.

12 CHAIRPERSON JORDAN: Let's do  
13 this. Let's take this a little -- unless the  
14 Board has other issues and questions let's take  
15 this a little bit out of suit. And Ms. Oca,  
16 would you please come forward.

17 Excuse me one second, just so we're  
18 still in order, is there anything additional  
19 that OP has to add other than what's in the  
20 report?

21 MR. COCHRAN: No sir.

22 CHAIRPERSON JORDAN: And we

1 already have a letter from the Department of  
2 Transportation, no objection, and we've  
3 already had the testimony of Commissioner  
4 Simpson in support of this application. We'll  
5 just reverse -- anyone here wish to speak and  
6 let's go with opposition and then we'll come  
7 back if there's some in support. And you have  
8 three minutes to talk.

9 MS. OCA: Good morning.

10 CHAIRPERSON JORDAN: Three  
11 minutes please on the clock and start.

12 MS. OCA: My name is Sonia Montes  
13 de Oca, I'm the neighbor to the  
14 reclassification. The reason why I'm opposed to  
15 it is because it's being classified as a rehab  
16 house and it's right next to my house which I  
17 have children there. And I didn't have an  
18 objection to it but once the reclassification  
19 of a rehab house is established, that house will  
20 always be a rehab house.

21 And the revenue for my house is a big  
22 concern for me because if I were to sell it it's

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1 my No. 1 real estate value that I have and living  
2 next to -- and I'm not saying anything because  
3 I like the ladies and everything else but the  
4 resale value of my property will go down. I've  
5 talked to the real estate residential realtor  
6 and he said anybody who wants to buy your house  
7 as a single family would not want to have their  
8 kids next to a home like this because you can't  
9 guarantee who is residing in there.

10 We already know who's going to be  
11 residing in there and they're incarcerated  
12 people. And I have nothing against them  
13 because they're really nice and everything else  
14 but it's mostly the economical value of my house  
15 and the loss of revenue that I would incur.

16 And if you were somebody who's  
17 having a house like that, I've lived in the  
18 house since I was 2 years old, I'm 56 years old,  
19 so 54 years. It's a long time to live there and  
20 I've put up with a lot of the stuff that's going  
21 on there but this time it's economically I'm  
22 being affected by it. And I don't want to see

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1       that happen.

2                   And we have other rooming homes over  
3       the thing but I just don't want it to be  
4       classified as a rehab house because, according  
5       to the realtor, once it's a rehab house we don't  
6       know. Everybody will have a question on it.

7                   And I understand all the wonderful  
8       things that Jubilee has done in the  
9       neighborhood but in my street I'm the burden of  
10      all the wonderful things that have happened.  
11      We have the home for pregnant women right up the  
12      street. We have Jubilee House. We have the  
13      home with the AIDS right there and it's all my  
14      same block.

15                  I mean we have very little houses in  
16      Adams Morgan and all those homes are right there  
17      on my street. And I mean it has affected some  
18      of the value and the real estate, not on Lanier  
19      but in my -- because I'm right next to them.

20                  CHAIRPERSON     JORDAN:            Okay.  
21      Board, any questions of the witness?    Okay.  
22      Applicant?

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1 MR. SHER: No questions.

2 CHAIRPERSON JORDAN: We  
3 appreciate your comment. This is before so  
4 it's what's called a special exception which  
5 means if the i's are dotted and the t's are  
6 crossed it goes forward.

7 You made a statement that the  
8 property is always going to be classified as a  
9 --

10 MS. OCA: Rehab.

11 CHAIRPERSON JORDAN: Rehab. And  
12 that's not necessarily correct. This is just  
13 a use that they have for this property during  
14 the time. I can't say anything more about what  
15 the value's going to be but that's something  
16 that the Board will take into consideration but  
17 as under our requirements of adverse impact and  
18 take that and weigh that in conjunction with the  
19 other letters of support or anybody else who's  
20 in opposition with them. We appreciate it.  
21 Thank you.

22 Is there something you want to

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1 respond that can help Ms. Oca in this?

2 MR. KNIGHT: I certainly don't know  
3 how to respond conclusively to future value. I  
4 can say that the property that we own we  
5 invested several hundred thousand dollars in  
6 its rehabilitation. Its appraised value went up  
7 by about 30 percent pre- and post-construction  
8 so the property that we own has an increasing  
9 value with our presence there. I'm just not  
10 qualified to speak to how it will impact hers.

11 CHAIRPERSON JORDAN: Is there  
12 anyone else wishing to speak in opposition?  
13 Anyone else in opposition? Anyone wishing to  
14 speak in support? Please. Would you  
15 identify yourself please.

16 MR. ZOTTOLI: I'm John Zottoli. I  
17 live in --

18 CHAIRPERSON JORDAN: Would you  
19 spell your last name for me please?

20 MR. ZOTTOLI: Z-o-t-t-o-l-i. I  
21 live in Ward 1 in Adams Morgan close to the  
22 Ontario Road property than the one on 18th

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1 Street so I'm here to speak specifically to  
2 that. But my support extends to both  
3 properties.

4 Two specific things I would like to  
5 ask the Board to consider. The first is a  
6 public safety issue, that when people come home  
7 from treatment programs or from prison or jail,  
8 they still need continuing support. And it's  
9 a much safer arrangement for people to be living  
10 in a place where that support is available to  
11 them, where a little supervision is available  
12 to them, than to have them on the street.

13 I mean some of the recidivism we see  
14 stems from the homelessness that might be there  
15 or from people kind of out on their own without  
16 the support system they need. So we're going  
17 to make D.C. safer, we're going to make our  
18 community safer by having the people live in  
19 Jubilee Housing support rather than on their  
20 own or, worst case, on the street.

21 The second issue has to do with what  
22 a good neighbor Jubilee Housing is. As people

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1 have said, there are Jubilee properties around  
2 and in general the buildings are well  
3 maintained, better than other places nearby,  
4 and Jubilee makes sure that the people who live  
5 there are good neighbors too.

6 I know in the specific property on  
7 Ontario Road, there were parts of the front yard  
8 that were falling apart and Jubilee's new  
9 arrangement for the front yard, the new  
10 landscaping makes it much more attractive so  
11 we're very pleased to welcome Jubilee as a  
12 neighbor and we're pleased that there's a  
13 rehabilitative program available. Keeps us  
14 all safer. Thank you.

15 CHAIRPERSON JORDAN: Thank you.  
16 Board, any questions for this witness?  
17 Applicant? Okay. Our next witness please.  
18 Your name?

19 MS. DIEFENBACH: My name is Jane  
20 Diefenbach and I'm here as a supporter of  
21 Jubilee Housing. I live in Mount Pleasant just  
22 the other side of Harvard Street but I commute

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1 every day by foot past the Ontario Street house  
2 and in fact to a location right across from the  
3 18th Street house.

4 So I've been very involved as part  
5 of the community interested in those projects  
6 and as a financial supporter of Jubilee  
7 Housing, I would love to see those beds full.  
8 Jubilee Housing does a great job in affordable  
9 housing, in the affordable housing space and I  
10 know they're going to do a great job in this  
11 space -- and I'd really like to get the show on  
12 the road to make sure that they get this  
13 exemption and that they can continue with that  
14 work.

15 CHAIRPERSON JORDAN: Okay.  
16 Thank you. Questions, Board? No?  
17 Applicant? Okay. And we have another witness.

18 MS. WUDEL: Good morning, Mr.  
19 Chairman. I'm Patricia Wudel, I'm an  
20 executive director of Joseph's House which is  
21 located right on the corner of Lanier and  
22 Ontario, just two or three houses down from

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1 the house we're talking about. So I'm speaking  
2 in support.

3 Joseph's House is a home for men and  
4 women who had they had the support that women  
5 will have in this home, they may not need to come  
6 to Joseph's House.

7 We are a place for homeless men and  
8 women to come at their end of their lives with  
9 end stage AIDS and cancer. And with coming out  
10 of prison with long term transitional home with  
11 support for sobriety and health and coming back  
12 into the community in a meaningful way, it would  
13 mean so much to me to know that those folks would  
14 not be referred to Joseph's House from local  
15 hospitals nearly so soon.

