Transcript BZA No. 16727 7/17/01

MS. BAILEY: No, Madame Chair.

CHAIRPERSON CROSS REID: Okay. Would you please call the first case of the morning, the first and only case.

MS. BAILEY: Members of the Board, good morning.

My name is Beverly Bailey, and to my left is Mr. Paul Hart.

The first case is Application No. 16727 of the Untied House of Prayer for All People, pursuant to 11 DCMR 3103.2, for a use variance to build a new apartment house under Subsection 330.5, not meeting the lot occupancy requirements under Section 403 and the parking requirements under Subsection 2101.1. The property is located in an R-4 district at premises 626 S Street, N.W., Square 442, Lots 864 and 865.

All those wishing to testify, please stand. All those persons wishing to testify on the united House of Prayer case, please stand. Raise your right hand.

(Whereupon, the witnesses were duly sworn.)

MS. BAILEY: Thank you.

Members of the Board, we have a report from the Office of Planning. That report needs to be waived into the record.

We also have a report from the Department of Public Works and from the ANC. The Board may want to take a look at the ANC report. Although it was timely filed, it does not contain all of the technical requirements that we normally see in similar types of reports.

Madame Chair, the case is ready to go forward.

CHAIRPERSON CROSS REID: Thank you.

All right. Come forward, please.

Board of Zoning Adjustment
District of Columbia
CASE NO.16727
EXHIBIT NO.37

#37

Okay. All right. What you need to do is turn your mic on. Each person who's going to be speaking, give your name and your address.

MR. GREEN: Good morning, Madame Chair, and to the distinguished members of the Board.

My name is Apostle S. Green, and I direct special projects for Bishop Madison, United House of Prayer. I work out of the office at 1117 Seventh Street, N.W., Washington, D.C., and am pleased today to be joined by our architect, Ms. Suzanne Reatig; also by Apostle W. Johnson, who is the assistant pastor of the congregation located in the block where the proposed development is situated.

And I'm also pleased to be joined by Apostle J. Smith, who is the assistant pastor of the national headquarters congregation of the United House of Prayer at 601 M Street, N.W., Washington, D.C.

Madame Chair, we're pleased to be here to appear before you this morning. I come in behalf of Bishop S.C. Madison, United House of Prayer, to respectfully request the permission of the Board to approve our various applications so that we can go forward and construct some very badly needed affordable housing in the Shaw community.

We had the privilege of meeting with the Mayor of the city, Mayor Williams, a few weeks ago, and on Bishop Madison's behalf, we pledged our efforts on behalf of the United House of Prayer to support the Mayor's initiatives in affordable housing in the District of Columbia.

As you know, there's been an appreciable population loss in the city because of the lack of affordable housing. We certainly can't do the entire job, but we'd like to do our small part in adding to the stock of affordable housing in the District of Columbia. That's what we'd like to do on that site.

The United House of Prayer has been located in that block, the 1700 block of Seventh Street, N.W. going back almost 70 years. We've been in that block and have maintained a place of assembly and worship.

And in keeping with the United House of Prayer's purpose of building houses of prayer and worship, the Bishop of the House of Prayer has seen fit to extend that vision to also move in the direction of supplying housing in which people can live, in addition to Houses of Prayers, and this development today is in keeping with that.

We presently have under construction in the 1700 block of Seventh Street an eight unit apartment building that's presently under construction for which Ms. Reatig is the architect, and we've just completed within the past year another eight unit apartment building directly on the corner of Seventh and S, and that's also being used by Howard University on the ground floor as a welcome center so that they will have a presence at the Seventh and S Metro stop.

We've just come to kind of speak; the ministers have come to speak in behalf of the philosophy of the United House of Prayer, and our architect is here to respond to any technical questions and present the technical side of this application.

Let me just close by saying that we were pleased also that we had the opportunity to appear before the Advisory Neighborhood Commission, ANC-2C, and I noted that there was a comment that their report may not have been detailed perhaps as you wanted it, but I assure you that the Advisory Neighborhood Commission 2C voted unanimous support and approval for the efforts of the United House of Prayer to go forward with this housing development.

Having said that, we're pleased to be here today, Madame Chair.

CHAIRPERSON CROSS REID: Okay. Thank you very much.

MR. JOHNSON: Good morning, Madame Chair. My name is Apostle W. Johnson. I'm the assistant pastor of the United House of Prayer, Shiloh Mission (phonetic), located at 1721-1/2 Seventh Street, N.W.

Adjacent to the House of Prayer and other properties around this particular parcel that we're concerned, I feel that if it's possible that we could maintain it and have that location, it would help beautify the rest of that block, which is badly needed for the rear and the front.

We just celebrated last week the 70th year in the block. Although I haven't been there 70 years, I've been there 55 of them.

(Laugher.)

MR. JOHNSON: And we're pleased to be proud to see the renovation of the whole area becoming built up to beautify the Seventh Street corridor.

And many people come to worship there, and they concur with what the House of Prayer is doing in that area. Many have came and thought that by rising up that we would move out of the neighborhood.

No, we stayed where we started. They started 70 years ago, and they're still there, and many have joined, and many souls have been saved because of that purpose.

And I feel that if we could get this opportunity to build, that would be another stone in the block to be able to show the people that the House of Prayer is moving forward.

And I appreciate this time that I have to speak, and thank you.

CHAIRPERSON CROSS REID: Thank you.

MR. SMITH: Good morning, Madame Chair, to the Board.

I am pleased to be here this morning in behalf of the Honorable Bishop S.E. Madison to speak concerning this property.

We have been in the forefront of providing affordable housing. Through the construction of this city, we've seen so many of the lower class citizens being displaced. Our bishops have stepped in and gave them affordable housing.

We know that we can't be born in heaven and live down here. We have to live here also, and I feel that in getting these properties and regenerating the neighborhood, that it will not only give encouragement to our young people that there's someone who cares about them, if they see that the housing that is built is so expensive they can't even afford it, but when they see somebody that is looking out in their behalf, it gives them hope that there is a way out.

And I'm please to say that Bishop Madison is providing this way out, and with your help, I'm quite sure that we will be able to continue what we're doing.

Thank you.

CHAIRPERSON CROSS REID: Thank you.

I think that at this juncture, let me point out a couple of things. One is that I'd like to first commend the church because I am very much aware of the work that you've done.

MR. GREEN: Thank you.

CHAIRPERSON CROSS REID: And that you have in the foremost provided some affordable housing in the city, particularly in Shaw.

MR. GREEN: Thank you, Madame Chair.

CHAIRPERSON CROSS REID: I'm very much aware of that.

However, what we need to do this morning in order to be able for you to be able to make your case is that you're here in consideration of a variance.

MR. GREEN: Yes.

CHAIRPERSON CROSS REID: And I don't know if anybody explained to you about the three pronged test for a variance in regard to the property being unique or unusual, and wherein it would be a practical difficulty for you to comply with the existing zoning regulations.

Is anyone among you prepared to make that case?

MR. GREEN: Ms. Reatig, the architect.

CHAIRPERSON CROSS REID: All right.

MS. REATIG: I am the one who will.

CHAIRPERSON CROSS REID: All right. Okay. All right. Thank you very much.

This is what we need to really dwell on so that we could see how, in fact, we would be able to assist, you know, with granting the variance, predicated on your ability to be able to make your case this morning.

MS. REATIG: I'm Suzanne Reatig. I'm the architect for the United House of Prayer on this project, and as Apostle Green said before, I designed for them an eight unit apartment that is on construction now on Seventh Street.

And I'll come to the Board and present this case.

CHAIRPERSON CROSS REID: Okay. Ma'am, you need to speak into the mic. If you would come over to the board and then --

MS. REATIG: Okay. I will speak loud. Okay? You let me know if it's loud enough.

CHAIRPERSON CROSS REID: I don't know. The recorder is shaking his head.

Why don't you bring the easel up closer to the table where the microphone is and that might --

MS. REATIG: Okay, okay.

CHAIRPERSON CROSS REID: Okay.

MS. REATIG: That's good.

CHAIRPERSON CROSS REID: I'm sorry. Sir, did you give your name and your address when you spoke?

MR. SMITH: I gave my name. I don't think I gave my address.

CHAIRPERSON CROSS REID: Okay, but could you just give both again, please, because one Board member didn't get it?

MR. SMITH: Apostle J.A. Smith, Jr., 1327 Sheridan Street, N.W., Washington, D.C.

CHAIRPERSON CROSS REID: Okay. Thank you.

MS. REATIG: This is the -- north is going up. This is S Street here; Seventh Street. This is Old Oregon Avenue (phonetic). On this side is Florida Avenue here. Fifth Street is on this side.

The yellow mark, that's our side. This is where we proposed to build an apartment building. Currently there is an apartment building on this side. This is the apartment building. You see from one side there is S Street, and on two sides we have allies, an alley here and an alley here.

This is the alley here and in the back, and this is here, S Street. There is now a space between these two buildings, between this building and the building next door.

So there are two entrances, two staircases to this building, and there are a total of 12 apartment buildings.

Each unit is about 350 square feet. It's tiny apartment. The ceiling is very low. Nothing conforms to code, not the stairs, and there is no air conditioning.

So to renovate these units, we will have to reduce the number of the apartments from 12 to six to make them livable, and then by putting air conditioning, we will have to reduce the ceiling. So the expense will be tremendously, and we will have very compromised, small units.