16 I'd like to also just say that we've  
17 been on that corner for 24 years now and the  
18 community has been more than tolerant of us; the  
19 community itself has been very welcoming to us  
20 and lots of times I've hired someone from the  
21 community to work at Joseph's House and there's  
22 just been a very natural grown-up kind and wise

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1 interaction between the men and women who are  
2 very ill at Joseph's House and how they interact  
3 in the community. So I have a lot of confidence  
4 that this will work out also. Thank you.

5 CHAIRPERSON JORDAN: Thank you.  
6 Thank you for your comments, all of you.  
7 Board, questions? No? Applicant? Then we  
8 would turn back to, well we've kind of already  
9 taken this a little out of order for some  
10 rebuttal but there's nothing I believe that you  
11 need to submit or you need to close.

12 We'll close the record based upon  
13 the evidence that's been received by the Board  
14 to date. Is the Board ready to deliberate?  
15 Okay. Anyone, one way or the other? All  
16 right. I believe there's been sufficient  
17 evidence to show that the applicant meets the  
18 requirements for special exception under 732  
19 and 358 as requested and specified in your  
20 application. And I would move that we approve  
21 the application.

22 BOARD MEMBER HEATH: I would

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1 second it.

2 CHAIRPERSON JORDAN: Motion made  
3 and second. Discussion? Any unreadiness?  
4 All those in favor signify by saying aye.  
5 Those opposed nay.

6 (VOTE TAKEN)

7 The motion carries. Mr. Moy?

8 MR. MOY: Staff would record the  
9 vote was 4-0. This on the motion of Chairman  
10 Jordan to approve the application for the  
11 special exception relief requested. Ms.  
12 Heath seconded the motion, also in support  
13 Mr. Miller, Mr. Hinkle, Board member not  
14 present. The motion carries on a vote 4-0. A  
15 summary order please.

16 MR. KNIGHT: Thank you.

17 CHAIRPERSON JORDAN: Thank you  
18 all. Appreciate it. Thank you.

19 MR. KNIGHT: Thank you very much.

20 CHAIRPERSON JORDAN: Well, what  
21 do we do with all of this? We'll just call it  
22 an order, Mr. Moy.

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1                   MR. MOY:     Okay.   Well in that case  
2                   the next application is application No. 18748  
3                   of Rob and Linda Low.   Mr. Chairman, this is  
4                   a request for a variance relief as advertised  
5                   from the prohibition of having two principal  
6                   structures on a single lot under Section 3202.3  
7                   and a variance on a rear yard requirement under  
8                   Section 404.

9                   CHAIRPERSON   JORDAN:             Okay.  
10                  Please identify yourselves.

11                  MR. SULLIVAN:    Good morning, Mr.  
12                  Chairman and Members of the Board. My name is  
13                  Marty Sullivan of the law firm of Sullivan &  
14                  Barros on behalf of the applicant.

15                  MR. LOW:        Robert and Linda Low.  
16                  I'm Robert Low obviously.

17                  CHAIRPERSON JORDAN:   All right.  
18                  This matter is before us for -- is this for use  
19                  variance.    Is it a use variance? I'm trying to  
20                  --

21                  MR.    SULLIVAN:   It's    an    area  
22                  variance.

1                   CHAIRPERSON JORDAN:     Okay.    I'm  
2                   just catching up with my notes here.   I read  
3                   these things so far in advance.   All right. So  
4                   if you would, Mr. Sullivan, I'd like to hear how  
5                   this property -- I understand what's in the  
6                   record and what's in the file. I've gone over  
7                   it. I'm having trouble getting past what's  
8                   unique about this property and its difficulty  
9                   to be used for other things within the zoning  
10                  regulations.

11                  I understand it's been used this way  
12                  and etc., etc., but is there anything else that  
13                  the Board wants to hear.

14                  MR. SULLIVAN:           Thank you, Mr.  
15                  Chairman.   Well, we suspect that it's been used  
16                  as a dwelling, as a separate dwelling maybe from  
17                  its original construction in 1907 although we  
18                  did not know if we could prove that and we  
19                  thought this would be the easier path to come  
20                  and make it definite.

21                  We have evidence from a late  
22                  submission, or a submission a couple of weeks

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1       ago, of a 1960 Sanborn map identifying it as a  
2       dwelling at that point.     So we were that close  
3       to 1958 and it is already a separate dwelling.

4               The    unique    conditions    of    the  
5       property are first of all that it is an historic  
6       landmark   itself.     The   carriage   house   is  
7       actually registered as a landmark as part of the  
8       overall landmark known as the North Half of the  
9       1800 block of Park Road.

10              The structure is also subject to--

11              CHAIRPERSON JORDAN:     That doesn't  
12       make it unique does it from the other  
13       properties?   Is that a part of that landmark?

14              MR. SULLIVAN:     It makes is unique  
15       from every other property outside of that  
16       block, the properties across the street and  
17       across the back alley.   It's unique in that the  
18       carriage house itself also is designated and  
19       not every accessory structure there is  
20       specifically designated.

21              CHAIRPERSON JORDAN:     But there  
22       are other accessory structures there that are

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1 designated?

2 MR. SULLIVAN: There are and in  
3 addition to the fact that it's an historic  
4 structure it is subject to a preservation  
5 easement by the L'Enfant Trust, which further  
6 impacts and restricts any changes to the  
7 building.

8 CHAIRPERSON JORDAN: And it only  
9 runs for that building?

10 MR. SULLIVAN: Mr. Low, do you  
11 know the details of the preservation easement  
12 for the L'Enfant Trust and whether it applies  
13 to this property or to other properties?

14 MR. LOW: This easement applies  
15 specifically to 1827 Park Road, the main house  
16 and the carriage house.

17 CHAIRPERSON JORDAN: And no other  
18 property?

19 MR. LOW: That's correct.

20 CHAIRPERSON JORDAN: Okay.

21 MR. LOW: Each easement of the  
22 L'Enfant Trust is individual to a property.

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1                   CHAIRPERSON JORDAN:       But the  
2       other ones also have the same -- the other  
3       properties.   Are there other properties on  
4       your block that have similar easement?

5                   MR. LOW:           There are others.  
6       There are I believe three others in that row of  
7       eight or nine houses which have separately  
8       applied over the years and received an easement  
9       from the L'Enfant Trust.

10                  CHAIRPERSON JORDAN:   Continue Mr.  
11       Sullivan.

12                  MR. SULLIVAN:    So in addition to  
13       that it was built as a 2-story structure with  
14       living quarters on the second floor already  
15       which didn't lend itself to use as a large  
16       one-story garage.

17                  The original doors from 1907 are  
18       still in existence and cannot be changed, and  
19       those doors are inoperable.   So that makes it  
20       impossible to operate as a garage or in any real  
21       sense as storage as well.

22                  Also, as the Office of Planning

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1       noted, its location prevents it from being used  
2       as an artist's studio. So those are the  
3       practical difficulties related to the unique  
4       conditions.

5                   CHAIRPERSON JORDAN:       Okay.    Is  
6       there anything else about it because I mean  
7       honestly I don't know if I'm there but certainly  
8       that's just me.   I'm just one person.

9                   MR. SULLIVAN:       Well, I think the  
10      history of the use of the building is a unique  
11      condition as well.    Mr. and Mrs. Low have  
12      lived and owned this property for almost 30  
13      years and it was a separate residence rented out  
14      prior to the time they purchased the property  
15      and moved in until today.   There's evidence  
16      that at least since 1960 that's been the case.

17                   So any conversion back to a  
18      permitted use would entail the practical  
19      difficulty of undoing at least a 54-year-old  
20      use in the property.   Not that the 54 years  
21      necessarily makes it tougher, but it is an  
22      existing residence. It's a 2-story residence

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1 and has been in anybody's memory. And in fact,  
2 Mr. Low can probably testify to the previous  
3 owner and some stories about it being inhabited  
4 as early as the '20s and '30s if you'd like to  
5 hear any information on that.

6 CHAIRPERSON JORDAN: No,  
7 whatever you want to present but no I'm good.  
8 Board, any other questions for this applicant?  
9 Okay. Then let's turn the Office of Planning.