Currently this building is occupying only 20 percent of the site. The site is -- I would show it from the -- the site is here, 45 feet, and then it changes to 50 feet about one third of the length, and the length of the site is 168 feet. So we have a site that is over 8,000 square feet.

If we do go by the zoning of R-4, all we can do is put two townhouses in the front. That will leave all of the back empty. We won't be able to build any other buildings there because there is no access from the main street.

So what we are proposing is an L shaped building that will have an open court. The entrance will be from here. The entrance will be from here to the court, and again, we will have -- it will be kind of three buildings, one, two, three, and each one will have its staircase, and each door we will have two apartments, except on the first floor here, we will eliminate the apartment because we need an entrance to the court. This will be open here, completely open, and in the back, I'm taking one space here for parking, and this was to accommodate all of the parking so that we won't need a variance for the parking.

So now we are proposing to have 16 units that will vary between 650 square feet to 920 square feet. I think we have two units that are one bedrooms, and al the rest are two bedroom units.

This is the alley here, and that's the building that we are proposing. That will be the entrance, the open entrance to the court. That will be from here, this way.

The site is kind of nice because we have exposure on three sides. We have S Street. We have an alley here and an alley here on this side. So each apartment will be quite nice because it will have two sides of exposure and will have windows and ventilation on both sides.

So like the units here will have the corner, and these ones will have these two sides and here, the back, and the court and the same thing here, the front and the court. So these will be quite nice apartment buildings.

And we will be able to utilize 60 percent of the site as it is on R-4. R-4 allows occupancy of 60 percent. If we did townhouses, we would be able to occupy maybe 20 percent of the site, and we do want to occupy 60 percent and provide more units, and that's because the site is very skinny and long. It's 45 here. It's 50 at the back and here, but it's 168 feet long. So it's over 8,000 square feet, and we want to cover 60 percent of it, as allowed in R-4.

We are not asking as the variances the parkings are. Now we are asking only for the variance of the use because instead of R-4, we are asking apartments.

We are providing the right amount of parking spaces. We are covering the 60 percent as allowed in R-4, and we are going with a three story building. So the height limitation as indicated in the zoning, we won't exceed 40 feet for the three floor building.

The building will not be a stranger in the neighborhood as an apartment building. The scale will be compatible.

Just across the street, exactly across the street, there is the Wonder Bread factory here that will probably be renovated. I think it belongs now to the developer Jemal, and this building that belongs to United House of Prayer. That is an apartment building and has little on the first floor, is at the corner -- it is here -- is at the corner of Seventh and S.

This building here is on the northwest corner here, just across the street from S Street on this side, and it's a big unit. I think it will be used as a nursing home, and these apartment buildings are on the other side, on S Street here.

So there are apartment buildings in the area, and as you can see, the subway station is just across the street from our project. So it will be very desirable to increase the density and have more people living in the city near the subway.

I think I represented, and if you have any questions, I'll be happy to answer.

CHAIRPERSON CROSS REID: Thank you very much. I'm glad that you did clarify for us your reasoning behind requesting the variance because in the submission, we really didn't have much to go on.

Board members, questions?

(No response.)

CHAIRPERSON CROSS REID: Okay. I do have one.

Turn back to the other side of that particular board. Okay. Now, if I understand you correctly, you're contending that R-4 zoning will allow townhouses.

MS. REATIG: Correct.

CHAIRPERSON CROSS REID: And because of the configuration of that particular site, you can only put two.

MS. REATIG: Yes, because I have a frontage on S Street that is very narrow. It's 45 feet, and we cannot enter from an alley or --

CHAIRPERSON CROSS REID: It's landlocked? Is the alley landlocked in the back? You said you can't enter?

MS. REATIG: No, we can enter, but you can build on the alley. You have to have a frontage.

CHAIRPERSON CROSS REID: Right, okay. I see what you're saying. You can't build on the alley. So you have to have the frontage on S Street.

MS. REATIG: Right.

CHAIRPERSON CROSS REID: Which will allow only two.

MS. REATIG: All right.

CHAIRPERSON CROSS REID: So then you're saying -- oh, I see. I don't know why I said "landlocked." I see you've got the cars, the parking in the back.

So it would be a lot of wasted land --

MS. REATIG: Exactly.

CHAIRPERSON CROSS REID: -- that couldn't be utilized otherwise --

MS. REATIG: Right.

CHAIRPERSON CROSS REID: -- because of the fact that you have to have the frontage on the front. So that is the practical difficulty, the fact that it does not allow for the -- to optimize the maximum use of the site there in order to be able to provide more housing.

MS. REATIG: Right. So we cannot build -- we will be able to cover here, but we won't be able to have other units that don't have the front.

CHAIRPERSON CROSS REID: Well, nothing can be done with the other --

MS. REATIG: So this will be left over.

CHAIRPERSON CROSS REID: You've used 20 percent of the lot occupancy, and then the remainder of it would just be --

MS. REATIG: I can't do anything, yeah.

CHAIRPERSON CROSS REID: Okay. Thank you.

MS. REATIG: Yeah.

CHAIRPERSON CROSS REID: All right.

MS. REATIG: So this way we have an L shaped building.

CHAIRPERSON CROSS REID: Sure.

MS. REATIG: And the entrance, it's an open court. So it would be open here. So it will be quite nice here. There will be paving and landscaping, and all the units will face the court and also another side, and these units will face the street, and this one will have the alley and the court and the same thing, the court and the alley.

So they will all have a lot of windows from two sides, and it will be nice unit. So it's not that by increasing the density we are compromising and making units that are not nice or habitable.

Apostle Green indicated the bishop's dedication is to provide affordable housing, and I've been working with him in the last two or three years, and one of the things that he emphasizes a lot is the quality. He cares a lot about the quality of living of his people, and even his providing affordable housing, they are never compromised.

And the building that I just did for them on Seventh Street that has been constructed has a lot of glass, large windows, masonry.

CHAIRPERSON CROSS REID: Okay.

MS. REATIG: A good quality building.

CHAIRPERSON CROSS REID: Okay. Now, the other -- on the back of the other board where you had the map of the site, where you showed a Jemal site, the bakery across the street.

MS. REATIG: Yes, this one.

CHAIRPERSON CROSS REID: Okay. Now, in that R-4 zoning right there, you said there are other apartment buildings.

MS. REATIG: Yeah, here. But you see this one here, that is this one. It's not our fault because it's S -- Seventh Street have a different zoning.

CHAIRPERSON CROSS REID: Okay. So that's what C-2-A coming down Seventh Street?

MS. REATIG: It was CB-5, I believe.

CHAIRPERSON CROSS REID: CB-5?

MS. REATIG: Yeah.

CHAIRPERSON CROSS REID: Okay. So you don't have the -- we don't see the zoning, but my question is right beside it, do you know are those apartment buildings right beside the site?

MS. REATIG: This one here?

CHAIRPERSON CROSS REID: Okay. That picture right there, did you say those were apartment buildings?

MS. REATIG: Okay. This, this is the Wonder Bread factory.

CHAIRPERSON CROSS REID: No, that's across the street. No, no, no. I mean adjacent, right abutting.

MS. REATIG: Oh, these? These are townhouses.

CHAIRPERSON CROSS REID: Those are townhouses.

MS. REATIG: Yes.

CHAIRPERSON CROSS REID: And what about the other side?

MS. REATIG: Okay. Here there is one townhouse that was left, and then it's this building that is on this side.

CHAIRPERSON CROSS REID: Okay. So the uses there abutting that property are there are townhouses.

MS. REATIG: Yes. The one on this side, yes.

CHAIRPERSON CROSS REID: Okay, all right.

MS. REATIG: Yes, these ones. I'm not --

CHAIRPERSON CROSS REID: What I'm trying to -- what I'm trying to get to is those lots right beside it, those are townhouses, but they're more narrow.

MS. REATIG: Very narrow lots, yeah.

CHAIRPERSON CROSS REID: They don't have the square footage as the subject property square footage.

MS. REATIG: Correct.

CHAIRPERSON CROSS REID: What is that on the end right there, going down S Street?

MS. REATIG: Here?

CHAIRPERSON CROSS REID: Right there, where your pointer is, the big lot.

MS. REATIG: Here?

VICE CHAIRPERSON RENSHAW: No, no, up.

CHAIRPERSON CROSS REID: On the other corner. Come over east. Come over to the east.

MS. REATIG: Here?

CHAIRPERSON CROSS REID: Un-huh.

MS. REATIG: Okay. These are townhouses that are here.

CHAIRPERSON CROSS REID: You said "these." I mean there are townhouses all on one lot?

MS. REATIG: Well, I'm not sure. You're talking about 108.

CHAIRPERSON CROSS REID: That one.

MS. REATIG: I'm not quite sure.

CHAIRPERSON CROSS REID: You don't know what that is?

MS. REATIG: No.

MS. BROWN-ROBERTS: Maxine Brown-Roberts from the Office of Planning.

CHAIRPERSON CROSS REID: Okay.

MS. BROWN-ROBERTS: That is a church right there.

CHAIRPERSON CROSS REID: Oh, okay. Okay, all right. Thank you.

All right. Are there other questions, Board members?

VICE CHAIRPERSON RENSHAW: I would -- excuse me. I would just like to ask Ms. Reatig if she has any overlay of the existing 12 unit apartment house that you could put over your design to show what it is now and what it is you're proposing.