10 MR. GYOR: Good morning, Mr.  
11 Chairman and Members of the Board. Steven  
12 Gyor with the Office of Planning. The Office  
13 of Planning supports the applicant's request  
14 for relief and rests on the record. Thank you.

15 CHAIRPERSON JORDAN: Is this the  
16 only carriage house that has a residence on the  
17 second floor?

18 MR. GYOR: It's not indicated in  
19 the documents that there are other residences  
20 on the second floor.

21 CHAIRPERSON JORDAN: Have you  
22 gone out there?

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1 MR. GYOR: I have not visited this  
2 particular property, no.

3 CHAIRPERSON JORDAN: All right.  
4 And when you make reference that the doors are  
5 inoperable, they can be fixed and replaced can  
6 they not?

7 MR. GYOR: I believe they can -- well  
8 without being qualified to answer that and not  
9 knowing the full extent of the operability of  
10 the doors and the expense that would be  
11 required, I don't know that I can answer that.  
12 I'm relying basically on the information  
13 provided by the applicant.

14 CHAIRPERSON JORDAN: Okay. Board,  
15 any other questions? Applicant questions of  
16 Office of Planning?

17 MR. SULLIVAN: No, Mr. Chairman.

18 CHAIRPERSON JORDAN: All right.  
19 Thank you. Is there any representative here  
20 from the Department of Transportation? We do  
21 have a letter of no objection from the  
22 Department of Transportation. Is anyone here

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1 from ANC-1D? ANC-1D? We have a letter of  
2 support which we give great weight to of course  
3 from ANC-1D who voted 5-0 to support this  
4 project.

5 Anyone wishing to speak in support  
6 of this application? Anyone in support?  
7 Anyone in opposition? Anyone in opposition?  
8 Then we will turn back to the applicant for any  
9 rebuttal or closing that you would like to make.

10 MR. SULLIVAN: Thank you, Mr.  
11 Chairman. I'd just like to reiterate the  
12 practical difficulty of converting this to any  
13 other use other than the residential that it's  
14 always been and point out that in this zone and  
15 because of the size of the lot, the applicant  
16 could convert his property into six units so  
17 there's no issue with the use. This will still  
18 just be two units where six is permitted.

19 CHAIRPERSON JORDAN: And you are  
20 aware that -- and need to get that -- if this  
21 was to pass that Office of Planning has  
22 recommended condition that this unit be

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1 restricted to any additional, it would be five  
2 units max of 6 that would include the counting  
3 of the unit and the carriage house.

4 MR. SULLIVAN: Yes, we would have  
5 no problem with that condition and I think  
6 that's what the regulations would provide  
7 anyway. In a sense what we're asking for is  
8 that we not be required to have one of those  
9 trellis connections to make this legal. We're  
10 asking for relief from that. So the R4  
11 conversion would apply to the entire lot in my  
12 opinion. Happy to have it as a condition. I  
13 think that's my interpretation of the  
14 regulation anyway.

15 CHAIRPERSON JORDAN: Okay.  
16 Anything in addition, Board?

17 BOARD MEMBER HINKLE: If I could  
18 just ask, what are the dimensions of the garage  
19 and the garage doors in terms of width? I'm  
20 just curious, if you can fit a car in there or  
21 nor or two cars.

22 MR. LOW: Well, I've never

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1       actually measured those doors but I assess  
2       these things visually quite a bit of the time  
3       because I'm a practicing realtor.     And it  
4       would be relatively small vehicles. I believe  
5       you could certainly get a Mini Cooper in there  
6       or something like that.     But they're  
7       relatively narrow compared to current  
8       standards and the garage itself. So relatively  
9       shallow and it's about 15 feet, maybe 12 feet  
10      across. I've never actually measured that  
11      either.

12                   BOARD MEMBER HINKLE:     Okay. And  
13      modifications because this is an historic  
14      landmark as well as, you know, you have the  
15      preservation easements modifications to that  
16      would be difficult at best.

17                   MR. LOW: It would be difficult, yes.

18                   BOARD MEMBER HINKLE:     Okay. Thank  
19      you.

20                   CHAIRPERSON    JORDAN:             Good.  
21      Thank you. Any other questions? Is the Board  
22      ready to deliberate on this case? Does anyone

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1 want to carry this?

2 MR. MILLER: I have some concerns.

3 CHAIRPERSON JORDAN: Mr. Miller?

4 MR. MILLER: Thank you, Mr.  
5 Chairman. I think the applicant has made the  
6 case for the exceptional -- the three part test  
7 for an area you know including exceptional  
8 situation resulting in practical difficulty  
9 and no substantial detriment to the public good  
10 and no substantial harm to the zoning  
11 regulation.

12 It's hard to ignore the fact that it  
13 was probably built for the purpose that it's  
14 been used for over 100 years, and the Office of  
15 Planning supports it and they normally don't  
16 but they think that this does meet the  
17 circumstances for a variance.

18 And the ANC unanimously supports  
19 and the neighbors support so I'm prepared to  
20 move approval of DCA Case 18748 variances --  
21 1827 Park Road, NW variance relief to allow two  
22 principal structures on a single lot and

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1       although I agree with the applicant that the  
2       zoning code would otherwise require he has  
3       stated no objection to adding the condition  
4       that you raised limiting the number of  
5       residential units in the carriage house to one.  
6       And that as part of any conversion of the larger  
7       building to apartments, pursuant to the zoning  
8       regulations, the unit and the carriage house  
9       would count toward the number of units  
10      permitted on the entire lot.

11               So with that lengthy motion I would  
12      ask for a second.

13               MR. SULLIVAN:     Mr. Chairman, I'm  
14      sorry if I might--

15               CHAIRPERSON JORDAN:     We're right  
16      in the middle of--

17               MR. SULLIVAN:     I understand.

18               CHAIRPERSON JORDAN:         No, Mr.  
19      Sullivan we're not.   There was a motion. Is  
20      there a second, is anybody going to second this  
21      motion?

22               BOARD MEMBER HEATH: I'm prepared to

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1 second the motion. I feel like the applicant  
2 has satisfied really what was in question with  
3 respect to the area variance that hardship. I  
4 understand the current use as a carriage house  
5 and that it appears to have always been a  
6 carriage house but certainly since the Sanborn  
7 information in about the 1950s which confirmed  
8 that it had been a carriage house since then.

9 And although we don't have any proof  
10 that the doors, the existing doors are too  
11 small, I understand from your testimony that  
12 you believe they are too small to be garage  
13 doors unsuitable for conversion to a garage  
14 entry. And so I'm prepared to second the  
15 motion.

16 CHAIRPERSON JORDAN: Okay.  
17 Motion made and second. I will just take this  
18 a bit out of order. Mr. Sullivan, you know,  
19 we're in the middle of motion and you know  
20 that's just really out of order. I'm going to  
21 give you a second to say what you need to say.

22 MR. SULLIVAN: I understand. And

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1 I'm sorry, it was my mistake in not informing  
2 the Board that we'd like to include the side  
3 yard relief that the Office of Planning  
4 suggested.

5 CHAIRPERSON JORDAN: Okay.  
6 We'll accept that in amendment.

7 MR. SULLIVAN: Thank you very  
8 much.

9 CHAIRPERSON JORDAN: All right.  
10 There's a motion made and seconded. Any  
11 additional discussion on readiness, Mr.  
12 Hinkle?

13 BOARD MEMBER HINKLE: No, I agree  
14 with Commissioner Miller as well. I think the  
15 applicant has made the case. I think there's  
16 some unique circumstances here including the  
17 fact that not only is the main house but the  
18 garage part of the historic landmark and they  
19 both have the preservation easement.

20 The fact that it appears that this  
21 use has been ongoing for who knows how long, but  
22 at least since the revised zoning code. So I

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1 do support the application as well as the relief  
2 and the condition recommended.

3 CHAIRPERSON JORDAN: Thank you.  
4 Mr. Miller?

5 MR. MILLER: Thank you, Mr.  
6 Chairman. I just again for the record would like  
7 to clarify that my motion not only includes the  
8 condition but includes the side yard relief  
9 that had been recommended, both of which had  
10 been recommended by the Office of Planning.

11 CHAIRPERSON JORDAN: Good. Thank  
12 you. All those in favor of the motion signify  
13 by saying aye. Those opposed nay. Those  
14 abstain aye.

15 (VOTE TAKEN)

16 The motion passes. Mr. Moy?

17 MR. MOY: Staff would record the  
18 vote as 3-1. This is on the motion of Mr.  
19 Miller to approve the application for the  
20 relief requested as amended rather and as to  
21 conditions as he cited. Seconding the motion  
22 Ms. Heath, and also in support Mr. Hinkle.

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1 Chairman Jordan is opposed to the motion.

2 CHAIRPERSON JORDAN: I abstained.

3 MR. MOY: You abstained? Thank  
4 you for the clarification. Then we have  
5 Chairman Jordan abstaining and a Board Member  
6 not present. So the motion carries on a  
7 majority vote of 3 votes, Mr. Chairman.

8 CHAIRPERSON JORDAN: All right.  
9 And I believe we can have a summary order.

10 MR. MOY: Thank you, sir.

11 CHAIRPERSON JORDAN: And be sure  
12 the condition is placed in that summary order.

13 MR. MOY: Absolutely.

14 CHAIRPERSON JORDAN: Very good.  
15 Thank you.

16 MR. SULLIVAN: Thank you.

17 CHAIRPERSON JORDAN: What time is  
18 it? You guys just want to kick through?  
19 Okay. 687 please.

20 MR. MOY: The next application  
21 before the Board is application No. 18687.  
22 This is the application of William L. Ricks.

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1 This, Mr. Chairman, is a request for variance  
2 relief from the lot area requirements, rear  
3 yard requirements and variance from the open  
4 court requirements for a 3-unit apartment  
5 house. I believe, and the applicant can  
6 clarify for the record, I believe that in one  
7 of the previous hearings that the applicant  
8 removed or withdrew relief from rear yard and  
9 also added parking relief.

10 CHAIRPERSON JORDAN: Okay.  
11 Please identify yourselves.

12 MR. RICKS: My name is William L.  
13 Ricks.

14 MR. MITCHELL: David Mitchell, I'm  
15 an architect.

16 MS. HARDY: Rita Hardy.

17 CHAIRPERSON JORDAN: Hardy?

18 MS. HARDY: Hardy.

19 CHAIRPERSON JORDAN: And I'm  
20 sorry, you said were?

21 MS. HARDY: MT Services.

22 CHAIRPERSON JORDAN: MT Services,

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1       what's that?

2                   MS.   HARDY:           We're   in   the  
3       consulting company trying to assist Mr. Ricks  
4       in his variance.

5                   CHAIRPERSON   JORDAN:           Okay.  
6       What does that mean?   What kind of services do  
7       you render?   What do you do?

8                   MS.   HARDY:    Basically what we do  
9       is research.   When a client has problems with  
10      obtaining a certificate of occupancy or a  
11      building permit or so forth, we try to see what  
12      it is that they need to do.

13                   The average person I would say over  
14      maybe 50 may not know what recourse they have  
15      when it comes to obtaining building permits and  
16      certificate of occupancy.

17                   CHAIRPERSON   JORDAN:           So   you  
18      interact with DCRA and other places?

19                   MS.   HARDY:           Yes.    I   have   no  
20      relationship   with   them.           I   have   no  
21      relationship with anyone in the D.C. government  
22      but I do go to the different agencies to obtain

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1 information and try to help property owners who  
2 cannot afford say --

3 CHAIRPERSON JORDAN: Is that for  
4 hire?

5 MS. HARDY: Yes.

6 CHAIRPERSON JORDAN: You're not a  
7 not-for-profit, you do it for hire?

8 MS. HARDY: I do it for hire.

9 CHAIRPERSON JORDAN: Okay. All  
10 right. Just trying to understand because I know  
11 I haven't seen you here before and I was trying  
12 to establish when you say for service.

13 MS. HARDY: This is my first time.

14 CHAIRPERSON JORDAN: I thought  
15 so. Okay. And when you said that I didn't  
16 know how you were helping. All right. Okay.

17 This is the second time this matter  
18 has been before us so this is third time?  
19 Second time?

20 MS. HARDY: Third.

21 CHAIRPERSON JORDAN: The third  
22 time this matter has been before us. And the

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1 record was supposed to be supplemented,  
2 honestly the record was supposed to be  
3 supplemented with additional information to  
4 help you with the requirements necessary to  
5 obtain relief.

6 The supplemental documents that  
7 were submitted to us had everything in it and  
8 the kitchen sink but it didn't address the  
9 issues. In my opinion it didn't address the  
10 issues necessary to be granted the relief that  
11 you've requested.

12 I understand there's been an  
13 amendment to the relief, that you're dropping  
14 the requested relief for Section 404 rear yard.  
15 Correct? You're dropping that relief request?

16 MS. HARDY: No. The parking--

17 CHAIRPERSON JORDAN: Wait, wait,  
18 wait. What relief are you seeking from the  
19 Board?

20 MS. HARDY: We're seeking court  
21 relief and yard relief. The parking--

22 CHAIRPERSON JORDAN: So from 406

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1       you're seeking 406 relief for the open court,  
2       correct?       And what other relief are you  
3       requesting?

4                   MR. MITCHELL:     The lot area.

5                   CHAIRPERSON JORDAN:       Lot area  
6       relief.

7                   MR. MITCHELL:     401.3.

8                   CHAIRPERSON JORDAN:     Okay.   So as  
9       I said initially you are dropping the request  
10      for relief from 404 rear yard.

11                  MS. HARDY:     Yes.   Sorry.

12                  CHAIRPERSON JORDAN:     And that's  
13      the only relief you're requesting 406 open  
14      court and 401 lot area?

15                  MS. HARDY:     Yes sir.

16                  CHAIRPERSON JORDAN:     All right.  
17      Was there something in regards to a record or  
18      supplemental filing, I believe I saw something  
19      regarding parking. Am I incorrect?

20                  MR. MITCHELL:     There was a letter  
21      from Matt Grant.   Do you have that copy?

22                  CHAIRPERSON JORDAN:       Okay.

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1 Give us a second because I think you all may be,  
2 I think you may be off in what you're asking the  
3 Board to do.

4 Mr. Mitchell, you sent us a letter  
5 on February 5, 2014. That's what we're making  
6 reference to. Can you explain what you're  
7 asking in this letter?

8 Let me say this. Zoning's not the  
9 easiest thing to do and everybody can't do it.  
10 I'm just going to be very blunt and upfront.  
11 We've carried this case several times before,  
12 at least three times, trying to get you, Mr.  
13 Ricks, to where you need to be and people were  
14 supposed to be able to help you get there.

15 We're not getting there. I'm just  
16 being very blunt. We're not getting there.  
17 We don't normally carry these cases three or  
18 four times and lift these things up and try to  
19 help the applicant over and over again. That's  
20 not what we do.

21 You hired people to do this work for  
22 you. I sat here and asked initially what

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1 relief was being requested. I went over some  
2 things and we're told something else and now  
3 we're looking at letters, Mr. Mitchell and Ms.  
4 Hardy, your letter. Mr. Mitchell you wrote a  
5 letter and then Ms. Hardy wrote a letter and you  
6 guys got different things going.

7 This is going to be like my last time  
8 asking this question. What relief are you  
9 asking this Board to consider for you?

10 MS. HARDY: Mr. Jordan, a variance  
11 from Section 401.3--

12 CHAIRPERSON JORDAN: That's the  
13 lot area.

14 MS. HARDY: And variance from  
15 Section 406.1.

16 CHAIRPERSON JORDAN: Okay. Open  
17 court.

18 MS. HARDY: Those two things.

19 CHAIRPERSON JORDAN: What's what  
20 you need?

21 MS. HARDY: Yes.

22 CHAIRPERSON JORDAN: All right.

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1 And Mr. Mitchell, your letter referencing  
2 parking relief is just--

3 MR. MITCHELL: That was addressed  
4 by Matt Grant and he said that no off-street  
5 parking is -- the property has a credit of one  
6 and so forth.