MS. REATIG: It's not an overlay, but I have a plat that I can show you --

VICE CHAIRPERSON RENSHAW: Okay. Thank you.

MS. REATIG: -- exactly how much it covers.

VICE CHAIRPERSON RENSHAW: Thank you.

MS. REATIG: I have it, and I can show it to you.

MS. BAILEY: Ms. Reatig, while you're waiting for the Board members, we have your site plan, but the other graphics that you're using today, is it possible to get us a copy later on?

MS. REATIG: Sure.

CHAIRPERSON CROSS REID: Okay. This property abuts the C-2-B zoning, but I see it's R-4, but all around -- okay. Now, this is -- do you have one of these?

VICE CHAIRPERSON RENSHAW: Not yet.

CHAIRPERSON CROSS REID: Did he make several of these?

PARTICIPANT: I think that's the only copy.

CHAIRPERSON CROSS REID: That's it? Okay. This is the only.

MS. REATIG: This is existing building.

VICE CHAIRPERSON RENSHAW: That you have crossed.

MS. REATIG: Right.

VICE CHAIRPERSON RENSHAW: Yellow cross.

MS. REATIG: That's right, and the boundary of the site.

CHAIRPERSON CROSS REID: What percentage of the lot? Do you know?

MS. REATIG: This is 20 percent.

CHAIRPERSON CROSS REID: This is the 20 percent.

MS. REATIG: Yes.

CHAIRPERSON CROSS REID: But didn't you say -- did you say two? You can put two townhouses?

MS. REATIG: But then I will block -- I can put two townhouses, but if I put two townhouses, again, I won't have windows on the long side. I would have in the front and back, and I can have just two units. So it's not that I can take these two buildings and put one next to the other because then I won't be able to provide windows to the other one.

CHAIRPERSON CROSS REID: Well, wait a minute. We understand this.

MS. REATIG: Okay.

CHAIRPERSON CROSS REID: If you put two buildings, then you would have roughly 40 percent lot occupancy?

MS. REATIG: No. If I -- yeah, but for a townhouse, this dimension is too long. You see, I won't go with this size because this is an apartment building that have two entrances. So if I have a townhouse, I have on the frontage two -- you see, I can't -- it's not if I will go and take a very long townhouse like this here, you see, and another one because it would be huge for a townhouse, but I will have half of the lot for the townhouse, about 22 feet, and then maybe I will go 40 or 50 feet, and so it will cover 25 percent of the lot with two townhouses.

CHAIRPERSON CROSS REID: Oh, I see. And you still would only be covering 25 percent with two townhouses.

MS. REATIG: Correct.

CHAIRPERSON CROSS REID: Oh, okay.

VICE CHAIRPERSON RENSHAW: I'm looking at what you've handed in with the yellow demarkation and the cross-hatching showing the three story apartment building that is presently in place.

MS. REATIG: Yes.

VICE CHAIRPERSON RENSHAW: In the yellow demarkation, is that 100 percent of the lot --

MS. REATIG: Yes.

VICE CHAIRPERSON RENSHAW: -- that you would be using?

MS. REATIG: Yes. That's -- that's all the lot. This is -- the property line is here. See, this is public space here. The property line is here, and the bay window is --

VICE CHAIRPERSON RENSHAW: In public space.

MS. REATIG: -- projecting in public space. So this is the 100 percent of the lot.

VICE CHAIRPERSON RENSHAW: Which you are asking to use.

MS. REATIG: Yes, to use, and to cover 60 percent.

MEMBER GRIFFIS: Madame Chair, a quick question. Do you know what the original use of this structure was? Was it always an apartment building?

MS. REATIG: Yes, but it's empty now for a few years, and --

MEMBER GRIFFIS: But originally constructed, it was an apartment building?

MS. REATIG: Yes.

CHAIRPERSON CROSS REID: When was it constructed? It's R-4, right?

MEMBER GRIFFIS: Right.

CHAIRPERSON CROSS REID: But do you know how long it's -- do you know when it was constructed?

MS. REATIG: No, but I'm sure that it's more than 50 years.

CHAIRPERSON CROSS REID: Okay.

MEMBER GRIFFIS: It seems to me, looking at that plat and looking at the photograph that it actually looks like one of the original townhouses. I mean, I don't disagree with you necessarily that it's a very deep townhouse, but I do disagree with you that it's not a typical depth of a townhouse. You're looking at 84, 85 feet I think oftentimes. In fact, I'd be interested to know what the one across the alley is.

MS. REATIG: Okay. You enter here in the yard, and there are two stairs, one for the first half of the building and another for the rear half of the building, and each stair will take you to six apartments.

MEMBER GRIFFIS: Right.

MS. REATIG: So the entrance was not from the front, from Seventh Street, but from inside.

CHAIRPERSON CROSS REID: It looks like an apartment building.

MS. REATIG: So it is an apartment building. I don't think it was altered.

CHAIRPERSON CROSS REID: Okay. Thank you.

MR. GREEN: Madame Chair, the assistant pastor who's in the congregation there in that block remembers that structure being like that for about 50 years, since he's been there.

CHAIRPERSON CROSS REID: Well, I just wondered because it's R-4. So apparently it was before the existing zoning regulations. So it's nonconforming, a nonconforming use even though it's not in the use.

Okay. Thank you.

MEMBER GRIFFIS: Another quick question. Actually let me walk through the plan, just not very deep questions, but your courtyard that you're creating, how are you defining it on the property line, meaning in that there's no adjacent structure, there's an empty lot, when there is future construction and then prior to future construction, what is the definition of that?

MS. REATIG: Okay. There is a townhouse here that arrives about to here, and then it's their yard. So even the court here, it's not that it will be blocked by another building because we have townhouses here.

MEMBER GRIFFIS: But is there a fence? Is there a wall?

MS. REATIG: Yes, there is a fence.

MEMBER GRIFFIS: Okay.

MS. REATIG: There is a fence. So there is a fence here. So the courtyard and the backyard of the neighbor will be separated by a fence.

MEMBER GRIFFIS: And is there lighting provided in that courtyard? Is it wall mounted or is it lamp post? How is that being proposed?

MS. REATIG: Lighting?

MEMBER GRIFFIS: Yes.

MS. REATIG: I didn't get in the design into this extent, but I --

MEMBER GRIFFIS: You're anticipating putting lighting in the courtyard?

MS. REATIG: Yes, right, right.

MEMBER GRIFFIS: And also you have two entrances there.

And then the back side, obviously you're in schematics, but is there a proposed plan for screening the dumpsters on the alley side for loading and unloading?

MS. REATIG: Yes. We will screen. We have plenty of room here, and we will screen. We will have a structure to screen the dumpster at the alley side.

MEMBER GRIFFIS: And what is the access to the dumpsters for the apartments?

MS. REATIG: Okay. You see here? That's the first floor. So you can enter into here the stairs of this unit here, and this is open. You see? So you can get to the alley in this way.

MEMBER GRIFFIS: Open in terms of there's access?

MS. REATIG: There is access in the back, yes. So for the parking because I didn't want someone that have parking to go all the way around or to the dumpster or the trash. So, yes, there is access here, and here it is storage for bicycles and things like that.

MEMBER GRIFFIS: Okay. On your evaluation, the intake form for the existing required and allowed and proposed, I'm seeing for lot occupancy a difference between this and from

the OP report. You're saying that you're providing actually 5,235 square foot footprint; is that correct?

MS. REATIG: Five thousand two hundred?

MEMBER GRIFFIS: And 35.

MS. REATIG: It's -- okay. You see like the question is if we deduct the area that is open here on the first floor, so it will be more -- I mean closer to 5,000 square feet. If we calculate this open area underneath the bridge because there is kind of a bridge here on the second floor, you see here? This is open. So with that and the parking space, it's about -- because we have also a parking space in the building --

MEMBER GRIFFIS: Actually let me ask you for clarification.

MS. REATIG: Yeah.

MEMBER GRIFFIS: You're subtracting that from lot occupancy?

MS. REATIG: No, no, no, no. I'm not.

MEMBER GRIFFIS: I see.

MS. REATIG: What you have, it's the whole total.

MEMBER GRIFFIS: right.

MS. REATIG: But I say that if we will subtract it so I have less than that. I have about 5,000 square feet.

MEMBER GRIFFIS: You will subtract it for what?

MS. REATIG: Okay. Maybe I didn't understand your question. You are talking about coverage or net or gross or --

MEMBER GRIFFIS: What I'm going to is you're going -- I think we'll get here -- whether you need a variance for lot occupancy or not. So what I'm trying to establish is what the actual lot occupancy is.

MS. REATIG: Okay.

MEMBER GRIFFIS: So what you have listed as 5,235 square feet --

MS. REATIG: Yes.

MEMBER GRIFFIS: -- as occupied lot, that to me in rough, quick calculations gives you close to 65 percent lot occupancy.

MS. REATIG: Okay. If that's the case, we can modify and reduce four percent of the building.

I just want to explain something. We did these plans. I submitted them, and then I was working with Maxine in the last week in the Office of Planning, and she suggested to go with less variances than we are asking, just to ask for the use occupancy. So I did not go through the calculations again. I just reduced the unit, and I provided an extra parking space.

Now, this is not the final design. This is the concept, and we will look, and I don't think I have a problem to reduce if I need to.

MEMBER GRIFFIS: Well, let's not go to reducing yet. I mean, I think let's go to what's actually before us, and then we can go there.