7 CHAIRPERSON JORDAN: Okay. Got  
8 you. And the rear yard is gone and parking's  
9 gone and it's just these two reliefs. Okay.  
10 Thank you. All right. We've already heard  
11 your testimony and let you talk about what you  
12 need to do. Is there something else you want  
13 to present to the Board? We've gotten the  
14 documents that you submitted. So what do you  
15 have to show the Board that shows that there's  
16 a unique situation with this property? Unique  
17 or exceptional.

18 MS. HARDY: The property is a  
19 small lot and we cannot increase the lot size.  
20 There's no change to the footprint. If the  
21 variance is approved there's no need to change  
22 the footprint to do three units.

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1           The ANC Commission voted in favor  
2           and I believe they voted 11-0. Did you get a  
3           letter from them?

4           CHAIRPERSON JORDAN: Yes, we have  
5           an ANC. So what's your unique situation here,  
6           unique condition of this property?

7           MS. HARDY: Well--

8           CHAIRPERSON JORDAN: But you say  
9           the lot's small but the lot's the size of some  
10          of the other lots in that area, and that block.  
11          Isn't that correct?

12          MS. HARDY: No.

13          CHAIRPERSON JORDAN: It's smaller  
14          than the other ones?

15          MS. HARDY: This lot is the only  
16          one of this particular size because the--

17          CHAIRPERSON JORDAN: It's smaller  
18          than the other ones?

19          MS. HARDY: It's smaller than the  
20          ones to the right of it.

21          CHAIRPERSON JORDAN: What about  
22          the other ones?

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1 MS. HARDY: It's not larger than  
2 maybe three lots on the whole block.

3 CHAIRPERSON JORDAN: Okay. All  
4 right. What else is unique about this  
5 property?

6 MS. HARDY: Since we have mixed  
7 use on the same block we would like to use Mr.  
8 Ricks' property as three units. But I cannot  
9 come up with anything else that's unique.

10 CHAIRPERSON JORDAN: Got it. All  
11 right. So tell us what you find presents a  
12 practical difficulty for you to use the  
13 property in accordance with the zoning  
14 regulations.

15 MS. HARDY: We went to see Mr.  
16 Mason and we found nothing.

17 CHAIRPERSON JORDAN: Okay. Mr.  
18 Mason? Who's Mr. Mason?

19 MS. HARDY: Mr. Mason is with the  
20 Handicapped Accessibility Office and he could  
21 not--

22 CHAIRPERSON JORDAN: Okay. I

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1 mean arising out of the property itself you're  
2 saying you still can't -- I got you. I just  
3 needed to know who he was that's all.

4 MS. HARDY: Okay.

5 CHAIRPERSON JORDAN: Board  
6 questions? Okay. Anything additional you  
7 have to present to the Board?

8 MS. HARDY: No, Mr. Jordan.

9 CHAIRPERSON JORDAN: All right.  
10 Mr. Mordfin, anything? The Office of  
11 Planning please? We have your report.

12 MR. MORDFIN: All right.  
13 Chairman and Members of the Board, I don't have  
14 anything further to add to this application.  
15 Thank you.

16 CHAIRPERSON JORDAN: And you  
17 recommend denial because?

18 MR. MORDFIN: We recommend denial  
19 because the property is similar to the ones that  
20 are surrounding it. It is not unique. It's a  
21 rectangular lot zoned R4 abutting the same  
22 10-foot wide alley as the other ones up and down

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1 the street.

2 It can be used as a flat or a row  
3 house as provided by the zoning regulations and  
4 we don't see what the hardship is in using it  
5 as a flat or as a row house similar to the other  
6 ones that are in that block per the zoning regs.

7 So therefore because we see no  
8 uniqueness we recommend denial of the  
9 application.

10 CHAIRPERSON JORDAN: So he can  
11 have expanded use for this additional unit but  
12 he can't get the three units that he's looking  
13 for?

14 MR. MORDFIN: Can't get the three  
15 units because the lot is too small. It's  
16 approximately 1,350 square feet which is about  
17 450 square feet per unit which is a 50 percent  
18 reduction of the 900 square feet of lot area  
19 required per unit similar to the other lots that  
20 surround it.

21 CHAIRPERSON JORDAN: Okay. Got  
22 it. So he can get two lots as a matter of right

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1 but not a third lot in regards to variances is  
2 my understanding.

3 MR. MORDFIN: Yes.

4 CHAIRPERSON JORDAN: Okay. Any  
5 questions Board for Office of Planning? Does  
6 the applicant have any questions for Office of  
7 Planning? Is there anyone here from the  
8 Department of Transportation on this matter?

9 We do have a letter of no objection  
10 to the relief from the Department of  
11 Transportation.

12 Is there anyone here from ANC 1-A?  
13 ANC-1A? We do have a letter of support from  
14 ANC-1A which we give great weight to who  
15 supports this application.

16 Anyone here wishing to speak in  
17 support of this application? Anyone wishing  
18 to speak in support? You're the applicant but  
19 I'll give you a minute. Anyone wishing to  
20 speak in opposition? Anyone wishing to speak  
21 in opposition? Okay.

22 Turning back to the applicant for

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1        rebuttal, Mr. Ricks you want to say?

2                    MR. RICKS:    Yes sir.    I've been in  
3        that house for 35 years.    I've saved my --  
4        because I'm handicapped and to have something  
5        that I could fall back on after I retire. Now  
6        I fixed the house up.    I spent my entire savings  
7        on the house fixing it up, that's more than a  
8        quarter of a million dollars. And to come up and  
9        find this -- nobody's in the house but me.    I  
10       don't need all that room.

11                   CHAIRPERSON JORDAN:    Okay.    Any  
12        closing that you want to make.    Yes, Ms. Hardy?

13                   MS. HARDY:    Mr. Jordan, I know  
14        that this might not have any weight whatsoever.  
15        Mr. Ricks was given misinformation when he  
16        initially converted this house.    It is an  
17        existing 3-unit apartment building and has had  
18        Section 8 tenants and Mr. Ricks himself since  
19        2009.

20                   He has put in a lot of money.    Once  
21        it was found that he did not have a certificate  
22        of occupancy he was required by D.C.

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1 government, and the court, to do more work which  
2 I would say he spent an additional \$60,000  
3 dollars.

4 I'm sorry that Mr. Ricks was given  
5 misinformation.

6 CHAIRPERSON JORDAN: Did the D.C.  
7 government tell him that he could have three  
8 units?

9 MS. HARDY: Yes sir.

10 CHAIRPERSON JORDAN: That was  
11 from the D.C. government?

12 MS. HARDY: That was D.C. Housing  
13 Authority. When he went down there they gave  
14 -- and this I know for a fact.

15 CHAIRPERSON JORDAN: Ms. Hardy,  
16 let's not mix apples and oranges. D.C. Housing  
17 Authority doesn't grant approval for use.

18 MS. HARDY: Mr. Ricks did not know  
19 that.

20 CHAIRPERSON JORDAN: Okay. But  
21 you didn't get that from the Department of  
22 Consumer Regulatory Affairs. They did not say

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1       you can use this as three units. They actually  
2       sent you here and said it was in violation.

3               MS. HARDY:     Correct.

4               CHAIRPERSON JORDAN:     Okay. How  
5       long have you used it as three units?

6               MR. RICKS:       Since I started  
7       working on it in '09. Is it '09? '09.

8               CHAIRPERSON JORDAN:     And you  
9       received housing vouchers from the Housing  
10      Authority for two other tenants?

11              MS. HARDY:     Two tenants.

12              MR. RICKS:     Basement and a top  
13      floor.

14              CHAIRPERSON JORDAN:     So you're  
15      living there yourself?

16              MR. RICKS:     I'm on the middle  
17      floor and I have the basement and top floor.

18              CHAIRPERSON JORDAN:     Okay. Ms.  
19      Hardy, anything else?

20              MS. HARDY:     No sir.

21              CHAIRPERSON JORDAN:     Yes?

22      Please, Mr. Miller, please.

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1                   MR. MILLER:       Thank you, Mr.  
2                   Chairman. Mr. Ricks, I just had a couple of  
3                   questions and I may have missed this. Are you  
4                   the only occupant of the property currently?

5                   MR. RICKS:     Yes sir. My grandson  
6                   who lives in Baltimore is with me sometimes.

7                   MR. MILLER:    Have you attempted to  
8                   rent out the other two units, or one of the  
9                   units?