MS. REATIG: Okay. So that's what -- yeah.

MEMBER GRIFFIS: Well, parking, obviously the new plan that has been submitted is adding a parking space. In my opinion, that may not be a great idea, but nonetheless, let's get there in terms of what's in front of us.

The next thing I have an issue with is in the new submittal you actually have an elevation that shows your stair penthouses penetrating above your parapet, creating actually three

roof structures. I'm wondering did you have an opportunity to look at Section 411 regarding the fact that all of them should be under one penthouse.

MS. REATIG: You can exceed with the stair penthouse if it does not exceed four feet above the parapet.

MEMBER GRIFFIS: Right. And that's the next question.

MS. REATIG: And that's what it is.

MEMBER GRIFFIS: Okay. So it's below four feet that it's happening there.

MS. REATIG: From the parapet, yes.

MEMBER GRIFFIS: Okay.

MS. REATIG: Exactly.

MEMBER GRIFFIS: Good. I think that's all I have right now.

CHAIRPERSON CROSS REID: Okay. Thank you very much.

COMMISSIONER MITTEN: I wanted to follow up on a question that Mr. Griffis had regarding the lot occupancy, the maximum lot occupancy. There's a chart in the zoning ordinance that speaks to the maximum lot occupancy in R-4.

MS. REATIG: Yes.

COMMISSIONER MITTEN: And since this is not a use that's permitted by right, it would come under all other structures, and that would be 40 percent.

MS. REATIG: Okay. Maybe, Maxine, you want to talk about --

MS. BROWN-ROBERTS: Okay.

MS. REATIG: Because we spoke with the Zoning --

CHAIRPERSON CROSS REID: Okay. Ms. Mitten, maybe we can move now to Office of Planning report.

MS. REATIG: And here's what they said. So we have different interpretation to that.

COMMISSIONER MITTEN: Okay.

MS. REATIG: Mr. Bellow (phonetic) told us because when I applied, that's what I was thinking, and that's why I applied for a variance of the occupancy, but then Mr. Bellow was saying, no, that this was 60 percent and we can -- so there is a question in the interpretation of that.

But that's what I thought also at the beginning.

COMMISSIONER MITTEN: Okay. Well, we can get that sorted out with the Office of Planning.

MS. REATIG: Yeah.

COMMISSIONER MITTEN: I just wanted to also follow up on Chairperson Reid started you down a path in the beginning of your testimony, which was the three pronged test, and so far I think all I've heard is about the first test, which is the unusual condition, which you've said is that the lot is relatively long compared to its width.

MS. REATIG: Right.

COMMISSIONER MITTEN: Can you speak to the issue of undue hardship?

MS. REATIG: Yes. Renovating, the owner is allowed to renovate a nonconforming building, but not to demolish and build a new one. If they do renovate the unit, it will be much more expensive to bring it to code, and it will allow only a smaller amount of units. So the income will be reduced.

So there will be a big expense to renovate these buildings. There won't be enough units, and the income will be limited on these units. So it won't be feasible.

COMMISSIONER MITTEN: Can you bridge the gap for me between saying that the existing structure causes an undue hardship because of the expense to renovate it --

MS. REATIG: Yes.

COMMISSIONER MITTEN: -- and the fact that you want to tear that structure down? So you want to eliminate the thing that causes you the undue hardship.

MS. REATIG: Right.

COMMISSIONER MITTEN: And yet the undue hardship remains. Can you explain that?

MS. REATIG: Yes. We have 12 units, and each of them is 350 square feet. They have low ceilings, no heating and air conditioning. It's very hard in the living today to do anything with an apartment, and especially for families, that are 350, and even if we take two apartments and combine them, it's still quite small.

And we have to redo the stairs because they don't comply with the code, and then we have to reduce the height of the ceilings to provide air conditioning.

So these buildings, these units will be very compromised, and the cost for renovation is about double per square foot than new construction.

COMMISSIONER MITTEN: And I understand that. I guess I'm not making my point, which is if you remove -- the thing that's causing you a hardship is the existing building.

MS. REATIG: Yes.

COMMISSIONER MITTEN: Which you're proposing to demolish.

MS. REATIG: Yes.

COMMISSIONER MITTEN: Okay. So once you demolish the building, the hardship is gone.

MS. REATIG: Yeah, but I can't build -- I cannot utilize the site. Then there is this thing that I have a very long, narrow site that I cannot utilize it fully because of its configuration.

COMMISSIONER MITTEN: So your hardship is just that you can't build as big a building as you would like to on the property because of its configuration and because of its zoning, in fact?

MS. REATIG: Yes, because of its zoning, correct, and its configuration, yes.

CHAIRPERSON CROSS REID: I think that from what I've been able to ascertain so far is that the undue hardship goes to the ability to comply with the existing zoning regulations, and from what I'm hearing is that the undue hardship appears to be that it's far more costly to renovate it than it is to just replace it.

MS. REATIG: Correct.

CHAIRPERSON CROSS REID: So in order to comply with the existing zoning regulations, the costs would be prohibitively higher than to just replace it with everything new. I think that's the undue hardship. I don't think that it's because the building is there and removing it removes the undue hardship. It's the compliance with the existing zoning regulations, and I think the hardship goes to looking at the comparison to bring it back rather than to just replace it.

It would be a matter of what would be the most economically feasible thing to do under the circumstances, given the zoning regulations.

That's the way I was hearing it.

MEMBER GRIFFIS: I guess I have some question of that because I still don't see the bridge between the fact that hardship can be created with the existing structure because the implications are bringing it up to code and livability would be a hardship.

But I think as others have said, once that is gone, then where is the hardship to create a new, larger size structure on the lot?

CHAIRPERSON CROSS REID: Well, first of all, let's deal with this within the scope of deliberations because we're getting into deliberations right now. Let's listen to the entire case, and then when we deliberate, we can then get into, you know, trying to under and make some sense of all of it.

MEMBER GRIFFIS: That's fine.

VICE CHAIRPERSON RENSHAW: Yes, I think we might be helped with the Office of Planning report.

CHAIRPERSON CROSS REID: Yes, thank you.

We will move now to the Office of Planning report.

MS. BROWN-ROBERTS: Good morning, Madame Chairman and members of the Board. I'm Maxine Brown-Roberts from the office of Planning.

Our report was late, and we're requesting that it be entered into the record.

CHAIRPERSON CROSS REID: I have no problem with waiving the rules to allow the Office of Planning report to come in late, unless there's any objection.

(No response.)

CHAIRPERSON CROSS REID: Okay. Thank you.

Go ahead.

MS. BROWN-ROBERTS: Thanks.

The R-4 district permits a conversion of existing buildings before May 13, 1958, an apartment house. However, due to the age of the building and the small size of the existing apartments, which would make the units even smaller due to the need to install heating and cooling system, the Applicant proposes to replace the existing building.

Additionally, the Applicant requested variances from the lot occupancy and the parking requirements.

The Office of the Zoning Administrator conveyed to the Office of Planning that it is their interpretation that the proposal is for a row dwelling, with multiple dwellings, and that lot occupancy requirement is 60 percent, which the proposal meets.

Section 2101.1 requires one dwelling unit per four units. With the number of units reduced to 16, four parking spaces are required, and the Applicant is providing six spaces. Therefore, a variance from the parking requirement is no longer necessary.

The proposal meets the requirements for Section 31 or 3.2 for granting a variance in that the site is unique due to its long, narrow shape that is unlike any of the other lots, except for two in this and surrounding squares.

These other lots of similar shape are developed in apartments similar to those proposed for this site.

The property has an exceptional condition in that it has a building that is old and does not presently meet the standards mandated in the building code.

The long, narrow shape of the property presents undue hardship as it precludes the Applicant from developing a building with a typical row house flat configuration, and does not allow for building with single entrance and double loaded passage.

The size of the existing apartments would be inadequate and not serve the needs of many potential residents.

Under the existing regulations, there would be fewer units and much larger units that may not be affordable to potential residents.

Additionally, even with some renovation, the existing building would remain substandard as there is a lack of room for upgrading the heating and cooling system.

The proposal for replacing the old apartment building would not be detrimental to the public good, as it will contribute to the rejuvenation of the area around the Shaw-Howard University Metro station.

The design of the building has utilized the fact that the property abuts two alleys, and most of the units will have light and air coming from two directions.

The internal courtyard will provide some passive recreational space for the residents that may not have been possible under existing regulation in such an urban area.

The proposal is consistent with the goal of the comprehensive plan to encourage residential development in order to increase the number of residents within the city. In particular, the apartments will serve a mixture of family sizes and incomes. The new building will meet the requirement of Section 33 and, therefore, will not impair the intended purpose and integrity of the zone plan.

The Office of Planning, therefore, recommends that the Board of Zoning Adjustment approve the variance requested.

Thank you.

CHAIRPERSON CROSS REID: Thank you.

Questions, Board members?

COMMISSIONER MITTEN: Ms. Roberts, can you give me -- shed anymore light on the Zoning Administrator's opinion that the lot occupancy requirement for this use is 60 percent?

MS. BROWN-ROBERTS: When I spoke to Mr. Bellow, and from my personal interpretation I said that it was 40 percent, and he said that it is considered -- the new building is considered some sort of row dwelling with multiple units, and therefore, he was recommending the 60 percent.

COMMISSIONER MITTEN: Well, there really isn't a use called row dwelling with multiple dwelling units, unless it's a conversion, and this isn't a conversion.

So I would just like to say that I disagree with the Zoning Administrator's interpretation, and I think the requirement is 40 percent.

MS. SANSONE: Madame Chair, if I might just --

CHAIRPERSON CROSS REID: Please.

MS. SANSONE: -- point out in the definitions of the regulation a row dwelling is defined as a one family dwelling having no side yards. So there is no such thing as a row dwelling with multiple dwelling units.

CHAIRPERSON CROSS REID: Okay. Thank you.

All right. Any other questions for Office of Planning?

Let me see. Ms. Roberts, if, in fact, the Applicant was to comply with the existing zoning regulations in regard to this use of this building, currently the units are, I think, 300, 350 -- 350 square feet, each unit.

MS. REATIG: Yes.

CHAIRPERSON CROSS REID: Are they efficiencies?

MS. REATIG: It's -- this building was --

CHAIRPERSON CROSS REID: Speak into the mic, please, ma'am.

MS. REATIG: It was probably efficiencies or one bedroom. They are in -- boarded and very bad shape.

CHAIRPERSON CROSS REID: I couldn't imagine a one bedroom 350 square feet.

MS. REATIG: Yeah. It's very, very tiny.

CHAIRPERSON CROSS REID: Yeah. Nonetheless, for them to renovate it, it would require did you say something -- ultimately the architect was saying something about putting in heating and air conditioning systems.

There's no heating system there now?

MS. REATIG: No.

CHAIRPERSON CROSS REID: Okay, and also the air conditioning unit. Then with that being -- if that were installed then, approximately how much of the space would be taken up with that?

MS. REATIG: We have to provide the furnace, an air handling unit. The condensing unit can be outside or on the roof, a hot water heater for each unit.

CHAIRPERSON CROSS REID: Okay.

MS. REATIG: Yeah, and then the main space that it will take, it's really ceiling because we have to go with ducts, and also some vertical space when you move with the duct.

CHAIRPERSON CROSS REID: Did you have a cost analysis as to the amount that it would cost to renovate in comparison to the amount of what it would cost to put the new building?

MS. REATIG: Yes, it will cost about the same. It will cost the same to renovate this building than building a new building.

CHAIRPERSON CROSS REID: But the only difference is that the units would be smaller?

MS. REATIG: Will be smaller. We will have only six units, and here we will have 16 units.

CHAIRPERSON CROSS REID: Oh, okay. All right. Thank you very much.

Any other questions, Board member?

COMMISSIONER MITTEN: I did have another question for Ms. Roberts, which is in your report it says that the property has an exceptional condition in that it has a building that is old and does not presently meet the standards mandated in the building code.

And I think you heard the exchange with Ms. Reatig regarding the existing building being characterized as the hardship when demolition is planned.

Can you speak to that?

MS. BROWN-ROBERTS: Can you repeat? I'm not sure I understood the question.

COMMISSIONER MITTEN: Okay. The issue is that the existing building is being represented as the either -- it's either being represented by you all as the exceptional condition or by the Applicant as the thing that creates the undue hardship. And yet the plan is to remove that building.

So given that we're going to remove the building, how is it that that remains either an exceptional condition or a source of undue hardship?

MS. REATIG: I think that it's the shape of the property that is causing the hardship. As she said, when they remove the existing building, they'll still have a long, narrow lot in which to put the two units, in which the requirement now would say two row houses.

If they were to try and do row houses with multiple units in them, there would still be a problem because of the narrowness of the lot. They couldn't have double loaded or double sided apartments. There would still be a problem.

COMMISSIONER MITTEN: Well, I guess one of my concerns is you all have an attachment of a Sanborn plat to your report, and when I look at particularly lots in that Square 442, I see a number of townhouses that have pretty deep backyards, and that's just the nature of the lot configurations in this square because of the way the alleys are oriented and just the way the square is configured.

So I guess I'm just wondering. In a typical R-4 zone if you have a deep lot, it's not an unusual condition to end up with a deep backyard. There's nothing inherently -- it might not allow you to develop the property to its maximum, but it's certainly not that unusual, and I think this very square bears that out.

Do you have any comment on that?

MS. REATIG: I think I agree. The two lots that I referred to, which are sort of south of Glick Court, those two long lots, and it doesn't show here, but those are developed with apartment buildings also, which takes up nearly all of the lot, but the others are really small, row house type units that have been converted into apartments.

COMMISSIONER MITTEN: But am I incorrect in saying that some of those lots have very deep back yards?

MS. REATIG: You're correct.

COMMISSIONER MITTEN: Okay. Thanks.

CHAIRPERSON CROSS REID: Are the lots -- I'm not clear on this. Are the lots that you're referring to, Ms. Roberts, the ones that you indicated in your report as being the two similar lots?

Did you say that those two similar lots had townhouses or apartment buildings?

MS. BROWN-ROBERTS: They're apartment buildings.

CHAIRPERSON CROSS REID: Okay. So I think that you contended in your report that the lot within itself was unique, and that the configuration also in the narrowness, and there were two similar -- but they were similar to two other lots, and those two other lots that they're similar to have apartment buildings rather than townhouses.

MS. BROWN-ROBERTS: Right. That's correct.

CHAIRPERSON CROSS REID: Okay. Thank you.

All right. Any further questions?

(No response.)

CHAIRPERSON CROSS REID: All right. The ANC report. Is there an ANC representative here?

Okay. Please come forward.

MS. BROOKS: My name is --

CHAIRPERSON CROSS REID: Have you been sworn? Did you just come in?

MS. BROOKS: I just came in.

CHAIRPERSON CROSS REID: Okay. You have to be sworn in, ma'am, first.

MS. BROOKS: Okay.

CHAIRPERSON CROSS REID: So please stand up.

(Whereupon, the witness was duly sworn.)

MS. BAILEY: Thank you, ma'am.

MS. BROOKS: Thanks.

Good morning. My name is Doris Brooks. I'm ANC-2C-03.

We feel that it's a very good idea for the United House of Prayer to -- Parcel 42. We voted on it, and it was unanimous, and we voted for this project.

Is there any questions you'd like to ask me?

CHAIRPERSON CROSS REID: There was a quorum?

MS. BROOKS: Oh, 626 S Street.

Yes.

CHAIRPERSON CROSS REID: There was a quorum?

MS. BROOKS: It was a quorum. We had a quorum, and this was in June -- no, May. I'm sorry. It was in May, and we are very pleased to have the United House of Prayer to build because we're losing a lot of our people in the neighborhood.

You have two and three and four generations of people who want to stay in the Shaw area, and this is the only way of us seeing us staying in the Shaw area because a lot of them are going to lose their homes, and they want to stay within the inner city. They've been there for 20 and 30 years. They wouldn't know how to move out and start over. Their friends are there. They're close to transportation, especially our senior citizens, and children who have to go to school who don't have to pay, buy school tickets, who are there right in the elementary school, junior high school, and high school.

They don't want to leave their home in their neighborhood, in their community, because a lot of them have been inconvenienced concerning the development of the new Convention Center, and they have just gotten disgusted. They don't want to leave home. This is their home.

And I'm asking this Board to please consider this because these people need to stay in the inner city because of the convenience, because they are on fixed incomes. They don't have to pay car fare.

It's like I said, they can always have a neighbor that they can go to. It would be hard for them to move out to another area and try to start a friendship with people that they have had friendships with for 30 and 40 years.

CHAIRPERSON CROSS REID: Okay. Thank you very much for your presentation this morning, your testimony.

Just a moment. I think they have questions.

VICE CHAIRPERSON RENSHAW: Yes, Ms. Brooks.

Thank you, Madame Chair.

The letter that we received from ANC-2C signed by the Chairman, Commissioner Lawrence Thomas, indicated that your meeting was on Wednesday, June 6th.

MS. BROOKS: Yes.

VICE CHAIRPERSON RENSHAW: At 6:30, and you voted an approval. Can you tell us the vote because the letter does not contain the vote? Do you remember the vote?

MS. BROOKS: Okay. There was six of us. There was --

VICE CHAIRPERSON RENSHAW: There were six Commissioners --

MS. BROOKS: No, I'm sorry. No, we had six ANCs in our ANC. Okay. One was missing. I'm sorry. There was five. Myself, Chairman Lawrence Thomas, Vice Chair Leroy Phillip, ANC Lydia Goring, and Alex Pedro.

And myself, Lawrence Thomas, and Leroy Thorpe voted for the project, and Lydia Goring and Alex Padro was against it. So it wasn't a unanimous vote.

VICE CHAIRPERSON RENSHAW: So it was three to two, three to two to one?

MR. GREEN: Madame Chair, I'm sorry to interrupt her, but we were present at ANC 2C. There were two meetings. One was on a Parcel 42, which she inadvertently referred to. This was on 626 S Street, and the vote was unanimous. Commissioner Padro, who is the Single Member District Commissioner, offered the motion, and the vote was unanimous. All of the Commissioners present voted for this.

MS. BROOKS: Six, twenty --

MR. GREEN: Six, twenty-six. Commissioner Padro offered the motion.

CHAIRPERSON CROSS REID: I think --

MS. BROOKS: I thought you were talking about Parcel 42. I'm sorry.