10                  MR. RICKS:     Not lately, simply  
11                  because of what's happening here. We want to  
12                  be in compliance. In the early days I used to  
13                  rent the top floor out.

14                  MR. MILLER:    And how many years  
15                  did D.C. Housing Authority -- how many years did  
16                  you have the two other units besides the one  
17                  you're occupying rented out?

18                  MR. RICKS:     '09 until when was it?  
19                  Last year?

20                  MS. HARDY:     '09 until last August.

21                  MR. MILLER:    So about four years.

22                  MR. RICKS:     Yes.

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1                   MR. MILLER:     And how much money  
2     have you put in it to renovate it?   Over a  
3     quarter of a million I think is what you said.

4                   MR. RICKS:     Well over a quarter of  
5     a million.

6                   MR. MILLER:     And have you looked  
7     into how much it would take to make the two units  
8     into -- well three into, combine then in one  
9     unit?

10                  MR. RICKS:     Well, I've done it on  
11     each floor.   Each floor is self sufficient. Is  
12     that what you mean?   Each floor is a different  
13     unit.

14                  MR. MILLER:     Okay. Thank you.

15                  CHAIRPERSON JORDAN:   This is what  
16     I'm going to do with this and Mr. Ricks I'm  
17     talking to you.    I think you can probably make  
18     a case.   I don't think you're being provided  
19     the help to get you there.   I'm going to carry  
20     this one more time for a 30-day period or  
21     something in that window for you.

22                  And I'm going to advise you, Mr.

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1 Ricks, to think about the help that you have  
2 here. Do you have the right help or go find the  
3 help that's going to get you where you are  
4 because you're well invested in this process.

5 And this is the last time I'm  
6 reaching out. I understand and I think we all  
7 understand that you're trying to do right and  
8 I think it's there somewhere but it's not for  
9 us to pull it out.

10 I'm not certain if DCRA still has a  
11 pro bono program where they have pro bono folks  
12 that might be able to help you. I don't know.  
13 And I understand your situation. And if that's  
14 okay with the Board we do that or if you just  
15 want to go ahead and--

16 MR. RICKS: Mr. Jordan?

17 CHAIRPERSON JORDAN: Yes.

18 MR. RICKS: What is it that I need?

19 CHAIRPERSON JORDAN: I can't tell  
20 you that. You need help. That's what I can  
21 tell you. You need help.

22 So I'm going to just give it one more

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1 shot. Mr. Moy?

2 MR. MOY: Mr. Chairman, on the  
3 docket for the month of--

4 CHAIRPERSON JORDAN: That's a  
5 crowded docket.

6 MR. MOY: I understand that. For  
7 the month of June, staff would suggest, and  
8 although June 10th is ideal I think he needs  
9 more time than that. That's my own personal  
10 opinion. But we're looking at either June 17th  
11 or the 24th.

12 CHAIRPERSON JORDAN: What's our  
13 cases on the 17th?

14 MR. MOY: On the 17th you have five  
15 cases and on the 24th you have five also.

16 CHAIRPERSON JORDAN: Okay. Well  
17 pick a date. What's good for you?

18 MR. MOY: I think my suggestion  
19 would be June 24th.

20 CHAIRPERSON JORDAN: Right. June  
21 24th.

22 MR. RICKS: June 24th.

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1 CHAIRPERSON JORDAN: And I hope  
2 you hear what I'm saying to you to get you where  
3 you need to be. It's in your control.

4 With that then this is being  
5 continued to June 24th for its last time and  
6 that's it. Thank you all for coming. Let's  
7 call our next case.

8 MR. RICKS: Thank you, sir.

9 MR. MOY: The next application  
10 before the Board is application No. 18722.  
11 This is the application of Andrew Keegan  
12 Theatre Company. Mr. Chairman, the applicant  
13 is requesting relief for a variance from the use  
14 provisions to allow a theater performance space  
15 under subsection 350.3 and 350.4 and this is  
16 property on 1742 Church Street, NW, Square 156,  
17 Lot 847.

18 CHAIRPERSON JORDAN: Please  
19 identify yourselves.

20 MS. HOFFPAUIR: Good morning. My  
21 name is Nicky Hoffpauir, I'm with Krooth &  
22 Altman and I'm acting as general counsel for the

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1 theater company.

2 MS. WILWOL: Kami Wilwol,  
3 Stoiber & Associates.

4 CHAIRPERSON JORDAN: Your last  
5 name again?

6 MS. WILWOL: W-i-l-w-o-l.

7 CHAIRPERSON JORDAN: Okay.

8 MR. RHEA: I'm Mark Rhea. I'm the  
9 president of the Andrew Keegan Theatre Company  
10 as well as its artistic director.

11 MS. HOFFPAUIR: And Mr. Jordan,  
12 before you begin, they weren't in the room when  
13 the swearing in happened. I don't know if we  
14 need to do something procedural for them.

15 CHAIRPERSON JORDAN: Thank you,  
16 appreciate it. Yes, we do. Please stand. Did  
17 you complete witness cards?

18 MS. WILWOL: Yes.

19 CHAIRPERSON JORDAN: Okay.  
20 Please stand.

21 (PARTIES SWORN)

22 CHAIRPERSON JORDAN: Is Brian

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1 Gartner here? Brian Gartner? Okay. He made  
2 a party status request but his party status is  
3 in support so seeing he's not here then we'll  
4 deny that but we will take his letter in  
5 consideration.

6 I understand everything. I think  
7 the Board understands everything that's going  
8 on in your application and let me tell you where  
9 you're deficient.

10 MS. HOFFPAUIR: Okay.

11 CHAIRPERSON JORDAN: We  
12 understand that you're saying that to make  
13 these changes regarding the hardship that it's  
14 a financial hardship for you to do so. But  
15 your file doesn't include any financial  
16 information. What your income is, how much  
17 it's going to cost to convert it or any of that  
18 stuff that's in hardship. Because I  
19 understand that is what you're arguing is your  
20 hardship. Am I correct or incorrect?

21 MS. HOFFPAUIR: That's part of it.

22 CHAIRPERSON JORDAN: Okay.

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1 What's the other part?

2 MS. HOFFPAUIR: They're a  
3 non-profit theater company so having it as any  
4 sort of residential use or conforming it to any  
5 sort of residential use would be useless to  
6 them. So the additional hardship would be to  
7 go against what their business is, so they have  
8 to sell it. They would be selling it to  
9 someone to renovate.

10 CHAIRPERSON JORDAN: So I take it  
11 you're not familiar with the zoning regulations  
12 because what you said doesn't help you at all.  
13 I'm trying to get you there, so did you come with  
14 any financial information here today that you  
15 can give us saying this is what it would cost  
16 for us to convert it and we just can't get it  
17 there. That's kind of what we need.

18 I mean that's in my estimation. The  
19 Board might be some place else. Because we've  
20 got to reach a hardship.

21 MS. HOFFPAUIR: Okay.

22 CHAIRPERSON JORDAN: I've read

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1        what you've claimed is a hardship, it's  
2        financial information and I understand OP's  
3        position of what the hardship is. It says  
4        impose the company undue financial health would  
5        not allow this. But where's the back-up?  
6        That's all. Like where's the beef?

7                    MS. HOFFPAUIR:    Okay. So getting  
8        an operating budget and showing what the  
9        theater makes and what it would take to do the  
10       recommendations?

11                   CHAIRPERSON JORDAN:        And some  
12       ballpark estimates of, yes, what it's going to  
13       cost. I mean I don't know if there's anything  
14       else that any other Board member has that they  
15       want to see or they think that the file is  
16       sufficient.

17                   MS. HOFFPAUIR:    Kami is here as  
18       our architect. If she could speak to--

19                   CHAIRPERSON JORDAN:    Yes, she can  
20       talk to us about it.

21                   MS. WILWOL:        I don't have any  
22       operating -- I mean, I apologize I just

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1       inherited this project from somebody who left  
2       our firm last week so I don't have any budget  
3       information. I apologize. I'm sure we can  
4       come up with it.

5                   MS. HOFFPAUIR:     We know the budget  
6       for the renovations that we have to do to get  
7       it up to compliance, just general code  
8       compliance and not the \$2 million dollar  
9       renovation.