CHAIRPERSON CROSS REID: No. That's okay. That's okay. I think we're straight now that there was --

MS. BROOKS: Yes, all --

CHAIRPERSON CROSS REID: All members ere present, and that there was --

MR. GREEN: It was an unanimous vote.

CHAIRPERSON CROSS REID: -- unanimous approval. There was a quorum.

VICE CHAIRPERSON RENSHAW: So it was six to nothing?

MR. GREEN: That's correct.

MS. BROOKS: Yes.

VICE CHAIRPERSON RENSHAW: All right, and just the same, Ms. Brooks, Commissioner Thomas' letter does not indicate that you are going to be delivering the good news here today about the vote. In other words, the letter should have said that you were going to represent the ANC at this meeting.

MS. BROOKS: Well, Mr. Thomas had said -- had a lot of things he had to do because he runs the recreation center, and I will see that they get the -- your decision by telephone or by going, you know, to see them.

VICE CHAIRPERSON RENSHAW: If he on behalf of the Commission would just fax that you were authorized to deliver the testimony today just so that we can put it in our file.

Thank you.

MS. BROOKS: I'm pleased to.

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

MS. BROOKS: thank you.

CHAIRPERSON CROSS REID: All right. If there are no other government reports, we'll go to persons in support of the application.

MS. BAILEY: Madame Chair, unless I'm mistaken, although parking is not required, there was a DPW report.

CHAIRPERSON CROSS REID: Okay. All right. I don't have it.

VICE CHAIRPERSON RENSHAW: Here it is.

CHAIRPERSON CROSS REID: Do you have it? Oh, no, no. I'm sorry. I overlooked it, that there was no objection.

A DPW report saying that July 3rd from Kenneth Layton, saying that -- in pertinent part it talks about the application and what the proposal -- demolish the existing building and to provide a new apartment building with apartments for 17 units, and the issue of the parking from providing five to six spaces.

Essentially the DPW has no objection to this application.

Okay. Now, persons in support.

(No response.)

CHAIRPERSON CROSS REID: All right. Persons in opposition, parties in -- persons in opposition.

(No response.)

CHAIRPERSON CROSS REID: All right. Closing remarks by the Applicant.

MR. GREEN: Thank you, Madame Chair.

If I just may offer a brief closing comment, we first want to thank you for the gracious opportunity you've extended to us to appear before you today on behalf of Bishop S.C. Madison of United House of Prayer to offer this proposal, and I would hope that you would give great weight to the whole purpose of this application, and that is to do our small part to add to the stock of affordable housing, and that's been the whole concept behind the instructions that Bishop Madison has given to our architect.

We, of course, could build maybe one or two townhouses, but the concern has been to build the most we can to have the biggest impact on the most people who badly need housing in the District of Columbia.

As you know, it's a matter of whether two families have affordable housing in townhouses or whether 15 houses have affordable housing, and Bishop Madison is concerned to do the most with the resources that we have so that he can benefit perhaps 15 families.

And the United House of Prayer has had a concern about the quality of living. Bishop Madison not only provides housing, and you know there are a lot of housing providers in this city, but he's concerned about the quality of people's living, and I think that's important to note.

He walked through this building himself, the old structure, and he looked at the ill configured rooms, how small they were, and there are some landlords that would have no problem in just renting it just like it was, and never mind the quality of living for the persons who have to live there.

He was concerned. He said, "No, I'm not going to let my people live in conditions like this. Build it new."

And so we would really welcome your support as a Board so that we could provide some decent living for the families.

Now, the building that Ms. Reatig is presently building at 1731 Seventh Street has a washer in each unit, a dryer in each unit, a dish washing machine in each unit. This is affordable. This is what Bishop Madison considers affordable living, and as you know, some landlords who provide affordable living give you the bare bones, and Bishop Madison wants to go beyond that. He's concerned about the quality of life even for those who are least among us and who can least afford housing in the District of Columbia, and we would welcome your support.

Thank you, Madame Chair.

CHAIRPERSON CROSS REID: Thank you.

All right. Board members, discussion?

MEMBER LEVY: Madame Chair, I am still confused regarding the lot occupancy and the matter of hardship relative to the lot occupancy. Are we talking about 40 percent coverage or 60 percent coverage at this point?

CHAIRPERSON CROSS REID: Well, I think that's what is open to discussion. There seems to be some discrepancy between the Office of Planning and the Applicant.

I think the Applicant is for going by what was proposed by Toya Bellow.

MS. REATIG: Yes, I did request a variance in lot occupancy because I knew that with our design, we are not making the lot occupancy, and we are asking for a variance in lot occupancy.

CHAIRPERSON CROSS REID: And I think, Board members, Ms. Mitten especially had some concern about that. Do you want to further discuss it?

MS. REATIG: Can I just add one sentence before closing?

CHAIRPERSON CROSS REID: Sure. Go ahead.

MS. REATIG: Thank you for the opportunity to represent this case.

Density is very important for a city. Cities that are the most successful or that are really cities like New York, Paris, London are dense.

Washington, D.C. used to be denser than now, and now people are moving into the city, and density is one of the most important elements that the city needs to thrive.

So it's not just for United House, but I feel that it's important to bring more people to the city and provide more housing, and the areas that are the most desirable are the one near the Metro station, and this property is just across from the Metro station.

And it's not feasible for the city to have single family houses or just one townhouse because the lots, they have much more value, and they should have much more people, especially close to the subways.

And I know that this discussion is going now with Tenleytown, and so I read in the paper. And so I really hope that not just in this area, but in other areas there will be more density near the subways.

Thank you.

MEMBER GRIFFIS: Madame Chair, if I may comment, I absolutely agree with you in terms of density and the appropriateness in an urban setting, especially in great proximity to the Metro station.

To that, you brought up two issues in closing. One is the quality of living in terms of the quality of housing provided, and density, and we are, of course, discussing the lot occupancy and trying to get clarification on that.

Can you speak just briefly, going back to the importance of the courtyard and the size of it, and why perhaps you haven't actually go for a larger lot occupancy, and maybe a more typical I shaped building with a center core and two stairs as opposed to three entrances?

MS. REATIG: Okay. I had two goals. One is to provide as many units as I can and covering about 60 percent of the lot, and the other one was to provide light and ventilation to each unit from at least two sides.

So we studied all of these possibilities, and that's where we came with the best apartments and the best quality of life that we can do on this site, provided the most units.

You see, yes, I can go just like with one bar or an I or a T or different, but we wanted to provide the parking. We have also the setback in the back that we have to have 20 feet and also we needed to provide parking.

So putting all of this together, that's what we came to, and the configuration, the court size is adequate. It will be nice and kind of intimate, and this building that we are talking about on Seventh Street is an L shaped building, has eight units. The size of the lot is about the same. It's 45 feet wide, but the depth is only 80 feet, and there we are providing eight units, and the court, it's already -- you can see the three stories. It's in construction, and the court is very pleasant. The scale is quite nice.

You used the word "intimate" in terms of the courtyard, although you have a 20 foot opening going into it. Is there any idea of how you're actually going to close that off to --

MS. REATIG: There will be a gate.

MEMBER GRIFFIS: There will be a gate.

MS. REATIG: A gate.

MEMBER GRIFFIS: So it will be accessible by the residents only?

MS. REATIG: Yes, correct.

MEMBER GRIFFIS: So it would be on a card reader or some sort of locking?

MS. REATIG: Yes.

MEMBER GRIFFIS: Okay.

CHAIRPERSON CROSS REID: Any further discussion?

COMMISSIONER MITTEN: Madame Chair, I agree completely with the things that the Applicant has said about the need for affordable housing in the city and the need to provide density in proximity to Metro stations, and I think all of that is very valid.

Unfortunately, we have an R-4 zoned site within a half a block of a Metro station, and I have to say I haven't heard -- I don't believe that the Applicant has met their burden of proof as it relates to this site being zoned R-4.

Now, whether R-4 is the appropriate zone for this site I think is definitely open to debate, but given that the site is zoned R-4, I just don't think there's been an adequate showing of an unusual condition, and I don't think there's been an adequate showing of unusual hardship.

But I would encourage them, depending on what happens with the decision of this Board to seek a rezoning to a higher zone.

MS. REATIG: Can I respond to that?

CHAIRPERSON CROSS REID: Yeah.

MS. REATIG: There is an apartment building on the site already. It's not that it was an empty site of R-4. There is an apartment building there.

The client can or the owner can renovate this building and still use it as an apartment building. The only thing is that it will cost him a hardship to renovate it, and he will get less than if he will build another apartment building.

We are not asking to build something that was not there. We are asking to build another apartment building, demolish this one and build another one that is better and provides more units and to have a project that will be feasible economically.

So I agree 100 percent that if it was just an R-4, an empty lot, yes. Why allowing someone on R-4 to come and build an apartment building?

But there is an apartment building already there. The question is to renovate it or to have a better building, a new apartment building that will be better. That's really the difficulty.

CHAIRPERSON CROSS REID: I think that I'd like to move that we approve this application. I think that the Applicant has met his burden of proof. I think that in regard to the three pronged test for a variance that it has been demonstrated that the property is unique. The configuration, the narrowness of the site, is unique.

It has been demonstrated that the only other two properties that are similar properties to this particular property have apartments buildings on it as well, and I think the practical difficulty and undue hardship comes from the fact that to renovate the building would be prohibitively expensive.