10                  CHAIRPERSON JORDAN:     Right. I  
11       understand that. We don't have the hard  
12       dollars and cents on that but you did make that  
13       reference and that certainly is going to be --  
14       well I don't know if it's more or less to do the  
15       residential conversion. I understand the  
16       property's set up in a different way which gives  
17       you all the unique-- It's hitting all the unique  
18       test but it's the undue hardship issue that's  
19       remaining in the file.

20                  Let me go over to Office of Planning  
21       and see if he has something that he can help you  
22       out with here. If he has any information.

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1                   MR. COCHRAN:       Yes, Office of  
2                   Planning did think that the applicant met the  
3                   hardship test basically because the applicant  
4                   has one reason for existing and that is to give  
5                   theatrical productions.   If they don't get  
6                   relief they can't give theatrical productions  
7                   and they then sell the building and have to find  
8                   another building.

9                   And I can't speculate on what the  
10                  expense would be of finding another space like  
11                  this but it seems like if you can't use the  
12                  building for the sole purpose that it's been  
13                  used for the last 35 years because you're not  
14                  getting relief, that's kind of a hardship.

15                 CHAIRPERSON JORDAN:    I hear you  
16                 but I need to see the other side of that.   Any  
17                 Board questions for Planning?   I think what  
18                 we'll do is put this on that same June 24th or  
19                 17th calendar.   Put this on the June 17th  
20                 calendar and get the information to us by June  
21                 10th.   Right, Mr. Moy?

22                 MR. MOY:       Just a second, sir.

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1 CHAIRPERSON JORDAN: I need some  
2 documents in the file on the financial side.  
3 You've made the financial arguments but I have  
4 to see something. Anybody can sit here and  
5 tell us that all day long. And we're not  
6 treating you any different than we treat anyone  
7 else so we have to just have something we can  
8 bite into, you know, not that we have to bite  
9 into deeply, just taste it for a second.

10 MS. HOFFPAUIR: Okay. And you're  
11 looking for what it would take the applicant to  
12 turn this into a residential building?

13 CHAIRPERSON JORDAN: Yes, just  
14 show us that you can't financially do it. Mr.  
15 Miller?

16 MR. MILLER: Mr. Chairman, I  
17 understand what you're trying to get from the  
18 applicant and I think they can probably provide  
19 that information.

20 But I do tend to agree with the  
21 Office of Planning that it's almost a prima  
22 facie case on its face that it's an undue

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1 hardship for the applicant that's been leasing  
2 this space for five years.

3 It's been used always as a  
4 non-residential use since its beginning a  
5 hundred years ago or whatever it was. And it's  
6 kind of crazy that they even got caught in this  
7 situation since it's the same use and there just  
8 was simply a change of ownership of the property  
9 that triggered this use variance. And so we're  
10 kind of putting a financial burden on them to  
11 go back and get financial information to us.  
12 So I'm just a little concerned.

13 CHAIRPERSON JORDAN: Well as you  
14 were just saying, Mr. Miller, if I may we get  
15 this all the time, that people get caught from  
16 when someone was doing something that may not  
17 have been what was allowed, and then someone  
18 else comes into it and then the uses are  
19 different, and one's legal and one's not legal.  
20 We get that all the time.

21 MR. MILLER: Well the use is not  
22 the same, that's why they're here before us

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1 because the other was as an art school, an art  
2 theater school.

3 CHAIRPERSON JORDAN: I understand  
4 what's going on and it doesn't cost you any real  
5 money for you to present the Board what we're  
6 asking for. You're just going to get some  
7 estimates. You're going to call some people in  
8 and say give me some estimates on some  
9 conversion. That's all you're going to do.  
10 That's all you're going to do.

11 MS. HOFFPAUIR: It probably would  
12 cost. Unfortunately, as a non-profit theater  
13 we don't have a ton of money to be getting  
14 consultants in but if you're asking for bids--

15 CHAIRPERSON JORDAN: And we  
16 cannot make that level of exception for you that  
17 we don't do for other people. I mean we require  
18 folks to do this when you come in and say it's  
19 a financial burden. Everyone says well we don't  
20 have the money to do this, we can't do it and  
21 we could go with that all day.

22 This doesn't cost you money to just

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1 get the estimated value of what it would cost  
2 you to convert it. I don't see how that's a  
3 burden for you to do.

4 Mr. Miller, you can carry it if you  
5 wish, you know, and support it. I'm just saying  
6 to give them 30 days to go out and just call some  
7 people and then give you an estimate.

8 MR. MILLER: Can Mr. Cochran, he  
9 wants to say something. So I want to recognize  
10 him.

11 CHAIRPERSON JORDAN: Oh I didn't  
12 see that.

13 MR. MILLER: I wanted you to  
14 recognize him. Since I'm looking at you I can  
15 see him so I wanted you to recognize him for a  
16 comment.

17 MR. COCHRAN: At the risk of  
18 alienating the Chair, I would point out that the  
19 Board determined in 1978 when it first gave  
20 permission for a theatrical use that the  
21 building could not readily be used for  
22 residential purposes.

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1 I would also point out that the tax  
2 assessors -- that the building is assessed as  
3 a professional theater in the tax records of the  
4 District of Columbia.

5 If you're looking at, for instance,  
6 a residential property that wants to go from two  
7 to three units, they would have to demonstrate  
8 a financial hardship because they could still  
9 use it for two units. And still be used for the  
10 purpose that it's already being used for.

11 Here, you have 100 and some year  
12 history of the building never being used for  
13 residential purposes, not having been  
14 constructed for residential purposes, a  
15 previous Board decision that said it could not  
16 readily be used for residential purposes and  
17 an historic preservation designation that  
18 included the fact that it had been used as other  
19 than residential for determining that it was a  
20 contributing structure to the historic  
21 district. And you have an applicant that  
22 simply couldn't use the building period if he

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1 can't continue to use it.

2 I actually used to live on this  
3 block and I know that it has been used as a  
4 theater. I remember when it was converted to  
5 a theater. It was not used as a school.

6 CHAIRPERSON JORDAN: Yes, because  
7 that's what the use was. It wasn't--

8 MR. COCHRAN: No, that's--

9 CHAIRPERSON JORDAN: From what I  
10 understand from the record that the Board  
11 designated use that was a theatrical school and  
12 therefore as a--

13 MR. COCHRAN: The Board  
14 designated it as a theatrical school. I'm not  
15 aware of that having been its primary use since  
16 that designation by the Board and certainly the  
17 D.C. government affirmed that it was used as a  
18 theater in its tax classification.

19 MS. HOFFPAUIR: And we're not  
20 aware of it having ever been used as a school  
21 for theater arts. New Playwrights Theater  
22 Company took over in '78 just after that

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1 decision and that's the history that we know is  
2 that it's always been a performance space.

3 MR. COCHRAN: And just to get to  
4 the third prong of the test, you see how many  
5 letters of support there are for the theater  
6 from the ANC, from the neighborhood. They  
7 clearly consider it to be an asset and it would  
8 be a loss to the community if the relief were  
9 not granted.

10 CHAIRPERSON JORDAN: I'm reading  
11 the previous order. Just give me a moment.

12 MR. COCHRAN: Okay.

13 CHAIRPERSON JORDAN: I'm very  
14 clear that the use was for a school for theater  
15 arts. That's throughout this document. But  
16 let me try to see if the Board has made a  
17 previous finding that the property was not able  
18 to be converted, then we could honor that.

19 MR. COCHRAN: I actually quoted it  
20 in the opening report.

21 CHAIRPERSON JORDAN: I understand  
22 but you just also gave me something that was

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1 incorrect in regards to what the Board did in  
2 this order. So let me step through it. Give  
3 me a second please.