Also, it would only render six units, and those units would be such a small size that they would be almost uninhabitable, you know, for the human condition, and that there is no opposition; there is no adverse impact as far as air, light, parking, traffic, noise is concerned. There's no income to oppose this application. The ANC is in favor of it. The Office of Planning is in favor of it. The DPW is in favor of it.

And given the fact that the circumstances in regard to the fact that we all know that there is a dearth of affordable housing in the District, this is a community that is in transition. There's quite a bit of blight in that area still, although the Applicant has been responsible for quite a bit of affordable housing provision; that we have to look beyond just the fact that there may be -- even if there is some dispute as to the lot occupancy, I think that overwhelmingly the case warrants approval due to the fact that it will contribute positively to that neighborhood; and that, more importantly, that the burden of proof has been met as far as the three prong test is concerned.

There's no second, even for discussion?

Okay. All right. Then the motion fails for lack of a second.

All right. Further discussion or a motion.

COMMISSIONER MITTEN: Madame Chair, I move that we deny this application for the reasons that I stated earlier, that I don't believe the Applicant has met their burden of proof.

I think that the provisions in the R-4 zone that allow for conversion of existing buildings is really about preserving buildings that are there and making an accommodation for buildings that are too large to otherwise meet the requirements of the R-4 zone.

And I agree with you that there is a dearth of affordable housing in the city and that Shaw has been really put through the mill because of the Convention Center, and yet I just can't overcome the fact that if we are to protect the intent of the zoning map and the zoning regulations, that this is too great a departure from the R-4 zone requirements without a sufficient showing of the unusual condition or undue hardship.

CHAIRPERSON CROSS REID: You don't think that it would be an undue hardship to renovate the existing apartment building?

COMMISSIONER MITTEN: That's not the only option available.

CHAIRPERSON CROSS REID: The other option is to put two townhouses, but to put two townhouses would be a great under utilization of that lot when there's a need for housing there.

COMMISSIONER MITTEN: But the test is not if you didn't build what could be permitted by right, what else could you have. Otherwise we'd have large buildings all over the city. That's not the test.

CHAIRPERSON CROSS REID: No, and I didn't say that it was. What I said was given the options that they have available to them either to renovate the existing apartment building, which would be prohibitively high, and it would not render but six units, smaller units, which would be almost virtually uninhabitable when they put in the heating and air conditioning systems, or to put two townhouses.

And to put two townhouses on that, we know that there was already an apartment building there, but then to replace it with two townhouses, only using, I think, she said 20 percent of the lot occupancy, and the rest of the lot is just unutilized, I just think that that is where the practical difficulty -- it is my opinion that that causes the practical difficulty.

MEMBER LEVY: Madame Chair, my concern -- in some ways I echo Ms. Mitten's remarks, but my concern is not so much with the Applicant not having met the argument for hardship relative to use, but to the fact that the permitted lot occupancy appears to be 40 percent as opposed to the 60 percent that they're proposing, and I don't see where they've made an argument that's addressed that at all.

Regardless of the reason, there seems to be some confusion and some disagreement with the information that came out of the Office of Planning, but nevertheless I don't see where the Applicant has addressed that issue.

CHAIRPERSON CROSS REID: Well, I think that that being the case, if that is the overwhelming problem here, then perhaps we should contact DCRA and get an opinion as to what, in fact, their intention was; that we feel that it was incorrect.

Toya Bellow is the one responsible for rendering decisions, and if there's a problem with his decision, then I think that before just turning down this application that we then would postpone a decision until we get his explanation as to what his intention was or what his interpretation of that particular lot occupancy decision was, why he had that particular position.

I'm not really sure, but there is a discrepancy. I think that that is undeniable.

MS. REATIG: Can I respond to that, please?

CHAIRPERSON CROSS REID: Well, you're not supposed to because we're in the midst of a motion at this particular point in time. So we really can't take --

MS. REATIG: Okay.

CHAIRPERSON CROSS REID: -- any input from the Applicant.

VICE CHAIRPERSON RENSHAW: Madame Chair, I have great sympathy for the Applicant and the concern that the Applicant has for the community and wanting to provide as much affordable housing as is possible with this application, but we are constrained by the regulations under 403.2 that speaks to 40 percent in an R-4, and I'd like to ask Ms. Mitten, as Chairperson of the Zoning Commission, what it would take for the Applicant to get this parcel rezoned, if that is an option.

COMMISSIONER MITTEN: Well, when you say what would it take, what do you mean precisely?

VICE CHAIRPERSON RENSHAW: What is the process?

COMMISSIONER MITTEN: Well, they'd have to make an application, and that would have to be set down for public hearing, and it would have to be -- we would require a report from the Office of Zoning -- the Office of Planning rather to weigh in on whether or not they were in favor of such a rezoning.

I honestly think the whole area needs to be examined because you have a fairly significant R-4 component in close proximity to the Metro station there, and you also have a lot of apartment buildings that are existing.

So I think the whole area bears re-examination, but there's a couple of alternative zonings that would be available, and I think it's worth pursuing.

I wouldn't want to suggest that any results are guaranteed, but in response -- and this I see as an extension of what Ms. Renshaw is asking -- in response to what the Chair said a few minutes ago about, you know, their goal of providing a significant amount of affordable housing, my opinion is this just -- with the zoning in place, this isn't the site to accomplish what they seek to accomplish. It's the wrong site.

So that doesn't mean because they can't do what they want to do that there aren't other economic uses of the property. It's just there are more appropriate places to put a 16 unit apartment building is my view.

CHAIRPERSON CROSS REID: Well, okay, but I think that there are a couple of things we should look at.

One is if, in fact, we went the route of rezoning, how long would that take?

COMMISSIONER MITTEN: I would say to be realistic it would take a minimum of six months.

CHAIRPERSON CROSS REID: Okay. That's one thing.

The other thing is the reason why we have the whole concept of variances and special exceptions is for the purpose of giving relief to Applicants who come before us, and it is based upon our own interpretation and what we feel is adequate in their presentation that would then convince us or persuade us to make a decision as to whether or not we feel that they have made -- their particular application to us has been strong enough or their argument has been strong enough.

And I, as one Board member, feel that they definitely have and that they should be given a variance, the variances that they are seeking, because I think that they have demonstrated that they have met their burden of proof, and that is what we're here for, not to make a decision as to whether or not we feel that the zoning in place is appropriate or not appropriate.

I agree with you. That is not our call. Our call is to see whether or not, given the zoning and the fact that the zoning was promulgated in 1958, that that zoning may not have been sensitive to some of the social problems that we now face today in regard to drugs, homelessness, or affordable housing, or some of the things that plague us, and take that into consideration when we're making our decisions and giving consideration to all of the citizens of the District of Columbia.

And I further feel that in regard to this aspect of the zoning -- I mean of the lot occupancy, that there has been some discrepancy regarding this lot occupancy matter, and as such, that needs to be straightened out before we go any further, and to consider either rezoning or have Bellow to explain to us what he meant because not only did Bellow say it, but it also was reflected in the Office of Planning report.

So we have two different entities of the District of Columbia government saying, in effect, the same thing, and then we're saying something different, and when that comes up, I think that in all fairness to the Applicant, that we should take out the time, rather than make a decision today, since there is so much opposition in the Board to granting this variance, that we give them the benefit of the doubt and allow them to get additional information, to explore rezoning, and make a decision at our next regularly scheduled Board meeting.

COMMISSIONER MITTEN: I would withdraw my motion, Madame Chair, with that recommendation.

MEMBER GRIFFIS: I would also support that recommendation, and I would say that there might be two things. I think that they ought to look at the rezoning process, but also look at the case that's before us today, as you mentioned, getting the specifics of the lot occupancy.

And also I would stress the fact that I'm having a difficult time looking at the hardship based on a demand for a housing type. I think the Board, myself I can say definitive, supports the objective of building affordable housing.

But once we start to create the hardship case that there is a demand, that opens up to me the door. I'm not sure we can decide it on that, for one. It also opens up the door to an economic hardship on any level in that a lot that may not support a substantial amount of luxury units could be argued that there needed to be an increase in density in order to support the pro forma that a developer has put together.

So I think a reevaluation and a look at that would be very important on this case.

CHAIRPERSON CROSS REID: I think that you're right. I think that we should not and we have not heretofore based undue hardship based on economic hardship, but we did look at in the case of what was the issue with the Georgetown incinerator case, where we did not look at economic hardship, but we looked at the parameter that inadvertently would cause some financial

problems because of the existing zoning regulations, and in this instance that was what I was going to because the whole aspect of undue hardship invariably pertains to some type of loss or some type of detriment to the Applicant, and I think that is what we need to stress, is if there is some type of detriment.

The detriment, I would say, Mr. Griffis, would certainly be the fact that I think we all can agree that every citizen in the District of Columbia is entitled to have some kind of decent housing, and a 350 square foot unit that will be further decreased by the heating and air conditioning unit is not what I would want to see be provided for anyone here in the District of Columbia as an affordable housing unit.

We're not talking about homeless people. I'm talking about just regular, everyday citizens who may be low income.

MEMBER LEVY: Madame Chair.

CHAIRPERSON CROSS REID: Yes.

MEMBER LEVY: If we choose to postpone a vote on this matter to clarify the lot occupancy information, will the Applicant be provided another opportunity or an opportunity to then either represent her design or redesign based on the new information?

CHAIRPERSON CROSS REID: That's up to the Board. If the Board feels that that would be something you'd like to see, then you certainly have the wherewithal to be able to make that request.

MEMBER LEVY: I think it would be important because I think that otherwise they would be at a disadvantage in terms of I think there's a lot of good things about this project, and it's an important project in a lot of ways, and I'd like to see that they have a fair opportunity to present their case with correct information at hand.

CHAIRPERSON CROSS REID: Okay. Well, if the Board members agree, then what we can do is to have a continuation of this hearing in that we have not voted to allow them to -- Mr. Hart, is there a time that we could allow them to provide us with the additional information that's being requested?

We can request from Toya Bellow his explanation as to why we have this discrepancy, one, and, two, I think Mr. Levy is requesting that the architect present another -- the picture of a design based upon the information that comes from Bellow.

Is that my understanding?

MEMBER LEVY: Right.

CHAIRPERSON CROSS REID: Or do you want to clarify?

MEMBER LEVY: Well, following -- yes, a clarification by the Office of Planning that the architect have the opportunity to re-present the design if she so chooses or if the Applicant so chooses.

CHAIRPERSON CROSS REID: And that would be the only portion that we would have at the next opportunity, is just to give the architect an opportunity present another design. That would be about --

COMMISSIONER MITTEN: Well, I think Mr. Levy's point is that he'd like to give them the opportunity to meet their burden of proof --

MEMBER LEVY: Exactly.

COMMISSIONER MITTEN: -- as it relates to the lot occupancy issue.

CHAIRPERSON CROSS REID: Well, that's exactly where I was going with this. That's the whole purpose of it. I think I understood where he was going with this, that that's

what he wanted him to do. In order to be able to meet their burden of proof, he would have to see the redesign that he requested, as well as we would like to see what Bellow has to say.

COMMISSIONER MITTEN: But his point is not necessarily a redesign. If that's what's necessary for them to meet the burden of proof, but they may be able to --

CHAIRPERSON CROSS REID: Okay.

COMMISSIONER MITTEN: -- with the existing design.

CHAIRPERSON CROSS REID: Okay. Let -- let me backtrack here. First, we want to get the explanation from Bellow, and if it's deemed necessary, then the architect would have the opportunity to present something else.

MEMBER LEVY: If deemed necessary by the Applicant, at the Applicant's discretion.

CHAIRPERSON CROSS REID: If deemed necessary by the Applicant, then they would have the opportunity to re-present something predicated upon what comes out of the Bellow request.

MEMBER LEVY: Or just to re-present with the same design if they feel they can meet the burden of proof for hardship.

CHAIRPERSON CROSS REID: If -- okay. You understand it? Either way, you'll be given another opportunity to come back and to present to us if, in fact, you feel that Mr. Bellow has given enough information or you feel that you can make a stronger case or to present something to us that would bolster your request for the relief that you're requesting to this Board.

MS. REATIG: Yeah, okay. I feel that there is a communication failure. I did request in my application, I did request for occupancy variance. This is one of the items that I requested.

There was a discrepancy between the interpretation, 40 percent or 60 percent, but my coverage is different, and I did increase it, and I did request, and that's why I'm coming before the Board, because I'm not meeting the 40 or 60 percent. So that's why I came before -- one of the issues that I came before the Board.

So I really don't think that it will make a difference if it's 40 or 60 because I requested a variance for the lot occupancy, and I think that that was your question, if I did request a variance.

MEMBER LEVY: Madame Chair, may I respond?

CHAIRPERSON CROSS REID: Sure.

MEMBER LEVY: I don't think there was -- there's no misunderstanding that you request a variance for lot occupancy. The problem that I'm having is that I am required to decide whether the Applicant has met the burden of proof for hardship relative to that variance for lot occupancy.

And I think that perhaps because of the confusion between the 40 percent and the 60 percent requirements, that perhaps that you weren't prepared to argue the burden of proof for that, and then I'm not convinced that you have argued the burden of proof for that.

At the same time, I think that there are a lot of positive things about the project, and I think that a continuance would be in your best interest.

VICE CHAIRPERSON RENSHAW: Madame Chair, I would also like to ask that the Officer of Planning redo its paragraph having to do with lot occupancy based on what Mr. Bellow has to say because the Office of Planning, and this is on page 4 of its report, it stated:

"In conversations with the Office of Zoning Administrator, it was conveyed to the Office of Planning that it is their interpretation that the proposal is for a row dwelling with multiple dwellings."

And we have questions about that, that the lot occupancy requirement is 60 percent. So I would like the Office of Planning to look again at this paragraph and adjust it.

CHAIRPERSON CROSS REID: And then it says that a variance is not required.

VICE CHAIRPERSON RENSHAW: Exactly.

CHAIRPERSON CROSS REID: At all.

VICE CHAIRPERSON RENSHAW: Exactly, but I would like the Officer of Planning to adjust this paragraph based on what Mr. Bellows has to say in his explanation.

CHAIRPERSON CROSS REID: Okay.

MEMBER GRIFFIS: Madame Chairman, one other item. Also when you come back, I would take a look at the parking requirements. It's my understanding in the R-4 in the proximity of 800 feet with Metro you actually get a 25 percent reduction, which may actually reduce the number of spaces that you need.

If it's one per three, you are required to have six at 17 units, but if you reduce it 25 percent, you may be able to do away with -- I don't know. My math isn't great today -- but one or two.

CHAIRPERSON CROSS REID: Any other discussion?

MS. SANSONE: Madame Chair, since we're doing some housecleaning, I think everyone is clear that this is a use variance, but there is a provision in 2002.6. "A new structure shall not be erected to house a new nonconforming use," or "to house a nonconforming use," not a new one. That would just go along with the request for the use variance from the Chapter 3 provisions about apartment houses.

CHAIRPERSON CROSS REID: Okay. Throw that in, too.

MEMBER LEVY: Just so that we --

CHAIRPERSON CROSS REID: Is that right, Ms. Sansone?

MS. SANSONE: Yes.

CHAIRPERSON CROSS REID: It would go to that 2003.

MS. SANSONE: Yes, Madame Chair. It sort of just complements. They asked for the variance from I guess it was 330.5 to allow the demolition and replacement. It wouldn't alter any -- I mean, the burden of proof still stays the same for the use variance. It's just a more complete description of what they need.

CHAIRPERSON CROSS REID: Okay.

MEMBER LEVY: Madame Chair, just one other point that hasn't been discussed and for my own clarification so that there's not another issue hanging out there, and that is the roof height. What is the level?

CHAIRPERSON CROSS REID: Well, I thought that that was clarified. The architect was asked by Mr. Griffis.

MEMBER LEVY: I was more concerned about the overall roof height rather than the separate stair enclosures.

CHAIRPERSON CROSS REID: What's the question? I'm sorry.

MEMBER LEVY: They're showing a roof height of 40 feet, six inches to the parapet. Is that allowable? Is that permitted?

MEMBER GRIFFIS: Right. It was a clarification I would bring up. Looking at the elevations that were submitted today, there's a 40 foot, six inch to the top of parapet. Now,

based on the building height, how you measured it, it actually -- I don't recall the exact section, but it's to the ceiling of the top floor. So I was just --

MS. REATIG: The building is three stories high.

MEMBER GRIFFIS: Right. Three story and 40 feet is the regulation requirement, and so how you measure the height of your building. Looking at that with the top of a parapet at four stakes, I was estimating with the elevation that we saw four feet for the stair house -- the penthouse. The ceiling height would have had to have been substantially below 40.

MEMBER LEVY: Okay. Thank you.

CHAIRPERSON CROSS REID: Yeah, because I thought that had been addressed. Okay.

MEMBER LEVY: I just wasn't clear on that.

CHAIRPERSON CROSS REID: Sure, sure.

MEMBER LEVY: And I appreciate --

CHAIRPERSON CROSS REID: Sure, absolutely.

MEMBER LEVY: That makes perfect sense.

CHAIRPERSON CROSS REID: Absolutely, and feel free to ask any questions that you need to to, you know, get clarifications. I will submit to you that it does become rather complicated and kind of confusing at times. So feel free to do so.

Now, Mr. Hart?

MR. HART: Yes, Madame Chair. Given -- okay. The first possible date to come back in for what I would consider continuation would be September 11th.

CHAIRPERSON CROSS REID: September 11th.

MR. HART: In the morning.

CHAIRPERSON CROSS REID: We go into recess for the month of August, and we only have two more sessions, I think, for this month. So would September 11th be a date that could be lived with by the Applicant?

Okay. At what time?

MR. HART: It would be the morning session, which starts at 9:30.

CHAIRPERSON CROSS REID: Nine, thirty. Okay, all right. So now are we all clear as to what is being asked of you?

I'll tell you. If you have any questions, then see Mr. Hart of our staff to make sure that are you clear as to what is expected and be prepared for the September 11th meeting -- I mean hearing.

Okay. Any other comments, questions?

(No response.)

CHAIRPERSON CROSS REID: All right. Thank you very much.

MR. GREEN: Madame Chair, we just want to thank you again for your consideration, and thank you for the comments and advice of the members of the Board. We'll do our best to meet the target that you set for us on September 11th.

Thank you so much.

CHAIRPERSON CROSS REID: We appreciate that. Okay. Thank you very much.

That then will conclude this morning's hearing unless there are any comments, questions.

Okay. Thank you very much.

(Whereupon, at 11:31 a.m., the meeting was recessed for lunch, to reconvene at 1:00 p.m., the same day.)