4 MR. COCHRAN: Sure.

5 MS. HOFFPAUIR: Item 6 if that  
6 helps.

7 CHAIRPERSON JORDAN: Pardon me?

8 MS. HOFFPAUIR: It's item 6 if  
9 that helps.

10 CHAIRPERSON JORDAN: All right.  
11 Better safe than sorry. This is what we're  
12 going to do. I mean I'm still caught in the fact  
13 that that this time whatever evidence couldn't  
14 use it. "Subject building could not readily be  
15 used for residential..." This is what the  
16 variance--

17 There's no economics in here. And  
18 as you know each one of these cases stand on  
19 their own bottom and are not necessarily  
20 precedent setting for another case. But I don't  
21 mind trying to do a reach-back. There was  
22 opposition to relief even then. Yes, we could

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1 adopt that finding. No. 6 on that order of  
2 12521, it's really a danger doing this. Each  
3 case has to stand on its own bottom. And this  
4 was done in 1978 and the evidence presented at  
5 that time it said that it could not be used as  
6 a residential use at that point.

7 And that the Board in 1978 in this  
8 particular case allowed the use for a school for  
9 theater arts. It wasn't allowed for theater,  
10 it was about a school for theater arts. That's  
11 why you're here in front of us today.

12 MS. HOFFPAUIR: It's still  
13 allowed for performances though.

14 CHAIRPERSON JORDAN: As a  
15 consequence of the operation of a school.

16 MS. HOFFPAUIR: Right. I  
17 understand. But it did account for  
18 performances in the same manner.

19 CHAIRPERSON JORDAN: I'm not  
20 going to debate with you and have the argument.  
21 I'm trying to help you. I mean and you're not  
22 helping yourself. Okay? I'm saying what the

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1 use is what the accessory use of that, and the  
2 technical term was that theater arising out of  
3 the school performances. It wasn't separate  
4 that you can just have theater arts there.  
5 That was not what this order says.

6 BOARD MEMBER HINKLE: Mr. Chair,  
7 I'm struggling with this but I think I can hang  
8 my hat, if you will, on this No. 6 in the  
9 previous order. Obviously there was some  
10 evaluation done by the Board at this time and  
11 the use hasn't necessarily changed then and  
12 yes we're looking at a different use in terms  
13 of how the building's being used today.

14 But I think at some point in time  
15 there was some evaluation by this Board in terms  
16 of other uses that conform to the zoning and  
17 that the building is not appropriate for those  
18 uses.

19 So, you know, I'm comfortable to  
20 look at this previous order and--

21 CHAIRPERSON JORDAN: And say that  
22 it's applicable today. At least it will be

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1 different than here's a reason why we would  
2 deviate from what we normally do because you  
3 have a previous order that said the building for  
4 residential use was excluded.

5 BOARD MEMBER HINKLE: Correct.  
6 Correct. And I do understand the other argument  
7 that you know if they can't use this building  
8 as a theater then they have some difficulty as  
9 well there in that respect. So I'm comfortable  
10 with that.

11 CHAIRPERSON JORDAN: You know,  
12 one thing that we kind of try to do is certainly  
13 continue precedents in how we operate in all  
14 cases. And thank you, Mr. Cochran, for  
15 pulling this out so we can take a look at it.  
16 It gives us the ability to deviate from our  
17 precedents on how we handle these undue  
18 hardships where people claim financial,  
19 because you have to come in with financials.  
20 If you're saying there's some financial reason  
21 why we can't, people say it all day long. We  
22 have to have the support.

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1           Also normally each case stands on  
2           its own merit. It's not necessarily precedent  
3           setting by what happened in a previous case  
4           because situations and circumstances change.

5           However, I believe that we can  
6           extrapolate that there's been a finding that  
7           residential cannot be used although this order  
8           does not really explain what was considered and  
9           that financial considerations. None of that's  
10          in here. So I can live with that.

11          BOARD MEMBER HINKLE:    Yes, and as  
12          you said, each application is unique in and of  
13          themselves as well. And I think in this  
14          situation it's unique by the fact that the Board  
15          did make this decision back in '78 or whenever.

16          CHAIRPERSON JORDAN:    Okay. All  
17          right. You took me over that hump. Where we  
18          in the process? I don't know if we finished.  
19          Did we talk about is there anyone here -- did  
20          we do DDOT? I think I did DDOT didn't I? We  
21          have a letter from the Department of  
22          Transportation--

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1                   MR. COCHRAN:       We didn't quite  
2       finish with our report.    That's where we were.

3                   CHAIRPERSON JORDAN:   Do you want  
4       to say something else you think is necessary?

5                   MR. COCHRAN:    Just that we would  
6       point out the conditions on page 1 of our  
7       report.

8                   CHAIRPERSON JORDAN:   Got you.

9                   MR. MILLER:    Which are similar to  
10      the 1978 conditions it's worth noting.

11                  CHAIRPERSON JORDAN:   Okay.   And  
12      those conditions were that only use the  
13      property for live theater performing art in  
14      conjunction with adjunct classroom uses.  So  
15      they can have classroom uses is what you're  
16      saying.

17                  MS. HOFFPAUIR:   Correct.

18                  MR. COCHRAN:    Yes sir.

19                  CHAIRPERSON JORDAN:   Okay.   And  
20      meeting space for community uses.  Not have more  
21      than 125 seats in the facility and only operate  
22      between 8 a.m. to midnight.       However,

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1 unlimited access by theater employees, actors  
2 and persons associated with the production  
3 scheduled, unless otherwise restricted by the  
4 applicant, DC Regs and community agreements.  
5 And to store all refuse, cycling in closed  
6 containers and screened from the public. Is  
7 that acceptable?

8 MR. RHEA: Yes sir.

9 MS. HOFFPAUIR: Absolutely.

10 CHAIRPERSON JORDAN: All right.  
11 Are you finished with your report now?

12 MR. COCHRAN: Yes sir.

13 CHAIRPERSON JORDAN: Okay.  
14 You're sure? Anyone here from the Department  
15 of Transportation? We do have a letter of no  
16 objection from the Department of  
17 Transportation.

18 Anyone here from ANC-2B? We have a  
19 letter of support from ANC-2B.

20 Anyone here wishing to speak in  
21 support? Anyone wishes to speak in  
22 opposition?

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1 I would say go back for rebuttal or  
2 cross but you should probably just let us do  
3 what we're doing and not say anything else.

4 MS. HOFFPAUIR: I'm good with  
5 that.

6 MR. RHEA: All right.

7 CHAIRPERSON JORDAN: Then we'll  
8 close the record based upon the record we have  
9 before us and based upon the decision in 1252  
10 where there was a finding that this property  
11 could not be used for residential purposes and  
12 the fact that this property certainly has some  
13 unique and meets the other test, I would move  
14 that we grant the relief in this matter as  
15 requested by the applicant with the conditions  
16 as defined.

17 MR. MILLER: Second.

18 CHAIRPERSON JORDAN: Motion made  
19 and seconded.

20 MR. MILLER: Mr. Chairman, I would  
21 just note that in the ZRR, the Zoning Commission  
22 is seriously considering changing this type of

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1 situation to be a special exception rather than  
2 a use variance which is a high hurdle in the  
3 R-5-B district which would make your job in the  
4 future--

5 CHAIRPERSON JORDAN: Easier?

6 MR. MILLER: Much less  
7 burdensome.

8 CHAIRPERSON JORDAN: I know  
9 there's probably some people watching this, can  
10 you believe they did that? But anyway, all  
11 those in favor of the motion signify by saying  
12 aye. Those opposed nay.

13 (VOTE TAKEN)

14 The motion carries. Mr. Moy?

15 MR. MOY: Staff would record the  
16 vote as 4-0. This is on the motion of Chairman  
17 Jordan to approve the application with the four  
18 conditions as cited by the Board. Second the  
19 motion, Mr. Miller. Also in support Ms. Heath  
20 and Mr. Hinkle. A Board Member not present.  
21 Motion carries.

22 CHAIRPERSON JORDAN: Then a

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1 summary order please with the conditions.

2 MR. MOY: Yes sir.

3 CHAIRPERSON JORDAN: Thank you  
4 very much. This concludes this matter. Is  
5 there anything else coming before the Board  
6 today?

7 MR. MOY: Nothing from the staff,  
8 Mr. Chairman.

9 CHAIRPERSON JORDAN: Does the  
10 Board have anything in addition? So then we  
11 are adjourned. Thank you all.

12 (Whereupon, the above-entitled  
13 Public Hearing of the Board of Zoning  
14 Adjustment having been concluded, went off the  
15 record at 12:30 p.m.)

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